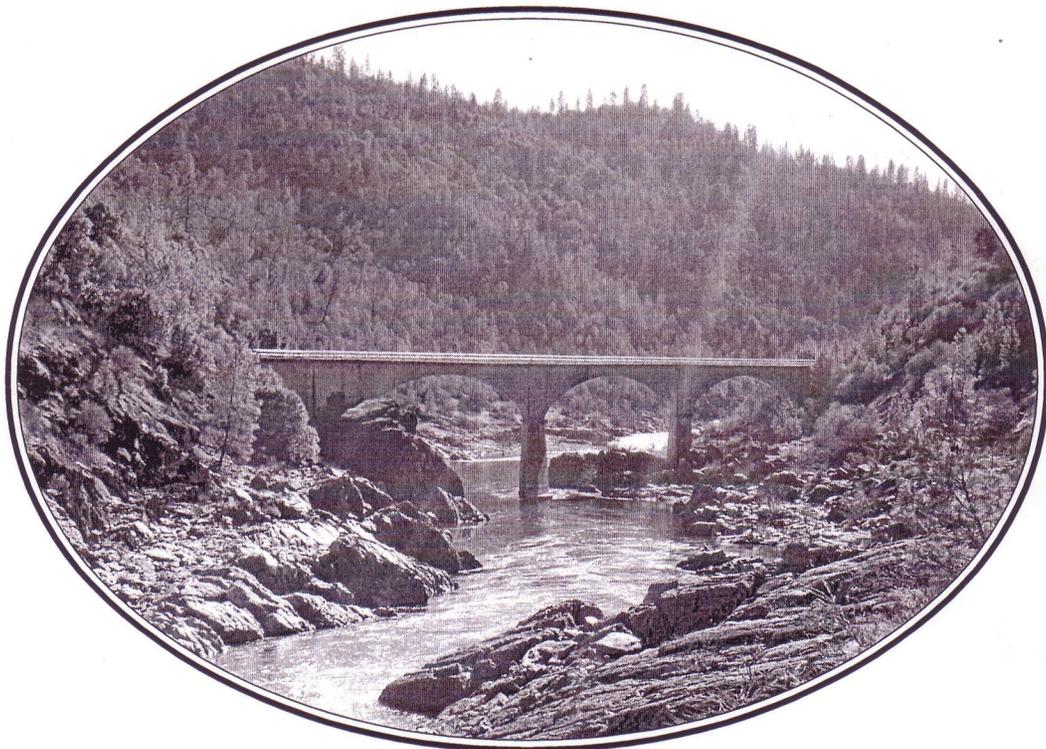


Placer County



Mountain Quarry Bridge

GRAND JURY
FINAL REPORT
2005-2006



PLACER COUNTY GRAND JURY

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June 2006

The Honorable Frances Kearney
Presiding Judge, Superior Court
County of Placer
11546 B Avenue
Auburn, CA 95603

The Honorable Larry Gaddis
Judge of the Superior Court and
Advising Grand Jury Judge
11546 B Avenue
Auburn, CA 95603

Reference: 2005-2006 Placer County Grand Jury Reports

Dear Judge Kearney and Judge Gaddis:

The 2005-2006 Placer County Grand Jury herewith submits its final report.

This report contains the result of investigations required by law, suggested by citizen complaints or presented by other sources. Most of our investigations were completed. However, there are some which we were prevented from completing by time constraints and are being recommended to the incoming 2006-2007 Grand Jury requesting they finish our efforts.

In general, we found Placer County operates efficiently and effectively. The County staff we dealt with were uniformly cooperative, helpful and eager to assist us in our duties. We found that staffing constraints are continuing to be a problem as the County does its business for its citizens.

I want to thank the members of this year's Grand Jury. The members worked diligently and gave hundreds of hours of their time on behalf of this civic duty. It was an honor for me to serve with such a distinguished group.

The members of the 2005-2006 Grand Jury are honored to have had the opportunity to be of service to the community. We come away from our service with a heightened awareness and respect for the role of the Grand Jury in our community.

Sincerely,

Paul Ridgeway, Foreman
2005-2006 Placer County Grand Jury

Placer County Grand Jury

The following Placer County residents have served on the 2005-2006 Grand Jury:

David Barnhill	Hazel R. Johnson	Annabell McCord
Dave Beasley	Ralph Krueger	Erik Nygaard
Pete Brink	Yvonne Lewis	Jerry Reeves
Larry Corbin	Bill Macho	Paul Ridgeway Foreman
Pat Fisk	Bill Martin	Sharon Theofelis
Peter Gilbert	Jon Mason	John Wallauch

The Grand Jury organized itself into nine Standing Committees for purposes of research, study, and preparation of reports. All reports herein have been approved by the Grand Jury's full panel. The nine committees are as follows:

Audit & Finance	County Administration	Cities
Health & Welfare	Criminal Justice	Editorial
Schools & Libraries	Continuity	Special Districts

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PREVIOUSLY PUBLISHED 2005-06 REPORTS:

- ❖ Auburn Recreation District Immediate Issues (01/05/06) and Responses
- ❖ Refutation of Trustee's Charges Against Former Sierra College President (03/21/06) and Responses

A COMMENDATION

Placer County Resource Conservation District

SUMMARY:

The functions of the Placer County Resource Conservation District (PCRCDD) include 1) identifying natural resource management and conservation issues, 2) providing education and technical assistance to landowners regarding those issues, 3) enhancing the natural resources of the district, and 4) increasing public awareness of conservation issues. Operating with a small budget of about \$1M and a permanent staff of only two persons, the district leverages its contributions through obtaining additional grant funding and participation in the activities of many other agencies. It serves a valuable role in enhancing the environment in Placer County. The Placer County Grand Jury believes that this district deserves increased recognition, and suggests that it consider seeking means of increasing public awareness of its contributions.

BACKGROUND:

The Placer County Resource Conservation District encompasses 1,500 square miles and includes the entire County except the Tahoe Basin. It is governed by a seven person, volunteer Board of Directors and is headquartered in Auburn. Its staff includes a full-time executive director and one other professional. Salaries and wages account for only 13% of its appropriated budget. However, it supplements its internal labor by purchased professional services, which account for 44% of its appropriated budget. Its activities are additionally funded by federal and state grants and partnerships with other cities and other agencies

METHODOLOGY:

The Grand Jury solicited information packages from approximately 14 special districts. Among those was the Placer County Resource Conservation District. In our review of its response, we noted that it is involved in a broad variety of important resource conservation projects, including areas of general interest to landowners. To evaluate its performance, we attended public board meetings and conducted an interview of key staff members. We then reviewed the budget, meeting agendas, and staff reports.

FACTS:

In our examination of the information provided by PCRCD, we noted the following facts:

1. Its annual budget for fiscal year 2005-2006 is \$1.15M. It has a permanent staff of two, including the Executive Director. A volunteer Board of seven members governs it.
2. The PCRCD also administers over \$1.5M in grant funding, which supports the countywide chipper program, invasive weed removal, and watershed coordination.
3. Local partnerships with the City of Colfax, Placer County, Sacramento Area Flood Control Agency, and Sierra College brought in over \$370,000 in public safety assistance related to reducing excessive fuel load, understanding sediment, and supporting local watershed groups.
4. It is aligned with the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture. This federal agency's primary purpose is to help landowners manage their own land to minimize soil erosion and maximize soil productivity. NRCS provides technical assistance and cost sharing for delivery of programs in Placer County totaling \$1.58M.
5. PCRCD is involved in programs whose total funding is in excess of \$4.6M.
6. Its services are available, upon request, to any Placer County landowner.
7. PCRCD participates in a broad variety of activities including, as examples:
 - a. Watershed planning
 - b. Flood control planning
 - c. Fire safe inspections on private land
 - d. Forestry and fuel management.
 - e. Fisheries and wildlife management
 - f. Sediment dynamics study
 - g. Erosion control
 - h. Placer County agricultural tour
 - i. Storm water pollution prevention planning
 - j. Placer County Chipper Program
 - k. Environmental Quality Incentives Program
 - l. Water efficient irrigation systems
 - m. Providing tree care literature for public education.

FINDINGS:

Based on the facts of our investigation, the Grand Jury finds that the Placer County Resource Conservation District makes a contribution that is noteworthy and important, but one which is not broadly recognized by the public. By leveraging its own budget with additional grants and coordination with other agencies, it amplifies its resources and its value to the County. The Grand Jury thus commends this district for a job well done.

CONCLUSIONS/RECOMMENDATIONS:

Although we have no recommendations regarding improving the operations of the District, we suggest that the PCRCD might further increase its value by finding means of increasing public awareness to increase utilization by prospective users. This could be done, for example, by means of more frequent press releases noting significant milestones or accomplishments.

REQUEST FOR RESPONSE (S):

No response is requested from the PCRCD.

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COUNTY AUDIT REPORT

AUDITOR/CONTROLLER OFFICE

SUMMARY:

The County of Placer is growing at one of the fastest rates of any county in the State of California. The pressure on the services provided by the County is at an all time high and is growing daily. Fortunately, the very growth that demands the new services also provides, with prudent county management and controls, additional funds for these services.

Key to the County's ability to provide services is its financial well being and its understanding of where and how Placer County's assets are situated. This is the function of the county Auditor/Controller along with the Treasurer and Executive Officer.

The Placer County Grand Jury has looked into the Auditor/Controller's office, its accounting procedures, and its ability to provide the crucial financial information necessary for county decision makers and departments to keep pace with this growth. We found that the Auditor/Controller office is performing to a high standard and does provide the County with the timely financial information it needs to make the best possible decisions for the people of Placer County.

BACKGROUND:

The Grand Jury, in conformance with the California Penal Code Section 925, endeavored to investigate the county's financial accounting practices. In carrying out this assignment, we conducted interviews and reviewed documents. The Grand Jury was impressed with the financial controls and accountability exhibited by the Placer County Auditor/Controller, her office and staff.

METHODOLOGY:

1. Interviewed the County Auditor/Controller regarding her operation, requirements and responsibilities.
2. Reviewed the 2005/06 Placer County Budget.
3. Reviewed the county Comprehensive Annual Financial Report for the fiscal year ending June 30, 2005.
4. Interviewed the accounting firm of Bartig, Basler & Ray, who were hired to perform the state mandated independent audit of the county, the county redevelopment agency, the county air pollution district, and several grant programs operated by the county.
5. Reviewed the published reports prepared by the independent auditors subsequent to their audits.

NARRATIVE:

The Grand Jury participated in interviews with the County Auditor/Controller, her assistant, and a partner with the CPA firm of Bartig, Basler & Ray on several occasions. The reasons for these interviews were to obtain their opinions regarding certain financial information pertinent to the County's well-being and ability to properly function in performing its many responsibilities for the people of Placer County.

We also reviewed the 2005/06 Placer County Budget and the Comprehensive Annual Financial Report for the fiscal year ending June 30, 2005. Additionally, we inquired into the safety and security of the County's money by reviewing the Audit reports for the fiscal year 2004/05, which were prepared by the independent auditor.

FINDINGS:

1. The County continues to lose revenue due to the State's ongoing fiscal crises. In addition to some \$15 million in un-reimbursed state mandates over the last several years, the state property tax shift cost the county some \$3 million in fiscal year (FY) 2004/05.
2. The County's income, despite the State's usurping of county funds, has been increasing due to growing property values, new construction and business activity. The 2005/06 budget reveals projected income, exclusive of transfers in from existing county funds, to be \$410,631,143.00, which is 10% above the previous fiscal year income.
3. Placer County's net assets increased by \$74 million in FY 2004/05.
4. The Placer County Auditor/Controller office was audited by the firm of Bartig, Basler & Ray and was found to be in conformance with accepted accounting standards established by the Government of the United States.
5. The Placer County Auditor/Controller office provides the County with financial information in a timely, clear and manageable fashion.

CONCLUSIONS:

The County of Placer's effort to provide services and keep up with its growing population has been facilitated by prudent controls and management of the County's finances. And, the Auditor/Controller's office has been a principle contributor to this control and management. We commend the Placer County Auditor/Controller and her staff.

REQUEST FOR RESPONSE (S):

No response is required

PLACER COUNTY CITY POLICE DEPARTMENTS

AUBURN POLICE DEPARTMENT ROCKLIN POLICE DEPARTMENT ROSEVILLE POLICE DEPARTMENT LINCOLN POLICE DEPARTMENT

SUMMARY:

The Grand Jury conducted its annual inspections of the above City Police Departments and was well pleased with the maintenance and staffing of these facilities. In just a short period of time the City of Roseville has found it necessary to expand its facility to keep up with the growth of the City. The same is true of the City of Lincoln, which is planning to move to larger facilities in the coming year to accommodate its rapid growth. Special commendations are offered to the City of Rocklin for the design and technology incorporated in its new City Police facility.

BACKGROUND:

Each year the Grand Jury inquires into the condition and management of public prisons/jails and holding areas within Placer County as required by Penal Code Section 919(b). Accordingly, the 2005-2006 Grand Jury conducted onsite inspections of these facilities and looked into such areas as; training of staff, availability of translators for non-English speaking arrestees, condition of booking areas and availability of phones and information to be made available to persons in custody. When meals are served, inquiries into the type of meals served, condition of the food preparation area and the ability to observe diet restrictions were reviewed. Maintenance, security and cleanliness of holding cell areas as well as inmate housing areas, clothing for prisoners, and the general appearance of the facilities were inspected. Procedures for the health and safety of persons in custody and prisoners were reviewed as were, where applicable, the isolation cells. The overall appearance and maintenance of the facilities were inspected and recorded.

METHODOLOGY:

Grand Jury members first familiarized themselves with the requirements of Penal Code 919(b). Check lists were developed and inspection team members were assigned areas to observe during the facility tours.

- A master “Visit Schedule” was developed and facility management agreed to the schedule visit times and dates.
- During the inspection visits questions were asked to determine how well the facility and management staff are complying with the regulations governing the conduct and processing of arrestees and holding of prisoners.
- Following the visit inspection team members were debriefed and findings recorded.
- A final internal report was prepared and note taken of where deficiencies occurred and corrective action might be needed. In the event this occurs, final Grand Jury recommendations will be sent to facility management.

NARRATIVE/FACTS:

All of the above listed Police Departments are equipped with adequate holding areas for the processing of arrestees and recording of information, a process referred to as booking. The booking areas typically consist of a counter area and secured bench (es), with restraint points for hand cuffing persons while they are in custody. Following the booking process arrestees are generally held for a very short period of time before being transported to the main jail located in the DeWitt Center in the Auburn area. In the case of the Roseville Police Department, prisoners can be held for a maximum of 72 hours in security cells prior to transportation to the main jail. Therefore, typically there is no need for formal food preparation in these facilities, but if there is a need, quick meals are available.

FINDINGS:

The 2005-2006 Grand Jury found that these Police Departments and facilities comply with the applicable penal code sections dealing with the processing and holding of persons in custody. In addition, the Grand Jury commends the responsible facility managers for their cooperation and staff support. We found overall that the Departments are well maintained and well managed and are a credit to the communities they serve.

RECOMMENDATIONS:

Based on the observations of the Grand Jury there are no current comments or recommendations to be made regarding the above listed facilities.

REQUEST FOR RESPONSE (S):

No responses are required.

PLACER COUNTY MAIN JAIL

PLACER COUNTY SHERIFF'S DEPARTMENT

SUMMARY:

Operated by the Placer County Sheriff's Department, the main jail is located in the DeWitt Center near Auburn and is responsible for the intake and housing of prisoners from all law enforcement agencies located in Placer County. The Grand Jury inspected the subject facility and determined that the jail is being operated in a professional manner and is well maintained and staffed by trained Sheriff Department personnel. In 2003 a new 120-bed wing was constructed and is now being fully utilized. Recent efforts of the Sheriff's Department and County Personnel Department have been successful in hiring additional staff, which coupled with overtime, allowed full use of the new wing. During the last year, improvements have been made to increase safety of inmates by adding security screening to the upper tier walkways in the cellblocks. As previously reported facility construction problems have been partially addressed. However, problems caused by poor workmanship remain. These include damaged tile in the shower unit which was caused by water leakage, and loose and flaking stucco plaster on the Unit 4 outer walls.

BACKGROUND:

Each year the Grand Jury inquires into the condition and management of public prisons, jails and holding areas within Placer County as required by Penal Code Section 919(b). Accordingly, the Grand Jury conducted its inspection of the Main Jail and inquired into the training of staff, availability of translators for non-English speaking arrestees, condition of booking areas and availability of phones for inmates. The inspection team examined food preparation/handling areas, inquired into the method of furnishing meals to inmates and determined whether special dietary hot meals are available. Maintenance and security constraints of the main housing areas as well as special security holding cells and the general appearance of the facility were assessed. Availability of and procedures for maintaining the health and safety of inmates were included in the inspection. Other needs such as special clothing and hygiene of inmates were also taken into account.

METHODOLOGY:

Grand Jury members were briefed on the planned visit to the Main Jail and they familiarized themselves with the requirements of Penal Code, Section 919(b). Check lists were developed and inspection team members were assigned areas to observe during the facility walk through inspection.

- The Main Jail manager was contacted and a visit date and time was established.
- During the facility visit, questions were asked of staff to determine how well the facility complies with the regulations governing the conduct and processing of

incoming prisoners, security measures, and the provision of meals, housing and health care for prisoners.

- Following the inspection, team members were debriefed and findings recorded.

NARRATIVE:

The Placer County Main Jail receives, processes and houses inmates for all enforcement agencies located in the County of Placer. The jail is a large fairly new complex that can house over six hundred and fifty inmates. A newly added 120-bed wing was completed in 2003. Management of a large jail complex is a serious task with responsibilities that include processing of incoming inmates (both male and female), monitoring individual high security cells and large group holding dorms, providing of hot meals, as well as health care and clothing to inmates. The facility can house both a general prison population and lower risk prisoners, referred to as inmate workers. Facility security is of the highest order, having many control points with closed circuit television camera coverage of all inmate areas. The jail has suffered from staffing shortages for a number of years due to hiring freezes, recruitment delays and competition for qualified applicants. New jail employees are required to undergo detailed background checks and a combination of eight weeks of on-the-job, as well as off-site training. With the assistance of the County Personnel Department, special efforts are underway to fill all authorized positions. Management anticipates that the newly adopted plan to allow over staffing will compensate for the high turnover rate of staff lost to neighboring law enforcement agencies due to higher pay scales.

FINDINGS:

The Grand Jury finds the Placer County Main Jail, managed and operated by the Placer County Sheriff's Office, meets the requirements of the Penal Code. Processing, handling, housing and feeding of prisoners satisfy the requirements of the government code. Management and staff appear to be well motivated and willing to answer any and all questions asked by the Grand Jury inspection team. They are doing an outstanding job in light of past problems with the shortage of adequate staffing.

We found improvements in the operation and staffing levels of the jail. Special recognition should be given to the Sheriff and his staff, as well as the Personnel Department for initiating successful recruitment activities, which have resulted in the hiring of additional staff to make full use of all available beds.

These are the open construction issues from 2003 that are still under legal review. Our findings are:

- The time has come for the resolution of the remaining open construction deficiencies. If repairs are not initiated soon, additional damage to the building can result which will increase the cost of repairs.
- The Placer Legal Department should initiate the necessary court actions to force completion of the needed repairs.

RECOMMENDATIONS:

The Grand Jury recommends that the following actions be taken:

- Close out all open facility construction issues by correcting the water leakage problems in the shower unit.
- Begin removal and re-stuccoing of the outer walls of Unit 4 Building.

Should the County not make the noted repairs, it leaves itself open to vicarious liabilities.

REQUEST FOR RESPONSE (S):

Response requested within the required specified time from the following agencies:

- Placer County Executive Officer
- Placer County Sheriff
- Placer County Counsel

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ELECTED CITY COUNCIL MEMBERS’ COMPENSATION and BENEFITS

SUMMARY:

The Placer County Grand Jury’s investigation of a complaint regarding the elected city council members’ voting for health and retirement benefit packages for themselves revealed the following: The State of California Government Code 36516 allows elected city council members to vote for monthly salaries and other benefits for themselves which they feel are justified. In Placer County there are six elected city councils. Four of the councils have voted to accept monthly salaries with no additional benefits package, and two councils have voted to adopt monthly salary and additional benefit packages (health and retirement).

To allow the citizens of Placer County to understand and compare council approved benefits, the “Compensation and Benefits Table” is provided in the “APPENDICES” section of this report. This table is for general information and reference only. Citizens interested in the specifics of monthly compensation and benefits received by their elected members are encouraged to contact the appropriate City/Town managers for details. Monthly compensation should vary based on the population of the City/Town, although there are variations in the suggested compensation for a number of cities in the state (refer to the California Government Code 36515). Benefit packages can include medical insurance (dental, vision, health), health club memberships, cell phones, computers and retirement plans. As noted above, elected council members are not required to adopt compensation or benefit packages. Such actions are strictly voluntary.

BACKGROUND:

The Grand jury received a complaint regarding perceived inappropriate use of public money for benefit packages for elected members of a City council. Questions arose when a local newspaper reported that local elected city council members had voted for what appeared to be excessive compensation in salaries, health benefits and retirement packages for themselves. However the Grand Jury has determined the elected city council members have taken these actions within legal guidelines. California Government Code gives City/Town councils the latitude to adopt such compensation packages. It is up to the individual voters to decide on the appropriateness of these actions. The voting public can be made aware of its City/Town council members’ actions by attending scheduled council meetings and by reviewing meeting minutes and press articles.

A “Compensation and Benefits Table” is included in the appendix section. This Table is not all-inclusive but was prepared to provide readers with basic information on what their elected members have done in the way of adopting compensation and benefit packages. This information is presented for the edification of the citizens of Placer County and it is

recommended that questions and/or further information regarding actual member benefits be directed to your City/Town manager.

METHODOLOGY:

The Grand Jury reviewed applicable state statutes related to elected city councils and the rules allowing compensation and benefits for members. The population of the cities determines the suggested monthly salary level, as listed in the California Government Code. The monthly salary is allowed to escalate at a prescribed percentage each year. Each City/Town manager, within Placer County, was visited and asked a series of questions regarding compensation and benefits of its elected council members.

NARRATIVE:

Elected city council members have, over the years, adopted resolutions obligating their city or Township to pay monthly compensation. Two cities have adopted resolutions to include health care coverage and retirement plans. Generally cities are part of the State of California Health and Retirement Plans (CALPERS). Cities using CALPERS pay the monthly cost directly to the State for the council members' health and retirement plans. There are some council members who waive the coverage or some parts of health coverage. This can make them eligible to receive a monthly cash amount payment in place of health coverage. To be eligible for retirement benefits, a member must have served a minimum number of terms and reached the minimum age of fifty-five. They must apply for benefits within six months after their last term.

FINDINGS:

The Grand Jury found that the City and Towns of Placer County have adopted compensation and benefit packages in accordance with state regulations.

RECOMMENDATIONS:

The Grand Jury concluded elected members who have chosen to receive expanded compensation packages took no illegal actions. It is a matter for the voters in each city to determine whether or not self-approved benefits by a city council are appropriate.

REQUEST FOR RESPONSE (S):

No responses required.

APPENDICES:

Placer County Cities & Towns Elected Council Member's Compensation And Benefits

PLACER COUNTY CITIES & TOWNS ELECTED COUNCIL MEMBER'S COMPENSATION AND BENEFITS

INFORMATION	AUBURN	COLFAX	LINCOLN	LOOMIS	ROCKLIN	ROSEVILLE
COMPENSATION						
		(8)	(9)			
A: Pay per Month	\$300.00	\$100.00	\$655.00	\$360.00	\$638.00	\$600.00
B: # Meetings	24 per year	24 per year	24 per year	12 per Year	26 per Year	24 per year
C: Bonus Plan	No	No	No	No	No	No
D: Vacation and/or Sick Leave	No	No	No	No	No	No
E: City Size (Population)	13,000	1,822	33,000	6,127	52,000	102,000
BENEFITS						
A: Health Care	Yes	No	Yes	No	No	No
B. Chiropractor	Yes (1)	No	Yes	No	No	No
C. Dental	Yes (2)	No	Yes	No	No	No
D. Vision	Yes (3)	No	Yes	No	No	No
E. Life Insurance	Yes (4)	No	No	No	No	No
F: Ins. Include Family	No	No	No	No	No	No
G: Retirement	Yes (5)	No	Yes (2)	No	No	No
1. Fully Paid	No	No	Yes	No	No	No
2. Contribution	No	No	Yes 1% (7)	No	No	No
H: City Vehicle	Yes (6)	No	No	No	No	No
1. Use Limits	No	No	No	No	No	No
TRAVEL						
A: Re-imbursement	Mileage	Mileage	Mileage	Mileage	Mileage	Mileage
1: Full	Yes	IRS level	w/limits	Actual Cost	\$60 per day	IRS Level
2: Partial	No	IRS level	No	No	Set rate	IRS Level
3: Family Members	No	No	No	No	No	No
FOOTNOTES						
1. 1 member takes						
2. 3 members take						
3. 2 members take						
4. 4 members take						
5. No one takes						
6. Can check out car from City carpool						
7. After 12 years @ 2.7 % at 55 years						
8. Mayor receives \$150.00 /month						
9. Mayor receives an additional \$150.00/month						

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FINDINGS FROM INVESTIGATION OF THE BUILDING DEPARTMENT

PLACER COUNTY BUILDING DEPARTMENT

SUMMARY:

The Placer County Grand Jury conducted a comprehensive investigation into the operations of the Placer County Building Department. This department has the important responsibility of inspecting and approving building construction drawings, issuing building permits and collecting permit fees. During construction, field-staff perform on-site inspections to verify compliance with approved drawings and building codes.

Our investigation disclosed a number of operational problems that management should solve to allow the department to operate at optimum efficiency. During interviews of department personnel we noted morale problems that management has not acknowledged.

Additional staff training is needed to take full advantage of new automation programs developed for the department. We noted variations in the fees collected for building permits. There is a need to implement both internal and external auditing procedures.

METHODOLOGY:

The Grand Jury undertook an investigation of the Building Department to determine whether there was operational compliance with County building code requirements and to evaluate how well the citizens of Placer County are being served.

To begin this investigation, members of the Grand Jury reviewed samples of planning calculation work sheets, and building code requirements. We also conducted extensive management interviews.

A comprehensive list of questions was developed, regarding the following:

- Questionable entries were made on building plan worksheets. Specifically building permit fee calculations exceeded the permit fee percentage normally used.
- There was a lack of consistency in employee responses and understanding of assigned duties. Questions addressed employment history, training, county policies, department policy and job duties.

The Grand Jury conducted interviews with the majority of department staff members including first line supervisors, department managers and the department chief.

NARRATIVE:

The building department requires a mix of skills to accomplish its tasks of plan checking, issuing building permits and on-site follow-up to assure building code compliance. Employees have extensive backgrounds in building/construction fields, some training in civil engineering, and are required to hold a State of California Certificate of Registration as an Inspector. This certificate is issued by the International Conference of Building Officials.

Registration as a licensed architect or professional civil engineer may also be accepted as evidence of technical qualifications.

In 2005 private and commercial building construction in Placer County was very active. The department workload was high and also because of the shortage of staff, management had decided to limit those scheduled for training in the new computer "PLUS" system designed to improve the accuracy of plan check calculations and fee collection accounting.

