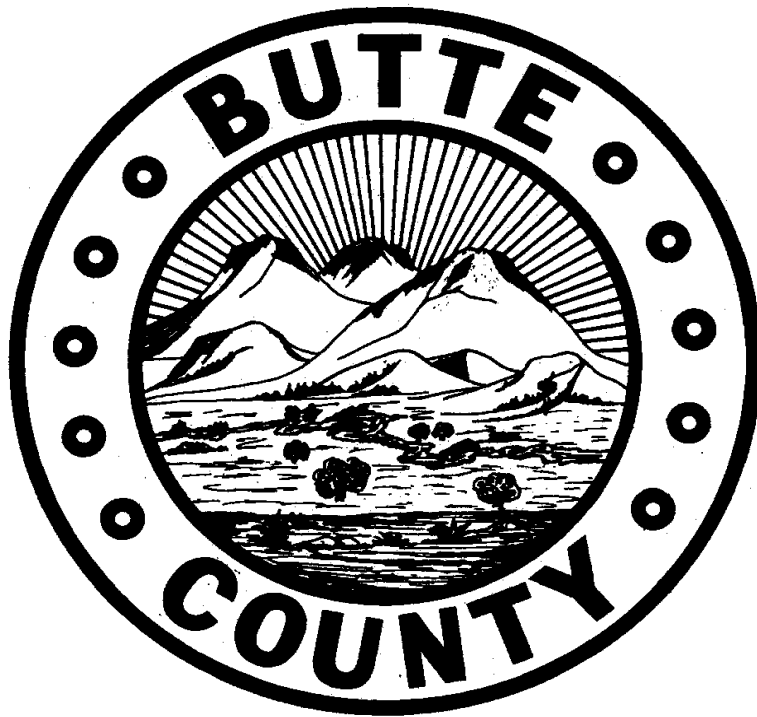


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QUALITY  
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AIR  
JAIL  
RETIREES  
HALL  
PREMIUMS  
REPORT  
SAFETY  
PARADISE  
GRIDLEY-BIGGS  
CONTRACT  
PLAN  
CEMETERY  
DISTRICT  
WILDFIRE  
GENERAL  
THERMALITO  
WEIGHTS  
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GRAND  
JUVENILE  
SERVICES  
OFFICE  
WATER  
RECORDER/REGISTRAR  
BUTTE  
AUDITOR-CONTROLLER  
MANAGEMENT  
COUNTY  
2008/2009  
JURY



**Butte County Grand Jury**  
**2008-2009**

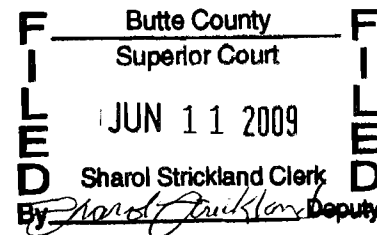
**FINAL REPORT**



**JUNE 26, 2009**



May 15, 2009  
Superior Court of California  
County of Butte  
One Court Street  
Oroville, CA 95965



2008-2009  
**BUTTE COUNTY GRAND JURY**  
**FINAL REPORT**

The Grand Jury Final Report has been filed on this date pursuant to California Penal Code Section 933. A copy of the report is enclosed. Your attention is invited to the following code section regarding the time requirements for comment on the report.

**Section 933.**

- (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- (b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the county clerk and remain on file in the office of the county clerk. The county clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.
- (c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls.

In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section “agency” includes a department.

### **Section 933.05**

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

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

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

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

- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

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## FOREPERSON'S LETTER TO THE PRESIDING JUDGE

May 15, 2009

The Honorable James F. Reilley

Presiding Judge, Superior Court of California, County of Butte

Dear Judge Reilley,

On behalf of the 2008-2009 Grand Jury, it is my honor to present the *2008-2009 Butte County Grand Jury Final Report* for your review and consideration. The thirteen individual reports, along with their findings and recommendations, have been approved by the 2008-2009 Grand Jury. It has been our pleasure to serve the citizens of Butte County, and our hope that the following report will be of benefit.

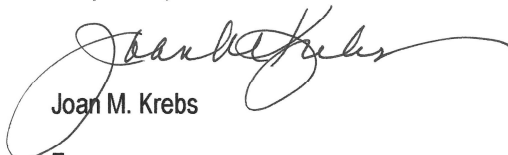
The members of the 2008-2009 Grand Jury came from all parts of the County and brought with them their ideas, energy and talents. It was a pleasure to come to know and work with each of them. We each gained a vast amount of knowledge concerning the workings of Butte County, and hold a greater respect for the individuals that make up the workforce of the County.

