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# History of the Grand Jury

## Before American Development

Some historians believe that the earliest versions of the grand jury existed in Athens, where the Greeks used citizen groups to develop accusations. Others find traces of the concept in all the Teutonic peoples, including early Anglo-Saxons. For example, the concept was employed in the early Scandinavian countries. Evidence also exists that the early French developed the "King's Audit" involving citizens who were sworn and required to provide fiscal information related to the operation of the kingdom. However, most commentators believe that the grand jury arose as an institution in England. In the first millennium, English individuals prosecuted criminals, with the king personally involved in the system. Under the Doom Law of Anglo-Saxon King Aethelred (980-1016), a dozen landowners were appointed to investigate alleged crimes. In 1166, King Henry II established a system of local informers (twelve men from every one hundred) to identify those who were "suspected of" various crimes. If the suspects survived their "trials by ordeal," they paid fines to the King. However, the "informers" were fined if they failed to indict any suspect, or even enough suspects. After 1188, they became tax collectors as well, and after the reign of Henry III, they were charged with looking into the condition and maintenance of public works.

The Magna Carta, signed by King John in 1215, did not mention the grand jury specifically, but did establish various procedures to ensure fairness in the dispensation of justice. Thereafter, until the mid-1300's, the 12-men juries served both to present indictments and also to rule on the validity of charges. During Edward III's reign, from 1312-1377, the 12 individuals were replaced by 24 knights, called "le grande inquest," and the 12 became a "petit jury" responsible only for declaring innocent or guilty verdicts.

Ultimately, in the 1600's, the English grand jury developed as a process to determine whether there was probable cause to believe that an accused individual was guilty of a crime. Grand juries reached their English pinnacle of citizen protectors in 1681, when they refused to indict enemies of King Charles II for alleged crimes. (Ironically, English laws establishing grand juries were repealed in 1933.)

## Early American Development

The use of juries in earliest colonial history was limited. In the New Haven colony, for example, religious beliefs resulted in the residents eliminating trial by jury because there was no reference to juries in the laws of Moses. However, procedures similar to grand juries were used to hear criminal charges of larceny (Boston, 1644), holding a disorderly meeting (Plymouth, 1651), and witchcraft (Pennsylvania, 1683.) In the early 1600's, colonial representatives of the English monarchs made laws and prosecuted violators. The first grand juries recommended civil charges against those crown agents, thus establishing themselves as representatives of the governed, similar to grand juries today. The first grand juries also looked into government misconduct or neglect. For example, the first colonial grand jury, established in Massachusetts in 1635, "presented" town officials for neglecting to repair stocks, as well as considering cases of murder, robbery and spousal abuse.

Other early grand juries performed a variety of administrative functions, including audits of county funds (New Jersey), inspections of public buildings (Carolinas), and review of taxes and public works

(Virginia.) Virginia grand juries also investigated whether each family planted two acres of corn per person.

In the Colonies, grand juries were considering criminal accusations and investigating government officials and activities, but with a populist view. Grand jurors included popular leaders such as Paul Revere and John Hancock's brother. These grand juries played a critical role in the pre-Revolutionary period: for example, three grand juries refused to indict John Peter Zenger, whose newspaper criticized the royal governor's actions in New York (he ultimately was prosecuted by the provincial attorney, defended by Alexander Hamilton, and acquitted.) Grand juries also denounced arbitrary royal intrusions on citizens' rights, refused to indict the leaders against the Stamp Act of 1765, and refused to bring libel charges against the editors of the Boston Gazette in 1766.

After the Revolutionary War ended, the new federal constitution did not include a grand jury. Early American leaders such as John Hancock and James Madison objected. Thereafter, the grand jury was included in the Bill of Rights, as part of the Fifth Amendment, which states, "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger..."

From then, until today, the federal grand jury remains an integral part of the justice system, used by federal prosecutors for a variety of potential crimes. In 1801, a federal grand jury indicted Colonel Aaron Burr for treason. Most recently, federal grand juries considered allegations related to the Oklahoma City and New York Trade Center bombings, President Clinton's conduct both before and during his term of office, and the recent claims of wrong-doing by former California Insurance Commissioner Chuck Quackenbush and some associates.

### **Adaptation by the States**

As the various states were admitted to the Union and adopted their legal and operating procedures, almost every one initially included some reliance on grand juries for either (or both) review of criminal indictments or inquiries into government activities. Some states' grand juries were very active in administrative affairs, even including recommending new laws. Others carried out investigations of government officials; one Tennessee grand jury indicted the entire state court of appeals and another opposed a judge's reappointment on the grounds of "mental imbecility."

Throughout this state-by-state development, the underlying concept remained the same: ordinary citizens, neighbors, and others on grand juries were a necessary part of government to ensure that public prosecutors were not swayed by personal or political prejudices, and that government officials efficiently and effectively performed their jobs.

Since the mid-1800's, grand juries have been criticized as ineffective or out-of-date by a number of reformers because they were slow, lacked expertise, and on other grounds. Others criticized the "star chamber" atmosphere of secret hearings without customary due process rights. However, these complaints were offset by effective grand jury investigations, including those of the Boss Tweed ring in New York City (1871) and racketeering charges brought by a grand jury assisted by Thomas Dewey in the 1930's. Since the nineteenth century, various minor and major changes have been made in grand jury selection, procedures, and qualifications, often resulting in fairer and more efficient jury operations.

Today, all states except Connecticut and Pennsylvania, and the District of Columbia, may use grand juries to indict and begin criminal trials. Twenty-three states and the District of Columbia require that grand jury indictments be used for certain-more serious-crimes. California and twenty-four other states make use of grand jury indictments optional. All states and the District of Columbia use grand juries for investigative purposes.

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# **Yuba County Grand Jury 2010-2011**

## **Jury List**

**Irene Andrews (Secretary Pro Tem)**  
**Jocelyn Bischoff**  
**Michael Boom (Foreman)**  
**Michele Burks (Treasurer)**  
**Ana Canales (Assistant Librarian)**  
**Gayle Diemond (Librarian)**  
**Parmjit Kaur Hansra**  
**Kimberly Hawthorn**  
**Gerald Hollands (Foreman Pro Tem)**  
**Judy Johns**  
**Janet Mitchell**  
**Warren Pryor Jr.**  
**Vivian Riley (Secretary)**  
**Meldine Rhoda**  
**Michael Smalley**  
**Michael Sroka**  
**Joy Wilcox**  
**Franklin Wright**

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# The County of Yuba

GRAND JURY



June 29, 2011

The Honorable Judge Debra Givens  
Supervising Judge of the Grand Jury  
Superior Court of the State of California  
County of Yuba

Dear Judge Givens,

In accordance with the provision of Penal Code 933(a) and on behalf of the entire 2010-2011 Yuba County Civil Grand Jury, I submit this, our Final Report. It is my belief that our report will leave a legacy of which we all can be proud, and serve as a professional standard for future Grand Jury Committees. The topics we selected to investigate, by majority vote, are based on current topical issues or complaints submitted by concerned citizens in the community. As a "watchdog" group we take our investigative role seriously while also looking into various matters of the county and city governments, public jails, special districts, local agencies and schools.

This report is the result of enormous dedication and devotion of eighteen randomly selected citizens of Yuba County. Each juror has dutifully, professionally and ethically fulfilled an oath, taken on June 30, 2010, to act on behalf of all citizens of Yuba County. The Committee Chairpersons have achieved standards and goals which have far exceeded my expectations and those of the position. It is due to their leadership and each committee members' active participation, dedication and teamwork that we have accomplished so much during our year long tenure. I would also like to thank the families of the 2010-2011 Grand Jury members, who have made numerous sacrifices so we could fulfill our duties.

I would like to thank the Judges of the Superior Court associated with the Grand Jury for their guidance and support throughout our year long service. I wish to express thanks especially to Judge Givens for the leadership and guidance extended to us the entire year. Special thanks go to the entire Yuba County Superior Court staff, led by Mr. H. Stephen Konishi, Court Executive Officer, and Ms. Bonnie Sloan. Their availability as well as their leadership and encouragement helped create an environment which made our work possible. To Angil Morris-Jones, County Counsel; Patricia L. Garamone, Chief Deputy County Counsel; Patrick McGrath, District Attorney; Sheriff Steven Durfor, Undersheriff Jerry Reid and Captain Mark Chandless, thank you for your time, patience and availability.

I truly appreciate this opportunity to serve on the Grand Jury and for the honor and privilege of acting as Foreman.

Respectfully submitted,

Mike Boom  
2010-2011 Yuba County Grand Jury Foreman

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# Report

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## Financial Hard Times in Yuba County

# FINANCIAL HARD TIMES IN YUBA COUNTY

## SUMMARY

At their meeting of June 15, 2010, the Board of Supervisors (BOS) discussed the budget deficit for the 2010-2011 fiscal year. The Grand Jury decided to investigate the deficit and related circumstances.

The Grand Jury learned that audit reports for the last four years from the outside auditor indicate that certain material weaknesses involving the internal controls of the office of the Auditor-Controller are uncovered year after year. The Auditor-Controller's office has not brought its accounting practices up to date as directed by the 1999 Government Accounting Standards Board (GASB) Statement 34. Trust Funds have not been closed out and put in identifiable accounts for the purpose of transparency. The Auditor-Controller's office continues to use a "Miscellaneous" account category. Millions of dollars sit in this account until it has been determined into which accounts those dollars should actually be placed. Months can go by before deposits are assigned to the appropriate account. There is no way to obtain an accurate real-time representation of revenues and expenses within the County departments. Choosing to disregard updated tools and techniques prevents any real monitoring or accurate forecasting of the County's financial health. Necessary adjustments are not revealed until it is too late to implement corrective measures to the budget.

During its inquiry, the Grand Jury also found that the existing accounting software system is not being fully utilized. Departments within the County are unable to take advantage of available software and are required to prepare data manually. The information is then forwarded to the Auditor-Controller's office, where it is manually entered into the accounting system. Manual entry of data increases the potential for human error in data entry. Much of the Auditor-Controller's staff resources are devoted to "bookkeeping" tasks, with little or no time devoted to "auditing" tasks.

Transparency and accountability are especially critical during times of economic downturn, such as we are experiencing. More detailed and timely information might have and in fact, may have enabled the County Administrative Officer (CAO) and the Board of Supervisors (BOS) to take actions that potentially would have avoided employee layoffs, reductions of general fund expenditures in most County departments, and pay cuts for County elected officials and managers.

It is the Grand Jury's recommendation that, pursuant to applicable provisions of the Government Codes, the BOS should exercise its authority to ensure that the duties and responsibilities of the office of the Auditor-Controller are faithfully performed. It is further recommended the BOS ensure that current accounting practices are used in the Office of the Auditor-Controller and that those practices are kept current. If the BOS does not believe that there is sufficient authority available to them, this Grand Jury recommends the Board, pursuant to Government Code sections 24009 (b) or 26980(b), pursue changing the office of the Auditor-Controller to an appointed, rather than elected, position, in order to enhance the accountability of the office and the fiscal health of the County.

## GLOSSARY

BOS	Board of Supervisors
CAO	County Administrative Officer
GAAP	Generally Accepted Accounting Standards
GASB	Government Accounting Standards Board

## BACKGROUND

The Board of Supervisors is the County's governing body. Its responsibilities include adopting the County budget. The Auditor-Controller is the chief accounting officer, entrusted by the residents of Yuba County to provide accounting, budgeting and financial services to the county agencies, school districts, special districts and cities, as defined under Government Code. The Auditor-Controller is also responsible for the payroll of the County's employees.

At the June 15, 2010 BOS meeting, the budget was discussed. The 2010-2011 County budget would have a \$10.6 million deficit, requiring layoffs of 37 County employees, deletion of 20 vacant positions, un-funding of 17 vacant positions, a 5 percent salary reduction for County elected officials and managers, and a 20 percent reduction in general fund expenditures by most County departments. Concessions from various employee associations were also discussed. Further, an emergency resolution authorized the use of the \$4.7 million contingency and reserve funds in order to end the 2009-2010 year with a zero balance, as opposed to a negative balance.

A Supervisor commented the County should have tightened its belt sooner and that more cuts were coming. (The Grand Jury learned through its inquiry that, in fact, a letter from the Treasurer's office dated Dec 8, 2008, also gave such advice.)

Additionally, the annual audit of the County's finances by Gallina, an independent auditing firm, was presented to the BOS during the June 15th meeting. That audit pointed out that certain material weaknesses and significant deficiencies continued to exist in the internal controls of the Office of the Auditor-Controller, even though they had been repeatedly pointed out in the audit reports of previous years. The Auditor-Controller was asked to address the issue at that meeting, but he provided little explanation.

Concerned citizens requested the Grand Jury to inquire regarding the operations within the office of the Auditor-Controller. The Grand Jury determined to conduct the inquiry because of the seriousness of the matter, i.e., many County employees were losing or about to lose their jobs. Effective and efficient operation of the Auditor-Controller's office is essential to the economic health of the County.

## APPROACH

The Grand Jury conducted 20 interviews, including:

- Yuba County Auditor-Controller and current Assistant Auditor-Controller
- Partners in two private auditing firms with knowledge of the Yuba County Auditor's office
- Various staff from County departments, including the Auditor-Controller's office
- Several former and current members on the Board of Supervisors
- Various County department heads

The following written material was reviewed:

- Mission Statement and Responsibilities of several other counties' Auditor-Controller's office
- Independent Auditor's Management Reports for the fiscal years ending 2007, 2008, 2009 and 2010
- Independent Auditor's Single Audit Reports for 2007, 2008, 2009 and 2010
- Independent Auditor's Audit Reports for 2007, 2008, 2009 and 2010
- Yuba County Candidate Qualification Form for Auditor-Controller
- Yuba County Grand Jury Final Reports of 2003-2004, 2004-2005, and 2005-2006, and responses to recommendations
- June 15, 2010, Letter to Board of Supervisors from the CAO, with attachments
- Yuba County Administrative Policy & Procedures Manual "Audit and Accounting" Section
- Yuba County Administrative Policy & Procedures Manual "Budget & Financial Policy" section
- Various County department and district correspondence
- Several County departmental interoffice memoranda
- Yuba County Ordinance No. 298 regarding the qualifications of the County Auditor-Controller

- California State Association of Counties County Offices information about the responsibilities of an Auditor-Controller

The Grand Jury studied and referenced the following:

- California Government Code Sections 24009 (b), 26880-26886, 26945-26946 and 26980-26990
- California Penal Code Sections 925 and 933.5

The Grand Jury reviewed the audio recording of the June 15, 2010, Yuba County Board of Supervisors' meeting, and had the applicable portions thereof transcribed by Statewide Transcription Service.

The Grand Jury attended two Yuba County Board of Supervisors' meetings at which the budget was discussed.

The Grand Jury also relied on the assistance of an independent Certified Public Accounting firm, to determine the more significant duties of a County Auditor-Controller and to develop questions to determine if certain duties are being reasonably performed.