Communication within the organization had become a problem. Management stated that to its knowledge there was no dissatisfaction and that morale was at a high level. To the contrary, a number of staff members stated, morale was at an all time low. They were concerned that management had issued directives that caused problems. One example given was a directive that plan checkers were to stop reporting non-county code related errors or omissions found on building plans. However management asserted this was not true. Its supervisors gave conflicting testimony regarding reporting structure, assignments and responsibility for employee performance reviews.

Some staff members reported that frequent organizational changes, promotions and inconsistent direction resulted in disharmony. Supervisors gave conflicting testimony regarding structure, assignments and responsibilities for employee performance reviews.

Internal procedures for monitoring work accuracy and quality are unclear. Each plan checker is responsible for his or her own work without oversight. This permits employees and management to disregard the County's policy concerning permit fee charges. These variations in the percentage calculation resulted in permit fee overcharges in some cases, verifying that there is no internal procedure to audit for errors. Therefore, there is no attempt to offer refunds for overcharges or if the reverse is true, to seek additional fees. One example brought forward during the interview with the department manager involved the overcharging on a commercial permit for a small building expansion. His response was that the normal permit fee calculation percentage was too low to cover field inspection costs. Therefore a higher fee was charged. This is not consistent with building department informational handouts or written County policy.

FINDINGS:

The Grand Jury finds:

1. No internal audit procedures exist to assure the consistency and accuracy of building plan inspections and no internal audit procedure exists to verify applicants are subject to the same building permit charges as listed in the Building Department informational handout.
2. Management seems unaware that staff is divided into two factions, and that poor morale exists for some employees. Unless it is controlled, low morale can lead to more pervasive personnel dissatisfaction.

RECOMMENDATIONS:

There is a genuine effort by members of the Department to operate at a high level of proficiency and serve the citizens of Placer County in a quality manner. The Grand Jury recommends:

1. The Building Department should adopt internal procedures and controls providing for the consistent and accurate inspection of building plans, and assuring all building permits are calculated at the rate shown in the Department informational handouts. Should the department management believe that exceptions to the percentage calculation rate are needed, then a formal policy change should be adopted and regulations approved.
2. Management must become aware that staff is divided and poor morale exists for some.
3. Management should adopt a more open communications environment.
4. A “fast-track” schedule should be implemented for training staff on the new automated “PLUS” system, to reduce errors and improving account auditing.
5. A workable Quality Assurance plan should be developed for the auditing of internal activities to assure work accuracy and calculation of building permit fee charges. This plan should include periodic external audits.
6. A follow-up policy should be adopted for the return or collection of moneys when permit errors are found.

REQUEST FOR RESPONSE (S):

Responses are requested from the following:

- | | |
|--|-----------------------------|
| • Building Department Chief | Recommendations 1 through 6 |
| • Community Development Resources Agency | Recommendations 1, 4 and 6 |
| • County Chief Executive Officer | Recommendations 1, 4 and 6 |

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COMMENDABLE PROGRESS AT PUBLIC GUARDIAN'S OFFICE

SUMMARY:

The Public Guardian's Office (PGO) provides protective, placement, and estate management services for individuals whom the court has placed under official County public conservatorship or guardianship for reasons of grave mental or physical disability.

Last year's Placer County Grand Jury (2004-2005) identified problems in the PGO related to management issues, staffing shortages, warehouse organization, a filing backlog, and a lack of formalized policies and procedures, including job descriptions. The Grand Jury made 11 recommendations including reorganization, a supervisor's devoting sufficient time to PGO, co-location within a single building of the three programs managed by the PGO supervisor, development of a PGO improvement plan, increased staffing, monitoring of warehouse activities, implementing standardized policies, developing job descriptions, and ongoing training of the PGO supervisor. As a final recommendation, they asked that the 2005-2006 Grand Jury follow up on the PGO's progress, which is the subject of this report.

Our follow-up included site visits, phone interviews and written status reports provided by the PGO. This year, we found it to be fully committed to improvement as evidenced by its development and implementation of a formal Improvement Plan and the addition of a highly committed new Client Services Supervisor who is giving careful attention to the PGO.

The PGO has executed several steps of its official Improvement Plan including hiring office staff, reorganizing warehouse contents, additional training of the PGO supervisor and developing of a Policies and Procedures Manual (with an estimated completion May 31, 2006). A single, though significant, issue remains: understaffing. This problem, though caused by a growing client base versus a diminishing budget, is also aggravated when staff members retire or quit. This problem will never be sufficiently addressed until the PGO and HHS pursue more aggressive staff replacement policies to enable hiring replacement employees before the exited employee's accruals (of vacation, sick leave, etc.) are completely off the books.

We commend the PGO and its new supervisor for its full cooperation with the 2005-2006 Grand Jury and for its active dedication to improvement.

BACKGROUND:

In the recent past, Placer County Grand Juries have issued reports identifying significant areas of concern within the Public Guardian's Office (PGO) with little improvement from year to year. The 2004-2005 Grand Jury PGO Report findings included the following:

1. The management of the PGO had been neglected.
2. Staffing shortages had impaired PGO.
3. PGO lacked a definitive improvement plan.
4. None of the past Grand Jury recommendations were acted upon until the new HHS Director became personally involved.
5. Warehousing tasks had been performed poorly.
6. Filings tasks had been neglected due to staffing shortages.
7. There was a notable lack of standardization of policies, procedures, and workload management.
8. The PGO supervisor spent (nominally) one third of his time with the PGO tasks.
9. The PGO supervisor has responsibility for directing three distinct programs whose offices were located some distance apart.
10. PGO had a history of hiring inexperienced Supervisors who required basic PGO training.

To remedy those findings the Grand Jury recommended:

1. The PGO be reorganized
2. A devoted supervisor spend sufficient time to correct PGO problems
3. The three programs directed by the PGO supervisor be located in the same building
4. The PGO supervisor develop a definitive PGO Improvement Plan
5. The staffing shortage be corrected
6. The warehouse continue to be monitored for improvements
7. The filing tasks be brought up to date
8. Standardization policies be implemented
9. Job descriptions be developed
10. The PGO Supervisor receive continuing training

The 2005-2006 Grand Jury, with knowledge of the above findings and recommendations, continued working with the PGO throughout the year to ensure that it would expend concerted effort to resolve the problems and create a more efficient and effective organization.

METHODOLOGY:

We initially received and evaluated official responses from the PGO in August and Health & Human Services Department in September. Over the next months, we visited the PGO and interviewed a sampling of staff as well as the Client Services Supervisor to determine their sense of progress. In February, we received and reviewed the PGO's "Progress Report", noting its schedule to develop a Policies and Procedures manual, and continued communication with the Client Services Supervisor. We interviewed the County Personnel Director to understand current hiring policies, especially those related to replacement of retiring personnel.

NARRATIVE:

The PGO has addressed many, though not all, of the prior Grand Jury's recommendations. Although it did not choose to reorganize, it did put emphasis on training its new Client Services Supervisor. She has attended several seminars and training sessions, and she has brought professionalism and dedication to her job that have translated into significant gains for the department. Her three areas of responsibility (Public Guardian's Office, Conservator/Public Administrator and Adult Protective Services) are now housed in one physical location, and she has used the saved travel time to focus on PGO's needs. She spends more time on site and regularly inquires of staff's status. She helped develop a formal "PGO Improvement Plan" including a "Policies and Procedures Manual" scheduled for preliminary publication on April 30. (A significant section of the Manual includes job descriptions, as recommended by the Grand Jury.) It is to be reviewed with staff on April 30, finalized on May 31 and implemented with training beginning on June 30.

The warehouse, which at last year's first review was disorganized and unprotected, now has a proper building of its own to store labeled, shipping boxes (instead of grocery bags) containing clients' personal belongings, with various locked rooms set aside for specific uses.

Interviews revealed an ongoing staff shortage that was resolved only briefly, and they still face problems finding qualified applicants. Filing of many boxes of closed cases was finally accomplished, but volumes of current cases remain to be done with a single person assigned to the task in addition to her regular duties.

Placer County has a growing client demand combined with fixed budgets or budget reductions in many departments. In the PGO, the ratio of clients to social workers has recently increased from 60/1 in February to 70/1 in March with no plans for increased staffing in the near term. This is already well above the state average caseload of 50-55/1. But beyond that, this 17% increase in caseload can have dramatic effects considering the wide range of highly demanding requirements of the assigned social workers. They must check on clients at least three times a year, pay their bills, fill out insurance forms, ensure clients receive proper medications, and tend to many of their personal needs. Some clients require considerably more care and many reach the point of needing a thorough evaluation to determine if they qualify to move to assisted living, another time-consuming process.

In addition, when clients die, the PGO sends staff to help dispose of their belongings and close up their homes. Visiting an uninhabited home alone is a potentially dangerous practice, so it is in the best interest of the caseworker and the PGO to send pairs to perform this task. In many cases it has been difficult to find two staff members free to carry out these jobs, so a caseworker has, from time to time, accepted an inmate or MHS client as a partner. Clearly this is a dangerous practice, opening the department to liability if items disappear or the partner's behavior becomes problematic far from any support.

The PGO's staff shortage resurfaced with the impending retirement of two experienced staff workers. The staff shortage has been severely aggravated when one staff worker retired in April with an accrued 10 weeks of vacation. Although County personnel policy

permits hiring replacements before all the vacation pay and sick leave have been paid out, active planning is needed to avoid staffing gaps.

Understaffing is a significant and continuing problem for the PGO.

Because several staff members had reported that they believe that the cause of understaffing is due to county policies precluding prompt recruitment of replacements, we interviewed the County Personnel Director. We learned the following facts from her.

1. County wide, there are currently 243 unfilled full-time positions out of a total allocation of 2790, or 8.7%. This is an improvement from the more than 12% in the recent past. Her goal is to reach a level of 7%.
2. Employee turnover rate due to resignation is very low and is normally about 2% per year, or less than 60 employees.
3. The county recognizes clearly that the number of potential retirements from the workforce in the near future represents a real challenge in maintaining staffing levels. In 2006 alone, there will be at least 146 retirements, and the total number of employees eligible to retire by 2010 is 1077, or over 40% of the workforce.
4. When the need to replace a retiring employee is identified, the department may initiate an “over-hire approval request” for approval by the County’s CEO. Personnel believes that such requests are approved 80 to 90% of the time. According to Personnel it is “strongly encouraged” to replace retiring personnel before expiration of accrued benefit periods.
5. Several proactive programs have been initiated by Personnel to streamline the process of candidate qualification by increasing the number of candidates on eligibility lists without lowering standards.
6. The County’s Board of Supervisors is seen by Personnel as being very supportive of active planning in support of avoiding staff shortfalls.
7. Personnel’s view is that proactive planning at the department level is the key to maintaining adequate staffing levels.

FINDINGS:

1. Considerable progress has been made at the PGO.
 - a. The new Client Services Supervisor is actively managing her staff and continues training.
 - b. The three programs directed by the Client Services Supervisor are now collocated.
 - c. A “Policies and Procedures Manual” has been implemented including “Job Descriptions”.
 - d. The warehouse is housed in a proper, locked building with storage issues up to date.
 - e. All paperwork for closed cases has been completed and properly filed.

2. Understaffing persists as a significant problem.
 - a. Current case filing continues to be in backlog.
 - b. PGO finds it difficult to arrange for pairs of staff members to close homes.
 - c. When employees retire or quit, their vacancies are not always filled until payment of their accrued benefits have been paid (often consuming months). This is not a requirement of County personnel policy, and vacancies can be more promptly filled with active planning.

RECOMMENDATIONS:

We commend the PGO’s office and their Client Services Supervisor for working so closely with the Placer County Grand Jury and for addressing our recommendations in good faith. To continue their record of improvement, the following two recommendations are made:

1. To ensure full client support and a seamless transition for new staff, the PGO should hire needed staff workers well BEFORE the departure of experienced staff.

2. To help resolve chronic understaffing, aggressive planning for staff recruitment is needed at the PGO and HHS department level to take advantage of the County’s relatively new policies, which encourage anticipation of vacancies due to retirement and other needs.

REQUEST FOR RESPONSE(S):

Responses are requested from the following:

1. Public Guardian Supervisor: Findings 1 and 2; Recommendations 1 and 2.
2. Director of Health and Human Services Department: Findings 1 and 2; Recommendations 1 and 2
3. Placer County Executive Officer: Finding 2c; Recommendation 2.

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TURTLEGATE and MICROCHIPS

PLACER COUNTY ANIMAL CONTROL DEPARTMENT

SUMMARY:

The Placer County Grand Jury investigated two complaints against the Placer County Animal Control Department (PCACD). The first complaint concerned the actions of an employee who failed to use good judgment in his duties as an officer of the PCACD. This case involved the capture, theft, and subsequent return of a one hundred pound pet turtle. The evidence revealed the employee failed to follow department policy and procedures and was involved in other unlawful acts. These ultimately resulted in his termination. In our report, we refer to this investigation as “Turtlegate”.

The second investigation involved a disagreement concerning the use of donated funds. The funds had been donated for the specific purpose of providing microchip identification of animals, but the department was considering using the funds for other purposes. The department subsequently agreed to reverse its position, so the funds were used in the way the donors intended, for microchipping animals placed for adoption. In our report, we refer to this investigation as “Microchips”.

The Grand Jury’s investigations have resulted in a specific set of recommendations to the PCACD for improvements in its practices and policies concerning control of firearms, training for their use, and for the receipt and processing of donations.

METHODOLOGY:

These complaints were received by the Grand Jury, and we verified that the actions took place within the jurisdiction of the county. We conducted interviews and gathered all available information to establish a comprehensive understanding of the complaints.

In our investigation of the lost and found turtle, the Grand Jury took the following actions:

- Interviewed the interim manager of the Placer County Animal Control Department.
- Interviewed the lawyer from the County Legal Department who was assigned to investigate the accusations listed in the complaint.
- Received and reviewed the report issued by the county counsel.
- Contacted the Placer County Sheriff’s office to discuss the charges made by the complainant with the investigating detective.
- Requested and received a copy of the detective’s investigation and arrest reports.

In our second investigation, dealing with the donated money not assigned to the intended microchipping, the Grand Jury took the following actions:

- Interviewed the interim manager of the Animal Control Department and the assistant director from the Department of Health who oversees the department.
- Interviewed the complainant to better understand the background of the private animal protection group and their fund raising activities.
- Interviewed an associate of the complainant who assisted in the writing of the complaint.
- Thoroughly reviewed all attachments to the complaint.

NARRATIVE/FACTS:

Investigations into these two complaints revealed that personnel had failed to use good judgment in carrying out duties, and as a result, public trust was damaged. The PCACD is the responsible agency for the control, housing, health and adoption of stray animals within Placer County. Outside assistance from private groups such as the Placer Animal Coalition alliance and SPCA assist in various activities with these animals. In Placer County, the SPCA is very active in providing an animal shelter in the Roseville area. All cities within the county have a responsibility to provide for the management and control of domestic animals either through staff assigned to City Police Departments, by city law enforcement officers or by contract with the PCACD. Private groups are very supportive in the health and care of lost or abandoned domestic animals. There are a number of state laws and county/city ordinances that specify the handling, health care and general care of animals while in the control of the County and voluntary groups.

Turtlegate

The first complaint involved the loss of a one hundred pound pet turtle. The lost pet was found by a Placer County Animal control officer who took the pet to his home with the stated intent of adopting it as his own. This was done without supervisor approval or the completion of required documentation. The pet owner persisted in looking for the turtle, and this alerted the animal control officer. He contacted the legal pet owner and demanded money (five hundred and ninety nine dollars) for return of the pet. Following the filing of the complaint and subsequent investigation by the Placer County Sheriff Department and the PCACD, the employee was relieved of duty and subsequently terminated.

During this investigation a potentially serious matter was reported by the complainant. The Animal Control Officer had placed his sidearm on a table and this caused the complainant to be concerned and intimidated. The Grand Jury reviewed this with other agencies involved in animal control to assess the wisdom of allowing sidearms to be carried by animal control officers. The agencies' responses indicated that the preferred policy is to keep firearms in the animal control vehicles. This was discussed with the new interim manager. We are pleased to report that the new interim manager had already started action to remove sidearms and place long guns in a locked compartment within the animal control vehicles. One additional issue was found in the interviews involving the firearms training of animal control staff. The California Penal Code requires that field staff that handle fire arms be trained in accordance with Penal Code Section 832. Our

investigation revealed that this had not occurred with the Placer County Animal Control field staff.

Thus, in the Grand Jury's Turtlegate investigation, the facts are as follows:

- There was sufficient evidence uncovered by the Placer County Animal Control Manager and the Placer Sheriffs Department to justify the termination of the employee for cause.
- The pet turtle was returned to the rightful owner and all monies taken under fraudulent pretenses were returned to the complainant.

Requiring that firearms be secured in the vehicles is a step in the right direction. Training of field staff to include Penal Code Section 832 Qualification has not occurred.

Microchips

The Microchips complaint arose when a nonprofit alliance group raised and donated funds for the explicit use of microchipping of animals prior to adoption. Microchipping of pets at the time of adoption is a permanent method of identification and has been used by a number of agencies for the last three to four years. Microchips have proven to be a successful means of increasing the return rate of lost pets. Historically dogs and cats that are adopted from shelters are disoriented in their new surroundings. Consequently, a large majority of recently adopted animals become lost in the first days or weeks following their adoption. As a result, animals with no information on them fail to get back to their owners. A new temporary manager in PCACD made the decision not to honor the special conditions placed on the donated funds. This was based on his opinion that there was no written agreement with the county, and, as a result, the donated funds were being redirected to other than the purpose intended by the donor.

In investigating this complaint, we contacted both County Counsel (for its opinion regarding written versus verbal agreements) and the County Health Department, which is the controlling agency overseeing the PCACD.

Our investigation revealed that:

- There was a representative from Animal Control present at a fund raising activity. This, together with copies of e-mails from the alliance to animal control clearly indicated they had donated the funds for the sole propose of microchipping of adopted animals.
- The response from the County Counsel was inconclusive. However, counsel believes that as a good faith gesture the verbal agreement should be honored.

FINDINGS:

Turtlegate

The Grand Jury found in the first complaint involving the lost and found turtle:

1. The new interim manger of the Animal Control Department took the appropriate action in identifying the problem and has taken appropriate corrective action with the termination of the animal control officer.
2. The Complainant is satisfied with the return of both the pet turtle and the money that was taken.
3. Animal Control Officers can perform their duties with firearms secured within the vehicles.
4. Field staff should be required to meet the qualifications criteria in California Penal Code 832.

Microchips

The Grand Jury found that in the second complaint involving microchip pet identification:

5. The then acting PCACD manager failed to use good judgment in dealing with the funds donated by the voluntary animal alliance group.
6. Due to the lack of adequate written procedures, an oral agreement was not kept and the donated funds were placed into an account that could have been used for other than the purpose intended by the group making the donation (microchipping of adopted animals).
7. This has been resolved and the donated funds are now identified for the sole purpose of animal identification using microchips.

The 2005-2006 Grand Jury believes that special recognition should be given to private nonprofit organizations that do an outstanding job in animal protection and adoption within Placer County.

RECOMMENDATIONS:

The Grand Jury recommends that the following actions be taken by the Placer Animal Control Department:

1. Animal control officers should not carry sidearms, and all firearms within the vehicles should be secured in a locked compartment.
2. Field staff should be trained in accordance with the California Penal Code Section 832.
3. Written procedures and instructions should be provided for staff to follow when handling donations.
4. The authority level within the department and agency to accept donations, the process for documentation of donations, and, when requested, the process to direct the donations to the specified activities should be identified and documented.
5. Staff training on these new policies and procedures should be conducted.
6. The Placer County Animal Control Department should consider a formal plan to recognize individuals and groups making donations to the Department.

REQUEST FOR RESPONSE (S):

The Grand Jury requests responses to its recommendations as follows:

- Placer County Animal Control Department:

RECOMMENDATIONS 1 through 6

- Placer County Director of Health and Human Services:

RECOMMENDATIONS 1 and 3 through 6

- Placer County Executive Officer:

RECOMMENDATIONS 2 and 4

- Placer County Sheriff

RECOMMENDATIONS 1 and 2

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REVIEW OF PLACER COUNTY ADULT RESIDENTIAL FACILITIES

Mental Health Services

SUMMARY:

Placer County's Department of Health and Human Services (HHS) provides a wide array of public support services supported by a \$17.9M budget which is largely dictated by the flow of Federal and State funds with a small portion provided by the County. This creates a financial challenge to support the broad spectrum of agencies and services that have been mandated while funding shrinks and population grows. To provide a manageable study, the Grand Jury reviewed a small section of the Mental Health Services (MHS), focusing on Rosewood (in Roseville) and Cypress House (at DeWitt Center), two Adult Residential Facilities which help patients adjust to independent living.

Much of our information came from presentations by the HHS Director and the Director of the Adult System of Care (ASOC). Their overviews gave us significant background information about their complex organization of services. We composed short, confidential surveys which we sent to nine MHS supervisors. Their responses were largely parallel and voiced two main themes.

1. The job is challenging amid short budgets and inadequate staffing.
2. The MHS staff is bearing up admirably with considerable persistence and dedication to their clients.

Our on-site visits to Rosewood and Cypress House Adult Residential Facilities rounded out our information and understanding of the extremely valuable services rendered. As well, those visits underlined the need for increasing staff.

Both facilities suffer from persistent understaffing, which reduces the level of services delivered and adds significant stress and demand on available staff. We reviewed current County hiring and recruitment practices, and we believe that an aggressive approach at the ASOC department level is the most effective approach.

BACKGROUND AND METHODOLOGY:

The Placer County Grand Jury received a presentation from the Director of the Department of Health and Human Services on its operation. This also included review of the Children's System of Care and the Adult System of Care as well as a myriad of other services (Community Health, Community Clinics, Environmental Health, Animal services and more). The Director provided us with past and projected budgets, client and staffing numbers and some general comments on the various programs under his supervision.

The Director of the Adult System of Care gave the Grand Jury a presentation of her

organization which includes the Psychiatric Hospitalization Facility/Program (PHF-for persons who are a danger to themselves or others due to Mental Disorders), Residential Mental Health Services (for persons transitioning from the PHF to the community), Mental Health Program (for persons with serious chronic mental illness), and the Placer County Health Program (mental health services for the homeless).

Using a carefully composed set of 24 questions, we interviewed the ASOC Director more thoroughly to gain a better understanding of the organization, its services, staffing and budget. The Director was cooperative and helpful, providing us with all the information we requested including the approved 2005-06 budget, summary descriptions of all programs, case load and staff information as well as prime areas for budget increases or decreases.

The Grand Jury's analysis of the information received from the Directors and Supervisors of the Departments of Health and Human Services led us to focus our inquiry on Mental Health Services, as it represents by far the largest piece of the ASOC budget and personnel. Of specific interest to us was the significant growth in Placer County population versus the declining budget and staffing levels within Mental Health Services.

We sent a 14-question survey to a sampling of nine supervisors with Mental Health Services responsibilities. A cover letter informed them of our inquiry and assured them that their responses were both confidential and important. We received responses from eight supervisors, five of which were signed. One did not reply due to time constraints and a heavy workload. The responses were similar, particularly with regard to staff shortages. These responses were also very thorough and some provided numbers and facts that are referenced in this report.

We toured the Adult Residential Facilities at Rosewood and Cypress House, gaining first-hand impressions of the offices, kitchens, break rooms and problems as presented by the responsible supervisors.

We interviewed the County Personnel Director to understand current hiring policies, especially those related to replacement of retiring personnel.

NARRATIVE:

Prior to our tours, we compared the Mental Health Services 2005-06 budget and staffing levels to the 2004-05 budget and staffing levels. We found that total expenditures had been reduced and staff had been cut by 10 positions (from 118 to 108) while Placer County's demand for services, as gauged by population growth, had increased. This set of facts raised concern.

Placer County supports two Adult Residential Facilities, Rosewood and Cypress House. These facilities provide individualized service plans for county residents with serious chronic and persistent mental illnesses that have impaired their ability to function in the community. Typically these are persons who have improved enough to move out of a locked psychiatric setting (usually, the Psychiatric Health Facility in Roseville) but need further treatment to stabilize them and aid in their successful move to independence in home, work and community settings.

After review of responses to our initial surveys and noting the consistency of their references to staff shortage problems, we toured the facilities for a first-hand glimpse of their operations.

ROSEWOOD

The Grand Jury toured the Rosewood facility in Roseville and interviewed several staff members and found the following.

1. Rosewood has one full time doctor who supervises the treatment of 15-live-in clients and approximately 800 outpatients.
2. Rosewood has 1 nurse and 3 licensed social workers.
3. Some staff members believe that the County's policy of waiting for a position to be vacated before hiring its replacement is the primary cause of staff shortages.
4. MHS staff is consistently being asked to provide more services with less staff, training and resources.
5. MHS staff has had no input into recent budget decisions or priorities.
6. Rosewood clients' ages range from 18 to 59 years of age.
7. It takes almost 5-6 weeks for clients to get through the administrative system and begin actual care.
8. Rosewood has 15 live-in clients (usually transfers from state hospitals) who stay for an average of 3 months in order to learn skills to transition to independent living.
9. Rosewood has a continual waiting list of 4 persons.
10. Rosewood is licensed as a "Board and Care" facility, so they are not legally required to have nurses.
11. Client medications require professional medical supervision. Prescriptions may be changed as much as 3-4 times weekly as doses and types are adjusted to meet the clients' needs.
12. Rosewood staff testified that the facility operates very much like a hospital and should meet the same standards. (A hospital of comparable size and services would be required to have 4 nurses.)
13. The current supervising nurse at Rosewood testified that she works an average of 70 hours a week attending to client needs.
14. In addition to nursing duties, she also grocery shops at Sam's Club and serves as dietician for the facility.
15. This facility currently has only one apartment scale washer and dryer for all 15 clients' laundry needs (clothing and bedding). The facility had a commercial scale washer, but it broke two years ago and has been deemed un-repairable by the County Maintenance Department. Therefore the supervising nurse sometimes takes the clients' laundry home to wash and dry it on her own time.
16. Staff at Rosewood is inadequate to support preparing documentation of the variety of health forms required for reimbursement from Medicare, Medicaid, etc.
17. Rosewood currently has a transport van that carries 12 persons. This is inadequate for group outings that should include all 15 live-in clients plus staff.
18. The facility was clean but in need of repairs in the kitchen high traffic areas (flooring separating at the seams).

CYPRESS HOUSE

The Grand Jury toured Cypress House at the Dewitt Center. It is an aging facility in need of many repairs (leaking sinks, roaches, uneven floors, poorly sealed windows, moldy carpets, etc.) and unofficially scheduled to be replaced around 2010. Cypress House is licensed as an “Adult Residential Facility”, housing up to 15 patients who are free to come and go as they choose. Four full-time staff members are assigned as House Managers. An additional 3 full-time and 16 extra-help staff are allocated. The average age of the patients is about 40. At least 50% of the cases are directly or indirectly drug related. Methamphetamine use is a growing problem.

This facility has two staff psychiatrists who prescribe medications, although Cypress House is not licensed to administer drugs. This creates a situation in which all medications must be taken by the patient without staff intervention (i.e. for shots or any other direct contact).

While the Client Services Supervisor’s view is that in some ways the quality of MHS care has improved in the last two years (better identified needs, use of the “recovery model”, employment/job training), he also echoed the understaffing concerns we heard at Rosewood, acknowledging that caseloads are skyrocketing. At the time of our tour, Cypress House was understaffed by 5 positions. Significant problems arise when two or more staff members are on leave or vacation, leaving them shorthanded and overworked. It takes several months to develop interview lists and significant time to interview and hire. In addition, there is a lengthy gap between hiring and sufficient training.

