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**THE 2007-2008  
EL DORADO COUNTY  
GRAND JURY**

**COMMENDS**

**The El Dorado County Jail  
Placerville**

**For its rigorous adherence to its mission statement,  
specifically their commitment to public safety,  
secure incarceration and inmate self-improvement  
through educational programs and services**

DATE:

SIGNED:



## **EL DORADO COUNTY GRAND JURY 2007-2008**

El Dorado County Jail  
South Lake Tahoe

### **REASON FOR REPORT**

Section 919(a) and 919(b) of the California Penal Code requires the grand jury to annually inspect any jail or prison within the county. This includes juvenile correctional facilities.

### **BACKGROUND**

The South Lake Tahoe Jail was built in 1970 and was renovated in 1991. The jail has a maximum capacity of 158 inmates. Recently, there has been an average of 110. Staff consists of 1 lieutenant, 7 sergeants, 25 correctional officers, 1 cook supervisor, and 1 lead registered nurse to operate the institution in 12-hour shifts.

### **FINDINGS**

The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The number of correctional officers needed to cover all shifts is 34.
2. There is no dedicated general service worker for the facility. It was noted that the facility has been on a waiting list for needed repairs for two years.
3. The staff provides many opportunities and programs for inmates to improve their skills as contributing members of society, i.e. BRIDGE, TOPS, GED, culinary arts, counseling, and the Tahoe Mentor Program.
4. During the recent Angora Fire, the staff and inmates provided additional resources and comfort to the South Lake Tahoe community as well as to fire and law enforcement agencies.

### **RECOMMENDATIONS**

Safety and security are of paramount importance in a correctional facility – for inmates, staff and visitors.

1. It is recommended that the Board of Supervisors provide funding to adequately staff the jail and to provide needed maintenance within the 2008-2009 fiscal year.
2. It is recommended that one maintenance worker from General Services be dedicated to the South Lake Tahoe Jail in order to make necessary decisions, provide preventative maintenance and complete critical work in a timely manner.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

## **COMMENDATION**

Despite needing increased personnel and repairs in certain areas of the facility, many programs leading to rehabilitation of inmates were noted, most specifically in the areas of mental health, vocational training and community service.

The leadership and staff at the South Lake Tahoe Jail are commended for their rehabilitation programs for inmates. Further, the leadership and staff are commended for their outstanding community response during the Angora Fire.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

El Dorado County Juvenile Hall  
Placerville

### **REASON FOR REPORT**

Section 919(a) and 919(b) of the California Penal Code requires the grand jury to annually inspect any jail or prison within the county. This includes juvenile correctional facilities.

### **BACKGROUND**

The Placerville Juvenile Hall was built in 1971. The facility houses a maximum of 40 male and female minors. The El Dorado County Probation Department is responsible for the care of the minors, as well as the facility and personnel, while the El Dorado County Office of Education is responsible for the education of the minors. The relationship between the two departments is integral to the success of both programs. Children who are sent to juvenile hall become temporary wards of the court pending adjudication. During this time, a minor's health, safety and education are protected by Welfare and Institution Code, California Code of Regulations - Title 15 and Title 24, and federal and state educational codes.

Programs are in place to educate and support youthful offenders and their families in effective rehabilitation information and strategies. These programs include counseling programs, mental health programs and many vocational programs. Providing an education to youthful offenders who have been detained for errors in judgment and unlawful behavior allows the young person the opportunity to stay abreast of or catch up on his/her school work. Graduating a youthful offender from high school furthers the potential to re-enter the community ready to become a productive member of society. Last year, the juvenile hall school (Golden Ridge School) graduated four such individuals.

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings.

The facility is in excellent, pristine condition. There is a plan to update the communication system and to expand the facility. Both of these items are in the current capital improvement program.

## **RECOMMENDATION**

It is recommended that the Board of Supervisors fund necessary work entailed in the expansion of the facility and updating the communication system during the 2008-2009 fiscal year.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

## **COMMENDATION**

The El Dorado County Probation Department and the Office of Education are commended for their outstanding advocacy and rehabilitation programs for at-risk children. The Grand Jury finds that the probation and educational staff have gone above and beyond what is required. The probation staff and the education staff are further commended for their immaculate facility observed during an unannounced visit.



**THE 2007-2008  
EL DORADO COUNTY  
GRAND JURY**

**COMMENDS**

**The El Dorado County  
Probation Department  
and  
Office of Education**

**For their exemplary programs for youth at  
Placerville Juvenile Hall**

**DATE:**

**SIGNED:**



## **EL DORADO COUNTY GRAND JURY 2007-2008**

El Dorado County Juvenile Hall  
South Lake Tahoe

### **REASON FOR REPORT**

Section 919(a) and 919(b) of the California Penal Code requires the Grand Jury to annually inspect any jail or prison within the county. This includes juvenile correctional facilities.

### **BACKGROUND**

The South Lake Tahoe Juvenile Treatment Center is located at 1041 Al Tahoe Boulevard. It is approximately three years old. The facility houses a maximum of 40 male and female minors. On the days the site was visited, there was an average of 20 children in residence. The El Dorado County Probation Department is responsible for maintaining the facilities that house youthful offenders. El Dorado County Office of Education is responsible for education during the child's period of retention. The name of the school located in the juvenile hall is Blue Ridge School. The relationship between the Probation Department and the School is integral to the success of both programs.

Children who are sent to juvenile hall have become temporary wards of the court pending adjudication. During this time, a minor's health, safety and education are protected by Welfare and Institution Code, California Code of Regulations, Title 15 and Title 24, and federal and state educational codes.

### **METHODOLOGY**

Members of the Grand Jury visited the South Lake Tahoe Juvenile Treatment Center twice. Both the probation superintendent of the facility and the school principal were present to answer questions as the Grand Jury toured the facility on both occasions. Subsequent to the visits, an investigation that included a review of materials and conversations with other experts in county and state education, as well as juvenile court schools was conducted. The focus pertained to processes that ensure that school records, including proof of immunization, were properly in place.

People Interviewed:

- Chairs - El Dorado County Office of Education School Attendance Review Board (SARB)
- Chief Probation Officer - El Dorado County Probation Department
- Consultant - The California State Department of Education, Education Programs
- Deputy Chief Probation Officer - South Lake Tahoe Juvenile Hall
- Director - Los Angeles County Juvenile Court and Community Schools
- Principal - Blue Ridge School
- Probation Staff - Sacramento Juvenile Hall
- Staff Members - Juvenile Hall (including the cook, deputy probation officers, and school personnel)

Documents Reviewed:

- California Code of Regulations, Title 15, Section 1029, Policy and Procedures Manual
- California Code of Regulations, Title 15, Section 1280, Facility Sanitation, Safety and Maintenance
- California Code of Regulations, Title 17, Section 6000-6075
- California Education Code 49068 & 49403
- Health and Safety Code, Sections 120325-120380
- Mission Statement, Blue Ridge School

Websites:

- California Department of Education

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings.

1. The facility was generally in excellent condition with three exceptions which have been approved for remediation through the current capital improvement plan. The three areas which need renovation are:
  - A. The recreation area - the top of the walls of the area is open to the outside and therefore extremely cold during the winter months.
  - B. A pass-through window needs repair.
  - C. An acoustic problem (vibration noise) in the classroom needs repair.
2. Staffing can be a problem due to the high cost of either living locally or commuting.
3. All probation and education staff is dedicated to increasing a young person's ability to succeed in his/her environment. Programs are in place to educate,

support, and promote youthful offenders and their families in effective rehabilitation information and strategies. These programs include the Challenge Program, the Ranch Program, counseling programs, mental health programs, and many vocational programs.

4. There have been no fights in three years.
5. The concern for the health of at-risk youngsters incarcerated in a juvenile correctional facility has been thoroughly reviewed. The Grand Jury finds that the probation staff and the educational staff have gone above and beyond what is required. In addition to sending for and receiving complete school records (including proof of immunization) within 24 hours of intake, the probation staff has also initiated a more effective health review upon in-take.

## **RECOMMENDATIONS**

1. It is recommended that the capital improvement plan be implemented this fiscal year in order to remedy the facility issues which pose health and security risks.
2. It is recommended that the probation department study salaries to include possible "hardship" clauses in order to improve staffing.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

## **COMMENDATION**

The 2007-2008 Grand Jury commends the El Dorado County Probation Department and the El Dorado County Office of Education for their outstanding advocacy and rehabilitation programs for at-risk children.



**THE 2007-2008  
EL DORADO COUNTY  
GRAND JURY**

**COMMENDS**

**The El Dorado County  
Probation Department  
and  
Office of Education**

**For its exemplary programs for youth at  
South Lake Tahoe Juvenile Treatment Center**

DATE:

SIGNED:



## **EL DORADO COUNTY GRAND JURY 2007-2008**

**Growlersburg Conservation Camp  
Georgetown, California**

### **REASON FOR REPORT**

The El Dorado County Grand Jury is charged with inspecting correctional institutions in El Dorado County each year per §919(a) and §919(b) of the California Penal Code.

### **BACKGROUND**

Growlersburg Conservation Camp (Growlersburg) was built in 1967. Originally built as an 80-bed camp, it has increased to accommodate 132 inmates. The primary mission of Growlersburg is fighting fires throughout California. It is operated and managed by two entities: California Department of Corrections and Rehabilitation (CDCR) and California Department of Forestry and Fire Protection (Cal Fire). The staff of 34 consists of 10 correctional officers, 14 Cal Fire staff and 10 CDCR staff. Inmates assigned to Growlersburg have a low risk level classification. Growlersburg provides training in fire fighting, emergency response and woodworking.

### **METHODOLOGY**

Members of the Grand Jury inspected Growlersburg on two occasions. Inspections of the facility included living quarters, bathrooms and showers, day rooms, kitchen, mess hall, wood working shop, and garden.

People Interviewed:

- Cal Fire Officer
- CDCR Officer
- Several inmates

Documents Reviewed:

- California Code of Regulations, Title 15, Section 1029, Policy and Procedures Manual
- California Code of Regulations, Title 15, Section 1280, Facility Sanitation, Safety and Maintenance

- El Dorado County Sheriff's Office, Custody Division, Policy and Procedures
- FC 79 Reports
- Grand Jury Reports 1998-2007
- Jails and Inspections Handbook
- Jails and Prisons Inspection Checklist Forms
- Management Review – Growlersburg CC#33 dated January 17, 2002

## **RESULTS OF INVESTIGATION**

The Jails and Prisons Inspection Checklist was used by the jurors during the inspection. Of particular note are the extensive work hours performed annually for community service projects such as maintenance for school districts, El Dorado Irrigation District, cemeteries, state parks, and Sheriff's Office. There are additional hours of emergency response work performed with agencies such as Office of Emergency Services. The Growlersburg inmates also maintain a garden that saves an estimated \$12,000 a year in food costs for the institution.

Some parts of the institution showed its age. The condition of the buildings appeared to be generally good and the grounds are attractive and well maintained; however, the facility is due for renovation. Some repairs are needed. There is a five-year capital outlay plan that will help to alleviate these concerns.

## **FINDINGS**

The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The kitchen range hood remains out of compliance. It was first identified in the 1999-2000 Grand Jury Report. It does not meet fire code requirements (Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations – National Fire Protection Agency). It has been mentioned in every Grand Jury Report since with no action.
2. The facility, built in 1967, fails to be in full compliance with the American Disabilities Act (ADA). However, all visitors' areas are in compliance. Currently there are no inmates or staff that require special considerations. The State-approved renovation contract which was funded in July 2007 will provide all ADA public access items. This violation has been identified in Grand Jury Reports 2000-2001 and 2001-2002.
3. The fan vents in the bathrooms in the housing areas do not work and grout needs replacing.
4. The aged evaporative coolers in the living areas do not provide adequate cooling.
5. There is no academic component as part of the inmates' training and rehabilitation program.

## **RECOMMENDATIONS**

1. Given that the kitchen hood was first identified seven years ago as not meeting fire code regulations, the Grand Jury recommends that it be repaired immediately.
2. The Grand Jury recommends correction of the following items to be completed within the 2008-2009 fiscal year:
  - Bathrooms
  - Evaporative coolers
  - All ADA requirements
3. An academic component should be added to the educational program (i.e., General Education Development, California High School Proficiency Exam).

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

## **COMMENDATION**

The 2007-2008 El Dorado Grand Jury commends Growlersburg Conservation Camp. The excellent training provided by Growlersburg gives the inmates the opportunity upon release to lead productive lives and become solid members of society. As a result of the training programs, the inmates exhibit skills of qualified professionals in the fields of fire fighting, emergency response and woodworking.

The Grand Jury commends Growlersburg for their exceptional community service.

Growlersburg is commended for savings incurred by the maintenance of their produce garden.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

**Mother Lode Union School District  
Case No. GJ 07-001**

### **REASON FOR REPORT**

The El Dorado County Grand Jury received a complaint from a citizen alleging that Mother Lode Union School District (MLUSD) was spending district funds inappropriately. These allegations were limited to expenditures for incremental building space, equipment, travel, and personnel costs for in-house technology services.

### **BACKGROUND**

Mother Lode Union School District is a relatively small district of approximately 1,400 students in grades K-8. The district is experiencing declining enrollment. One key objective that the MLUSD Board set in 2005 was to increase the use of technology to improve educational practices. They charged the Superintendent to carry out that mission. The plan developed by the Superintendent involved adding space, hiring more people to impact district technology services and enlisting other school districts to utilize their new technology department. This latter effort was to create an income stream from outside of the district to help offset incremental costs. In response to the complaint the Grand Jury proceeded to investigate the allegations.

### **METHODOLOGY**

The Grand Jury gathered data from many sources.

People Interviewed:

- The complainant
- MLUSD Board Members (current and past)
- MLUSD Chief Fiscal Officer
- MLUSD Superintendent

Documents Reviewed:

- California Administration Code, Title 5
- California Education Code
- MLUSD board meeting minutes, and related posted agendas covering 2004 to present
- MLUSD financial records covering 2004 through the current budget year

Websites:

- Various web-sites in the technology and education disciplines

## **FINDINGS**

1. No evidence of wrong doing was uncovered regarding the expenditure of MLUSD funds.
2. Mother Lode Union School District is commended for taking a politically and financially aggressive approach to improving the educational practices in their district.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Consolidation of Fire Protection Districts**

**Case No. 07-025**

### **REASON FOR REPORT**

The Fire Protection District Law of 1987, in the State Health and Safety Code §13800, governs all of the Fire Protection Districts (FPDs) in California. Fire protection districts can only provide fire protection and emergency medical services. At the printing of the 3<sup>rd</sup> edition of "What's So Special About Special Districts?" there were 386 FPDs in California. El Dorado County has nine FPDs on the West Slope and two FPDs in the Tahoe Basin. The County also has two multi-purpose Community Service Districts (CSDs) that provide fire protection along with other services: Fallen Leaf Lake CSD and Cameron Park CSD. The City of South Lake Tahoe has its own fire department.

El Dorado County has a disproportionately high number of fire protection districts compared with the average of other counties in California. El Dorado County would benefit from consolidation. During the Grand Jury investigation, the scope was limited to the West Slope of the County

### **BACKGROUND**

Each FPD and CSD is governed by a board of directors. These boards of directors are independent of any other supervision in the County.

Consolidation is not a new idea. Responses to ALL fire and medical emergencies on the west slope of El Dorado County are dispatched from the Emergency Communications Center (ECC), operated by the California Department of Forestry and Fire Protection (CAL FIRE) located in Camino. Three communication specialists and a captain are on duty 24/7

utilizing a state-of-the-art computerized facility. These personnel track in real time the location and availability of all fire and medical response equipment and crews from all of the nine fire protection districts and Cameron Park CSD. Tracking and dispatching services are financed under a Joint Powers Agreement, representing the County and fire districts. Most of the calls are for medical emergencies. These costs are proportionately paid by County Service Area #7, which is dedicated to this purpose.

The Camino ECC dispatches equipment and crews to each emergency site, choosing the closest available and most suitable equipment and personnel, regardless of the fire district owning the dispatched equipment and crew. Operationally, boundaries between west slope County fire protection districts are transparent. With respect to emergency response, they act together as one fire department. All of the County fire management officials interviewed praised this central dispatch system as efficient and working well. When asked, there were no complaints voiced about it by any of the interviewed officials.

Consolidation of previous small fire districts has already occurred. The El Dorado County FPD resulted from the consolidation of Pleasant Valley, Pollock Pines/Camino and Shingle Springs fire protection districts. In 1993, two additional fire protection districts were added to the El Dorado County FPD: Coloma/Lotus and Northside. Lake Valley FPD covers most of the Lake Tahoe basin located within the County that is not in the City. The Lake Tahoe basin also includes Meeks Bay FPD and Fallen Leaf Lake CSD; both districts are small and geographically isolated.

Most of the interviewed County's FPD officials favored more consolidation of fire districts. The major potential cost savings from consolidation, if done well, are expected to be in the elimination of redundant administrative positions. Consolidation may also lead to more efficient service and lower administration costs, but these are difficult to quantitatively evaluate. Hence, they have not been included in this report.

One official believed that a single fire protection district covering the entire County, analogous to the operation of the County Sheriff, should be an eventual goal. Based on the success of ECC central dispatch system, **several FPD officials believed that a single fire protection district covering the West Slope of the County would be optimum.**

## **METHODOLOGY**

The Grand Jury reviewed documents governing the establishment and proper operation of FPDs and CSDs. The history of previous consolidation attempts in El Dorado County were obtained from El Dorado County's Local Agency Formation Commission (LAFCO), which is responsible for setting boundaries between special districts and assisting in settling disputes. Current budget and expenditure information was obtained from the County Auditor/Controller.

#### People Interviewed:

- CAL FIRE, Amador-El Dorado Unit, Chief
- Diamond Springs-El Dorado Fire Protection District, Chief
- El Dorado County Assistant Auditor-Controller
- El Dorado County Auditor-Controller
- El Dorado County Fire Protection District, Assistant Chief
- El Dorado County Fire Protection District, Chief
- El Dorado Hills County Water District (fire district), Chief
- LAFCO, Executive Officer
- Mosquito Fire Protection District, Board of Directors President
- Mosquito Fire Protection District, Chief

#### Documents Reviewed:

- Amendment #1 to the Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services (memo from Auditor-Controller dated October 4, 2001)
- Assistant Auditor-Controller furnished Exhibits A, B, and C of this report
- Memo to Grand Jury from Executive Officer of LAFCO November 26, 2007, with Attachments
- “What’s So Special About Special Districts?” 3<sup>rd</sup> edition, February 2002

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. Either a fire protection district or LAFCO can initiate a consolidation study including a cost/benefit analysis. LAFCO has been reluctant to aggressively pursue consolidation of fire protection districts, waiting instead for one or more of them to initiate movement toward consolidation.
2. There is often institutional resistance to changing the status quo of an organization. Consolidation and reorganization are likely to lead to elimination of redundant positions, which typically will not be well received by current employees. Should consolidation occur, these difficulties can be ameliorated by
  - a) selecting at least one director from the district to be a director of the new district, and
  - b) continuing former district volunteer firefighter associations, such as was done with the mergers to form the El Dorado County FPD.

3. The County Board of Supervisors supplements revenues for six FPDs on the County west slope and two small districts providing fire protection in the Tahoe Basin, Fallen Leaf Lake CSD and the Meeks Bay FPD. This is a subsidy by the County at large to these particular fire districts. **These subsidies raise a fairness issue for taxpayers outside these districts** who are supporting their own fire protection district through various taxes while also contributing, through the County's General fund, an extra amount of money to these subsidized districts.

These subsidies are based on an agreement between the County Board of Supervisors and the eight districts, "Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services." This agreement was amended by ~~an Auditor-Controller memo of October 4, 2001,~~ *Board of Supervisors' action on 10-9-01*, to provide for a correction in tax rates for fire protection in some of these districts. Under this agreement, the eight districts receiving less than 13 percent of the *ad valorem* property tax revenue collected within their boundaries will receive a supplemental contribution from the County general fund. This supplement is intended to be sufficient to provide the district with revenue for fire protection services equal to approximately 13 percent of their tax revenue base.

The amount of this subsidy is calculated by the Auditor-Controller each year using the final assessed property valuation from the prior year to establish the 13 percent threshold. The difference between the 13 percent threshold and the prior year estimated actual tax revenue plus the prior year subsidy is the basis for the current year subsidy. For the eight subsidized districts, their percentage of total Tax Rate Area (TRA) taxes is always less than 13 percent; whereas for the five non-subsidized fire districts the percentage exceeds 13 percent. Exhibit A, column D, shows the amount of the County supplemental contribution to bring all fire protection districts up to the equivalent of 13 percent of the total TRA taxes for FY 2006/07. The supplemental amounts contributed by the County to all eight subsidized districts in FY 2006/07 totaled \$1,188,142. The share of this amount received by the six West slope FPDs was \$856,908, which is 72.2 percent of the total subsidy for FY 2006/07. The County supplemental in FY 2006/07 for all eight subsidized districts was \$1,188,242.

The subsidy for the six FPDs in the present year, FY 2007/08, is \$926,948, an 8.2 percent increase over the previous year. The subsidy for all eight districts in FY 2007/08 is \$1,300,347, which is a 9.3 percent increase over FY 2006/07.

4. All of the subsidized FPDs receive "special taxes" and/or "special assessments" except Pioneer FPD. These funds are not considered when the subsidy calculation is made. These special funds have been previously authorized on a continuing basis by an election of property owners within the districts. Special taxes require a vote of 2/3 of the property parcel owners. Special assessments are "fire suppression assessments," which are allowed under State law and require only a property parcel vote of 50 percent plus one.

5. The tax revenues for FY 2006/07 for the West Slope FPDs are summarized in Exhibit B. The tax revenues for each district, including special taxes and special assessments, are combined in one column. Note that all but Pioneer FPD and Latrobe FPD receive tax revenues exceeding 13 percent of their tax base, and all but Pioneer FPD have total funding including the County Supplemental Contribution that exceeds 13 percent of their tax base. With the exception of Pioneer FPD and Latrobe FPD, the County supplemental is much smaller than the other tax revenue received by the subsidized districts.
6. With advance notification, the Board of Supervisors can discontinue these subsidies. The County has a fiduciary responsibility to minimize them, preferably without degrading fire protection capabilities. Elimination of the subsidies would require these fire protection districts to either find other sources of revenue in a similar amount, or find equivalent budget savings that would not degrade fire protection capability.
7. Consolidation of the six West Slope subsidized fire districts, and especially mergers into the three financially stronger fire districts on the West Slope, should allow elimination of the fire chiefs and other administrative positions in the subsidized districts. The potential personnel savings that could result are shown in Exhibit C, where the administrative personnel costs for each fire district are shown in column L, with a total amount of \$944,084. The County supplemental contributions for these fire districts are shown in column M, and the total amount is similar to the total administrative personnel costs shown in column L.
8. If supplemental payments to the six West Slope fire protection districts are eliminated, the savings to the County general fund will be recurrent, rather than one-time. Over ten years and with an annual increase of 9 percent, the **SAVINGS** will amount to **\$14,018,235**. If supplemental payments to all eight subsidized fire districts are eliminated, the **SAVINGS** over ten years will amount to **\$19,665,148**.

## RECOMMENDATIONS

1. The El Dorado County Board of Supervisors should discontinue the “Supplemental Funding Agreement for Rural Districts for Enhanced Fire Protection and Emergency Medical Services” as it pertains to the following six fire protection districts: Pioneer, Rescue, Garden Valley, Mosquito, Georgetown, and Latrobe.
2. LAFCO and the El Dorado County Board of Supervisors should actively encourage consolidation or merger agreements between these presently subsidized fire protection districts and any of the following fire protection districts: El Dorado County Fire Protection District, Diamond Springs-El Dorado Fire Protection District, and El Dorado Hills County Water District.

3. The boards of directors of the following nine fire protection districts should make a good faith effort to reach consolidation agreements: Rescue, Pioneer, Mosquito, Latrobe, Georgetown, Garden Valley, El Dorado County, Diamond Springs, and El Dorado Hills. Each of these nine fire protection districts should report the results of their efforts to the Grand Jury within the Penal Code timeframe requirements.

## RESPONSE

Responses to this report are required in accordance with the California Penal Code §933.05.

**EXHIBIT A**

	A	B	C		D		E	F	G <sup>3</sup>
	FY 2006/07 Assessed Value	Total TRA Taxes @ 1.00%	FY 2006/07 District's \$ Share and % of Property Tax		FY 06/07 County Supplemental <sup>2</sup>		Additional Revenue Sources		
							FY 06/07 Special Taxes	FY 06/07 Special Assessments	FY 06/07 Other Misc
Rescue Fire	777,527,841	7,775,278	796,033	10.2%	226,201	2.9%	129,298	182,572	707,426
Pioneer Fire	647,294,466	6,472,945	557,556	8.6%	243,695	3.8%	0	0	311,699
Mosquito Fire	117,099,016	1,170,990	115,577	9.9%	28,746	2.5%	177,356	0	38,611
Latrobe Fire	211,444,648	2,114,446	104,334	4.9%	145,699	6.9%	34,323	0	48,905
Georgetown Fire	316,480,054	3,164,801	372,806	11.8%	33,021	1.0%	83,448	112,703	226,891
Garden Valley Fire	405,701,814	4,057,018	322,003	7.9%	179,546	4.4%	89,710	157,810	439,974
Fallen Leaf Lake CSD	60,597,216	605,972	18,156	3.0%	56,993	9.4%	104,765	0	N/A <sup>1</sup>
Meeks Bay Fire	639,262,741	6,392,627	509,263	8.0%	274,241	4.3%	277,280	0	191,323
					<b>1,188,142</b>				
<b>Other Fire Districts</b>									
El Dorado County Fire	5,577,540,807	55,775,408	7,251,342	13.0%	0		516,305	252,454	1,516,225
Diamond Springs Fire	1,798,675,594	17,986,756	2,745,921	15.3%	0		0	0	686,186
El Dorado Hills Fire	6,845,072,963	68,450,730	12,002,460	17.5%	0		0	0	N/A <sup>1</sup>
Cameron Park CSD	1,953,277,950	19,532,780	3,222,084	16.5%	0		0	0	1,050,002
Lake Valley Fire	1,816,276,891	18,162,769	3,213,661	17.7%	0		151,199	0	1,148,798

- 1) The other miscellaneous revenue figures are unavailable for those districts that do not use El Dorado County as its depository.
- 2) Current year Supplemental amounts are calculated based upon prior year assessed valuation and *ad valerum* taxes. Hence the total of column C + D may be slightly less than 13%.
- 3) Amount includes development fee revenues used for capital expenditures.

FY 2006/07 ACTUAL PROPERTY TAX REVENUE

	Secured Taxes Acct# 0100	Unsecured Taxes Acct# 0110	State Homeowners Prop Tax Acct# 0820	Total	County Contribution	Special Taxes	Special Assessments	
Pioneer Fire	540,033	11,177	6,346	557,556		0	0	557,556
Rescue Fire	770,865	16,060	9,108	796,033		129,298	182,572	1,107,903
Garden Valley Fire	311,965	6,404	3,634	322,003		89,710	157,810	569,523
Mosquito Fire	111,929	2,328	1,320	115,577		177,356	0	292,933
Georgetown Fire	361,115	7,457	4,234	372,806		83,448	112,703	568,957
Latrobe Fire	101,036	2,104	1,194	104,334		34,323	0	138,657
El Dorado County	7,024,008	144,946	82,388	7,251,342		516,305	252,454	8,020,101
Diamond Springs	2,659,191	55,304	31,426	2,745,921		-	-	2,745,921
El Dorado Hills	11,621,220	243,228	138,012	12,002,460		-	-	12,002,460

**EXHIBIT B**  
**Fire District Revenues in FY2006/07**  
**Compared to its Tax Base (Total TRA Taxes)**

Fire District	B Base TRA Taxes	FPD Share Plus Special Taxes <sup>1</sup>	% of Base	D County Supplemental	% of Base	H <sup>2</sup> Total Financing	Total Funding as % of Base
Rescue	\$7,775,278	\$1,107,903	14.25%	\$226,201	2.91%	\$2,041,530	26.26%
Pioneer	6,472,945	557,556	8.61%	243,695	3.76%	\$1,112,950	17.19%
Mosquito	1,170,990	292,933	25.02%	28,746	2.45%	\$360,290	30.77%
Latrobe	2,114,446	138,657	6.56%	145,699	6.89%	\$333,261	15.76%
Georgetown	3,164,801	568,957	17.98%	33,021	1.04%	\$828,869	26.19%
Garden Valley	4,057,018	569,523	14.04%	179,546	4.43%	\$1,189,043	29.31%
*****							
El Dorado County	\$55,775,408	\$8,020,101	14.38%	0	0	\$9,536,326	17.10%
Diamond Springs	17,986,756	2,745,921	15.27%	0	0	\$3,432,107	19.08%
El Dorado Hills	68,450,730	12,002,460	17.53%	0	0	N/A <sup>3</sup>	N/A <sup>3</sup>

**1)** Special taxes includes both special taxes and special assessments (Budget Detail lines 0175 and 1310).  
 Altogether this column also includes Budget Detail lines 0100, 0110, 0820

**2)** Includes all financing except carryover money from Reserves and Fund Balance (lines 0001 and 0002).

**3)** The total financing amount is unavailable for this district that do not use El Dorado County as its depository.

**EXHIBIT C**

	I	J	K	L	M
<b>Fire District Administration Costs</b>	<b>Staff</b>	<b>Payroll Cost, Salary plus Benefits</b>	<b>Health and Workers Compensation</b>	<b>Total</b>	<b>FY 2006/07 County Supplemental</b>
<b>Fire Protection District</b>					
<b>Rescue</b>	Chief P/T Admin Asst	\$152,726	\$28,327	\$181,053	\$226,201
<b>Pioneer</b>	Chief Admin Asst P/T Office Asst	\$170,772	\$12,691	\$183,463	\$243,695
<b>Mosquito</b>	Chief P/T Secretary	\$85,199	\$21,923	\$107,122	\$28,746
<b>Latrobe</b>	P/T Chief	\$22,671	\$3,264	\$25,935	\$145,699
<b>Georgetown</b>	Chief Admin. Asst.	\$217,164	\$47,802	\$264,966	\$33,021
<b>Garden Valley</b>	Chief Admin Officer	\$167,159	\$14,386	\$181,545	\$179,546
				<b>\$944,084</b>	<b>\$856,908</b>
FOOTNOTE: Health Care and Worker's Compensation were estimated by factoring Department cost against the ratio of administrative salaries to total Department salaries and wages.					

**EL DORADO COUNTY GRAND JURY  
2007-2008**

**FINAL REPORT  
Part II**



**April 2008**

**Grand Jury  
P.O. Box 472  
Placerville, CA 95667  
(530) 621-7477  
[www.co.el-dorado.ca.us/grandjury](http://www.co.el-dorado.ca.us/grandjury)**



## **EL DORADO COUNTY GRAND JURY 2007-2008**

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

***Bob Bartlett  
Donna Bergmeister  
Leigh Brilliant  
Judy Cook  
Dick Dichiara, Sergeant At Arms  
Deb Haas  
Jeanne Harper, Secretary  
Mel Harris  
Bill Jones  
Ken Lavin  
Chuck Maclean, Pro Tem  
Gary Miles  
Rosemary Mulligan, Foreperson  
Steve Sedgwick, Parliamentarian  
Dorothy Van Asten  
Kathy Walter***

El Dorado County Grand Jury 2007-2008  
April 2008

Table of Contents

Preface

Letter to the Honorable Judge

Letter from the Honorable Judge

Notice to Respondents

<u>Final Reports Released Mid-Term</u>	Page
Safe Schools	1
Consolidation of Fire Protection Districts	6
El Dorado County Facilities	
Building C	15
El Dorado Center	17
El Dorado High School	19
Edwin Markham Middle School	22
Louisiana Schnell Elementary School	24
Sheriff's Building	26



**GRAND JURY**  
**El Dorado County**

P.O. Box 472  
Placerville, California 95667  
(530) 621-7477 Fax: (530) 295-0763  
E-mail address: [grand.jury@co.el-dorado.ca.us](mailto:grand.jury@co.el-dorado.ca.us)

El Dorado County Superior Court  
Honorable Judge James R. Wagoner  
Presiding Judge of the Grand Jury 2007-2008  
495 Main Street  
Placerville, CA 95667

April 5, 2008

Honorable Judge James R. Wagoner:

The El Dorado County Grand Jury of 2007-2008, under the authority of the California Penal Code Section 933, submits their second mid-term Grand Jury Final Report for your examination. The Jury will release the report to the public upon your finding of compliance with applicable statutes.