Every year presents its own challenges for the Grand Jury. The year 2008-2009 was no different. Soon after the jury was impaneled, Butte County suffered a series of devastating wildfires. In the fall, Butte County, along with the nation as a whole, entered a period of economic turmoil. A Presidential election, and a significant County election, occurred in November, and the Chief Administrative Officer of the County resigned mid-year. Needless to say, these factors made for a very interesting year.

The members of this Grand Jury would like to express our appreciation to you, the Presiding Judge, and to those individuals of the cities, district departments, and County offices who so graciously accommodated us, spoke to us and provided us with information needed for our reviews and investigations. Thanks also to the County Counsel and Assistant County Counsel for their advice and assistance during our investigations and during the writing of this Final Report. In addition, the court staff was always available to us and provided prompt and professional support.

Finally, without the understanding of our families and employers, we could not have done our job fully. We thank them for their patience and consideration.

Respectfully submitted,



Joan M. Krebs

Foreperson  
Butte County Grand Jury 2008-2009

**2008-2009 BUTTE COUNTY GRAND JURY MEMBERS**

<b>Joan Krebs</b>	<b>Chico</b>	<b>Foreperson</b>
<b>Diane Otten</b>	<b>Paradise</b>	<b>Foreperson Pro Tempore</b>
<b>Desta Dunlap</b>	<b>Chico</b>	<b>Recording Secretary</b>
<b>Lee Wood</b>	<b>Oroville</b>	<b>Corresponding Secretary</b>
<b>Peggy Williams</b>	<b>Oroville</b>	<b>Treasurer</b>
<b>Walter Sipher</b>	<b>Chico</b>	<b>Sergeant-at-Arms</b>
<b>John Welton</b>	<b>Chico</b>	<b>Computer Support</b>
<b>James Adams</b>	<b>Oroville</b>	
<b>Mary Amicarella</b>	<b>Chico</b>	
<b>Douglas Brum</b>	<b>Durham</b>	
<b>Rose Mary Burke</b>	<b>Chico</b>	
<b>Kenton Goodhue</b>	<b>Oroville</b>	
<b>Katherine Haines</b>	<b>Chico</b>	
<b>Marjorie Hartnett</b>	<b>Chico</b>	
<b>Garrett Jackson</b>	<b>Oroville</b>	
<b>Albert Klein</b>	<b>Oroville</b>	
<b>Robert Leask</b>	<b>Oroville</b>	
<b>Tracy Lotter</b>	<b>Paradise</b>	
<b>John Vorisek</b>	<b>Paradise</b>	


**FINAL RESOLUTION**

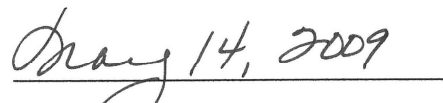
**Whereas, the 2008-2009 Butte County Grand Jury** has conducted the business of its term and has reached certain conclusions, and

**Whereas, the 2008-2009 Butte County Grand Jury** desires to disclose the substance of those conclusions for the benefit of local government, its agencies, and the citizens of Butte County

**Now, therefore, be it resolved** that the attached papers, commendations, findings, and recommendations are adopted as the *2008-2009 Butte County Grand Jury Final Report* and submitted to the Presiding Judge of the Superior Court of the State of California, County of Butte, to be entered as a public document pursuant to California law.

The above resolution was **passed and adopted** by the 2008-2009 Butte County Grand Jury at the Butte County Offices in Oroville on the fourteenth day of May 2009.

  
\_\_\_\_\_  
Joan M. Krebs, Foreperson

  
\_\_\_\_\_  
May 14, 2009

## 2008-2009 GRAND JURY MISSION STATEMENT

In the rich, historic tradition of the American legal system, our mission is to perform diligently and impartially the sworn duties of the Butte County Grand Jury. We endeavor to carry out our mission in pursuit of the highest common good and with the intent of improving local government. To the best of our individual abilities we strive to execute fairly, fearlessly and lawfully our proscribed criminal and civil functions. Within the distinct limits of the jury's authority, we investigate incidents of misconduct and corruption as they come to light; we scrutinize the operations of Butte County's public offices, departments and districts; we investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of incorporated cities and joint powers agencies in the County; and we use complaints to identify policies that need improvement. Correspondingly, we present and report our findings and recommendations in a timely and responsible manner.

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### CORE VALUES ALL GRAND JURORS AGREE TO UPHOLD

We recognize the importance of applying—to all individuals—the same objective standards of conduct and responsibility, without regard to race, color, creed, religion, sex, sexual preference or economic status.

We recognize that others may be more skilled than we in particular matters regarding the business of public office and government. Consequently, our own sound judgment, in itself, is not a viable substitute for others' expertise, nor for their reasonable but differing views.