Partly in response to funding and staffing limitations, but also due to changes in treatment practices, they are trying to do more and faster patient discharges “to the street”. The average patient stay has been reduced from 90 days (less than a year ago) to 40 days currently. We cannot objectively judge if this is in the best interest of the patient, but with such a dramatic shortening of treatment in such a short time and under budget constraints, sufficient patient recovery is questionable.

The Client Services Supervisor emphasized a focus on teaching the patients to become self-sufficient: how to clean their rooms, how to plan and prepare nutritious meals, how to go shopping for their food, how to do their own laundry. This facility has a working washer and dryer and an ironing board for the patients’ laundry needs. Each patient has a daily list of chores in addition to his psychiatric or counseling sessions.

Unlike the Rosewood Facility, Cypress House has regular, continuing contact with the ASOC Director, seeing her 2-3 times per week. However, at both facilities the staffing shortage was their number one priority.

COUNTY PERSONNEL REPLACEMENT POLICIES

Because several staff members had reported that they believe the cause of chronic understaffing is due to county policies precluding prompt recruitment of replacements, we interviewed the County Personnel Director. We learned the following facts from her.

1. County wide, there are currently 243 unfilled full-time positions out of a total allocation of 2790, or 8.7%. This is an improvement from the more than 12% in the recent past. Her goal is to reach a level of 7%.
2. Employee turnover rate due to resignation is very low and is normally about 2% per year, or less than 60 employees.
3. The county recognizes clearly that the number of potential retirements from the workforce in the near future represents a real challenge in maintaining staffing levels. In 2006 alone, there could be up to 150 retirements, and the total number of employees eligible to retire by 2010 is 1077, or over 40% of the workforce.
4. When the need to replace a retiring employee is identified, the department may initiate an “over hire approval request” for approval by the County’s CEO. Personnel believes that such requests are approved 80 to 90% of the time. According to Personnel it is “strongly encouraged” to replace retiring personnel before expiration of accrued benefit periods.
5. Several proactive programs have been initiated by Personnel to streamline the process of candidate qualification by increasing the number of candidates on eligibility lists without lowering standards.
6. The County’s Board of Supervisors is seen by Personnel as being very supportive of active planning in support of avoiding staff shortfalls.
7. Personnel’s view is that proactive planning at the department level is the key to maintaining adequate staffing levels.

AFTERWORD

Business as usual in these Adult Residential Facilities includes physical buildings in need of maintenance or replacement, regular work-weeks expanded by 10 to 30 hours without compensation, medications given without adequate supervision or privacy, and staff members providing laundry services for their patients on their own time and resources. And there is no relief in sight.

On the plus side, Placer County has a tuition subsidy program to encourage on-going staff training and it reimburses for professional license fees and mandatory courses. But the ASOC 2005-06 budget showed a one-third reduction in training expenditures, which was determined by a “trending” projection rather than specific identified training needs. Currently, staff members are required to complete training courses in their off duty hours. Considering that our surveys reported staff delivering uncompensated weekly overtime in excess of 30 hours, this additional expectation seems unreasonable.

FINDINGS:

1. Based on responses of supervisors and our observations of conditions at Rosewood and Cypress House, Placer County is not keeping pace with the mental health service demands of its growing population.
2. Quality of Placer County Mental Health Services has been negatively affected by a lack of nurses, training and other resources. There are too many staff vacancies, and they remain open too long.
3. Rosewood and Cypress House staff members demonstrate an inspiring level of personal dedication and perseverance, performing with an admirable "can do" attitude amid difficult circumstances.
4. Filling out and filing insurance paperwork in support of benefit reimbursements is a time-consuming effort requiring a specialized expertise.

RECOMMENDATIONS:

1. The Health and Human Services Department should annually solicit budget input from the staff members who **deliver** services.
2. Allocation of funds should be prioritized to delivery of services (i.e. medical and other trained professionals) before administrative functions.
3. Sufficient full and part-time staff should be hired at Rosewood and Cypress House to end the excessive amounts of employee overtime, to ensure the timely and accurate filing of health insurance forms and to assure employees' weekends free from work responsibilities.
4. Adequate washers and dryers should be purchased and maintained in working order at both facilities.
5. Rosewood and Cypress House staff should be commended and recognized for their outstanding dedication and considerable overtime in support of their patients.
6. Aggressive planning for staff recruitment is needed at the department level to take advantage of the County's relatively new policies which encourage anticipation of vacancies due to retirement and other needs. This requires effective communication of needs between management and staff personnel.

REQUEST FOR RESPONSE(S):

Responses are requested from the following:

1. Director of Health & Human Services: Findings 1-3; Recommendations 1, 2, 5, 6
2. Director of Adult System of Care: Findings 1-4; Recommendations 1-6
3. Director of Personnel: Recommendations 3 and 6

Tahoe Justice Center

SUMMARY:

Placer County's law enforcement facilities in the Lake Tahoe area have been recognized to be inadequate for more than ten years. Virtually all Placer County Grand Juries over that period have commented on this deficiency. There is inadequate space at the existing Burton Creek facility to house all essential functions, and many have been dispersed to rented facilities. The rental costs plus operational inefficiencies are significant. The County Sheriff has voiced his concerns and written a memo to our panel explaining some of the serious consequences his department is forced to deal with due to inadequate facilities in this part of the county.

Within the past year, a comprehensive Site Analysis Report has been completed which recommends Burton Creek as the best location for a new Tahoe Justice Center. The 2005-2006 Placer County Grand Jury recommends that an all-inclusive Justice Center be built in eastern Placer County per the recommendation of this Site Analysis Report. We believe it will save considerable operational money by allowing an officer to arrest, book and jail suspects at one convenient location. The close proximity of related departments will encourage better interaction, eliminate inefficiencies and ultimately provide better service to the people of our county. We believe the money that would be saved and the reduced exposure to potential liabilities are overwhelming reasons to consolidate the County law enforcement services into a new all-inclusive Tahoe Justice Center.

BACKGROUND:

It has been more than ten years since it was determined that the county's law enforcement facilities in Eastern Placer County (Lake Tahoe) are inadequate. The existing Burton Creek facility has been remodeled for security and safety reasons on many occasions. The various staffs and offices are spread out at many separate rented locations in the area. The county presently contracts with Nevada County to share its jail facility in Truckee. To reach this facility requires many additional travel miles and man-hours, which heightens the security and safety issues.

Virtually all of the past eleven Placer County Grand Juries have recommended major improvements, and most have recommended a new all-inclusive Justice Center facility. The 1998/99 Grand Jury stated: "the Burton Creek facility is obsolete, unsafe and marginally functional." The county responded that it was working toward a long-term solution. Two years later the Grand Jury wrote, "The 2000/01 Grand Jury believes nothing short of complete replacement can provide a level of safety and adequacy required of public buildings." The county, at that time, believed that this might happen by 2005. The 2002/03 Grand Jury noted, "the patrol division has moved to a rental facility in Carnelian Bay providing more room at Burton Creek." This Grand Jury also recommended a new facility. The County Executive Office wrote, "The County is anxious to...focus its attention on the design and construction of a new justice facility in Tahoe, which we expect to be a vast improvement over the facilities we now have."

METHODOLOGY:

In its investigation, the Grand Jury did the following:

- 1) Reviewed ten past Grand Jury reports regarding law enforcement operations in the eastern part of Placer County.
- 2) Toured the Burton Creek substation at Lake Tahoe.
- 3) Interviewed facility and operational personnel involved in the day-to-day operation of the law enforcement agencies in eastern Placer County.
- 4) Interviewed responsible County agency and departmental officials, (Placer County Sheriff, County Facility Director, assistant County Executive Officer and the elected County, Tahoe district, Supervisor)
- 5) Reviewed the September 8, 2005, Site Analysis Report.

NARRATIVE/FACTS:

The current sheriff's facility at Burton Creek is inadequate. The building, built in 1960, is currently used for the following:

- 1) Sheriff administration.
- 2) Jail/booking facility (weekday only, no overnight stays)
- 3) Sheriff's dispatch, investigations and records clerk offices,
- 4) Superior Court
- 5) Traffic Court,
- 6) Small Claims Court
- 7) The District Attorney's office.

None of the above department accommodations are adequate by present-day standards. Our Sheriff, Ed Bonner, has enthusiastically offered the attached memo to point out his concerns with the Tahoe substation and with the welfare of his employees working that area of the county.

Several related offices and departments are not located at Burton Creek due to lack of space. These include the following:

- 1) Sheriff patrol division (currently in rented facility in Carnelian Bay).
- 2) A 24/7 Jail/booking facility (currently split between a contract agreement with Nevada County Jail in Truckee and the main Placer County Jail in Auburn),
- 3) Separate Juvenile Jail/booking facility (currently available only in the Auburn facility),
- 4) Probation department offices (currently in rented facility in Tahoe Vista),
- 5) Office space suitable for defense attorney interviews or public defender accommodations.

These separated office locations tend to inhibit the "team approach" which is so important in law enforcement agencies.

The current necessity to disperse essential functions has financial consequences and potential liabilities including the following:

- 1) Rented Facilities – It is costly to find a location, secure a lease, remodel rented space to make secure and workable, and then to pay rent.
- 2) Personnel – Extra man-hours are required to transport prisoners for booking, jailing, court appearance, and interviews. This not only costs salary and overtime but at times results in patrol areas not covered.
- 3) Vehicle - Extra miles driven increase county vehicle wear and tear. Fuel costs, extra maintenance, and depreciation costs are also incurred.
- 4) Security, Safety and Inefficiency – Exposure to liability is increased substantially by additional miles driven to transport prisoners, meet with colleagues, rent outside offices, and having law enforcement people traveling outside secured offices to do their jobs.

Of course, the severe winter conditions at high altitude eastern Placer County magnify all these costs and liability exposures.

To address the need for a new facility, a Site Analysis Report, dated September 8, 2005, was completed by Facility Services Department architect Bill Lardner and Sheriff Capital Project's consultant Steven Reader.

This Site Analysis Report for the future Tahoe Justice Center is comprehensive and thorough. The recommended facility would include all Sheriff operations including jail and patrol divisions, the District Attorney's office, the Probation department and the Courts and their staff. The recommended site for this Justice Center is the Burton Creek location and involves moving the public works road maintenance operations to Cabin Creek. In addition, this report suggests a progression in building this project that would allow the continuation of present services with minimal inconvenience.

Ten of the last eleven Grand Juries have recommended major improvements and or full replacement of the Burton Creek facility. The reasons include security for the public, the employees and prisoners, fire safety, convenience, suitability for county departments, and the necessity for the county to operate efficiently with taxpayer money.

FINDINGS:

The Placer County Grand Jury makes the following findings:

1. The Placer County law enforcement operations in Eastern Placer County are inefficient due to inadequate facilities.
2. There are direct costs in dollars and man-hours and potential financial costs due to unnecessary additional exposures that can be attributed to these inefficiencies.
3. The Grand Jury supports the Site Analysis Report, and we believe that the time has come to move the planning and construction process forward.
4. A new all inclusive Tahoe Justice Center at Burton Creek would encourage a dynamic synergy among personnel, improve efficiency, lessen liability exposure and serve the citizens of Eastern Placer County well.
5. Our County Sheriff is concerned for the residents and his employees in the Tahoe area and supports a new modern facility for his operations.

CONCLUSIONS:

Regarding the inadequate law enforcement facilities at Lake Tahoe, the same key issues, which are safety, security and inefficiency, surface every year. The safety and security issues involve exposures that are dangerous and are potential liabilities to the County. The inefficiencies of overcrowding, off-site rented offices and transporting prisoners from place to place are costly and wasteful.

Now that a thoroughly researched and comprehensive September. 8, 2005 "Site Analysis Report for the Future Tahoe Justice Center" has been finished and submitted, a suitable location at Burton Creek has been determined. Studies have been completed, recommendations have been submitted, the need has been defined, and it is time for Placer County to build a new Justice Center in Lake Tahoe.

RECOMMENDATION:

This Grand Jury strongly urges the County to proceed promptly with planning and construction on the all-inclusive law enforcement facility for the citizens and taxpayers of eastern Placer County and Lake Tahoe.

REQUEST FOR RESPONSE (S):

Placer County Board of Supervisors
Placer County Executive Officer

ATTACHMENT:

Placer County Sheriff Memo, dated 4-19-06

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Page 1 PLACER COUNTY SHERIFF MEMO

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Page 2 PLACER COUNTY SHERIFF MEMO

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SURVEY OF PLACER COUNTY CHARTER SCHOOLS

SUMMARY:

Charter schools were first authorized under California law in 1992. The main intent of charter schools is to encourage the use of different and innovative teaching methods within a public school context. Among the approaches to charter schools are Montessori method public schools, home and independent schooling, fine arts based curricula, and intensive classical education. Charter schools are nonsectarian, funded by the state, sponsored by local school districts, and provide instruction in any of grades K through 12.

The charter school movement has not had a rapid start in Placer County. Of the 950 charter schools currently authorized by law, only five operate in Placer County and only one of those is greater than six years old. On its own initiative, this year's Grand Jury decided to conduct a survey of all Placer County Charter Schools to identify what issues, if any, warrant comment by us.

In our survey, we collected written responses to a detailed questionnaire, visited all five schools, and met twice with the County Superintendent of Schools.

We found that three of the five schools are providing an exemplary contribution to the county's educational system. The Rocklin Academy uses the nationally known Core Knowledge Sequence as its instructional foundation. The school's students have achieved extraordinary results in standardized state tests. The Maria Montessori Charter Academy has brought the renowned Montessori method into the context of free public education. Horizon Instructional Systems provides home schooling and independent schooling to nearly 3000 students thus addressing an important need.

The Grand Jury believes that it has identified a fundamental issue regarding the remaining two charter schools, The Bowman Charter School and the Newcastle Charter School. We believe, as does the County's Superintendent of Schools, that these two schools used the Charter Schools Act in an inappropriate way solely to overcome an interdistrict transfer issue with an adjacent school district, and that, in so doing, they were outside of the intent and the spirit of charter school law.

As a result of our survey, we have developed a set of Findings and Recommendations, which are presented in the corresponding sections.

BACKGROUND:

Charter schools were instituted to provide parents and students greater choice in the kind of education they desire and to offer diversity in programs and school day structure. Legislation creating charter schools in California was passed in 1992, and it was the second state to allow public charter schools. The intent of the legislation was to "provide

opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school structure.” Charter school legislation was strengthened in 1998 to require increased financial oversight and to specify that charter schoolteachers of Core academic subjects must hold certification “equivalent to what other public school teachers are required to hold”. Beginning in 2005, charter schools were required to comply with state academic performance requirements.

Among the choices charter schools offer are home schooling, Montessori concept schools, fine arts based schools, Core curriculum schools, and others. Charter school law does not define a “school”. A charter school might be an existing school, a school within a school, or it might involve classrooms at a number of sites within the district.

The key purposes of a charter school are 1) encourage the use of different and innovative teaching methods; 2) provide expanded educational opportunities within the public school system without the restraints of traditional rules and structure; 3) provide schools a way to shift from rule-based performance to performance-based system of accountability; and 4) provide vigorous competition within the public school system to stimulate improvements in all public schools.

A charter school is a public school, funded by public money, and may provide instruction in any of grades K through 12. It is normally organized by a combination of teachers, parents, and community leaders, and is usually authorized by an existing local public school board.

With few exceptions, a charter school may only be located in the district that approves it. Private schools may not be converted to charter schools, and charter schools must be nonsectarian. A charter school may not discriminate against any pupil and may not charge tuition. Pupils may not be compelled to attend a charter school, nor may teachers be compelled to teach in one. A charter school must admit all pupils who wish to attend the school, except if the number of applicants exceeds capacity, a drawing or lottery must be used.

There is a legal limit of 950 charter schools for the entire state (as of the 2005-2006 fiscal year), and as of 2003-2004, there were 461 charter schools operating in California. Charters are subject to renewal every five years based on a record of adequate academic and financial performance.

A charter school must offer the same total annual instructional minutes by grade that are required by the Education Code, but there is not a specific requirement on the number of minutes per day to be offered. Charter schools are required to operate a minimum of 175 days per year. Charter schools are funded on the basis of Average Daily Attendance, as are other public schools. Charter schools are required to follow the same testing requirements as non-charter schools.

Except where specifically required, charter schools are generally exempt from California laws governing school districts. Some of the laws requiring compliance are state and federal constitutions, The California Charter Schools Act, laws that generally apply to governmental entities but not specifically to school districts, and all federal laws (such as the Americans with Disabilities Act).

In Placer County, the charter schools movement is relatively small and recent. Only four schools are chartered in the county and one chartered in Nevada County operates here. Only one of the five has been in operation longer than six years. The total student population served is approximately 700 classroom-based students and 2,900 non-classroom-based students out of a total student population of over 62,000.

All five of the schools operating in Placer County were examined by the Grand Jury.

METHODOLOGY:

Several members of the Grand Jury expressed interest in knowing more about charter schools, even though no citizen complaint involving them had been received. We believed that there are many common misconceptions about charter schools, and we wanted to increase our understanding before undertaking a review of charter schools in the county.

We first invited the Superintendent of Placer County Schools to brief us, and he provided an initial knowledge base. Then, having identified that there are five charter schools with facilities in the county, we distributed a questionnaire requesting detailed information from all of them. After compiling the data, we scheduled visits to each to learn about its specific operation. We judged that three of the schools are operating correctly within the framework of California charter school law.

With two schools, however, we identified a potentially serious issue concerning their operation as charter schools. We investigated these two cases more thoroughly including a detailed joint interview of the Superintendent and Chief Business Officer of Placer County Schools. We also interviewed the Superintendent of a public school district impacted by the two charter schools in question.

A Final Report of our investigation was prepared including the Findings and Recommendations presented below.

NARRATIVE – Part 1:

The narrative portion of this report is presented in two parts. In the first part, we discuss the Rocklin Academy, the Maria Montessori Charter Academy and Horizon Instructional Systems. Each of these three charter schools offers its distinctive approach to learning which the Grand Jury has examined and applauds. The second part of the narrative discusses two charter schools, the Bowman Charter School and the Newcastle Charter School, which present issues for more careful evaluation.

Rocklin Academy

The Rocklin Academy was founded by Dr. David Patterson in 2001 and operates as a public charter school under the sponsorship of the Rocklin Unified School District. Dr. Patterson continues to lead the Academy as its Executive Director and he also serves on its Board of Directors.

After reviewing 19 different educational programs, Dr. Patterson adopted the Core Knowledge Sequence as the basis of the school's academic program. The Core Knowledge movement has grown out of ideas first expressed in "Cultural Literacy: What Every American Needs to Know" (1987) and "The Schools We Need and Why We Don't Have Them" (1996) both by E. D. Hirsch, Jr. professor emeritus at the University of Virginia. "To be truly literate", Professor Hirsch noted, "citizens must be able to grasp the meaning of any piece of writing addressed to the general reader." He also noted "shared background knowledge is necessary for full participation in the larger national society."

The Academy is the only public school in the greater Placer/Sacramento area to offer this nationally recognized curriculum. (Further details are available at www.coreknowledge.org.) The guide to the curriculum is the book "The Core Knowledge Sequence: Content Guidelines for K-8" which provides the foundation of the curriculum and presents a detailed outline of the content to be taught from kindergarten through grade eight. The Core Knowledge curriculum strives to provide deep and systematic learning in language arts, history, geography, mathematics, science and the fine arts. Music and art are prominently included in the Core Knowledge Sequence and integrated whenever possible with history and literature.

In addition to the Core Knowledge sequence, Rocklin Academy regards parental involvement and teacher excellence as critical elements of its approach. Parents are required to volunteer 30 hours per year of service per family per child. Parents are encouraged to know the Core Knowledge topics being taught in the classroom and to discuss them with their children. They are also encouraged to provide enrichment opportunities to reinforce the curriculum, such as trips to libraries, museums, music venues, and children's theaters. They are asked to keep a scrapbook of schoolwork and student achievements, and to make their children aware of the importance of his or her school life. Children have homework every night.

To promote excellence in teaching, innovative approaches are encouraged. For example, all grades have math at the same time so that children may be grouped by level of attainment rather than by grade. Common terminology is consciously used across grade levels. Enrichment opportunities such as drama class, Math Olympiad, Word Power, Geography Bee clubs, Science Adventure are provided. A science fair is sponsored annually. Faculty and administration are expected to keep abreast of new research and new teaching methodologies, and significant planning time for teachers is provided. One of the school mottoes is "Nobody gets to close a door."

The vision statement of the school gives a good overview of its approach to education:

The vision of Rocklin Academy is to offer the greater Rocklin community a classroom based, high quality education that challenges and motivates each child to discover, strive for, and achieve his full personal potential. We believe that all children deserve a challenging and comprehensive curriculum directed toward achieving world-class standards. We further believe that family involvement and commitment are essential to each child achieving his maximum potential. Rocklin Academy seeks to serve diverse families that share some common beliefs. These families place high value on education and learning, they are families who want to

participate as full partners in the education of their children and are seeking a rigorous and flexible educational program.

The school is an unqualified success. In its five years, enrollment has increased steadily from 100 to 310. Each year, the number of applicants for its kindergarten class is about three times the number that can be accepted, and a lottery is required to choose who is admitted. The school draws primarily from the local Rocklin area, with 92% of students residing within the boundaries of the Rocklin Unified School District. Rocklin Academy maintains a strong preference for Rocklin residents in its enrollment process in response to strong urging from the Rocklin Unified School District Board of Trustees. Parent surveys done annually show about 95% of respondents rating the school as good to excellent. Its charter was recently extended through 2010.

The Academy's students have achieved the highest STAR (Standardized Testing and Reporting) test scores of all public schools in Rocklin for four consecutive years. In 2005, Rocklin Academy students achieved the highest Academic Performance Index (API) score of all schools in Placer County. Rocklin Academy students scored 932 as compared to the statewide target API of 800. 73% of its students scored at the proficient or advanced level in all eleven areas tested.

There is impressive nationwide evidence that the Core Knowledge Curriculum produces positive results consistent with those at the Rocklin Academy. For example, a Johns Hopkins University study concluded, "students in Core Knowledge classrooms gained more in these subjects than their otherwise evenly matched peers by statistically significant margins. The advantages held for all pupils, across all racial and ethnic lines."

The school is not without its frustrations, largely arising from its relationship with the Board of the Rocklin Unified School District. The Academy operates grades K-6, but would much prefer to operate as a K-8 school to fully implement the Core knowledge sequence. It has been precluded from doing so because the district cannot or will not provide collocated classrooms.

Validation of the overall success of the Academy was provided in March 2005 in the form of a \$250,000 Dissemination Grant from the California State Board of Education. The purpose of this grant was to allow the Academy to promote its highly successful academic program among both charter and traditional public schools throughout California. The grant also allowed the Academy to bring teachers from other schools to Rocklin for training. This grant is thought by the Academy to be the largest ever made to a Rocklin school for educational excellence.

Maria Montessori Charter Academy

Maria Montessori (1870 – 1952), creator of the Montessori method, was an Italian educator and the first female graduate in medicine from the University of Rome. The Montessori method assumes that children learn best by interacting with concrete materials and by being respected as individuals. The teacher's role is primarily in organizing materials and establishing a general classroom culture. Most activities are individual, though the children interact in groups in some activities.

According to "Montessori in Perspective" (1966), the basic Montessori concepts are: 1) the teacher must pay attention to the child, rather than the child paying attention to the teacher. 2) The child proceeds at his own pace in an environment controlled to provide means of learning. 3) Imaginative teaching materials are the heart of the process. 4) Each of them is self-correcting, thus enabling the child to proceed at his own pace and see his own mistakes. A frequent impression of a Montessori classroom is one of "controlled chaos" because each child works quietly at his private encounter with whatever learning task he or she chose at that moment.

Montessori Schools first became popular in the United States in the early 1960's, and have remained so ever since. Prior to the charter school concept, however, virtually all Montessori Schools were private with corresponding tuition charges rendering them available only to those with the means to pay.

The Maria Montessori Charter Academy (MMCA) was founded in 2000 by a group of parents who wanted to have a Montessori education available for all children, not just those who could afford a private school. Although the school operates in seven classrooms at two sites in Rocklin, its sponsoring district is Twin Ridges (Nevada County) and the Twin Ridges Board of Trustees governs it.

Now in its sixth year, the school operates grades K through 8, and its enrollment has grown from 120 in 2002 to 175 currently. 95 of the 175 students come from outside the Rocklin District, and there are students from 12 districts in total. Admissions priorities are 1) existing student; 2) sibling of existing student; 3) children of staff member; and 4) Rocklin residents. MMCA began incorporating a preference for Rocklin residents two years ago when it first received classroom facilities from Rocklin Unified School District.

It employs 13 teachers with a student/teacher ratio of about 14 to 1. There are 15 to 20 special needs students. MMCA trains its teachers in the Montessori philosophy including paying for Montessori training, graduate coursework, conferences, etc.

The school attempts to take what it regards as the best aspects of the private Montessori philosophy and methodology and incorporates them within the accountability and framework of California State Standards. Among its attributes, MMCA has multi-age classrooms, multiple teachers per classroom, small group based instruction, ability grouping for Core subject areas, and hands-on learning based manipulative. It regards its program as beneficial for children who are a little bit behind academically but are motivated to get caught up, accelerated students who are easily bored by traditional public school structure, and students who are more self-guided.

Each student has an individualized work plan including ability-based placement for language, arts, and mathematics. Plans are organized weekly by day and include 8-12 jobs on a given day. Using hands-on learning-based manipulatives, activities tend to be research and project-based, and students are allowed to explore a subject area in more depth than is allowed within a traditional public school schedule.

The Montessori philosophy is that a child has an innate desire to learn and produce purposeful, meaningful work. The goals of a Montessori education include stimulating the child's innate love of learning; providing a nurturing, cooperative learning environment; incorporating all the senses in the learning experience; considering the whole child; and encouraging respect for self, others, the environment, and all life.

The attributes the school strives to develop within its students include academic excellence, moral character, conflict resolution skills, visionary leadership, artistic expression, practical accomplishments, compassion and service to others, and exceptional courtesy and manners.

A noteworthy accomplishment of the school is that it is one of 26 schools statewide selected to participate in the Charter Schools Facility Program. It will receive a \$6.5M facility grant, which will enable it to build its own facility. This will overcome what it regards as its most significant problem. MMCA was the only school in California north of Sacramento to receive such a grant.

The school's Strategic Plan for 2004/2005 cited as its strengths: Team teaching, free Montessori education for all children, hard working staff, large amount of parent involvement, ideas shared among staff, parents willing to travel distance to bring kids here, and community care within school community. Its self-perceived weaknesses included lack of funding, no free extracurricular activities for kids, facilities not meeting growth needs, small playground, and not enough teacher training.

The school is popular enough that it consciously maintains a very passive stance with regards to student recruitment, essentially to demonstrate that it is not a threat in any way to the local public schools. Even so, it believes that its host district regards it as competition rather than as a complementary choice. It is usually oversubscribed on the lower grade levels, and conducts lotteries to select students. It has established relationships with all the Western Placer County/ Eastern Sacramento County Montessori preschools that frequently refer students. Its annual parent survey shows a high level of satisfaction with average ratings of high 4's on a scale of 1-5. There is a dedicated, connected parent community. For the 2003-2004 school year, families averaged well over 40 hours per family in volunteer time.