## DISCUSSION

Each year, Yuba County undergoes an audit of its financial statements by an independent outside auditor. Gallina, LLP, has performed this audit since 2007.

A review of Gallina's Single Audit Reports and Management Reports for the years 2007-2010 identified that certain material weaknesses were recurring each year in the operations of the Auditor-Controller's office. "A material weakness is a significant deficiency, or combination of significant deficiencies, that result in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control." (Gallina's Single Audit Report 2009, page 2.) Material weaknesses are reported to the Federal Government, which then sends them to the applicable Federal and State agencies for review. The Federal and State agencies then make determinations as to how to proceed regarding the continued provision of funding of the various programs. Federal and State funds can, and at times are, withheld if it appears that a County is not handling those funds correctly.

Specifically, the 2009 outside audit pointed to recurring problems involving the use of "Trust Funds" and "Miscellaneous" accounts within the General Fund, the Year-End Closing Procedures, and the Journal Entry Process. There are additional problem areas that have been pointed out through the years, but the Grand Jury will focus its report on those above-identified issues.

We will address the identified material weaknesses, respectively, as follows:

## Trust Funds

As of 1999, GASB, through its Statement 34, recommended that Trust Funds be closed and monies in them become part of either the General Fund or Special Revenue Funds. The purpose of this recommendation was to have more transparency and accountability and to include those Funds in the budgeting process. The current system only reflects the amounts coming in and going out of the Trust Funds, and does not include any of the details of the transactions. As stated in Gallina's 2009 report, by not using the accounting system to account for the activity of these Trust Funds, the County's general ledger does not translate the information for inclusion in the County's financial report. In addition, because the County does not budget for any activity occurring in these Funds, significant deviations from the adopted budget are not apparent until well after the end of the fiscal year and thus cannot be addressed when they occur. In other words, the County doesn't have an ability to determine or detect when there are deviations, either in additional revenues or additional expenditures, until well after the close of the fiscal year.

Despite continued recommendations to do so, since 1999, the Office of the Auditor-Controller has failed to close the Trust Funds accounts, and funds in such accounts have not been included in the General Fund or Special Revenue Funds.

The Trust Fund monies are not included in the General Fund in an electronic format. They must be manually reviewed to determine what type of funds they contain and then closed into a Special Revenue Fund in order to perform the year end closing of the books. This manual analysis is not done by the Auditor-Controller's office; rather, the outside auditing firm has been performing this task, as an additional assignment, in order to complete the financial statements. Thus, the failure of the office of the Auditor-Controller to manage the Trust Funds as General or Special Revenue Funds within the general ledger system creates extra costs for the County. Manual entry of data subjects this data analysis to greater potential for human error, as well as a lack of timeliness of the final report.

The foregoing is an example of the inefficient use of the electronic accounting software system, as well as additional expenditures to the County.

## Miscellaneous Account

Use of a "Miscellaneous" account has continued year after year, despite this practice having been identified as a material weakness in the yearly outside auditor's report. According to Gallina's 2009 Management Report, "The level of detail for classifying transactions should be sufficiently categorized so as to be meaningful to management in making decisions. When charges for services or intergovernmental revenues, both significant revenue sources, are combined with miscellaneous revenues, the resulting balance becomes meaningless." The amounts in the "Miscellaneous" account can be in the millions of dollars.

Recommendations were made by Gallina detailing how to correct this material weakness. The recommendations consisted of modifying each fund's chart of accounts pertaining to revenues, adopting and publishing written guidelines that ensure the accurate classification of revenues by type of revenue source, and doing a monthly review of transactions posted to the "Miscellaneous" account to ensure that revenues get posted to the appropriate revenue accounts in a timely fashion.

Response from the office of the Auditor-Controller to these recommendations indicated that a detailed evaluation would be conducted to determine the extent to which Gallina's recommendations would be implemented.

Gallina's 2010 Management Report indicates that its recommendations had not been implemented by the office of the Auditor-Controller, nor had a detailed evaluation been performed regarding implementation of the recommendations.

This appears to be another example of the continued lack of transparency of the County's finances, as well as a lack of accountability of the office of the Auditor-Controller.

### Year End Closing Procedures

Except for larger departments, such as Health & Human Services and the Sheriff's Department, information for payables and receivables for the year end closing of the books is collected by the Auditor-Controller's office, independent of other department participation. Gallina noted that these transactions do not provide enough information to accurately record all adjustments necessary to convert the County's general ledger to a basis which conforms to existing reporting standards. Further, in those cases where participation from departments was solicited, information was not provided soon enough so that adjustments could be posted before the books were closed.

This identified inaccurate and incomplete closing process results in audit adjustments, which are considered a strong indicator of a material weakness in internal controls over financial reporting. In contrast, a closing process that involves input from others and adheres to a well-documented process having assigned responsibilities and due dates results in accurate and complete account balances.

In that regard, Gallina recommended that the year end closing procedures be documented in a checklist that indicates who will perform each procedure and when completion of each procedure is due. To date, there is still no year end closing checklist developed by the office of the Auditor-Controller.

Further, the County's general ledger is not set up in a way that financial statements can be printed out electronically. For approximately 20 years, until fiscal year 2009, the year end closing of the financial statements was done manually by Assistant Auditors. Due to illness, the former Assistant Auditor was not available to perform the year end closing for fiscal year 2009; the County hired an outside consultant to close the books.

This is another example of the inefficient use of the electronic accounting system, unnecessary expenditures to the County, as well as a lack of accountability of the office of the Auditor-Controller.

### Journal Entry Process

For the past three years, Gallina has recommended that the County implement the use of a standard journal entry form, available in electronic format, and require all department personnel to complete it in cases where corrections to accounts are required. Currently, the staff in the Auditor-Controller's office manually prepares journal entries in response to requests received from departments sent by email or by notes or memos dropped off at the office. In some cases, journal entries are recorded solely at the discretion of the Auditor-Controller's staff.

Journal entries prepared by the Auditor-Controller's office manually on behalf of, and at the request of, departments use staff resources that could be better utilized elsewhere. Departments are held more accountable for the accuracy of their financial accounts when they are also responsible for preparing corrections using a standard journal entry form which is authorized by department supervisors. Further, corrections which are made by the Auditor-Controller's office in response to a department request may lack proper approval from departmental supervisors whose accounts are being adjusted.

Most County departments are currently not allowed to enter journal entries directly into the accounting system, although the Auditor-Controller stated to the BOS on June 15, 2010, that departments would have journal entry access for fiscal year 2010-2011.

This is another example of the inefficient use of the electronic accounting system, the inefficient use of the Auditor-Controller's staff, the inefficient use of department staff, as well as lack of accountability of the Auditor-Controller.

### Inadequate Management of the Auditor-Controller's Office

The Auditor-Controller graduated from Golden Gate University with a degree in business in 1969, and worked as a bookkeeper at the Tudor Warehouse Company in Yuba City. He was elected to the office of the Yuba County Auditor-Controller in January 1975, and has run unopposed (except once) and held office for ten consecutive terms. The Auditor-Controller does not have a CPA certification and/or a certification from the Institute of Internal Auditors showing that he is a designated professional internal auditor. The Auditor-Controller also did not obtain any other credentials in the accounting and auditing field. Until June 30, 2010, there was neither a CPA nor a certified auditor within the office, except for one year.

The Auditor-Controller has not been trained on the County's accounting software system. In fact, he last logged onto it in 2006. Further, only this year has his staff received training on the program via an online training session, although training has been available for years, both online and in person, from the software's developer.

The accounting software system has the capability to allow each department to enter journal entries electronically as they did in the past. However, the Auditor-Controller stopped this practice, and has required each department to manually prepare its financial information, including payroll, which is then sent over to the Auditor-Controller's office to be entered into the program electronically.

The current job descriptions for the staff require considerably more training and education than the staff actually has. Specifically, the job descriptions of all but one of the staff positions require at least two years of college. It does not appear that present staff is encouraged to attend or even provided with opportunities to attend relevant training.

The required qualifications for the Auditor-Controller are set forth in the County Ordinance Code and have not been revised in decades, even though there has been a change in the Government Code requiring continuing education.

At the June 15, 2010, BOS meeting, the Auditor-Controller stated that his Assistant Auditors over approximately the past 20 years were responsible for preparing the year end closing of the books. As a result, when the previous Assistant Auditor became unavailable due to illness, the Auditor-Controller

was not able to take over that job duty and the County was obliged to hire an outside consultant to close them.

There is no policy & procedures manual within the office of the Auditor-Controller describing the procedures for preparing the various accounting/auditing activities, such as cash flow analysis and the year end closing of the books. The lack of a policy & procedures manual has been pointed out by the outside auditor, as well as by the BOS. When asked by BOS members how he would know whether his Assistant Auditors were preparing the end of year closing of the books properly, the Auditor-Controller stated that he relies on the outside auditor to let him know. The Auditor-Controller also told the Grand Jury that there will be no preparation of a policy & procedures manual in his lifetime.

The primary purpose of the Auditor-Controller's office is to conduct audits, not data entry. An audit is an accounting procedure in which financial records are closely inspected to make sure they are accurate. The Government Codes mandate audits for various County departments on a regular basis. However, no internal audits of the County departments have been performed in years, if not decades, other than those involving the office of the Treasurer and the yearly audit of the County by an independent outside auditor. No monthly cash flow analysis is done.

Further, the office of the Auditor-Controller has developed a reputation among County departments of being hard to work with. Requests for reports, information, and phone requests are frequently not answered. Without knowledge of the Auditor-Controller, the former Assistant Auditor secretly provided necessary information to various departments, using the code name "Aunt Melba."

Further, it was reported to the Grand Jury during numerous interviews that the Auditor-Controller spends an insufficient amount of time in his office. This makes him unavailable to supervise his staff or respond immediately to the needs of departments and districts.

### **Inadequate Oversight of the Auditor-Controller's Office by the Board of Supervisors**

On November 30, 1966, the BOS enacted Ordinance No. 298 making California Government Code Section 26945 (Auditor Qualifications) applicable in Yuba County and adopting, by reference, the qualifications listed in that section. See sections 2.43.010 and 2.43.020 of the Yuba County Ordinance Code.

Section 26945.1 of the Government Code addresses the requirement for at least 40 hours of continuing education within every two-year period, and outlines what qualifies as continuing education. Section 26946 of the Government Code then provides the authority for the BOS to adopt this requirement, by unanimous vote with all members present as and prior to the first day of the period for filing declarations of candidacy for the office of Auditor-Controller. To date, the BOS has not voted to include the expanded qualifications requirements for Auditor-Controller.

The Auditor-Controller is presently an elected official. The BOS does not have the same authority over an elected official that it has over an office appointed by the BOS. The BOS, pursuant to California Government Code Section 26882-26886, does have the authority to adopt resolutions requiring the Auditor-Controller to prepare such reports as the BOS deems necessary.

While it is true that elected officials are accountable to the People, it is unrealistic to expect the general public to have knowledge of the internal and, in this case, dysfunctional operations of the County Government. The duties of the Auditor-Controller include researching, preparing, analyzing, and compiling financial data to ensure the accuracy of the County's financial records, as well as scrutinizing the County's financial records for any possible mishandling or fraud. This is indeed a critical component to the economic well-being of the County, especially during difficult economic times. It appears to this Grand Jury that such duties have not been performed in a satisfactory manner by the office of the Auditor-Controller for years. The BOS is aware of the performance of the Office of the Auditor-Controller and has expressed concerns, but does not appear to have exercised its authority under Government Code section 26882-26886. Unless the Board of Supervisors implements appropriate oversight of the office of the Auditor-Controller's office with the authority available pursuant to the applicable Government Code, the problems outlined in this report will not be corrected and will recur.

A board of supervisors has the necessary authority to ensure that appointed department heads perform in an efficient and effective manner. Per Government Code 26980, a BOS may establish an office of Director of Finance (which would consolidate the offices of Auditor-Controller and Treasurer-Tax Collector), if approved by a majority vote of the electorate. The voters could designate that the Director of Finance be appointed rather than elected. Government Code 24009 (b) allows the elective position of Auditor-Controller to be made appointive, without the consolidation with another office, again by majority vote of the electorate.

## FINDINGS

- F1. Annual audits of Yuba County's financial statements, performed by outside auditing firms, have repeatedly pointed out recurring material weaknesses within the internal controls of the operations of the Auditor-Controller's office, and corrections to such material weaknesses have not been implemented.
- F2. Trust Funds have not been closed and their monies have not been included in the General Fund or Special Fund Revenue, as required by GASB 34, which was presented in 1998.
- F3. Trust Funds are not electronically entered in the general ledger system.
- F4. The Year End Closing Procedures result in audit adjustments, which are considered a strong indicator of material weakness in internal controls over the financial reporting.
- F5. The "Miscellaneous" account holds millions of dollars which go months without being assigned to the appropriate accounts.
- F6. The general ledger is not set up in a way that financial statements can be printed out electronically.
- F7. Most Departments are prohibited from entering data electronically into the journal entry process.
- F8. The Auditor-Controller has not obtained any form of higher learning achievement since his graduation from Golden Gate University in 1969.

- F9. The Auditor-Controller has received no training, which has been available, on the existing accounting software.
- F10. In all but one position with the office of the Auditor-Controller, some form of college education is required. But up until June 30, 2010, only the Auditor-Controller has such a college degree.
- F11. The criteria for the office of Auditor-Controller in the Yuba County Ordinance Code had not been updated in decades.
- F12. There is no policy & procedures manual detailing how the operations within the Auditor-Controller's office are to be conducted.
- F13. No internal audits by the office of the Auditor-Controller have been performed in the County departments, other than of the Treasurer.
- F14. The Auditor-Controller's office has a reputation of being uncooperative.
- F15. In 1966, the BOS adopted Ordinance No. 298, which outlined the qualifications for the Auditor-Controller in Yuba County. Government Code Section 26945.1 allows the BOS to amend their ordinance and require the Auditor-Controller to obtain 40 continuing education credits every two years.
- F16. The Board of Supervisors has limited authority to adequate oversight of the office of the Auditor-Controller, when that office is filled by an elected official.
- F17. A former Assistant Auditor had to provide financial information secretly to various County departments in order for those departments to prepare their financial analyses.

## RECOMMENDATIONS

- R1. Close out the Trust Funds and include those funds electronically into the General Fund or Special Fund Revenue Accounts within the general ledger system.
- R2. Adopt and publish written guidelines that ensure the accurate classification of revenues by type of revenue source.
- R3. Modify each Fund's chart of accounts to correctly identify the revenue.
- R4. Strive to eliminate the use of the "Miscellaneous" account, and do a monthly review of the transactions posted to the "Miscellaneous" account to ensure that revenues get posted to the appropriate revenue accounts in a timely fashion.
- R5. Prepare a checklist for the Year End Closing Procedures, which includes direct input from each department and indicates who will perform each procedure and when completion of each procedure is due.
- R6. Electronically enter the data necessary for the electronic preparation of the year end financial statements.
- R7. Allow departments to enter data electronically into the journal entry process.