We respect and do not seek to interfere with the discretionary policy-making or operational powers of public officials.

We recognize the importance of maintaining accuracy and integrity in our activities. The Grand Jury's reports, therefore, are factual and confined to matters within the scope and power of our inquiry.

We recognize the importance of communicating clearly and effectively among ourselves and with our constituency.

We respect individuals' right to privacy, and we operate within the confines of strict confidentiality.

We recognize that the Grand Jury functions lawfully as a legal entity. Accordingly, no single grand juror, when acting alone, has any power or authority to represent the jury.

We acknowledge the importance of remaining vigilant to detect and avoid any personal conflicts of interest that may arise during the course of performing the business of the Grand Jury.

With the specific purpose and intent of improving our local government, we value the opportunity and privilege of serving on the Grand Jury.

## ACKNOWLEDGMENTS

The 2008-2009 Butte County Grand Jury sincerely wishes to acknowledge and thank the following people and organizations for all of their support and professional guidance in contributing to the publication of this final report.

The Honorable James F. Reilley, Presiding Judge of the Superior Court of California, County of Butte

The Honorable Congressman Wally Herger  
Fran Peace, Legislative Representative

County Counsel, Bruce Alpert, and Assistant County Counsel, Elizabeth McGie

The Staff of the Superior Court of California, County of Butte:  
Sharol Strickland, Court Executive Officer  
Sandra Jones, Executive Office Program Administrator  
Rich Holst, Executive Program Analyst  
Kelly Mortensen, Court Administrative Specialist  
Vicky Caporale, Court Administrative Specialist

Butte County Superior Court Bailiffs

Butte County Board of Supervisors - Jane Dolan, Maureen Kirk, William Connelly, Kim Yamaguchi, Steve Lambert, and retired Supervisor Curt Josiassen

Butte County Clerk-Recorder/Registrar of Voters - Candace Grubbs and her Staff

Butte County Auditor-Controller - David Houser and his Staff

Butte County Assessor Ken Reimers and his Staff

Butte County Department Heads, City Administrators, Special District Directors, LAFCO, and Staffs

Butte County Sheriff, Perry Reniff, Butte County Probation Officer, John Wardell, Butte County Correctional Sergeant, Daniel Young, and their Officers and Staff s who guided us through the Butte County Jail and the Butte County Juvenile Hall

Butte County Sheriff's Posse

John Gulserian and members of the Emergency Operations Center, who enthusiastically re-opened the EOC for us after weeks of dedicated performance in the midst of devastating wildfires

CalFire-Butte County

Officers and Staff of the Chico Police Department

All those who graciously agreed to be interviewed by the Grand Jury during visits and investigations

California Grand Jury Association for the training seminars

Our families and employers who demonstrated patience, support, and understanding during our year of challenging public service

## HISTORY OF THE GRAND JURY

A Grand Jury derives its name from the fact that it usually has a greater number of jurors than a trial (petit) jury. One of the earliest concepts of Grand Juries dates back to early Greece where the Athenians used an accusatory body. In early Britain, the Saxons also used something similar to a Grand Jury system. During the years 978 to 1016, one of the Domes (laws) stated that for each one hundred men, twelve were to be named to act as an accusing body. They were cautioned, “not to accuse an innocent man nor spare a guilty one.”

The Grand Jury can also be traced to the time of the Norman conquest of England in 1066. There is evidence that the courts of that time summoned a body of sworn neighbors to present crimes that had come to their knowledge. Since the members of that accusing jury were selected from small jurisdictions, it was natural that they could present accusations based on their personal knowledge.

Historians agree that the Assize [court session or assembly] of Clarendon in 1166 provided the groundwork for our present Grand Jury system. During the reign of Henry II (1154-1189), in an effort to regain for the crown the powers usurped by Thomas Becket, Chancellor of England, twelve “good and lawful” men in each village were assembled to reveal the names of those suspected of crimes. It was during this same period that juries were divided into two types, civil and criminal, with the development of each influencing the other.

The oath taken by these jurors provided that they would carry out their duties faithfully, that they would aggrieve no one through enmity nor deference to anyone through love, and that they would conceal those things which they had heard.

By the year 1290, these accusing juries were given the authority to inquire into the maintenance of bridges and highways, defects of jails, and whether the Sheriff had kept in jail anyone who should have been brought before the justices. “Le Grand Inquest” evolved during the reign of Edward III (1368), when the “accusatory jury” was increased in number from twelve to twenty-three, with a majority vote necessary to indict anyone accused of crime.