Horizon Instructional Systems

Horizon Instructional Systems (HIS) is a public charter school founded in 1993 primarily to respond to the demand for home and independent study. HIS is a K – 12 school whose motto is "Quality education through personalized learning". Recently the school achieved a full 6-year accreditation from WASC (Western Association of Schools and Colleges). With headquarters in Lincoln, its chartering school district is the Western Placer Unified School District. The Placer County Office of Education also provides oversight and support in financial and accounting systems.

Current enrollment is 2915, and 92% of its students reside outside Western Placer County, from Tahoe to Galt. All Horizon students are "non-classroom based". The vast majority is home-schooled or independent study. Home school students require less student involvement with HIS teachers since parents take on the responsibility to deliver instruction. Independent study students tend to be "at risk" high school students who need more support by credentialed teachers. HIS provides a place for children who don't want public schools. HIS provides an additional avenue for students who have not been successful in or adequately served by the traditional public school system. One of its goals is to help these students find success at HIS culminating in their graduation with a high school diploma. Student turnover rate is high, perhaps 30% per year.

HIS uses an individual approach to every student's education. Each student is assessed in the areas of reading/language arts and mathematics in an initial meeting. Parents (and student when appropriate) discuss their educational goals and future plans with an Intake Facilitator. These are further refined with a credentialed teacher during the collaborative development of a Personalized Learning Plan for each student. The teacher works with the student and family to implement, monitor, and adjust each individual plan throughout the school year. Progress towards student goals is assessed at least monthly through work sample analysis, performance assessment, and curriculum-based measurement. Annual assessment takes place via participation in the state mandated testing program. Assessment results are reviewed with the parents and students and incorporated into a Personalized Learning Plan which directs further educational activities.

Parents choose to enroll their children in HIS for a variety of reasons. Many choose to home school their children arising from specific family values. However, HIS does not participate in religious instruction. Other students enroll because they have not been successful in the traditional public school. Some have been expelled or bullied, failed classes or are chronically truant. Others are teen parents who work full time and need flexibility in their school schedule. One student is a professional snow-boarder. Some parents believe their students have not been adequately challenged in the traditional school setting and want more input into the educational process.

The school provides training for parents who choose to take on the responsibility of home schooling and train in specific areas such as reading and math. The commitment required is emphasized. HIS students and their families must commit to an independent study program that leads to mastery of the California academic content standards. Teachers work closely with parents to determine which instructional methodologies are promoting academic achievement and refine strategies as appropriate. Teachers also review the home-schooled student's work so they know if parents are succeeding or not, and daily attendance can be penalized by unsatisfactory progress. Attendance averages 94-95% which is a little below usual classroom based schools.

HIS provides access to a variety of multimedia and distance learning opportunities. Many HIS students, both advanced and at-risk, flourish in a self-paced, multimedia setting. Videoconferencing and web-based online interactive courses provide opportunities for HIS students to communicate across the country with national experts. English language learners access individualized self-paced language development instruction via computer-based programs. Some take University of California courses on line for Advanced Placement credit.

The school employs 295 credentialed teachers, some who work part time. Annual turnover among the teaching staff is about seven per cent. Teachers work from their home offices and tend to build strong relationships with students and families since instruction and planning is so individualized. There are monthly teachers meetings.

Professional development is provided monthly to all teachers through small, informal staff meetings. These meetings address procedural matters as well as analysis of student work, exploration of new instructional materials, and best practices in collaborative consultation. Teachers who work with high-risk students and English learners meet to discuss individual cases, develop and refine specialized curriculum, and mutually support each other. The Training and Staff Development Department offers formal professional

development opportunities throughout the school year, and teachers are encouraged and provided fiscal support to attend professional conferences and workshops as appropriate.

Although it is primarily oriented toward home schooling and independent study, HIS offers several small group study programs. These include the Lincoln Montessori Community Cooperative for grades K-7; Sacramento Valley Technical High School (career classes); Small Group Instruction (SGI) classes; UC College Preparatory (UCCP) online classes; contract learning opportunities; virtual field trips; and remediation classes for students who have not passed the California High School Exit Exam. HIS also offers a variety of elective courses not always available in traditional public schools, such as Lego engineering, Chinese language instruction, and a variety of music classes. The school has learning centers in Roseville and Auburn.

The school has emphasized participation in the STAR program, and 88% of HIS students participated in the 2004-2005 STAR testing. All tests are administered according to standardized procedures and protocol by trained HIS staff and test proctors. Its students achieved a statewide STAR rank of 4 out of 10 and a ranking of 9 of 10 compared to similar schools.

NARRATIVE – Part 2:

Bowman Charter School Newcastle Charter School

The remaining two charter schools operating in Placer County are the Bowman Charter School (operated by the Ackerman School District) and the Newcastle Charter School (operated by the Newcastle Elementary School District). Both districts are single-school districts. These charter schools may be discussed in parallel because of the similarity of their concepts and the underlying reasons for their existence. Both were formed in 2005, and began operation at the beginning of the 2005-2006 school year.

An understanding of these two schools first requires discussion of the Auburn Union School District, which borders the Ackerman District on the south and the Newcastle District on the north. Auburn operates five schools, including four elementary schools (K-5) and a middle school (grades 6-8). In the thirteen-year period from 1983 to 1996, Auburn Union experienced consistent student population growth, moving from 1,991 in 1983 to 3,070 in 1996 (a total growth of 54%). A new elementary school, Auburn Elementary, was opened in 1996.

However, then the tide of growth reversed and became declining. Since the peak in 1996, student population has steadily retreated, falling to 2,450 in 2006, for a net loss of 620 students or 20% of the population. This decline occurred for a variety of reasons. First, as real estate values escalated in the Auburn area and as it became a popular destination for San Francisco Bay and Los Angeles Basin retirees, the number of homes with elementary school aged children decreased. Second, the number of parents wishing to home-school their children increased. Third, some parents found the adjacent districts to be more attractive as places to educate their children.

A significantly diminished student population is a severe problem to any school district. A primary reason is that public schools are funded by the state of California in proportion to Average Daily Attendance (ADA), with each equivalent full time student currently

funded at the rate of approximately \$5,000 annually. Thus, Auburn's loss of 620 students in total corresponds to diminished funding of over \$3M. This can be seen to be a significant proportion of the District's total operating budget for 2005-2006, which is \$16M.

Shortfalls of this magnitude would present a large problem to any district, since overhead and administrative costs become out of proportion, valuable programs and facilities must be eliminated, and teacher layoffs must be made. Auburn Union's financial problems were further compounded by \$700K in legal fees arising from the successful defense of two special needs students' cases. The resulting cuts were draconian and included paring administrative staff to bare minimums, laying-off teachers, eliminating programs such as the fifth grade band, and perhaps most notably, closing its school libraries.

Even with cuts such as these, the district fell out of financial compliance with state reserve requirements, and control of district finances was assumed by the state's Fiscal Crisis Management Team (FCMAT), which oversaw the elimination of an additional \$1M from Auburn Union's budget.

This situation further exacerbated the tendency of district residents to seek to transfer out of the district. Also, many parents came to favor the K-8 small school environments at Bowman and Newcastle schools over the middle school approach of Auburn.

This overall situation prompted the district to tighten up its interdistrict transfer rules in February 2005. It adopted an interdistrict policy which identified eleven circumstances under which incoming students would be accepted but only five in which they would be permitted to leave. For example, keeping siblings together was not a reason to allow a transfer out. Also, valid interest in a particular educational program in another district was excluded as a reason to permit transfer.

Had this change in policy by Auburn been fully implemented, the effects on the two adjacent districts would have been immediate and catastrophic to their finances. The Ackerman District, for example, would have immediately lost about 1/3 of its students. In response, both districts adopted the same counter strategy at almost the same time, and that was to form charter "schools within a school". The overwhelming virtue of this plan, from their perspective, was that under California Charter School Law, students may enroll in charter schools independent of otherwise governing interdistrict transfer policies. Thus, petitions to form charter schools were prepared, and state approval was gained in time for charter school operation to begin in September 2005.

The Grand Jury reviewed the charters of both the Bowman Charter School and the Newcastle Charter School. Both charters are perfectly transparent as to their basic objective. From the Newcastle Charter, page 4:

"The Charter School's objective is to provide a vehicle for the delivery of the Newcastle Elementary School District's academically rigorous and challenging educational experiences to students whose families have chosen to educate their children outside of their local traditional public schools and districts."

And from the Bowman Charter, page 4:

“This charter school’s objective is to provide a vehicle for the delivery of rigorous, challenging educational experiences for students whose families have chosen to educate their children outside of their local traditional public school.”

The similarity of this language is striking. Each charter then proceeds to describe the existing program of the corresponding school, and to make clear that charter students will not be distinguishable from other students at the corresponding school, and that, in fact, charter and non-charter students may routinely be co-mingled in the same classroom.

The obvious issue is whether or not such a charter school, defined only in terms of its objective to enable interdistrict transfers without interference from a student’s district of residence, complies with the spirit and the letter of California Charter School Law.

This Grand Jury believes, as does the Placer County Superintendent of Schools, that it does not. The Superintendent brought this matter to the attention of the California Department of Education (CDE) within a few days of the beginning of operation of these so-called charter schools. In a letter dated September 19, 2005, he stated:

“I cannot see how the co-mingling of charter and district students in this fashion meets the spirit and intent of charter law. I also question how a district can apply for a charter program and then treat students no different than any other student enrolled in the school. Moreover, I firmly believe that this is a misuse of the charter legislation solely for the purpose of allowing students to enroll without interdistrict agreements.”

He went on to state that:

“While I am very concerned with the status of the two districts in Placer County, I believe this is an issue that has broad implications statewide and I am therefore urging that prompt action be taken by your office to determine the legality and possible financial implications of this practice. I am fearful that these districts could face severe fiscal penalties now or in the future which could bankrupt the district should these practices result in loss of funding for charter or district students.”

The Superintendent renewed his request for CDE to provide guidance in a second letter dated November 1, 2005 which, to date, has not been acted upon. On January 13, 2006, he received an opinion from Fiscal Crisis Management Team (FCMAT) that “the practice of wholesale co-mingling of students appears to violate the legislative intent behind the Charter Schools Act of 1992.” On January 18, 2006, he obtained a legal opinion from the law firm of Girard, Vinson, and Trujillo, which confirmed, “The practice of co-mingling charter and district students is not within the guidelines of the Charter Schools Act”. He took the action on January 19, 2006 of declining to certify the attendance for the two charter schools. Finally, on April 6, 2006, the Placer County Office of Education entered into a contract with FCMAT to conduct a review of the Newcastle Charter School including to “verify if any questionable practices in the past or at the present time are taking place that could be considered fraudulent.”

In summary, the CDE has not yet proffered an opinion of the legality of the practice of co-mingling of students in the Bowman and Newcastle Charter Schools, and the Grand Jury cannot project itself as an expert with regard to the eventual outcome on the issue.

However, looking beyond the narrow question of co-mingling, the Grand Jury does wish to express the view that validating the concept of allowing districts to form charter schools for the principal objective of avoiding interdistrict transfer rules has the potential to make a mockery of the charter school concept. Surely this is in basic conflict with the intent of the Charter Law “to establish and maintain schools that operate independently from the existing school district structure”. There is simply no comparison between the incremental value of the alternative approaches offered by the Rocklin Academy, the Maria Montessori Charter Academy, Horizon Instructional Systems and the approaches of the Bowman and Newcastle Charter Schools.

There are three underlying issues in this case, having nothing whatever to do with charter schools, that are most relevant here. They are 1) the existence of too many small, fragmented, independent school districts in Placer County; 2) the desire to foster competition among schools and educational concepts; and 3) the need for maximum freedom of choice for parents and students. These all are worthy of note by the Grand Jury, but we must acknowledge that they are too complex for us to offer simple solutions.

Virtually everyone we interviewed answered the question “are there too many school districts in this area” affirmatively. They also went on to say that they know of no effective solutions. Strong local control of schools is a firmly established tradition. Many schools and districts have strong emotional links to families educated there for many generations. There are no legal mechanisms to encourage or enforce consolidation of districts, which are losing students or have otherwise become too small to operate efficiently. Asking a School Board to go out of business is a tall order.

Also, nearly everyone agrees that competition among schools is beneficial in stimulating change and improvement, and that, to the greatest degree possible, parents should have freedom of choice among available schools and educational approaches. However, the Grand Jury firmly believes that the creation of phantom charter schools must not be used as a surrogate to addressing the underlying issues of diminishing student population in an area where there are too many fragmented school districts struggling to survive.

FINDINGS:

Based on the facts of its survey of Placer County charter schools, the Placer County Grand Jury makes the following findings:

1. The accomplishments of the Rocklin Academy, the Maria Montessori Charter Academy, and Horizon Instructional Systems validate the value of the charter school concept in providing parents and students with alternative approaches to education.
2. The demonstrated academic attainments of the students of the Rocklin Academy are exceptional. Its focus on achieving world-class performance utilizing the Core Knowledge Sequence Curriculum is particularly worthy of note.
3. The Montessori method has been a legitimate choice for parents in the United States for over forty years. The Maria Montessori Charter Academy is making the contribution of providing this method to students in a public school context.
4. Especially in Placer County and adjacent counties, many parents prefer to home school their children arising from family values perspectives. The Horizon Instructional Systems is thus fulfilling a significant need.
5. The adoption of charters by the Newcastle Elementary School District and the Ackerman Elementary School District was a transparent attempt to exploit the Charter Schools Act to achieve a purpose for which it was not intended, namely to allow unrestricted interdistrict transfers.
6. The Superintendent of Schools of Placer County recognized the illegitimacy of the Bowman and Newcastle Charter Schools, and attempted unsuccessfully to gain California Department of Education attention to the matter virtually as soon as these charters began to operate.
7. The Newcastle and Ackerman Districts felt forced to adopt charters arising from a restrictive interdistrict transfer policy adopted in February 2005 by the Auburn Union School District.

RECOMMENDATIONS:

The Placer County Grand Jury extends its thanks and appreciation to the founders and faculties of the Rocklin Academy, the Maria Montessori Charter Academy, and the Horizon Instructional Systems. Each is offering parents and students in the County a valuable alternative source of education in the best spirit of the intent of the 1992 Charter Schools Act. We have no recommendations regarding the operations of these schools.

The Placer County Grand Jury recommends that:

1. The Board of the Rocklin Unified School district should consider, as its priorities permit, assisting the Rocklin Academy in reaching its goal of offering a K-8 Core Knowledge Sequence Curriculum in a single location.
2. The Superintendent of Schools of Placer County should consider taking specific note of the level of academic attainment being accomplished at the Rocklin Academy and should consider encouraging other districts as appropriate to evaluate the Core Knowledge Sequence. It would perhaps be appropriate to distribute the monograph, "Filling the Void, Lessons from Core Knowledge Schools" to every county school board and also a referral to the website www.coreknowledge.org for further information on the Core Knowledge Sequence.
3. The Superintendent of Schools of Placer County should persist in his attempt to obtain a ruling from CDE concerning the legality of student co-mingling at the Bowman Charter School and the Newcastle Charter School. He is to be congratulated for his persistence to date in the face of inexplicable delays in response from CDE.
4. The Board of the Ackerman School District should consider vacating the charter of the Bowman Charter School at the earliest practicable time. Other, more legitimate, means should be sought to make the school available to out of district parents who wish to educate their children there.
5. The Board of the Newcastle Elementary School District should consider vacating the charter of the Newcastle Charter School at the earliest practicable time. Other, more legitimate, means should be sought to make the school available to out of district parents who wish to educate their children there.
6. The Board of the Auburn Union School District should consider that a restrictive interdistrict transfer policy is an ineffective long-term solution to addressing its problem of declining enrollment. It should consider modifying its policy at the earliest practicable time to be less restrictive.

REQUEST FOR RESPONSES:

The Grand Jury requests responses to its Findings and Recommendations as follows:

Superintendent of Schools:

Findings 5, 6, and 7 and Recommendations 2, 3, 4, 5, and 6

Board of the Newcastle Elementary School District:

Findings 5 and 7 and Recommendations 5 and 6

Board of the Ackerman Elementary School District:

Findings 5 and 7 and Recommendations 4 and 6

Board of the Auburn Union School District:

Findings 5 and 7 and Recommendation 6

Board of Rocklin Unified School District:

Recommendation 1

LIST OF RESPONDENTS

RESPONDENT	REPORT	PAGE
Board of the Ackerman Elementary School District	Survey of Placer County Charter Schools	43
Board of the Auburn Union School District	Survey of Placer County Charter Schools	43
Board of the Newcastle Elementary School District	Survey of Placer County Charter Schools	43
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NOTE TO RESPONDENTS

The legal requirements affecting respondents and responses to Grand Jury findings and recommendations are contained in California Penal Code, Section 933.05. The full text of the law is printed below.

Each Respondent should become familiar with these legal requirements and, if in doubt, should consult legal counsel prior to responding.

For the assistance of all Respondents, Sections 933.05 of the California Penal Code is summarized as follows:

The responding person or entity must respond in one of two ways:

1. That you agree with the findings.
2. That you disagree 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 for the disagreement.

HOW TO REPORT ACTION IN RESPONSE TO RECOMMENDATIONS

Recommendations by the Grand Jury require action. The responding person or entity must report action on all recommendations in one of four ways:

1. The recommendation has been implemented, with a summary of the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. If a person or entity reports in this manner, the law requires a detailed explanation of the analysis or study must be submitted to the officer, director, or governing body of the agency being investigated.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

BUDGETARY or PERSONNEL RECOMMENDATIONS

If either a finding or recommendation deals with budgetary or personnel matters of a County department headed by an elected officer, both the elected officer and the Board of Supervisors shall respond if the Grand Jury so requests. While the Board of Supervisors' response is somewhat limited, the response by the department head must address all aspects of the findings and recommendations.

APPEARANCE BEFORE THE GRAND JURY

Prior to the publication or release of Grand Jury findings, the Grand Jury may request a personal appearance by the person or entity to discuss the proposed findings.

**ADVANCE RELEASE OF GRAND JURY REPORT DISCLOSURE
PROHIBITED
PRIOR TO PUBLIC RELEASE**

Two working days prior to release of the Final Report, the Grand Jury will provide a copy of the portion of the report to all affected agencies or persons. No officer, agency, department, or governing body of a public agency shall disclose the contents of the report prior to its release.

TIME TO RESPOND, WHERE AND TO WHOM TO RESPOND

Section 933.(c), Penal Code, depending on the type of Respondent, provides for two different response times and to whom you must respond:

1. Public Agency: The governing body of any public agency must respond within ninety (90) days. The response must be addressed to the Presiding Judge of the Superior Court.
2. Elective Office or Agency Head: All elected officers or heads of agencies who are required to respond must do so within sixty (60) days, to the Presiding Judge of the Superior Court, with an information copy provided to the Board of Supervisors.

The Presiding Judge of the Placer County Superior Court system is:

The Honorable Frances Kearney
Presiding Judge of the Superior Court
County of Placer
11546 B Avenue
Auburn, CA 95603

Also, please send your responses in the form of an **original hard copy** as well as **digital copy on compact disk** to the Placer County Grand Jury, addressed as follows:

Placer County Grand Jury
11490 C Avenue
Auburn, CA 95603

**CALIFORNIA PENAL CODE
SECTION 933.05**

a. For purposes of subdivision (b) 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 (b) of Section 933, as to each Grand Jury finding, the responding person or entity shall indicate one of the following actions:
- i. The recommendation has been implemented, with a summary regarding the implemented action.
 - ii. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - iii. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - iv. 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 addressed budgetary or personnel matters of a County agency or department headed by an elected officer, both the agency or 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 some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency of 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. During an investigation, the Grand Jury shall meet with the subject of that investigation regarding that investigation, unless the court, either on its own determination or upon request of the foreperson of the Grand Jury, determines that such a meeting would be detrimental.

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 (2) working days prior to its public release and after the approval of the Presiding 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.

**AUBURN AREA
RECREATION DISTRICT**

IMMEDIATE ISSUES

INTERIM REPORT

**PLACER COUNTY
GRAND JURY
2005-2006**

January 5, 2006



PLACER COUNTY GRAND JURY

(530) 889-7469
Mailing Address:

FAX (530) 889-7447
11490 C Avenue, Auburn, CA 95603

January 5, 2006

The 2005-2006 Placer County Grand Jury is issuing an Interim Report related to the current situation at the Auburn Recreation District. This Interim Report is part of an ongoing investigation of Auburn Recreation District by the Grand Jury. It is being issued because the Grand Jury believes specific actions should be taken immediately.

Sincerely,

Paul Ridgeway

Paul Ridgeway, Foreman
2005-2006 Placer County Grand Jury

IMMEDIATE ISSUES INTERIM REPORT

Auburn Recreation District (ARD)

SUMMARY:

The District Administrator of the Auburn Recreation District (ARD) has presented the Board with a draft of a new employment contract. This contract was discussed by the Board at its closed session meetings in November and December without resolution. Earlier, in 2004, the District Administrator had filed claims against the Board alleging violations of his rights as an employee, and the status of those claims is a matter of debate. Some Board members believe that offering to abandon the prior claims is being used as leverage by the District Administrator to gain a new contract. All of this has received substantial publicity in the Auburn community including several articles in local newspapers. The Placer County Grand Jury, having monitored ARD for the past three years, has chosen to investigate this matter and to publish a formal Interim Report. Based on our investigation, we find that a new contract should not be considered at this time, and we recommend that the Board cease considering it. Further, we recommend that the Board and the District Administrator make every attempt to put their differences behind them in order to provide cohesive and effective leadership for the District. The Board should clearly state its rejection of prior claims by the District Administrator. We also recommend that all involved in closed session meetings adhere to their legal responsibilities under the Brown act.

BACKGROUND:

The Placer County Grand Jury has maintained cognizance of ARD for the past several years. Each year's final report has included findings and recommendations regarding ARD. Although ARD has been generally responsive to Grand Jury recommendations, some problems persist as evidenced by the on-going negative attention given to ARD in the community and in local newspapers. The ARD Board and the District Administrator have continued to have difficulty conducting themselves as an effective team. Their divisiveness is apparent to anyone who attends an ARD monthly public meeting.

By state law, the Grand Jury makes the results of its investigations known by the means of a Final Report published in June of each year and where circumstances demand, Interim Reports published at any time. All reports are structured in the form of facts derived from investigation, findings based on those facts and related experience, and recommendations made to appropriate public officials. Each report identifies respondents who, by law, must respond in writing indicating agreement, disagreement, and resulting actions.

This is an Interim Report whose necessity is dictated by the unresolved discussion by the ARD Board of a proposed new contract for its District Administrator. This item has been under discussion at ARD Board closed session meetings for the past three months. It has

Placer County Grand Jury

become an increasingly contentious matter among Board members and has led to strong negative comments concerning ARD in the local press. The matter is clearly detrimental to the effective functioning of the ARD.

Thus, the Grand Jury has chosen to prepare an Interim Report. Our facts, findings, and recommendations are reported below.

METHODOLOGY:

The 2005-2006 Grand Jury is continuing to monitor ARD and anticipates that a new set of overall findings and recommendations will be made in this year's final report. Toward that end, members of the Grand Jury attend every public Board meeting. Each meeting agenda and report is read and discussed. The Grand Jury has conducted interviews with the Board and others using carefully prepared sets of questions.

NARRATIVE/FACTS:

The facts related to the consideration of a new contract for the ARD District Administrator are presented in three sections: A: Facts Preceding the Presentation of the Proposed Contract to the ARD Board; B: Facts Regarding the Content of the Proposed Contract; and C: Facts Following the Presentation of the Proposed Contract to the ARD Board.

A. FACTS PRECEDING THE PRESENTATION OF THE PROPOSED CONTRACT TO THE ARD BOARD

Following are facts that occurred before the presentation of the proposed contract to the ARD Board. The source of these facts are previous Grand Jury Reports concerning ARD, observations of Grand Jury members from attending ARD public board meetings, and Grand Jury interviews of ARD board members and the district administrator.

1. The District Administrator currently serves under a contract, which expires in 2008.
2. He filed two complaints against the ARD board in 2004. These complaints alleged violations of his rights as an employee. They named both the board as a whole and Directors Holbrook and Kirby as individuals.
3. Under normal legal process, the Board had a specified period of time to respond to these complaints. If rejected, then the District Administrator had a specified period of time to press his claims through the courts. If suit was not filed before the end of that period of time, then under law his right to sue expires.
4. The ARD Board's response to the claims was not precise. That has created a situation in which both the board and the District Administrator are uncertain of his right to sue. He maintains that his right remains open. Some board members hold that the claims were all rejected and his right to sue has expired. Others are uncertain.
5. Some present and past board members have admittedly favored termination of the District Administrator. This has created a situation

Placer County Grand Jury

of tension between the District Administrator and the Board that has been evident at every recent board session and by the testimony of all concerned to the Grand Jury.

6. The District Administrator has sought to resolve his situation by proposing and drafting a new contract.
7. The draft of a proposed new contract was distributed at the closed session of the November 2005 Board meeting.

B. FACTS REGARDING THE CONTENT OF THE PROPOSED CONTRACT

Following are facts concerning the content of the proposed contract. The source is a copy of the draft.

- a. The period of the contract is July 1, 2005 to October 31, 2013, a period of 8 years, 4 months.
- b. The initial salary is \$89,758 with an annual cost of living increase of 2% (or by the amount of the percentage increase in the consumer price index for urban areas), plus a 5% - 10% annual merit increase.
- c. There is no provision for a cost of living decrease nor for an annual merit review of less than 5%.
- d. Thus, for example, if the annual cost of living were 2% and an annual merit increase of 7.5% were granted, the annual salary by year would be: July 1, 2005 - \$89,758; July 1, 2006 - \$98,285; July 1, 2007 - \$107,622; July 1, 2008 - \$117,846; July 1, 2009 - \$129,041; July 1, 2010 - \$141,299; July 1, 2011 - \$154,723; July 1, 2012 - \$169,422; July 1 thru -October 31, 2013 - \$46,379. This amounts to an aggregate basic salary of \$1,054,375 not including any fringe benefit costs.
- e. The proposed effective contract date would include retroactive compensation from the date of contract signing to July 1, 2005 – a period of at least seven months with a cash value of more than \$50,000.
- f. The contract requires that ARD pay for medical, dental, vision, and short and long term disability for the District Administrator and his dependents, or at his option he could elect to be paid in cash for the annual costs of these benefits. In addition, \$50,000 in life insurance benefit is specified. The grand jury has not attempted to estimate the annual and aggregate costs of these benefits, but they would be substantial.
- g. ARD is required to annually reimburse him for his employee contribution to PERS and in addition to match his contribution by a like amount into a tax deferred account. The grand jury has not attempted to estimate the annual and aggregate costs of these benefits, but they would be substantial.
- h. ARD is required to provide a district vehicle for his unlimited use within a 100-mile radius of the district and beyond 100 miles with notification to the Board. There is no provision for the board to limit use beyond 100 miles even when notified.
- i. ARD is required to reimburse him for all costs and expenses for him to attend any accredited college or university up to and including a master's degree in a related field.