- R8. The Board of Supervisors adopt and enforce Government Code Section 26945.1, which requires an Auditor-Controller to obtain 40 hours of continuing education in the accounting field every two years.
- R9. The Auditor-Controller obtain training on the accounting software.
- R10. Hire only applicants whose qualifications meet the job descriptions for those positions within the Auditor-Controller's office.
- R11. Training and education in the accounting field be offered to the Auditor-Controller's staff, and the Auditor-Controller encourage the staff to take advantage of the tuition assistance, when available.
- R12. Amend sections 2.43.010 and 2.43.020 of the Yuba County Ordinance Code to be consistent with sections 26945 through 26946 of the California Government Code.
- R13. Prepare a Policy & Procedures Manual outlining how each operation within the office of the Auditor-Controller is to be conducted.
- R14. Pursuant to Government Code Sections, the Office of the Auditor-Controller perform the mandated audits.
- R15. The staff and management of the Auditor-Controller's office receive customer service training.
- R16. The Board of Supervisors ensure all material weaknesses and significant deficiencies are addressed, resolved and reported to the BOS.
- R17. Pursuant to Government Code Sections 26882-26886, the Board of Supervisors issue resolutions requiring that the office of the Auditor-Controller prepare such reports as the BOS deems necessary.
- R18. Pursuant to Government Code Section 26883, the Board of Supervisors implement a rotating schedule requiring the Auditor-Controller to audit or review the accounts and records of at least one County department each year, in order to determine whether there is adequate supervision of accounting practices and consistency in the application of those practices among County departments.
- R19. The Board of Supervisors adopt a resolution, to place on a ballot, the Office of Auditor-Controller as an appointed position pursuant to Government Code sections 24009 (b) or 26980(b).
- R20. The Board of Supervisors direct staff or an independent consultant to investigate and report on the process of establishing the office of Auditor-Controller as an appointed, rather than elected, position.
- R21. The Grand Jury review the office of the Auditor-Controller next year.

## REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- The Yuba County Auditor-Controller shall respond to Findings F1-F15, and F17, and Recommendations R1-R7 and R9-R15.
- The Yuba County Human Resource Department head shall respond to Findings F10 and F12 and Recommendations R10 and R13.
- The Yuba County Administrative Officer shall respond to Findings F17 and R11.

From the following governing bodies:

- The Yuba County Board of Supervisors shall respond to Findings F1, F13, F15-17 and Recommendations R8, R12-R20.

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

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# Report

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## Has a Flood of Money Protected Yuba County?

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# HAS A FLOOD OF MONEY PROTECTED YUBA COUNTY?

## SUMMARY

The Three Rivers Levee Improvement Authority (TRLIA) was created in 2004 to finance and construct levee improvements in South Yuba County. The Authority's mission is to provide 200-year levels of flood protection to more than 40,000 residents in Linda, Olivehurst, and Plumas Lake.

There are many important issues involving TRLIA and flood protection in south Yuba County. This Grand Jury selected two issues to investigate in-depth because these appeared to be the most important to the critics.

The first in-depth issue is the lack of protection from an incursion of water through the Goldfields.

The Yuba Goldfields comprise an area of approximately 23 square miles located on the south bank of the Yuba River and reaching from the end of the Patrol Road Levee to the Hwy 20 Bridge over the Yuba River. There was a disastrous flood originating in the Goldfields in 1950 caused by a mining operation intentionally cutting through the south training wall on the Yuba River. There is no engineered, and therefore certifiable, flood protection in the Goldfields.

US Army Corps of Engineers (USACE) modeling studies indicate there is no risk of flooding from a 100-year water event. Additional study by TRLIA is underway to determine at what point there is a risk and what needs to be done, if anything, to mitigate that risk.

The second in-depth issue is the lack of, and need for, a Performance and Compliance Audit of TRLIA.

In response to a letter from a local activist group, a request for a Performance and Compliance Audit was placed on the February 16<sup>th</sup> Board of Supervisors (BOS) agenda. Following discussion, the matter died. We found, available to the public, sufficient documents exist on the TRLIA web site ([www.trlia.org](http://www.trlia.org)) to establish a precise line of inquiry on the engineering and financial performance of all aspects of the organization. We found annual budget proposals from TRLIA management. These proposed budgets were supported by required annual independent auditor reports, for each year of TRLIA's existence. However, the reluctance of TRLIA management and some members of the BOS to authorize a Performance and Compliance Audit could taint the public's perception of transparency and accountability. Therefore we recommend a Performance and Compliance Audit be performed at the completion of phase 4.

The construction of the levees has been documented, reviewed, certified and accredited, where appropriate, by numerous levels of government and the private sector that have the technical knowledge to do so. Two additional issues addressed in this report are the Flood Protection at the Gold Fields and the design of the levee protection at the 100 year versus 200 year levee accreditation.

## GLOSSARY

BOS	Yuba County Board of Supervisors is both the legislative and the executive body of local government for the county.
BOSC	Board of Senior Consultants.
BOSE	Board of Senior Engineers.
CFS	Cubic Feet per Second is a measure of the volume of water flowing past a given point in one second. One cubic foot equals 7.48 gallons.
CWA	California Water Association.
CVFPB	Central Valley Flood Protection Board.
DWR	California Department of Water Resources.
GRR	General Re-Evaluation Report.
FEMA	Federal Emergency Management Agency.
RD784	Reclamation District 784, established in 1908, operates under the authority of the State of California's Central Valley Flood Protection Board.
Training Wall	The training walls (north and south side of the Yuba River) in the Goldfields were created by the California Debris Commission to direct the Yuba River waters.
TRLIA	Three Rivers Levee Improvement Authority is a joint powers agency established in May 2004 between Yuba County Board of Supervisors and Reclamation District 784. It has five board members; two from the BOS, two from RD784 and one at large.
USACE	United States Army Corps of Engineers.
YCWA	Yuba County Water Agency was established in 1959 by an act of the State Legislature with its primary functions being: development and sale of hydroelectric power, flood control, fisheries enhancement, recreation, storage of water and sale of water to member districts.
YLFA	Yuba Levee Financing Authority, a joint powers authority established July 2008 between the Yuba County Board of Supervisors and the Yuba County Water Agency. Its mission is to raise local matching funds for the TRLIA projects by the sale of bonds and as a financial oversight entity.

## BACKGROUND

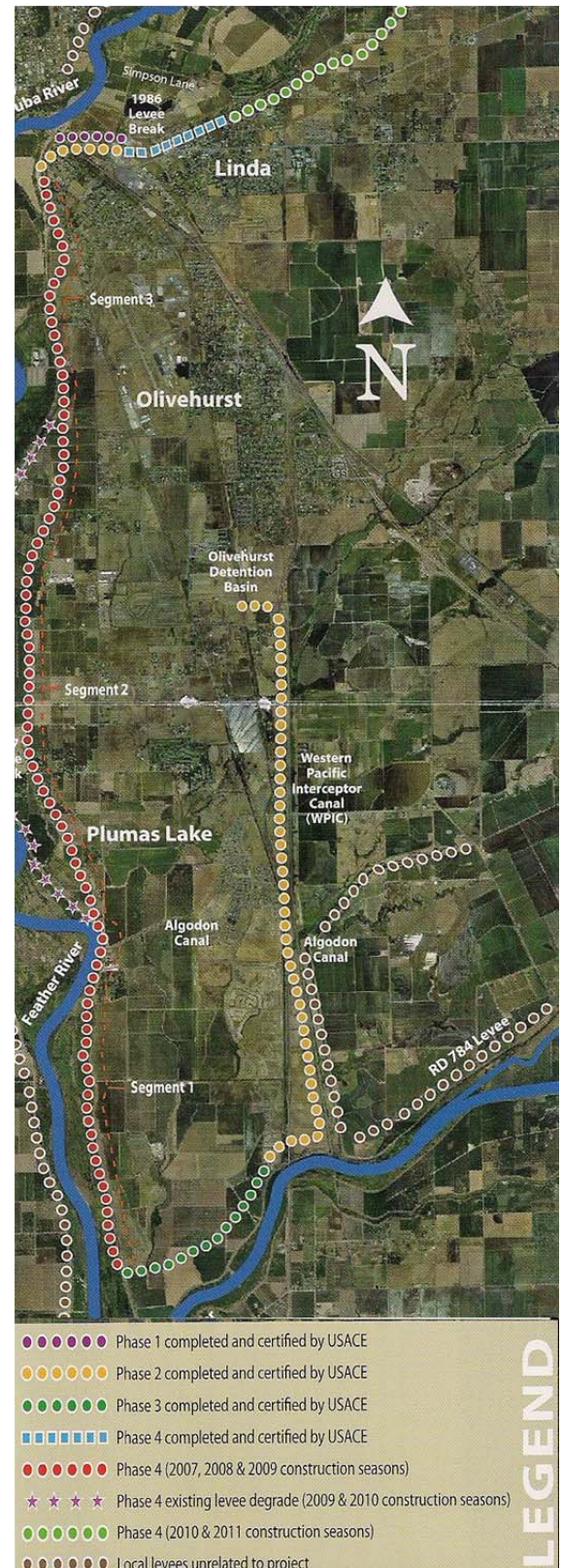
South Yuba County is characterized by the confluence of the Yuba, Feather and Bear Rivers and historically experiences a major flood event about every 10 years<sup>2</sup>. The residents of Yuba County have been building and maintaining levees to protect themselves since about 1875. The devastating events of 1986 and 1997 made clear the necessity to improve protection from future flooding disasters if Yuba County was to evolve from solely an agricultural area to one with a mixture of agricultural, industrial and residential opportunities.

In 2003 The California Department of Water Resources (DWR) and the U.S. Army Corps of Engineers (USACE) called a meeting with all local agencies to brief them on the preliminary results of a study they had undertaken called “The Lower Feather River Flood Plain Mapping Study.” The study showed that much of southern Yuba County did not meet Federal Emergency Management Agency (FEMA) 100-year flood protection criteria and it was going to be mapped into the flood plain. This provided a wakeup call to the Yuba County Water Agency (YCWA), Yuba County Board of Supervisors (BOS) and Reclamation District 784 (RD784). They now realized something would have to be done.

In May 2004 the County BOS and RD784 created the Three Rivers Levee Improvement Authority (TRLIA), a joint powers agency, to finance and construct levee improvements in south Yuba County. Their motives were twofold: first to improve the safety of the residents of Linda and Olivehurst, and second to provide a foundation of protection to allow residential development in Plumas Lake.

“The Authority’s mission is to provide 200-year levels of flood protection to more than 40,000 residents in Linda, Olivehurst, and Plumas Lake. Four work phases – covering 29 miles of levees – were identified to achieve this goal. More than \$405 million is being invested in the levee improvement projects...”<sup>5</sup>

Recent flood history of the three rivers and the effects on southern Yuba County illustrated the need for improvement



Map Courtesy of TRLIA

in flood control.

- 1950 – The Yuba River broke out of banks near Hammonton, flooding areas to the south.
- 1955 – Water to the top of levees.
- 1986 – Yuba River levee ruptured east of Highway 70 (behind current Wal-Mart), flooding parts of Linda and Olivehurst south to Broadway.
- 1997 – Feather River levee ruptured at the west end of Country Club Road, flooding Arboga, southwest Linda and Olivehurst and areas north of the Bear River levee from Highway 70 to the southern end of Olivehurst.

Since its creation, TRLIA and flood protection in Yuba County has never been the subject of a Grand Jury inquiry even though the work has been very visible to the residents of Yuba County for the seven years of its existence and \$405 million has been spent for levee improvements. The 2010-2011 Grand Jury decided an inquiry was warranted and should be conducted.

Research conducted by the Grand Jury revealed numerous questions and issues that were important to Yuba County residents. Among them the most notable were the following:

1. The lack of protection from an incursion of water through the Goldfields.
2. The lack of, and need for, a Performance and Compliance Audit.
3. The design of the levees such that only portions of the flood plain are protected.
4. Why was levee accreditation to a 100-year level when 200-year was promised?
5. Wheatland and District 10 protection was not included in the levee improvement plan.
6. Property owners who benefit from the protection of the TRLIA improved levee system were assessed, by voter approval, a new tax for the maintenance of the levees.
7. Levee repairs were originally estimated to be \$25 million. How did the cost escalate to over \$405 million?
8. No slurry wall installed after the 1986 break in the levee behind Wal-Mart, resulting in a remaining danger, and the possibility of a levee break at that same location.
9. No evacuation plan for Plumas Lake.

During the course of inquiry the scope and extent of TRLIA's projects including, but not limited to, finance, construction and compliance to regulations were presented to the members of the Grand Jury. Due to the magnitude of the project and the limited amount of time the Grand Jury has to investigate, the main focus was narrowed to two issues.

First, the threat of flooding through the Goldfields was selected because upon cursory examination it appeared to present a serious hole in protection. It is the duty of the Grand Jury to respond to complaints of residents especially when their safety is a concern. Fear of flooding is such a universal dread that we felt obligated to investigate this issue because of its importance to the community. Flooding in the past has resulted in a heightened awareness to the possibility of additional flooding in

the future. Examining the risks and preventive measures implemented will hopefully confirm or refute the notion that flooding will occur again because of the Goldfields issue.

Second, the need for a Performance and Compliance Audit was selected because of the size of the project, the amount of taxpayer dollars spent and to provide transparency and accountability to the residents of Yuba County. Although only two issues were chosen for a more in-depth examination, responses to other issues/questions were uncovered throughout the inquiry and have been provided in this report, when possible, in the Discussion section.

## APPROACH

Interviews were conducted with several Yuba County residents who are vocal in questioning different aspects of TRLIA, its performance and results. These interviews were conducted first in order to compile a list of concerns most important to the residents of Yuba County.

Additionally we queried a representative cross-section of residents to find out what their questions and concerns were about the levees.

These issues (listed in the Background section) were then used as a template for interviews with individuals responsible for TRLIA's performance and the perceived threat from the Goldfields.

It is encouraging to note that both critics and proponents agreed upon some issues. First, the need to improve flood protection for south Yuba County was very important to both. Second, the high quality of the levees that have been completed, certified by an engineer, and accredited by FEMA. And last, they both agreed that the issues surrounding the Goldfields are very complex.

The Web sites for TRLIA, RD784, USACE, Yuba County Water Agency (YCWA), and the United States Geological Survey (USGS) have been utilized for additional research in this report.

## DISCUSSION

### Flood Protection at the Goldfields

The Yuba Goldfields comprise an area of approximately 23 square miles located on the south bank of the Yuba River and reaching from the end of the Patrol Road Levee to the Hwy 20 Bridge over the Yuba River.

Hydraulic mining in 1852 and 1893 changed the landscape and defined the current area. The area is now dominated by the tailings from the hydraulic mining. Gold dredging of the tailing began in 1902 and continues to the current time. Removal of aggregate is a major industry in Yuba County.