The report addresses:

- School Safety for the children and the parents in El Dorado County
- Consolidation of nine El Dorado Fire Protection Districts
- Inspection results of El Dorado County facilities

I personally thank each and every member of this jury for their unselfish devotion in presenting complete and thorough investigations in understandable reports. We know our true power lies in our ability to bring important issues to the attention of the public and to El Dorado County officials.

Additionally, we thank all those who helped in gathering this information and our advisors, Louis Green, County Counsel and Edward Knapp, Chief Assistant County Counsel, and you, the Presiding Judge of the Grand Jury.

Sincerely,

Rosemary Mulligan, Foreperson  
El Dorado County Grand Jury 2007-2008



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF EL DORADO**

3321 Cameron Park Drive  
Cameron Park, California 95682

Department 9 (530) 621-5826  
Fax: (530) 672-2413

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April 16, 2008

Rosemary Mulligan, Foreperson  
El Dorado County Grand Jury  
P.O. Box 472  
Placerville, CA 95667

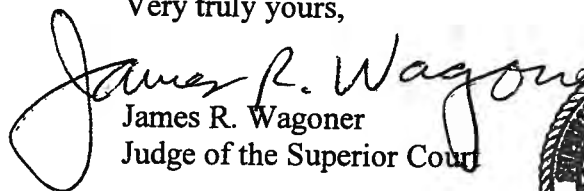
Re: Mid-term release of Final Report, Part II

Dear Ms. Mulligan:

I have reviewed the draft of the second portion of the Final Report that the Jury has requested to release mid-term. I see no issues that would prevent this release. You may release it at yours and the Jury's discretion.

Thanks again for all of yours and the Jury's hard work this year.

Very truly yours,

  
James R. Wagoner  
Judge of the Superior Court





## NOTICE TO RESPONDENTS

California Penal Code § 933.05 mandates specific requirements for responding to grand jury reports. This information is intended to help you in your responses to avoid unnecessary and time consuming repetitive actions. Those responses which do not fully comply with Penal Code requirements, including explanations and time frames where required, will not be accepted and will be returned to respondents for corrections.

### RESPONSE TO FINDINGS

*The responding person or entity shall indicate one of the following:*

- 1. The respondent agrees with the finding.*
- 2. The respondent disagrees wholly or in part 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 reason therefore.*

### RESPONSE TO RECOMMENDATIONS

*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 an agency of department being investigated or reviewed. 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.*

\* The time frame needs to be specific and reasonable.

\*\* At the conclusion of this analysis, the recommendation must be responded to as required by items 1, 2, or 4.

## **RESPONSE: TIME, WHERE AND TO WHOM**

The Penal Code identifies two different response times, depending upon the classification of the respondent (see below), and includes where and to whom the response is directed. Day one begins with the date of the Final Report.

### **1. Public Agency:**

The governing body of any public agency (also refers to department) must respond within ninety (90) days. The response must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Examples: Governing body of a public agency, Board of Supervisors, Directors of Districts.

### **2. Elective Officer or Agency Head:**

All elected officers or heads of agencies/departments are required to respond within sixty (60) days to the Presiding Judge of the Superior Court, with a copy provided to the Board of Supervisors.

Examples: Sheriff, Auditor/Controller, Recorder, Surveyor, Tax/Treasurer, County Superintendent of Schools, Boards of Trustees of school districts.

## **FAILURE TO RESPOND**

Failure to respond to a grand jury report is in violation of California Penal Code §933.05 and is subject to further action.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **School Safety**

(National Incident Management System)

**Case Number 07-013**

### **REASON FOR REPORT**

Parents expect their children to be safe while at school. The gravest concern of parents is the safety of their children during a school crisis. As a result of increased incidents of school violence across the country, the need to ensure the safety of school children and staff also increases. Crises range from incidents that affect a single student to ones that impact the entire community. The California Constitution (Article 1) states in part, “the public safety is protected and encouraged as a goal of highest importance and such public safety extends to public primary, junior high and senior high school campuses, where students and staff have the right to be safe and secure in their persons. All students and staff of public schools have the inalienable right to attend campuses which are safe, secure and peaceful.” Margaret Spellings, Secretary for the U.S. Department of Education states, “Knowing how to respond quickly and efficiently in a crisis is critical to ensuring the safety of our schools and students. The midst of a crisis is not the time to start figuring out who ought to do what. At that moment, everyone involved – from top to bottom – should know the drill and know each other.” The El Dorado County Grand Jury investigated the operations of county schools which are under the supervision of the El Dorado County Office of Education (EDCOE). The goal was to ensure that safety is a priority as evidenced by up-to-date emergency plans, frequent practices, and involvement of all persons impacted by a serious threat to school sites, staff and children. Integral to the investigation is the involvement of the El Dorado County Office of Emergency Services (OES). The Grand Jury also has a concern about the financial ramifications of costly litigation initiated by possible liability claims against schools and county government.

### **BACKGROUND**

Natural disasters in El Dorado County, such as fires, blizzards, floods, earthquakes, and landslides can strike a community with little or no warning. An influenza pandemic, or other infectious disease, can spread in a very short time. School shootings, threatened or actual, are on the rise and are horrific and chilling when they occur. In El Dorado

County, schools have had to deal with suspicious devices on campus, weapons on campus, fires caused by solvents and/or propane, the discharge of unknown gases, and threatening, disruptive and/or unknown persons on campuses. From incidences which pre-date Columbine in 1999 to today, tragedies cause communities across the country to self-assess their ability to be prepared to manage any of these kinds of emergencies. Unfortunately, in most instances, serious attention comes after the tragedy when pre-planning and practice may have made a difference. When asked for a list of school site incidences that have occurred over the past three years (date, location, type of incidence, outcome, etc.), federal and state educational agencies responded that they do not keep that kind of documentation. When federal and state Offices of Emergency Services were asked for the same list, they also responded that they do not keep that kind of information. El Dorado County OES did, however, present the Grand Jury with a compendium of calls made to their office by local schools. What was not in records maintained by either EDCOE or OES was data regarding site visits by OES with the purpose to train sites/districts.

Information regarding school incidents was ultimately found through [www.infoplease.com](http://www.infoplease.com). In a document entitled "A Time Line of Recent Worldwide School Shootings," 55 school shootings have been recorded worldwide since 1996, 43 of them in the USA, three of them in California. Of the 55 school shootings, 44 of the shooters ranged in age from 6 to 19 years old and were affiliated with the schools at which the shootings occurred. This is an average of roughly 4.5 shootings a year. In the first 45 days of 2008 alone, there have already been four shootings, all in the USA, one in California.

## **METHODOLOGY**

The Office of Emergency Services and EDCOE made presentations of overviews of their operations to the full body of the Grand Jury. During the presentations, jurors asked many questions which gave further direction to this investigation. Incumbent to the study were visits to randomly selected school sites ranging from elementary to high schools. On-going communication with both offices (OES and EDCOE) stated direction and goal of the investigation, that being the assurance of critical crisis management at all stages of planning.

### People Interviewed:

- California Office of Emergency Services – Supervisors of Preparation and Response
- District Schools – administrators, teachers, clerical staff, maintenance staff, bus drivers, students, and parents
- El Dorado County Office of Education – Director of Facilities
- El Dorado County Office of Education – Superintendent
- El Dorado County Office of Emergency Services – Lieutenant
- El Dorado County Sheriff's Department - Sheriff

#### Documents Reviewed:

- California Constitution – Article 1
- California Penal Code 148
- El Dorado County Office of Education - Safe School Symposium Material
- Emergency Operations Plans
- Federal Emergency Management Agency (FEMA): National Incident Management System (NIMS) Training
- Indicators of School Crime and Safety: 2007 (National Center for Educational Statistics & Bureau of Justice Statistics)
- National Incident Management System Resolutions
- NIMS Compliance Metrics & Terms of Reference
- NIMS Compliance Points Of Contact
- NIMS Implementation Matrix for States and Territories
- Orange County 2006-2007 Grand Jury Report
- Practical Information on Crisis Planning – A Guide for Schools and Communities
- REDI II Action Plans (Municipal Incident Management II – web based system for small and medium sized governments)
- San Diego County 1999-2000 Grand Jury Report
- School Emergency Preparedness Plan - Marin County
- Standardized Emergency Management System (SEMS)/National Incident Management System (NIMS) Integration Update and Compliance Requirements for 2007
- Student-Parent Handbooks

#### Websites:

- California Department of Education
- California Office of Emergency Services
- El Dorado County Office of Emergency Services
- FEMA.gov
- FindLaw for Legal Professionals - Education Codes 32280-32289
- Ready.gov
- U.S. Department of Education
- www.infoplease.com

## **RESULTS OF INVESTIGATION**

The El Dorado County Office of Emergency Services is a technologically advanced department which has been responsive to emergency needs. The Grand Jury concludes that more emphasis needs to be placed on surveying the grounds of each school site. Although school districts have done an excellent job of writing comprehensive safety plans that are all contained in the data base of OES ready for action when needed, many schools have not done an adequate job in pre-planning and practicing for tragedies such

as intruders/shooters on campus in their pre-planning processes. All districts have been compelled by EDCOE per SEMS and NIMS crisis management directives to initiate action plans that identify and connect with “loners” and other disenfranchised students who have been the profiled stereotype intruder in past incidents. However, the Grand Jury found that school sites ranged from negligent to well-practiced in their preparedness cycles of crisis management. Other than fire drills and drop drills, not all schools regularly practice evacuation or other more serious incident drills, i.e. shooter or unauthorized person on campus. Reasons cited for this lack of practice includes lack of staff development time, time taken out of a heavily standard-focused curriculum, the amount of people and resources needed to plan and carry out, and "it might scare the children." Additionally, schools do not include parents and the community in their crisis management education and plans. Some of these plans do not and should not be shared with the general public, but assuring parents that their children’s lives are well protected by those in charge is a critical missing factor in allaying the fears of well-meaning parents and community members who respond to school incidents. Parental panic and interference is a major concern of schools and emergency personnel.

## **FINDINGS**

The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. Other than fire drills and drop drills, not all school sites practice with regularity (a minimum of annually) crisis management procedures that include evacuations. Some schools stated they do “round table” practices, as opposed to actually conducting a physical practice. Some sites stated they did not want to scare the students, so, therefore, do not have practices. One school stated that they do summer practices that do not include the children.
2. No evidence was found that schools include parents or the community in an educational component to inform them about the crisis plan adopted by the district and site.
3. Although considered a work in progress, the Office of Emergency Services has not actually walked the grounds of every school site. Therefore, OES does not have a digital image of the sites not visited, nor indication of possible unique or special needs in their BowMac computer system should a crisis occur. Also in progress is the development of live school-site images which can be viewed in law enforcement vehicles - to be used as events are unfolding and as units are rushing to the scene.
4. Not all schools have conducted, or been a part of, an integrated evacuation which includes OES and/or other response units.
5. Neither OES nor EDCOE keeps records of site visits by OES with regard to training for crisis management.

## **RECOMMENDATIONS**

Based on the above findings, the Grand Jury makes the following recommendations.

1. In order to alleviate natural parental panic that arises when parents are separated from their children during perceived danger, it is recommended that OES and EDCOE collaborate on the creation of a video, presented by the Sheriff and the Superintendent of Schools. It is further recommended that the video be completed and ready to share with parents by the beginning of the 2008-2009 school year. The DVD and related printed material would outline generic safety plans as well as law enforcement codes designed to protect not only the victims, but also concerned and well-meaning parents/community members. It is also strongly recommended that the video be a mandated parent presentation in all schools, to be viewed as school sites see most efficient, i.e. Back to School Night, district web-sites, CDs included in Parent Handbooks, etc.
2. As another educational effort designed to further alleviate parental panic both before and during an incident, the Grand Jury recommends that every Parent Handbook include a section on Emergency Crisis Management which informs parents of the school plan should an incident occur. This book would be on hand as a ready reference in time of need.
3. The Grand Jury recommends that at least one full evacuation and practice of the REDI II emergency plan – a system which applies the Incident Commander concept providing for multi-jurisdictional and multi-disciplinary coordination and cooperation, and which also allows school leaders the ability to network with emergency response teams – be conducted annually at each site. The practice should include all staff and students as well as OES and/or other emergency response units.
4. The Grand Jury recommends that OES survey and photograph the physical grounds of every school site – to be included in their BowMac emergency database (software used by law enforcement). Also included in this information would be any unique and possibly problematic features which would require additional support or resources, i.e. ingress and egress.
5. The Grand Jury recommends that both OES and EDCOE, as well as individual school sites and districts, keep emergency response records that include dates of training and practice - to be maintained and supervised by EDCOE.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Consolidation of Fire Protection Districts**

**Case No. 07-025**

### **REASON FOR REPORT**

The Fire Protection District Law of 1987, in the State Health and Safety Code §13800, governs all of the Fire Protection Districts (FPDs) in California. Fire protection districts can only provide fire protection and emergency medical services. At the printing of the 3<sup>rd</sup> edition of "What's So Special About Special Districts?" there were 386 FPDs in California. El Dorado County has nine FPDs on the West Slope and two FPDs in the Tahoe Basin. The County also has two multi-purpose Community Service Districts (CSDs) that provide fire protection along with other services: Fallen Leaf Lake CSD and Cameron Park CSD. The City of South Lake Tahoe has its own fire department.

El Dorado County has a disproportionately high number of fire protection districts compared with the average of other counties in California. El Dorado County would benefit from consolidation. During the Grand Jury investigation, the scope was limited to the West Slope of the County

### **BACKGROUND**

Each FPD and CSD is governed by a board of directors. These boards of directors are independent of any other supervision in the County.

Consolidation is not a new idea. Responses to ALL fire and medical emergencies on the west slope of El Dorado County are dispatched from the Emergency Communications Center (ECC), operated by the California Department of Forestry and Fire Protection (CAL FIRE) located in Camino. Three communication specialists and a captain are on duty 24/7

utilizing a state-of-the-art computerized facility. These personnel track in real time the location and availability of all fire and medical response equipment and crews from all of the nine fire protection districts and Cameron Park CSD. Tracking and dispatching services are financed under a Joint Powers Agreement, representing the County and fire districts. Most of the calls are for medical emergencies. These costs are proportionately paid by County Service Area #7, which is dedicated to this purpose.

The Camino ECC dispatches equipment and crews to each emergency site, choosing the closest available and most suitable equipment and personnel, regardless of the fire district owning the dispatched equipment and crew. Operationally, boundaries between west slope County fire protection districts are transparent. With respect to emergency response, they act together as one fire department. All of the County fire management officials interviewed praised this central dispatch system as efficient and working well. When asked, there were no complaints voiced about it by any of the interviewed officials.

Consolidation of previous small fire districts has already occurred. The El Dorado County FPD resulted from the consolidation of Pleasant Valley, Pollock Pines/Camino and Shingle Springs fire protection districts. In 1993, two additional fire protection districts were added to the El Dorado County FPD: Coloma/Lotus and Northside. Lake Valley FPD covers most of the Lake Tahoe basin located within the County that is not in the City. The Lake Tahoe basin also includes Meeks Bay FPD and Fallen Leaf Lake CSD; both districts are small and geographically isolated.

Most of the interviewed County's FPD officials favored more consolidation of fire districts. The major potential cost savings from consolidation, if done well, are expected to be in the elimination of redundant administrative positions. Consolidation may also lead to more efficient service and lower administration costs, but these are difficult to quantitatively evaluate. Hence, they have not been included in this report.

One official believed that a single fire protection district covering the entire County, analogous to the operation of the County Sheriff, should be an eventual goal. Based on the success of ECC central dispatch system, **several FPD officials believed that a single fire protection district covering the West Slope of the County would be optimum.**

## **METHODOLOGY**

The Grand Jury reviewed documents governing the establishment and proper operation of FPDs and CSDs. The history of previous consolidation attempts in El Dorado County were obtained from El Dorado County's Local Agency Formation Commission (LAFCO), which is responsible for setting boundaries between special districts and assisting in settling disputes. Current budget and expenditure information was obtained from the County Auditor/Controller.

#### People Interviewed:

- CAL FIRE, Amador-El Dorado Unit, Chief
- Diamond Springs-El Dorado Fire Protection District, Chief
- El Dorado County Assistant Auditor-Controller
- El Dorado County Auditor-Controller
- El Dorado County Fire Protection District, Assistant Chief
- El Dorado County Fire Protection District, Chief
- El Dorado Hills County Water District (fire district), Chief
- LAFCO, Executive Officer
- Mosquito Fire Protection District, Board of Directors President
- Mosquito Fire Protection District, Chief

#### Documents Reviewed:

- Amendment #1 to the Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services (memo from Auditor-Controller dated October 4, 2001)
- Assistant Auditor-Controller furnished Exhibits A, B, and C of this report
- Memo to Grand Jury from Executive Officer of LAFCO November 26, 2007, with Attachments
- “What’s So Special About Special Districts?” 3<sup>rd</sup> edition, February 2002

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. Either a fire protection district or LAFCO can initiate a consolidation study including a cost/benefit analysis. LAFCO has been reluctant to aggressively pursue consolidation of fire protection districts, waiting instead for one or more of them to initiate movement toward consolidation.
2. There is often institutional resistance to changing the status quo of an organization. Consolidation and reorganization are likely to lead to elimination of redundant positions, which typically will not be well received by current employees. Should consolidation occur, these difficulties can be ameliorated by
  - a) selecting at least one director from the district to be a director of the new district, and
  - b) continuing former district volunteer firefighter associations, such as was done with the mergers to form the El Dorado County FPD.

3. The County Board of Supervisors supplements revenues for six FPDs on the County west slope and two small districts providing fire protection in the Tahoe Basin, Fallen Leaf Lake CSD and the Meeks Bay FPD. This is a subsidy by the County at large to these particular fire districts. **These subsidies raise a fairness issue for taxpayers outside these districts** who are supporting their own fire protection district through various taxes while also contributing, through the County's General fund, an extra amount of money to these subsidized districts.

These subsidies are based on an agreement between the County Board of Supervisors and the eight districts, "Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services." This agreement was amended by ~~an Auditor-Controller memo of October 4, 2001,~~ *Board of Supervisors' action on 10-9-01*, to provide for a correction in tax rates for fire protection in some of these districts. Under this agreement, the eight districts receiving less than 13 percent of the *ad valorem* property tax revenue collected within their boundaries will receive a supplemental contribution from the County general fund. This supplement is intended to be sufficient to provide the district with revenue for fire protection services equal to approximately 13 percent of their tax revenue base.

The amount of this subsidy is calculated by the Auditor-Controller each year using the final assessed property valuation from the prior year to establish the 13 percent threshold. The difference between the 13 percent threshold and the prior year estimated actual tax revenue plus the prior year subsidy is the basis for the current year subsidy. For the eight subsidized districts, their percentage of total Tax Rate Area (TRA) taxes is always less than 13 percent; whereas for the five non-subsidized fire districts the percentage exceeds 13 percent. Exhibit A, column D, shows the amount of the County supplemental contribution to bring all fire protection districts up to the equivalent of 13 percent of the total TRA taxes for FY 2006/07. The supplemental amounts contributed by the County to all eight subsidized districts in FY 2006/07 totaled \$1,188,142. The share of this amount received by the six West slope FPDs was \$856,908, which is 72.2 percent of the total subsidy for FY 2006/07. The County supplemental in FY 2006/07 for all eight subsidized districts was \$1,188,242.

The subsidy for the six FPDs in the present year, FY 2007/08, is \$926,948, an 8.2 percent increase over the previous year. The subsidy for all eight districts in FY 2007/08 is \$1,300,347, which is a 9.3 percent increase over FY 2006/07.

4. All of the subsidized FPDs receive "special taxes" and/or "special assessments" except Pioneer FPD. These funds are not considered when the subsidy calculation is made. These special funds have been previously authorized on a continuing basis by an election of property owners within the districts. Special taxes require a vote of 2/3 of the property parcel owners. Special assessments are "fire suppression assessments," which are allowed under State law and require only a property parcel vote of 50 percent plus one.

5. The tax revenues for FY 2006/07 for the West Slope FPDs are summarized in Exhibit B. The tax revenues for each district, including special taxes and special assessments, are combined in one column. Note that all but Pioneer FPD and Latrobe FPD receive tax revenues exceeding 13 percent of their tax base, and all but Pioneer FPD have total funding including the County Supplemental Contribution that exceeds 13 percent of their tax base. With the exception of Pioneer FPD and Latrobe FPD, the County supplemental is much smaller than the other tax revenue received by the subsidized districts.
6. With advance notification, the Board of Supervisors can discontinue these subsidies. The County has a fiduciary responsibility to minimize them, preferably without degrading fire protection capabilities. Elimination of the subsidies would require these fire protection districts to either find other sources of revenue in a similar amount, or find equivalent budget savings that would not degrade fire protection capability.
7. Consolidation of the six West Slope subsidized fire districts, and especially mergers into the three financially stronger fire districts on the West Slope, should allow elimination of the fire chiefs and other administrative positions in the subsidized districts. The potential personnel savings that could result are shown in Exhibit C, where the administrative personnel costs for each fire district are shown in column L, with a total amount of \$944,084. The County supplemental contributions for these fire districts are shown in column M, and the total amount is similar to the total administrative personnel costs shown in column L.
8. If supplemental payments to the six West Slope fire protection districts are eliminated, the savings to the County general fund will be recurrent, rather than one-time. Over ten years and with an annual increase of 9 percent, the **SAVINGS** will amount to **\$14,018,235**. If supplemental payments to all eight subsidized fire districts are eliminated, the **SAVINGS** over ten years will amount to **\$19,665,148**.

## RECOMMENDATIONS

1. The El Dorado County Board of Supervisors should discontinue the “Supplemental Funding Agreement for Rural Districts for Enhanced Fire Protection and Emergency Medical Services” as it pertains to the following six fire protection districts: Pioneer, Rescue, Garden Valley, Mosquito, Georgetown, and Latrobe.
2. LAFCO and the El Dorado County Board of Supervisors should actively encourage consolidation or merger agreements between these presently subsidized fire protection districts and any of the following fire protection districts: El Dorado County Fire Protection District, Diamond Springs-El Dorado Fire Protection District, and El Dorado Hills County Water District.

3. The boards of directors of the following nine fire protection districts should make a good faith effort to reach consolidation agreements: Rescue, Pioneer, Mosquito, Latrobe, Georgetown, Garden Valley, El Dorado County, Diamond Springs, and El Dorado Hills. Each of these nine fire protection districts should report the results of their efforts to the Grand Jury within the Penal Code timeframe requirements.

## RESPONSE

Responses to this report are required in accordance with the California Penal Code §933.05.

**EXHIBIT A**

	A	B	C		D		E	F	G <sup>3</sup>
	FY 2006/07 Assessed Value	Total TRA Taxes @ 1.00%	FY 2006/07 District's \$ Share and % of Property Tax		FY 06/07 County Supplemental <sup>2</sup>		Additional Revenue Sources		
							FY 06/07 Special Taxes	FY 06/07 Special Assessments	FY 06/07 Other Misc
Rescue Fire	777,527,841	7,775,278	796,033	10.2%	226,201	2.9%	129,298	182,572	707,426
Pioneer Fire	647,294,466	6,472,945	557,556	8.6%	243,695	3.8%	0	0	311,699
Mosquito Fire	117,099,016	1,170,990	115,577	9.9%	28,746	2.5%	177,356	0	38,611
Latrobe Fire	211,444,648	2,114,446	104,334	4.9%	145,699	6.9%	34,323	0	48,905
Georgetown Fire	316,480,054	3,164,801	372,806	11.8%	33,021	1.0%	83,448	112,703	226,891
Garden Valley Fire	405,701,814	4,057,018	322,003	7.9%	179,546	4.4%	89,710	157,810	439,974
Fallen Leaf Lake CSD	60,597,216	605,972	18,156	3.0%	56,993	9.4%	104,765	0	N/A <sup>1</sup>
Meeks Bay Fire	639,262,741	6,392,627	509,263	8.0%	274,241	4.3%	277,280	0	191,323
					<b>1,188,142</b>				
<b>Other Fire Districts</b>									
El Dorado County Fire	5,577,540,807	55,775,408	7,251,342	13.0%	0		516,305	252,454	1,516,225
Diamond Springs Fire	1,798,675,594	17,986,756	2,745,921	15.3%	0		0	0	686,186
El Dorado Hills Fire	6,845,072,963	68,450,730	12,002,460	17.5%	0		0	0	N/A <sup>1</sup>
Cameron Park CSD	1,953,277,950	19,532,780	3,222,084	16.5%	0		0	0	1,050,002
Lake Valley Fire	1,816,276,891	18,162,769	3,213,661	17.7%	0		151,199	0	1,148,798

- 1) The other miscellaneous revenue figures are unavailable for those districts that do not use El Dorado County as its depository.
- 2) Current year Supplemental amounts are calculated based upon prior year assessed valuation and *ad valerum* taxes. Hence the total of column C + D may be slightly less than 13%.
- 3) Amount includes development fee revenues used for capital expenditures.

FY 2006/07 ACTUAL PROPERTY TAX REVENUE

	Secured Taxes Acct# 0100	Unsecured Taxes Acct# 0110	State Homeowners Prop Tax Acct# 0820	Total	County Contribution	Special Taxes	Special Assessments	
Pioneer Fire	540,033	11,177	6,346	557,556		0	0	557,556
Rescue Fire	770,865	16,060	9,108	796,033		129,298	182,572	1,107,903
Garden Valley Fire	311,965	6,404	3,634	322,003		89,710	157,810	569,523
Mosquito Fire	111,929	2,328	1,320	115,577		177,356	0	292,933
Georgetown Fire	361,115	7,457	4,234	372,806		83,448	112,703	568,957
Latrobe Fire	101,036	2,104	1,194	104,334		34,323	0	138,657
El Dorado County	7,024,008	144,946	82,388	7,251,342		516,305	252,454	8,020,101
Diamond Springs	2,659,191	55,304	31,426	2,745,921		-	-	2,745,921
El Dorado Hills	11,621,220	243,228	138,012	12,002,460		-	-	12,002,460

**EXHIBIT B**  
**Fire District Revenues in FY2006/07**  
**Compared to its Tax Base (Total TRA Taxes)**

Fire District	B Base TRA Taxes	FPD Share Plus Special Taxes <sup>1</sup>	% of Base	D County Supplemental	% of Base	H <sup>2</sup> Total Financing	Total Funding as % of Base
Rescue	\$7,775,278	\$1,107,903	14.25%	\$226,201	2.91%	\$2,041,530	26.26%
Pioneer	6,472,945	557,556	8.61%	243,695	3.76%	\$1,112,950	17.19%
Mosquito	1,170,990	292,933	25.02%	28,746	2.45%	\$360,290	30.77%
Latrobe	2,114,446	138,657	6.56%	145,699	6.89%	\$333,261	15.76%
Georgetown	3,164,801	568,957	17.98%	33,021	1.04%	\$828,869	26.19%
Garden Valley	4,057,018	569,523	14.04%	179,546	4.43%	\$1,189,043	29.31%
*****							
El Dorado County	\$55,775,408	\$8,020,101	14.38%	0	0	\$9,536,326	17.10%
Diamond Springs	17,986,756	2,745,921	15.27%	0	0	\$3,432,107	19.08%
El Dorado Hills	68,450,730	12,002,460	17.53%	0	0	N/A <sup>3</sup>	N/A <sup>3</sup>

**1)** Special taxes includes both special taxes and special assessments (Budget Detail lines 0175 and 1310).  
 Altogether this column also includes Budget Detail lines 0100, 0110, 0820

**2)** Includes all financing except carryover money from Reserves and Fund Balance (lines 0001 and 0002).

**3)** The total financing amount is unavailable for this district that do not use El Dorado County as its depository.

**EXHIBIT C**

	I	J	K	L	M
<b>Fire District Administration Costs</b>	<b>Staff</b>	<b>Payroll Cost, Salary plus Benefits</b>	<b>Health and Workers Compensation</b>	<b>Total</b>	<b>FY 2006/07 County Supplemental</b>
<b>Fire Protection District</b>					
<b>Rescue</b>	Chief P/T Admin Asst	\$152,726	\$28,327	\$181,053	\$226,201
<b>Pioneer</b>	Chief Admin Asst P/T Office Asst	\$170,772	\$12,691	\$183,463	\$243,695
<b>Mosquito</b>	Chief P/T Secretary	\$85,199	\$21,923	\$107,122	\$28,746
<b>Latrobe</b>	P/T Chief	\$22,671	\$3,264	\$25,935	\$145,699
<b>Georgetown</b>	Chief Admin. Asst.	\$217,164	\$47,802	\$264,966	\$33,021
<b>Garden Valley</b>	Chief Admin Officer	\$167,159	\$14,386	\$181,545	\$179,546
				<b>\$944,084</b>	<b>\$856,908</b>
FOOTNOTE: Health Care and Worker's Compensation were estimated by factoring Department cost against the ratio of administrative salaries to total Department salaries and wages.					



## **EL DORADO COUNTY GRAND JURY 2007-2008 Facilities Reports**

### **El Dorado County Building C**



### **REASON FOR REPORT**

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

### **BACKGROUND**

The security measures utilized in Building C were inspected this year as a follow up to a prior year's Grand Jury investigation (2005-2006). That investigation recommended that the area behind the metal detector (in the corridor leading to the Superior Court downstairs) be secured at all times, not just when the screening station is staffed. The

situation in Building C has recently been changed. A locking door has been installed in the area on the lower level as recommended by the prior Grand Jury Report.

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

There are other court facilities on the ground level of Building C and there is no security station on that level. Additionally, there is a door into the court off of the lobby with an inoperative lock. When court is in session, the bailiff uses a portable metal detector to screen people entering the court. The problem is there are two entrances and only one bailiff. The ideal situation would be to secure all of Building C, but this has been rejected due to budget constraints. According to the Sheriff, to secure the entire building, at least three deputies would be needed to be on duty during all open hours. This expense is exacerbated by the fact that the Planning Department uses the building and often has meetings that continue as late as 9:30 p.m.

## **RECOMMENDATIONS**

1. The door between Building C's ground level lobby and courtroom should be locked so that all people entering the court would need to pass through the entrance that is controlled by the bailiff.
2. In looking at longer term building needs and uses, the Board of Supervisors should consider dedicating Building C to only court activities, or include only those other county departments that would not need access to the building during non-court hours. This would allow for securing the entire building, providing enhanced security to all employees and participants in any court proceedings.

## **RESPONSES**

Response(s) to this report is required from the El Dorado County Board of Supervisors in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **South Lake Tahoe Administration Facility El Dorado Center**



### **REASON FOR REPORT**

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

## **BACKGROUND**

One of the county's buildings in South Lake Tahoe, known as El Dorado Center, was inspected by the Grand Jury. This facility was built in 1968 as a commercial bank and was purchased by the county in May of 1991. The building currently serves as an administrative service complex for the county. The building provides 17,476 square feet of office space, although approximately 300 square feet in the basement is not utilized.