In America, the Massachusetts Bay Colony impaneled the first Grand Jury in 1635 to consider cases of murder, robbery and wife beating. As early as 1700, the value of the Grand Jury was recognized in opposing the Royalists. These colonial Grand Juries expressed their independence by refusing to indict leaders of the Stamp Act (1765), and refusing to bring libel charges against the editors of the Boston Gazette (1765). The Philadelphia Grand Jury supported a union with other colonies to oppose British taxes in 1770.

By the end of the Colonial Period, the Grand Jury had become an indispensable adjunct of Government. “They proposed new laws, protested against abuses in government, and wielded the tremendous authority in their power to determine who should and should not face trial.”

Although originally the Constitution of the United States made no provision for a Grand Jury, the Fifth Amendment, ratified in 1791, guaranteed that:

“...no person shall be held to answer to 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...”

Public support for Grand Juries, sustained through the Revolutionary Period, began to wane in the early 1800s. Adoption of the fourteenth Amendment in 1868, made it illegal to “deprive any person of life, liberty or property without due process of law.” As interpreted by some states, this amendment no longer required prosecution of crimes by Grand Jury indictment nor prohibited direct accusation by a prosecutor. California is still one of the states that allows prosecution to be initiated by either Grand Jury indictment or judicial preliminary hearing.

The first California Penal Codes contained statutes providing for a Grand Jury, to be empanelled quarterly, at the same time as the trial jurors were drawn. Early Grand Juries investigated local prisons, conducted audits of county books and pursued matters of community interest. The role of the Grand Jury in California is unique in that by stat-

utes passed in 1880, their duties include investigation of county government. Only seven other states provide for investigation of county government by a Grand Jury beyond alleged misconduct of public officials. Only California and Nevada mandate that Grand Juries be impaneled annually to function specifically in a watchdog capacity over county government.

As constituted today, the Grand Jury is a part of the Judicial Branch of government — “an arm of the court.” It does not have the functions of either the legislative or administrative branches and it is not a police agency. Additionally, it does not mandate policy changes. It is an inquisitorial and an investigative body tasked with making recommendations to improve systems, procedures and methods of operations in designated local government. The primary function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county government (including special districts), seeing that the public’s monies are handled judiciously and that all accounts are properly audited — in general assuring honest, efficient government in the best interests of the people.

The Grand Jury has three ways to exercise its powers:

Written communications of unsatisfactory conditions where no crime is charged with recommendations for improvements (reports);

Written complaints charging a person with a crime (indictments); and

Written complaints against a person whose conviction would result in removal from office rather than criminal penalties (accusations).

A large portion of the public 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 and this entails having public officials appear before the jury for the purpose of providing information to the jury relative to their departments or offices.

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

Because of the confidential nature of a Grand Jury’s work, much of it must be conducted 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 the sessions of a Grand Jury except those specified by law (Penal Code Section 939), and the minutes of its meetings may not be inspected by anyone, nor can its records be subpoenaed.

Penal Code Section 939 as amended effective January 1, 1989 requires that prejudiced jurors may not be present during any part of proceedings from which they have once been formally excused and no non-juror may be present during the expression of the opinions of Grand Jurors, or the giving of their votes, on any criminal or civil matter before them. An officer having custody of a prisoner witness may be present during criminal sessions of the Grand Jury while the prisoner is testifying but the officer shall be admonished to insure the secrecy of any Grand Jury proceeding heard.

The conduct of criminal investigations and the return of indictments is the smaller part of a Grand Jury’s function in California. In some states, all persons accused of felonies must be indicted by a Grand Jury before being tried. This is also true of the Federal Courts. In this state, the vast majority of criminal cases are presented to the court, at a preliminary hearing, on a complaint issued by the District Attorney.

Cases presented to the criminal Grand Jury by the District Attorney may include, but are not limited to:

1. Cases having multiple defendants;
2. Cases with special witnesses such as children, out-of-state witnesses, informers or undercover agents;
3. Cases involving public officials or employees;
4. Cases in which adverse publicity could hurt the suspect, such as rape, murder or kidnap; and
5. Cases in regard to which the Statute of Limitations is about to expire.

Unlike a trial (petit) jury, a Grand Jury does not pass upon the guilt or innocence of the person accused. Its duty is to decide whether the evidence warrants charging a person with a triable offense.

A Grand Jury is charged with a grave responsibility. The Grand Jury serves as an ombudsman for citizens of the county. The jury may receive and investigate complaints by individuals regarding the actions and performances of county or public officials. The attention of the entire county is centered upon an active Grand Jury, and its every act is a matter of public interest. Malevolent and unfaithful public servants are uneasy, while honest citizens and the conscientious public servants are reassured. Therefore, Grand Jury service calls for diligence, impartiality, courage and responsibility.