U. S. Geological Survey



Photographer Unknown

The U.S. Army Corps of Engineers made a presentation, "Hydraulic and Preliminary Economic Analysis of the Yuba River Goldfields," to the California Central Valley Flood Protection Board on March 26, 2010. There they stated the results of their General Re-evaluation Report (GRR) of the Yuba Goldfields which was undertaken "to determine the risk of flooding from the Goldfields" and "to determine Federal interest in a project component to reduce the flood risk."<sup>1</sup> The GRR modeled the Goldfields for 50, 100, 200 and 500-year water

events with breakouts at mile 7.6, mile 10.3 and mile 13.3.

As part of the presentation, the USACE proposed a 4-mile levee to route any flood waters back to the Yuba River. Their conservative estimate for this levee was \$45 million. TRLIA's estimate for the same levee based on their experience with the Bear and Feather River set-back levees (which is comparable to new levee construction) is \$100 million. The USACE estimate of damages from a breach in the Goldfields is \$4 million. Therefore, the Benefit/Cost Ratio (B/C), where the benefits must exceed the cost, is 0.1. They also state that benefits are constrained due to low flood depths (1 to 4 feet) and a low re-occurrence probability. Their conclusion is the Goldfields do not represent a risk to public safety at the 100-year level, but do at somewhere in excess of the 150-year level. They also determined

the B/C does not warrant Federal interest in additional flood control in the Goldfields at this time, but does not preclude future interest. However, this determination will not ease the concern of residents of the affected area who are afraid their house and property may be standing in 4 feet of water should such a flood event take place.

Some proponents conclude that without USACE interest, there would be no federal or state help with funding improvements in the Goldfields area. This might be mitigated at the state level by SB 5 requirements to meet 200-year urban levee protection.

TRLIA has decided that even though the USACE has determined that the Goldfields are sufficiently protected from a 100-year event, its technical basis for this determination is not sufficient for a civil engineer to certify it as meeting 100-year criteria.

TRLIA is performing a separate detailed analysis of the Goldfields and modeling the water flow if the training wall is breached. The result of water coming through the porous rock in the Goldfields will be quite different than what happens when an engineered levee is breached. In such circumstances there would be a rapid inundation by floodwaters with a high expectation of risk of life and severe damage. In the Goldfields the floodwaters would accumulate much more slowly and would be much shallower. When the study is complete, they will have documented the floodplain at 100-year and 200-year levels even if they do nothing. There may not be any repair to the Goldfields, but it might be mapped as a residual floodplain.

A concern to everyone is the condition of the Goldfields in the future. Because of mining, aggregate extraction and gold dredging, this condition changes over the short-term and will transform even more drastically over the long-term. The Goldfields are a very complex hydrologic modeling problem because of the many channels and the permeable character of the structures. Modeling software is not presently sophisticated enough to account for the seepage nature of the water flow through the Goldfields and therefore, makes the prediction of the floodplain very difficult. Since the training wall is a non-engineered structure and cannot be certified by today's standards, TRLIA's modeling will assume a breach similar to the 1950 flood (a break in the training wall) to see where the water will go.

TRLIA has said it appreciates the high public interest in the Goldfields and wants to be certain its analysis is as accurate as possible. It has hired an independent quality control reviewer from a different firm and will utilize their Board of Senior Engineers (BOSE), a nationally recognized board of experts, who will critique the analysis and make sure TRLIA reasonably represents the risks of the Goldfields.

Table 1 – Historic Flood Flows on the Feather River and Yuba River

	1950 Flood	1955 Flood	1964 Flood	1986 flood	1997 Flood
Feather Discharge above Yuba Confluence	88,000 cfs	203,000 cfs	158,000 cfs	150,000 cfs	163,000 cfs
Yuba Discharge Above Feather Confluence	107,000 cfs	153,000 cfs	180,000 cfs	101,900 cfs	161,000 cfs

Data from USACE – Sacramento District, Courtesy of MBK Engineers

Table 1 demonstrates that the current flow on the Yuba River was greater in 1955, 1964, 1986 and 1997, when the training wall was intact, than the current flow in 1950 when it was breached intentionally, by mining interests, causing the resultant flood.

**Performance and Compliance Audit**

A local activist group, Yuba First, wrote a letter to the Yuba County BOS calling for a “Legal Performance and Compliance Audit” in January 2010. Their concern, expressed in an Appeal-Democrat article by Ben van der Meer on February 3, 2010 is that “while the levees deserve praise, accountability for how they were built was lacking...If a more detailed audit was done, they said, it would help form TRLIA’s direction and guide similar levee upgrades.”

Estimates on the cost of this type of audit range between \$40,000 and \$200,000 which is a substantial amount of money. The same Appeal-Democrat article reported Board of Supervisors “Chairwoman Mary Jane Griego asked county staff to investigate how much an audit might cost...”

The audit request was on the BOS agenda for the February 16, 2010 meeting. The minutes of the meeting under “Items of Public Interest” indicate Assistant County Administrator, Randy Margo, recapped: the initial request; public comments; associated costs; and responded to Board inquiries. This was followed by comments from the public. The entry ends with “Following Board discussion, with no motion forthcoming, the matter died.”<sup>7</sup>

During Grand Jury interviews with TRLIA management, and members of the BOS, a need for a Performance and Compliance Audit was discussed. While some were receptive, even favoring it, others resisted the idea. This Grand Jury believes when this agenda item was allowed to “die” this demonstrated a lack of desire by the BOS to conduct the audit.

Most of the critics were clear they were not accusing either BOS or TRLIA management of any improprieties. However, a deficiency of comprehensive audits can leave government agencies or private sector companies without accountability, regardless of the best interests of their constituents or stock holders.

Table 2 – Review and Approval at each level

Approval Level	Approving Authority			
TRLIA:	BOSC			
Yuba County:	BOS	YCWA	RD784	YLFA
State of California:	CWA	CVFPB		
Federal government:	USACE	FEMA		

Table 2 illustrates; in order to spend money on the project or to perform any engineering, construction or regulatory work on a levee, there are myriad levels of review and approval required.

A visit to the TRLIA web site ([www.trlia.org](http://www.trlia.org)) demonstrates the openness and transparency of TRLIA’s operation. However, it also points out the difficulty anyone not a professional (engineer or CPA) will have gaining any understanding of the complexity of the task undertaken, the accomplishments, the significant challenges (both engineering and financial) overcome during their tenure, and their possible failures.

The table below illustrates the content of one of the categories available on the TRLIA web site. There are literally hundreds of documents describing the steps TRLIA has undertaken during the years required to get this far in their projects.

Documents:

Audits	8 Documents (FY 0304 thru FY 0910)
Budgets	6 Documents (FY 0506 thru FY 1011)
Contracts	156 Documents (agreements, amendments and modifications)
CVFPB Reports	57 Documents (Status Reports 02/17/2006 thru 03/14/2011)
Design & Construction	Too many documents to count
EIP & Funding	Too many documents to count
Agreements	
Environmental Documents	Too many documents to count
JPA Agreements	5 Documents
Permits	Too many documents to count
Presentations	21 Microsoft© PowerPoint© Presentations
Project Maps	14 Maps
Resolutions and Ordinances	By date
Safety Assurance Review	11 Documents
YLFA Reports	18 Documents

From WWW.TRLIA.ORG

Paraphrasing one proponent “If you want to understand the engineering aspects you hire an engineer, we’re not going to explain it to everyone because we don’t have the resources to sit down with every individual,” and in response to questions about the finances, “You have to have high degree of accounting knowledge to understand it.”

### **Design of TRLIA Levee Protection**

In the history of the Yuba County levee system, the levees have never been topped. The 1950 flood was the result of a dredging company blocking the normal flow of the Yuba River then cutting a break through the training wall. The 1986 flood was caused by an undermining of the Yuba River levee in Linda. The 1997 flood was caused by a breach in the Feather River levee near Star Bend.

TRLIA established a 3 member Board of Senior Consultants (BOSC) to provide an independent quality assurance review of the FEMA Certification Summary Report. Their review included:

- A cursory review of design and construction to assure that the design had followed the standards of engineering
- A check that adequate and appropriate information had been gathered to perform engineering analyses
- A check that the analyses performed was the appropriate analyses and that they were accomplished correctly
- A review of the Construction Completion Reports
- A review of the Certification Summary Report to ensure that the references cited as support for the Engineer’s Opinions given were appropriate and adequate

TRLIA won two American Society of Civil Engineers Region 9 (ASCE) awards for Flood Control Project of the Year. In 2008 it was for the Bear River Setback. In 2010 it awarded TRLIA the same honor for the Feather River Setback Levee project. These honors indicate that those within the flood control engineering community think highly of the design and construction of TRLIA’s levees.

### **Why was levee accreditation to a 100-year level when 200-year was promised?**

The amount of protection offered by a levee is directly related to the degree of protection needed for a certain water event. Therefore, it is first necessary to define a 100-year/200-year water event. Hydrologists, scientists who study the movement, distribution and quality of water and meteorologists, other scientists who study the atmosphere and weather, study historical data about rainfall and stream stage, to determine that the probability that a particular river will reach a stage of so many feet is once in 100 years. In other words, a water event of that magnitude has a 1 percent chance (1 in 100) of happening in any year. A 200-year event has a .5 percent chance (1 in 200) of happening in any year. To clarify, it is entirely possible to have a 100-year water event happen two years in a row since there is a 1 percent chance of it happening every year.

Table 3 – Current Flow Frequencies (2009 estimate)

	100-year	200-year
Feather above Yuba Confluence	162,600 cfs	185,600 cfs
Yuba above Feather Confluence	154,500 cfs	210,400 cfs
Feather below Yuba Confluence	280,300 cfs	350,000 cfs
Bear above Feather Confluence	44,700 cfs	53,100 cfs
WPIC above Bear Confluence	6,300 cfs	7,600 cfs

Data courtesy of MBK Engineers

Table 3 shows what the water flow would have to be for an event to be considered a 100-year event or a 200-year event. The Feather below the Yuba confluence is highest at 280,300 cfs and 350,000 cfs because there the water flows from both the Feather River and the Yuba River are merged. To lend perspective on these figures, the normal flow over Niagara Falls is greater than 750,000 cfs.

Once this information is determined, civil engineers design and build a levee system to protect the people from injury or death and their property from damage or loss of accessibility during these water events. A civil engineer then certifies, with his stamp and signature, that in his expert, trained and experienced opinion, the levee system will protect against an event when it occurs.

As stated on the TRLIA web site and in their brochures the mission of TRLIA is to provide 200-year flood protection to south Yuba County. It is also a mandate of Senate Bill 5 (SB5) that there will be a plan in place by 2015 to bring all of California's urban (populations greater than 10,000 people) levees up to 200-year flood protection status by 2025. The penalty for not having 200-year levees will be the inability to do any development in the impacted floodplain.

However, SB5 "puts the cart before the horse." That is, the levee criteria have not been established for a 200-year event. However, the engineering of the improved levees has been constructed to contain a 200-year water flow. It is the expectation that once the State of California completes its definition of 200-year flood protection, TRLIA's levees should meet those criteria.

On March 16, 2011, Ric Reinhardt, TRLIA Program Manager, made a presentation to the TRLIA Board on SB5 and its impact on the Yuba County levee system. Following the presentation, the discussion among the Board members and the presenter indicated that the Yuba County levees were well on their way to meeting the 200-year requirements, in preliminary release, and Yuba County was far ahead of other counties in Northern California.

TRLIA's Western Pacific Interceptor Canal, Bear River and Lower Feather River levees have been certified and accredited by the Federal Emergency Management Agency (FEMA) to 100-year status. Interestingly, FEMA never refers to "100-year protection," but calls it "the base flood that has a 1-percent-chance of being equaled or exceeded in any given year." FEMA also points out that "if at any point additional information is provided to FEMA that

shows the levee system no longer meets certification criteria...we will contact the levee owner and community about [the possibility of] de-accrediting the levee system."<sup>6</sup> The significance of the possibility of de-accrediting is its potential impact vis-á-vis FEMA's Digital Flood Insurance Rate Map (DFIRM). The DFIRM is utilized by flood insurance companies to determine annual cost of flood insurance.

## FINDINGS

- F1. Analysis of the Goldfields to determine if they pose a flood risk to public safety and the experience of multiple water events since 1950 has demonstrated no risk at the 100-year water event level, however, somewhere in excess of the 150-year level a risk may exist.
- F2. With the completion and certification of Phase Four levee improvements (expected in 2011) all the levees will be certified and accredited by FEMA at the 100-year level.
- F3. The 29-miles of TRLIA levees are expected to meet the State of California newly defined 200-year criteria for certification when that criterion is finalized.
- F4. Although the work of TRLIA has been recognized by the flood protection engineering community and won awards and accolades, there can never be a 100% guarantee a levee will not fail.
- F5. Audits, budgets, contracts, and myriad documents and presentations are available and accessible on the TRLIA web site.

## RECOMMENDATIONS

- R1. The Grand Jury recommends the 2011-2012 Grand Jury investigate TRLIA and RD784 after the Phase 4 levee improvement project is complete. The Grand Jury's focus will evaluate the possible need for a Performance and Compliance audit. This audit should be performed by an entity not previously involved in TRLIA auditing and include TRLIA monies in the Yuba County Treasury.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- None

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

## COMMENDATIONS

The Grand Jury wishes to commend TRLIA, the Yuba County Board of Supervisors, Reclamation District 784 and the Yuba County Water Agency for their diligence and forethought in recognizing the need for improved levee protection.

## BIBLIOGRAPHY

1. Maak, Gene and Shultz, Sara, "Hydraulic and Preliminary Economic Analysis of the Yuba River Goldfields", U.S. Army Corps of Engineers presentation to the California Central Valley Flood Protection Board on March 26, 2010.
2. The Yuba County Water Agency web site: <http://www.ywca.com>
3. The Three Rivers Levee Improvement Authority web site: <http://www.trlia.org>
4. The U.S. Army Corps of Engineers web site: <http://www.usace.army.mil>
5. "TRLIA Levee Improvement Projects", Brochure created and distributed by Three Rivers Levee Improvement Authority.
6. "FEMA Accreditation Letter", May 27, 2010, <http://www.trlia.org/docs/FEMA/>
7. "The County of Yuba, Board of Supervisors, February 16, 2010 Minutes", <http://www.co.yuba.ca.us/Departments/BOS/documents/minutes/2010/021610minpdf.pdf>

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

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# Report

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## Marysville City Council Minutes

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# MARYSVILLE CITY COUNCIL MINUTES

## SUMMARY

The Grand Jury received a complaint that the City of Marysville did not have written minutes of its City Council meetings. Two members of the Yuba County Grand Jury, who did not identify themselves as such, approached the Marysville City Clerk and asked to view the meeting minutes for a specific date. They were told the office is behind on the minutes and does not have the help to catch up, but that there are records on audio if they would arrange a time at a later date to listen to them. They were also told that if there is something specific they were interested in, the City Clerk would look through her notes and help in any way she could.