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury inspected the El Dorado Center facility, which revealed the following problem areas:

- Foul odor when entering building from parking lot
- No designated break room
- Inadequate heating and air conditioning system
- Loose and stained ceiling tiles
- No alternate evacuation route on third floor
- Single pane windows in some areas
- Badly deteriorated exterior, i.e. paint, wood, stucco
- Shortage of parking in winter

## **RECOMMENDATION**

Given the myriad problems facing this building, in addition to its design unsuitability for county purposes, the Grand Jury recommends that this building be replaced. The recommendation should be considered in the context of long-term county office space needs throughout the Tahoe Basin. This replacement project should remain in the El Dorado County capital improvement program as a high priority project.

## **RESPONSES**

Response(s) to this report is required from the El Dorado County Board of Supervisors in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **El Dorado High School**



### **REASON FOR REPORT**

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

### **BACKGROUND**

El Dorado High School was built in 1937 and has undergone many repairs and renovations. A modernization project created the Carl Borelli Amphitheatre and a new wing of classrooms across the street from the main campus. The school is comprised of 22 buildings, including 67 classrooms. The staff of 113 includes 9 full-time

maintenance/custodial persons. It is noteworthy that the school has been named a California Distinguished School with an Academic Performance Index of 764. It offers educational and social programs such as Safe School Ambassadors, vocationally oriented academy programs and Cyber High (a class to assist students who need to improve poor or failing grades).

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

The Superintendent stated that there have been no reported Williams Act violations (the Williams Act of 2004 provides standards for school facilities). However, many areas of concern were observed by the Grand Jury. In researching the Williams Lawsuit Settlement and Facilities Inspection Tool (FIT), it was determined that some of the areas were in violation of the Williams Act. Further, some of the areas noted could easily be repaired, remedied or eliminated:

### **SAFETY CONCERNS**

- Lack of evacuation maps in many classrooms and labs (Williams Act violation – FIT #7-c)
- Emergency exits blocked by equipment (Williams Act violation – FIT #7-c)
- Lack of maximum occupancy signs (Forum Room)
- Exercise mats outside of the gym entry doors creating a tripping hazard (Williams Act violation – FIT #14-a)
- Wood planks in front of the gym with no safety signs or barriers (Williams Act violation – FIT #14-a)

### **HEALTH CONCERNS**

- Stained ceiling tiles (Williams Act violation – FIT # 4-d, #5-d)
- No soap in the girls' restroom in the gym (Williams Act violation – FIT #11-c)

### **ENVIRONMENT CONDUCTIVE TO LEARNING**

- Damaged walls could be repaired with spackle and paint (Williams Act violation – FIT #4-a, #5-b, #6-a, #9-b)
- Excessive debris on the grounds (Williams Act violation – FIT #15-a)

## **RECOMMENDATIONS**

1. It is recommended that El Dorado High School administration promptly correct all noted conditions.
2. It is recommended that the administration improve its maintenance/custodial program to more effectively utilize existing staff to ensure that all areas of plant maintenance are consistently monitored and managed effectively.

## **RESPONSES**

Response(s) to this report is required from the Board of Trustees of the El Dorado Union High School District in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Louisiana Schnell Elementary School**



### **REASON FOR REPORT**

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

### **BACKGROUND**

Louisiana Schnell School was built in 1965. There are 12 buildings including 17 classrooms. A staff of 35 includes two full-time maintenance/custodial persons. The school received a modernization bond in 2002. Administration seeks out and utilizes other resources such as Eagle Scouts, Department of Parks and Recreation, sports leagues

and other volunteers to help provide funding and/or human resources for campus maintenance and beautification. Over one-half of the students qualify for the Federal Free and Reduced Lunch Program, indicating a lower socio-economic component of the community. Together with the school staff, the school's parents and community are actively engaged in supporting and promoting every facet of the school program and educational environment. It is noteworthy that the school's 2007 Annual Performance Index was 807, indicating superior performance. The school is both a California Distinguished School and a Blue Ribbon School (federal award).

## **FINDINGS**

The 2007-2008 El Dorado County Grand Jury has arrived at the following findings which require no response:

Louisiana Schnell School is a well maintained school that utilizes many resources to enhance its maintenance funding. It has had no reported Williams Act violations (The Williams Act of 2004 provides standards for school facilities). The school was found to be in compliance with all health and safety regulations and surpasses legal requirements in staff training for emergency evacuations.

## **COMMENDATION**

Louisiana Schnell Elementary School, under the leadership of the district superintendent and the site principal, has created and maintained an educational plant that is safe and healthy, as well as welcoming to its students, staff, parents, and community.

The 2007-2008 Grand Jury commends Louisiana Schnell School for its exemplary campus safety and beautification. It is evident that the superintendent, principal, staff, and parents are successfully addressing all facility issues.



**The 2007-2008  
EL DORADO COUNTY  
GRAND JURY**

**COMMENDS**

**The Staff and Community of  
Louisiana Schnell Elementary  
School**

**For its exemplary  
campus beautification and maintenance**

DATE:

SIGNED:



## EL DORADO COUNTY GRAND JURY 2007-2008

### Edwin Markham Middle School



### REASON FOR REPORT

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

## **BACKGROUND**

Edwin Markham Middle School was built in 1960. The school is comprised of 13 buildings that house 20 classrooms. A staff of 39 includes 2 full-time maintenance/custodial persons (1 day, 1 night).

## **FINDINGS**

The 2007-2008 El Dorado County Grand Jury has arrived at the following findings which require no response:

1. In 2006, the school received modernization funding that was used to build a new gymnasium and science building, along with athletic field upgrades. Additional modernization will occur this summer, to include restroom and classroom improvements, as well as reconfiguration of administrative space. In addition to the modernization project and American Disabilities Act upgrades, the school has continued to improve the facility resulting in a safe and healthy social interaction space. The school has shown growth of 56 Academic Performance Index points in the past two years bringing their score up to 767.
2. There have been no reported Williams Act violations (The Williams Act of 2004 provides standards for school facilities). Restrooms were clean and well maintained. There were no safety infractions noted. Evacuation maps were posted by doorways. Ceilings, walls and fences were in good repair; fire extinguishers have been inspected regularly; fire drills are performed monthly; hallways and fields were in excellent condition.

## **COMMENDATION**

Edwin Markham Middle School, under the leadership of the district superintendent and the site principal, has created and maintained an educational plant that is safe, as well as welcoming to its students, staff, parents, and community.

The 2007-2008 Grand Jury commends Edwin Markham Middle School for improving the educational environment. It is evident that the superintendent and principal are successfully addressing all areas of health, safety and attractiveness.



**The 2007-2008  
EL DORADO COUNTY  
GRAND JURY**

**COMMENDS**

**Edwin Markham  
Middle School**

**For continuing improvement of  
its educational environment**

DATE:

SIGNED:



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **El Dorado County Sheriff's Building**



### **REASON FOR REPORT**

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

## **BACKGROUND**

The El Dorado County Sheriff's Building was built in 1974, housing both the sheriff's operations and the county jail until 1988. The growth in El Dorado County has rendered this facility inadequate to properly handle current needs, predominantly due to lack of space. The Sheriff's Department currently operates throughout the county from nine locations. The Sheriff's recommendation for solving the space issue is to consolidate central operations into a new 80,000 square foot facility in El Dorado Hills, the largest and fastest growing community in the county. It has been suggested that the existing Sheriff's building (after appropriate reconfiguration) could be utilized as a substation for the Placerville area. Another substation already exists in the Tahoe Basin.

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. Staff crowding, which hampers maximum efficiency, is the most significant problem. Indications of space limitations are:
  - Closets have been turned into offices
  - Inadequate space for secure evidence storage
  - No room for a forensic lab
  - No space for a conference room
  - No privacy for citizens when reporting crimes
  - Insufficient parking space
  - Shortage of employee lockers
  
2. In spite of the space problem that currently exists, the Sheriff's Department is commended for efficiently utilizing its current 13,000 square foot facility. At the time of the inspection, the facility was clean and safety regulations were generally being followed. Due to the age of construction, the building is not totally compliant with the American Disabilities Act. Areas noted as requiring immediate attention due to health and safety concerns are:
  - Cluttered hallways in the evidence area (creating a potential egress problem)
  - Asphalt repair needed in the parking lot
  - Payroll administrative area does not have proper evacuation signs posted

## **RECOMMENDATIONS**

1. It is recommended that the three areas listed in finding # 2 above be remedied immediately.
2. The sheriff's facilities upgrade is already in the El Dorado County capital improvement program, indicating a new main facility in Placerville, and sub-station in El Dorado Hills. This Grand Jury, however, agrees with the sheriff's current recommendation identified in the background section of this report, specifically a new main facility in El Dorado Hills, and converting the current main facility in Placerville for use as a sub-station.

## **RESPONSES**

Response(s) to this report is required from the El Dorado County Board of Supervisors in accordance with California Penal Code §933.05.

**EL DORADO COUNTY GRAND JURY  
2007-2008**

**FINAL REPORT  
Part III**



**June 2008**

**Grand Jury  
P.O. Box 472  
Placerville, CA 95667  
(530) 621-7477  
[www.co.el-dorado.ca.us/grandjury](http://www.co.el-dorado.ca.us/grandjury)**

El Dorado County Grand Jury 2007-2008  
June 2008

Table of Contents

**Preface**

Notice to Respondents

**Final Reports Released – June 2008**

Use of El Dorado County Vehicles	1
Emergency Permits in the Development Services Department	5
Garden Valley Fire Protection District	8
Hillwood Community Services District	12
Audit of Human Services and Mental Health Medi-Cal Revenues	15
El Dorado County Procurement Department	18
South Lake Tahoe Police Department	21
Victim Restitution	25



## NOTICE TO RESPONDENTS

California Penal Code § 933.05 mandates specific requirements for responding to grand jury reports. This information is intended to help you in your responses to avoid unnecessary and time-consuming repetitive actions. Those responses which do not fully comply with Penal Code requirements, including explanations and time frames where required, will not be accepted and will be returned to respondents for corrections.

### RESPONSE TO FINDINGS

*The responding person or entity shall indicate one of the following:*

- 1. The respondent agrees with the finding.*
- 2. The respondent disagrees wholly or in part 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 reason therefore.*

### RESPONSE TO RECOMMENDATIONS

*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 an agency of department being investigated or reviewed. 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.*

*\* The time frame needs to be specific and reasonable.*

\*\* At the conclusion of this analysis, the recommendation must be responded to as required by items 1, 2, or 4.

## **RESPONSE: TIME, WHERE AND TO WHOM**

The Penal Code identifies two different response times, depending upon the classification of the respondent (see below), and includes where and to whom the response is directed. Day one begins with the date of the Final Report.

### **1. Public Agency:**

The governing body of any public agency (also refers to department) must respond within ninety (90) days. The response must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Examples: Governing body of a public agency, Board of Supervisors,  
Directors of Districts

### **2. Elective Officer or Agency Head:**

All elected officers or heads of agencies/departments are required to respond within sixty (60) days to the Presiding Judge of the Superior Court, with a copy provided to the Board of Supervisors.

Examples: Sheriff, Auditor/Controller, Recorder, Surveyor, Tax/Treasurer,  
County Superintendent of Schools

## **FAILURE TO RESPOND**

Failure to respond to a grand jury report is in violation of California Penal Code §933.05 and is subject to further action.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Use of El Dorado County Vehicles**

Case No. 07-030

### **REASON FOR REPORT**

The El Dorado County Grand Jury received complaints regarding the use of County-owned vehicles designated as “take-home” vehicles. There was also media attention to the subject matter. Specifically, these complaints questioned why some County employees were assigned permanent and overnight retention of County-owned vehicles when they seemingly did not qualify under the requirements specified in the Board of Supervisors (BOS) Policy #D-4 for Vehicle Use, Standards, Procurement and Disposal, adopted 12/22/87 and revised 6/20/06. After initial review of the complaints the Grand Jury determined there was sufficient cause to investigate the use of County-owned vehicles.

### **BACKGROUND**

The County owns 542 vehicles, although only 475 are specifically managed by Fleet Management. These vehicles range from passenger cars to heavy-duty vehicles for use by our Department of Transportation (DOT). Currently 83 vehicles in this fleet are assigned to individual employees of the County and are driven to and from their respective residences.

The Board Of Supervisors Policy #D-4 sets forth rules regarding the use and operation of vehicles while on official County business; the assignment, use, operation, procurement and disposal of County-owned vehicles, and the methods used by the County to meet business transportation needs of County employees.

The County’s Fleet Management Unit in the Department of General Services operates a vehicle pool and coordinates department requests for leased, rented, or purchased vehicles to make them available to County departments. Where appropriate, County vehicles are assigned to specific County departments and managed by Fleet Management.

County department heads are responsible for ensuring compliance with all provisions of the BOS Policy and maintaining and monitoring vehicle usage logs.

## METHODOLOGY

The Grand Jury gathered data from many sources. Personnel were interviewed from the Chief Administrative Office (CAO), Auditor-Controller's Office and General Services.

Documents Reviewed:

- Board of Supervisors Policy #D-4 For Vehicle Use, Standards, Procurement and Disposal adopted 12/22/87 and revised 6/20/06
- Fleet Rates Spreadsheet Draft (08/09)
- General Services – Fleet Management Draft Vehicle Cost Estimates Fiscal Year 08/09 Budget
- General Services – Fleet Management Vehicle Rate Reduced Calculations Fiscal Year 07/08
- Take Home Vehicles 2007 Spreadsheet

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. BOS Policy #D-4 is not being followed. Paragraph B.2 titled "Vehicle Use" requires the CAO's Office to review permanent assignment and overnight retention of County-owned vehicles on an annual basis and to continue or rescind authorization. Interviews with the CAO's office revealed that this has not been done for several years.
2. Paragraph B.2.a of the policy specifies that an employee who is responsible for responding to emergency situations related to public health or safety and protection of property on a 24-hour basis may be assigned a vehicle for on-call duty. However, paragraph B.2.b is subject to interpretation and allows any County employee that can demonstrate to the Board of Supervisors that it is in the best interest of the County for that employee to be assigned permanent and overnight retention of a County-owned vehicle.
3. The purchase of County vehicle fuel is a budget item within various County departments, and **is not** a component of the Fleet Management process. This is a significant County expense and estimated to be over 1.6 million dollars next year and represents nearly 40% of total fleet costs.
4. Fuel purchases for County vehicles are not centrally managed or controlled. The County's primary fuel vendor possesses very sophisticated reporting capabilities and would be able to provide excellent tools in an effort to better manage fuel purchases.

5. The 50 vehicles identified as “Department 99” or department owned are not managed by Fleet Management, so the efficiency of operating those vehicles (which represent nearly 10% of the County total) is difficult to determine.
6. County fleet costs for 2008-2009 are estimated to be 4.2 million dollars, with projected total miles at over 5.4 million. These costs represent a cost to the County of 77.2 cents for every mile driven. As a point of reference, the rate the County reimburses employees to drive their own vehicles on County business is 50.5 cents per mile, or 26.7 cents per mile *less* than the County spends on its own vehicles. We do recognize that the County per mile cost is an average of ALL vehicles, including some heavy duty vehicles.
7. In reviewing the take-home vehicle list many of the assignments are not for “health and safety” or on-call status use. Take-home vehicles are driven 21% more miles per year, per vehicle when compared to the balance of the Fleet managed vehicles. One reason is that take-home vehicles include “commute” miles.
8. Potential cost savings to the County exist in two areas:
  - a. The conversion of miles driven in County-owned vehicles to private vehicle reimbursement would save 26.7 cents per mile. If a 10% reduction were achieved, the County would save an estimated \$145,278 annually.
  - b. A 10% reduction of total County vehicle miles driven would yield a 77.2 cent per mile savings, estimated to be \$419,862 annually.
9. Our investigation indicated that Fleet Management is performing their function well.

## **RECOMMENDATIONS**

1. The CAO to complete the required annual review of permanent assignment and overnight retention for County-owned vehicles for each County department by the end of this calendar year. Those assignments that cannot be justified should be rescinded.
2. Paragraph B.2 in the County vehicle policy should provide a clear definition of what constitutes “in the best interest of the County” for assigning take-home vehicles when the vehicle is not used for the public health and safety of citizens or does not meet the on-call qualification.
3. The purchase of fuel for County vehicles should be consolidated under Fleet Management so that all vehicle cost accounting and oversight is managed under a single program.
4. The management of “Department 99” vehicles should be consolidated under the Fleet Management process to insure that effective oversight and efficiency is achieved.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

# PROJECTED 2008-2009 COUNTY VEHICLE MILES AND RELATED COSTS

TOTAL FLEET MILES:	5,437,318	
		<u>COST / MILE</u>
ALL COSTS LESS FUEL:	\$2,560,397	47.1 ¢
FUEL COST (407,806 gals.):	\$1,638,224	30.1 ¢
TOTAL COUNTY COST:	\$4,198,621	77.2 ¢
COUNTY PRIVATE VEHICLE REIMBURSEMENT RATE:		50.5 ¢
SPREAD BETWEEN COUNTY PER MILE COST AND REIMBURSEMENT RATE:		26.7 ¢

POTENTIAL ANNUAL SAVINGS:

> EACH 10% REDUCTION IN OVERALL MILES DRIVEN =	\$ 419,862
> EACH 10% CONVERSION FROM COUNTY TO PRIVATE VEHICLE =	\$ 145,278

Vehicle Categories	Count	% of Fleet Managed Vehicles	Miles	% of Miles	Miles/Vehicle
"Take-Home" Vehicles:	83	17.5%	1,112,350	20.5%	13,402
All Other Fleet-Managed Vehicles:	392	82.5%	4,324,968	79.5%	11,033
<b>Total Fleet Managed Vehicles:</b>	<b>475</b>	<b>100%</b>	<b>5,437,318</b>	<b>100%</b>	<b>11,447</b>
"Department 99" Vehicles:	50				
Inactive Vehicles:	17				
<b>Total County Owned Vehicles:</b>	<b>542</b>				

**NOTE:** costs and miles for the 50 "Department 99" vehicles are not included, as they are not managed by Fleet Mgmt.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Emergency Permits in the Development Services Department**

Case No. GJ 07- 027

#### **REASON FOR REPORT**

The Grand Jury became aware of lengthy delays in the permit process for the reconstruction of damaged buildings.

#### **BACKGROUND**

Fires, floods, earthquakes and other unexpected damage to buildings can cause great hardship to occupants and owners. Often a business must cease or curtail operations and homeowners must find temporary lodging until building repair or reconstruction is completed. Expediting reconstruction is in the interest of building owners and occupants, as well as the community. However, unlike most construction contractors, building occupants and owners struck by fire or other emergencies are usually not familiar with the rigorous County construction permit and inspection regulations.

The El Dorado County Board of Supervisors commissioned a study of private development review processes conducted by the County, principally within the Development Services Department. Results were presented in a document and power point presentation, "Permits Evaluation and Recommended Tasks Report," March 25, 2008. This report was aimed at changes that would facilitate private commercial development in the County. While it made several recommendations regarding the Development Services Department, it omitted any discussion of the Department's response to emergency repair and reconstruction of damaged buildings.

#### **METHODOLOGY**

The Grand Jury investigated the County Development Services Department's process for emergency permits. The Grand Jury interviewed several individuals and reviewed many documents.

People Interviewed:

- El Dorado County Assistant Chief Administrative Officer (interim)
- El Dorado County building contractors and business owners

- El Dorado County Development Services Department personnel
- Fire Protection District personnel

Documents Reviewed:

- “Angora Fire Reconstruction Expedited Process,” El Dorado County Development Services Department
- Building Permit Application (form), El Dorado County Development Services Department
- Contractor’s Project Notes for the re-building of a damaged business
- “Fire Damage Rapid Response Permit Process,” with charts, El Dorado County Development Services Department
- “Permits Evaluation & Recommended Tasks Report,” March 25, 2008, Assistant Chief Administrative Officer, El Dorado County (interim)
- “Scheduling of Permits for Reconstruction of a Fire Damaged Building,” El Dorado County Development Services Department

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The need for a rapid response to expedite repair and reconstruction of damaged buildings is recognized in a Development Services Department’s document, “Fire Damage Rapid Response Permit Process.” Grand Jury interviews provided anecdotal evidence that this process takes much longer than necessary.
2. The building construction inspection steps received little criticism. Most of the problems were deemed to occur in the permit process. Owners of damaged buildings often don’t have the knowledge and experience that developers have in navigating through the complicated process. They usually require guidance on how to proceed, both at the beginning and along the way to the completion of the permit process. Several persons within the Development Services Department, including outside officials such as fire marshals, are usually involved in a series of sequential steps. There is no evidence of an overall coordinator to actually obtain rapid response. Other than a red cover sheet (“red tag”) placed on the document package, there was no evidence of a systemic rapid response process. The Development Services Department has been characterized as insufficiently energetic in expediting permits under emergency response conditions.

3. Reconstruction of damaged buildings to meet current codes required by State law leads to confusion between owners and the Development Services Department regarding the necessary reconstruction plans and re-submittals. This leads to delays.
4. The Grand Jury found some evidence that contractors feared reprisal if they made complaints about the permit process.

## **RECOMMENDATIONS**

1. The County Board of Supervisors should direct the three Development Services Branch Managers (Placerville, El Dorado Hills and South Lake Tahoe) to be master coordinators of rapid response to all building emergencies that occur in their areas. In this capacity, their duties should include expediting all activities related to repair and reconstruction by:
  - Close supervision of all involved Department employees
  - Aggressive coordination with fire marshals and other government officials outside the Department
  - Actively advising the owners and occupants of damaged buildings throughout permitting and inspection, from beginning to completion of building repair and reconstruction
2. A dated events log should be kept on each emergency response by the Branch Managers. These logs, with relevant comments, should be reported monthly to the Director of the Development Services Department.
3. Rapid response to emergency repair and reconstruction should be a consideration in evaluating job performance of Branch Managers within the Development Services Department.
4. The (new) Director of the Development Services Department should establish an “open door” policy in order to hear complaints from building owners and contractors on a strictly confidential basis and make it clear to the construction community that this policy has been adopted.

## **RESPONSE**

Responses to this report are required in accordance with the California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Garden Valley Fire Protection District**

Case No. GJ 07- 020

### **REASON FOR REPORT**

The El Dorado County Grand Jury received a complaint requesting that the Grand Jury investigate the selection and hiring of a payroll consultant by the Garden Valley Fire Protection District (GVFPD). In the course of the investigation the Grand Jury looked into the operations and responsibilities of the Garden Valley Fire Protection District Board of Directors, the position of Fire Chief and administrative staff.

### **BACKGROUND**

“The Garden Valley Fire Protection District, a combination paid and volunteer staffed department is an “all risk” agency providing fire protection, rescue and initial response medical aid to a population of approximately 7,500. The District consists of an area of approximately 60 square miles of unincorporated area on the Georgetown Divide in northern El Dorado County . . .” (Garden Valley Fire Protection District website)

The District’s Board of Directors consists of five members. These are non-compensated positions. There are approximately 25 members of the Fire Department, of which 12 are volunteers.

### **METHODOLOGY**

The Grand Jury utilized sworn testimony, information gathered from interviews and the review of documentation consisting of reports and written statements.

People Interviewed:

- El Dorado County Auditor-Controller
- GVFPD personnel and employees

## Documents Reviewed:

- GVFPD financial documentation
- GVFPD web page
- Internal emails, memos and correspondence, guides, and manuals
- Various written information including newspaper articles and notes provided by complainant and witnesses

## RESULTS OF INVESTIGATION

During the time frame of 2005-2007, GVFPD Board of Directors and the two prior Fire Chiefs revealed a high degree of palpable dysfunction and bouts of acrimony among themselves. The common theme by most members of the Board of Directors and a former Chief was to proclaim ignorance of policies, procedures and ultimate responsibility of the events which resulted in the questionable hiring of a payroll consultant.

The Board of Directors was negligent in carrying out their fiduciary duties relative to proper oversight of Fire Chief(s) and the GVFPD employees. The Board as a whole did not demonstrate a clear understanding of the budgetary and fiscal controls that were their responsibilities.

The Fire Chief(s) neglected to properly oversee administrative and personnel issues. Their lack of oversight was directly responsible for the atmosphere that allowed the breakdown of proper budgetary and fiscal controls. Additionally, such failures of supervision prompted administrative personnel to act independently of the Board and the Chief(s) controls over budgetary and administrative policies.

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it was addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. For over three decades, payroll, accounting and accounts payable services were provided by the El Dorado County Auditor-Controller's office at no cost to the District. The GVFPD Board of Directors decided to withdraw the GVFPD funds from the County Auditor-Controller. This decision doesn't appear to be based on any viable alternative to the services that were being performed by the County. Furthermore, GVFPD did not offer a rational explanation to the Auditor-Controller's office as to why the funds were withdrawn. The GVFPD recently decided to go back into the El Dorado Auditor-Controller's program and work with the Auditor's office to re-establish fiscal oversight. The overall cost to GVFPD withdrawing from the Auditor-Controller's office and eventually returning to the County has yet to be determined.

2. The GVFPD Board of Directors was negligent in their fiduciary responsibilities to the citizens of the District by their failure to properly oversee the operation of the Department. Lack of control with hiring procedures resulted in the District contracting with a person (to perform District financial transactions) who had previously plead guilty to grand theft and selling securities without a license. Additionally, this consultant misrepresented his qualifications but was not immediately terminated when this information was provided to the District. Contract agreements for financial services were not formalized in writing nor approved by the Board.
3. The Fire Chief is ultimately responsible for the supervision and oversight of Fire District personnel. The previous Fire Chief(s) were negligent in their oversight of the administration and personnel issues which led to conflicts within the Department. Former Fire Chief(s) allowed administrative personnel to develop a pattern of insubordination and bypass the chain of command. By not addressing these affronts to the Fire Chiefs' authority, administrative personnel were allowed to operate with impunity affecting the good order and function of the Fire District.
4. Financial obligations were/are delinquent and inaccurate, including both payroll and billing to United States Forest Service (USFS). The result of these actions could cost the District thousands of dollars in repayment and expenses.
5. The contract with USFS for the All Risk Team was poorly managed. Problems include inaccurate record keeping, incorrect payments to employees and mishandling of Government funds.
6. The financial controls and budgetary process in GVFPD that were found to be deficient are now in the process of being corrected by the current Board of Directors and Fire Chief.

## **RECOMMENDATIONS**

1. The GVFPD Board of Directors need to clearly understand their responsibilities and have adequate budgetary and financial knowledge while engaging in District business. If the individual directors are deficient in those skill sets, it is their responsibility to become proficient enough to serve the District effectively, or resign.
2. The District Fire Chief must fully understand the duties of the position. Included in those duties is the proper oversight and supervision of all personnel within the Fire District. The Chief must be able to quickly recognize and deal with personnel and administrative issues that may lead to financial or operational problems.
3. The GVFPD Board of Directors should participate in the educational programs offered through the California Special District Association.

4. County Auditor to provide a final report with findings of fact regarding financial standing of the GVFPD with the recommendation that checks and balances be put in place.
5. The Grand Jury strongly recommends that the GVFPD seriously consider the recommendation of the 2007-2008 Grand Jury Final Report Part II concerning the consolidation of fire districts.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Hillwood Community Services District**

Case No. GJ 07-020

### **REASON FOR REPORT**

The El Dorado County Grand Jury received a complaint from a citizen/resident of the Hillwood Community Services District (HCSD). The citizen requested the Grand Jury investigate the Board of Directors of the HCSD regarding various actions taken by the Board, including violation of California Government Codes and the collection of monies for the purpose of establishing a Road Improvement Group (RIG) within the HCSD. The Grand Jury has also had communication with the El Dorado County Auditor-Controller concerning Community Service Districts (CSD) in the county and the problems associated with managing and operating CSDs within the requirements of the Government Code.

### **BACKGROUND**

The fifteen (15) single purpose road districts in El Dorado County and other multiple purpose CSDs provide road maintenance as part of their various defined services. These CSDs are characterized as being governed by a board of directors (usually volunteers) with defined boundaries, are a form of government and provide services and facilities depending on the size and scope of the CSD. These districts are usually in rural communities and formed following development of a land parcel or sub-division. Each CSD is independent.

Hillwood is a single purpose CSD that maintains approximately six miles of roads. HCSD contains over 160 residential parcels within 390 acres and serves 273 registered voters. The District is located in the Shingle Springs area of El Dorado County. The district was formed to maintain roadways that connect two public roads, French Creek Road and South Shingle Road. The HCSD is geographically divided by topography with the northwestern area identified in this report as Monarch-Woodside. The

Monarch-Woodside area is within the boundaries and under the governance of HCSD. Road repairs and maintenance are based on the amount of available funding and the extent of damage to the roads. The HCSD Board of Directors makes these decisions.

There is a specific group of residents in the Monarch-Woodside area of HCSD who have been trying to form a RIG for the express purpose of improving and maintaining certain portions of HCSD roads in the Monarch-Woodside area. This specific group of residents wants to encumber their property with additional taxes to be collected by the County to improve their roads. These new taxes would be in addition to the taxes already collected to maintain all roads in the HCSD.

## **METHODOLOGY**

The Grand Jury gathered data from many sources including the El Dorado County Auditor-Controller, California Special Districts Association, Local Agency Formation Commission (LAFCO), Community Association Institute and previous investigations into CSDs from prior year's grand juries.

People Interviewed:

- Complainant
- El Dorado County Auditor-Controller
- Hillwood CSD Residents and Directors
- Local Agency Formation Commission (LAFCO)

Documents Reviewed:

- California Special Districts Association Documents
- El Dorado LAFCO, December 2007 Final Municipal Service Review
- Hillwood CSD documents and correspondence

## **FINDINGS**

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The Grand Jury found no intentional wrongdoing on the part of the HCSD Board of Directors.
2. The information gathered revealed that the monies generated by taxes for road repair in the HCSD are insufficient to meet the needs of the District.

3. The HCSD Board is within its discretion to allow Monarch-Woodside to become a “zone” or RIG under the HCSD. Their position is supported by California Government Code §61140 and LAFCO.
4. There is a prevailing lack of trust by some residents in the HCSD that was clearly demonstrated when residents were interviewed by the Grand Jury. Most residents are not involved in the operation of HCSD and do not support any tax increases to pay for improving roads. Combined with insufficient funds to meet HCSD road needs, there exists a contentious environment that continues to create turmoil among residents. These conditions do not create an environment where good governance and involved citizens can resolve issues that arise in the normal course of a CSD.

## **RECOMMENDATIONS**

1. The HCSD should create a newsletter, website or other form of communication to help keep all residents informed of HCSD needs and proposed action(s) by the Board of Directors, to include activity by Monarch-Woodside RIG.
2. The 2007-2008 Grand Jury Final Report Part-I released March 2008, "Assisting Road Repair Community Service Districts," made the following recommendations:
  - a. The County Department of Transportation should invite road repair district directors to its annual training sessions for Zones of Benefit Advisory Committee members.
  - b. The County should publish the "Zone of Benefit Advisory Committee Manual" and make it available, free of charge, to every road repair district director. As soon as possible, this Manual should also be provided through the internet.

If these two recommendations are accepted by the Department of Transportation, we recommend that HCSD avail themselves to these resources.

3. To address the prevailing lack of trust in the Hillwood CSD that dates back over thirty years, the Grand Jury recommends that the Board of Directors inform residents of the powers and duties of the Board, and advise residents that there is a remedy called direct democracy in the form of initiative, referendum and recall. This gives power to citizens to propose items directly to the Board through notice, petition and election. A referendum gives citizens a direct vote in District matters and recall powers allow residents to remove members from office before the next election.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Audit of Human Services and Mental Health Medi-Cal Revenues Case No. GJ 07-006**

#### **BACKGROUND**

During the past five years, the Grand Jury has received several requests for action relating to the poor internal administrative controls in the County Departments of Human Services (DHS) and Mental Health. The Grand Jury seated in 2005-2006 had an outside audit performed by qualified, respected, and seasoned consultants with expertise in the Mental Health and Medi-Cal Programs. The audit determined that both departments lacked necessary internal controls. Specifically in the administrative areas of time-keeping, completing reports, clients receiving incorrect information, and the programs administrated were not in compliance with State and/or Federal laws. The major areas of concern were the financial billing, time keeping, accurate report documentation, and recouping funds from the State of California.