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- j. There are additional provisions for reimbursement of expenses at professional meetings at local, state, or national levels and for membership expenses in service organizations.
- k. The initial paid vacation allowance is 18 days per year increasing to 25 days per year on February 1, 2008. An additional 12 days of paid discretionary leave days is granted. An additional 12 days of sick leave time is granted. In sum, these vacation, discretionary, and sick leave days total 49, or 9.8 workweeks after February 1, 2008. He may elect at any time to take cash in lieu of unused vacation or discretionary time.
- l. In the event of termination for by the Board or upon his 60 day written notice, the contract provides that “during the remaining time of this contract plus two years, the District Administrator will be paid at the same rate and benefits as provided by this contract. In other words, it is within the scope of the contract as written that he could give 60 days notice the day after the contract was signed and ARD would still be financially obligated to him until October 31, 2015

In summary, the contract specifies an ARD obligation to the District Administrator that would exceed \$1.5 Million over a period of 10 years, 4 months.

C. FACTS FOLLOWING THE PRESENTATION OF THE PROPOSED CONTRACT TO THE ARD BOARD

Facts following in time from the presentation of the proposed contract to the board are listed below. The sources are interviews with all board members and the District Administrator, citizen complaints filed with the grand jury, and observations by grand jury members attending ARD board meetings.

1. The proposed contract has been an agenda item for the closed session of the monthly ARD meeting in both November and December.
2. No resolution of the matter has been made.
3. Board members are uncertain as to the positions on the new contract of other board members.
4. Some board members believe that the District Administrator is attempting to use the possibility of pursuing his claims in court and the naming of individual board members as plaintiffs as leverage to gain approval of a new contract.
5. The tension surrounding this matter has materially affected the Board's ability to function as a cohesive group.
6. Details of the proposed contract have appeared in the local press suggesting the possibility that one or more closed session attendees have violated the Brown Act provisions regarding public disclosure of closed session content.
7. Two board members took the extraordinary step of addressing the board as members of the public during the public comments agenda item of the December Board meeting.

Some board members have filed complaints with the Grand Jury concerning issues involving the proposed contract.

Placer County Grand Jury

FINDINGS:

Based on the facts presented above, the 2005-2006 Placer County Grand Jury makes the following findings with respect to the matter of a proposed new contract for the District Administrator and the ensuing public discussion.

1. This year's Grand Jury believes that there is no circumstance in which it is advisable to allow an employee to draft his or her own employment contract and under no circumstances should such a draft be considered as a basis for contract discussion or negotiation.
2. We find that there is no logic which would permit an employee's legal complaints to be any basis whatsoever for considering a new contract. The two matters must be maintained as separate and distinct.
3. The proposed contract extends far beyond the term of any current board member. It would be poor practice to award a new contract that obligates future boards when it is impossible to understand if that action will cause great harm to the budget process of those future boards. The uncertainty of future income and the uncertainty as to the need in the future for ARD to have an executive director are unknown at this time.
4. Considering that the District Administrator is currently under a contract not expiring until 2008, there is no apparent need to consider an extension or modification at this time, especially considering the tenuous relationship between the District Administrator and the Board.
5. The draft contract presented by the District Administrator requests compensation far beyond the value of the position.
6. The termination provisions are almost certainly illegal under state law in exceeding the maximum allowable 18-month severance compensation.
7. Continuing consideration of this matter in ARD Board closed session meetings has been divisive and an impediment to the Board's effective direction of ARD.
8. There is a likelihood that the content of closed session meetings of the ARD Board regarding the proposed contract has been disclosed to local newspapers either by one or more meeting attendees or through intermediaries.

Such disclosures, if in fact occurred, are a violation of the Brown Act, Section 54963, and are subject to legal remedies.

Placer County Grand Jury

RECOMMENDATIONS:

As noted previously, the Grand Jury anticipates that it will continue to investigate ARD and to report its overall findings and recommendations. This report addresses only the immediate questions of considering a new contract for the District Administrator and the public disclosure of the proposed terms. Thus, the Grand Jury makes the following recommendations at this time

1. All discussion and consideration of a new contract for the District Administrator should cease.
2. The Board should document and state clearly in writing to the District Administrator that it has rejected all of his claims. If he then chooses to resign or to pursue the matter by other legal means, that is his decision.
3. The Grand Jury urges all board members and the District Administrator to put personal agendas and differences behind them and to make a conscientious and sincere attempt to begin to work together as an effective team. Anyone who cannot with clear conscience adhere to this recommendation and act accordingly should resign in the best overall interest of ARD.

The Grand Jury reminds all participants in closed session meetings of the ARD Board that the proper avenues under the law for strong disagreement with meeting content are the Grand Jury and the District Attorney. We offer no sympathy to anyone who has chosen, out of disagreement with other members of the board or the District Administrator, to violate the law governing the conduct of elected boards. Such actions run the risk of further diminishing ARD's reputation and of subjecting ARD and individual members to liability.

REQUEST FOR RESPONSE (S):

California State law provides requirements for response to Grand Jury report findings and recommendations. These are detailed on pages 39 through 42 of the Final Report of the 2004-2005 Grand Jury. Copies are provided to each respondent below. The specified respondents to this Interim Report are as follows:

Each member of the ARD Board as an individual respondent
The ARD District Administrator

By law, written responses are required in 60 days. However, we urge that the Board and the District Administrator accept the recommendations of this report and implement them immediately.

Dr. H. Gordon Ainsleigh, D.C.—Meadow Vista Chiropractic
PO Box 1087—Meadow Vista CA 95722—(530) 878-1901—drgordon@auburninternet.com
Postgraduate Certified Chiropractic Clinical Nutritionist—Founder: Western States 100-Mile Run
U.V. Workshop Speaker on Cancer Prevention, U.S. National Institutes of Health, Bethesda MD, 9/16-18/98

The Honorable Frances Kearney
Presiding Judge of the Superior Court--County of Placer
11546 B Avenue
Auburn CA 95603

Dear Judge Kearney:

I arrived a little before 5 PM on Monday, March 6, to hand-deliver this response to you and the Grand Jury. I found that both your offices were closed and was unable to find a mail receptacle. Therefore, I am delivering it today. In view of the fact that I am a member of a governing board, and governing boards have 90 days in which to respond, I ask that this response be viewed as 29 days early rather than 1 day late.

I am choosing not to use the form-letter response that was recommended/offered by ARD legal counsel and administration. The following is my personal response to the Interim Report of 1-5-06 authored by the Placer County Grand Jury:

I agree with findings 1 – 7 and 9.

I partially agree with Finding 8, but wish to point out that many people had access to the ARD District Administrator's proposed contract. These would include, but not be limited to:

- Members of the ARD Board of Directors
- The attorney(s) and the staff of the attorney(s) who drew it up, including all who viewed and/or handled it,
- Any ARD staff members who viewed and/or handled it,
- All confidants of Alain Grenier who viewed and/or handled it, and any confidants of those confidants,
- Anyone with physical access to any of the computers upon which that contract was kept,
- And, if the document was held in an online computer at any of the locations at which it was stored, or any computer linked to an online computer, all hackers knowledgeable enough to break into that computer while it was online would also be a possible conduit to the public forum.

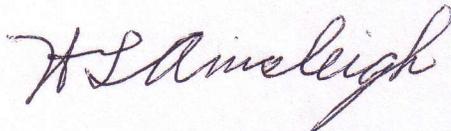
Regarding this last possibility, the computer whiz guy who set up my computer and network supplied me with an external modem that can be manually turned off. He said that this is the only sure way to protect against a hacker when I am away from my computer, because a smart hacker can contact a computer that is turned off, turn it on, and go from there. In an age when people do such electronic break-ins just for their own entertainment value, it seems unwise to discount an electronic break-in at a time when there were so many people around who were motivated far beyond someone who was just seeking entertainment.

The following are my responses to the Interim Report's conclusions/recommendations:

- Recommendation #1 has been implemented.
- Although I like the public disclosure in recommendation #2, I have been given to believe that we, as individual Board members and as a Board, are legally constrained from making public statements regarding personnel and litigation issues, and therefore cannot see how we can follow recommendation #2 if the foregoing is true.
- Although I like getting along with others and cooperating with my colleagues for a common goal, I cannot in good conscience either resign or be totally cooperative, as suggested in recommendation #3, for the following reasons: It is my impression that past arguments between members of the Board have arisen either because certain Board members have been selectively silenced, and their power deliberately reduced to less than 1/5 of the Board, or because actions taken by some board member(s) have been clearly detrimental to the welfare of the District and the will of the voters we represent, and such actions can only continue to exist under cover of secrecy. I believe it is wrong to agree with those who suppress the power of any Board member below 1/5 of the Board, and I believe it is wrong to agree with those who secretly take action that damages the ability of ARD to fulfill its mission of using recreation to enhance the lives of the people of our District, as, for instance, happens when funds intended to enhance the welfare of our citizens are unjustifiably diverted in directions that enhance the welfare of the (now ex-) District Administrator and his ex-employee/housemate, or to provide legal protection for those who are apparently hiding the misuse of their office.
- Recommendation #4 contains points that are well taken, and I am implementing them for the most part. However, to some degree, there does seem to be a conflict between recommendation #4 and recommendation #2 of this Grand Jury Interim Report, and this conflict echoes a conflict that is present in the Brown Act and California Government Code, which make grand overriding statements about how important it is to conduct the people's business in an open forum, yet enumerate specifics of the code contained within those bodies of the law which act to suppress open discourse with our constituents to a huge degree. It's like we are being asked to serve two masters, or to serve one master with multiple personalities in the middle of an identity crisis. It reminds me of the odd reality I have seen of someone who is given a ticket for impeding the flow of traffic by driving the speed limit in the fast lane. At this point, I am relying heavily on the Grand Jury, while feeling bad about how poorly I am obeying the laws requiring me to conduct the public's business in public. It may be of interest that many members of the public have expressed their dissatisfaction with how poorly informed they are about "what is really going on at ARD".

If you wish further clarification of my responses, please contact me and I will do my best to satisfy your questions.

Yours Truly,



Gordy Ainsleigh, Auburn Area Recreation and Park District Board of Directors Chairman



AUBURN AREA RECREATION AND PARK DISTRICT

March 3, 2006

Placer County Grand Jury
11490 C Avenue
Auburn, CA 95603

RECEIVED
MAR - 7 2006
Placer County Grand Jury

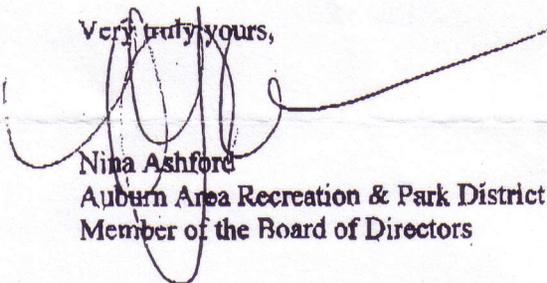
Dear Members of the Grand Jury:

I am writing in response to the Grand Jury's Interim Report issued on January 5, 2006. In its report the Grand Jury requested a response from each individual member of the Board of the Auburn Area Recreation and Park District. I believe this is inappropriate, because the Grand Jury should have requested a response from the Board as a whole.

Penal Code section 933 specifies that the Grand Jury should request a response from the "governing body of the public agency," which it did not do. Instead, it requested a response only from the District Administrator and from individual Board members. Under Penal Code §933, only "elected county officers" or "agency heads" are specified as individual responders to a grand jury report. Auburn Area Recreation and Park District Board members are neither "elected county officers," nor "agency heads." Our Board members act as a single governing body and only have authority in that capacity, and should respond only as a Board as a whole, in accordance with the law.

Please contact the District's General Counsel, Tim Cary, if you have any questions about this letter, at (530) 672-7601.

Very truly yours,



Nina Ashford
Auburn Area Recreation & Park District
Member of the Board of Directors

JAMES A. Carroll

RECEIVED
MAR 16 2006
Placer County Grand Jury

Frances Kearney
Presiding Judge of the Superior Court
County of Placer
11546 B Ave.
Auburn, CA 95603

March 6, 2006

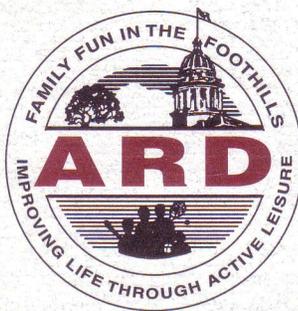
Dear Judge Kearney,

I want to thank the Grand Jury for its interim report, which contained cogent observations, constructive criticisms and welcome suggestions. The report helped the district board in making its recent decisions.

Best Regards,



James A. Carroll



AUBURN AREA RECREATION AND PARK DISTRICT

March 3, 2006

Placer County Grand Jury
11490 C Avenue
Auburn, CA 95603

RECEIVED
MAR - 7 2006
Placer County Grand Jury

Dear Members of the Grand Jury:

I am writing in response to the Grand Jury's Interim Report issued on January 5, 2006. In its report the Grand Jury requested a response from each individual member of the Board of the Auburn Area Recreation and Park District. I believe this is inappropriate, because the Grand Jury should have requested a response from the Board as a whole.

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Please contact the District's General Counsel, Tim Cary, if you have any questions about this letter, at (530) 672-7601.

Very truly yours,

Jim Gray
Auburn Area Recreation & Park District
Member of the Board of Directors

889-7447

March 2, 2006

ATTN: Placer County Grand Jury, ARD Sub-Committee

INRE: Response, ARD Interim Report

RECEIVED
MAR - 2 2006
Placer County Grand Jury

To the Members of the 2005-2006 Placer County Grand Jury,

Per request, please find a copy of my individual response to your ARD Interim Report dated January 5, 2006.

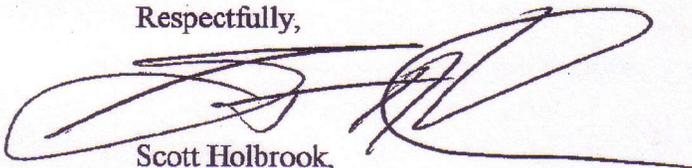
Obviously most issues were addressed by the release of our then District Administrator, Mr. Alain Grenier.

An FYI -I would like to note that Tuesday, 2-28, the Board received an email from Interim Administrator Kahl Muscott stating that our Senior Counsel, Tim Cary offered and recommended that he review our responses. Further, on Wednesday 3-1, at the end of a conference call between Director Carroll, Kahl Muscott and myself regarding surrounding legal billing practices, and invoice content, we were advised by Mr. Cary that your request of the ARD Board for individual responses was in violation of the law. My response was that the intent of the Grand Jury was for individual responses, likely without legal participation. If they wished you could have called us all in individually for our responses, and that we should not proceed any further on this issue, Director Carroll agreed. My response was not reviewed by anyone.

I feel we are making leaps and bounds forward, I think the reaction by the community, especially by The City of Auburn (led by Bob Richardson) and the County (John Ramirez, Albert Ritchie...) has been extremely positive and helpful. We have a ways to go, but I feel we are on the right track.

Thank you for your commitment to the ARD,, and please contact me should you wish any additional information, on my responses or any other issues.

Respectfully,



Scott Holbrook,

February 27, 2005

The Honorable Frances Kearney
Presiding Judge of the Superior Court
County of Placer
11546 "B" Ave.
Auburn, CA 95603

COPY

Inre: Response, Auburn Area Recreation District, Interim Report dated January 5, 2006

The following is my response to the Placer County Grand Jury's Interim Report regarding immediate issues for the Auburn Area Recreation District.

FINDINGS

- 1) *"This year's Grand Jury believes that there is no circumstance in which it is advisable to allow an employee to draft his or her employment contract"*

Response: I agree with this finding

- 2) *"We find that there is inherent conflict in considering an employee's ambiguous legal complaints in the context of a new contract proposal. The two matters must be clearly understood by the Board before they can be resolved"*

Response: I agree with this finding

- 3) *"The contract extends far beyond the term of any current Board member. It would be poor practice to award a new contract that obligates future Boards when it is impossible to understand if that action will cause great harm to the budget process of those future Boards. The uncertainty of future income and the uncertainty as to the need in the future for ARD to have a district administrator are unknown at this time."*

Response: I agree with this finding

- 4) *"Considering that the District Administrator is currently under a contract not expiring until 2008, there is and apparent need to consider an extension or modification at this time, especially considering the tenuous relationship between the District Administrator and the Board"*

Response: I agree with this finding

- 5) *"The draft contract presented by the District Administrator requests compensation, benefits and terms that are excessive."*

COPY 1

Response: I agree with this finding

- 6) *"The termination provisions appear to be inconsistent with state law in exceeding the maximum allowable 18-month severance compensation."*

Response: I agree with this finding

- 7) *"Continuing consideration of this matter in ARD Board closed session meetings has been divisive and an impediment to the Board's effective direction of ARD."*

Response: I agree with this finding

- 8) *"There is a likelihood that the content of closed session meetings of the ARD Board regarding the proposed contract has been disclosed to local newspapers either by one or more meeting attendees or through intermediaries."*

Response: I agree with this finding

- 9) *"Such disclosures, if in fact occurred, appear to be in violation of the Brown Act, Section 54963"*

Response: I partially disagree with this finding.

Since no examples of what may have been disclosed to the paper, I can not agree to this finding. Further, I am not sure that any "confidential information" as described in Govt. Code 54963 was disclosed per finding 8.

CONCLUSIONS/RECOMMENDATIONS

- 1) *"All discussions and consideration of a new contract for the District Administrator should cease"*

Action: The recommendation was implemented, The existing contract for Mr. Grenier, the person in question, was bought out – he no longer works for ARD.

- 2) *"The Board should state to the public its prior actions with respect to the District Administrator's claims and their status, and if need be, any action they deem necessary. If he then chooses to resign or to pursue the matter by other legal means, that is his decision"*

Action: Despite promises to the contrary, no public statement has been made, in light of #1 above, I feel no further action is needed

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- 3) *"The Grand Jury urges all Board members and the District Administrator to put personal agendas and differences behind them and to make a conscientious and sincere attempt to begin to work together as an effective team. Anyone who cannot with clear conscience adhere to this recommendation and act accordingly should resign in the best overall interest of ARD"*

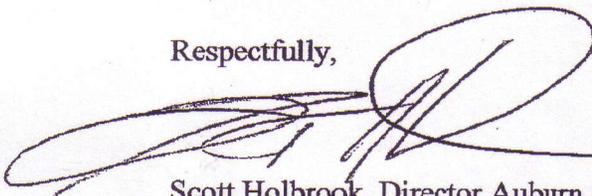
Action: I am committed to this recommendation, I feel the majority of the Board is and has demonstrated a willingness to leave any differences behind, and to move forward. Unfortunately this is not a unanimous direction yet, and there have been some recent disturbing actions we are now addressing. I hope all members fully take this recommendation and provided options to heart.

- 4) *"The Grand Jury reminds all participants in closed session meetings of the ARD Board that the proper avenues under the law for strong disagreement with meeting content are the Grand Jury and District Attorney. We offer no sympathy to anyone who has chosen, out of disagreement with other members of the Board Or the District Administrator to violate the law governing the contact of elected Boards. Such actions run the risk of further diminishing ARD's reputation and of subjecting ARD and individual members to liability"*

Action: I will continue to utilize the Grand Jury system to forward any complaints I feel warrant their attention.

I would be happy to further explain any of my responses in further detail if requested. I thank the Grand Jury for their time and commitment to ARD. I feel we have made some huge steps forward, but recognize we have a long way to go. I would request continuing "oversight" by the Grand Jury during this transactional period.

Respectfully,



COPY

Scott Holbrook, Director Auburn Area Park and Recreation District
1594 Cornell Way
Auburn, CA 95603
530-906-7441

FINAL REPORT

REFUTATION OF TRUSTEE'S CHARGES

AGAINST

FORMER SIERRA COLLEGE PRESIDENT

MARCH 21, 2006

PLACER COUNTY

GRAND JURY

2005 - 2006

March 21, 2006

This is the Final Report of an investigation by the 2005 – 2006 Placer County Grand Jury of a public complaint filed by a Sierra College Trustee alleging wrongdoing on the part of the former President of the College.

We believe that the results of our investigation are worthy of thoughtful attention by the public and the College community.

Sincerely,

Paul Ridgeway, Foreman
2005 – 2006 Placer County Grand Jury

NOTE TO THE READER

If you are unfamiliar with this matter, you may first wish to read Appendix 1, “The Complaint.” This is the publicly filed charge alleging misconduct by the former Sierra College President. Examining the complaint’s validity is the focus of this investigation.

As this is the only public report of the investigation, by necessity it must present all of the underlying detail. If you do not wish to delve into this detail, you may gain a full grasp of the investigation and its results by reading the following sections only:

- Summary
- Background
- Methodology
- The Basis of the Complaint
- Former President’s Testimony
- Concluding Thoughts
- Findings
- Recommendations

The summary-level reader might also wish to dwell on Appendix 3, “Time Line of Events”, which identifies key dates in order of their occurrence.

The bulk of the investigation is contained in the Narrative section. This material presents the factual basis underlying the Grand Jury’s Findings and Recommendations.

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SUMMARY

Sierra College had not submitted a bond issue to the public for approval since 1957. Faced with decaying facilities and expanding population, the College developed a master plan resulting in a \$394M bond issue, Measure E, which was presented for public vote in March 2004. The magnitude of the issue, together with significant organized opposition, contributed to its defeat. Later in 2004, two smaller Measures, G (\$44.4M) and H (\$35M), were approved by the voters.

For all three measures, volunteer Committees were formed to advocate their passage, and these Committees had the responsibility, under California campaign law, to file reports identifying donors. Among the donors was the Sierra College Foundation, an auxiliary non-profit corporation formed to support the College in 1973. The Foundation had successfully adopted a provision of the IRS code 501(h), which enables it to donate up to 20% of its annual expenditures for the purpose of supporting College bond issues.

Unfortunately, the Committees and the Foundation failed to report the contributions of some individual donors to the California Fair Political Practices Commission. They were clearly in violation of the law.

In October 2004, College trustee candidate (soon to become Trustee-elect) Aaron Klein (hereinafter referred to as "Complainant") identified that these violations had occurred and conveyed this information to the Sierra College Board Chairman. The Board Chairman requested the lists of individual donors from the Foundation Executive Director and relayed them to Complainant.

Then, based largely on the Board Chairman's account of a conversation overheard months earlier in a men's room and a consultation with a knowledgeable advisor, Complainant concluded that these violations were the result of a conscious money-laundering "scheme" perpetrated by former Sierra College President, Dr. Kevin Ramirez. Almost immediately, and partially as a result of making this allegation public, the Board and the former President came into conflict.

Complainant had intended to present his charges at his first Board meeting on December 15, 2004. However, due to the Board's dispute with the former President, he was unable to do so. He, in fact, believed that the Board was not interested in pursuing his charges. Nearly simultaneously, he reached the conclusion that the accumulated breach between Board and former President was too great, and he publicly announced his advocacy of the former President's departure.

Because of his belief that he would not be heard internally, Complainant elected to file a formal complaint with the Placer County Grand Jury and the County Recorder's Office asserting his charges. (See Appendix 1.) The County Recorder forwarded copies to the Placer County District Attorney, the Fair Political Practices Commission (FPPC), the

State Attorney General, and the Placer County Grand Jury. Only the Grand Jury has acted to date.

Complainant believes that the former Sierra College President orchestrated a “scheme” to solicit funding for the three 2004 bond campaigns from donors while purposefully omitting their names from FPPC filings to avoid public scrutiny, and that he implemented the “scheme” by illegally using the Sierra College Foundation as an intermediary. Complainant alleges that through this process the former President “money laundered” in excess of \$100,000, violated the California Political Reform Act and may have committed acts of misdemeanor or felony under Education Code Section 7054. His testimony, reported herein, fully explains the basis of his belief, and the Grand Jury does not doubt that he believes his allegations.

However, the facts of the case speak in total opposition to the complaint. All donors surveyed gave willing financial support to the bond measures and welcomed any accompanying publicity of their donations. In our investigation, no donors were found who requested anonymity, none who felt pressured or coerced, none who based their decisions on the tax deductibility of their donations and none who expected anything in return other than a thriving College community.

The 2005-2006 Placer County Grand Jury conducted an extensive investigation leading to its Findings and Recommendations. Based on the facts, the Grand Jury makes the following findings (as further detailed in the Findings section):

1. The Foundation could, in fact, operate legally as an intermediary.
2. The Foundation had no intent to suppress donor names.
3. Filing errors were made, but they were due to inexperience, inattention to detail, and confusing underlying documentation.
4. The filing violations were minor and easily correctable.
5. The former President was far removed from the process of making the filings and had no participation in causing the violations.
6. Complainant failed to exert reasonable due diligence before making the complaint. **The complaint is utterly without merit.**
7. Although not the total basis for the former President’s decision to seek a retirement settlement, the complaint was a contributing and unjustified factor.
8. Complainant’s insistence that the Foundation be barred from supporting Sierra College bond measures by donor solicitation as an intermediary is an unfounded opinion.

The Grand Jury presents a set of constructive recommendations at the end of this report. Their goal is to contribute to the College’s progress in moving beyond this troubling time. The Grand Jury believes the public, the College, and the former President deserve resolution rather than leaving unanswered allegations of wrongdoing that never occurred.

BACKGROUND

Sierra College is Placer County's principal post-secondary education institution. It is one of 72 community college districts in the state of California. Its annual budget is approximately \$75M and it employs about 1800 full- and part-time people. Employee expense amounts to about 80% of the budget. It offers a broad range of programs and enrolls approximately 40,000 students in credit and non-credit courses. Its principal campus is in Rocklin with satellite campuses in Roseville, Grass Valley and Truckee.

The College enjoys a significant level of distinction and points with pride to several notable achievements. It has ranked first in California for awarding Associate Degrees, and first in Northern California in transfers to the University of California and California State University where its graduates outperform students enrolled there as freshmen. Its athletic programs ranked first in the nation in 2005, and the Wolverine football team won more than 30 consecutive games over several seasons. In a recent marketing poll, 85% of the surveyed population views Sierra College favorably while only 2% views it unfavorably. Ninety-four per cent have heard of the College and only 6% have not.

As is common in the state, the College founded a tax exempt, auxiliary organization to solicit donations and to promote College programs and objectives. This organization, the Sierra College Foundation, was founded in 1973. Until 2003, the Foundation operated as a lightly funded extension to the College and had only two administrative employees. However, the commitment was then made to retain a full-time Executive Director whose role was to expand the fund raising capability to the levels of other successful foundations throughout the state. In 2004 the Foundation raised \$1.6M and its endowment was \$350,000. The largest single donation achieved by the Foundation to date has been \$750,000 from the Sutter Roseville Medical Center to fund a nursing program.

The former President of the College began his term in 1993 and served for 11 years. During that period, enrollment more than doubled and three new campuses were opened. He was generally well regarded by his staff and the public. However, by the end of 2004 the elected Board had become less favorable toward him, leading to his seeking a retirement settlement in January 2005.

As in any educational institution, the acquisition of funds for facilities, capital equipment and maintenance is a constant issue. California community college districts are funded primarily by the state, but they receive substantially fewer dollars per student than do other levels of state supported educational institutions. For example, in 2002-2003, funding per student at the University of California was \$20,037 and at Sierra College it was \$3,860, which was the College's per student unrestricted funding rate. This ranked well below the state average of \$4,470 and ranked 60 out of 72 community college districts in per student funding.