A week later, two people, who did identify themselves as Grand Jury members, asked for the same meeting minutes. This time the Grand Jurors were provided with the meeting proceedings on a DVD and the use of an employee's computer work station to view the information.

The reason for the inquiry by two different groups was to ascertain if written minutes exist and if there is any difference in the level of service between the general public and a county government agency. Although the Marysville City Administration Office was very helpful and willing to answer general questions, we determined that there are no consistent written minutes of the City Council's meetings since 2008. Further, there is a different level of service provided to the public versus a government agency. This action is not in keeping with the rules and regulations for any municipality or local government within the State of California. Minutes must and will be provided to the public, regardless of staffing level.

The Grand Jury understands that, with the budget constraints and staffing issues, the workload can be overwhelming. However, all attempts must be made to have the meeting minutes available, as mandated by law. The Grand Jurors were informed that a temporary employee is to be hired to review and transcribe all video recorded City Council meetings in a written outline format to be presented for review and approval.

Since electronic recordings must be permanently maintained, it would be beneficial for the City of Marysville to establish a program to monitor DVD and CD degradation and changes in technology to ensure the integrity of these records.

## BACKGROUND

The Grand Jury received a complaint that the City of Marysville did not have consistent written minutes of its City Council meetings. The Grand Jury voted to investigate the allegation. If true, this is unacceptable, since meeting minutes are required to be available and free to the public. The City Council meeting minutes are recorded in DVD format and made available to the public at a cost of \$25.00 per copy. The DVD can also be viewed at no cost on an employee's computer in the City Clerk's Office, if available.

## APPROACH

On two separate occasions, members of the Grand Jury made requests for copies of the Marysville's City Council meeting minutes. The first request was as "public citizens," that is the members did not reveal that they were part of the Grand Jury. The second request was made as "Grand Jury" members. Members of the Grand Jury also conducted interviews with the City Clerk and the City Manager, and were given a tour of the Marysville City Administration Office.

## DISCUSSION

Free and open access to state and local government meetings and to records of those meetings is a critical component of our democracy. This access is protected by the Brown Act (timely public notice of meetings).

Two Grand Jury members, as public citizens, requested to view the Marysville City Council meeting minutes for a specific date. The jurors were told that there were no written minutes of that meeting to read. They were also told that the City Clerk's office is behind on preparing the written minutes and do not have the staff to bring the minutes up-to-date. The staff person did say that, if there were something specific for which the two were looking, she would look through her notes and try to find the information.

One week later, a second request was made for the same written minutes of the Council's meeting by two other members of the Grand Jury, who did identify themselves as Grand Jurors. The Grand Jurors were advised that the City Council meetings are recorded on DVD and are made available to the public for \$25.00 a copy. The Jurors were also advised that they could view the DVD of the City Council meeting at an employee's computer in the Clerk's office. Arrangements were immediately made to accommodate this viewing.

Grand Jurors conducted interviews with the City Clerk and the City Manager. A tour of the Marysville City Administration Office was conducted by the City Clerk. The City Clerk showed how the DVDs were maintained and filed to ensure proper protection of the originals and backup copies.

Video recordings of meetings have advantages and disadvantages. An advantage would be having an extremely accurate record account of the meeting. A disadvantage is that electronic recordings must be permanently maintained and the storage media may not remain stable over time.

Additionally, there is no quick reference on hand to show the outcome of a vote or who made what motion. Finally, it would be necessary for the City of Marysville to establish a program to monitor DVD and CD degradation and changes in technology to ensure media integrity.

The Marysville City Administrator informed the Grand Jury members that the city is going to hire a temporary employee to place into written record key points of each City Council meeting that will further satisfy California State regulations.

The Brown Act specifically states:

“Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act.”

The Brown Act further states:

“Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.”

## FINDINGS

- F1. California State Law requires the public shall have free and open access to public meetings and recordings.
- F2. No consistent written minutes exist for the Marysville City Council meetings.
- F3. DVD recordings are made of the Marysville City Council meetings.
- F4. Media formats, such as DVDs, degrade over time. Media formats also change. Currently as new technology evolves, there is no procedure in place to ensure successful monitoring and updating of the electronic documents and video recordings.
- F5. There is no dedicated device to be used by the public to view meetings which have been electronically recorded.
- F6. California citizens were denied access to the available recordings of the City Council’s meetings. Grand Jurors however, were provided access.
- F7. The City of Marysville has recently hired a temporary employee to review and transcribe all electronic recorded Council meetings into an outline format. The outline formats are to be presented to the City Council for their review and approval.

## RECOMMENDATIONS

- R1. Encourage transcribing, by trained staff, the current video recordings into outline form. This will continue to provide a permanent and ready access to the outcome of votes and meeting minutes.
- R2. A designated area within the City Clerk's office must be made available at all times, with a dedicated device, for the public to view the meeting recordings.
- R3. A policy should be drafted and implemented which will establish procedures to transfer the City Council meeting records and documents to new technology, as it becomes available, as well as monitoring the quality of the existing stored data.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- Marysville Mayor: F1-F7, R1-R3
- Marysville City Manager: F1-F7, R1-R3
- Marysville City Clerk: F1-F7, R1-R3

From the following governing bodies:

- Marysville City Council: F1-F7, R1-R3

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

This report of the "Marysville City Council Minutes" is issued by the 2010-2011 Grand Jury with the exception of one member of this Grand Jury who is a former employee of the City of Marysville. This Grand Juror was excluded from all parts of the investigation, which included interviews, deliberations, and the making and acceptance of the report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

# Report

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## Police Car Not in Compliance

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# **POLICE VEHICLE NOT IN COMPLIANCE**

## **SUMMARY**

After receiving a resident complaint that a City of Marysville uniformed police officer was observed driving an unmarked and unlicensed vehicle to a local eatery, Grand Jurors made an unannounced visit to the Marysville Police Department. The vehicle in question was in the parking lot and was in violation of California Vehicle Code. After speaking to a police official, it was determined that the vehicle had recently been purchased from another jurisdiction and the Department was in the process of obtaining permanent license plates. During one visit by Grand Jurors, a police department official placed a temporary operating permit in the windshield at the conclusion of the Grand Jurors' visit. On a subsequent visit, Grand Jurors had a discussion with a police officer to determine if a citation could be issued to the operator of the vehicle in its current condition and the response was in the affirmative. After the conclusion of the investigation and at some point in late March, the vehicle did have a California license plate attached with an expiration date of January 2012. Marysville Police Department must comply with even the most basic of laws, or risk losing public confidence in their integrity and commitment to uphold the law.

## **BACKGROUND**

This investigation was the result of a resident complaint. Portions of that complaint included operation of a vehicle without a license plate. The Grand Jury chose to set aside the issue of the vehicle to go to lunch, and focused its attention on the fact that the vehicle was being operated in violation of the Vehicle Code. While the lunch issue may be problematic to some residents, it is a common practice for first responders i.e. firemen and police officers to take their assigned vehicles on meal breaks while on duty. As to the complaint that the vehicle was not in compliance with the Vehicle Code, the Grand Jury found the resident complaint to be a valid issue.

## **APPROACH**

The Marysville Police Department was visited on several separate occasions. On the first visit, the vehicle was identified and a Police Department official rectified the problem by placing a temporary operating permit in the windshield. On the second visit, the temporary operating permit had expired. On the third visit, a uniformed police officer standing outside the Police Department was engaged and was asked: "Could you issue a citation to the vehicle in its current condition?" The response was "Yes." On a fourth visit, the vehicle had no temporary permit at all. At some point in March, a license plate was attached to the vehicle with an expiration date of January 2012.

## DISCUSSION

Is there a need to operate a vehicle without a license plate on the public roadways in violation of the California Vehicle Code?

No, there does not appear to be any justification to operate a vehicle in violation of the Vehicle Code. Sworn Peace Officers are held to a higher standard than the residents they serve, and, as such, must have the appearance that they are above reproach and not above the law, but are always in compliance with the law. The Police Department appears to have disregarded a basic regulation. Such disregard potentially negatively impacts the public's perception of the Police Department. The Police Department was dismissive of this Grand Jury's concerns when they apparently tried to appease the Grand Jury by placing the required decal in the car during the Grand Jurors first visit, thus, allowing the Grand Jurors to go away satisfied that the vehicle was in compliance. Follow up inspections of the vehicle demonstrated that the Marysville Police Department had no apparent interest in ensuring that the vehicle remained in compliance.

## FINDINGS

F1. The Marysville Police Department was operating a vehicle in violation of the Vehicle Code Sections 4001 and 5202.

## RECOMMENDATIONS

R1. If the City is unable to get the proper documentation for one of its vehicles, they should park the vehicle until it is able to do so.

To promote a sense of fairness to the public, the Marysville Police Department ought to comply with all the laws and regulations that the residents of Marysville must comply with. This is especially true of high visibility situations involving interactions with the public.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- City of Marysville, Chief of Police: F1, R1
- City of Marysville, City Manager: F1, R1

From the following governing bodies:

- City of Marysville, City Council F1, R1

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

## BIBLIOGRAPHY

- California Vehicle Code Sections 4001 and 5202

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

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# Report

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## Marysville High School Food Service

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# MARYSVILLE HIGH SCHOOL FOOD SERVICE

## SUMMARY

Members of the Yuba County Grand Jury conducted on-site visits to the Marysville High School, located at 12 East 18<sup>th</sup> Street, Marysville California. Grand Jurors met with the school principal, Food Service Managers and staff. The visits were initiated on a complaint filed by a student, alleging an inadequate amount of food available and an early suspension of service.

Members of the Grand Jury found that the food service at Marysville High School is a very efficient operation with tasty, nutritious meals from a varied menu that provides many options to the students, who do have ample opportunity to enjoy their lunch.

During visits, members of the Grand Jury did not observe the early suspension of food services, as alleged in the complaint. However, it is such an important issue; we recommend the school Principal and Food Services Manager internally address the potential for early suspension of services.

## GLOSSARY

MCSA: Marysville Charter School of Arts

MHS: Marysville High School

MJUSD: Marysville Joint Unified School District

## BACKGROUND

Marysville High School (MHS) was established in 1871. It is located on a 65 acre campus that is shared with other educational organizations; The Marysville Charter School of the Arts (MCSA) is the largest co-located school with approximately 300 students. The Marysville Joint Unified School District (MJUSD) offices are also located on the campus in the original MHS buildings on the campus.

Marysville High School enrollment varies between 950-1000 students. The high school has 50 Certificated and 25 Non-Certificated staff members.

## APPROACH

Members of the Grand Jury visited the MHS campus twice and conducted interviews with the school principal, The MJUSD Director of Food Services and the MHS Food Services Manager. Jurors were escorted on tours of the food preparation and food service facilities and had an opportunity, thanks to the food service staff, to enjoy lunch. During the lunch period, various students were randomly interviewed about their lunch experience.

## DISCUSSION

Members of the Grand Jury and the school principal were greeted by the MHS Food Services Manager and MJUSD Director of Food Services. We were informed that approximately 700 MHS students were served meals daily. A nutrition break (in lieu of breakfast before school) is available from 9:57 am to 10:07 am (10 minutes), and lunch is served from 12:11 pm to 12:46 pm (35 minutes). The daily selections are also available to approximately 300 MCSA students from 11:15 am to 11:50 am (35 minutes), which is before the MHS lunch period. The MHS Food Service Manager is also responsible for meals at five other schools.

Since the visits were during lunch time, members of the Grand Jury were able to observe the waiting lines, which were open and moving efficiently without any delays. None of the serving windows appeared over-crowded, which could cause students to be delayed getting their lunch, eating, and returning to class on time.

There are eight serving windows. The cost for all lunches is \$1.75. Serving windows are configured as follows:

- One line (inside) for hot lunch (menu varies).
- One line (inside) for nachos every day.
- Two lines (outside windows) serving pizza (4 types made from scratch) everyday.
- Four lines (outside windows) for the MHS Café serving deli sandwiches, burgers, salads, burritos, etc.

No carbonated soft drinks are served. Milk, water and electrolyte replacement drinks (Gatorade) are available. Fruit is also available at all windows.

Each serving window averages three students per minute. Therefore, it is possible to serve 840 students (8 lines x 3 students x 35 minutes) during the lunch period. However, it would be difficult to purchase lunch at 12:46 pm (closing time) and eat it prior to 5<sup>th</sup> period starting at 12:51 pm. Since approximately 700 students are served lunch daily, and 600 students can be served in the first 25 minutes, this does not appear to be a problem.

An additional visit was arranged in order to observe the transition between the MCSA serving period and the MHS serving period. We wanted to ascertain whether either serving period had an adverse effect on the other. We observed a smooth and orderly transition between the two schools' lunch periods.

Additionally, we also took the opportunity to time one student in a lunch line. When the student entered the end of the line, there were 10-12 students in front of him. He received his lunch and left the window in approximately four minutes.

With the permission of the Principal, we randomly interviewed students at lunch to gain an understanding of their perspective on the food service. Typical responses were:

- “I don’t like everything they serve.”
- “It’s good some days, and not so good other days.”
- “The food is not always hot.”
- ”The pizza is greasy.”
- “The [morning nutrition] break [10 minutes] isn’t long enough.”

These responses sounded very similar to those often heard in a home with teenagers. This reflection was addressed to some students, who responded with laughter and nods.

The student lunch accounts are prepaid and debited for each meal. One student was not eating lunch because his account was overdrawn. When this was conveyed to the Principal, he said when he learns of this he usually buys the student lunch. We were told that students are not immediately cut off when their account is over-drawn. Parents are notified when the student’s account becomes overdrawn.

One issue members of the Grand Jury investigated was the allegation that the food service ran out of food before the end of the serving time. The MHS Food Service Manager told us the quantity of each item prepared is determined from past history, the day (holiday, etc.), and the students’ preference for the item. One of the Grand Jurors is a vegetarian and had requested the vegetarian pizza, but the vegetarian pizza was sold out. This was an example of one item running out, but more choices were available. It is inevitable that some menu items run out each day, particularly if it is something well liked. However, it is highly unlikely that all menu items would be depleted on the same day.

Meals are served with a plastic utensil called a Spork, (half spoon, half fork), which does not function well in either service. When we inquired whether this could be changed to plastic knives, forks and spoons, we were told it is mainly an issue of cost. The MHS Food Service Manager related a story to us about the desire to replace the Styrofoam serving tray/plate with a paper or other biodegradable item. Since they serve in excess of one million meals a year, the cost of replacement would be in excess of \$100,000.

It is particularly noteworthy that we observed a group of students helping with clean up after meals. Upon inquiring, the MHS Principal informed us that the students were from the Virginia School, a special education program run by the Yuba County Office of Education and co-located on the MHS campus. These students receive an opportunity to learn the discipline required of a work routine and also the satisfaction of performing a useful service.