A follow-up study was performed by the 2006-2007 Grand Jury and although both departments had made improvements, still more needed to be done. (See Grand Jury reports from 2005-2006 and 2006-2007.)

In 2007, the Sacramento Bee reported the Attorney General and the Director of DHS provided an estimate that the State's Medi-Cal Program was losing up to one billion dollars annually due to fraudulent activities. The Grand Jury received a less than satisfactory response into its inquiry to both the County Departments of Mental Health and Human Services about the status of its billing and financial reimbursement of clients' services.

#### **METHODOLOGY**

The 2006-2007 Grand Jury voted to allocate funds to perform an audit of the financial billing practices of both County departments in the Medi-Cal programs. The audit was initiated in 2006-2007, but was not complete by the end of the jury's term requiring the audit to be terminated. After a thorough analysis, the 2007-2008 Grand Jury voted to resume the audit with Harvey Rose Associates, LLC, adjusting the audit scope to include questionable programs in DHS and Mental Health Departments.

## FINDINGS

1. El Dorado County faces a severe budget crisis and the findings in the Audit Report provide evidence that the County could be at risk of losing up to **\$541,420**. If the State requested the money be refunded, it would have to come from the County's general fund. The potential losses are due to administrative errors and omissions, poor policy communications and procedures, and questionable management in the Human Services Public Guardian Program. Conversely, the Human Services Linkages Program was found to be well managed.
2. The Grand Jury acknowledges the difficulty in administering and implementing mental health and human service programs. County staff is concerned and takes pride in caring for our citizens; however, there is room for improvement.
3. The Grand Jury and the Auditor encountered multiple impediments in obtaining the necessary legally authorized and court-ordered records from DHS. Even with repeated County Counsel intervention, the Auditor, with the court-order, did not receive requested client case record information, including requested assessments in effect during the review period, pertinent to the performance of a comprehensive compliance audit. Only during the June 9, 2008 exit conference, did DHS acquiesce to allow the Auditor and grand jurors a chance to physically inspect the records, just six days before the audit was to be submitted to the Grand Jury. The Auditor gave DHS every possible opportunity to comply. After the exit conference, DHS did provide the Auditor with additional information requested. A subsequent letter from the Assistant Director of DHS to the Grand Jury dated June 13, 2008, extended a late invitation encouraging jurors to review the electronic records. The invitation was received in the Grand Jury after the audit review period and the closure of the investigation.

The impediments the Auditor experienced in acquiring information was in direct contrast with the Department of Mental Health. The Grand Jury commends the Department of Mental Health for their positive attitude and desire to improve customer service and providing information requested by the Auditor while still maintaining client confidentiality.

4. The results of the investigation and information from previous Grand Juries indicate that closer oversight of the leadership in the DHS by the Board of Supervisors is required.
5. During the exit conference, the Auditor presented to DHS a copy of State regulations pertaining to Targeted Case Management and written comprehensive Individualized Service Plans. DHS stated they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation.

## **RECOMMENDATIONS**

1. The Grand Jury agrees with the Audit findings and urges the Board of Supervisors to direct management in the Departments of Human Services and Mental Health to implement all the audit recommendations.
2. The Board of Supervisors should direct the development of a comprehensive written policy and procedure for departments on “How To” process requests for confidential records from auditors and court orders.
3. Next year’s Grand Jury should determine if DHS provided to the Auditor the documents requested in the court-order.
4. Department of Health Services should actively engage in a process with the State of California to resolve any discrepancies in training when that training conflicts with statutes and program regulations. Resolutions should be well documented, communicated, and readily retrievable.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **El Dorado County Procurement Department**

Case No. GJ 07-019

### **REASON FOR REPORT**

The El Dorado County Grand Jury received a complaint regarding poor customer service levels delivered by the County Procurement and Contracts Division of the Chief Administrative Office (Purchasing Department). There was sufficient concern to warrant the Grand Jury investigating the allegations and determining if some corrective recommendations would surface.

### **BACKGROUND**

County Procurement Policy #C-17 states, "The County Purchasing Department is responsible for the procurement of services, supplies, materials, goods, furnishings, equipment, and other personal property for the County and its offices unless otherwise excepted by ordinance or these policies." The Purchasing Department is also responsible for providing leadership, guidance and assistance to departments in all procurement related matters, including interpreting and applying County policies and procedures related to procurement of goods and services. The department is expected to provide a high degree of customer service.

The Purchasing Department is staffed with seven people: a department manager, three buyers (of which one position is currently vacant), one analyst (concentrating primarily on contracts), and two administrative support personnel. This county decentralizes the purchasing function as it relates to contracts. There are currently seven additional employees engaged in the contract process within the departments of transportation, environmental health and public health.

### **METHODOLOGY**

The Grand Jury gathered data through interviews with county personnel, as well as reviewing written county documents.

#### El Dorado County Personnel Interviewed:

- Auditor/Controller
- Chief Administrative Officer
- Information Technology Department Manager
- Office of Emergency Services Manager
- Procurement Department Analyst
- Procurement Department Buyer
- Procurement Department Manager

#### Documents Reviewed:

- Document titled “Procurement and Contracts Division Workflow Analysis and Recommendations” dated 10-31-2007
- Document titled “Purchasing Issues” from Purchasing/Fiscal Staff meeting 1-30-2008
- Documented procurement problems from various county sources
- El Dorado County Procurement Policy C-17, adopted 10-11-2006; revised 3-20-07
- Several papers regarding procurement issues from various County sources

## **FINDINGS**

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings.

1. Interviews with County personnel indicate a very poor internal and external customer service level for the purchasing function in the County. This is evidenced by late billings and payments, as well as excessive time to process contracts and bids.
2. A package put together by the Purchasing Department in October of 2007 titled “Procurement and Contracts Division Workflow Analysis and Recommendations” (PCDWAR) was reviewed. This document was prepared for the Chief Administrative Officer (CAO), and some of the recommendations in the document were presented to the Board of Supervisors (BOS). The main thrust of the recommendations was to increase staffing levels, with a few substantive process change recommendations. These recommendations were based on a comparison to Placer County’s procurement processes and staffing. Comparing El Dorado County to Placer County is not a valid comparison as Placer County has four additional cities (six vs. two) making Placer County's procurement functions and needs greatly different.
3. This PCDWAR package contained detailed process flow charts for each major segment in the procurement process. The processes are long, complex, and heavily “paper-based.” There are also lead-time charts in the package, but

nothing to tell the reader if these processes and lead times are typical in the context of other county governments, private industry, or any measure of meeting expected levels of service to user departments.

4. The current purchasing process involves a time period for County Counsel and Risk Management to review all contracts. The lag times built in for those reviews appear excessive, especially if it is a renewal of an existing contract.
5. When a purchase order or contract needs to be changed, the current process necessitates virtually going back to the beginning of the process, adding excessive time delays.
6. It is recognized by the purchasing department, and the CAO, that the purchasing data management system, Advanced Purchasing Inventory Computer System, is out of date and inadequate to facilitate faster turnaround times for processing change orders. However, there is no plan or budget to affect an upgrade to this software program.
7. Although the problems within the purchasing function are recognized and acknowledged by both the CAO and the purchasing department, there are no definitive plans to fix the problems.

## **RECOMMENDATION**

1. The Grand Jury recommends that a task force be formed comprised of expert end users and outside vendors, charging them with the responsibility of streamlining the procurement process and improving the customer service level to all internal departments and external vendors. This end user task force should include members from all major County functions. The BOS should champion this process and assign one of the Supervisors to oversee the progress of this task force, with a monthly update from the leader of this task force to him/her and the CAO. We recommend that this task force start with a “blank page,” and identify an appropriate flow process, effective computer systems’ support and lead times that best serve the needs of the County and outside vendors. Significant progress has already been made in identifying the current process, but the challenge to the team is to identify what changes should be made to improve the procurement process.
2. The completed task force report should be written and submitted to the BOS with all recommended changes no later than the end of fiscal year 2008-2009.
3. No additions to personnel should occur until such time as a full review of the procurement process is completed.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **South Lake Tahoe Police Department**

Case No. GJ 07-003

### **REASON FOR REPORT**

The El Dorado County Grand Jury received several complaints from citizens of South Lake Tahoe. The complaints centered on the verbally abusive behavior and menacing actions of the South Lake Tahoe Chief of Police. Investigation of these complaints uncovered additional information which prompted the Grand Jury to look further into his managerial and behavioral issues.

### **BACKGROUND**

The City of South Lake Tahoe was incorporated November 10, 1965. The formation of the South Lake Tahoe Police Department (SLTPD) occurred on July 1, 1967. SLTPD has to date had seven police chiefs. The current police chief was sworn in as the Chief of Police in 2006.

The SLTPD has approximately 42 sworn positions and 12 civilian support personnel. The Police Department patrols approximately 13 square miles, of which five miles include the waters of Lake Tahoe. The City of South Lake Tahoe's permanent population is approximately 24,000 people, increasing to 150,000 during major holidays.

The SLTPD in 1991-1992 was faced with a crisis of a divisive department, low morale and a feeling of helplessness on the part of many who wanted to make the situation better. The Department united under the realization that in order to "fix" what was broken, everyone of the SLTPD personnel from the civilian employees to the Chief of Police needed to "roll up their sleeves", put their egos on hold, and do what was right for the SLTPD and more importantly, what was right for the citizens of South Lake Tahoe.

## METHODOLOGY

The Grand Jury utilized sworn testimony, information gathered from interviews and the review of documentation consisting of reports and written statements. The Grand Jury also received legal advice from the El Dorado County District Attorney's Office and the El Dorado County Counsel's Office.

### People Interviewed:

- City of South Lake Tahoe Citizens
- City of South Lake Tahoe Officials
- Consultants
- El Dorado County Counsel Officials
- El Dorado County District Attorney's Office Personnel

### Documents Reviewed:

- SLTPD Web Page
- Survey
- Written documentation including newspaper articles, faxes, notes, manuals, emails, and correspondence

## FINDINGS

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The Grand Jury interviewed several citizens of South Lake Tahoe who reported an altercation that occurred in September 2006. While having breakfast in a South Lake Tahoe restaurant, one citizen stated that he was approached by the Chief of Police who began to verbally accost and loudly berate him in front of two acquaintances. The citizen did not know what provoked the verbal tirade and felt the Chief of Police must have confused him with someone else. The citizen stated the loud disturbance in the restaurant that was witnessed by patrons and staff alike, caused the citizen to be fearful for his safety.
2. The Chief of Police, by losing his temper in public and verbally berating a citizen of South Lake Tahoe in a public restaurant, acted in an inappropriate manner and displayed conduct unbecoming a police officer. All citizens of South Lake Tahoe should have an expectation of being treated fairly in a professional and dignified manner by **ALL** members of the SLTPD.
3. In the course of this investigation, the Grand Jury also learned of serious concerns among the employees of the South Lake Tahoe Police Department on the state of the morale and cynicism that exists in the Department.

4. Although the Police Department is managed through a Participative Management Team (PMT) which was initiated in 1991-1992, the program has deteriorated over time and is currently ineffective. PMT is designed to allow all employees to participate in the decision making process of the Department. The Police Department leadership hired a consultant with the purpose of assisting the PMT process.
5. The evidence received by the Grand Jury paints a picture of a Department in crisis. Many of the statements made by members of the SLTPD and information gathered through documents can only be classified as troubling.
  - A majority of the sworn officers and supervisors believe promotions within the SLTPD are given to people who are not deserving
  - Almost all sworn officers and supervisors believe they are not rewarded for their efforts in achieving Departmental goals
  - The vast majority of sworn officers, supervisors and management agreed that the SLTPD employees do not have confidence in senior leadership
  - A majority of supervisors and sworn officers do not believe Management understands the importance of maintaining employee self-esteem
  - A large majority of sworn officers and supervisors fear reprisals if they openly exchange opinions and ideas
  - Almost all management, supervisors and sworn officers believe cynicism is widespread in the SLTPD
6. The Chief recognized the Police Department had many problems, and initiated the review knowing it may be unfavorable. The Grand Jury acknowledges his proactive efforts in requesting outside professional advice.

## **RECOMMENDATIONS**

1. The Grand Jury recommends the SLTPD leadership attend Strategic Management, Leadership, Coaching & Mentoring, Business Management, Anger Management, and Human Skills Development Training.
2. The City Council and City Manager should take proactive measures in administering oversight of the Police Department. The City Council and the City Manager should assure the formalization of the Police Department oversight is established and fully implemented. The Grand Jury recommends the Chief of Police meet with the City Manager on a monthly basis to give a “State of the Department” update to include performance measurements.
3. The Grand Jury recommends the Chief of Police prepare a written three and five year Strategic Plan. A copy of that plan should be published and available to the public.

4. The City Manager, City Council and the Chief of Police should collectively agree on the type of organizational structure for the South Lake Tahoe Police Department.
5. It is recommended that the SLTPD “revitalize” a form of Participative Management Team. If SLTPD agrees to continue with that program, then the management team needs to be trained in the PMT process to completely utilize the full benefits of the program. Additionally, the employees of the SLTPD must actively participate in the PMT to generate the desired results.
6. The SLTPD’s Strategic Plan should address clearly defined performance measures that include at a minimum the following areas of concern:
  - Confidence in Senior Management
  - Cynicism
  - Morale
  - Visions and Values of the Department
7. The Chief of Police should present a written progress report to the City Council and City Manager annually for public review.
8. The City Manager and City Council should maintain an active presence in tracking the Strategic Plan progress.
9. The Chief’s annual performance evaluation should include the progress of the goals set in the Strategic Plan.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.



## EL DORADO COUNTY GRAND JURY 2007-2008

### Victim Restitution

GJ 07-014

### REASON FOR REPORT

The Grand Jury elected to investigate the County's Victim Restitution activity to determine if El Dorado County is effectively and efficiently managing victim restitution.

### BACKGROUND

The successful 1998 ballot initiative, known as the California State Constitutional "Victims' Bill of Rights," created a new **Constitutional Right** for all victims of crime to receive restitution from their offender.

*"It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the persons convicted of crimes for the losses they suffer."*

The State of California Victims Compensation and Governmental Claims Board (VCGC) assists victims of **violent** crimes. Victims of **non-violent** crimes must rely mostly on the County to assist with ensuring that their right to restitution is realized.

### METHODOLOGY

The Grand Jury heard sworn testimony, information gathered from interviews and the review of documentation consisting of reports, written statements, and observation of court restitution proceedings.

The investigation focused on:

1. Processes and preparation necessary to attain and amend court orders of restitution
2. Court ordered restitution collection

3. Disbursement of payments
4. Enforcement of the court restitution order including financial reviews when offenders fail to consistently pay their restitution

Additionally, the investigation reviewed the efficiency and effectiveness of the following County restitution processes:

- Educating and supporting victims on restitution from the moment the crime is reported through the life of the restitution order
- Monitoring the offender's payment progress on existing restitution orders
- Determining if the County has a centralized and comprehensive county-wide restitution accounting system
- The collection and administration of restitution including:
  - a. Administrative fees
  - b. Financial reviews
  - c. Fines
  - d. Interest
  - e. Restitution orders payable to the victim(s)
- Disbursing restitution to the victim and reimbursement to the California State VCGC Board

People Interviewed:

- Alameda County Deputy District Attorney Restitution Specialist
- California Department of Corrections and Rehabilitation, Restitution Program Manager
- El Dorado County:
  - Assistant Court Executive Officer
  - Chief Probation Officer and staff members
  - District Attorney
  - Fiscal Administrative Manager
  - Public Defender
  - Sheriff
  - Sheriff's Team of Active Retirees (STAR)
  - Superior Court Judges
  - Treasurer-Tax Collector
  - Victim Witness Program Coordinator

Documents Reviewed:

- Alameda County Restitution Program Policy and Procedures
- Alameda County Superior Courthouse-Oakland Corpus Restitution Court Calendar
- Applicable California Restitution Statutes
- California Constitution, Victims' Bill of Rights
- California Department of Corrections and Rehabilitation State Restitution Program Audit from 2002 and 2004

- California State Controller's Audit Report on Alameda Restitution Fines and Court Ordered Restitution, February 25, 2004
- California Victim Compensation and Governmental Claims Board Restitution Policy and Procedures
- El Dorado County District Attorney Victim Witness Program, Restitution Policy and Procedures
- El Dorado County Probation Department Restitution Policy and Procedures

## **FINDINGS**

1. The County's Restitution activity process is not centralized.
2. The County and City jails have no procedure to collect victims' restitution from inmates.
3. There is insufficient follow-up with victims to obtain information as to their actual losses. This information is necessary to support the issuance of a victim restitution order by the court. According to the 2002 State Department of Corrections and Rehabilitation Restitution Audit, approximately 11% of offenders in the California State Prison system sentenced from El Dorado County have a court order to pay restitution to the victim(s).
4. Attaining timely victim information, including losses, is essential. The Probation Department is responsible for determining victim losses if the offender is sentenced to probation, which may be well after the crime is reported.
5. The District Attorney's Office of Victim Services is cognizant of the rights of victims and provides valuable services to victims of crime in El Dorado County. However, insufficient funding severely limits the services the District Attorney is able to provide.
6. When offenders are sentenced to State prison, or a juvenile facility, all outstanding restitution ordered for all cases is transferred to the Department of Corrections for collections. The State of California is only able to disburse 25% of victim restitution collected to victims because victim information is unavailable. It is imperative that victim information is included in the case records file accompanying the offender when sentenced to State prison.
7. Although the Probation Department is diligent and successful in their efforts to collect and disburse restitution from those offenders on probation obtaining the victim information when the crime is reported and communicating that information to the appropriate collection and disbursing entities is lacking.
8. Victims of misdemeanor crimes do not have their restitution orders actively collected by the County.

9. The restitution administration fee is currently being collected in an inefficient manner and occasionally at a rate higher than authorized by State statute. The current practice of the County is to collect the restitution administrative fee after the court-ordered amount is satisfied. The Grand Jury is aware of the justification for this method; however, research indicates the method of collecting administrative costs as payments are received improves the Restitution Program's ability to increase collections in future years.

## RECOMMENDATIONS

1. The District Attorney should convene a team of restitution activity experts to analyze the feasibility and methodology that will best enhance restitution activities. The Alameda County Restitution Program Managers, the Alameda County District Attorney, the El Dorado County Superior Court, and the STAR volunteers are supportive to formalizing and improving the County's Restitution program.
2. Increase victim services under the District's Attorney's Victim Witness Program, utilizing the assistance of the STAR Program (volunteers). Increased services should include:
  - Early contact with **all** victims of crime to provide comprehensive county-wide information on the restitution program
  - Obtain and confirm current victim losses and addresses and a process for victims to keep address information current and have that information passed on to the State when appropriate.

Victim contact by the District Attorney's Office will increase the success of identifying victim losses and information needed to request a Court Order in an amount commensurate with the loss, rather than an amount "to be determined." Collection cannot commence on orders to be determined where no dollar amount is stated.

3. In conjunction with the entities involved in restitution process, the El Dorado County District Attorney should adopt a more aggressive approach to the collection and enforcement of restitution that includes actively collecting restitution resulting from misdemeanor crimes. Delinquent accounts need to be identified and brought before the Superior Court. Alameda County has received statewide recognition as a leader in restitution enforcement with several counties in California successfully utilizing Alameda County's Restitution Enforcement Program as a model.
4. To offset operational costs collect the administration fee, authorized by State statute, as payments are received.

5. The Sheriff should analyze the feasibility of collecting restitution from offenders in the County jails, prior to depositing cash received into the offender's trust account. Hold offenders accountable until final payment is made regardless if the offender is in jail, on formal/informal probation, or work release programs.
6. A team or restitution experts should develop a comprehensive restitution and accounting system that tracks information from the date the crime is reported to the release of the offender from County jurisdiction. Also the system should track accurate records including the offender(s) name, case number, payment history, and link the offender(s) to the appropriate victim(s). Lastly, the system should interface with State systems.

**Audit of El Dorado County's  
Medi-Cal Revenues Generated by the  
Departments of Human Services  
and Mental Health**

**Prepared for:  
FY 2007-08 El Dorado County  
Grand Jury**

**By:**

**Harvey M. Rose Associates, LLC  
June 2008**

**HARVEY M. ROSE**  
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public sector management consulting



June 18, 2008

Ms. Rosemary Mulligan, Foreperson  
Members, FY 2007-08 El Dorado County Grand Jury  
P.O. Box 472  
Placerville, CA 95667

Dear Foreperson Mulligan and Members of the FY 2007-08 El Dorado County Grand Jury:

Harvey M. Rose Associates, LLC is pleased to submit this Audit of El Dorado County's Medi-Cal Revenues Generated by the Departments of Human Services and Mental Health.

Consistent with the results of a risk assessment conducted as part of this audit and direction from the Grand Jury, the audit focused on Medi-Cal billing and revenues for Adult Outpatient services provided by the Department of Mental Health and the Targeted Case Management program at the Department of Human Services.

We found that, to varying degrees, opportunities for improvement exist in the program areas reviewed for improved compliance with Medi-Cal and Targeted Case Management documentation requirements to ensure that the County maximizes its Medi-Cal revenues and minimizes Medi-Cal reimbursements disallowances.

This report contains findings in each program areas and documentation of potential losses to the County resulting from lack of compliance with Medi-Cal and Targeted Case Management requirements. There are eight recommendations presented in this report that, when implemented, will result in improved accountability and management of the Medi-Cal billing process in the two departments reviewed.

This audit was prepared in compliance with the work program submitted to and approved by the FY 2007-08 El Dorado County Grand Jury with one exception. It was necessary to obtain a court order to access Department of Human Services records. This had an impact on the state of records reviewed and interactions with that department, as discussed in detail in this report.

Ms. Rosemary Mulligan, Foreperson  
Members, FY 2007-08 El Dorado County Grand Jury  
June 18, 2008  
Page 2

Thank you for selecting Harvey M. Rose Associates, LLC to conduct this audit. We are available at any time to respond to questions you may have about this audit and report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Fred Brousseau", with a long, sweeping horizontal line extending to the right.

Fred Brousseau  
Project Manager

# Table of Contents

<u>Section</u>	<u>Page</u>
Executive Summary .....	E-1
Introduction .....	i
1. Selection of Mental Health Department Program for Detailed Review .....	1
2. Department of Mental Health’s Medi-Cal Billing and Documentation .....	5
3. Selection of Department of Human Services Program for Detailed Review .....	17
4. Department of Human Services Targeted Case Management Medi-Cal Billing and Documentation.....	20

# Executive Summary

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Harvey M. Rose Associates, LLC was retained by the FY 2007-08 El Dorado County to conduct an audit of El Dorado County's Medi-Cal revenues generated by the Departments of Human Services and Mental Health. To determine how limited audit hours could best be utilized given the potential breadth of the audit topic, a review of all programs receiving Medi-Cal revenues in the two subject departments was conducted. Based on those reviews, and with the Grand Jury's approval, the following programs were selected for more detailed review, including auditing a sample of client case records to ensure proper documentation was in place to support the amounts billed. The programs selected were:

- ❑ Adult Outpatient Services, Department of Mental Health
- ❑ Targeted Case Management, Department of Human Services (administered through the Public Guardian's Office and the Linkages program)

Other programs considered were the Department of Mental Health's Psychiatric Health Facility, Adult Day Rehabilitation program and Children's Services. Other Medi-Cal revenue generating programs considered at the Department of Human Services were the Multipurpose Senior Services Program and Medi-Cal Administrative Activities.

The following are the findings and recommendations contained in this audit report.

Section 1: Overview of Department of Mental Health programs selected for review: No findings or recommendations.

## Section 2: Department of Mental Health's Medi-Cal Billing and Documentation

- ❑ Review of a sample of Department of Mental Health client files showed that an estimated 15.1 percent of the amount claimed for Medi-Cal reimbursement for adult outpatient services were not documented in accordance with Medi-Cal regulations and could potentially be disallowed. However, the State allows mental health departments to first attempt to correct documentation problems found before a final disallowance amount is determined. Based on the Department's rate of documentation correction, the percentage of claimed amounts subject to disallowance would be reduced to 8.8 percent and thus represents a risk of reimbursement disallowance by the State of approximately \$165,643 for Fiscal Year 2006-2007 for adult outpatient services only.
- ❑ The Department of Mental Health expressed concern that the sample size used for this audit was too small and could not be considered representative of all Department clients' charts. The Department conducted its own review of a larger sample of client records and found that 18.8 percent of adult outpatient claims, a

comparable though slightly higher rate than the 15.1 percent found in the audit sample, were potentially disallowable.

- It should be noted that previous audits for Medi-Cal billing requirement compliance by the Department's Utilization Review/Quality Control division found much higher potential rates of disallowance as recently as 2006. It appears that the Department's internal audit efforts and staff training on documentation requirements since then has resulted in improved compliance and a reduced, though still present, risk of disallowance by the State.
- Review of the sample files revealed records of eligible services provided to Medi-Cal beneficiaries for which there was no corresponding Medi-Cal claim. The value of these services amounted to 12.1 percent of the value of all adult outpatient Medi-Cal claims reviewed. If these same results are applied to the Department's outpatient services for comparable adults, the Department has not billed Medi-Cal for an estimated \$228,030 worth of eligible services provided in Fiscal Year 2006-2007. The Department reports new procedures in place to avoid unbilled services and that approximately 86 percent of the amount identified as unbilled has now been billed.

*Based on the above findings, the following is recommended:*

The Director of the Department of Mental Health should:

- 2.1 Direct the Department's Utilization Management/Quality Improvement Coordinator to continue to focus Department manager training efforts on ensuring that complete progress notes, complete assessments, and complete client plans are in every case file to minimize the risk of Medi-Cal disallowances for the Department and that all eligible services provided are included in Medi-Cal claims.
- 2.2 Direct the Utilization Review Coordinator to include reviews for unbilled services as part of the Department's routine Quality Improvement audits and to report the results of these audits quarterly to the Director.
- 2.3 Set goals for each Program Manager that make them accountable for eliminating the number of potential Medi-Cal disallowances and unbilled services in their program areas, measurement and achievement of which should be captured through the Department's regularly performed Quality Improvement audits.

The Board of Supervisors should:

- 2.4 Direct the Director of Mental Health to annually report to the Board and Chief Administrative Officer the results of the Department's Quality Improvement audits and success in reducing potential Medi-Cal disallowances and unbilled services.

Section 3: Overview of Department of Human Services programs selected for review: No findings or recommendations.

Section 4: Department of Human Services Targeted Case Management  
Medi-Cal Billing

- ❑ Client billing records for a sample of Department of Human Services Targeted Case Management clients were reviewed to determine compliance with program requirements necessary for Medi-Cal reimbursement. The Targeted Case Management program is operated through the Department of Human Services' Public Guardian and Linkages programs.
- ❑ Most of the Targeted Case Management records reviewed for Public Guardian clients were found non-compliant with one or more aspects of Program regulations. If this pattern holds true for all Public Guardian clients, a good portion of the Department's Medi-Cal revenues for this program are at risk of being disallowed for non-compliance with Targeted Case Management regulations. On the other hand, records reviewed for Linkages program clients were found to be substantially compliant. These records were more thorough and structured consistent with Targeted Case Management requirements. Some areas of the Linkages program billing records, however, were found to be non-compliant with program requirements or determinations of compliance could not be made because of the form in which case file records were provided by DHS.
- ❑ This audit of Targeted Case Management program Medi-Cal billing records was impaired by the documentation provided by the Department of Human Services in that: 1) the case file documents provided could not be positively identified as those of the clients randomly selected for review because client identification numbers from the Department's client master lists were blacked out by the Department on case file documents and replaced with handwritten numbers; 2) documentation provided did not allow for verification of whether or not claims were submitted for Medi-Cal reimbursement for the cases reviewed; 3) case file documents were so extensively redacted in some cases that it was not possible to verify compliance with some program regulations; and, (4) Assessment and Individual Client Service Plan documents provided by the Department for a number of clients were prepared after the Periodic Reviews provided so it was not possible to determine if service plans and objectives in effect at the time of the Periodic Reviews had been assessed by the case managers.
- ❑ Given the rate of non-compliance found with the sample Targeted Case Management records reviewed, the Department of Human Services is at risk of Medi-Cal disallowances of up to \$147,747 for Fiscal Year 2006-2007 if the sample results apply to all Medi-Cal beneficiary program clients. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.

*Based on the above findings, the following is recommended:*

The Director of Human Services should:

- 4.1 Direct Public Guardian Office management to establish written policies and procedures and documentation requirements that are consistent with Targeted Case Management program requirements and regulations, to include: inclusion in Individual Client Services Plans of client issues identified in Assessments; inclusion of specific actions and services in Individual Client Services Plans; and, specific discussion in Periodic Reviews of client progress in meeting service objectives and needs identified in previous Assessments and Service Plans.
- 4.2 Direct Linkages program management to direct staff to include frequency and duration of activities and services in their Individual Client Services Plans.
- 4.3 Direct the Department's TCM Coordinator to conduct periodic spot audits of Public Guardian and Linkages program Medi-Cal beneficiary client case records to ensure that they are compliant with TCM requirements and report the results in writing to the Director every six months.
- 4.4 Establish protocols for periodic reviews and audits of TCM and other Medi-Cal program case records by oversight agents such as the County Auditor-Controller, the Chief Administrative Officer and future Grand Juries that will allow for unimpaired audits of Medi-Cal programs by providing all documents needed to assess program compliance while still protecting client privacy.

# Introduction

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Harvey M. Rose Associates, LLC was retained by the FY 2007-08 El Dorado County Grand Jury to conduct an audit of the County's Medi-Cal revenues generated by the Departments of Human Services and Mental Health. Both departments receive Medi-Cal revenues for certain of their services. The purposes of the audit were to:

- ❑ Assess the adequacy of the two departments' Medi-Cal record keeping and billing policies and procedures and their compliance with State requirements;
- ❑ Analyze the two departments' Medi-Cal record-keeping practices relative to their policies and procedures and pertinent State requirements;
- ❑ Assess the timeliness and accuracy of claims to the State;
- ❑ Assess the two departments' accuracy and completeness of Medi-Cal related time and service record-keeping and billing.
- ❑ Assess the risk of current time and service record-keeping practices affecting the County General Fund or other sources by: under-claiming eligible costs; over-claiming eligible costs, which later have to be repaid to the State or federal government; and, allowing payments to contractors in excess of actual services provided.
- ❑ Evaluate policies and procedures to ensure that all patients who receive County indigent mental health and other services are screened for Medi-Cal eligibility to minimize County General Fund costs and are receiving all services they need and for which they are eligible.
- ❑ Evaluate the County's and two departments' management accountability systems and practices to ensure that Medi-Cal revenues are maximized and State claim errors are minimized.

## Audit Methods

Methods used to conduct this audit included the following:

- ❑ Interviews were conducted with directors, program managers and key staff at the Department of Human Services and the Department of Mental Health.
- ❑ All programs at the two departments receiving Medi-Cal revenues were identified and assessed to determine the nature and costs of the services, the revenues received and to obtain an overview of the systems in place to identify and bill for all eligible costs.
- ❑ Pertinent State and federal regulations were reviewed and used for comparison to actual encounters.
- ❑ Program budgets, cost reports, time studies and supporting documentation were obtained and reviewed for all programs to determine the basis of their Medi-Cal rates charged to the State.

- ❑ A risk assessment was conducted of the program areas where more detailed review of Medi-Cal records would be most useful. The results were presented to the Grand Jury and programs were selected for more detailed review.
- ❑ Samples of client records for Medi-Cal invoiced services were reviewed for the selected programs in both departments: Adult and Children's Outpatient Services for the Department of Mental Health and the Targeted Case Management program administered through the Public Guardian's Office and the Linkages program at the Department of Human Services.
- ❑ A draft report containing findings, conclusions and recommendations stemming from the above steps was prepared and provided to the two departments for their review. Following their review and receipt of their comments through exit conferences, some changes were made based on their input and the final report was transmitted to the FY 2007-08 El Dorado County Grand Jury.