Since community college districts do not have the ability to assess fees on new developments, accommodating increased population is not well supported by growth. Districts can, however, gain funding for the cost of facilities projects through bond measures. Sierra College had last offered a bond issue in 1957 and found that many of its nearly half-century old facilities were in need of major repair. In addition, it continued to face expansion of its student body commensurate with the forecast growth of the county. Thus, in the 2002-2003 time frame, the College prepared and offered Bond Measure E amounting to \$394 Million. However the measure, which required a 55% approval vote, failed by a total vote of 66,156 (49.4%) to 67,756 (50.6%) in the election of March 2, 2004. Later that year (November 2, 2004), two smaller bond issues, Measures G (\$44.4M) and H (\$35M), were passed.

One of the roles of the Foundation was to solicit donations in support of the election Committees formed to support the three bond measures. These donations were made in the amounts of \$60,000 for Measure E, \$16,450 for Measure G (inclusive of a \$10,000 transfer from Measure E), and \$35,210 for Measure H (inclusive of a \$10,000 transfer from Measure E). In October 2004, Complainant surfaced questions about the legality of these donations and whether or not they had been properly disclosed.

In December 2004, a formal complaint was made by Complainant alleging that the former President had been personally involved in a money laundering “scheme” devised to enable donors to conceal their donations from the public. (See Appendix 1.) The complaint included a variety of other allegations, and it was widely reported by newspapers in the county. Although this complaint was not taken up by the 2004-2005 Placer County Grand Jury, two complaints were made to the 2005-2006 Grand Jury urging us to pick up the investigation and carry it forward.

The 2005-2006 Grand Jury investigation shows five significant reasons to make this final report.

1. As a result of the former President’s retirement and settlement agreement with the College, the public never received closure on the merit of the claims.
2. Even senior members of the College staff still believe that some public agency may ultimately investigate these charges and take action.
3. Since there has been no investigation, the local press continues to report unresolved allegations.
4. We wish to reveal the truth of the matter to the public.
5. We hope to reduce the cloud of suspicion over the College.

METHODOLOGY

The complaint was received by the Grand Jury on December 23, 2004. (For those not familiar with the complaint, refer to Appendix 1.) It was received by the 2004-2005 Placer County Grand Jury, but no investigation was initiated because it had been passed to other authorities. Since none acted, the matter was referred forward to the 2005-2006 Placer County Grand Jury in the form of two derivative complaints which recommended an investigation. Those recommendations were accepted.

The Grand Jury first reviewed the complaint and acquired FPPC and IRS documentation to consider its legal merit. The Assistant County Recorder was interviewed to determine the filing status and history from the perspective of that office. The Recorder's Office provided copies of all filings from the three bond measures as well as the correspondence that had occurred when the filing errors were reported by Complainant. County Counsel was contacted to establish guidelines for the investigation. Other agencies to which the complaint had been forwarded were contacted to determine whether any had taken pre-emptive action. As no such action was revealed, the Grand Jury decided to move forward in greater depth.

An extensive interview process was conducted with those knowledgeable of the facts of the case. These included (in approximately the order they were interviewed):

1. The Sierra College Foundation Executive Director,
2. The past and present Presidents of the Sierra College Foundation Board,
3. The Interim President of Sierra College,
4. The Vice President of Finance and Administration of Sierra College,
5. The Treasurers of the two Placer County bond Measure Committees,
6. Four members of the Sierra College Board of Trustees (including the Complainant and Board Chairman),
7. A sample of business donors to the bond campaigns via the Foundation,
8. The former Business Services Manager of Sierra College,
9. A former Trustee of Sierra College,
10. The bond Measure B (June 2006) Committee Treasurer, and
11. The former President.

Extensive preparation was made for each interview with a typical script of 50 –70 questions plus clarifying and related questions which arose during the interviews. Careful notes of each interview were made totaling over 90 pages in total. The interviews were not recorded. Interviews typically lasted from 90 to 150 minutes. All interviewees were cooperative and forthcoming in their replies.

As each interviewee mentioned applicable documents, copies were requested for study by the Grand Jury. In addition, a file of newspaper articles related to the investigation was collected and studied. Complainant's website was surveyed, and relevant news releases

and commentaries were copied. A complete list of documents utilized in the investigation is provided in Appendix 2.

The investigation was conducted by a lead committee, which reported the status of the investigation biweekly to the Grand Jury's full panel. A draft report, including preliminary findings and recommendations, was prepared. All facts noted in the draft were reviewed for accuracy either by confirming them in applicable documents or by follow-up with interviewees. The resulting final report was reviewed and approved by the Grand Jury's full panel.

THE BASIS OF THE COMPLAINT: COMPLAINANT'S TESTIMONY

The Grand Jury interviewed Complainant on February 8, 2006. He was sworn in and testified under oath. The interview lasted for approximately two and one-half hours. Prior to the interview, the Grand Jury had prepared an extensive set of 70 questions, and related questions were asked for clarification or amplification. Complainant was cooperative and forthcoming in his responses. The Grand Jury has no doubt of the honesty of his replies or of his sincere belief in his position.

Many of the questions were designed to give a full understanding of the basis of his charges, and we believe that was achieved. As objectively as possible, this section of the report gives a discussion of the charges as Complainant believed at the time and he still believed as of the date of his testimony.

He first became aware of the violations on October 24, 2004. He recalls the date clearly because it occurred on his birthday. As a part of his candidacy for College Trustee, he was reviewing the public filings of his campaign opponent and Measures G and H. He was supportive of Measures G and H and wished to know how the campaigns were going.

In his review he noted that Measures G and H had both reported donations from the Sierra College Foundation. As an individual active in party politics and a candidate for public office, he believes himself knowledgeable of political campaign filing requirements. As such, he noted immediately that Measure G and H Committees had failed to report the individual donors who made contributions to the Foundation. He knew that this was a violation of the law. This caused him to review the filing records for Measure E. Similarly he noted that the Foundation had made a \$60,000 donation to the Measure E Committee without disclosing the underlying donors, also a clear violation of the law.

He then discussed this matter with the incoming Sierra College Board Chairman who acknowledged awareness of the donations, but said that he had been advised that the donations were legal. However, the Board Chairman also recalled that he had overheard a conversation in the men's room between the former President and a former Trustee. He recalled that the Trustee had asked the former President how fund raising was going, and the former President replied that the fundraising had been going ok, but some donors were reluctant to be identified.

Complainant knew that soliciting donors by enabling their identities to be concealed is a violation of the Political Reform Act. In response, the Board Chairman contacted the Executive Director of the Sierra College Foundation. She advised him that the Foundation had been given clear legal advice from its attorney and accountant that the donations were legal. She also provided him with listings identifying all of the donors to

the three campaign measures. These were passed to Complainant who attached them to the complaint.

He then contacted a friend who had served as Treasurer on other campaign committees. He described the matter of the Foundation donations to her in general terms, and her reaction was that if the case was as he described, then the Political Reform Act had clearly been violated.

The Board Chairman also contacted a friend in another community college district who confirmed the opinion that donations made as described are not legal. Complainant also asserted awareness of a case in which the FPPC had fined another community college district for a campaign filing violation. He stated that the fine was in the amount of \$30,000 and that the violation was identical to the ones committed by the Committees for Measures E, G, and H. (Note: Follow-up by the Grand Jury showed the fine to be \$4000 for failing to meet deadlines for disclosing a sizeable late contribution and filing a semi-annual campaign statement.)

Complainant then concluded that the former President bore primary guilt for these violations because he is extremely intelligent, he ran the College as if it were a company, and he was knowledgeable of everything occurring at the College. He believed that the former President was in close and frequent contact with the Foundation Executive Director. He also had talked with one of the major donors, who informed him that the former President had personally requested a donation to the campaign and that upon being asked whom to make a check to, the former President had told him to make it payable to the Foundation.

Complainant deduced that the former President was personally and directly involved with a “scheme” to allow donors to hide their identities by making their contributions to the Foundation rather than to the Committees. When asked what motivation individual donors would have to wish to remain anonymous, Complainant’s reply was to the effect that they might want to avoid other solicitations or would not want their names on donor lists. He stated that he did not specifically know of any such donors, and referred again to the bathroom conversation as evidence of a “scheme”.

When he decided to file a formal complaint, he wrote it without legal or other counsel. He made the Board Chairman aware of the complaint and discussed it with him. The Board Chairman, who is an attorney, indicated both positive and negative ramifications of filing such a complaint, but Complainant does not recall whether or not he advised him to file it.

Complainant further testified:

1. He does not believe or possess evidence the donors themselves were part of the “scheme” nor could he name any donors who desired anonymity.
2. He does not believe or have evidence the Sierra College Foundation and its Executive Director were part of the “scheme”.

3. He does not believe or have evidence bond measure Committee members were involved in the “scheme”.
4. He does not believe or have evidence of any *quid pro quo* between Sierra College and any bond measure donors.
5. He is unaware of any weaknesses in College procurement or contract selection procedures, then or now.
6. He possesses no knowledge that the former President used College time, money or resources toward the support of the bond measures nor any specifics of his execution of the alleged “scheme”.

When asked why his complaint included references to some of these matters, Complainant stated that it was so the reader could understand the possible implications of the “scheme”.

When asked if he thought that the former President had personal financial motivations in conceiving the “scheme”, he said he did not, but passing a \$400 M bond measure would have been a significant feather in his cap as a career accomplishment.

Complainant discussed his complaint with no one in the College community other than the Board Chairman and possibly another Trustee. (He did not recall for certain if he had mentioned it to the latter.) He did not confront the former President with his allegations.

Throughout his testimony, Complainant asserted firm understanding and certain knowledge that it was illegal and unethical for the Foundation to have donated directly to the campaign committees, even though he had not personally read FPPC Information Manual D. He also acknowledged that he has no knowledge in detail of the provisions of IRS Regulation 501(h). He indicated his firm opposition to the Foundation ever acting in the role as intermediary again.

Several times in his testimony, Complainant referred to learning as a child from his family that “it never hurts to tell the truth”. The Grand Jury has no doubt Complainant told the truth as he believed it.

FOLLOW-UP OF COMPLAINANT'S TESTIMONY

In his testimony, Complainant referred to the involvement of three other persons: the Board Chairman, with whom he discussed the violations and the complaint; a knowledgeable friend; and the former Board member overheard in the men's room conversation. The Grand Jury conducted follow-up interviews with all three, both to validate Complainant's testimony and to gain increased understanding.

The Board Chairman's memories are in accord with the events reported by Complainant, but with additional detail. He recalled specifically overhearing that the former President had told the former Board Member that donors were being told that they could make their donations via the Foundation thus rendering the donations tax deductible. The Board Chairman also recalls the former President's commenting about the desire of some vendors to avoid identification as donors. He later confronted the former President who replied that everything was on the up-and-up and that there was supporting written legal opinion. The Board Chair requested a copy of that opinion, and upon reviewing it later, he felt that it did not fully justify the former President's assurances. As a Trustee, he continued to be uncomfortable with this process. He also noted that, at the time, he had little personal expertise in campaign finance law, since his own campaign for Trustee had not involved a substantial budget.

When Complainant brought his concerns to the Board Chairman, he advised Complainant that he had been assured the process was legal. Complainant's reply was to the effect that it was certainly not legal if money was being laundered from donors to the campaign via the Foundation. The Board Chairman followed up with a call to the County Recorder's office, which offered no definitive guidance except to say there could be an issue if donors were not identified. He also contacted the former President again, and in response, the Sierra Foundation Executive Director contacted the Board Chairman. She also assured him the process was legal per advice of counsel, and in addition forwarded the donor lists to him as evidence donor identities were not being hidden. The Board Chairman emphasized his own primary concern was the tax evasion question, but also he was uncomfortable with the process as described to him.

The Board Chairman also verified he had discussed the advisability of filing the complaint with Complainant beforehand. Their initial conversation was in advance of the November 2004 election, and the Board Chairman advised Complainant that a public complaint could damage the fund raising prospects for passing Measures G and H and in addition could reduce support for the bonds. He expressed his personal preference for handling the matter as a personnel issue after the election. Subsequently, after Complainant's election as Trustee, they discussed the matter again. The Board Chairman recalls he was concerned about the damage the complaint could do to the College and also his own preference remained to handle the matter as an internal personnel issue. He

advised Complainant as such. He did not specifically advise Complainant against filing, but recalls he would not have done so himself. Regarding the significance of the complaint in the former President's departure, the Board Chairman recalls it as perhaps the last straw, but not the only straw.

In the aftermath of the complaint filing, the Board Chairman initiated contact with the Placer County District Attorney's office to assess their intended response. He was told that a response would be unlikely due to a lack of internal expertise and an orientation to leave cases of this type to the FPPC. The District Attorney's office advised him a Grand Jury response, if any, was unlikely to occur in the short term.

The knowledgeable friend to whom Complainant turned, to validate his opinion violations had occurred, also confirmed his testimony. She is expert in campaign filing law having been self-employed as a professional campaign accountant for nine years and serving approximately 150 clients. She recalls the conversation with Complainant clearly. Complainant contacted her in October 2004, asking about the filing rules involving intermediaries, but without disclosing the organization in question was the Sierra College Foundation. She advised him whoever receives the donation needs to identify the donor on the campaign report, but she recalls this was purely a generic response, as she had no details of the case in question.

The former Board member, who was overheard in conversation with the former President, has no memory of the event. He could not recall ever discussing donors and donations with the former President, either in the context of a men's room environment or any other. He believes that had any impropriety been suggested, he would have recalled and acted upon it.

SIERRA COLLEGE FOUNDATION DONATIONS

Bond measures for education do not appear on ballots overnight. The process requires careful planning and development, involving much expertise and many disciplines. Among them is developing strategies for presenting the case to the public that an investment in education is warranted. Community colleges and their employees are prohibited by state law from directly advocating passage of bond measures on college facilities or on college time. However, the law also recognizes that bond advocacy must be permitted.

One tool available to Sierra College in this regard is the Sierra College Foundation, which exists to encourage public support of the College by soliciting donations to supplement public funding. Long before Measure E was placed on the ballot in 2004, the College recognized that the Foundation could legally be used as the focal point for gathering donations in support of bond measures.

The Foundation operates as a tax-exempt corporation under the provisions of IRS code 501(c)(3). This tax law governs the extent to which donations may be used in support of political activity. One way to clarify the allowable amount of such donations is for a 501(c)(3) corporation to choose what is known as the 501(h) election. The 501(h) election may be applied for by any 501(c)(3) corporation, and it permits up to 20% of total annual expenditures to be allocated for political activity. Donations may be solicited and allocated specifically for political purposes.

The 501(h) election process in the Foundation was underway in 2002. Early in 2002, an e-mail was sent to the former President from Larry Toy, the President of the Foundation for California Community Colleges, which suggested the use of the Foundation as a means to help fund college bond issues. At about the same time, the College VP of Finance and Administration was gathering information on the same subject. A memo from Gilbert Associates, Inc, outlined the advantages and disadvantages of adding the 501(h) designation for the Sierra College Foundation, whose mission is *“to give the members of our community the opportunity to assist and invest in the development of quality educational opportunities for all”*. Chief among the advantages was the ability of the Foundation to contribute to bond campaigns.

In October 2002 a memo was sent to the Sierra College “Team” from Lori Raineri of Government Financial Strategies, Inc. Sierra College was employing her as a consultant with expertise in preparing bond measures. In her memo she noted:

“I think we should set up the accounting procedures with Gilbert and Associates now to make sure we’ve properly made the 501(h) election, and then to determine periodically how much can be contributed by the Foundation to a bond measure campaign account. This will allow for a clear distinction between the general expenditures of the Foundation and those that are expenditures to influence legislation as defined by the Internal Revenue Code.”

The Foundation's decision to adopt the 501(h) status is documented in the Foundation Board Minutes of January 13, 2003, Agenda Item IV.B:

"The Sierra College District is engaged in a campaign to pass a bond for Capital Improvements for the Sierra College Campuses to appear on the November 2004 ballot. [Note: The measure was later moved forward to March 2004 as Measure E.] It was recommended that the Board of Directors approve the election of an (h) designation for our 501(c)(3) status to allow the Foundation to engage in campaign activities to support this effort. Adding this designation to our current status allows the Foundation to allocate up to 20% of total expenditures toward legislative activities. Howard Rudd moved and Dale Wagerman seconded a motion to approve the (h) designation to our status and it was unanimously approved."

Later in 2003, the Foundation Board formally endorsed the bond measure and financial support for it. The Foundation Minutes of October 13, 2003 report Agenda Item III.C, "Foundation Support of March, 04 Bond Measure":

"Dick (Marasso) asked the board to approve the endorsement of the Sierra College Bond Measure to appear on the March 2 ballot and allow financial support for its passage in an amount up to the maximum allowable by law (501h). Dave Ferrari motioned to approve, Michelle Kalina seconded and it was unanimously approved."

The Foundation Board further acted in early 2004. In the Board Minutes of January 26, 2004 report Agenda Item III.B "Amendment to the Articles of Incorporation":

"Richard Marasso reviewed the need to amend the Foundation's Articles of Incorporation 501(c)(3) status to include an allowance for the recently added 501(h) provision. This allows the Foundation to support Measure E on the March 2, 2004 ballot and future bond campaigns. IRS form 5768 will be filed with the State and Federal agencies to reflect this amendment. Michelle Kalina motioned to approve, Jill Simuro seconded the motion and it was unanimously approved."

The specific donation in support of Measure E was also approved at the January 26, 2004 meeting as shown in Foundation Board Minutes of January 26, 2004 report Agenda Item III.D: "Transfer of Funds from Special Account in Accordance with the 501(h) Allowance":

"Following a review of the wording of the Articles of Incorporation Section III, subsection (b) amendment. The motion to transfer \$60,000 from the special account to Friends of Sierra College for appropriate campaign activities in support of Measure E. Ned Cohen motioned, seconded by Dale Wagerman; after sufficient discussion it was unanimously approved."

An attachment to that agenda, provided by Teresa Ryland, a CPA who advised the Foundation, included a lengthy statement which, in part, said:

"The role of the Foundation with the 501(h) status is to provide a mechanism for politically motivated donors to give more to the Foundation, preserving their full tax-deductible contribution and allowing the Foundation to contribute additional resources to the bond campaign."

The same process was followed by the Foundation in authorizing donations in support of Measures G and H as shown in Foundation Board Minutes of October 11, 2004 report Agenda Item IV.B, "Transfer of Funds to Measure G & H":

"It is recommended that the Foundation support the Sierra College bond measures G and H which will appear on November Ballot 2004, allowing financial support up to the maximum amount allowable by law (501H), approximately \$60,000. The funds were specifically donated by supporters of these measures. Ned Cohen moved to approve this item. Michelle Kalina seconded and it was approved."

This agenda also included the attachment detailed as part of the January 26, 2004 Foundation Board Minutes.

This sequence of events clearly shows the careful, lengthy and open process that preceded the Foundation's involvement as an intermediary organization in support of the bond measures. The Foundation had also verified that other community College districts utilize their auxiliary organizations in this way, including East Los Angeles College Foundation, Merced College Foundation, Ventura College Foundation, and Cabrillo College Foundation.

The other crucial issue concerning the Foundation's role in the complaint is whether it sought to hide donor identities from the public. The overwhelming evidence is that it did not.

The Grand Jury found documentation showing that the Foundation's Measure E donor list was widely known. Donors' names and gifts were therefore not suppressed and were, in fact, available to the Committee for Bond Measure E preceding its FPPC filing as shown by the following:

1. On January 22, 2004, an extensive donor list, which had originated from the Foundation's Executive Director, was recirculated by a member of Committee for Measure E under the title "Campaign Contribution Update" to a distribution of persons. It detailed dates, donors' names and contribution amounts given to the Foundation in support of bond Measure E.
2. On January 26, 2004, the Foundation Board authorized the transfer of \$60,000 to the Committee for Measure E. (See documentation above: Foundation Board Minutes of January 26, 2004 report Agenda Item III.D, "Transfer of Funds from Special Account in Accordance with the 501(h) Allowance".)
3. On February 18, 2004 FPPC Form 460 was filed by the Committee for Measure E Treasurer showing the \$60,000 Foundation donation *without* donor detail.
4. In response to wide publicity surrounding the issue, on November 16, 2004, FPPC Form 460 for amended filing for Committee for Measure E was made showing the detail of donors behind the \$60,000.

The Grand Jury obtained e-mails from the Foundation Executive Director, which she sent as donor updates to Committees for Measures G and H members on September 8, 15, 17, 20 and October 14. These communications also detailed donation names and amounts. And yet, the Committee for Measure G made multiple FPPC filings beginning on October 7 containing Foundation donations but omitting the underlying donors' names. As well, the October 21, 2004 FPPC Form 460 Measure H filing of the Foundation's \$25,210 contribution contained no donor detail. But, ultimately, the Committee for Bond Measure H made its amended filing on March 22, 2005 disclosing donor details.

In summary, use of the Foundation as an intermediary had been long-studied and was approved by the Foundation Board as a mechanism to allow a jump-start to bond campaign solicitations, to induce higher donations via an allowable tax deduction and to effectively employ the donor solicitation skills of the Foundation's Executive Director. All the decisions required to define the Sierra College Foundation as an intermediary were made openly and with due diligence.

In response to Complainant's publicly reported allegations that the former President granted donors anonymity, one significant contributor, responsible for the single largest business donation to the Foundation for Measure E, wrote a letter to the Foundation's Executive Director which stated:

"I'm writing as a point of clarification in response to recent media surrounding campaign donations for E, G and H bond measures." "All (our) reported donations are fundraised dollars from a diversity of architects and engineers, all of whom requested public recognition for financial support and disclosed such. Attached are copies of letters that were submitted with the donations, which disclose all parties participating with us in this effort." "When making our donations, we were directed to use Sierra College Foundation as the mechanism for submitting these funds. Never have there occurred any conversations with anyone regarding not disclosing names nor am I aware of any misleading. We are proud to have raised these amounts and publicly offered our support."..... "I'm honored to have been in support of these campaigns."

When interviewed, this corporate donor additionally testified "This was the most above board operation I've seen."

Finally, careful records of campaign donors to the Foundation were kept, and there was no attempt to hide the donations from anyone. Moreover, donors' names were listed on the Foundation's website. Many individuals were involved and aware that donations were being solicited specifically for the Bond Measures. Clearly there was a flow of donors' names to the Committees in advance of each of the significant filings. However, those donors' names were not disclosed in the earliest filings by the Committees as required by California campaign disclosure law.

REVIEW OF CAMPAIGN DISCLOSURE LAW

Donations to political campaigns, including bond measures, are required to be disclosed to the public in accordance with the Political Reform Act, adopted by voter initiative in 1974. The Act requires that campaign disclosure reports identify contributors and the amounts they give.

Requirements for disclosure for bond measures are defined in the 1995/1996 FPPC Information Manual D and the 2004 Addendum. Manual D is an 86-page document and the Addendum is a 19-page document.

Bond campaign finances are managed by committees formed in support or opposition to a given measure. A committee is defined as any person or combination of persons who directly or indirectly receives contributions that total \$1,000 or more or makes expenditures of \$1,000 or more in a calendar year. Each committee includes a treasurer who is responsible for filing and signing required disclosure forms.

In the cases of Measures E, G, and H, committees were formed and treasurers named.

Of particular relevance to the complaint is that the Sierra College Foundation falls under the definitions of a “person” and as an “Intermediary”. An organization is an intermediary if the recipient of the contribution would consider the organization to be the contributor without disclosure of the true source of the contribution. (Manual D, p. 6).

In the cases of Measures E, G, and H, the Sierra College Foundation made contributions to the corresponding Committees in the amounts of \$60,000, \$16,450, and \$35,210, respectively, and thus was contributing as an intermediary.

When intermediaries make donations, then corresponding disclosure obligations ensue (as explained on p. 57 of Manual D (Intermediaries)). The intermediary must disclose to the committee the true source of the contribution, and if the contribution amounts to more than \$100 during a calendar year, then the committee must disclose both the contributor and the intermediary.

Also, if an intermediary donates more than \$10,000 in a calendar year, then it becomes classified as a “Major Contributor” and must then file independent campaign disclosure statements.

Note in particular that the law does not prohibit intermediaries from receiving donations nor does it apply any prejudice against this practice. It simply requires that there be full disclosure by both committee and intermediary.

In the cases of Measures E, G, and H these disclosure laws were not obeyed. Each involved contributions in excess of \$10,000, the Committees reported them as donations without identifying the underlying donors, and the Foundation did not file separate campaign reports.

The Political Reform Act places substantial responsibility for adherence to these laws on the committee treasurers. In particular, “committee treasurers are required to notify contributors from whom they have received contributions totaling \$5,000 or more in a calendar year that such contributors must file campaign statements if the \$10,000 threshold is met. Committee treasurers must keep a record of notices they send to individuals or entities that have contributed \$5,000 or more.” (Manual D, p. 57) Manual D also recognizes that the duty of committee treasurers to inform major contributors of their filing requirements is necessary because “*these contributors are often unaware of their filing obligations and that they may be subject to penalties and fines if they do not file.*” (Manual D, p70)

In the case of Measures E, G, and H, these requirements were not met by any of the Committee Treasurers and in consequence, the Foundation failed to recognize its own reporting obligations.

The law focuses general responsibility for adherence on the committee treasurers. “Committee treasurers are required to sign campaign statements under penalty of perjury. Treasurers are legally responsible for the accuracy and completeness of campaign statements. No person should assume the treasurer’s position and duties as a mere figurehead.” Also, “committee treasurers musttake necessary steps to ensure that all of the Act’s requirements are met regarding receipt, expenditure, and reporting of campaign funds.”

In the case of Measures E, G, and H, these responsibilities and cautions were not met.

In consequence of these failures, the Committees for Measures E, G, and H came in violation of the “money laundering” provisions of Proposition 34 passed in November, 2000. As specified under the paragraph titled “Receipt of Laundered Campaign Funds”:
“If a committee receives contributions through an intermediary and the required information about the true source of the funds is not properly disclosed, the committee must pay the funds to the State General Fund. Local candidates and committees may be required under local rules to pay laundered funds to the general fund of the local jurisdiction.” (2004 Addendum, p.4)

Thus, in the case of Measures E, G, and H, the Committees had in fact committed “money laundering” and were at substantial risk for so doing.

However, there were two potential saving graces. First, in order for these violations to be criminal misdemeanors, they must have been “knowing or willful” (2004 Addendum, p. 15). Also, there is no time limitation on the filing of amended returns (Manual D, p. 38).

Thus, in the cases of Measures E, G, and H, assuming that none of the Committee Treasurers had knowingly or willfully violated the disclosure requirements (the Grand Jury found no evidence of willful violation), all that was required to remedy the error was to file amended returns before the FPPC investigated the matter and imposed penalties.

CAUSES OF THE VIOLATIONS

In pursuing passage of Measures E, G, and H, the College recognized that it needed to retain outside expertise to guide it through the process of forming election committees for public advocacy of the Bond measures. For example, in the case of Measure H, it retained the Streamline Consulting Group of Truckee, which assisted in the official formation of the Tahoe Truckee Friends of Sierra College – Committee for Measure H, with state identification number 1269143. This identification number was prerequisite to opening a bank account for the accumulation of donations and disbursement of campaign expenditures. The Sierra Consulting Group entered into a contract with the Committee with a total budget of \$55,750, which provided for mailings, print advertising, radio advertising, and a “community event” to develop voter support for the Measure. Among the responsibilities in its statement of work was to “manage and pay out all expenses working with treasurer” and to “create Friends of Sierra College Truckee Tahoe Fund to funnel all funds through.” In meeting this responsibility, the consultant obtained the volunteer services of an individual to serve as Committee Treasurer.