## FINDINGS

- F1. Members of the Grand Jury found that the food service at MHS is an efficient operation with a tasty, nutritious, varied menu that provides many options to the students who do have an ample opportunity to enjoy their lunch.
- F2. Members of the Grand Jury did not observe any early suspension of service.
- F3. Members of the Grand Jury did not observe any student being denied a meal.
- F4. Students are not readily made aware when a menu item is no longer available.
- F5. Members of the Grand Jury observed students from Virginia School helping the custodial staff in the after lunch clean-up.

## RECOMMENDATIONS

- R1. The Grand Jury commends the Marysville High School Principal, Food Service Manager and staff for performing the difficult task of providing a varied menu and nutritious meals in a first-rate manner.
- R2. The Grand Jury commends the students of Virginia School and MHS custodial staff for their hard work and efforts in the after lunch clean-up.
- R3. If a window runs out of a particular menu item, a sign should be posted to inform students of that fact, i.e. "Item No Longer Available," or "Sorry, Ran out of this Item, but more choices available at other windows."
- R4. The Grand Jury recommends that the school principal and Food Services Manager internally address the potential for early suspension of services.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- Marysville High School Principal: F2-F5, R2-R4
- Marysville High School Food Service Manager: F2-F5, R2-R4
- Marysville Joint Unified School District, Director of Food Services: F2-F5, R2-R4

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

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# Report

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## Yuba County's At-Risk Youth

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# **YUBA COUNTY'S AT-RISK YOUTHS**

## **YUBA-SUTTER JUVENILE HALL**

### **MAXINE SINGER YOUTH GUIDANCE CENTER**

#### **SUMMARY**

The Yuba County Grand Jury conducted an on-site visit of the Yuba – Sutter Juvenile Hall (YSJH), the Maxine Singer Youth Guidance Center (Camp Singer) and the Secure Housing Unit (SHU) located at 1023 14<sup>th</sup> Street, Marysville. Members of the Grand Jury met with senior staff and were given a tour. During the tour, the members of the Grand Jury were able to visit with staff and youths and enjoyed having lunch with the youths from Camp Singer.

The Grand Jury found the facilities to be in compliance with accepted standards. In these uncertain economic times, funding for the facility is questionable, and in order to continue to operate, the facilities are well-positioned to lease space to other counties. Due to budget constraints, California's Division of Juvenile Justice may be closing, giving way for an excellent opportunity to provide additional housing to outside counties and increase revenue to maintain current programs.

#### **GLOSSARY**

Camp Singer	Maxine Singer Youth Guidance Center
PASS	Probation and Schools Success
SHU	Secure Housing Unit
YSJH	Yuba – Sutter Juvenile Hall

#### **BACKGROUND**

California Penal Code mandates that the Grand Jury annually inspect all prisons and jails located in the county. The Grand Jury is required to report any and all findings to determine the facilities' compliance with acceptable standards. Under a joint agreement between Yuba and Sutter counties, the YSJH and Camp Singer were established in 1976 and 1996 respectively. The Yuba County Probation Department is the responsible administrative agency.

#### **APPROACH**

Members of the Grand Jury inspected the Juvenile Hall and Camp Singer. The visit was a scheduled mid-morning and afternoon tour of all the facilities that was led by a senior staff member. Because of the bi-county arrangement, this facility is inspected by the State of California and both the Yuba County and Sutter County Grand Juries.

## DISCUSSION

The tour included the intake area, visiting area, general housing units, secure housing unit, kitchen, dining hall, classrooms, Camp Singer dorms and the indoor recreation area. During this inspection, Grand Jurors observed classroom instruction in session and joined the youths from Camp Singer at lunch. During the tour there were shoes and boots in the laundry area that are donated for the youths and appeared to be handed down from youth to youth. The Juvenile Hall's surveillance system was found to be below industry standards. The current system does not have recording capability. In addition, cameras are needed to provide observation in high security / high liability areas. Visiting is very limited (two hours per week), thereby reducing any potential negative family influences.

There are three separate facilities at the Marysville location; Yuba Sutter Juvenile Hall, the Secure Housing Unit, and Camp Singer. The YSJH is a 45-bed detention facility for offenders under 18 years of age. This self-contained facility is comprised of three wings: a common area, visiting room, classrooms and an outdoor recreation area. The detainees are housed according to gender and only intermingle during school hours and at meal time. The YSJH also includes a separate 15-bed SHU for the detention of serious and violent juvenile offenders. This SHU is a single building with its own outdoor recreation area, classroom, shower and bathrooms.

Camp Singer is a minimum security facility for 48 male offenders and 12 female offenders. The primary objectives of Camp Singer are community protection and the redirection of delinquent behaviors. Unlike the Juvenile Hall, there are no cells. The minors are segregated by gender, but are housed in a dormitory setting with individual cubicles. Camp Singer has its own classrooms, in addition to indoor and outdoor recreational areas. The philosophy of the program is to assist each juvenile and their family in developing a sense of achievement and personal responsibility through exposure to, and mastery of, a wide variety of experiences. The youths work closely with local schools and civic groups in community service work projects.

The dining hall located between Juvenile Hall and Camp Singer provides three hot meals per day. Menus are routinely reviewed for nutritional content and quality. Since the Hall and the Camp have separate mealtimes, the residents do not come in contact with each other.

Upon entering the Juvenile Hall, the youths undergo medical, psychological, and educational profiles. The youths at both facilities are offered counseling, which is provided by the staff, contract personnel and trained volunteers on substance abuse issues. The staff is committed to promoting a positive change that will instill values that will last a life time. All minors must receive 240 minutes of classroom instruction daily. (See Cal. Ed. Code sec. 48645.3 and Cal. Code of Regs., Title 15, sec. 1370.) Those having a high school diploma and choosing not to attend school remain locked down. Minors in the Camp are encouraged to participate in community projects outside the facility. Camp Singer and the Juvenile Hall both utilize a point system; points can be exchanged to gain privileges. Points are awarded by teachers and staff for positive and desirable behavior.

YSJH is supported by both Yuba and Sutter Counties; funding is based on which county the population comes from. Currently there is a higher population from Yuba County. The current population is:

<b>Juvenile Hall</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
Yuba County	11	2	13
Sutter County	8	1	9
<b>Camp Singer</b>			
	<b>Male</b>	<b>Female</b>	<b>Total</b>
Yuba County	5	1	6
Sutter County	4	1	5
Placer County	6	3	9
Calaveras County	1	1	2
Colusa County	2		2
Tuolumne County	1		1
<b>Total</b>			<b>47</b>

At full capacity, the facility is capable of housing 137 youths. Yuba County populations are down from previous years, and that may be due to the Probation and Schools Success (PASS) program in Yuba County. This program is aimed at keeping “at-risk” youths in school. A sign this program is working is the number of youths currently on probation in Yuba County. Currently there are only 75 youths on probation.

There are different and higher expectations of the youths at Camp Singer. These standards include: athletic standards, public speaking, academic, and community involvement. Last year, 20 out of 22 youths passed math and English proficiency exams. Community programs such as Friday Night Live and Marysville Music are big supporters of the Camp Singer youth. An adolescent drug and alcohol program is available on site, but only for youths in the programs. The goal is to teach the youths survivor skills, regardless of their family environment. Their common goal is to promote health and safety for the community by creating new programs and emphasizing a “Best Practice” policy. The facility operates an excellent drug / alcohol program.

The youths in the YSJH are held awaiting court proceeding. Each youth is given a complete medical / physical exam within the first two days of arrival. If the youths are sent to Camp Singer, they will usually serve a seven-to-twelve month detention. During this time, the emphasis is placed on education, with teachers hired by the Yuba County Office of Education. The youths were involved in 55 different community service projects last year and donated approximately 2,948 hours. Some of these programs included Coats for Kids and the Linda Clean Up. Additionally, the youths have written, directed, and acted in a play performed at the Friday Night Live event. Several of the youths competed in a contest that was sponsored by the Rotary Club of Marysville. This was a regional contest where participants can advance to the state championship and take home substantial cash rewards. The contest theme this year was “DARE MIGHTY THINGS.” Teaching staff adopted the program and made it a central part of their English classes. Each student was required to compose and present a speech that was judged by the teachers, and the top three participants were advanced to the Marysville Rotary Club contest. The contest included students from the Marysville Charter Academy for the Arts and Marysville High School. One of the Camp Singer youths took second place in the contest and was awarded \$100. This was a remarkable collaboration of public and private enterprises working cooperatively for the betterment of our youth.

Within the facility, there is a tattoo removal program funded by public and private donations. Team sports are available as part of the physical education program. The youths take part in organized games such as softball and play against local teams. The youths are responsible for their living spaces. There is a point system for earning increased privileges and responsibilities. In addition to the academic system, vocational certificates are issued for drywall, structural framing, electrical, use of hand tools for gardening, and culinary arts, enabling these young adults to become an asset to the community.

## FINDINGS

- F1. The Security Housing Unit, opened in 2001, is a modern, clean, self-contained single-story building with 15 single cells.
- F2. During the tour there were shoes and boots in the laundry area that are given to the youths and appeared to be recycled from youth to youth.
- F3. The Juvenile Hall's surveillance system does not have recording capability. In addition, cameras are needed to provide observation in high security / high liability areas.

## RECOMMENDATIONS

- R1. Maximize the use of the Security Housing Unit by contracting with the California Division of Juvenile Justice and other counties to offset budget shortfalls.
- R2. Ensure that used footwear is properly cleaned and sanitized before being issued to each youth.
- R3. Seek funding to upgrade and install video surveillance equipment that will cover all areas of the facility.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individual:

- Yuba-Sutter Juvenile Hall and Maxine Singer Youth Guidance Center Superintendent: R1 - R3
- Yuba-Sutter Juvenile Hall and Maxine Singer Youth Guidance Center Chief Probation Officer: R1 - R3

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

## BIBLIOGRAPHY

California Education Code Section 48645

California Code of Regulations. Title 15. Division 1, Chapter 1, Subchapter 5, Article 6.

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This report of the Yuba-Sutter Juvenile Hall and Maxine Singer Youth Guidance Center is issued by the 2010 – 2011 Grand Jury with the exception of one member who is an employee of the Yuba-Sutter Juvenile Hall and Maxine Singer Youth Guidance Center. This Grand Juror was excluded from all parts of the investigation, which included interviews, deliberations, and the making and acceptance of this report. This report is based on information obtained from outside sources with none of the information being obtained from the excluded Grand Juror.

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# Report

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## Jail Inspection

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# **Jail Inspection**

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

### **SUMMARY**

The Yuba County Jail is located at 215 5<sup>th</sup> Street in Marysville. The jail is under the supervision of the Yuba County Sheriff. California Penal Code Section 919(b) requires that, "The Grand Jury shall inquire into the condition and management of the public prisons within the county." The members of the Yuba County Grand Jury conducted several inspections of the jail, with emphasis on the laundry room, kitchen, and medical areas. Jail staff and inmates were interviewed. We concluded the jail is operating efficiently and effectively, while serving the needs of the inmates and the public.

### **GLOSSARY**

ICE    Immigration and Customs Enforcement

### **BACKGROUND**

The Yuba County Jail is located at 215 5<sup>th</sup> Street in Marysville. The jail is under the supervision of the Yuba County Sheriff. There are two city police departments in Yuba County, Marysville and Wheatland, which also use the Yuba County Jail for incarceration. In addition, the jail houses Immigration and Customs Enforcement (ICE) inmates. California Penal Code Section 919(b) requires that, "The Grand Jury shall inquire into the condition and management of the public prisons within the county."

### **APPROACH**

Members of the Yuba County Grand Jury interviewed the Yuba County Sheriff and the Yuba County Jail Captain and received information on the overall operations within the jail. The members toured the jail to become familiar with the jail and its environment. Four inspections within the jail were conducted, with emphasis on the laundry room, the kitchen, the medical area, and the intake/booking areas. The Grand Jurors were provided with copies of recent State and Federal inspection reports for review, including the ICE Detention Standards Compliance Review Report, the Office of State Fire Marshal Inspection Report, the Yuba County Health Inspection Report, and the State of California Corrections Standards Authority Report. Members of the Grand Jury also conducted interviews of several staff, personnel, and inmates.

## DISCUSSION

On August 19, 2010, members of the Grand Jury met with the Yuba County Sheriff and the Jail Captain to get an overview on the operations within the jail. The following items were discussed:

- Approximately 400 inmates are currently in custody. Approximately fifty percent of those are ICE detainees.
- There were approximately 9,000 people booked into the jail last year.
- 55 Deputies are on staff.
- 3 full time cooks are on staff.
- 15 inmates are assigned to work in the kitchen.
- 20 inmates are assigned to work in the laundry room.
- Inmates are assigned to work at Animal Care Services.
- Inmates are assigned to provide janitorial services.
- A full time medical doctor and staff (RN and LVN) have access to telemedicine.
- A Drug/Alcohol Counselor is on staff.
- A teacher is on staff through the Yuba County Office of Education.
- Several volunteers offer religious services, a tattoo removal program, and a basic sewing class for the women.

On September 1, 2010, members of the Grand Jury received a tour of the jail to obtain an overall view of the facility and become familiar with the surroundings.

On December 7, 2010, members of the Grand Jury inspected several areas of the jail, including the visiting area, intake area, booking area, control room, sobering cells, solitary confinement cells, and court holding cells.

The visiting area was clean and well kept. Visitation is allowed twice a week for all inmates. Minors are allowed under the supervision of an adult. If an inmate violates the jail rules, it can result in his or her visitation times being cancelled as a disciplinary measure. Professional visits by attorneys or clergy are unlimited, as long as they are reasonable. Visitation telephones are monitored except with clergy and professional visits.

During intake and booking, the jail staff explained that all inmates are screened for medical concerns and those with immediate medical needs are taken to the hospital prior to being processed into the jail. The staff also screens inmates for gang affiliation, to ensure their safety once incarcerated. All personal property and money is collected. A machine in the intake room is used by the staff to count and collect the inmate's money. A receipt is generated and placed with the inmate's personal property.

The intake area has several small rooms which were being utilized to counsel inmates. These are multi-purpose rooms.

The sobering tanks have no furniture. The inmates are checked every half hour to ensure their safety. Generally, they are provided a meal to help them sober up. A jail staff member expressed concerns over individuals with habitual drinking problems. The staff member was trying to get outside agencies involved in getting individuals counseling or into a sober house which would help the individuals and decrease the jail's costs in continuously feeding and monitoring them.

Safety cells are used to house inmates at risk of harming themselves and others. The safety cells were clean. They have a padded protective covering on the walls for safety. Staff members indicated they are seldom used.

The court holding cells were well maintained and allow the inmates easy access to their court hearings. There were several cells which would allow a professional visit prior to a court hearing.

On December 9, 2010, members of the Grand Jury inspected several areas of the jail, including the laundry room, the women's dorm areas, the commissary, and the control room.