## **Audit Process Issues**

Due to the Department of Human Services' refusal to provide access to Targeted Case Management case records due to concerns about client confidentiality, it was necessary for a court order to be obtained to allow access to the records for audit purposes. A court order was issued to this effect on February 20, 2008 specifying documents that would be provided and classes of documents that could be requested.

The court order did not provide for blanket access to Department records, access to the Department's computer system or any sources that might provide client names or allow for client identification. All records provided by the Department were to have client information such as name and Social Security number redacted though a unique identification number from each client's records was to remain visible in the records so that it could be matched to a corresponding client master list to ensure that we were provided the randomly selected case records.

The required unique identification numbers were not included in the computer generated records as requested but were instead handwritten on each document. This reduced the assurance that the auditors received the randomly selected records requested.

The arrangement in the court order did allow for provision of the needed records but the extent of Departmental redaction efforts exceeded name and Social Security number. Much of the content of progress reports and client service plans was blacked out, reducing the extent to which case record compliance with all Targeted Case Management requirements could be evaluated. In spite of this impediment, it was still possible to determine compliance with most program requirements.

Initially all Targeted Case Management records provided by the Department of Human Services had supervisor signatures redacted so it was not possible to determine if the Department was complying with the Program requirement that supervisors sign Client

Service Plans. After the exit conference with the Department, a subsequent set of records was provided showing the signatures.

The purpose and scope of the audit never changed and there was no impact on timing related to change in purpose. The factor most affecting audit timing was the weeks it took for the Department of Human Services to provide the requested records.

The audit was not a review for Medi-Cal fraud though certainly if evidence of fraud were found in the review, it would have been reported. The purpose of the audit from the start was to review billing procedures and revenue collection for selected programs in the Departments of Human Services and Mental Health. A number of programs were considered, and two programs were selected. The Department's Medi-Cal eligibility function was not considered for this audit though information was collected about the function at the outset of the audit to gain understanding about how Medi-Cal beneficiaries enter the system and how that may affect billing and reimbursement to the County.

Efforts to obtain access to the Department of Mental Health records had no impediments. A confidentiality waiver was signed by the audit team, as has been our experience in other jurisdictions where confidential records need to be reviewed as part of an audit, and access to records was provided within days. Names and Social Security numbers were redacted for all records removed from the Department.

# 1. Selection of Mental Health Department Program for Detailed Review

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The El Dorado County Department of Mental Health provides specialty mental health services to County residents including beneficiaries enrolled in the Medi-Cal managed mental health care program. Services provided include adult inpatient, adult outpatient, adult day rehabilitation and children’s outpatient services. Children’s outpatient services are also provided through contract providers though they are not included in the scope of this audit.

The Department’s Fiscal Year 2006-2007 expenditure budget was approximately \$15.6 million and approximately \$6 million was budgeted in Medi-Cal revenues. Table 1.1 presents the distribution of Fiscal Year 2006-2007 Medi-Cal billings and caseload for each Mental Health program.

**Table 1.1  
Medi-Cal Billings and Caseload  
By Department of Mental Health Program  
Fiscal Year 2006-2007**

<b>Services</b>	<b>Average Caseload Per Month</b>	<b>Medi-Cal Billings</b>
Adult Inpatient	8	\$998,487.54
Adult Outpatient	1,173	\$1,882,305.81
Adult Day Rehab	159	\$353,314.36
Children Outpatient	408	\$2,081,795.45
Administrative Services	n/a	\$416,605.85
<i>Subtotal</i>	<i>n/a</i>	<i>\$5,732,509.01</i>
Special program Medi-Cal	n/a	\$277,626.45
<b>Total Medi-Cal billings</b>	<b>1,748</b>	<b>\$6,010,135.46</b>

Sources: “2006/2007 Billings & Revenue by Source Code,” Finance, Mental Health Department, March 6, 2008. “Reporting Unit Caseload Summary Statistics,” Finance, Utilization Review consultation, Mental Health Department, January 23, 2008.

## **Selection of Medi-Cal Services for Audit**

To select Department programs for more detailed investigation of record keeping and Medi-Cal billing practices, a risk assessment of Medi-Cal reimbursed services was conducted and the results presented to the Fiscal Year 2007-2008 Grand Jury. The Grand Jury agreed with the conclusions of this risk assessment and authorized a more detailed audit of the Department's Medi-Cal billing records and processes for Adult and Children's Outpatient services.

Attributes of Medi-Cal services for this risk assessment included billings, caseload (open, unique cases), billings and recent audits conducted. Although administrative services are not programmatic, they were included in recognition of their portion of total Medi-Cal claims. Because administrative services are billed at as a percentage of total claims, they carry the same risk as all Medi-Cal services combined, but were not assigned a ranking.

As shown on Table 1.1, the Department's Medi-Cal billings are concentrated in Adult and Children's Outpatient services. Caseload is primarily concentrated in Adult Outpatient services. The smaller number of clients in Children's Outpatient services reflects the nature of children's services which often involves more encounters per client than in adult services.

The Department's Utilization Review/Quality Improvement division conducts ongoing audits of the Department's Medi-Cal billing. The Division's audit results from the period from July 2006 through December 2006 indicated that adult outpatient services had a significantly higher rate of potential Medi-Cal disallowances than children's outpatient services. For example, the Utilization Review 2nd Quarter Summary of Chart Audits found that 91 percent of adult outpatient charts, or client files, required a Plan of Correction to address failures to comply with Medi-Cal standards of documentation, such as missing client signatures or assessments. These failures to comply with documentation standards represented approximately 47 percent of the total claims. By comparison, the percentage of claims failing to comply with Medi-Cal standards in child populations in County operating and County contracted programs was 7 percent of the total claims. On average, adult outpatient services had disallowment rates ranging from 23 to 66 percent of claims, whereas children outpatient services had disallowment rates ranging from 0.56 to 13 percent of claims.

The risk assessment coupled with the Department's Utilization Review findings pointed to adult outpatient services as having the great risk of disallowment over all other Medi-Cal services the County provides to beneficiaries. Hence, it was decided, with Grand Jury approval, to concentrate the audit focus on adult outpatient services. Inclusion of a smaller sample of claims for Western Slope Children's Services was also added to the audit due to the lack of a recent audit of this program area by the Department Utilization Review division.

## **State Requirements for Provision of Medi-Cal Services**

The County provides specialty mental health services to eligible Medi-Cal beneficiaries and is responsible for the authorization and payment of all medically necessary services in accordance with Federal and state requirements. Compliance with those requirements is attested to by the County's certification that the claims meet all applicable requirements when submitting the Department's monthly claim for Medi-Cal reimbursement to the State. Should documentation fail to substantiate claims, the full claim amount is disallowed, or "recouped" to the State.

### **State Documentation Requirements**

Documentation must establish, first and foremost, that the beneficiary meets the diagnosis,<sup>1</sup> impairment,<sup>2</sup> and intervention related criteria.<sup>3</sup> This establishes the requirement for medical necessity for a beneficiary, which is recorded in an individual assessment and client plan. Documentation must also substantiate services, which are recorded in progress notes. Compliance with medical necessity and other state documentation requirements was tested by noting satisfactory documentation of the following items in client files for selected claims:

- 1) Assessment.
- 2) Client Plan that:
  - (a) was based on the Assessment,
  - (b) was annually updated, and
  - (c) contained signatures of the clinician providing service or representative and the beneficiary.
- 3) Progress notes that:
  - (a) documented medical necessity,
  - (b) were written within 24 hours of service delivery,
  - (c) were legible,
  - (d) contained legible signatures of clinicians, and
  - (e) claimed the correct amount of time documented.

While this is discretionary, the State allows for auditors' judgment of documentation as a justification for disallowment, or "recoupment," in the California Code of Regulations. Such reasons for recoupment include: judgment that "[d]ocumentation in the chart *does not establish* that the focus of the proposed intervention is to address the condition identified in the California Code of Regulations [*italics added*]"<sup>4</sup>; or "[t][he progress note indicates that the service provided was solely for... socialization that consists of generalized group activities that do not provide *systematic individualized feedback to the*

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<sup>1</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(1)(A-R).

<sup>2</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(2)(A),(B),(C) and 1830.210(a)(3).

<sup>3</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(3)(A) and 1830.205(b)(3)(B)(1),(2), and (3).

<sup>4</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(2)(A),(B),(C).

*specific targeted behaviors*”.<sup>5</sup> The Department’s Utilization Review division has boiled down state documentation requirements to include the Client Plan **G**oal, staff person’s **I**nterventions, client’s **R**esponse to the interventions, and a **P**lan detailing next steps, or GIRP. The aim of GIRP is to address narrative documentation standards, such as those highlighted above, that require discretionary judgment.

### **State Utilization Management Program Requirements: Utilization Review**

The Department’s Utilization Review program satisfies the state requirement for a Utilization Management Program that is responsible for assuring compliance with access and authorization, monitoring standards for authorization decisions, and is revised as appropriate annually.<sup>6</sup> The Utilization Review Division’s training program and materials are consistent with State requirements.

## **Billing Process Issues**

The County, among eleven counties<sup>7</sup> collectively known as the “California Regional Mental Health System Coalition Joint Powers Authority” (“JPA”) entered into a System Agreement with Netsmart New York, Inc. on June 27, 2006 to purchase and implement Avatar, a software program that would replace the billing and documentation system to process and substantiate claims, including Medi-Cal claims.

The County is currently transitioning from a legacy system to a new system. The new system, Avatar, is intended to replace both the legacy billing and system, Echo, and legacy documentation system, iTrack, with a unified, integrated system for automated billing and documentation.

At the time of the audit, the County had completed implementation of the billing functionality. The County had successfully used Avatar to generate the Medi-Cal billing from February 2007 onwards, and had not yet begun implementing the documentation functionality. Hence, in its transitional state, the County currently uses Avatar, the new system, for billing functionality and iTrack, the legacy system, for documentation functionality.

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<sup>5</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1840.312(a),(b),(c), and (d).

<sup>6</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1810.440(b).

<sup>7</sup> The Agreement is made by and among the Counties: Amador, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Inyo, Modoc, Mono, San Benito, and Shasta.

## 2. Department of Mental Health's Medi-Cal Billing and Documentation

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- Review of a sample of Department of Mental Health client files showed that an estimated 15.1 percent of the amount claimed for Medi-Cal reimbursement for adult outpatient services were not documented in accordance with Medi-Cal regulations and could potentially be disallowed. However, the State allows mental health departments to first attempt to correct documentation problems found before a final disallowance amount is determined. Based on the Department's rate of documentation correction, the percentage of claimed amounts subject to disallowance would be reduced to 8.8 percent and thus represents a risk of reimbursement disallowance by the State of approximately \$165,643 for Fiscal Year 2006-2007 for adult outpatient services only.
- The Department of Mental Health expressed concern that the sample size used for this audit was too small and could not be considered representative of all Department clients' charts. The Department conducted its own review of a larger sample of client records and found that 18.8 percent of adult outpatient claims, a comparable though slightly higher rate than the 15.1 percent found in the audit sample, were potentially disallowable.
- It should be noted that previous audits for Medi-Cal billing requirement compliance by the Department's Utilization Review/Quality Control division found much higher potential rates of disallowance as recently as 2006. It appears that the Department's internal audit efforts and staff training on documentation requirements since then has resulted in improved compliance and a reduced, though still present, risk of disallowance by the State.
- Review of the sample files revealed records of eligible services provided to Medi-Cal beneficiaries for which there was no corresponding Medi-Cal claim. The value of these services amounted to 12.1 percent of the value of all adult outpatient Medi-Cal claims reviewed. If these same results are applied to the Department's outpatient services for comparable adults, the Department has not billed Medi-Cal for an estimated \$228,030 worth of eligible services provided in Fiscal Year 2006-2007. The Department reports new procedures in place to avoid unbilled services and that approximately 86 percent of the amount identified as unbilled has now been billed.

To test the Department of Mental Health's compliance with Medi-Cal documentation requirements, a randomly selected sample of client billing records for Western Slope,

Mallard and South Lake Tahoe Adult and Western Slope Children outpatient clients were audited. Documentation for a number of Medi-Cal claims were found non-compliant with Medi-Cal requirements, meaning that the amounts reimbursed for those services are at risk of being recouped by the State if the same files are subject to a State audit. In addition, records were found in the sample files for eligible services provided to Medi-Cal beneficiaries for which there were no corresponding Medi-Cal claims, meaning that reimbursements to which the County was entitled had not been recovered.

## Sample Population

Table 2.1 presents a summary of the number of clients and claims randomly selected for review for each segment of the Department of Mental Health's (DMH) client population and Department sites. The number of clients is the number of beneficiaries and the number of claims is the number of billed claims included in the sample. The number of claims exceeds the number of clients because clients often receive multiple services in a billing period.

**Table 2.1**  
**Sample Clients and Claims Reviewed**  
**By Department Client Group and Location**

<b>Sample Populations and Sites</b>	<b># Clients</b>	<b># Claims</b>	<b>Ratio of Claims to Clients</b>
Western Slope Adult	9	31	3.4
Mallard Adult	10	41	4.1
South Lake Tahoe Adult	14	43	3.1
Western Slope Children	4	30	7.5
<b>Total</b>	<b>37</b>	<b>145</b>	<b>3.9</b>

Source: Harvey M. Rose Associates, LLC audit sample

## Sampling Methodology

The sampling methodology for Mental Health Medi-Cal claims included a random selection of Department claims and case file documentation for adult and children outpatient clients eligible for Medi-Cal reimbursement from the State. Random numbers were assigned to all of the Department's Medi-Cal beneficiary outpatient clients and a group of 52 clients were selected for potential review, of which 37 were actually reviewed, representing 145 claims.

For the Western Slope Adult, Western Slope Children, and Mallard Adult samples, the methodology consisted of verifying all billing and documentation (client file information) for selected clients for a period of one month prior to the time of the most recent billing. At the time of the sampling, October 2007 claims were the most recent submitted; hence, the billings fell between the months of August and October 2007. Claims reviewed that

did not meet State Medi-Cal documentation requirements were coded as disallowances<sup>1</sup>. Billable services documented in case files for which there was not a corresponding Medi-Cal claim in the Department's billing system were noted and coded as unbilled services.

For the South Lake Tahoe Adult sample, the methodology was modified to limit the number of billings to three per client. These billings were randomly selected from Medi-Cal claims submitted between the months of March and October 2007.

## **Disallowances and unbilled services**

As stated in Section 1 of this report regarding sampling methodology, claims that were not sufficiently documented in the case files were classified as disallowances. Though included in State Medi-Cal audits, questionable disallowances were initially identified but at the suggestion of the Department of Mental Health were excluded in the final results as they entail reviewing the substantive content of client files and making determinations about issues such as whether the amount of time billed to Medi-Cal was appropriate for the clinical services provided. For this audit, disallowances were identified only for claims that were clearly not compliant with Medi-Cal requirements and excluded documentation for claims that do not fully substantiate either the medical necessity of the service provided or individualized feedback to the specific targeted behaviors in the client plan.

## **Sampling Results**

Table 2.2 displays the number and percentage of potentially disallowable claims by DMH client population and site.

**Table 2.2**  
**Disallowances by Sample Population and DMH**

<b>Sample Population</b>	<b>Disallowed Claims</b>	<b>Total Claims</b>	<b>% Disallowed Claims</b>
Western Slope Adult	4	31	12.9%
Mallard Adult	5	41	12.2%
South Lake Tahoe Adult	8	43	18.6%
Western Slope Children	3	30	10.0%
<b>Total</b>	20	145.0	13.8%

Source: Harvey M. Rose Associates, LLC audit sample

The data in Table 2.2 show that approximately 13.8 percent of all sampled claims were determined to be disallowable. The South Lake Tahoe Adult sample contained the highest percentage of disallowances: 18.6 percent. The Western Slope Adult sample contained the second highest percentage at 12.9 percent.

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<sup>1</sup> The state uses the term "recoupment" to refer to claims that cannot be substantiated and thus are "recouped" by the state. The decision was made to refer to this as "disallowment" for greater clarity, as "recoupment" would signify a loss, rather than a gain, for the County.

An interesting trend to point out is the ratio of claims to clients at the different sites as shown above in Table 2.1. Western Slope Children, for example, had a much smaller client sample size than Western Slope Adults, but a similar amount of claims. This reflects a client population that is provided services on a more frequent basis; hence, risk for Western Slope Children is greatest for client file requirements, such as an annually updated Client Plan, that have the potential to necessitate disallowment of all claims for that client. The same is true for the Mallard Adult population, which also has a slightly higher than average number of claims per client.

Table 2.3 presents a summary of disallowance reasons. The most frequently cited reason for disallowance was Incomplete Client Plans/Assessments/Progress Notes; thirteen claims were classified as such. The most common problems with these claims was missing clinician signatures or information on the documents, as required by Medi-Cal regulations. Missing Progress Notes was the next most common reason for disallowance. Due to the Department’s separate systems for billing and documentation, and lapses in management of client files, it is possible to enter a claim for Medi-Cal reimbursement without a link to a documentation source. The results of the sample analysis by Department site and client population, with more details on the reasons for disallowances, are presented below, following the discussion of the fiscal impact of these audit findings.

**Table 2.3**  
**Qualitative Summary of Disallowance Reasons**  
**for Sample Files Reviewed**

<b>Disallowance Reason</b>	<b>Disallowed Claims</b>
Incomplete client plan/assessment/notes	13
Missing progress notes	4
Incomplete progress notes	1
No service provided	2
<b>Total</b>	<b>20</b>

Source: Harvey M. Rose Associates, LLC audit sample

## **Fiscal Impact of Disallowances**

The value of the disallowances were calculated by multiplying the Medi-Cal rate for the appropriate service code by the number of minutes that service was provided according to case records. Rates differ for different service codes—for example, the rate for medication is more than double the rate for case management services. Audited claims that cannot be substantiated from documentation are refunded or “recouped” to the State in full. Table 2.4 provides details on the fiscal impact of all disallowances, or “recoupment” for the sample.

**Table 2.4**  
**Fiscal Impact of Disallowances in Sample Files Reviewed**

<b>Sample Population</b>	<b>\$ Disallowed</b>	<b>Total Claimed</b>	<b>% Disallowed</b>
Western Slope Adult	\$609	\$4,252	14.3%
Mallard Adult	\$581	\$2,992	19.4%
South Lake Tahoe Adult	\$849	\$6,297	13.5%
Western Slope Children	\$377	\$2,905	13.0%
<b>Total Disallowed</b>	<b>\$2,416</b>	<b>\$16,447</b>	<b>14.7%</b>
<b>Adult Outpatient Only</b>	<b>\$2,040</b>	<b>\$13,542</b>	<b>15.1%</b>

Source: Claim documents, Harvey M. Rose Associates, LLC audit sample case records. Rates by service code provided by Department of Mental Health. Minutes of service in case file records.

The fiscal impact of the disallowances is just as critical, if not more so, as the count and types of disallowances, to gain an understanding of program risks. For all sample populations and DMH sites, the fiscal impact of disallowances averaged 14.7 percent of total claims and ranged from 13.5 percent at the South Lake Tahoe Adult site to 19.4 percent of total claims the Mallard site. The narrow range of percentages of claims disallowed for Adult Outpatient services suggests that systemic documentation deficiencies for adult outpatient services. The rate for Adult Outpatient sites only was 15.1 percent.

The South Lake Tahoe Adult population had the highest fiscal impact as it had the greatest number of clients and claims with disallowances. The impact at the two other Adult Outpatient sites – Western Slope and Mallard – were lower than South Lake Tahoe. As a percentage of total claims, however, the Mallard Adult site’s impact was higher, reflecting the effect of the relatively higher claims-to-client ratio at Mallard discussed above.

Simultaneous with this audit, the Department of Mental Health conducted its own internal review of Medi-Cal claims documentation for a larger set of records than reviewed for this audit. Their findings were that 18.8 percent of the records reviewed were potentially disallowable, a comparable, though slightly higher rate than the 14.8 percent rate from the sample files reviewed.

**Adjusted Department-wide fiscal impact**

To determine the potential Department-wide impact of inadequate chart documentation on Department of Mental Health revenues, an adjustment was made to the audit results to mirror the audit process utilized by the State and the Department itself in its own Utilization Management/Quality Improvement audits. The State notifies the Department of its intended sample of charts to be reviewed and the Department has an opportunity to review its charts in advance and, if possible, correct any deficiencies found. For example, if progress notes are missing in the client file, but were prepared at the time the billed service was provided and subsequently misfiled, the Department can retrieve them and add them to the case file before the State audit is conducted. The same procedure takes

place for internal audits conducted by the Department's Utilization Management/Quality Improvement division. This process generally results in a lowering of the number of potentially disallowable claims.

To determine the potential fiscal impact of the disallowances identified in the audit sample files, an adjustment was made to allow for corrections to potential disallowances such as those described above. This adjusted rate was then applied to the Department's total Medi-Cal revenues for claims from the Western Slope Adult, South Lake Tahoe Adult and Mallard Adult Outpatient sample files. The disallowance rate for Western Slope Children was excluded from the determination of Department wide fiscal impact since the number of potentially disallowable claims in the sample was mostly from one client's records and it was concluded that this could be due to a unique set of circumstances with that one client.

Table 2.5 presents the basis of the estimate of potential risk, or fiscal impact, of the disallowed Medi-Cal claims on the Department of Mental Health for Fiscal Year 2006-2007. As shown, the initial impact of the potential disallowances identified through the audit process would be \$283,509. Since the results of this audit and the Department's own internal review of a larger sample of records showed similar results, the adjustments that would occur before disallowances were finalized were assumed to also be similar. On that basis, the final, adjusted disallowance rate was assumed to be 8.8 percent of claims filed. Using this rate, the impact on the Department's Medi-Cal revenues that would be recouped is \$165,643 for FY 2006-2007.

**Table 2.5**  
**Potential Fiscal Impact of Fiscal Year 2006-2007**  
**Disallowances based on Sample**  
**of DMH Adult Outpatient**  
**Medi-Cal Reimbursements**

<b>Program</b>	<b>Sample Disallowed \$</b>	<b>Total \$ Claims</b>	<b>% Total Claims</b>
WSA	\$609	\$4,252	14.3%
Mallard	\$581	\$2,992	19.4%
SLT Adult	\$849	\$6,297	13.5%
<b>Total</b>	<b>\$2,040</b>	<b>\$13,542</b>	<b>15.1%</b>
Total FY 2006-07 Adult Medi-Cal Claims			\$1,882,306
Impact of Initial Disallowance Rate			\$283,509
Adjusted Impact Rate			8.8%*
Impact using Adjusted Rate			\$165,643

Source: Fiscal Year 2006-2007 Medi-Cal billings provided by Department of Mental Health, "06/07 Billings & Revenue by Source & Index Code"

\* This percentage was derived by the Department of Mental Health, after accounting for corrections that were made to potentially disallowable case files found in its own review of a larger sample of claims documentation conducted simultaneous with this audit.

The potential Medi-Cal disallowance rate and amount represents a decrease in potential State recoupment rates found in previous Department audits of its own charts and appears to indicate Department improvement in its Medi-Cal documentation. The Department's Utilization Management/Quality Improvement division conducts regular audits of its client charts and determines if they are properly documented to meet Medi-Cal standards. Its audits of charts from as recently as 2006 showed potential fiscal impact ranging from 23 to 66 percent of amounts claimed for Adult Outpatient services. The impact of those audits and resultant staff training by the Division appears to be paying off as represented by the reduction in records potentially disallowable relative to Medi-Cal standards.

It should be noted that for estimates of fiscal impact of disallowances, the County's provisional rates for Fiscal Year 2006-2007 were used. During the course of this audit, the County set a published rate for Fiscal Year 2006-2007 in its draft cost report, which has not been finalized. Those published rates are approximately six percent lower than provisional rates and would apply retroactively if they are finally approved. As the six percent decrease would apply to all claims, it would not affect the percentage fiscal impact; but it would affect the dollar amount of fiscal impacts, which would be universally decreased by six percent.

## **Fiscal Impact of Unbilled Services**

Table 2.6 provides a summary of the fiscal impact of all unbilled services for the sample files reviewed. They were calculated by applying the appropriate Medi-Cal rate to the billable service code indicated and multiplying that rate by the number of minutes recorded on the progress note. As these figures represent documented, billable services provided to Medi-Cal eligible beneficiaries that were not billed to Medi-Cal, they represent unrealized revenue. Unbilled services totaled \$2,488.23, or 15.1 percent of reviewed Medi-Cal claims.

**Table 2.6**  
**Fiscal Impact of Unbilled Services in Sample Files Reviewed**

<b>Sample Population</b>	<b>\$ Unbilled</b>	<b>Total Claimed</b>	<b>% Unbilled</b>
Western Slope Adult	\$361.75	\$4,252.38	8.5%
Mallard Adult	\$1,137.32	\$2,992.11	38.0%
South Lake Tahoe Adult	\$916.26	\$6,297.15	14.6%
Western Slope Children	\$72.90	\$2,904.91	2.5%
<b>Total</b>	\$2,488.23	\$16,446.55	15.1%
<b>Adult Outpatient Only</b>	\$1,278.01	\$10,549.53	12.1%

Source: Claim documents, Harvey M. Rose Associates, LLC audit sample case records. Rates by service code provided by Department of Mental Health. Minutes of service in case file records.

The highest absolute fiscal impact for unbilled services was from the Mallard site, at \$1,137.32. At 38 percent, its potentially disallowed claims were also the highest as a percentage of totals claimed.

DMH's Utilization Review/Quality Improvement division has not instituted a formal process to report, address, and monitor these unbilled services. While the auditor observed that unbilled services were recorded informally and claimed to have been relayed to the appropriate managers, data on such informal process and results were not available. The Department reports that it has implemented a process where more extensive reviews of services provided are being performed by Fiscal Administrative staff to reduce or eliminate unbilled services. The Department further reports that since the audit field work was conducted, claims have been filed for the majority of these unbilled for services.

**Department-wide impact**

Assuming that the rate of unbilled services found in the Western Slope Adult and South Lake Tahoe Adult sample files is consistent for all comparable adult cases, the Department could be losing Medi-Cal revenues for adult outpatient services amounting to \$228,030 per year based on the Fiscal Year 2006-2007 experience. Table 2.7 presents the basis for this estimate. As shown, Western Slope Children's Outpatient and Mallard Adult Outpatient billings were excluded from this estimate since they represented very low and very high rates of unbilled services, respectively. The rate of unbilled services for just the Western Slope Adult and South Lake Tahoe Adult samples, at 8.5 and 14.6 percent, respectively, were applied to total adult outpatient Fiscal Year 2006-07 claims for an estimate of the potential department-wide impact of unbilled for services.

**Table 2.7  
Potential Department-wide FY 2006-07 Fiscal Impact  
of Unbilled Medi-Cal Services for DMH  
Adult Outpatient Clients  
based on Sample Results**

<b>Program</b>	<b>Billings</b>	<b>Total Claimed</b>	<b>% Unbilled</b>
Western Slope Adult	\$361.75	\$4,252	8.5%
South Lake Tahoe Adult	\$916.26	\$6,297	14.6%
Total	\$1,278.01	\$10,549.53	12.1%
Total Adult Medi-Cal Revenues			\$1,882,306
Impact: Apply Rate to Total Adult Outpatient Medi-Cal Revenues			\$228,030

Source: Fiscal Year 2006-2007 Medi-Cal billings provided by Department of Mental Health, "06/07 Billings & Revenue by Source & Index Code"

The results of the audit analysis of Department Medi-Cal records for a sample of clients is now presented by client population and Department site.

## Western Slope

Table 2.8 presents detailed information on disallowances for the review of a sample of Western Slope Adult and Children case records and Medi-Cal claims. Between the two Western Slope populations, the most common reasons for disallowance was incomplete client plan/assessment/progress notes or missing progress notes though the number of non-compliant records found for Children's Services was very low, representing documentation for only one client. The incomplete documents were most often due to missing signatures, as required by Medi-Cal regulations. Unbilled services for the two Western Slope sites were \$361.75 for Adult Outpatient and \$72.90 for Children Outpatient.

**Table 2.8**  
**Qualitative Summary of Disallowance Reasons**  
**Western Slope Adults and Children**

<u>Western Slope Adult</u>		<u>Western Slope Children</u>	
Disallowance Reason	Disallowed Claims	Disallowance Reason	Disallowed Claims
Incomplete client plan/assessment/notes	2	Incomplete client plan/assessment/notes	3
Missing progress notes	1	Missing progress notes	0
Inaccurate progress notes	0	Inaccurate progress notes No service provided	0
No service provided	1		0
<b>Total</b>	<b>4</b>	<b>Total</b>	<b>3</b>

Source: Harvey M. Rose Associates, LLC audit sample

### **Fiscal Impact**

The total fiscal impact of these adult outpatient disallowances for Western Slope Adult services was \$609, or 14.3 percent of the \$4,252 in total claims for the sample population. This rate was close to the rate for the total sample, which was 14.7 percent. The total fiscal impact of unbilled services for Western Slope Children was \$377, or 13 percent of total Western Slope Children claims, slightly below the average for the entire Department sample.

## Mallard

Table 2.9 presents detailed information on disallowances for the Mallard Adult sample. As with the Western Slope results above, the most frequent reason for disallowance was incomplete documents and missing progress notes.

Generally, Mallard clients receive more services than those at the Western Slope Adult site. Mallard has recently transitioned from an adult day care rehabilitation site to one offering group and individual services. Hence, instead of offering services at a single day rate, it offers services discretely, at the Medi-Cal billing rates for minutes of service. The change is primarily administrative; the beneficiaries receive the same day services while being billed to the State at a minute rate for those services. A high number of unbilled for services were also found at the Mallard site: \$1,137.22, or 38 percent of the \$2,992.11 in total claims in the sample.

**Table 2.9**  
**Qualitative Summary of Disallowance Reasons:**  
**Mallard Adult Sample**

<b>Disallowance Reason</b>	<b>Disallowed Claims</b>
Incomplete client plan/assessment/notes	4
No progress notes	1
Inaccurate progress notes	0
No service provided	0
<b>Total</b>	<b>5</b>

Source: Harvey M. Rose Associates, LLC audit sample

### **Fiscal Impact**

The total fiscal impact of these disallowances was \$581 or 19.4 percent of the \$2,992 in total claims for the sample population the highest disallowance rate by far of the sample. The Mallard rate was higher than the 14.8 percent average for the total sample population.

### **South Lake Tahoe**

Table 2.10 presents detailed information on disallowances for the South Lake Tahoe Adult sample. This population had the highest prevalence of disallowances in the sample in absolute dollars. As with the samples from the other Department sites reported above, incomplete documentation and missing or incomplete client plans, assessments and progress notes accounted for most of the potential disallowances.

**Table 2.10**  
**Qualitative Summary of Disallowance Reasons:**  
**South Lake Tahoe Adult Sample**

<b>Disallowance Reason</b>	<b>Disallowed Claims</b>
Incomplete client plan/assessment/notes	4
No progress notes	2
Inaccurate progress notes	1
No service provided	1
<b>Total</b>	<b>8</b>

Source: Harvey M. Rose Associates, LLC audit sample

### **Fiscal Impact**

The total fiscal impact of these disallowances was \$849, or 13.5 percent of the \$6,297 in total Medi-Cal claims for the sample population. The South Lake Tahoe Adult sample also had a large amount of unbilled services: \$916.26, or 14.6 percent of the \$6,297 total claims from the sample. This included a mix of individual therapy, case management, assessment and one crisis intervention. The crisis intervention, like “medication” services, is particularly high in opportunity cost because of its higher Medi-Cal rate.

### **Conclusion**

Sampling results indicate that failures to uphold Medi-Cal documentation standards for claims are consistent across all populations, although they were noticeably more prevalent in the Mallard site adult outpatient sample. Results also indicate that a significant portion of billable, documented services were not being claimed at the time the audit field work was conducted.