After reviewing the requirements of FPPC Information Manual D and recognizing the central role that it assigns to committee treasurers, the Grand Jury interviewed the primary Committee Treasurer for each of the two Placer County bond measures (E and H). Both presented similar pictures. Each was requested to serve as a peripheral job duty, and neither had great interest in the bond measures or the Committee Treasurer’s job. They were not active in Committee work, and were not aware of Committee membership rosters. They were selected primarily because they were CPAs, and thus had the requisite training in receiving and distributing funds from campaign bank accounts. They could be counted on to maintain proper records for accounting purposes. Neither had prior experience with the requirements of FPPC filings. Both relied on the brief correspondence they received from the Political Reform Division of the State and the County Recorder to understand what forms had to be filed and when. They both saw the completion of the forms as totally routine tasks. One of them had never heard of FPPC Information Manual D. Neither of them considered that they were required to look behind the Foundation’s donations for specific donors. In fact, neither of them received the donor lists that had been forwarded to other Committee members from the Foundation’s Executive Director.

As discussed previously, the Treasurer had the key responsibility to notify any “intermediary” of its filing obligations. Neither Treasurer was aware of that and neither did it. One was unfamiliar with the term “intermediary” as applied to campaign law. Neither had the slightest clue, either from their own experiences or from the instructions provided to them, that in assuming the role of treasurer and by failing to identify the donors underlying the contributions from intermediaries, they could be committing a crime and exposing the former College President to personal charges of “money laundering”. The only punitive caution that the Grand Jury found in documentation

supplied to the Committee Treasurers was that “if you miss the filing deadline, Government Code imposes a fine of \$10 a day for every day the form is overdue”. In response, the Committee Treasurers were careful to submit disclosure forms on time.

In summary, the Bond Measure Committee Treasurers who filed the FPPC reports did so with little direction and with a meager, untrained understanding of the FPPC filing requirements. Since neither had read FPPC Information Manual D, they were unaware of its caution that Committee treasurers not take on the job lightly. Although donors names were regularly shared by the Foundation with Bond Measure Committee members, the Committee Treasurers had no awareness of those names or that they were to file them. Nor were Committee Treasurers aware of their duty to notify the Foundation that it had filing requirements as an Intermediary. Even the Placer County Clerk Recorder’s Office stated in its Grand Jury interview that it knew of no requirement to file by the Foundation.

Thus the chain of command leading to the violations is completely clear. The College and the Foundation, having no bond measure experience, depended upon outside consultants to guide them through the campaign process. The consultants recruited volunteers to serve in the key role of campaign treasurer. The treasurers saw their assignments as routine control of flow of funds accompanied by filing of disclosure forms with the state. They depended on the correspondence sent by the state and county identifying the forms to be filed. No one had any experience or warning that they might be violating the law. And of course, and most relevant to this report, the former President was far removed from any of it.

A LACK OF DUE DILIGENCE

We concluded that Complainant told the truth as he believed it, but he exercised little due diligence. As a result, the truth he told was unfounded and his complaint exercised several public agencies, inflicted damage on a senior public employee, demoralized the Sierra College community, and risked the reputation of Sierra College.

Complainant testified that he is unaware that his actions may have been damaging to the College community. Others are not. The Foundation's Executive Director testified that for an extended period following the allegations against the former President, donation levels fell and one donor withheld his significant contribution until "the College gets its act together". Enrollment fell well below projections for a time. The campus joke, according to one interviewee, was that "Every time an article about Sierra College hits a local paper, American River College opens another class". The College continues to search for a permanent replacement for the former President. Some interviewees speculated that the difficulty in locating a qualified candidate is increased because of the record of how the former President was treated by the Sierra College Board in contrast to his extraordinary reputation throughout the state as a respected administrator. The emotional toll on the College community remains significant. Four senior staff members came to tears during their Grand Jury interviews in recalling the events of late 2004. These matters are all subjective, but they are also significant and cannot be lightly dismissed.

Had Complainant exercised more diligence before filing his complaint, he might have done some of the following, all of which were readily accessible to him. They were in fact done by the Grand Jury in its investigation. As he testified, he did none of them.

1. He could have reviewed his charges with the County Recorder. He would have learned:

- a. The Placer County Recorder prefers to support rather than punish and with its backing, he could have helped file amended returns to protect both the College and the Foundation from public criticism, possible litigation, and fines.
- b. Its records showed no violations or problems. (Even a senior member of the Recorder's staff believed that the Foundation had no obligation to file anything.)
- c. It has no investigative authority, so it could not have pursued his claim in any event.

2. He could have more fully understood the Sierra College organization. He would have learned:

- a. The former President was not the Foundation Executive Director's supervisor and thus could not orchestrate her activities.

- b. The College was fully informed about donation activity from the Foundation, if only from their Board Minutes. In fact, several College Trustees were also members of the Foundation Board.
- c. The Foundation Board had approved the transfers to the Bond Measure Committees in complete accordance with the law.
- d. Many people had some knowledge of the Foundation's campaign donations including the Foundation Board (about 25 people), the College Board (7 people), the Foundation staff (3 people), the bond measure Committees (several tens of people), the College administrative staff (more than 50 people), various consultants and experts including attorneys, accountants, and campaign advisors (several tens of people), and the donors (nearly 100 people).

Thus, the notion that the former President was positioned to implement a "scheme" of clandestine donation manipulation is absurd.

3. He could have consulted an attorney. He would have learned:

- a. By filing a complaint, he opened himself, the College and the Foundation to liability.
- b. A complaint with so many unsubstantiated allegations submitted to a Grand Jury might result in unforeseen and undesirable consequences both to himself and to the College.
- c. His complaint might offer grounds in a wrongful discharge suit by the former President, which could prove costly either through increased contract settlement or claims for damages.

4. He might have met with the Sierra College Foundation Executive Director and the Past and Present Presidents of the Foundation Board. He would have learned:

- a. The Foundation had executed an extensive approval process in filing for the 501(h) status.
- b. The matter had been carefully accomplished by the Foundation's attorney and accountant supported by the College's VP of Finance and Administration.
- c. The Foundation had documentation establishing allowable levels of donations to the bond Measures, and it had conservatively chosen donations below allowable limits.
- d. All donations had been approved in writing by the Foundation's Board, which operates at arm's length from the College.
- e. The Foundation Board includes Trustee members from the College Board as well as the President, so that the College Board, in fact, was aware of Foundation donation activity.
- f. The Foundation Executive Director had regularly notified the Committees of the donor names and contributions, and therefore was not suppressing donor names.
- g. There was, indeed, a failure in the process which was that the Executive Director was unaware campaign finance law required so-called "pass-

through” donations be filed with the FPPC both by the bond measure Committee and the Foundation as an “intermediary”.

- h. Upon learning of this requirement from the Recorder, the Foundation immediately referred the matter to its attorney who advised the Foundation and the Recorder’s Office that the errors had been technical and inadvertent.
- i. According to the Executive Director, the former President was not actively involved in any of the details of receiving donations or making filings.
- j. The detailed donor accounting, which he considered a smoking gun evidencing wrongdoing, to the contrary, was meticulous bookkeeping. As outlined by the Foundation’s advisors, this ensured proper reporting to the IRS, and ensured the monies went to the Measures as the donors intended.

5. He might have discussed the matter with senior members of the College staff. He would have learned:

- a. The VP of Finance and numerous staff members, architects, planners and advisors were intimately involved with the planning process leading to the bond measures.
- b. The VP of Finance regarded himself as personally responsible for the planning and conduct of the bond campaign and felt the complaint to be a personal attack on his integrity.
- c. All College staff and faculty were made aware by the former President’s office of the legal limitations on political activity in planning and advocating the bond measures.
- d. No one knew of any instance in which either the former President or anyone else had acted with even the slightest hint of impropriety.

6. He might have asked donors if they had been improperly solicited or motivated. He would have learned:

- a. They are community members who find value in Sierra College and that many donated without being asked.
- b. They had no idea why they would object to being identified as donors.
- c. They were incensed that anyone would imagine that they were seeking quid pro quo.
- d. Most could not remember to whom they made their checks payable, and most, having accountants to prepare their returns, did not know or care whether the donations had been claimed as tax deductions.
- e. None offered even the slightest suggestion that they were pressured to donate. In fact, they said that if they had been, there would have been no donation made.

7. He could have examined campaign law more carefully. He could have read FPPC Information Manual D and its applicable addendum. He would have learned:

- a. Pass-through donations are perfectly legal provided the underlying donors are reported.
- b. FPPC law clearly establishes the Committee Treasurer as the party primarily responsible for ensuring filings are complete and timely.
- c. Thus, the target of the law would be the Committee Treasurers, not the former President.
- d. State law establishes no deadlines for the filing of amendments, offering an avenue of protection for any inadvertent mistakes.
- e. Some amended filings had been made at the time of his complaint, making his complaint moot.

Although Complainant has some knowledge of campaign law, it is considerably less than complete. For example, he acknowledges being unaware of the details of the 501(h) election, that he has not read FPPC Information Manual D nor its most recent addendum and that he believes that pass-through donations are not legal. In that respect he is wrong, as the law clearly allows them provided that the intermediary organization (in this case the Foundation) files its own report of the matter and that the election committee also reports the donation. Thus, Complainant did not verify that the violation still existed; he did not charge the properly responsible individuals; and he was wrong in believing that pass-through donations are always illegal.

Since there was no coordination of effort or coercion (or even any need) to suppress donor information, it is impossible to find a “scheme” at all. In addition, not a single fact could be found to support the allegations of “money laundering”, intentional violations of the California Political Reform Act, or violations of the Education Code.

So the truth as Complainant believed in making his complaint is at wide variance with the truth revealed by the Grand Jury’s investigation. As noted earlier, he learned as a child that “it never hurts to tell the truth”. But there is more to truth than the superficial evaluation of unverified statements. The following quote is also worth contemplating in that regard.

“ ‘Learn what is true in order to do what is right’ is the summing up of the whole duty of man.” (Thomas Huxley)

A MORE REASONABLE RESPONSE

Since the Grand Jury has suggested that filing a formal complaint against the former President was a poor response to the filing errors, perhaps we should make a suggestion as to what might have been better.

Upon recognizing the issue, Complainant did the correct thing in alerting the Sierra College Board Chairman. In discussing it, they might have realized that the two immediate requirements were to correct the legal error and to protect the College from liability and penalties. They might have mentioned that identifying who was at fault, if anyone, should come later.

Then the Board Chairman did a reasonable thing in meeting with the Foundation's Executive Director to understand more. He might have directed her to work within the College structure to solve the problem and to keep him informed. He might have also informed the former President that there was a problem, requested the former President to become involved, assist in solving the problem, and keep him informed. The former President might then have informed the VP of Finance and Administration, who was the manager responsible directly for the College's financial links to the Foundation. He might have met with both the VP of Finance and the Foundation's Executive Director to be briefed on the problem and to assist in determining a course of action. The Foundation Executive Director might have also informed the Foundation Board President of the problem and listened to his advice.

By this point, the matter would have been strictly an operational one, requiring the Sierra College Board to be kept informed, but otherwise needing no Board action.

The VP of Finance and the Foundation Executive Director could then have sought legal advice, prepared amended filings for both the Committees and the Foundation as quickly as practicable. They could have informed the Recorder's Office and possibly the FPPC that inadvertent errors had been made. Had the public become aware, a statement could have been released indicating that the problem was recognized and was in process of being resolved. The immediate problem would then have been solved, and the Sierra College Board and the former President could have been informed by staff personnel that the matter was relatively mundane and had been handled.

The former President and/or the VP of Finance might have also realized that the College needed to understand exactly what had happened in order to prevent a recurrence. They might have commissioned a small task group to do what the Grand Jury has done in interviewing Committee Treasurers, campaign advisors, and an attorney to prepare a lessons-learned document. We believe that the conclusions of such a group would be similar or identical to the ones reached in this report.

Altogether, the filing errors should have been a small, almost routine, matter in managing a complex organization and dealing with its day-to-day problems. Rather it was extended far out of proportion by filing a formal, public complaint. According to the testimony of the Complainant, it became 20% of the total weight of his overall allegations against the former President. It was, in fact, of no consequence whatsoever, and certainly not part of a bill of particulars against a President with eleven years tenure.

THE FORMER PRESIDENT'S TESTIMONY

As the final step in its investigation, the Grand Jury interviewed the former President on March 10, 2006. As was Complainant, the former President was sworn in and testified under oath. The questioning was focused on his knowledge of campaign filing law and his role in fundraising for Measures E, G, and H. His testimony was completely consistent with the facts of our investigation, and the Grand Jury has no doubt of the honesty of his replies, much the same as we did not doubt the honesty of Complainant's testimony.

The former President is not very knowledgeable of campaign finance law. He is unaware of FPPC Information Manual D, and has no idea of the meaning of the term "intermediary" in the context of Foundation donations. He knows filings have to be made, but does not know the responsibility falls to the committee treasurers. He could not recall the names of any of the committee treasurers for Measures E, G, and H. He did not recall by name the "501 (h)" designation, although he was aware of an extensive effort undertaken by the College VP of Finance to validate it. He felt on firm ground in the belief the Foundation could solicit donations for the benefit of the bond issues.

He recalls being very active in soliciting donations, especially for Measure E. He believes he gave perhaps 40 briefings to groups of prospective donors asking each group to donate in support of the College. He asserts that on no occasion did any donor seek to have his identity hidden nor did he suggest to any that it might be possible to do so. He recalls, to the contrary, that they wished to be recognized. He thinks donations made to the election committees via the Foundation might have been tax deductible, but he emphasized he is not a tax consultant and advised donors to consult their accountants. He does not recall the amounts donated to each campaign by the Foundation, but he knows there were 501(h) guidelines which were followed.

With respect to the men's room conversation so decisive in Complainant's subsequent actions, the former President has no memory that such a conversation ever occurred. He recalls that the former Trustee, who allegedly was the other participant in that conversation, was very supportive of Measure E, and they might have exchanged informal remarks from time to time, perhaps even in a men's room.

So how, at the end of our investigation, can we reconcile that both Complainant and former President testified truthfully?

While there may be many possible scenarios for the reported conversation, the Grand Jury finds the following to be altogether plausible.

The former President perhaps mentioned in response to the former Trustee's inquiry at the restroom sink, "fundraising is going ok, but *donors are tough to identify*". The Board Chairman, overhearing, might plausibly have heard this as

“donors don’t want to be identified.” Then when Complainant learned of it from the Board Chairman while discussing the filing violations, Complainant concluded (as he testified) that the former President was at the heart of a “scheme” to “money-launder”. Since Complainant did almost nothing to test his hypothesis through due diligence, he proceeded to file his charges with the County Recorder and to publicize his act through his website and the media.

And so it seems, that is all there was to it. There was no more.

CONCLUDING THOUGHTS

On February 6, 2006, fifteen months after the charges were filed and thirteen months after his retirement, the former President returned to the Sierra College campus for the first time. The occasion was his induction into the College's athletic Hall of Fame. Within its coverage of the celebration, a local newspaper reported:

“Klein filed a complaint alleging Ramirez illegally filtered money through the Sierra College Foundation to fund bond measures.”

The report did not say when the allegations had been made, that they had never been proven, that they had been denied, or that they had nothing whatever to do with the event.

Because these allegations clearly remain unaddressed and current, the Grand Jury has decided to take its role as public watchdog seriously and to speak. Failing to report the results of our investigation would be a disservice to the public and the College community.

Unfortunately, Complainant in this investigation is a prominent figure in Placer County partisan politics. He chose to make one of his first acts as an elected official to file charges against a College employee. In the termination settlement with the former President, he and the Sierra College Board agreed to be forever silent.

It is an unfortunate coincidence that this investigation has been conducted in an election year. We state in no uncertain terms that we have no motivation or interest in altering the course of any election and no one should interpret this report as favoring or opposing any person or proposition. However, an informed public deserves to know what we have learned. The occurrence of an election nearby in time was not in any way the cause of this investigation, but a coincidental and independent event. (See Appendix 3: Time Line of Events.)

Since this Grand Jury, by law, may not speak again on this subject, we state that this investigation has been conducted with the utmost sense of responsibility and integrity. We began our inquiry with open minds and have proceeded entirely in that spirit. We believe the evidence supporting our Findings is overwhelming.

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FINDINGS

Based on the facts of its investigation, the Placer County Grand Jury makes the following findings in this case.

1. The Sierra College Foundation could legally operate as an intermediary organization funding the bond measures as defined in the FPPC Information Manual D, as advised by Gilbert & Associates, Government Financial Strategies Inc., Dr. Larry Toy (President/CEO Foundation for California Community Colleges) and without objection from the College District's legal counsel, Marion Cantor.
2. The Foundation had no intent to suppress donor names as evidenced by its willingness to supply accounting records, the display of donor names on its websites, donor list notifications to the bond measure Committees, and supported by the testimony of all donors surveyed.
3. Filing errors for Measures E, G, and H were made due to inexperience, inattention to detail and confusing underlying documentation.
 - a. The donors' names should have been itemized in an FPPC filing by the Foundation as an Intermediary.
 - b. The Committee Treasurers failed to notify the Foundation of its FPPC filing requirements due to their inexperience and lack of formal training in FPPC filing requirements.
 - c. The omission of FPPC filing of itemized donor names was inadvertent and unintentional.
4. The FPPC filing errors were relatively minor and easily correctable. The Committees promptly made amended filings to correctly disclose donor names when the errors were found.
5. The former President was far removed from the detailed process of making filings and there is no evidence that he had knowledge of them.
6. Complainant failed to exercise due diligence before taking the serious step of making charges, and as a result, the complaint was inconsistent with the facts. The charges are unfounded, misleading and full of unsubstantiated allegation. **The charges are utterly without merit.**
7. The facts support the conclusion that the charges were a contributing and unjustified factor in the former President's decision to seek an early retirement.

8. Complainant's insistence that the Foundation be barred from supporting Sierra College bond measures by donor solicitation as an intermediary is an unfounded opinion. The Foundation should not be prohibited from legal fund raising and bond measure contribution activities as the result of the erroneous view of a single Trustee.

RECOMMENDATIONS

The scope of the Grand Jury's investigation was to examine the complaint filed against the former President by Complainant. In spite of the fact that the former President had long departed the College, we believe this to be a constructive investigation. First, there had been no public resolution of the complaint since the other agencies that received it did not act. Also, our interviews with the College and Foundation staff showed that they were under the mistaken impression that the FPPC or some other agency might yet act, and they were waiting for that to occur. Also, the staff remains under a cloud, being led to believe that they had participated in doing something unwise, unethical or illegal, when in fact they had not. Although the staff has moved forward, it is with a sense that a wrong has been done, both by themselves through unwitting errors and by Complainant as their critic.

With the Grand Jury's investigation and findings complete, there are constructive actions that can be implemented to put the matter behind the College and to enable needed healing. The following set of recommendations is offered with that intent.

The Placer County Grand Jury recommends that:

1. The Sierra College Board should extend the Grand Jury's thanks and appreciation to the College and Foundation staff for persevering in the best interest of the College and the community through a difficult and trying time.
2. The Board should publicly acknowledge that the complaint filed by one of its members was without merit and should offer an expression of regret to the College community, the former President, and the public.
3. As a significant healing step for the college community, the Board should acknowledge in some tangible way the contributions of the former President's tenure.
4. Complainant should apologize to the College community and the public at large for filing charges, which the Grand Jury has proved to have no merit.
5. It should be recognized, with support of legal counsel, that there may be substantial advantages to allowing the Foundation to raise funds for College bond issues as an intermediary as enabled by the IRS and FPPC rules.

REQUEST FOR RESPONSES

The Grand Jury requests responses to its Findings and Recommendations as follows:

Sierra College Board of Trustees: Findings 1 through 6 and 8; Recommendations 1 through 3 and 5.

Sierra College Interim President (or VP Finance and Administration) and Sierra College Foundation Executive Director: Findings 1 through 4 and 8 and Recommendations 1 and 5.

Complainant: Recommendation 4 and any other Fact, Finding or Recommendation to which, at his option, he chooses to reply. We will find no fault with him if he chooses to reply to nothing except Recommendation 4, and that is our recommendation to him. However, we recognize he has the right to reply as he chooses.

Finding 7 has no legally required respondent, but the Grand Jury hopes that the press and the public will take note of it.

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APPENDIX 1: THE COMPLAINT

AARON KLEIN

Sierra College Trustee

FILED

05 DEC 20 PM 2:38

December 20, 2004

Mr. Jim McCauley
Placer County Clerk/Recorder
PO Box 5278
Auburn, California 95604

CLERK CO. CLERK
AARON KLEIN

Dear Jim,

This letter constitutes an official complaint regarding what appears to be over \$100,000 in potential violations of campaign finance law on the part of the President and Superintendent of the Sierra Joint Community College District, Kevin Ramirez.

The relevant facts are as follows.

1. Kevin Ramirez is the President and Superintendent of the Sierra Joint Community College District. As President, he has supervision and management control over the college and its related entities. Ramirez is the one individual who has contact with the college vendors who made the donations in question, who serves as a member of the Sierra College Foundation Board of Directors, who supervises the Sierra College Foundation Executive Director and who is ultimately responsible for all management decisions made by the Foundation.
2. As a result, Kevin Ramirez is at the center of these allegations, and either conceived of and authorized this scheme, or should have known and reported it to the Board of Trustees and the appropriate authorities immediately.
3. In March of 2004, a bond election was held within the counties of Placer, Nevada, Sacramento and El Dorado for the purpose of determining whether the Sierra Joint Community College District should be authorized to float \$394 million in bonds for the renovation, repair and expansion of Sierra College facilities. This measure was placed on the ballot as Measure E.
4. Campaign finance reports filed by the committee show a \$60,000 contribution from the Sierra College Foundation, which is a nonprofit foundation organized and operated for the purpose of supporting Sierra Community College.
5. As the attached evidence shows, donors were solicited to support the Measure E bond election through a donation to the Sierra College Foundation, and the Foundation then earmarked those funds and contributed them to the bond measure political committee at a later date. This money laundering scheme allowed the administration to hide the true identities of donors to the bond campaign's political committee.
6. The funds received from these solicitations were deposited in accounts operated by the Foundation. There were no filings with the appropriate authorities in Placer County, Nevada County, El Dorado County, Sacramento County or the Secretary of State to disclose these donations or report the balances of these accounts, as required by the Political Reform Act and its implementing regulations.

There was no consultation with or approval by the Board of Trustees in regards to this scheme (although two trustees did serve on the Foundation board at the time, and continue to serve).

7. These funds were earmarked in a "special fund" for the Measure E bond campaign that was aggregated and then donated to the Measure E political committee shortly before the funds were needed for their expenditure. The Foundation neither added to or subtracted from these funds; the Foundation was simply used as a "pass-through" to funnel the dollars to the political committee.
8. Thus, the true donors to the Yes on Measure E committee were never properly disclosed to the public as required by the Political Reform Act and its implementing regulations. By making donations to the foundation instead of the committee, their identities were never disclosed because only the name of the Sierra College Foundation appears on the campaign finance reports relating to this \$60,000 contribution.
9. I want to emphasize that I do not believe that the donors themselves played any role in the conception or execution of this scheme. In fact, many of the donors turned out to be individuals or companies whose only interest was the broad betterment of the community.
10. However, a number of the donors did include entities with a financial interest in the outcome of the election, including several firms who have ongoing contractual relationships with the college in the areas of construction, architectural services, food service/vending and finance.
11. These firms would stand to greatly increase their business with the college upon passage of the measures. Further, the Board of Trustees relies on President Kevin Ramirez to recommend which firms the college should grant contracts to, giving these firms an additional reason to provide the financial support to the bond measures as requested by him or his designee.
12. Whether the donor had a financial interest or not, President Ramirez or his subordinate was clearly wrong to conceive of and execute a scheme that deprived the public of the right to know who was influencing the potential passage of the measure prior to the election.
13. There is some case to be made that the Foundation, a 501(h) organization, can legally make contributions to ballot measure committees, without losing its tax exempt status. However, this does not exempt the Foundation from the provisions of the Political Reform Act and its implementing regulations, forbidding it to accept political donations without the proper filing disclosures.
14. The Sierra Joint Community College District funds the entire salary of the President Ramirez, and partially funds the salary of the Foundation Executive Director. Therefore, if President Ramirez spent taxpayer-funded time conceiving of, authorizing or participating in this scheme, or if he instructed the Executive Director to carry out this scheme, those activities would constitute a felony or misdemeanor under Education Code § 7054, which provides:
 - (a) No school district or community college district funds, services, supplies, or equipment shall be used for the purpose of urging the support or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the governing board of the district.
 - (b) Nothing in this section shall prohibit the use of any of the public resources described in subdivision (a) to provide information to the public about the possible effects of any bond issue or other ballot measure if both of the following conditions are met:

(1) The informational activities are otherwise authorized by the Constitution or laws of this state.

(2) The information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(c) A violation of this section shall be a misdemeanor or felony punishable by imprisonment in the county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both, or imprisonment in a state prison for 16 months, or two or three years.

15. The actions described above were repeated for the two additional bond measures proposed for the November 2004 election.
16. Measure G was proposed to provide funding for the renovation, repair and expansion of Sierra College facilities in Grass Valley, California. Campaign finance reports filed by the Measure G committee show a \$16,000 contribution from the Foundation, as well as a \$10,000 contribution from excess funds left over from the Measure E committee.
17. Measure H was proposed to provide funding for the construction of new Sierra College facilities in Truckee, California. As of this writing, the Nevada County Clerk-Recorder's Office has still been unable or unwilling to forward a copy of campaign finance reports filed by the Measure H committee, but we estimate that over \$28,000 was contributed by the Foundation based on the evidence received from the Foundation.
18. In order to attempt to address the concerns over this activity, the Foundation provided electronic copies of its spreadsheets that were used to record the donations solicited and earmarked for the eventual transfer to their appropriate bond measure committees. Printed copies of those spreadsheets are attached.
19. The spreadsheet detailing Measure E donors includes a notation that the donations at issue are classified for a "0124A Special Fund", separate from the "0124 Annual Fund".
20. The spreadsheet detailing Measure G and H donors is even more explicit, stating line-by-line which ballot measure the donation is earmarked for. There is \$16,400 earmarked for Measure G, and \$28,560 earmarked for Measure H.

I am seeking a formal investigation by the appropriate investigatory and law enforcement agencies of these campaign finance issues.

If I can provide any additional information, please do not hesitate to call me at 530-885-9500 x215.