The laundry room was clean and well organized. The staff explained that all laundry from Yuba Sutter Mental Health was cleaned at the jail, resulting in \$18,000 a year in revenue. All chemicals used are concentrated, and added to the wash with a push of a button. No inmates touch any chemicals. The inmates are locked in the room for security purposes. A communications device is available for emergency use. The facility was not in use at the time of our visit, and the dryer vents had been removed and cleaned. The screens in the duct system were also removed and cleaned. Both screens were sitting on the counter for installation by the next crew. The laundry room staff is offered Hepatitis B vaccinations; however, they are not mandatory. The shots are given in a series, and if the inmate is released, they can continue the shot series with the Yuba County Health Department.

The women's dorm areas were clean and organized. There are a set of rules posted on the wall in English and Spanish. There are telephones available. Each inmate was given two sets of outer garments each week. The women working in the laundry room received outer garments for each shift. All inmates must make their beds every morning. The inmates are offered the opportunity to use the exercise yard twice a week. There are books, puzzles, and games offered in a common area. The inmates are offered a shower every day, but are not required to take one.

The commissary was inspected and found to have a wide variety of personal hygiene products, food, and candy. Twice a week the commissary order forms are distributed to each inmate. The order form has the inmate's name written at the top. The order forms are gender specific. The inventory changes on occasion. The commissary receives about \$370,000 in gross annual sales. The jail website has information on how to add money to an inmate's account for commissary purchases. All commissary order forms are saved for three years.

On December 14, 2010, members of the Grand Jury inspected several additional areas of the jail. These included the kitchen, exercise yard, men's dorms, and a control room.

The kitchen was clean and well organized. The dishwashing area had rubber gloves, boots, and aprons available for the inmates to wear. All metal serving trays were counted at the end of every meal. The kitchen utensils were arranged on a board with a picture attached to verify all were accounted for and in place. All knives were kept locked in the kitchen office when not in use. When in use, the knives are attached with a cable to the cutting board area. Inside the

cook's office is a closed circuit monitoring system. The freezer and refrigeration units were at proper temperature. The kitchen staff was aware of individuals with special dietary needs. Soy and other non-meat products were offered in place of meat for vegetarians. There were sugar-free products available for diabetics. The staff can substitute another item for someone with a food allergy. The meals rotate on a six week calendar. During the tour, an inmate explained how working in the kitchen allowed him to learn new skills and give back to the community.

The exercise yard was bare, with the exception of a basketball and a handball. The area is outside, so weather conditions can affect whether an inmate chooses to exercise.

The men's dorm areas appeared clean and efficiently run. There were rules posted in English and Spanish on the walls. There are telephones available. There were books, games, puzzles, and drinking water in the common areas. Inmates are released in small numbers to the common areas to reduce fighting.

On December 17, 2010, members of the Grand Jury inspected the law library, education room, sewing room, and medical areas.

The law library has a selection of legal books and materials available to help the inmates understand and research their legal matters. It is made available on request. Inmates are searched for contraband upon exiting.

The education room is staffed by the Yuba County Office of Education. The main purpose is to allow inmates an opportunity to earn their GED.

The sewing room is staffed by a volunteer. The female inmates learn basic sewing skills, as well as knitting and crocheting. The inmates use old bed sheets from the jail to make blankets for cats and dogs, which are donated to the animal shelter. They also mend any torn jail clothing. An ongoing project in the sewing room has been making quilted blankets, which are donated to the community. Inmates also make hair ties for female inmates.

The medical area was clean and well staffed. There is a dental exam room and a physician's exam room. A telemedicine unit is also available. The staff doctor explained the policies and procedures to receive medical attention. The inmate must request a medical exam. The inmate is usually seen in the medical area within 24 hours. Inmates with communicable diseases are housed in an isolation unit within the medical area. The medical unit is staffed 24 hours a day.

On February 25, 2011, members of the Grand Jury interviewed several inmates and staff members. The inmates stated they received a handbook of rules and expectations for the jail. One inmate was a vegetarian, and stated he is being satisfied with the food provided. The inmates said the food was nutritious, tasty, and filling. One inmate explained being given a Koran, a prayer rug, and five Hamas a day as part of the Muslim religion. The inmates stated they are offered exercise regularly, but did not like going to the exercise yard at 5:00 AM. One inmate was grateful for the education classes and the sewing class. The inmates expressed they were treated fairly and the staff was friendly.

The staff explained they receive ongoing training in defense tactics, firearms, CPR, sexual harassment, policies and procedures, and transport. The staff explained they have to supply their own protective gear. The staff indicated the work environment was friendly considering the circumstances: "A safe place for being a jail."

## FINDINGS

- F1. The Yuba County Grand Jury finds the Yuba County Jail staff to be well trained and attentive to the needs of the jail and inmates.
- F2. The Yuba County Grand Jury finds the Yuba County Jail offers a wide variety of meals with provisions for religious and dietary requirements.
- F3. The Yuba County Grand Jury finds the Yuba County Jail utilizes the ICE detainees program as a revenue source to help offset the costs incurred by the County to run an efficient jail. The Jail also provides the Yuba Sutter Mental Health with laundry services, which is another revenue source for the jail.
- F4. The Yuba County Grand Jury finds the Yuba County Jail and Yuba County Office of Education provide the inmates with an opportunity to continue their education and obtain a GED.
- F5. The Yuba County Grand Jury finds the Yuba County Jail has valuable volunteers, who offer drug and alcohol counseling meetings, religious services, and sewing classes to the female inmates.
- F6. The Yuba County Grand Jury finds the law library has a good selection of legal books and materials available to help the inmates understand and research their legal matters.
- F7. The Yuba County Grand Jury finds the Yuba County Jail accommodates a wide variety of religious needs
- F8. The Yuba County Grand Jury finds the Yuba County Jail offers a tattoo removal service.

## RECOMMENDATIONS

- R1. The Yuba County Grand Jury recommends the Yuba County Sheriff commend the Jail staff, personnel, and volunteers for their dedication and hard work in making this community a safer place.
- R2. The Yuba County Grand Jury recommends the Yuba County Board of Supervisors commend the Sheriff and the Sheriff's office for their excellent work.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following individuals:

- Yuba County Sheriff: R1

From the following governing bodies:

- Yuba County Board of Supervisors: R2

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

# Report

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## Animal Care Services Inspection

## **ANIMAL CARE SERVICES INSPECTION**

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

#### **SUMMARY**

The Grand Jury received a complaint regarding services and quality of care offered by Yuba County Animal Care Services (ACS). Yuba County ACS personnel are providing residents of the county a valuable, and, at times, difficult service. During a recent inspection by members of the Grand Jury, it became apparent that personnel assigned to ACS, volunteers, and even the county jail inmates working in the facility, take their jobs very seriously. Facility staff members reach out to the local businesses, animal rescue agencies, and the public to provide adoption opportunities for the animals in their care. In addition, ACS utilizes an adoption website to maximize the animals' exposure, increasing the chance of adoption.

In these times of budget constraints, ACS does its best to reduce the cost of operations by seeking donations and grants to provide for the well being of the animals in its care. Facility workers provide a safe, clean environment for the residents of Yuba County to view the animals. The facility provides an area for interaction with the animals and provides only animals that are suitable for adoption. Each animal is observed for a period of time before it is allowed to interact with the public and made available for adoption. Depending on its age, whether the animal has been spayed or neutered, a portion of the adoption fee may be refunded. This is done when proof of being spayed or neutered is received. Animals also receive vaccinations prior to adoption, making them ready to take their place in a family home.

While it is inevitable that some animals must be destroyed, this is seen as a last resort. Animals that have been scheduled for euthanasia are kept separate from the other animals and are treated with the utmost care and respect during this process. Staff at ACS perform this daunting task with dignity and respect for the animals, and should be commended for the service they provide to our community.

#### **GLOSSARY**

ACS – Animal Care Services

#### **BACKGROUND**

The current ACS facility was built in 2004 and occupies 3,788 square feet. The facility has a total of 36 kennels; 24 general population kennels and 12 quarantine kennels. There are 68 stainless steel cages used mainly for the cat population and surgery room. There are also four livestock pens. There are 7,732 square feet of landscape space. The staff and volunteers are working on building a “get acquainted” area in a portion of this space outside the main kennel area. ACS provides services to Yuba County, with limited assistance to Beale Air Force Base and the cities of Wheatland and Marysville.

## APPROACH

The Grand Jury received a complaint regarding services and quality of care offered by Yuba County ACS. On February 2, 2011, Grand Jury members toured the ACS facility. The staff and an inmate worker from the Yuba County Jail were interviewed as part of the inquiry.

## DISCUSSION

The Animal Care Services Supervisor and Yuba County Sheriff Department Captain in charge of ACS escorted Grand Jury members on the inspection. They explained that the following programs, procedures, and services are provided by ACS:

- Dog and cat licenses are issued for a nominal fee.
  - This fee is reduced for senior citizens and for animals which are spayed / neutered.
- Animals arrive at the shelter by owner surrender, by the public bringing in a stray, or by the ACS staff due to a complaint.
  - All animals are checked for a micro-chip when they arrive at the shelter.
  - All animals are logged in so owners can easily find them.
- An ACS Officer is on emergency call every night.
  - An emergency call would be considered a dog hit by a car on the side of the road, or a dog bite situation.
- The quarantine unit is used if a dog bite breaks the skin.
  - The animal must be quarantined for 10 days if there is no record of a rabies vaccination. Animals can be quarantined at a veterinarian's office if requested by the owner.
  - Animals that have bitten and are not claimed by an owner cannot be adopted. They can be sent to an animal rescue for outside adoption.
- There are 10 cat traps owned by the shelter and loaned out to the public.
- ACS has a low-cost vaccination program.

The ACS unit has a volunteer program and has partnered with several local agencies for services and donations.

- There are numerous volunteers who help at the shelter.
- Potential volunteers must fill out a 17 page application and undergo a background check that includes fingerprinting.
- Local businesses donate bags of animal food that have been damaged to the ACS. These bags are either used at the shelter, or donated to needy families for their animals.
- ACS partners with local pet stores to offer adoption services outside the shelter. There are also advertisements in the local newspapers featuring animals available for adoption. This gives the animals more public viewing and a better chance for adoption.

- Last year, the shelter received a \$4,000 grant from an animal agency to be used to address the disease “kennel cough”.
- Monies donated by the public are only spent on animal care and services.
- The Yuba County Jail inmates have been making blankets out of old bed sheets and donating them to the shelter for the cats and dogs.
- The Yuba County Jail has three to four inmates a day at the facility to help clean the cages, provide the facility’s janitorial needs, care for, and walk the animals. These inmates receive training from ACS staff. They are transported to and from the facility by ACS staff. They are not allowed to interact with the public.
- Recently a very impressive Eagle Scout project to make animal cages was completed.
- The ACS staff indicated they would like to start a youth program at the facility.

The cat area inside the facility was inspected. It was clean and smelled pleasant. The cats had toys to play with, and a CD player was in the room offering soothing music. The staff explained this helps keep the cats calm. Each animal had a bin card, showing the sex of the animal, when it arrived, and the breed.

- Each cat had a cardboard box in its cage. When the cats are adopted, this box will go home with them, along with their blanket. The staff explained this helps shorten transition time.

The dog kennel areas were inspected. They were found to be clean and well maintained. Each animal had a bin card, showing the sex of the animal, when it arrived, and the breed.

- Sanitizer, bleach, and degreaser are all used to clean the kennel area.
- There was a heater on in the outside kennel area to keep animals warm.
- Each kennel has a door which opens and closes remotely with the pull of a cable. This ensures animal and kennel worker safety.

The sally port (holding area entry) area was inspected. There are several holding cages used to evaluate the animals that are transported into the facility. This area was clean and an animal control vehicle was available for inspection.

The euthanasia of animals was discussed.

- Euthanasia is only done on Tuesdays and Thursdays and is done in the morning before the shelter opens.
- If an animal is brought in and is in obvious pain or is suffering, the animal’s owner is asked to take the animal to a local veterinarian for euthanasia, as the ACS staff doesn’t want the animal to suffer any longer than necessary.
- The fee to bring in an animal for euthanasia varies depending on whether one lives in the city or county.
- Animals are kept as long as possible before they are euthanized, but a minimum of four days. Staff explained some animals have been at the shelter for over two months. The time varies based on the adoptability of the animal and the amount of space available in the shelter.

- Animals receiving euthanasia are kept away from other animals in the shelter. They are first given a tranquilizer shot, and then a second fatal injection is given inter-cardiac.

The surgery center and recovery areas were toured, but are not being used. The staff indicated they are hoping to get a Memorandum of Understanding with staff at a local community college to use the facility as a training center for the veterinary assistant students to receive hands-on experience. The staff indicated no x-rays are performed in the surgery center. At this time, they can only control bleeding and treat for shock.

## FINDINGS

- F1. ACS personnel appear to have the best interest of the animal's health, welfare, and safety as a high priority.
- F2. ACS personnel appear to be operating efficiently, including using volunteers and inmates from the Yuba County Jail. ACS also partners with several local businesses and organizations for animal food donations, supplies, blankets, and support in adoption services.
- F3. The Grand Jury did not find any issues contained within the complaint during its inspection.

## RECOMMENDATIONS

- R1. The staff and volunteers of ACS should be commended for their efforts in maintaining a healthy and safe atmosphere for the animals they care for.
- R2. The staff and volunteers of ACS should be commended for their efforts in partnering with local businesses and organizations to receive donations and support in adoption services.
- R3. The Yuba County Board of Supervisors should commend the staff and volunteers of ACS and the Yuba County Sheriff's Department for their efforts in maintaining a healthy and safe atmosphere for the animals they care for.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individual:

- Yuba County Sheriff's Department: F1-F2, R1-R2

From the following governing body:

- Yuba County Board of Supervisors: R3

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

# Appendix

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# The Grand Jury Process

Applications for service are received by the Jury Commissioner and reviewed by the Presiding Judge. Effort is made to impanel an ideal jury of qualified men and women of diverse socio-economic, ethnic, educational backgrounds, representative geographical areas of the county, as well as age groups. By court policy, and at the discretion of the Presiding Judge, up to 10 members of the previous year's jury may serve a second term to provide continuity. A total of 19 people serve on the Grand Jury. From the remaining candidates, a drawing is held to provide for alternates.

Yuba County jurors are sworn in and begin their one-year term commencing the first day of July. The Presiding Judge appoints a foreperson to preside at meetings. The jury then chooses the remaining officers and organizes itself into committees. Each committee sets its own program of committees, investigations and interviews. The committee then investigates various departments and functions of local government as it chooses and reviews compliance with previous Civil Grand Jury recommendations. Department heads are interviewed, on-site visits are made and departments' strengths and weaknesses are investigated.

Some subjects to be investigated are brought about by letters from citizens regarding complaints of alleged mistreatment by officials, suspicion of misconduct or governmental inefficiencies. Such complaints are kept confidential. If the situation warrants, and after investigation, the Grand Jury may make appropriate recommendations for action.

A large portion of the public mistakenly believes that an individual appearing before the Grand Jury, particularly a public official, suggests malfeasance or misfeasance. It should be clearly understood that it is the constitutional responsibility of the Grand Jury to review the conduct of county government each year. This entails having public officials appear before the jury to provide information to the jury relative to their departments or offices.