### **Recommendations**

The Director of the Department of Mental Health should:

- 2.1 Direct the Department’s Utilization Management/Quality Improvement Coordinator to continue to focus Department manager training efforts on ensuring that complete progress notes, complete assessments, and complete client plans are in every case file to minimize the risk of Medi-Cal disallowances for the Department and that all eligible services provided are included in Medi-Cal claims.
- 2.2 Direct the Utilization Review Coordinator to include reviews for unbilled services as part of the Department’s routine Quality Improvement audits and to report the results of these audits quarterly to the Director.
- 2.3 Set goals for each Program Manager that make them accountable for eliminating the number of potential Medi-Cal disallowances and unbilled services in their

program areas, measurement and achievement of which should be captured through the Department's regularly performed Quality Improvement audits.

The Board of Supervisors should:

- 2.4 Direct the Director of Mental Health to annually report to the Board and Chief Administrative Officer the results of the Department's Quality Improvement audits and success in reducing potential Medi-Cal disallowances and unbilled services.

## **Costs and Benefits**

For those Medi-Cal claims lacking adequate documentation to substantiate claims, the potential fiscal impact of disallowances for the sample is estimated to be 15.1 percent of that value of sampled claims in an adult outpatient sample population. Extrapolating this to the Medi-Cal claims for all adult outpatient claims for fiscal year 2006-2007 and adjusting the rate to 8.8 percent to allow for corrections to Department documentation as allowed by the State, the estimated fiscal impact of disallowances is \$165,643.

For those Medi-Cal documented, unbilled services, the fiscal impact is estimated to be 12.1 percent of total adult outpatient claims. Extrapolating this to the Medi-Cal claims for all adult outpatient claims for fiscal year 2006-2007, the estimated fiscal impact of unbilled services is \$228,030. Department reports of recently submitted billings for these claims should lower that amount. The recently submitted claims were not reviewed by the auditors.

### 3. Selection of Department of Human Services Program for Detailed Review

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The Department of Human Services receives Medi-Cal revenues for three of its programs: 1) the Multipurpose Senior Services Program; 2) Targeted Case Management; and, 3) Medi-Cal Administrative Activities. Table 3.1 presents the distribution of Medi-Cal revenues and other characteristics of the three programs that were considered in determining which would be of greatest benefit for a more detailed audit.

**Table 3.1**  
**Department of Human Services**  
**Programs that Receive Medi-Cal Revenue**

<b>Program</b>	<b>No. of Clients</b>	<b>Invoices Billed FY 2006-2007</b>	<b>Prior Audits FY 2006-2007</b>
Multipurpose Senior Services Program	72	\$340,224	1
TCM: Linkages	60	\$ 64,866	None
TCM: Public Guardian	153	\$168,404	None
Medi-Cal Administrative Activities (MAA)	n/a	\$185,998	n/a

Sources: MSSP, TCM Linkages, and TCM Public Guardian client lists, as of February 2008; Claims financial data of MSSP, TCM Linkages, and TCM Public Guardian invoices billed as of March 2008.

A brief description of each program is provided followed by a discussion of the selection of one program, Targeted Case Management, for more detailed audit review.

#### **Multipurpose Senior Services Program**

The primary objective of the Multipurpose Senior Services Program (MSSP) is “to avoid, delay, or remedy the inappropriate placement of persons in nursing facilities, while fostering independent living in the community. MSSP provides services [that] enable clients to remain in or return to their homes”.<sup>1</sup> To accomplish this, the Program staff provide case management services, defined as services rendered to assist clients in gaining access to needed services, monitoring the provision of those services, overseeing the process of assessment and reassessment of client level of care and the review of care plans. Outreach services are also provided through the program as are “waived” services, which refers to services approved for purchase under the auspices of the program. Such services and items must be authorized by case managers as appropriate and necessary for the clients and include adult day support services, housing assistance (which may include

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<sup>1</sup> California Department of Aging, Multipurpose Senior Services Program Site Manual, 1-1, April 2004.

provision of physical adaptations and assistive devices, or emergency assistance for relocation), minor home repairs, personal care, and other services and items.

As shown in Table 3.1, MSSP had 72 clients and Fiscal Year 2006-2007 Medi-Cal revenues of \$340,224. The program has been audited by the State as recently as Fiscal Year 2006-2007.

### **Targeted Case Management (Provided through the Public Guardian's Office and the Linkages Program)**

Targeted Case Management (TCM) consists of case management services that assist Medi-Cal beneficiaries gain access to needed medical, social, educational, and other services. The objective of the program is to ensure that the changing needs of Medi-Cal eligible individuals are addressed on an ongoing basis and choices are made from the widest array of options for meeting those needs.<sup>2</sup>

TCM is provided through two Department of Human Services programs: the Public Guardian and the Linkages program. The Public Guardian provides services that are contingent upon the Office's appointment as conservator for an individual by the Superior Court or through its Representative Payee program for individuals who receive income through public entitlements, public benefits programs or other benefits programs and voluntarily seek financial management services. The Office's services are for individuals that are not capable of providing for their own needs, managing their own financial resources, or are subject to fraud or undue influence.<sup>3</sup> Services include a needs assessment, placement planning and treatment, medical decisions consultation with professional staff and family, and financial management on behalf of the conservatee or client. Public Guardian services are provided to individuals regardless of whether they are eligible for Medi-Cal. However, Medi-Cal reimbursement for TCM services is limited to Public Guardian clients who are also Medi-Cal beneficiaries.

The Linkages program offers case management services and referral to: in-home support services; respite care; personal care; chore services; home safety modifications; transportation; emergency response services; housing; nutritional services; government benefit programs; and other services as needed. Individuals qualify as eligible for the program if they are a resident of the County, 18 years of age or older, require assistance due to illness, injury, or disability in order to live independently, and need support in managing care and obtaining services that are not available through other resources.<sup>4</sup>

The Linkages program and services are available to eligible clients regardless of their Medi-Cal eligibility, but Medi-Cal reimbursement for TCM Linkages requires individuals

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<sup>2</sup> State Department of Health Care Services, "Targeted Case Management: Fact Sheet." Available for download at <http://www.dhcs.ca.gov>

<sup>3</sup> The Public Guardian program description is posted on the Department's website <http://www.co.el-dorado.ca.us/humanservices/PG.html>

<sup>4</sup> The Linkages program description is posted on the Department's website at <http://www.co.el-dorado.ca.us/humanservices/Linkages.html>

to be Medi-Cal eligible. In other words, the Linkages costs that are reimbursable only apply to those individuals that are Medi-Cal eligible.

### **Medi-Cal Administrative Activities**

Medi-Cal Administrative Activities are intended to improve the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families. Reimbursable activities include: outreach, facilitating Medi-Cal application, Medi-Cal non-emergency transportation, contracting for Medi-Cal services, program planning and policy development, Medi-Cal Administrative Coordination and Claims Administration and Training.<sup>5</sup> The services can be provided by County agencies and/or contractors. In El Dorado County, the services are provided by a combination of County agencies and contractors, as allowed by Medi-Cal regulations.

### **Selection of Targeted Case Management program for more extensive audit review**

To select a Department of Human Services Medi-Cal reimbursed program for more detailed investigation of record keeping and billing practices, a risk assessment of the three programs was performed, considering the number of clients receiving services, total amount invoiced to Medi-Cal and when the program was most recently audited. The Targeted Case Management (TCM) program was recommended for more detailed review by the auditors and approved by the Grand Jury based on this risk criteria.

Though the Multipurpose Senior Services Program generates more Medi-Cal revenue than TCM, TCM serves more clients through DHS' Public Guardian Office and Linkages program. And unlike the Multipurpose Senior Services Program, TCM has never been audited. The Multipurpose Senior Services Program was audited by the State as recently as Fiscal Year 2006-2007. These considerations led to the conclusion, with which the Grand Jury agreed, that more detailed audit review of TCM records should be performed.

The Program Manager who oversees the TCM and MAA program reimbursement claiming processes reviews encounter progress notes before invoicing the State for reimbursement, but does not review client files for overall compliance with program requirements. For example, although the progress notes for encounters may be reviewed discretely, the entire client file may not reviewed as a whole, and items that are required of the client file, such as annual Assessments may not be checked for compliance.

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<sup>5</sup> Contract between El Dorado and the State [California Department of Health Services], effective July 1, 2004 through June 30, 2009.

## **4. Department of Human Services Targeted Case Management Medi-Cal Billing**

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- ❑ **Client billing records for a sample of Department of Human Services Targeted Case Management clients were reviewed to determine compliance with program requirements necessary for Medi-Cal reimbursement. The Targeted Case Management program is operated through the Department of Human Services' Public Guardian and Linkages programs.**
- ❑ **Most of the Targeted Case Management records reviewed for Public Guardian clients were found non-compliant with one or more aspects of Program regulations. If this pattern holds true for all Public Guardian clients, a good portion of the Department's Medi-Cal revenues for this program are at risk of being disallowed for non-compliance with Targeted Case Management regulations. On the other hand, records reviewed for Linkages program clients were found to be substantially compliant. These records were more thorough and structured consistent with Targeted Case Management requirements. Some areas of the Linkages program billing records, however, were found to be non-compliant with program requirements or determinations of compliance could not be made because of the form in which case file records were provided by DHS.**
- ❑ **This audit of Targeted Case Management program Medi-Cal billing records was impaired by the documentation provided by the Department of Human Services in that: 1) the case file documents provided could not be positively identified as those of the clients randomly selected for review because client identification numbers from the Department's client master lists were blacked out by the Department on case file documents and replaced with handwritten numbers; 2) documentation provided did not allow for verification of whether or not claims were submitted for Medi-Cal reimbursement for the cases reviewed; 3) case file documents were so extensively redacted in some cases that it was not possible to verify compliance with some program regulations; and, (4) Assessment and Individual Client Service Plan documents provided by the Department for a number of clients were prepared after the Periodic Reviews provided so it was not possible to determine if service plans and objectives in effect at the time of the Periodic Reviews had been assessed by the case managers.**
- ❑ **Given the rate of non-compliance found with the sample Targeted Case Management records reviewed, the Department of Human Services is at risk of Medi-Cal disallowances of up to \$147,747 for Fiscal Year 2006-2007 if the sample results apply to all Medi-Cal beneficiary program clients. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.**

**Section 4: DHS Targeted Case Management Medi-Cal Billing**

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The Department of Human Services received approximately \$233,271 in Medi-Cal revenues in FY 2007-08 for its Targeted Case Management (TCM) program: \$168,405 for the Public Guardian and \$64,866 for the Linkages program. Authorized by State law, TCM is comprised of specialized case management services for targeted Medi-Cal-eligible individuals. The purpose of the TCM program is to ensure that those individuals can gain access to needed medical, social, educational, and other services. Case management services eligible for Medi-Cal reimbursement include needs assessment, setting needs objectives, individual service planning, service scheduling, crisis assistance planning and periodic evaluation of service effectiveness.

The State of California has received approval from the federal Centers for Medicaid and Medicare Services to provide Medi-Cal reimbursement for TCM services provided by Local Government Agencies or their contractors for the following types of Medi-Cal beneficiaries. As can be seen in Exhibit 4.1, the first four allowable provider groups correspond to county functions while the fifth and sixth allowable providers represent services that could be provided by a combination of county agencies and/or contractors.

**Exhibit 4.1  
Groups Eligible for TCM Services**

	<b>TCM providers allowed by State law</b>	<b>Medi-Cal beneficiary group profile</b>
1.	Public Guardian	Persons 18 years or older who are under conservatorship of person and/or estate or who have otherwise demonstrated an inability to handle their personal, medical or other affairs.
2.	Aging and Adult Services/Linkages	Persons 18 years or older, in frail health and in need of assistance to access services in order to keep them from becoming institutionalized
3.	Public Health	High risk persons with a need for public health case management services such as women, infants and children up to age 21
4.	Adult Probation	Persons 18 years or older on probation who have a medical and/or mental condition.
5.	Outpatient medical service clinics	Persons unable to access or appropriately use services such as persons unable to understand medical directions because of language or comprehension barriers
6.	Community	Adults and children at risk of abuse and unfavorable developmental, behavioral, psychological or social outcomes such as persons who abuse alcohol or drugs.

#### *Section 4: DHS Targeted Case Management Medi-Cal Billing*

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TCM services are not mandated by the federal or State governments but when a Local Government Agency such as a county department elects to provide TCM services, they must enter in to an agreement with the State specifying the terms and conditions of the services to be provided and the mechanism for claiming Medi-Cal reimbursement. El Dorado County has opted to participate in the TCM program and receive Medi-Cal revenues for allowable services provided by the Public Guardian and the Linkages program.

The Public Guardian program within the Department of Human Services is provided to: 1) individuals who are conserved by the Superior Court after determination that they are not capable of providing for their own needs, managing their own financial resources, or are subject to fraud or undue influence<sup>1</sup>; 2) individuals who receive benefits from a program such as Social Security and voluntarily receive financial management services through the Office's Representative Payee program. Services provided by the Department include needs assessment, placement planning and treatment, medical decision consultation with professional staff and family, and financial management on behalf of the conservatee or client. The Public Guardian provides services to both Medi-Cal beneficiaries and others. As of January 2008, the Public Guardian was serving 327 clients, of which 153 were Medi-Cal beneficiaries.

The DHS Linkages program is offered to County residents 18 years of age or older who require assistance due to illness, injury, or disability in order to live independently, and need support in managing care and obtaining services that are not available through other resources. Linkages case managers coordinate and manage: the provision of in-home support services; respite care; personal care; chore services; home safety modifications; transportation; emergency response services; housing; nutritional services; government benefit programs; and other services as needed.

The Linkages program is offered to individuals regardless of whether they are eligible for Medi-Cal though only the services provided to Medi-Cal beneficiary program participants are reimbursed from Medi-Cal. As of January 2008, the Linkages program had 101 participants, of which 60 were Medi-Cal beneficiaries.

As required by State law and in DHS' agreement with the State, DHS is required to conduct a time survey for one month each year to determine the percentage of staff time spent on TCM services. These time percentages are applied to the Department's estimated annual costs for the most recent complete fiscal year and divided by the projected number of client encounters for the current fiscal year to determine the rate claimed for Medi-Cal reimbursement for TCM services in the current fiscal year.

Claims are made for each qualified client encounter with Medi-Cal beneficiaries who are under the jurisdiction of the Public Guardian or who are in the Department's Linkages programs. For the Public Guardian, an encounter is defined as, "a face-to-face contact or

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<sup>1</sup> The Public Guardian program description is posted on the Department's website <http://www.co.el-dorado.ca.us/humanservices/PG.html>

a significant telephone contact with or on behalf of the Medicaid-eligible person for the purpose of rendering one or more TCM service components by a case manager”.

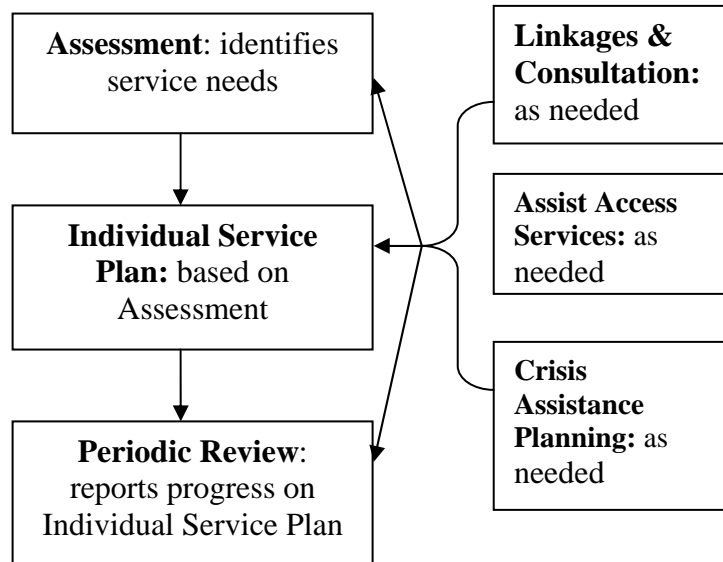
The definition of an encounter is the same for the Linkages program except telephone contacts are only allowed “in lieu of a face-to-face encounter when environmental considerations preclude a face-to-face encounter”. The allowable rates per encounter for FY 2007-8 are \$472.57 for the Linkages program and \$1,305.26 for the Public Guardian. These rates were determined through the required time study and cost reporting process governed by State regulations. The cost reports supporting the rates charged by DHS were obtained and reviewed but the supporting documents and bases of the rates charged were not analyzed as part of this audit.

Allowable TCM services to be provided and documented for Medi-Cal reimbursement include the following. Any of these services can qualify as billable encounters if they are provided in face to face meetings with the client.

1. *Needs Assessment.* The Assessment documents the conditions of the client and supports the selection of services for the individual. The Assessment should contain at least the following elements: 1) medical/mental health; 2) training; 3) vocational needs; 4) social/emotional issues; 5) housing/physical needs; 6) family/social matters; and, 7) finances.
2. *Individual Client Service Plan.* The case manager is required to develop a comprehensive written individualized service plan based on the Assessment. The Plan should identify the services to be provided to address the concerns identified in the Assessment. It must identify specific actions to be taken and include the duration and frequency of such actions. These Plans must be signed by the case manager’s supervisor.
3. *Periodic review.* This is an evaluation of the beneficiary’s progress toward achieving goals in Individual Client Service Plans must be assessed at least every six months. The Linkages program requires periodic review at least every 3 months.
4. *Linkage and consultation.* Case managers may provide beneficiaries with linkage and consultation and referral to service providers as needed. If such referrals are provided, case managers are required to follow up within 30 days of the referral service date to determine the outcome.
5. *Assistance accessing services.* This includes arranging appointments and/or transportation to medical, social, educational, and other services; or arranging translation services to facilitate services.
6. *Crisis assistance planning.* Crisis planning evaluates, coordinates, and arranges immediate service or treatment in a crisis situation.

Exhibit 4.2 presents a graphic depiction of the relationship between these elements.

**Exhibit 4.2**  
**Required TCM Program Element Relationships**



## **Audit Tests**

A random sample of Medi-Cal client billing records from the Linkages and Public Guardian programs were reviewed for this audit to determine if services are being provided and documented consistent with TCM regulations and that adequate documentation is in place to support Medi-Cal claims. To make this determination, documentation was requested for the most recent invoiced encounter for each selected client in August 2007 or before and for all other encounters or contacts for the thirteen months prior to that most recent encounter. August 2007 was selected as the latest point for an invoiced encounter because the Department had not billed the State for TCM services beyond that month at the time the case billing records were requested.

In addition to the most recent invoiced encounter, documentation was requested for each client's Assessment in effect during the review period, Individual Service Plan(s) in effect during the review period for the client, Periodic Reviews and any Linkage and Consultation, Service Access Assistance and Crisis Assistance Planning services provided for the thirteen months preceding the most recent invoiced encounter. Thirteen months' worth of records were requested to ensure that a determination could be made regarding compliance with Periodic Review interval requirements since TCM requirements are for Periodic Reviews at least every six months for the Public Guardian and every three months for the Linkages program. It also allowed for a comparison of

#### *Section 4: DHS Targeted Case Management Medi-Cal Billing*

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Assessments, Individual Service Plans and Periodic Reviews to analyze whether the same objectives and services were identified and monitored in all three documents, consistent with TCM requirements.

There were a number of impairments to the review of the random sample of TCM billing records. To avoid providing documents with client names, the Department of Human Services provided clients lists for sample selection with client identification numbers only. Consistent with the terms of the February 20, 2008 court order issued requiring the Department to provide the records reviewed, a request was made by the auditors that the identification numbers on the Department's client master list be visible in the case file documents to verify that the client billing records provided by the Department were in fact those of the randomly selected clients. This intended method of validating that the selected records were the actual records provided was not possible as the Department blacked out the client identification numbers in the case file documents and handwrote the identification numbers on each document. As a result, it cannot be confirmed that the selected records were the ones provided by the Department.

Another impairment to the audit process was that it was not possible to validate that the selected records contained client encounters for which the Department billed Medi-Cal. A request was made for documentation showing a cross-reference such as the client identification number of the reviewed records on the invoice but this was not provided by the Department. As a result, it was not possible to verify which encounters reviewed were billed to Medi-Cal.

Two other impairments affected this TCM case file review. First was the extensive redacting of the case file documents by DHS to the extent that compliance with some TCM program regulations could not be determined. Details of this matter are discussed further in the subsequent discussion of the case file review. The second other impairment was that the Assessment and Individual Client Service Plan documents provided for some of the case records were prepared after the Periodic Review documents provided though the request was made for Assessments and Client Service Plans in effect during the review period for each client. As a result, it was not possible to assess compliance with TCM program regulations for those Periodic Reviews since they are supposed to assess the extent to which the client has achieved the service goals and objectives detailed in preceding Assessments and Individual Client Service Plans. More details on these impairments are provided in the following analysis of the case records reviewed.

According to DHS, these impairments would not occur if the State were to audit TCM program records since they would be entitled to review all aspects of case records and records. However, a system should be established so that other parties with an interest in County Medi-Cal revenues, such as the Chief Administrator's Office, the Auditor-Controller or future Grand Juries, can audit these records without these impairments and still protect the confidentiality of the clients. Other agencies subject to audit of client records have made arrangements where names and key identifiers are struck out of records but the substance remains largely in tact.

## **Public Guardian Client Records Reviewed**

Twenty Medi-Cal eligible clients were randomly selected for review from the Public Guardian's client list. DHS did not submit documentation for eight of the 20 requested sets of records for the following stated reasons: three had billings after the August 2007 cutoff date, two were erroneously attributed to the program sample and three had not received services. Consequently, twelve of the twenty requested Public Guardian Medi-Cal beneficiary client case records were reviewed.

A minority of the twelve randomly selected sets of Public Guardian client records reviewed were found to be fully compliant with TCM program regulations and are thus at risk for Medi-Cal disallowance. Some measures of compliance were difficult to determine since so much of the content of the records provided was redacted by the Department of Human Services. For example, Periodic Reviews are supposed to assess accomplishment of the objectives set forth in Individual Client Service Plans. Unfortunately, much of the text in the Periodic Reviews and Individual Client Service Plan documents was blacked out by DHS to the point that it could not be determined in all cases what services or service objectives were being discussed. In spite of that, it was still possible to determine in the majority of cases whether or not the Periodic Reviews were compliant with most TCM requirements.

DHS compliance with TCM program and documentation requirements was assessed in spite of the limitations posed by the impairments described above. The results are presented below for each TCM service component. In cases where compliance could not be determined due to the state of records provided, no conclusion was drawn.

### **Assessments**

The purpose of the required TCM Assessment is to document the client's needs in the following areas: 1) Medical/Mental Health; 2) Training needs for community living; 3) Vocational/Education needs; 4) Physical needs, such as food and clothing; 5) Social/Emotional status; 5) Housing/Physical environment; and, 6) Family/Social Support systems. TCM Assessments are to serve as the basis for the activities and services suggested and selected for the client.

The Assessment documentation provided by DHS for all but one of the twelve Public Guardian clients reviewed were Re-assessments rather than the requested clients Assessments in effect for the period being reviewed. These Re-assessments unfortunately did not contain all service elements required by TCM regulations nor are they required to do so. However, the Public Guardian's Initial Assessments that take place when clients are first conserved does include all the required TCM elements. However, since the initial Assessments were not provided in the case records and the Re-assessment documents are more abbreviated, it was not possible to determine from the documents provided by the Department if issues identified in the initial Assessments were being addressed in Individual Client Service Plans, as required by TCM regulations.

The Public Guardian's Re-assessment form contains only four categories: 1) Medical/Mental; 2) Social/Environmental; 3) Financial; and 4) Closing (for comments and summary statements). While some of the other elements required for TCM Assessments are embedded in the four Re-assessment categories (e.g., Family/Social Support Systems is a subsection of the Social/Environmental category) or may be addressed in summary written comments, some of the TCM required elements such as Training or Vocational/Education needs are simply not included and could potentially go unaddressed in Re-assessments. The Public Guardian could ensure greater compliance with TCM Assessment requirements and greater continuity in client services by revising its Re-assessment standardized forms to include all required Assessment elements.

## **Individual Client Service Plans**

According to TCM regulations, Individual Client Service Plans are supposed to be based on each client's Assessment (or Re-assessment) document. The Plans should specify actions to be taken to meet the clients' service needs and are supposed to identify the nature, frequency and duration of activities and specific strategies to achieve service outcomes in the areas addressed in the Assessment (e.g., medical/dental, training, vocational/educational, etc.). The Plans are supposed to be comprehensive written documents.

None of the Public Guardian Individual Client Service Plans reviewed appear to fully comply with TCM regulations. First, so much of the content of the Assessments and Individual Client Service Plans had been redacted in the records provided by DHS that it made auditing these records very difficult as it was not always possible to tell what client issues, if any, were addressed in the Individual Client Service Plans or if those issues related to the Assessments. In cases where a reasonable amount of Assessment content could be discerned, there was no apparent reference to it in the associated Individual Client Service Plans.

Another problem with the Individual Client Service Plans reviewed is that DHS provided only the Assessments or Re-assessments prepared simultaneous with the Plans rather than those in effect for the full year reviewed for each client, as requested. As a result, it was not possible to determine if the Plans provided were addressing issues identified in previous Assessments or only in the Re-assessments.

The Individual Client Service Plan documents in the sample client records could be characterized more as checklists rather than "written, comprehensive individual service plans"<sup>2</sup>, as required by TCM regulations. Instead of writing, many Plans simply contained checked off boxes for "Problems or Service Areas" such as "Financial" with no written commentary or specific objectives or actions to be taken. Many of the Plans reviewed did not identify services the client would be referred to, as required by TCM regulations, or were simply comprised of notes regarding previous actions taken by the case manager such as, "Deputy Public Guardian got a temporary card for file."

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<sup>2</sup> Targeted Case Management Overview, page T-2-1-1, California Department of Health Care Services.

Though a TCM program requirement, none of the Plans in the twelve sets of case records reviewed identified the frequency or duration of the proposed actions to be taken. Combined with the weak nexuses between Individual Client Service Plans and the Assessments reviewed, a low percentage of the Individual Client Service Plans were determined to be compliant with TCM Medi-Cal requirements, as documented in Exhibit 4.3.

**Exhibit 4.3  
Summary of Results  
Review of 24 Individual Client Service Plans  
Public Guardian**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Plans based on Assessments	6	4	14	24	25%
Plans listing specific activities	9	13	2	24	37.5%
Plans with activity frequency & duration	0	24	0	24	0%

**Periodic Reviews**

According to TCM regulations, follow up on the extent to which the objectives of the Individual Client Service Plans are being accomplished is supposed to occur and be documented through face-to-face Periodic Reviews conducted at least every six months. The twelve sets of Public Guardian case records in the sample should have contained 27 Periodic Reviews<sup>3</sup> but as shown in Exhibit 4.4, only ten Periodic Review documents were found to be compliant with the six month regulation. This amounts to 37 percent of the total 27 Periodic Reviews in the sample.

Of the Periodic Reviews evaluated, only one included a link to Individual Client Service Plan objectives in the write-up as required by TCM regulations. Another case file was assumed to be compliant even though it didn't contain a Periodic Review because the client had not been under the jurisdiction of the Public Guardian for six months as of August 2007, the cutoff date for requested records since no encounters after that date had

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<sup>3</sup> 13 months of records for reviewed for each client picked. Since 12 sets of case records were provided by DHS and Periodic Reviews are supposed to occur at least every six months, this should have produced at least 24 Periodic Reviews. However, some of the case records reviewed were for new clients who had not been Public Guardian clients long enough to generate two Periodic Reviews. A few had more than two Periodic Reviews in their case records which increased the number of Periodic Reviews that should have been 26 Periodic Reviews in the case records to be compliant with TCM regulations.

been invoiced by the County at the time records were requested from the Department for this audit. The remaining twenty-five Periodic Reviews were considered non-compliant because seventeen did not include assessments of Individual Client Service Plan objectives and seven that should have been conducted and in the case records reviewed were missing entirely.

The median number of days between Periodic Reviews was 89 days for compliant cases but 322, or 142 days in excess of the TCM 180 day requirement, for non-compliant cases. The median number of days between Periodic Reviews for all cases records reviewed that contained Periodic Reviews was 199 days.

**Exhibit 4.4**  
**Summary of Results**  
**Review of Periodic Reviews**  
**Public Guardian**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Total</b>	<b>% TCM compliant</b>
Encounters completed every six months	10	17	27	37.0%
Median # days between Periodic Reviews	89	322	199	n.a.
Periodic Reviews assessing Service Plan objectives accomplished	2	25	27	7.4%

### **Linkage & Consultation**

As mentioned above, TCM services can include providing clients with referrals to service providers and placement activities. When such services, called Linkage and Consultation, are provided, TCM regulations require that the initial referral or consultation be documented and that a documented follow-up occurs within a maximum of 30 days to determine whether the services were provided and whether they met the client’s needs. Linkage and Consultation services are not required but when they are provided, they must follow the protocols described.

Linkage and Consultation services were provided eleven times in the twelve sets of Public Guardian client records reviewed. None of the recorded Linkage and Consultation services reviewed were fully compliant with TCM requirements. In all cases, there were either no service referrals or, if there were, the nature of the services could not be confirmed because so much of the text in the report was blacked out by DHS. Documentation of required 30 day follow-ups to the Linkage and Consultation services were not found in any of the eleven reported incidents.

**Exhibit 4.5**  
**Summary of Results**  
**Review of Linkage and Consultation Services**  
**Public Guardian**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Referrals for Services documented	1	5	5	11	9.1%
Follow up within 30 days	0	11	0	11	0%

**Assistance Accessing Services**

This TCM allowable service can include arranging appointments, transportation to appointments, and other services identified in Individual Client Service Plans. Three of the twelve case records reviewed included documentation of providing this service. Due to the extensive amount of text blacked out on the report documents provided, it was not possible to tell what services were being in two of the three records reviewed. In one case, it was possible to tell that transportation was being arranged. In this case, the arranged service had also been cited as a need in the client’s Individual Client Service Plan.

**Crisis Assistance Planning**

None of the case records reviewed included reports of this service having been provided.

## **Linkages Program Client Records Reviewed**

Fifteen Medi-Cal eligible clients were selected for sampling from the DHS Linkages program. Documentation for five of the 15 clients was not provided by DHS because the Department reported there had been no encounters billed for those clients during the review period since they became clients after August 2007. Since the most recent Medi-Cal invoices submitted at the time of this audit was in August 2007, encounters after that time were not reviewed for this audit. As a result of the five clients having no billed encounters, only ten sets of Linkages client records from the original random sample selection were reviewed.

The TCM service components and requirements for the Linkages program is the same as for the Public Guardian with the exception that Periodic Reviews must take place at least every three months instead of the Public Guardian requirement of every six months. Otherwise, the approach to the review of these program case records was similar to the review of Public Guardian case records.

Overall, compliance with TCM program requirements was much higher for the Linkages program than for the Public Guardian program. Progress report documentation was much better and the program's standardized progress notes and forms are thorough and appear to be designed to integrate Assessments, Individual Client Service Plans and Periodic Reviews.

However, some areas of documentation were found non-compliant with TCM regulations, as reported below, and are therefore at risk of having their Medi-Cal reimbursement disallowed.

### **Assessments**

As with the Public Guardian records, the Linkages records reviewed contained more Re-assessments than initial Assessments; of the ten sets of client records reviewed, four contained initial Assessments and the other six contained annual Re-assessments. However, unlike the Public Guardian, the standardized forms used for Linkages Assessments and Re-assessments are the same and contain all of the service elements required for TCM programs except for Vocational/Educational needs, which are not called out on the standardized Linkages Assessment form. In some cases, these needs may be addressed in the Comments section but, if there are no such comments, there is no assurance from the documentation that the clients' needs in this area were assessed, as required by TCM.