Sincerely,



Aaron Klein
Trustee, Sierra Joint Community College District

APPENDIX 2: REFERENCE DOCUMENTS

APPENDIX 2: REFERENCE DOCUMENTS

Item #	Date of Origin or Receipt	Category	Source	Title or Comments
1	12/20/04	Grand Jury Complaint	Complainant	Complaint alleging criminal charges against SC President Dr. Kevin Ramirez
2	12/23/04	Letter	Clerk-Recorder's Office	4 Letters: forwarding same complaint to FPPC, Grand Jury, State Attorney General, and Placer County District Attorney
3	12/27/04	Letter	FPPC	Acknowledgement of complaint receipt
4	1/24/05	Letter	Clerk-Recorder's Office	Letter to SCFoundation advising of possible obligation to file
5	1/7/05	Grand Jury Complaint	California Grand Jury Association	Citizen complaint regarding Sierra College Foundation
6	2/4/05	Letter	Clerk-Recorder's Office	3 Letters: to Placer County District Attorney, Grand Jury and FPPC w/enclosures of Measure G filings from Nevada County w/attachments of Foundation's accounting for bond measure donors
7	3/7/05	Letter	Foundation President	Response to Recorder's office outlining results of legal advice and filing violations being "technical and inadvertent"
8	9/22/05	Grand Jury Complaint	Former Grand Jury Member	Citizen complaint regarding Sierra College Foundation
9	12/8/05	Meeting notes	Clerk-Recorder's Office	Meeting
10	12/15/05	Testimony notes	Foundation Exec Director	Testimony
11	12/18/05	Working Paper	Grand Jury	"Analysis of the Klein Complaint"
12	1/11/06	Testimony notes	Former Foundation Board President	Testimony
13	1/12/06	Testimony notes	Current Foundation Board President	Testimony
14	1/12/06	Testimony notes	Sierra College Interim President	Testimony
15		Working Paper	Sierra College Interim President	Graph, FTES (full time equivalent student) decline 12/04-2/05
16	1/17/06	Testimony notes	Former Treasurer, Committee for Measure E	Testimony
17	1/18/06	Testimony notes	Sierra College VP Finance & Admin	Testimony
18	1/23/06	Testimony notes	Sierra College Board Member 1	Testimony
19	1/24/06	Testimony notes	Sierra College Board Member 2	Testimony
20	2/1/06	Testimony notes	Former Treasurer, Committee for Measure H	Testimony
21	2/13/06	Packet	Former Treasurer, Committee for Measure H	Measure H Campaign documents (e-mails, FPPC instructions, letter from Sec'y of State, letter from Streamline Consulting Group, copies of receipts)
22	2/8/06	Testimony notes	Complainant	Testimony
23	2/8/06	Working Paper	Complainant	Complainant's "Grand Jury Outline"
24	2/8/06	FPPC	Complainant	FPPC No.: 04/593 Stipulation, Decision and Order in the Matter of Foothill-De Anza Community Colleges Foundation
25	2/8/06	Letter	Complainant	Correspondence between Foundation and a significant business donor to all 3 bond measures
26	2/18/06	Testimony notes	Notes from Foundation business donor interviews	Testimony
27	2/20/06	Testimony notes	Former Sierra College Director of Business Services	Testimony
28	2/27/06	Testimony notes	Treasurer, Committee for Measure B	Testimony (Complainant's source for "is this legal?")
29	2/27/06	Testimony notes	Former Sierra College Board Member	Testimony (party to Complainant's alleged bathroom conversation)
30	3/6/06	Testimony notes	Sierra College Board President	Testimony (Complainant's advisor)
31	12/15/05	Bond Measures	Clerk-Recorder's Office	Measure E: Proposal to issue bonds for Sierra Joint Community College District
32	3/2/04	Internet	League of Women Voters	Measure E Description
33	12/15/05	Bond Measures	Clerk-Recorder's Office	Measure H: Proposal to issue bonds for Sierra Joint Community College School Facilities Improvement District Number 1
34	12/8/05	FPPC	Clerk-Recorder's Office	Election Filing Reports: Copies of all campaign filings for Measures E, G, and H
35	12/8/05	FPPC	Clerk-Recorder's Office	Election Results: Local Measures G and H
36	12/31/94	FPPC	Fair Political Practices Commission	Information Manual D: Manual for recipient committees formed to support or oppose the passage of ballot measures
37	2/15/06	FPPC	Fair Political Practices Commission	2004 Addendum: Supplement to Manual D
38	1/1/05	FPPC	Fair Political Practices Commission	2005 Addendum: Supplement to Manual D
39	11/15/05	Internet	County Counsel	Education Code 7050-7058
40	11/28/05	Internet	Education Code Section 72670 - 72682	Code governing formation of auxiliary organizations by community colleges

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Item #	Date of Origin or Receipt	Category	Source	Title or Comments
41	10/15/02	Working Paper	Financial Strategies Inc.	Memo: "Relationship of Sierra College Foundation to Expanding Horizons for Lifelong Learning
42	6/26/02	e-mail	Larry Toy, President, Foundation for California Community Colleges	Statewide/Local Bond Campaign Contributions Through Your Foundation
43	5/10/02	Working Paper	Gilbert Associates, Inc. CPAs and Advisors	Memo: Allowable Financial Support from the Foundation for Proposed Sierra Junior College Bond Measure
44	7/8/02	Internet	Online Compendium of Federal and State Regulations for U.S. Non-Profit Organizations	Lobbying and Political Activity by Tax-Exempt Organizations
45	11/5/03	e-mail	Sierra College	Rules regarding the bond campaign
46	12/19/02	Letter	Gilbert Associates, Inc. CPAs and Advisors	Letter to SC VP Business Services re: form and filing for IRS for the Foundation to allow expenditures to influence legislation
47	1/11/05	Formal Meeting Minutes	Minutes - Sierra College Board Mtg.	Special meeting of the Board with public comments re: Dr. Ramirez
48	7/1/03	Contract	Sierra College	Contract Extension between Sierra College and Kevin Ramirez
49	1/21/05	Contract	Sierra College	Settlement Agreement between Sierra College Board and Kevin Ramirez; attachment of Foundation donor accounting
50	1/23/06	Working Paper	Sierra College	General Fund 10-year History with Ramirez Buyout Expenses Removed
51	1/23/06	Working Paper	Sierra College	Sierra Community College District Facilities Funding Challenges
52	3/7/08	Formal Meeting Minutes	Sierra College	Sierra Joint Community College Districts Minutes (Oct 2002 - Dec 2004)
53	12/15/05	Contract	Foundation Executive Director	Foundation Bylaws
54	12/15/05	Financial	Foundation Executive Director	Foundation Financial statements, independent auditor's reports and IRS filings (2002-2004)
55	12/15/05	Foundation Board members	Foundation Executive Director	Foundation's 2002-2003 Board of Directors
56	12/15/05	Foundation Board members	Foundation Executive Director	Foundation's 2003-2004 Board of Directors
57	12/15/05	Foundation Board members	Foundation Executive Director	Foundation's 2004-2005 Board of Directors
58	10/13/03	Formal Meeting Minutes	Minutes - Foundation Board Mtg.	Agenda Item III.C "Foundation Support of March, 04 Bond Measure"
59	1/13/03	Formal Meeting Minutes	Minutes - Foundation Board Mtg.	Agenda Item IV.B "Election of 501(h) option to the Foundation's 501(c)(3) Status"
60	10/11/04	Agenda	Agenda - Foundation Board Mtg.	attachment "Transfer of Funds from Special Account in accordance with 501h allowance"
61	10/11/04	Formal Meeting	Minutes - Foundation Board Mtg.	Agenda Item IV.B "Transfer of Funds to Measures G & H"
62	1/26/04	Formal Meeting Minutes	Minutes - Foundation Board Mtg.	Agenda Items III.B "Amendment to the Articles of Incorporation" and III.D "Transfer of Funds from Special Account in Accordance with the 501(h) Allowance"
63	1/3/05	e-mail	Foundation Executive Director	response from ELAC Foundation re: use of 501(h)
64	1/4/05	e-mail	Foundation Executive Director	response from Merced College Foundation re: use of 501(h)
65	1/4/05	e-mail	Foundation Executive Director	response from Ventura College Foundation re: use of 501(h)
66	1/4/05	e-mail	Foundation Executive Director	response from Cabrillo College Foundation re: use of 501(h)
67	3/8/05	e-mail	Foundation Executive Director	re: memo from SCF President about filings failures
68	1/28/04	e-mail	Foundation Executive Director	from campaign group for E titled "Campaign Contribution Update" with lengthy list of Foundation contributors
69	9/8/04 - 10/14/04	e-mail	Foundation Executive Director	series of e-mails from 9/8/04 - 10/14/04 reporting donations to G & H bond measure committees
70	11/17/03	Letter	Foundation Executive Director	Thank you letters to a major donor from SCF President
71	12/17/03	Letter	Foundation Executive Director	Thank you letters to a 4 major donors from SCF President
72	10/18/04	Letter	Foundation Executive Director	Thank you letters to 7 major donors from SCF Executive Director w/receipts attached
73	11/29/04	Letter	Foundation Executive Director	Thank you letters to 9 major donors from SC President and SCF Executive Director
74	3/7/05	Letter	Sierra College Foundation	Letter responding to County Clerk-Recorder concerning filing violations
75	7/26/04	Letter	TRR (Teresa R. Ryland, C.P.A)	To SCF Exec Director re: continued tax-exempt status; outlining that 20% of expenditures could be contributed to the bond measure
76	8/13/05	Marketing Survey	Fairbank, Maslin, Maulin & Associates	Sierra Joint CCD Marketing Survey (August 13-19, 2005)
77	2/11/05	Newspaper Article	Auburn Journal	"Award, allegations complicate legacy of Sierra President"

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Item #	Date of Origin or Receipt	Category	Source	Title or Comments
78	2/4/05	Newspaper Article	Auburn Journal	"Campaign watchdog group investigating Ramirez fundraising"
79	2/3/05	Newspaper Article	Auburn Journal	"Diverse group holds reins of Sierra College"
80	12/24/04	Newspaper Article	Auburn Journal	"Further charges fly at college"
81	2/2/05	Newspaper Article	Auburn Journal	"Grand Jury reports show Sierra leaders no strangers to controversy"
82	3/10/05	Newspaper Article	Auburn Journal	"Klein recall effort folds"
83	1/28/05	Newspaper Article	Auburn Journal	"Lynn in as Sierra interim president"
84	3/27/05	Newspaper Article	Auburn Journal	"Politics at work in parcel tax?"
85	1/30/05	Newspaper Article	Auburn Journal	"Ramirez buyout may have cost over \$500,000"
86	12/24/04	Newspaper Article	Auburn Journal	"Sierra college trustee calls on College President Ramirez to resign"
87	2/6/06	Newspaper Article	Auburn Journal	"Sierra inducts 46 into Hall of Fame"
88	11/4/05	Newspaper Article	Auburn Journal	"Sierra probes support for new bond"
89	12/24/04	Newspaper Article	Auburn Journal	"Trustee alleges Ramirez funneled political spending"
90	3/3/05	Newspaper Article	Lincoln News Messenger	"Klein speech rekindles Sierra debate"
91	12/23/04	Newspaper Article	Lincoln News Messenger	"Ramirez Claims Pressure from Board to Resign"
92	12/30/04	Newspaper Article	Lincoln News Messenger	"Ramirez Rebuts charges by new board member"
93	1/27/05	Newspaper Article	Lincoln News Messenger	"Ramirez to step down as President of Sierra College"
94	2/1/05	Newspaper Article	Lincoln News Messenger	"Ramirez, Sierra board faced scrutiny in the past"
95	12/24/04	Newspaper Article	Placer Herald	"Sierra president alleges pressure to resign post"
96	12/20/04	Newspaper Article	Sacramento Bee	"College chief should quit, trustee says"
97	3/10/05	Newspaper Article	The Union	"Effort to recall Klein abandoned"
98	2/10/05	Newspaper Article	The Union	"Klein focuses on future for college"
99	2/22/05	Newspaper Article	The Union	"Making deals normal at college"
100	12/29/04	Newspaper Article	The Union	"Trustee: Sierra College leader should leave"
101	12/22/04	Internet	Complainant's Blog	"An Open Letter to our Sierra College Faculty, Classified Staff and Administration"
102	1/4/06	Internet	Complainant's Blog	"Auburn Journal Article on the Proposed Sierra College Bond"
103	5/27/05	Internet	Complainant's Blog	"Commencement, Part II"
104	2/4/04	Internet	Complainant's Blog	"Making Progress at Sierra College"
105	5/20/05	Internet	Complainant's Blog	"My Speech on a New College for a New Day"
106	6/20/05	Internet	Complainant's Blog	"Sierra College ... On the Right Track"
107	8/27/05	Internet	Complainant's Blog	"The journal attempts to right a wrong ..."

APPENDIX 3: TIME LINE OF EVENTS

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APPENDIX 3: TIME LINE OF EVENTS

- Foundation approves 501(h) election → 01/13/03
- Foundation donor list circulates among Committee for Measure E → 01/22/04
- Foundation approves \$60,000 transfer to Measure E → 01/26/04

- Foundation transfers \$60,000 to Committee for Measure E → 02/14/04
- Committee for E files Form 460 (\$60,000 wo/donor detail) → 02/18/04

- ELECTION: Bond Measure E Fails → 03/02/04

- Foundation e-mails provide donor lists to G & H Committees → 09/08-10/14/04
- Foundation approves funding up to \$60,000 for Measures G & H → 10/11/04
- Committee for Measure E files Form 460 → 10/11/04
(shows transfers of \$10K to Committees for G & H; returns \$2419 to Foundation)
- Foundation transfers \$25,210 to Committee for Measure H → 10/16/04
- Committee for Measure H files Form 460 (\$25,210 wo/donor detail) → 10/21/04
- Complainant detects FPPC filing errors for E, G & H → 10/24/04

- ELECTION: Complainant elected as Trustee; Measures G & H pass → 11/02/04
- Committee for E files amendment identifying individual donors → 11/16/04

- Complainant writes & sends complaint to Grand Jury & Recorder → 12/20/04
- Grand Jury receives 1st complaint (also County Recorder's Office) → 12/23/04
- FPPC acknowledges receipt of complaint from Recorder's Office → 12/27/04

- Grand Jury receives 2nd citizen complaint re: investigation of Foundation → 01/07/05
- Sierra College Board special meeting re: Ramirez/Board conflict → 01/11/05
- Settlement agreement between Ramirez & College → 01/21/05
- Letter from Recorder's office to Foundation ('You may need to file') → 01/24/05

- Foundation replies to Recorder's Office letter re: attorney's assessment → 03/07/05
- Committee for H files amended Form 460 showing \$25,210 donor detail → 03/22/05

- Grand Jury begins inquiry (attend Sierra College Board Meeting) → 09/13/05
- Grand Jury receives 3rd citizen complaint → 09/22/05

- Press repeats allegations upon Ramirez hall of fame induction → 02/06/06

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INSTRUCTIONS TO RESPONDENTS

SIERRA COLLEGE

We facilitate learning, inspire change and build community

May 5, 2006

The Honorable Frances Kearney
Presiding Judge of the Superior Court
County of Placer
11546 B Avenue
Auburn, CA 95603

COPY

RECEIVED
MAY 11 2006
Placer County Grand Jury

Dear Judge Kearney,

We acknowledge and offer our appreciation for the Grand Jury's Report. This Report was thorough and fully accurate as to the circumstances, motivations and the lack of intent involved in the inadvertent campaign disclosure problems associated with the bond measure campaigns.

This response to the Grand Jury Report entitled *Refutation of Charge Against Former Sierra College President*, dated March 21, 2006, is made by Dr. Morgan Lynn, Interim Superintendent/President, Sierra College, and Sonbol Aliabadi, Executive Director, Sierra College Foundation. We have been directed to respond to Findings 1 through 4; and Recommendations 1 and 5.

RESPONSES TO FINDINGS

FINDING 1: *"The Sierra College Foundation could legally operate as an intermediary organization funding the bond measures as defined in the FPPC Information Manual D, as advised by Gilbert & Associates, Government Financial Strategies, Inc., Dr. Larry Toy (President/CEO Foundation for California Community Colleges) and without objection for the College District's Legal counsel, Marion Cantor."*

We agree with Finding 1.

(Continued on next page...)

Morgan Lynn, Ed.D.
Interim Superintendent/President

Responses to Findings (Continued)

FINDING 2: *"The Foundation had no intent to suppress donor names as evidenced by its willingness to supply accounting records, the display of donor names on its websites, donor list notifications to the bond measure Committees, and supported by the testimony of all donors surveyed."*

We agree with Finding 2 with this clarification:

The Foundation at all times acted in good faith with respect to the campaign reporting issue. During the course of receipt of donations to the Foundation, the Foundation staff provided the committees with information concerning the identity and amounts of donations it received. Given that, the committees had all the information they needed to disclose the contributions in a timely manner.

FINDING 3: *"Filing errors for Measures E, G and H were made due to inexperience, inattention to detail and confusing underlying documentation.*

- a. *The donors names should have been itemized in an FPPC filing by the Foundation as an Intermediary.*
- b. *The Committee Treasurers failed to notify the Foundation of its FPPC filing requirements due to their inexperience and lack of formal training in FPPC filing requirements.*
- c. *The omission of FPPC filing of itemized donor names was inadvertent and unintentional."*

We disagree with technical aspects of findings 3a and 3b, and suggest their clarification:

Intermediaries do not have FPPC filing responsibilities, only "committees." Government Code §§ 82013, 84200 et seq; 84211. The Foundation was not a committee, and thus was not required to file FPPC reports itself. The Foundation did disclose to the committees the names of the donors to the Foundation whose funds were transmitted, as required by Government Code § 84302, which states: *"No person shall make a contribution on behalf of another, or while acting as an intermediary or agent of another, without disclosing to the recipient."* The Foundation provided this information to these committees, but unfortunately this information either was not provided to the treasurers or if it was, the treasurers did not fully understand the necessity of making required disclosure on those committees' campaign statements.

We would suggest a better formulation of the finding: The committees should have disclosed the Foundation as intermediary and the donors as the true contributors of funds. Due to their lack of knowledge, the volunteer treasurers may not have been aware of the need to make these disclosures.

(Continued on next page...)

Responses to Findings (Continued)

FINDING 3 (Continued)

The Foundation was consistently open about the donors, posting the names of donors on its website. As soon as questions were raised concerning the committee's non-disclosure, the Foundation again provided all donor information to those requesting it and re-sent the information to the committees for the purpose of ensuring that a full and complete list was available for public disclosure.

The College Administration and the Foundation believe that the committees involved and their volunteer treasurers were not fully aware of the requirements of campaign reporting disclosure. The College Administration and the Foundation believe that the characterization or use of the term "money laundering" is undeserved. Government Code § 84301 requires the disclosure of the true source of a campaign contribution and the intermediary. In this case, the inadvertent non-disclosure by the committees involved was not "money laundering."

We agree with Finding 3c.

FINDING 4: *The FPPC filing errors were relatively minor and easily correctable. The Committees promptly made amended filings to correctly disclose donor names when the errors were found.*

We agree with Finding 4.

RESPONSES TO RECOMMENDATIONS

RECOMMENDATION 1: *"The Sierra College Board should extend the Grand Jury's thanks and appreciation to the College and Foundation staff for persevering in the best interest of the College and the community through a difficult and trying time."*

The Board of Trustees agrees and hereby extends the Grand Jury's thanks to the Foundation and Sierra College staff. This recommendation has been implemented with the filing of this response.

The Sierra College Board of Trustees met on Tuesday, May 2, 2006 to formulate their response to the Grand Jury's Final Report dated March 21, 2006. Since Recommendation 1 is directed to the Board of Trustees and implements the Grand Jury's recommendation, we feel it is appropriate to respond likewise and adopt the Board's response. The College and Foundation staff greatly appreciates the Grand Jury's acknowledgement of the fact that we have persevered through difficult times in the best interests of the College and our students.

(Continued on next page...)

Responses to Recommendations (Continued)

RECOMMENDATION 5: *"It should be recognized, with support of legal counsel, that there may be substantial advantages to allowing the Foundation to raise funds for College bond issues as and intermediary as enabled by the IRS and FPPC rules."*

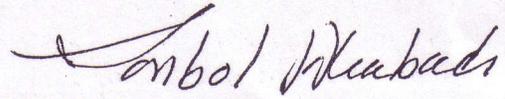
This recommendation has been implemented through consultation with legal counsel whose expertise is in matters pertaining to those of the Fair Political Practices Commission.

We would like to thank the Grand Jury for their time and effort in preparing this thorough report.

Sincerely,



Dr. Morgan Lynn
Interim Superintendent/President



Sonbol Aliabadi
Sierra College Executive Director

cc: Placer County Board of Supervisors
Placer County Grand Jury

AARON KLEIN

Sierra College Trustee

May 19, 2006

The Honorable Frances Kearny
Presiding Judge of the Superior Court
County of Placer
11546 B Avenue
Auburn, California 95603

RECEIVED
MAY 22 2006
Placer County Grand Jury

CC: Placer County Grand Jury, 11490 C Avenue, Auburn, California 95603
Placer County Board of Supervisors, 175 Fulweiler Avenue, Auburn, California 95603

Dear Judge Kearny,

The following is my response to the Grand Jury's report dated March 21, 2006.

Findings

1. Respectfully, I disagree with this finding in its entirety. While the Foundation is certainly permitted to donate up to 20% of its funds to a political campaign, and most certainly can be a fully disclosed legal intermediary of funds, it seems clear to me that state and federal law prohibit political donations from qualifying for a tax deduction.

Therefore, it is highly questionable that it would be legal for politically-earmarked funds to be solicited (as Measure E, G and H funds were) and then for those funds to be transferred in their earmarked amounts to the political campaigns they were earmarked for.

2. I disagree with this finding. The Foundation's Executive Director, Sonbol Aliabadi, and the Foundation's Board President, Bill Halldin, certainly had no intent to suppress donor names. Whether other individuals involved in oversight of the Foundation had that intent or not is for an enforcement agency such as the Fair Political Practices Commission to investigate and determine, which was the purpose of my complaint.
3. I partially disagree with this finding. While the Grand Jury is certainly correct in its finding that "public disclosure laws were not obeyed", its finding that the errors were due to inexperience, inattention to detail and confusing documentation is simply not supported by the facts.

The law has a purpose: to shine the light of public disclosure on political campaign donations *prior* to the election, not after. Filling out disclosure forms in a manner completely contrary to disclosure is not "inattention to detail"; it's a violation of the law.

4. I strongly disagree with this finding. The filing errors were neither minor, nor were they even possible to correct.

I refer you to the FPPC web site at the following address:

<http://www.fppc.ca.gov/index.html?id=48&show=detail&prid=617>

The first enforcement action listed is a "Campaign Money Laundering Violation" where an attorney and partner in a Southern California law firm was the true source of donations that were made in the names of various friends and associates. His motive for laundering the funds through these other parties was not made clear; it simply is not relevant to whether or not public disclosure laws were obeyed.

The amount of his donation was \$25,500. The fine from the FPPC for this violation was \$72,000. There are also numerous other enforcement actions reported by the FPPC for donation amounts far less than \$25,500.

How can the Grand Jury, or any reasonable person, possibly conclude that \$104,000 of similar violations is in any way minor, when the FPPC clearly disagrees?

5. I strongly disagree with this finding. Despite my philosophical and policy differences with the former President of Sierra College, he was known as an organized leader who was deeply involved in the details of his most important initiatives.

The passage of the Measure E ballot initiative was the primary objective that the Board of Trustees had given the former President at the time, according to what I've been told.

The former President was deeply and directly involved in the fundraising process, making numbers of fundraising telephone calls and visits to potential donors. Donors were instructed to "use the Foundation as the mechanism for submitting these funds" (these are the words of one donor in particular, whose letter stating such was provided, but ignored by the Grand Jury in its report).

I simply do not believe that the former President was so distant or removed that he did not understand or comprehend the basic disclosure obligations required by the law.

6. I strongly disagree with this finding.

First, I want to clear up a rather significant error in your report. During my testimony in regards to FPPC "Manual D", it was my understanding that you were asking if I had specifically consulted the guide when evaluating the facts of this case. I answered truthfully that I had not, but your report implies that I had never before read the FPPC Manual D.

In fact, I have read it and consulted it many times before. The only reason that I did not consult it in evaluating the facts of this particular case, is that the facts of this particular case are so simple, clear and convincing. There is no question that legal violations did occur, as your own report does eventually agree in small print.

I exercised very solid due diligence in investigating the issues. I could have hastily filed the complaint in October, prior to the election, when I discovered them. That would probably have sealed what was at the time an uncertain victory for the seat. I chose to be cautious and investigate further.

I carefully compared the facts of the case with the law, consulting with the individuals I described in my testimony and relying on my deep knowledge of California political disclosure laws, which, as the Grand Jury reluctantly admits, was correct.

And I very carefully made a judgment on their importance by examining past actions of the FPPC to determine whether these were major or minor violations.

As best as I can tell, the Grand Jury uses the following line of reasoning to support their finding: "because we feel that the admitted violations were minor, and because Complainant does not agree with our opinion, it is clear that he did not exercise due diligence".

The facts of this case and the past actions by the FPPC prove to any reasonable person that these violations are most assuredly not minor. The Grand Jury's entire report appears to rise and fall on that single thread.

7. I have to disagree with this finding, because I cannot characterize what the thought process of the former President might have been. As stated in my testimony, the facts at issue in this complaint were only the final straw, and counted as perhaps 20% of the major philosophical and policy differences that I had with the former President.
8. I disagree. It is long past time that we ensure that there is not even the appearance of impropriety in Sierra College financial dealings. If it means that we cannot offer tax deductions of a dubious legal status to our donors, then so be it.

So far, that has yet to affect the fundraising efforts for this year's bond campaign, where donors have written checks directly to the political campaign, and those donations have been disclosed in accordance with the law. There has yet to be a donor who has said they would not donate unless given a tax deduction.

Recommendations

1. This recommendation will not be implemented as worded, because it is not warranted. It has been a difficult and trying time for Sierra College staff, and I would like to express my regret, not for filing the complaint, but for the difficulty it has caused the hard-working faculty and staff at Sierra College. Though I disagree with some of them from time to time, I admire them greatly as the engine of student learning at a remarkable community institution.
2. This recommendation will not be implemented because it is not warranted and is not reasonable. The Grand Jury failed to prove that the admitted violations were minor, and therefore, their assertion that the complaint was without merit is false.
3. This recommendation is implemented with the following statement. I'm certain that the former President did quite a number of good things for the community, and for the college. I wish him well, and look towards a bright future with our new President.

4. This recommendation will not be implemented because it is not warranted, is not reasonable and is inconsistent with my oath of office. **When I was elected, I swore to uphold the constitution and laws of the State of California. For doing my sworn duty and upholding the law, I cannot apologize.**
5. This recommendation will be implemented, as the board has determined that it will ask the foundation to seek legal counsel on this issue in the future. I remain opposed to this practice, because of the importance of avoiding even the appearance of impropriety.

Finally, I have two things I'd like to express to the Grand Jury.

First, it is unfortunate that the nature of the Grand Jury's report is likely to discourage future whistleblowers from reporting wrongdoing that they discover in governmental organizations to the authorities.

Despite the fact that I did exercise due diligence prior to filing the complaint, due diligence is not the job of the whistleblower—it is the duty of an investigatory body or agency. The Grand Jury's finding in this area was equivalent to the police demanding that an average citizen interview witnesses and perform fingerprint analysis *before* reporting a theft.

Second, I would like to express my profound disappointment in the actions of at least one grand juror. At the Sierra College special board meeting on May 2, 2006, a faculty member made highly partisan and political comments attacking several members of our board of trustees.

While these type of comments are a very ordinary staple from this faculty member, it was very disappointing to see Ms. Annabell McCord, a member of the grand jury, stand and applaud those comments attacking members of the college board of trustees.

Her actions call into question the fairness and impartiality of this grand jury report in particular, and unfortunately, the entire grand jury process in general.

Sincerely,

A handwritten signature in dark ink, appearing to read 'A Klein', with a long horizontal flourish extending to the right.

Aaron Klein
Sierra College Trustee