While Grand Jurors are a part of the Judicial System and are considered as officers of the court, the Grand Jury is an entirely independent body. The Presiding Judge, the District Attorney, the County Counsel, and the State Attorney General act as advisors, but cannot limit actions of the jury except for illegality.

Because of the confidential nature of a Grand Jury's work, much of it must be done in closed session. Members of a Grand Jury are sworn to secrecy, thus assuring all who appear that their complaints will be handled in an entirely confidential manner. No one may be present during sessions of the Grand Jury except those specified by law (Penal Code 939), and the minutes of its meetings may not be inspected by anyone, nor can its records be subpoenaed.

The law provides that every Grand Juror must keep secret all evidence adduced before the Grand Jury, anything said by a Grand Juror or the manner in which a grand juror may have

voted on a matter. By law it is a misdemeanor to violate the secrecy of the Grand Jury room. A Grand Juror must not confide any information concerning testimony of witnesses or action of the jury even to a spouse or close friend. "Leaks" concerning Grand Jury proceedings inevitably will impair or even destroy the effectiveness of Grand Jury efforts.

Mid-year and final reports are prepared that describe problems and contain findings and recommendations. Responses are required within 90 days from any public agency, and 60 days from any elective county officer or agency head.

# Complaint Form & Instructions

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**YUBA COUNTY  
GRAND JURY  
COMPLAINT  
FORM**

**COMPLAINT PROCESS**

- Present your complaint as soon as possible. The Grand Jury’s term of service begins July 1<sup>st</sup> and ends June 30<sup>th</sup> of the following year.
- Identify your specific concern and describe the circumstances as clearly and concisely as possible.
- Document your complaint with copies of pertinent information and evidence in your possession.
- Mail or deliver your complaint in a sealed envelope to:

Yuba County Grand Jury  
c/o Yuba County Superior Court  
215 Fifth Street, Suite 200  
Marysville, Ca 95901

Among the responsibilities of the Grand Jury is the investigation of the public’s complaints to assure that all branches of city and county government are being administered efficiently, honestly and in the best interest of its citizens.

Complaints submitted to the Grand Jury will be treated confidentially whenever possible. However, it may be impossible to conduct an investigation without revealing your name and complaint.

Complaints submitted to the Grand Jury will be treated confidentially whenever possible. However, it may be impossible to conduct an investigation without revealing your name and complaint.

The results of the complaints investigated by the Grand Jury are published in its final report in which the residents of the county are made aware of its investigations, findings and recommendations and the entities reported on are required by statute to respond.

**GENERAL INFORMATION**

A major function of the Yuba County Grand Jury is to examine local county and city government, special districts, school districts, and any joint powers agency located in the county to ensure their duties are being carried out lawfully.

The Grand Jury:

- May review and evaluate procedures used by these entities to determine whether more efficient and economical methods may be employed;
- May inspect and audit the books, records and financial expenditures as noted above to ensure that public funds are properly accounted for and legally spent;
- May investigate any charges of willful misconduct in office by public officials;
- Shall inquire into the condition and management of the public prisons within the county.

Anyone may ask the Grand Jury to conduct an investigation of an issue within its jurisdiction. Whether it chooses to investigate such a complaint is entirely in its discretion and may be affected by workload, resource limitations or legal restrictions. It is important to note that the Grand Jury may not investigate a matter that is currently being litigated in the court system.

By law, the proceedings of the Grand Jury are confidential. The findings and recommendations and issues it chooses to address are published in its final report.

# GRAND JURY COMPLAINT FORM

GRAND JURY USE ONLY:	
Date Received:	_____
Number:	_____
Subject:	_____
	_____
	_____

**PERSON OR AGENCY ABOUT WHICH COMPLAINT IS MADE**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

**NATURE OF COMPLAINT** (Describe events in the order they occurred as clearly and concisely as possible. Use extra sheets if necessary and attach copies of any correspondence you feel is pertinent. Documentation becomes the property of the Grand Jury and will not be returned. *Please note: The Yuba County Grand Jury has no jurisdiction over state or federal agencies, the courts, judicial officers, private companies or most organizations.*)

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**WHAT PERSONS OR AGENCIES HAVE YOU CONTACTED ABOUT YOUR COMPLAINT?**

Person or Agency	Address	Date of Contact	Results

**WHO SHOULD THE GRAND JURY CONTACT ABOUT THIS MATTER?**

Person or Agency	Address	Telephone No.

Your Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_   
 Complainant's Signature

\_\_\_\_\_   
 Date

# **GRAND JURY APPLICATION FORM**

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF YUBA**

**GRAND JURY APPLICATION**  
*(Please attach additional sheets if necessary)*

**I. PERSONAL INFORMATION**

Name: \_\_\_\_\_  
(Last) (First) (Middle)

Other Names Used: \_\_\_\_\_

Residence Address: \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_  
*(If Different)*

Home Telephone: \_\_\_\_\_ Work Telephone: \_\_\_\_\_

Cell Telephone: \_\_\_\_\_ Pager: \_\_\_\_\_

Email Address: \_\_\_\_\_ Supervisorial District: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Drivers Lic. Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

Marital Status:  Married  Single  Divorced  Widowed

Spouse's Name: \_\_\_\_\_

Spouse's Occupation: \_\_\_\_\_

Spouse's Employer: \_\_\_\_\_

**II. EDUCATION**

Circle your highest level of education: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 Other: \_\_\_\_\_

High School \_\_\_\_\_ City & State \_\_\_\_\_

College/University \_\_\_\_\_ City & State \_\_\_\_\_

Graduate Level \_\_\_\_\_ City & State \_\_\_\_\_

Degrees \_\_\_\_\_ Honors \_\_\_\_\_

### III. OCCUPATION(S)

Are you retired?  Yes  No

If yes, what was your occupation? \_\_\_\_\_

Employer(s) or company name(s): \_\_\_\_\_

Business address: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Highest position held and job title: \_\_\_\_\_

Are you currently working?  Yes  No

If yes, what is your occupation? \_\_\_\_\_

Employer(s) or company name(s): \_\_\_\_\_

Business address: \_\_\_\_\_

Highest position held or job title: \_\_\_\_\_

Former Occupation: \_\_\_\_\_

### IV. ABILITIES AND EXPERIENCE

Do you have any ability and experience in writing, editing, and collating correspondence, minutes of meetings, reports, etc?  Yes  No

If "yes", please describe: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Do you have ability and experience in gathering facts and analyzing data?  Yes  No

If "yes", please describe: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Please list the computer programs with which you are familiar: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## V. QUALIFICATIONS

1. Are you a citizen of the United States?  Yes  No
2. Are you eighteen years or older?  Yes  No
3. On July 1, 2007, will you have been a continuous resident of Yuba County for one year?  Yes  No
4. Are you in possession of your natural faculties, of ordinary intelligence, of sound judgment and of fair character?  Yes  No
5. Do you speak, write and understand English?  Yes  No
6. Have you been discharged as a Grand Juror in any court of this State within the last year?  Yes  No
7. Have you ever served as a Grand Juror?  
If so, what county and when? \_\_\_\_\_  Yes  No
8. Have you applied for the Grand Jury in the past?  
If so, what year(s)? \_\_\_\_\_  Yes  No
9. Are you a registered voter?  Yes  No
10. Are you able and willing to define and evaluate issues without expressing personal bias?  Yes  No
11. If you are employed, does your employer know that you are interested in serving on the grand jury, and does he/she understand the nature and extent of the duties of a grand juror?  Yes  No
12. Are you capable of and willing to conduct detailed investigations of city and county governmental issues and prepare reports on those issues?  Yes  No
13. Are you currently serving as an elected public official or do you plan to run for public office within the next eighteen months?  Yes  No
14. Are you related to and closely associated with any of the following:
- Yuba County Superior Court judge?  Yes  No
- Current or former elected or appointed public official?  Yes  No
- Current or former employee of any local governmental entity?  Yes  No
- If yes, please explain: \_\_\_\_\_
- 
15. As a member of any profession or organization or as a holder of any office, have you ever been suspended, disbarred or otherwise disqualified?  Yes  No

Have you been charged with any of the following:

**Malfeasance in office**

Yes

No

**Felony**

Yes

No

**Misdemeanor** (including driving under the influence and reckless driving)

Yes

No

If you answered "yes" to any of the above, please provide details below:

Offense	City/State	Date	Penalty

*Please note that a misdemeanor conviction is not an automatic bar to acceptance of your application.  
Each case is considered individually and confidentially.*

## VI. CLUBS & ORGANIZATIONS

(List any fraternal, civic, professional, service or social organizations to which you have belonged.)

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## VII. GENERAL

Other interests, experience, comments or suggestions:

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Is there anything you would specifically like to accomplish during your tenure on the grand jury?

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Would you be willing to be the Jury Foreperson?

Yes

No

I hereby certify that the foregoing information is true and correct to the best of my knowledge and belief and is submitted in support of my application for selection as a member of the Yuba County Grand Jury.

Executed under penalty of perjury this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_, California.

\_\_\_\_\_  
*Signature of Applicant*

**NOTE**

All applications to serve as a member of the Yuba County Grand Jury will be subject to investigation by an appropriate law enforcement agency relative to the statutory qualifications for service and any other information that may bear on the prospective Grand Juror's ability and suitability for service.

**PLEASE RETURN COMPLETED APPLICATION TO:**

YUBA COUNTY JURY SERVICES  
215 Fifth Street, Suite 200  
Marysville, CA 95901  
(530) 749-7601  
Website: [www.yubacourts.org](http://www.yubacourts.org)



Pursuant to California Rules of Court, rule 989.3 and the Americans with Disabilities Act (ADA), the Superior Court of California, County of Yuba does not discriminate against persons with disabilities. Please advise Jury Services (530) 749-7601 if you will require special accommodations to participate in this application process.



# Past Investigations

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<b>Special Reports</b>	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
Board of Supervisor - Salary												X										
Capital Improvement				X																		
Consent Agendas				X																		
Mail Carrier Safety				X																		
Physical Security in Schools														X								
School Meals Program													X									
Sewage Appeals Board							X		X													
Tire Waste Program									X													
Youth Project - Runaway Youth																X						
Yuba County - 1997 Flood								X														
Yuba County - Budget Procedures				X																		
Yuba County - Office Hours										X												
Yuba County - Ordinances													X									
Yuba Goldfields				X																		
Yuba Park									X													
Yuba River Access				X				X														

<b>Health &amp; Human Services</b>	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
Adult Services				X								X		X			X					
CAL Works																	X					
Child Protective Services				X	X	X				X	X	X		X							X	
Day Care																						
Environmental Health	X	X				X										X						
- EH Personnel							X															
- Onsite Sewage							X															
- YSDI																X						
First Five Yuba Commission																						X
Fraud Investigations																X						
Health & Human Services	X	X	X	X	X	X	X										X				X	
Health Department	X	X	X			X							X	X								
- Mental Health Services	X	X																				
- Peach Tree Clinic			X	X	X	X																
Public Guardian	X									X					X							

<b>Special Districts</b>	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
Browns Valley Irrigation District										X												
Camp Far West Irrigation District		X																				
Cemetary District													X									X
Cemetary District - Peoria														X								
Foothill Fire Protection						X																
Levee District 817			X																			
Linda Fire District							X															
Marysville Levee District			X																			
Olivehurst PUD - Water			X					X														
Olivehurst PUD - Fire										X						X						
Olivehurst PUD - Sewer			X											X								
Reclamation District 10			X																			
Reclamation District 2103			X																			
Reclamation District 817			X																			
Reclamation District 784	X	X	X						X	X					X		X					
River Highlands Community Service																				X	X	
Smartsville Fire Department																			X			
Three Rivers Levee Imporvement Authority																						X
Yuba County Water Agency	X	X				X		X					X						X			
Yuba County Water District						X											X	X				

<b>Law</b>	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
Child Support Services	X						X			X	X											
Municipal Court	X	X	X																			
District Attorney		X	X					X														
Grand Jury			X	X									X									
Juvenile Traffice Court	X																					
- Victim Witness																						
Juvenile Hall	X	X	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Probation	X	X	X			X									X	X						
Public Defender						X																
Sheriff	X	X	X		X			X	X						X	X					X	
- Animal Care Services	X		X	X			X		X	X					X							X
- Jail	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
- Canine																					X	
Police Department																				X		
- Wheatland Police Department																			X			

County	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
Administrative Services	X		X	X						X												
- Airport Enterprise Zone	X									X												
- Print Shop		X																				
- Information Services																		X				
Agriculture	X	X																				
- Weight & Measures						X																
Assessor	X	X																				
Auditor / Controller	X																					X
Board of Supervisors	X	X	X	X					X													
- Clerk of the Board	X	X		X																		
Community Development	X	X	X	X	X			X											X	X		
- Building																			X			
- Code Enforcement																				X		
Clerk/Recorder/Elections	X	X		X														X				
County Administrator	X	X					X															
County Counsel	X		X				X															
- Public Administrator										X												
Emergency Services	X		X					X													X	
Library	X					X																
Yuba County Airport																			X			
Personnel Risk Management	X	X	X					X														
Public Works	X	X	X	X							X											
Treasurer/Tax Collector	X																					
Veteran Services	X	X																				

Cities	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
City of Marysville	X	X								X			X	X	X				X			
- Better Improvement District									X								X					
- City Administrator/Clerk						X																
- City Council			X		X																	
Minutes																						X
- Emergency Services			X																			
- Levee District																			X			
- Fire Department	X	X	X								X						X					
- Police Department	X	X		X										X	X							
Compliance																						X
Recreation	X	X					X									X						
- Redevelopment Agency				X	X																	
- Red Light Camera System																	X					
- Website																						X
City of Wheatland	X	X										X			X	X	X					
- City Council			X		X	X	X	X														
- City Treasurer				X	X																	
- Police Department	X	X	X	X		X																

<b>Schools Committee</b>	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
Abraham Lincoln (home) School									X													
Anna McKenney Intermediate																X						
Browns Valley Elementary																X						
District	X	X																				
Charter School									X													
Dobbins Elementary School																		X				
Lindhurst High															X							
Mary Covillaud Elementary																	X					
Marysville High																						
Service																						X
Dist	X	X	X	X	X	X		X				X			X	X				X		
- Alternative Educaton Program																						
Committee																						X
- Loma Rica Elementary																				X		
Office of Education																			X			
Olivehurst Elementary																	X					
Plumas Elementary	X	X																				
Regional Career Center - JPTA	X								X								X					
Wheatland High	X	X	X																			
Wheatland School District	X	X	X			X															X	
- Elementary School District																						
Building																						
Yuba College			X										X									
Yuba County Office of Education	X	X								X						X						

**Yuba County Grand Jury**  
**Courthouse 215 Fifth Street, Suite 200**  
**Marysville, CA 95901**  
**Phone (520) 749-7341 • Fax (530) 749-7304**  
**Email [yubagrandjury@yubacourts.org](mailto:yubagrandjury@yubacourts.org)**