### **Individual Client Service Plans**

All ten sets of case records reviewed contained Individual Client Service Plans, generally prepared at the same time as Re-assessments. Unlike the Public Guardian's Plan documents, Linkages program staff uses a standardized Service Plan form that requires the case manager to propose specific actions to be taken in various service categories

***Section 4: DHS Targeted Case Management Medi-Cal Billing***

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such as Case Management, Transportation, Respite/Homemaker, etc. For example, in a Service Plan reviewed in one of the audit sample sets of records, under the Service category, “Housing Assistance/Chore/Homemaker”, the following specific actions were proposed:

“Monitor the client’s ability to maintain her home. Refer to volunteer and handyman services for home repairs/maintenance. Assist with providing a one-time heavy duty housecleaning service if necessary.”

A space is also included on the Service Plan form for the case manager to describe the status of each action in Plan Addendums. In most cases reviewed, dates and descriptions of specific actions taken on at least some of the items were recorded by the case manager.

Linkages program Service Plan documents are superior to those used by the Public Guardian’s Office in that they require the case manager to identify specific actions to be taken. Though much of the text in the documents provided by DHS was struck out and could not be read, in all of the Service Plan documents reviewed, at least one issue identified could also be found in the discussion in the Assessment or Re-assessment documents. Only one Plan had so little text left after the Department’s redactions that it was not possible to find corresponding issues in the Assessment document.

Exhibit 4.6 shows the results of the selected TCM requirements pertaining to Individual Client Service Plans in the ten Linkages case records reviewed.

**Exhibit 4.6  
Review of  
10 Individual Client Service Plans  
Linkages Program**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Plans based on Assessments	9	0	1	10	90%
Plans listing specific activities	10	0	0	10	100%
Plans with activity frequency, duration	0	10	0	10	0%

As shown in Exhibit 4.6, Linkages Service Plans were found to contain specific services and actions to be taken and were thus determined to be compliant with TCM regulations in this regard. The consistency of approach found in the case records reviewed makes it appear that Linkages program management has directed its staff to include actions to be

taken in Plan documents, an approach that does not appear to be in place in the Public Guardian's Office. Actions specified in Linkages Plans include referring the clients to individuals, organizations and/or agencies that will meet their service objectives. Unfortunately, the nature of these referrals could not be verified due to the heavily redacted documents provided by the Department. However, the Linkages Re-assessment documents reviewed did include information on the specific services and agencies to which the clients have been referred since their last Assessment.

While the Linkages Individual Client Services Plans represent an improvement over the Public Guardian Plans reviewed, they were found not fully compliant with TCM regulations in that none of the Service Plans reviewed described the frequency or nature of the activities and specific services to be performed, as required by TCM regulations.

## **Periodic Reviews**

Though TCM regulations require Periodic Reviews of program clients at least every six months, the Linkages program has a more restrictive requirement that Periodic Reviews take place at least every three months. The purpose of the reviews is to determine if the client is achieving the objectives identified in their Individual Client Service Plans and to determine if current services should be continued, modified or discontinued.

As shown in Exhibit 4.7, the majority of Linkages Program Period Reviews were conducted within the required three month interval requirement. The median number of days between Periodic Reviews for the compliant cases in the case records reviewed was 46.5 days. For the three non-compliant cases, the median number of days between Periodic Reviews was 53.5 days. Most Periodic Reviews in all records reviewed were within the required 90 day maximum but there was one Periodic Review in each of the three non-compliant sets of case records that exceeded the allowable interval time. However, Periodic Reviews in the sample case records were generally very specific and addressed issues such as Housing, Medical Services, Transportation and others.

A determination of whether the Linkages program is complying with the TCM requirement that Periodic Reviews evaluate the client's progress toward achieving their Service Plan objectives could only be definitively made for four of the ten case sets of case records reviewed. A determination could not be made for the remaining six case sets of case records either because the Service Plans provided were for time periods after the periods covered by the Periodic Reviews provided and thus could not be compared, or, because so much text has been redacted that it was not possible to tell what services were being assessed in the Periodic Reviews. Some of the Service Plans provided by DHS were those prepared after the 13 month review period for the case records.

Exhibit 4.7 presents the results of the assessment of Periodic Reviews conducted for this audit.

**Exhibit 4.7  
Periodic Reviews in 10 Sets of Case Records  
Linkages Program**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Encounters completed every three months	62	3	0	65	95.2%
Median # days between Periodic Reviews	46.5	53.5	n.a.	53.5	n.a.
# assessing Service Plan objectives accomplished?	4	0	6	10	40%

**Linkage & Consultation**

Linkage and Consultation services are when case managers provide clients with referrals to services and placement activities consistent with the clients’ service needs and objectives. TCM regulations require that referral to such services be followed up within 30 days to determine if the services were received and whether they met the client’s needs. Though progress notes in the case records reviewed showed that Linkage program case managers do provide Linkage and Consultation services, the Program’s encounter documentation does not classify such services by this name. None of the case records in which such services are recorded contained 30 day follow-up documentation either. Linkage and Consultation encounters in these case records were embedded in progress notes classified as either Assessments, Re-assessments, Quarterly Visits or Home Visits.

While the case records reviewed showed that most Linkages clients do receive visits from the case managers more frequently than the minimum required four times a year, the fact that certain Linkage and Consultation services are not documented as such has resulted in an absence of TCM required 30 day follow-ups to such services. The intent of this TCM requirement appears to be to enhance the effectiveness of case manager services by not only making referrals, but determining if the clients used the service and if the service met their needs.

## **Assistance Accessing Services**

TCM allows case managers to provide Assistance Accessing Services to their clients. As the name implies, this can include arranging appointments and/or transportation for medical, social, educational or other services, or arranging translation services to facilitate communications between clients and case managers or others. Linkages progress notes reviewed for the ten sample case records showed that such services are frequently provided by Linkages staff but they are not classified as such. Instead, all client encounters are classified only as Assessments, Re-assessments, Quarterly Visits and Home Visits. Classifying progress notes with the title Assistance Accessing Services would make the records more clear which TCM allowed services are being provided.

## **Crisis Assistance Planning**

This final service allowed for the TCM program is for arranging or coordinating immediate services or treatment when the client is in an emergency situation. There were no records of such services in the ten sets of case records reviewed.

## **Fiscal impact of non-compliance with TCM requirements**

Medi-Cal disallowances for TCM services can be determined in different ways. Billings are submitted for “encounters” which, as discussed above, must be face-to-face interactions between a TCM case manager and a client. Billing for driving a client to an appointment or billing for an encounter that is not documented would both not be acceptable and the amount billed for such an encounter would presumably be disallowed through a State audit. Inaccurate time study or cost report details could also lead to a disallowance if the data in these documents were inaccurate or not properly used for billing purposes.

Another way of determining the appropriateness of Medi-Cal billings for TCM services is through a review of case records to assess adherence to TCM program requirements. Medi-Cal reimbursement for TCM services is based on the premise that all program requirements are being met. This was the approach used for this audit and the results are discussed above.

Based on the findings discussed above regarding TCM program requirement compliance in the Public Guardian’s Office and the Linkages program, an estimate of fiscal impact has been made. The basis of this estimate is the number of billable encounters determined to be substantially out of compliance with TCM program requirements. Since the TCM program has many requirements, some more significant than others, some judgment was necessary to define substantial compliance. For example, none of the case records reviewed for either the Public Guardian or the Linkages program contained the frequency or duration of activities recommended for clients in the Individual Client Service Plans, as required by TCM regulations. Using this measure, all encounters billed for during preparation of Client Services Plans are out of compliance with TCM regulations and are therefore subject to Medi-Cal disallowance.

A different standard was used though since the absence of frequency and duration of Service Plan activities was not considered as serious a breach of compliance as, for example, lack of compliance with the TCM requirement that a face-to-face Periodic Review of progress be conducted with the client at least every six months. If a case file was found compliant with all TCM requirements except including the frequency and duration of activities in the Individual Client Service Plan, the file was considered compliant. If a case file was non-compliant in a variety of areas such as: not specifying activities for the client in the Individual Client Service Plan; not cross-referencing service needs from the client's Assessment in the Individual Client Service Plan; and, not specifying the frequency and duration of activities in the Individual Client Service Plan, the case file was considered non-compliant and subject to Medi-Cal disallowance.

Using this approach, 36 of the 42 Public Guardian encounter records reviewed and three of the 67 Linkages program encounter records reviewed were considered non-compliant with TCM requirements and subject to Medi-Cal disallowances. Applying these ratios of non-compliant encounters to total Fiscal Year 2006-2007 Medi-Cal revenues for the two TCM programs in the Department of Human Services produces the following fiscal impacts.

**Table 4.8**  
**Estimated Impact of**  
**Non-Compliance with TCM Regulations**  
**on DHS Medi-Cal Revenue**

	<b>Public Guardian</b>	<b>Linkages</b>
# Encounters Reviewed	42	67
# non-Compliant	36	3
% non-compliant	85.7%	4.5%
Total FY 2006-07 Medi-Cal Revenue	\$168,405	\$64,866
Potential Medi-Cal Disallowance	\$144,828	\$2,919

As shown in Table 4.8. the fiscal impact on the Department would be \$140,338 for the Public Guardian's Medi-Cal revenues and \$19,460 for the Linkages program. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.

## **Conclusion**

Many of the Department of Human Services Public Guardian program case records appear to be out of compliance with TCM program requirements, based on a review of a sample of client case records and documentation supporting Medi-Cal claims for reimbursement. Few of the case records reviewed make the required link between client Assessments, Individual Client Service Plans and Periodic Reviews to ensure that client

needs have been identified and addressed with specific activities and service strategies. Though a TCM requirement, follow-up checks on services to which clients are referred are routinely not taking place. Most cases are not meeting the six month Periodic Review requirement.

The Department's Linkages program, on the other hand, was found substantially in compliance with TCM program requirements in the ten sample sets of case records reviewed. Linkages program management appears to have designed their case file documentation and established policies and procedures with TCM program requirements, or intent, in mind. Periodic review documents are structured to ensure that service objectives and client needs identified in previous assessments and reviews continue to be addressed.

## **Recommendations**

The Director of Human Services should:

- 4.1 Direct Public Guardian Office management to establish written policies and procedures and documentation requirements that are consistent with Targeted Case Management program requirements and regulations, to include: inclusion in Individual Client Services Plans of client issues identified in Assessments; inclusion of specific actions and services in Individual Client Services Plans; and, specific discussion in Periodic Reviews of client progress in meeting service objectives and needs identified in previous Assessments and Service Plans.
- 4.2 Direct Linkages program management to direct staff to include frequency and duration of activities and services in their Individual Client Services Plans.
- 4.3 Direct the Department's TCM Coordinator to conduct periodic spot audits of Public Guardian and Linkages program Medi-Cal beneficiary client case records to ensure that they are compliant with TCM requirements and report the results in writing to the Director every six months.
- 4.4 Establish protocols for periodic reviews and audits of TCM and other Medi-Cal program case records by oversight agents such as the County Auditor-Controller, the Chief Administrative Officer and future Grand Juries that will allow for unimpaired audits of Medi-Cal programs by providing all documents needed to assess program compliance while still protecting client privacy.

## **Costs and Benefits**

The costs of implementing the above recommendations will mostly be in the form of Department of Human Services staff time. The benefits of implementing the recommendations will include better managed services for TCM clients and reduced risk of Medi-Cal disallowances for both programs. Based on the review of TCM client case records from the Public Guardian Office and the Linkages program, the Department is at risk of an estimated Medi-Cal disallowance for Fiscal Year 2006-2007 of \$144,828 for

*Section 4: DHS Targeted Case Management Medi-Cal Billing*

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the Public Guardian and \$2,919 for the Linkages program, for a total disallowance of \$147,747. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.

**Audit of El Dorado County's  
Medi-Cal Revenues Generated by the  
Departments of Human Services  
and Mental Health**

**Prepared for:  
FY 2007-08 El Dorado County  
Grand Jury**

**By:**

**Harvey M. Rose Associates, LLC  
June 2008**

**HARVEY M. ROSE**  
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public sector management consulting



June 18, 2008

Ms. Rosemary Mulligan, Foreperson  
Members, FY 2007-08 El Dorado County Grand Jury  
P.O. Box 472  
Placerville, CA 95667

Dear Foreperson Mulligan and Members of the FY 2007-08 El Dorado County Grand Jury:

Harvey M. Rose Associates, LLC is pleased to submit this Audit of El Dorado County's Medi-Cal Revenues Generated by the Departments of Human Services and Mental Health.

Consistent with the results of a risk assessment conducted as part of this audit and direction from the Grand Jury, the audit focused on Medi-Cal billing and revenues for Adult Outpatient services provided by the Department of Mental Health and the Targeted Case Management program at the Department of Human Services.

We found that, to varying degrees, opportunities for improvement exist in the program areas reviewed for improved compliance with Medi-Cal and Targeted Case Management documentation requirements to ensure that the County maximizes its Medi-Cal revenues and minimizes Medi-Cal reimbursements disallowances.

This report contains findings in each program areas and documentation of potential losses to the County resulting from lack of compliance with Medi-Cal and Targeted Case Management requirements. There are eight recommendations presented in this report that, when implemented, will result in improved accountability and management of the Medi-Cal billing process in the two departments reviewed.

This audit was prepared in compliance with the work program submitted to and approved by the FY 2007-08 El Dorado County Grand Jury with one exception. It was necessary to obtain a court order to access Department of Human Services records. This had an impact on the state of records reviewed and interactions with that department, as discussed in detail in this report.

Ms. Rosemary Mulligan, Foreperson  
Members, FY 2007-08 El Dorado County Grand Jury  
June 18, 2008  
Page 2

Thank you for selecting Harvey M. Rose Associates, LLC to conduct this audit. We are available at any time to respond to questions you may have about this audit and report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Fred Brousseau". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Fred Brousseau  
Project Manager

# Table of Contents

<u>Section</u>	<u>Page</u>
Executive Summary .....	E-1
Introduction .....	i
1. Selection of Mental Health Department Program for Detailed Review .....	1
2. Department of Mental Health’s Medi-Cal Billing and Documentation .....	5
3. Selection of Department of Human Services Program for Detailed Review .....	17
4. Department of Human Services Targeted Case Management Medi-Cal Billing and Documentation.....	20

## Executive Summary

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Harvey M. Rose Associates, LLC was retained by the FY 2007-08 El Dorado County to conduct an audit of El Dorado County's Medi-Cal revenues generated by the Departments of Human Services and Mental Health. To determine how limited audit hours could best be utilized given the potential breadth of the audit topic, a review of all programs receiving Medi-Cal revenues in the two subject departments was conducted. Based on those reviews, and with the Grand Jury's approval, the following programs were selected for more detailed review, including auditing a sample of client case records to ensure proper documentation was in place to support the amounts billed. The programs selected were:

- ❑ Adult Outpatient Services, Department of Mental Health
- ❑ Targeted Case Management, Department of Human Services (administered through the Public Guardian's Office and the Linkages program)

Other programs considered were the Department of Mental Health's Psychiatric Health Facility, Adult Day Rehabilitation program and Children's Services. Other Medi-Cal revenue generating programs considered at the Department of Human Services were the Multipurpose Senior Services Program and Medi-Cal Administrative Activities.

The following are the findings and recommendations contained in this audit report.

Section 1: Overview of Department of Mental Health programs selected for review: No findings or recommendations.

### Section 2: Department of Mental Health's Medi-Cal Billing and Documentation

- ❑ Review of a sample of Department of Mental Health client files showed that an estimated 15.1 percent of the amount claimed for Medi-Cal reimbursement for adult outpatient services were not documented in accordance with Medi-Cal regulations and could potentially be disallowed. However, the State allows mental health departments to first attempt to correct documentation problems found before a final disallowance amount is determined. Based on the Department's rate of documentation correction, the percentage of claimed amounts subject to disallowance would be reduced to 8.8 percent and thus represents a risk of reimbursement disallowance by the State of approximately \$165,643 for Fiscal Year 2006-2007 for adult outpatient services only.
- ❑ The Department of Mental Health expressed concern that the sample size used for this audit was too small and could not be considered representative of all Department clients' charts. The Department conducted its own review of a larger sample of client records and found that 18.8 percent of adult outpatient claims, a

comparable though slightly higher rate than the 15.1 percent found in the audit sample, were potentially disallowable.

- It should be noted that previous audits for Medi-Cal billing requirement compliance by the Department's Utilization Review/Quality Control division found much higher potential rates of disallowance as recently as 2006. It appears that the Department's internal audit efforts and staff training on documentation requirements since then has resulted in improved compliance and a reduced, though still present, risk of disallowance by the State.
- Review of the sample files revealed records of eligible services provided to Medi-Cal beneficiaries for which there was no corresponding Medi-Cal claim. The value of these services amounted to 12.1 percent of the value of all adult outpatient Medi-Cal claims reviewed. If these same results are applied to the Department's outpatient services for comparable adults, the Department has not billed Medi-Cal for an estimated \$228,030 worth of eligible services provided in Fiscal Year 2006-2007. The Department reports new procedures in place to avoid unbilled services and that approximately 86 percent of the amount identified as unbilled has now been billed.

*Based on the above findings, the following is recommended:*

The Director of the Department of Mental Health should:

- 2.1 Direct the Department's Utilization Management/Quality Improvement Coordinator to continue to focus Department manager training efforts on ensuring that complete progress notes, complete assessments, and complete client plans are in every case file to minimize the risk of Medi-Cal disallowances for the Department and that all eligible services provided are included in Medi-Cal claims.
- 2.2 Direct the Utilization Review Coordinator to include reviews for unbilled services as part of the Department's routine Quality Improvement audits and to report the results of these audits quarterly to the Director.
- 2.3 Set goals for each Program Manager that make them accountable for eliminating the number of potential Medi-Cal disallowances and unbilled services in their program areas, measurement and achievement of which should be captured through the Department's regularly performed Quality Improvement audits.

The Board of Supervisors should:

- 2.4 Direct the Director of Mental Health to annually report to the Board and Chief Administrative Officer the results of the Department's Quality Improvement audits and success in reducing potential Medi-Cal disallowances and unbilled services.

Section 3: Overview of Department of Human Services programs selected for review: No findings or recommendations.

Section 4: Department of Human Services Targeted Case Management  
Medi-Cal Billing

- ❑ Client billing records for a sample of Department of Human Services Targeted Case Management clients were reviewed to determine compliance with program requirements necessary for Medi-Cal reimbursement. The Targeted Case Management program is operated through the Department of Human Services' Public Guardian and Linkages programs.
- ❑ Most of the Targeted Case Management records reviewed for Public Guardian clients were found non-compliant with one or more aspects of Program regulations. If this pattern holds true for all Public Guardian clients, a good portion of the Department's Medi-Cal revenues for this program are at risk of being disallowed for non-compliance with Targeted Case Management regulations. On the other hand, records reviewed for Linkages program clients were found to be substantially compliant. These records were more thorough and structured consistent with Targeted Case Management requirements. Some areas of the Linkages program billing records, however, were found to be non-compliant with program requirements or determinations of compliance could not be made because of the form in which case file records were provided by DHS.
- ❑ This audit of Targeted Case Management program Medi-Cal billing records was impaired by the documentation provided by the Department of Human Services in that: 1) the case file documents provided could not be positively identified as those of the clients randomly selected for review because client identification numbers from the Department's client master lists were blacked out by the Department on case file documents and replaced with handwritten numbers; 2) documentation provided did not allow for verification of whether or not claims were submitted for Medi-Cal reimbursement for the cases reviewed; 3) case file documents were so extensively redacted in some cases that it was not possible to verify compliance with some program regulations; and, (4) Assessment and Individual Client Service Plan documents provided by the Department for a number of clients were prepared after the Periodic Reviews provided so it was not possible to determine if service plans and objectives in effect at the time of the Periodic Reviews had been assessed by the case managers.
- ❑ Given the rate of non-compliance found with the sample Targeted Case Management records reviewed, the Department of Human Services is at risk of Medi-Cal disallowances of up to \$147,747 for Fiscal Year 2006-2007 if the sample results apply to all Medi-Cal beneficiary program clients. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.

*Based on the above findings, the following is recommended:*

The Director of Human Services should:

- 4.1 Direct Public Guardian Office management to establish written policies and procedures and documentation requirements that are consistent with Targeted Case Management program requirements and regulations, to include: inclusion in Individual Client Services Plans of client issues identified in Assessments; inclusion of specific actions and services in Individual Client Services Plans; and, specific discussion in Periodic Reviews of client progress in meeting service objectives and needs identified in previous Assessments and Service Plans.
- 4.2 Direct Linkages program management to direct staff to include frequency and duration of activities and services in their Individual Client Services Plans.
- 4.3 Direct the Department's TCM Coordinator to conduct periodic spot audits of Public Guardian and Linkages program Medi-Cal beneficiary client case records to ensure that they are compliant with TCM requirements and report the results in writing to the Director every six months.
- 4.4 Establish protocols for periodic reviews and audits of TCM and other Medi-Cal program case records by oversight agents such as the County Auditor-Controller, the Chief Administrative Officer and future Grand Juries that will allow for unimpaired audits of Medi-Cal programs by providing all documents needed to assess program compliance while still protecting client privacy.

# Introduction

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Harvey M. Rose Associates, LLC was retained by the FY 2007-08 El Dorado County Grand Jury to conduct an audit of the County's Medi-Cal revenues generated by the Departments of Human Services and Mental Health. Both departments receive Medi-Cal revenues for certain of their services. The purposes of the audit were to:

- ❑ Assess the adequacy of the two departments' Medi-Cal record keeping and billing policies and procedures and their compliance with State requirements;
- ❑ Analyze the two departments' Medi-Cal record-keeping practices relative to their policies and procedures and pertinent State requirements;
- ❑ Assess the timeliness and accuracy of claims to the State;
- ❑ Assess the two departments' accuracy and completeness of Medi-Cal related time and service record-keeping and billing.
- ❑ Assess the risk of current time and service record-keeping practices affecting the County General Fund or other sources by: under-claiming eligible costs; over-claiming eligible costs, which later have to be repaid to the State or federal government; and, allowing payments to contractors in excess of actual services provided.
- ❑ Evaluate policies and procedures to ensure that all patients who receive County indigent mental health and other services are screened for Medi-Cal eligibility to minimize County General Fund costs and are receiving all services they need and for which they are eligible.
- ❑ Evaluate the County's and two departments' management accountability systems and practices to ensure that Medi-Cal revenues are maximized and State claim errors are minimized.

## Audit Methods

Methods used to conduct this audit included the following:

- ❑ Interviews were conducted with directors, program managers and key staff at the Department of Human Services and the Department of Mental Health.
- ❑ All programs at the two departments receiving Medi-Cal revenues were identified and assessed to determine the nature and costs of the services, the revenues received and to obtain an overview of the systems in place to identify and bill for all eligible costs.
- ❑ Pertinent State and federal regulations were reviewed and used for comparison to actual encounters.
- ❑ Program budgets, cost reports, time studies and supporting documentation were obtained and reviewed for all programs to determine the basis of their Medi-Cal rates charged to the State.

- ❑ A risk assessment was conducted of the program areas where more detailed review of Medi-Cal records would be most useful. The results were presented to the Grand Jury and programs were selected for more detailed review.
- ❑ Samples of client records for Medi-Cal invoiced services were reviewed for the selected programs in both departments: Adult and Children's Outpatient Services for the Department of Mental Health and the Targeted Case Management program administered through the Public Guardian's Office and the Linkages program at the Department of Human Services.
- ❑ A draft report containing findings, conclusions and recommendations stemming from the above steps was prepared and provided to the two departments for their review. Following their review and receipt of their comments through exit conferences, some changes were made based on their input and the final report was transmitted to the FY 2007-08 El Dorado County Grand Jury.

## **Audit Process Issues**

Due to the Department of Human Services' refusal to provide access to Targeted Case Management case records due to concerns about client confidentiality, it was necessary for a court order to be obtained to allow access to the records for audit purposes. A court order was issued to this effect on February 20, 2008 specifying documents that would be provided and classes of documents that could be requested.

The court order did not provide for blanket access to Department records, access to the Department's computer system or any sources that might provide client names or allow for client identification. All records provided by the Department were to have client information such as name and Social Security number redacted though a unique identification number from each client's records was to remain visible in the records so that it could be matched to a corresponding client master list to ensure that we were provided the randomly selected case records.

The required unique identification numbers were not included in the computer generated records as requested but were instead handwritten on each document. This reduced the assurance that the auditors received the randomly selected records requested.

The arrangement in the court order did allow for provision of the needed records but the extent of Departmental redaction efforts exceeded name and Social Security number. Much of the content of progress reports and client service plans was blacked out, reducing the extent to which case record compliance with all Targeted Case Management requirements could be evaluated. In spite of this impediment, it was still possible to determine compliance with most program requirements.

Initially all Targeted Case Management records provided by the Department of Human Services had supervisor signatures redacted so it was not possible to determine if the Department was complying with the Program requirement that supervisors sign Client

Service Plans. After the exit conference with the Department, a subsequent set of records was provided showing the signatures.

The purpose and scope of the audit never changed and there was no impact on timing related to change in purpose. The factor most affecting audit timing was the weeks it took for the Department of Human Services to provide the requested records.

The audit was not a review for Medi-Cal fraud though certainly if evidence of fraud were found in the review, it would have been reported. The purpose of the audit from the start was to review billing procedures and revenue collection for selected programs in the Departments of Human Services and Mental Health. A number of programs were considered, and two programs were selected. The Department's Medi-Cal eligibility function was not considered for this audit though information was collected about the function at the outset of the audit to gain understanding about how Medi-Cal beneficiaries enter the system and how that may affect billing and reimbursement to the County.

Efforts to obtain access to the Department of Mental Health records had no impediments. A confidentiality waiver was signed by the audit team, as has been our experience in other jurisdictions where confidential records need to be reviewed as part of an audit, and access to records was provided within days. Names and Social Security numbers were redacted for all records removed from the Department.

# 1. Selection of Mental Health Department Program for Detailed Review

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The El Dorado County Department of Mental Health provides specialty mental health services to County residents including beneficiaries enrolled in the Medi-Cal managed mental health care program. Services provided include adult inpatient, adult outpatient, adult day rehabilitation and children's outpatient services. Children's outpatient services are also provided through contract providers though they are not included in the scope of this audit.

The Department's Fiscal Year 2006-2007 expenditure budget was approximately \$15.6 million and approximately \$6 million was budgeted in Medi-Cal revenues. Table 1.1 presents the distribution of Fiscal Year 2006-2007 Medi-Cal billings and caseload for each Mental Health program.

**Table 1.1**  
**Medi-Cal Billings and Caseload**  
**By Department of Mental Health Program**  
**Fiscal Year 2006-2007**

<b>Services</b>	<b>Average Caseload Per Month</b>	<b>Medi-Cal Billings</b>
Adult Inpatient	8	\$998,487.54
Adult Outpatient	1,173	\$1,882,305.81
Adult Day Rehab	159	\$353,314.36
Children Outpatient	408	\$2,081,795.45
Administrative Services	n/a	\$416,605.85
<i>Subtotal</i>	<i>n/a</i>	<i>\$5,732,509.01</i>
Special program Medi-Cal	n/a	\$277,626.45
<b>Total Medi-Cal billings</b>	<b>1,748</b>	<b>\$6,010,135.46</b>

Sources: "2006/2007 Billings & Revenue by Source Code," Finance, Mental Health Department, March 6, 2008. "Reporting Unit Caseload Summary Statistics," Finance, Utilization Review consultation, Mental Health Department, January 23, 2008.

## **Selection of Medi-Cal Services for Audit**

To select Department programs for more detailed investigation of record keeping and Medi-Cal billing practices, a risk assessment of Medi-Cal reimbursed services was conducted and the results presented to the Fiscal Year 2007-2008 Grand Jury. The Grand Jury agreed with the conclusions of this risk assessment and authorized a more detailed audit of the Department's Medi-Cal billing records and processes for Adult and Children's Outpatient services.

Attributes of Medi-Cal services for this risk assessment included billings, caseload (open, unique cases), billings and recent audits conducted. Although administrative services are not programmatic, they were included in recognition of their portion of total Medi-Cal claims. Because administrative services are billed at as a percentage of total claims, they carry the same risk as all Medi-Cal services combined, but were not assigned a ranking.

As shown on Table 1.1, the Department's Medi-Cal billings are concentrated in Adult and Children's Outpatient services. Caseload is primarily concentrated in Adult Outpatient services. The smaller number of clients in Children's Outpatient services reflects the nature of children's services which often involves more encounters per client than in adult services.

The Department's Utilization Review/Quality Improvement division conducts ongoing audits of the Department's Medi-Cal billing. The Division's audit results from the period from July 2006 through December 2006 indicated that adult outpatient services had a significantly higher rate of potential Medi-Cal disallowances than children's outpatient services. For example, the Utilization Review 2nd Quarter Summary of Chart Audits found that 91 percent of adult outpatient charts, or client files, required a Plan of Correction to address failures to comply with Medi-Cal standards of documentation, such as missing client signatures or assessments. These failures to comply with documentation standards represented approximately 47 percent of the total claims. By comparison, the percentage of claims failing to comply with Medi-Cal standards in child populations in County operating and County contracted programs was 7 percent of the total claims. On average, adult outpatient services had disallowment rates ranging from 23 to 66 percent of claims, whereas children outpatient services had disallowment rates ranging from 0.56 to 13 percent of claims.

The risk assessment coupled with the Department's Utilization Review findings pointed to adult outpatient services as having the great risk of disallowment over all other Medi-Cal services the County provides to beneficiaries. Hence, it was decided, with Grand Jury approval, to concentrate the audit focus on adult outpatient services. Inclusion of a smaller sample of claims for Western Slope Children's Services was also added to the audit due to the lack of a recent audit of this program area by the Department Utilization Review division.

## **State Requirements for Provision of Medi-Cal Services**

The County provides specialty mental health services to eligible Medi-Cal beneficiaries and is responsible for the authorization and payment of all medically necessary services in accordance with Federal and state requirements. Compliance with those requirements is attested to by the County's certification that the claims meet all applicable requirements when submitting the Department's monthly claim for Medi-Cal reimbursement to the State. Should documentation fail to substantiate claims, the full claim amount is disallowed, or "recouped" to the State.

### **State Documentation Requirements**

Documentation must establish, first and foremost, that the beneficiary meets the diagnosis,<sup>1</sup> impairment,<sup>2</sup> and intervention related criteria.<sup>3</sup> This establishes the requirement for medical necessity for a beneficiary, which is recorded in an individual assessment and client plan. Documentation must also substantiate services, which are recorded in progress notes. Compliance with medical necessity and other state documentation requirements was tested by noting satisfactory documentation of the following items in client files for selected claims:

- 1) Assessment.
- 2) Client Plan that:
  - (a) was based on the Assessment,
  - (b) was annually updated, and
  - (c) contained signatures of the clinician providing service or representative and the beneficiary.
- 3) Progress notes that:
  - (a) documented medical necessity,
  - (b) were written within 24 hours of service delivery,
  - (c) were legible,
  - (d) contained legible signatures of clinicians, and
  - (e) claimed the correct amount of time documented.

While this is discretionary, the State allows for auditors' judgment of documentation as a justification for disallowment, or "recoupment," in the California Code of Regulations. Such reasons for recoupment include: judgment that "[d]ocumentation in the chart *does not establish* that the focus of the proposed intervention is to address the condition identified in the California Code of Regulations [*italics added*]"<sup>4</sup>; or "[t][he progress note indicates that the service provided was solely for... socialization that consists of generalized group activities that do not provide *systematic individualized feedback to the*

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<sup>1</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(1)(A-R).

<sup>2</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(2)(A),(B),(C) and 1830.210(a)(3).

<sup>3</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(3)(A) and 1830.205(b)(3)(B)(1),(2), and (3).

<sup>4</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1830.205(b)(2)(A),(B),(C).

*specific targeted behaviors*”.<sup>5</sup> The Department’s Utilization Review division has boiled down state documentation requirements to include the Client Plan **G**oal, staff person’s **I**nterventions, client’s **R**esponse to the interventions, and a **P**lan detailing next steps, or GIRP. The aim of GIRP is to address narrative documentation standards, such as those highlighted above, that require discretionary judgment.

### **State Utilization Management Program Requirements: Utilization Review**

The Department’s Utilization Review program satisfies the state requirement for a Utilization Management Program that is responsible for assuring compliance with access and authorization, monitoring standards for authorization decisions, and is revised as appropriate annually.<sup>6</sup> The Utilization Review Division’s training program and materials are consistent with State requirements.

## **Billing Process Issues**

The County, among eleven counties<sup>7</sup> collectively known as the “California Regional Mental Health System Coalition Joint Powers Authority” (“JPA”) entered into a System Agreement with Netsmart New York, Inc. on June 27, 2006 to purchase and implement Avatar, a software program that would replace the billing and documentation system to process and substantiate claims, including Medi-Cal claims.

The County is currently transitioning from a legacy system to a new system. The new system, Avatar, is intended to replace both the legacy billing and system, Echo, and legacy documentation system, iTrack, with a unified, integrated system for automated billing and documentation.

At the time of the audit, the County had completed implementation of the billing functionality. The County had successfully used Avatar to generate the Medi-Cal billing from February 2007 onwards, and had not yet begun implementing the documentation functionality. Hence, in its transitional state, the County currently uses Avatar, the new system, for billing functionality and iTrack, the legacy system, for documentation functionality.

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<sup>5</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1840.312(a),(b),(c), and (d).

<sup>6</sup> California Code of Regulations, Title 9, Chapter 11, Sections 1810.440(b).

<sup>7</sup> The Agreement is made by and among the Counties: Amador, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Inyo, Modoc, Mono, San Benito, and Shasta.

## 2. Department of Mental Health's Medi-Cal Billing and Documentation

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- Review of a sample of Department of Mental Health client files showed that an estimated 15.1 percent of the amount claimed for Medi-Cal reimbursement for adult outpatient services were not documented in accordance with Medi-Cal regulations and could potentially be disallowed. However, the State allows mental health departments to first attempt to correct documentation problems found before a final disallowance amount is determined. Based on the Department's rate of documentation correction, the percentage of claimed amounts subject to disallowance would be reduced to 8.8 percent and thus represents a risk of reimbursement disallowance by the State of approximately \$165,643 for Fiscal Year 2006-2007 for adult outpatient services only.
- The Department of Mental Health expressed concern that the sample size used for this audit was too small and could not be considered representative of all Department clients' charts. The Department conducted its own review of a larger sample of client records and found that 18.8 percent of adult outpatient claims, a comparable though slightly higher rate than the 15.1 percent found in the audit sample, were potentially disallowable.
- It should be noted that previous audits for Medi-Cal billing requirement compliance by the Department's Utilization Review/Quality Control division found much higher potential rates of disallowance as recently as 2006. It appears that the Department's internal audit efforts and staff training on documentation requirements since then has resulted in improved compliance and a reduced, though still present, risk of disallowance by the State.
- Review of the sample files revealed records of eligible services provided to Medi-Cal beneficiaries for which there was no corresponding Medi-Cal claim. The value of these services amounted to 12.1 percent of the value of all adult outpatient Medi-Cal claims reviewed. If these same results are applied to the Department's outpatient services for comparable adults, the Department has not billed Medi-Cal for an estimated \$228,030 worth of eligible services provided in Fiscal Year 2006-2007. The Department reports new procedures in place to avoid unbilled services and that approximately 86 percent of the amount identified as unbilled has now been billed.

To test the Department of Mental Health's compliance with Medi-Cal documentation requirements, a randomly selected sample of client billing records for Western Slope,

Mallard and South Lake Tahoe Adult and Western Slope Children outpatient clients were audited. Documentation for a number of Medi-Cal claims were found non-compliant with Medi-Cal requirements, meaning that the amounts reimbursed for those services are at risk of being recouped by the State if the same files are subject to a State audit. In addition, records were found in the sample files for eligible services provided to Medi-Cal beneficiaries for which there were no corresponding Medi-Cal claims, meaning that reimbursements to which the County was entitled had not been recovered.

## Sample Population

Table 2.1 presents a summary of the number of clients and claims randomly selected for review for each segment of the Department of Mental Health's (DMH) client population and Department sites. The number of clients is the number of beneficiaries and the number of claims is the number of billed claims included in the sample. The number of claims exceeds the number of clients because clients often receive multiple services in a billing period.

**Table 2.1**  
**Sample Clients and Claims Reviewed**  
**By Department Client Group and Location**

<b>Sample Populations and Sites</b>	<b># Clients</b>	<b># Claims</b>	<b>Ratio of Claims to Clients</b>
Western Slope Adult	9	31	3.4
Mallard Adult	10	41	4.1
South Lake Tahoe Adult	14	43	3.1
Western Slope Children	4	30	7.5
<b>Total</b>	<b>37</b>	<b>145</b>	<b>3.9</b>

Source: Harvey M. Rose Associates, LLC audit sample

## Sampling Methodology

The sampling methodology for Mental Health Medi-Cal claims included a random selection of Department claims and case file documentation for adult and children outpatient clients eligible for Medi-Cal reimbursement from the State. Random numbers were assigned to all of the Department's Medi-Cal beneficiary outpatient clients and a group of 52 clients were selected for potential review, of which 37 were actually reviewed, representing 145 claims.

For the Western Slope Adult, Western Slope Children, and Mallard Adult samples, the methodology consisted of verifying all billing and documentation (client file information) for selected clients for a period of one month prior to the time of the most recent billing. At the time of the sampling, October 2007 claims were the most recent submitted; hence, the billings fell between the months of August and October 2007. Claims reviewed that

did not meet State Medi-Cal documentation requirements were coded as disallowances<sup>1</sup>. Billable services documented in case files for which there was not a corresponding Medi-Cal claim in the Department’s billing system were noted and coded as unbilled services.

For the South Lake Tahoe Adult sample, the methodology was modified to limit the number of billings to three per client. These billings were randomly selected from Medi-Cal claims submitted between the months of March and October 2007.

## Disallowances and unbilled services

As stated in Section 1 of this report regarding sampling methodology, claims that were not sufficiently documented in the case files were classified as disallowances. Though included in State Medi-Cal audits, questionable disallowances were initially identified but at the suggestion of the Department of Mental Health were excluded in the final results as they entail reviewing the substantive content of client files and making determinations about issues such as whether the amount of time billed to Medi-Cal was appropriate for the clinical services provided. For this audit, disallowances were identified only for claims that were clearly not compliant with Medi-Cal requirements and excluded documentation for claims that do not fully substantiate either the medical necessity of the service provided or individualized feedback to the specific targeted behaviors in the client plan.

## Sampling Results

Table 2.2 displays the number and percentage of potentially disallowable claims by DMH client population and site.

**Table 2.2**  
**Disallowances by Sample Population and DMH**

<b>Sample Population</b>	<b>Disallowed Claims</b>	<b>Total Claims</b>	<b>% Disallowed Claims</b>
Western Slope Adult	4	31	12.9%
Mallard Adult	5	41	12.2%
South Lake Tahoe Adult	8	43	18.6%
Western Slope Children	3	30	10.0%
<b>Total</b>	20	145.0	13.8%

Source: Harvey M. Rose Associates, LLC audit sample

The data in Table 2.2 show that approximately 13.8 percent of all sampled claims were determined to be disallowable. The South Lake Tahoe Adult sample contained the highest percentage of disallowances: 18.6 percent. The Western Slope Adult sample contained the second highest percentage at 12.9 percent.

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<sup>1</sup> The state uses the term “recoupment” to refer to claims that cannot be substantiated and thus are “recouped” by the state. The decision was made to refer to this as “disallowment” for greater clarity, as “recoupment” would signify a loss, rather than a gain, for the County.

An interesting trend to point out is the ratio of claims to clients at the different sites as shown above in Table 2.1. Western Slope Children, for example, had a much smaller client sample size than Western Slope Adults, but a similar amount of claims. This reflects a client population that is provided services on a more frequent basis; hence, risk for Western Slope Children is greatest for client file requirements, such as an annually updated Client Plan, that have the potential to necessitate disallowment of all claims for that client. The same is true for the Mallard Adult population, which also has a slightly higher than average number of claims per client.

Table 2.3 presents a summary of disallowance reasons. The most frequently cited reason for disallowance was Incomplete Client Plans/Assessments/Progress Notes; thirteen claims were classified as such. The most common problems with these claims was missing clinician signatures or information on the documents, as required by Medi-Cal regulations. Missing Progress Notes was the next most common reason for disallowance. Due to the Department’s separate systems for billing and documentation, and lapses in management of client files, it is possible to enter a claim for Medi-Cal reimbursement without a link to a documentation source. The results of the sample analysis by Department site and client population, with more details on the reasons for disallowances, are presented below, following the discussion of the fiscal impact of these audit findings.

**Table 2.3**  
**Qualitative Summary of Disallowance Reasons**  
**for Sample Files Reviewed**

<b>Disallowance Reason</b>	<b>Disallowed Claims</b>
Incomplete client plan/assessment/notes	13
Missing progress notes	4
Incomplete progress notes	1
No service provided	2
<b>Total</b>	<b>20</b>

Source: Harvey M. Rose Associates, LLC audit sample

## **Fiscal Impact of Disallowances**

The value of the disallowances were calculated by multiplying the Medi-Cal rate for the appropriate service code by the number of minutes that service was provided according to case records. Rates differ for different service codes—for example, the rate for medication is more than double the rate for case management services. Audited claims that cannot be substantiated from documentation are refunded or “recouped” to the State in full. Table 2.4 provides details on the fiscal impact of all disallowances, or “recoupment” for the sample.

**Table 2.4**  
**Fiscal Impact of Disallowances in Sample Files Reviewed**

<b>Sample Population</b>	<b>\$ Disallowed</b>	<b>Total Claimed</b>	<b>% Disallowed</b>
Western Slope Adult	\$609	\$4,252	14.3%
Mallard Adult	\$581	\$2,992	19.4%
South Lake Tahoe Adult	\$849	\$6,297	13.5%
Western Slope Children	\$377	\$2,905	13.0%
<b>Total Disallowed</b>	<b>\$2,416</b>	<b>\$16,447</b>	<b>14.7%</b>
<b>Adult Outpatient Only</b>	<b>\$2,040</b>	<b>\$13,542</b>	<b>15.1%</b>

Source: Claim documents, Harvey M. Rose Associates, LLC audit sample case records. Rates by service code provided by Department of Mental Health. Minutes of service in case file records.

The fiscal impact of the disallowances is just as critical, if not more so, as the count and types of disallowances, to gain an understanding of program risks. For all sample populations and DMH sites, the fiscal impact of disallowances averaged 14.7 percent of total claims and ranged from 13.5 percent at the South Lake Tahoe Adult site to 19.4 percent of total claims the Mallard site. The narrow range of percentages of claims disallowed for Adult Outpatient services suggests that systemic documentation deficiencies for adult outpatient services. The rate for Adult Outpatient sites only was 15.1 percent.

The South Lake Tahoe Adult population had the highest fiscal impact as it had the greatest number of clients and claims with disallowances. The impact at the two other Adult Outpatient sites – Western Slope and Mallard – were lower than South Lake Tahoe. As a percentage of total claims, however, the Mallard Adult site’s impact was higher, reflecting the effect of the relatively higher claims-to-client ratio at Mallard discussed above.

Simultaneous with this audit, the Department of Mental Health conducted its own internal review of Medi-Cal claims documentation for a larger set of records than reviewed for this audit. Their findings were that 18.8 percent of the records reviewed were potentially disallowable, a comparable, though slightly higher rate than the 14.8 percent rate from the sample files reviewed.

**Adjusted Department-wide fiscal impact**

To determine the potential Department-wide impact of inadequate chart documentation on Department of Mental Health revenues, an adjustment was made to the audit results to mirror the audit process utilized by the State and the Department itself in its own Utilization Management/Quality Improvement audits. The State notifies the Department of its intended sample of charts to be reviewed and the Department has an opportunity to review its charts in advance and, if possible, correct any deficiencies found. For example, if progress notes are missing in the client file, but were prepared at the time the billed service was provided and subsequently misfiled, the Department can retrieve them and add them to the case file before the State audit is conducted. The same procedure takes

place for internal audits conducted by the Department's Utilization Management/Quality Improvement division. This process generally results in a lowering of the number of potentially disallowable claims.

To determine the potential fiscal impact of the disallowances identified in the audit sample files, an adjustment was made to allow for corrections to potential disallowances such as those described above. This adjusted rate was then applied to the Department's total Medi-Cal revenues for claims from the Western Slope Adult, South Lake Tahoe Adult and Mallard Adult Outpatient sample files. The disallowance rate for Western Slope Children was excluded from the determination of Department wide fiscal impact since the number of potentially disallowable claims in the sample was mostly from one client's records and it was concluded that this could be due to a unique set of circumstances with that one client.

Table 2.5 presents the basis of the estimate of potential risk, or fiscal impact, of the disallowed Medi-Cal claims on the Department of Mental Health for Fiscal Year 2006-2007. As shown, the initial impact of the potential disallowances identified through the audit process would be \$283,509. Since the results of this audit and the Department's own internal review of a larger sample of records showed similar results, the adjustments that would occur before disallowances were finalized were assumed to also be similar. On that basis, the final, adjusted disallowance rate was assumed to be 8.8 percent of claims filed. Using this rate, the impact on the Department's Medi-Cal revenues that would be recouped is \$165,643 for FY 2006-2007.

**Table 2.5  
Potential Fiscal Impact of Fiscal Year 2006-2007  
Disallowances based on Sample  
of DMH Adult Outpatient  
Medi-Cal Reimbursements**

<b>Program</b>	<b>Sample Disallowed \$</b>	<b>Total \$ Claims</b>	<b>% Total Claims</b>
WSA	\$609	\$4,252	14.3%
Mallard	\$581	\$2,992	19.4%
SLT Adult	\$849	\$6,297	13.5%
<b>Total</b>	<b>\$2,040</b>	<b>\$13,542</b>	<b>15.1%</b>
Total FY 2006-07 Adult Medi-Cal Claims			\$1,882,306
Impact of Initial Disallowance Rate			\$283,509
Adjusted Impact Rate			8.8%*
Impact using Adjusted Rate			\$165,643

Source: Fiscal Year 2006-2007 Medi-Cal billings provided by Department of Mental Health, "06/07 Billings & Revenue by Source & Index Code"

\* This percentage was derived by the Department of Mental Health, after accounting for corrections that were made to potentially disallowable case files found in its own review of a larger sample of claims documentation conducted simultaneous with this audit.

The potential Medi-Cal disallowance rate and amount represents a decrease in potential State recoupment rates found in previous Department audits of its own charts and appears to indicate Department improvement in its Medi-Cal documentation. The Department's Utilization Management/Quality Improvement division conducts regular audits of its client charts and determines if they are properly documented to meet Medi-Cal standards. Its audits of charts from as recently as 2006 showed potential fiscal impact ranging from 23 to 66 percent of amounts claimed for Adult Outpatient services. The impact of those audits and resultant staff training by the Division appears to be paying off as represented by the reduction in records potentially disallowable relative to Medi-Cal standards.

It should be noted that for estimates of fiscal impact of disallowances, the County's provisional rates for Fiscal Year 2006-2007 were used. During the course of this audit, the County set a published rate for Fiscal Year 2006-2007 in its draft cost report, which has not been finalized. Those published rates are approximately six percent lower than provisional rates and would apply retroactively if they are finally approved. As the six percent decrease would apply to all claims, it would not affect the percentage fiscal impact; but it would affect the dollar amount of fiscal impacts, which would be universally decreased by six percent.

## **Fiscal Impact of Unbilled Services**

Table 2.6 provides a summary of the fiscal impact of all unbilled services for the sample files reviewed. They were calculated by applying the appropriate Medi-Cal rate to the billable service code indicated and multiplying that rate by the number of minutes recorded on the progress note. As these figures represent documented, billable services provided to Medi-Cal eligible beneficiaries that were not billed to Medi-Cal, they represent unrealized revenue. Unbilled services totaled \$2,488.23, or 15.1 percent of reviewed Medi-Cal claims.

**Table 2.6**  
**Fiscal Impact of Unbilled Services in Sample Files Reviewed**

<b>Sample Population</b>	<b>\$ Unbilled</b>	<b>Total Claimed</b>	<b>% Unbilled</b>
Western Slope Adult	\$361.75	\$4,252.38	8.5%
Mallard Adult	\$1,137.32	\$2,992.11	38.0%
South Lake Tahoe Adult	\$916.26	\$6,297.15	14.6%
Western Slope Children	\$72.90	\$2,904.91	2.5%
<b>Total</b>	\$2,488.23	\$16,446.55	15.1%
<b>Adult Outpatient Only</b>	\$1,278.01	\$10,549.53	12.1%

Source: Claim documents, Harvey M. Rose Associates, LLC audit sample case records. Rates by service code provided by Department of Mental Health. Minutes of service in case file records.

The highest absolute fiscal impact for unbilled services was from the Mallard site, at \$1,137.32. At 38 percent, its potentially disallowed claims were also the highest as a percentage of totals claimed.

DMH's Utilization Review/Quality Improvement division has not instituted a formal process to report, address, and monitor these unbilled services. While the auditor observed that unbilled services were recorded informally and claimed to have been relayed to the appropriate managers, data on such informal process and results were not available. The Department reports that it has implemented a process where more extensive reviews of services provided are being performed by Fiscal Administrative staff to reduce or eliminate unbilled services. The Department further reports that since the audit field work was conducted, claims have been filed for the majority of these unbilled for services.

**Department-wide impact**

Assuming that the rate of unbilled services found in the Western Slope Adult and South Lake Tahoe Adult sample files is consistent for all comparable adult cases, the Department could be losing Medi-Cal revenues for adult outpatient services amounting to \$228,030 per year based on the Fiscal Year 2006-2007 experience. Table 2.7 presents the basis for this estimate. As shown, Western Slope Children's Outpatient and Mallard Adult Outpatient billings were excluded from this estimate since they represented very low and very high rates of unbilled services, respectively. The rate of unbilled services for just the Western Slope Adult and South Lake Tahoe Adult samples, at 8.5 and 14.6 percent, respectively, were applied to total adult outpatient Fiscal Year 2006-07 claims for an estimate of the potential department-wide impact of unbilled for services.

**Table 2.7  
Potential Department-wide FY 2006-07 Fiscal Impact  
of Unbilled Medi-Cal Services for DMH  
Adult Outpatient Clients  
based on Sample Results**

<b>Program</b>	<b>Billings</b>	<b>Total Claimed</b>	<b>% Unbilled</b>
Western Slope Adult	\$361.75	\$4,252	8.5%
South Lake Tahoe Adult	\$916.26	\$6,297	14.6%
Total	\$1,278.01	\$10,549.53	12.1%
Total Adult Medi-Cal Revenues			\$1,882,306
Impact: Apply Rate to Total Adult Outpatient Medi-Cal Revenues			\$228,030

Source: Fiscal Year 2006-2007 Medi-Cal billings provided by Department of Mental Health, "06/07 Billings & Revenue by Source & Index Code"

The results of the audit analysis of Department Medi-Cal records for a sample of clients is now presented by client population and Department site.

## Western Slope

Table 2.8 presents detailed information on disallowances for the review of a sample of Western Slope Adult and Children case records and Medi-Cal claims. Between the two Western Slope populations, the most common reasons for disallowance was incomplete client plan/assessment/progress notes or missing progress notes though the number of non-compliant records found for Children's Services was very low, representing documentation for only one client. The incomplete documents were most often due to missing signatures, as required by Medi-Cal regulations. Unbilled services for the two Western Slope sites were \$361.75 for Adult Outpatient and \$72.90 for Children Outpatient.

**Table 2.8**  
**Qualitative Summary of Disallowance Reasons**  
**Western Slope Adults and Children**

<u>Western Slope Adult</u>		<u>Western Slope Children</u>	
Disallowance Reason	Disallowed Claims	Disallowance Reason	Disallowed Claims
Incomplete client plan/assessment/notes	2	Incomplete client plan/assessment/notes	3
Missing progress notes	1	Missing progress notes	0
Inaccurate progress notes	0	Inaccurate progress notes No service provided	0
No service provided	1		0
<b>Total</b>	<b>4</b>	<b>Total</b>	<b>3</b>

Source: Harvey M. Rose Associates, LLC audit sample

### **Fiscal Impact**

The total fiscal impact of these adult outpatient disallowances for Western Slope Adult services was \$609, or 14.3 percent of the \$4,252 in total claims for the sample population. This rate was close to the rate for the total sample, which was 14.7 percent. The total fiscal impact of unbilled services for Western Slope Children was \$377, or 13 percent of total Western Slope Children claims, slightly below the average for the entire Department sample.

## Mallard

Table 2.9 presents detailed information on disallowances for the Mallard Adult sample. As with the Western Slope results above, the most frequent reason for disallowance was incomplete documents and missing progress notes.

Generally, Mallard clients receive more services than those at the Western Slope Adult site. Mallard has recently transitioned from an adult day care rehabilitation site to one offering group and individual services. Hence, instead of offering services at a single day rate, it offers services discretely, at the Medi-Cal billing rates for minutes of service. The change is primarily administrative; the beneficiaries receive the same day services while being billed to the State at a minute rate for those services. A high number of unbilled for services were also found at the Mallard site: \$1,137.22, or 38 percent of the \$2,992.11 in total claims in the sample.

**Table 2.9**  
**Qualitative Summary of Disallowance Reasons:**  
**Mallard Adult Sample**

<b>Disallowance Reason</b>	<b>Disallowed Claims</b>
Incomplete client plan/assessment/notes	4
No progress notes	1
Inaccurate progress notes	0
No service provided	0
<b>Total</b>	<b>5</b>

Source: Harvey M. Rose Associates, LLC audit sample

### **Fiscal Impact**

The total fiscal impact of these disallowances was \$581 or 19.4 percent of the \$2,992 in total claims for the sample population the highest disallowance rate by far of the sample. The Mallard rate was higher than the 14.8 percent average for the total sample population.

### **South Lake Tahoe**

Table 2.10 presents detailed information on disallowances for the South Lake Tahoe Adult sample. This population had the highest prevalence of disallowances in the sample in absolute dollars. As with the samples from the other Department sites reported above, incomplete documentation and missing or incomplete client plans, assessments and progress notes accounted for most of the potential disallowances.

**Table 2.10**  
**Qualitative Summary of Disallowance Reasons:**  
**South Lake Tahoe Adult Sample**

<b>Disallowance Reason</b>	<b>Disallowed Claims</b>
Incomplete client plan/assessment/notes	4
No progress notes	2
Inaccurate progress notes	1
No service provided	1
<b>Total</b>	<b>8</b>

Source: Harvey M. Rose Associates, LLC audit sample

### **Fiscal Impact**

The total fiscal impact of these disallowances was \$849, or 13.5 percent of the \$6,297 in total Medi-Cal claims for the sample population. The South Lake Tahoe Adult sample also had a large amount of unbilled services: \$916.26, or 14.6 percent of the \$6,297 total claims from the sample. This included a mix of individual therapy, case management, assessment and one crisis intervention. The crisis intervention, like “medication” services, is particularly high in opportunity cost because of its higher Medi-Cal rate.

### **Conclusion**

Sampling results indicate that failures to uphold Medi-Cal documentation standards for claims are consistent across all populations, although they were noticeably more prevalent in the Mallard site adult outpatient sample. Results also indicate that a significant portion of billable, documented services were not being claimed at the time the audit field work was conducted.

### **Recommendations**

The Director of the Department of Mental Health should:

- 2.1 Direct the Department’s Utilization Management/Quality Improvement Coordinator to continue to focus Department manager training efforts on ensuring that complete progress notes, complete assessments, and complete client plans are in every case file to minimize the risk of Medi-Cal disallowances for the Department and that all eligible services provided are included in Medi-Cal claims.
- 2.2 Direct the Utilization Review Coordinator to include reviews for unbilled services as part of the Department’s routine Quality Improvement audits and to report the results of these audits quarterly to the Director.
- 2.3 Set goals for each Program Manager that make them accountable for eliminating the number of potential Medi-Cal disallowances and unbilled services in their

program areas, measurement and achievement of which should be captured through the Department's regularly performed Quality Improvement audits.

The Board of Supervisors should:

- 2.4 Direct the Director of Mental Health to annually report to the Board and Chief Administrative Officer the results of the Department's Quality Improvement audits and success in reducing potential Medi-Cal disallowances and unbilled services.

## **Costs and Benefits**

For those Medi-Cal claims lacking adequate documentation to substantiate claims, the potential fiscal impact of disallowances for the sample is estimated to be 15.1 percent of that value of sampled claims in an adult outpatient sample population. Extrapolating this to the Medi-Cal claims for all adult outpatient claims for fiscal year 2006-2007 and adjusting the rate to 8.8 percent to allow for corrections to Department documentation as allowed by the State, the estimated fiscal impact of disallowances is \$165,643.

For those Medi-Cal documented, unbilled services, the fiscal impact is estimated to be 12.1 percent of total adult outpatient claims. Extrapolating this to the Medi-Cal claims for all adult outpatient claims for fiscal year 2006-2007, the estimated fiscal impact of unbilled services is \$228,030. Department reports of recently submitted billings for these claims should lower that amount. The recently submitted claims were not reviewed by the auditors.

### 3. Selection of Department of Human Services Program for Detailed Review

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The Department of Human Services receives Medi-Cal revenues for three of its programs: 1) the Multipurpose Senior Services Program; 2) Targeted Case Management; and, 3) Medi-Cal Administrative Activities. Table 3.1 presents the distribution of Medi-Cal revenues and other characteristics of the three programs that were considered in determining which would be of greatest benefit for a more detailed audit.

**Table 3.1**  
**Department of Human Services**  
**Programs that Receive Medi-Cal Revenue**

<b>Program</b>	<b>No. of Clients</b>	<b>Invoices Billed FY 2006-2007</b>	<b>Prior Audits FY 2006-2007</b>
Multipurpose Senior Services Program	72	\$340,224	1
TCM: Linkages	60	\$ 64,866	None
TCM: Public Guardian	153	\$168,404	None
Medi-Cal Administrative Activities (MAA)	n/a	\$185,998	n/a

Sources: MSSP, TCM Linkages, and TCM Public Guardian client lists, as of February 2008; Claims financial data of MSSP, TCM Linkages, and TCM Public Guardian invoices billed as of March 2008.

A brief description of each program is provided followed by a discussion of the selection of one program, Targeted Case Management, for more detailed audit review.

#### **Multipurpose Senior Services Program**

The primary objective of the Multipurpose Senior Services Program (MSSP) is “to avoid, delay, or remedy the inappropriate placement of persons in nursing facilities, while fostering independent living in the community. MSSP provides services [that] enable clients to remain in or return to their homes”.<sup>1</sup> To accomplish this, the Program staff provide case management services, defined as services rendered to assist clients in gaining access to needed services, monitoring the provision of those services, overseeing the process of assessment and reassessment of client level of care and the review of care plans. Outreach services are also provided through the program as are “waived” services, which refers to services approved for purchase under the auspices of the program. Such services and items must be authorized by case managers as appropriate and necessary for the clients and include adult day support services, housing assistance (which may include

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<sup>1</sup> California Department of Aging, Multipurpose Senior Services Program Site Manual, 1-1, April 2004.

provision of physical adaptations and assistive devices, or emergency assistance for relocation), minor home repairs, personal care, and other services and items.

As shown in Table 3.1, MSSP had 72 clients and Fiscal Year 2006-2007 Medi-Cal revenues of \$340,224. The program has been audited by the State as recently as Fiscal Year 2006-2007.

### **Targeted Case Management (Provided through the Public Guardian's Office and the Linkages Program)**

Targeted Case Management (TCM) consists of case management services that assist Medi-Cal beneficiaries gain access to needed medical, social, educational, and other services. The objective of the program is to ensure that the changing needs of Medi-Cal eligible individuals are addressed on an ongoing basis and choices are made from the widest array of options for meeting those needs.<sup>2</sup>

TCM is provided through two Department of Human Services programs: the Public Guardian and the Linkages program. The Public Guardian provides services that are contingent upon the Office's appointment as conservator for an individual by the Superior Court or through its Representative Payee program for individuals who receive income through public entitlements, public benefits programs or other benefits programs and voluntarily seek financial management services. The Office's services are for individuals that are not capable of providing for their own needs, managing their own financial resources, or are subject to fraud or undue influence.<sup>3</sup> Services include a needs assessment, placement planning and treatment, medical decisions consultation with professional staff and family, and financial management on behalf of the conservatee or client. Public Guardian services are provided to individuals regardless of whether they are eligible for Medi-Cal. However, Medi-Cal reimbursement for TCM services is limited to Public Guardian clients who are also Medi-Cal beneficiaries.

The Linkages program offers case management services and referral to: in-home support services; respite care; personal care; chore services; home safety modifications; transportation; emergency response services; housing; nutritional services; government benefit programs; and other services as needed. Individuals qualify as eligible for the program if they are a resident of the County, 18 years of age or older, require assistance due to illness, injury, or disability in order to live independently, and need support in managing care and obtaining services that are not available through other resources.<sup>4</sup>

The Linkages program and services are available to eligible clients regardless of their Medi-Cal eligibility, but Medi-Cal reimbursement for TCM Linkages requires individuals

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<sup>2</sup> State Department of Health Care Services, "Targeted Case Management: Fact Sheet." Available for download at <http://www.dhcs.ca.gov>

<sup>3</sup> The Public Guardian program description is posted on the Department's website <http://www.co.el-dorado.ca.us/humanservices/PG.html>

<sup>4</sup> The Linkages program description is posted on the Department's website at <http://www.co.el-dorado.ca.us/humanservices/Linkages.html>

to be Medi-Cal eligible. In other words, the Linkages costs that are reimbursable only apply to those individuals that are Medi-Cal eligible.

### **Medi-Cal Administrative Activities**

Medi-Cal Administrative Activities are intended to improve the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families. Reimbursable activities include: outreach, facilitating Medi-Cal application, Medi-Cal non-emergency transportation, contracting for Medi-Cal services, program planning and policy development, Medi-Cal Administrative Coordination and Claims Administration and Training.<sup>5</sup> The services can be provided by County agencies and/or contractors. In El Dorado County, the services are provided by a combination of County agencies and contractors, as allowed by Medi-Cal regulations.

### **Selection of Targeted Case Management program for more extensive audit review**

To select a Department of Human Services Medi-Cal reimbursed program for more detailed investigation of record keeping and billing practices, a risk assessment of the three programs was performed, considering the number of clients receiving services, total amount invoiced to Medi-Cal and when the program was most recently audited. The Targeted Case Management (TCM) program was recommended for more detailed review by the auditors and approved by the Grand Jury based on this risk criteria.

Though the Multipurpose Senior Services Program generates more Medi-Cal revenue than TCM, TCM serves more clients through DHS' Public Guardian Office and Linkages program. And unlike the Multipurpose Senior Services Program, TCM has never been audited. The Multipurpose Senior Services Program was audited by the State as recently as Fiscal Year 2006-2007. These considerations led to the conclusion, with which the Grand Jury agreed, that more detailed audit review of TCM records should be performed.

The Program Manager who oversees the TCM and MAA program reimbursement claiming processes reviews encounter progress notes before invoicing the State for reimbursement, but does not review client files for overall compliance with program requirements. For example, although the progress notes for encounters may be reviewed discretely, the entire client file may not be reviewed as a whole, and items that are required of the client file, such as annual Assessments may not be checked for compliance.

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<sup>5</sup> Contract between El Dorado and the State [California Department of Health Services], effective July 1, 2004 through June 30, 2009.

## **4. Department of Human Services Targeted Case Management Medi-Cal Billing**

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- ❑ **Client billing records for a sample of Department of Human Services Targeted Case Management clients were reviewed to determine compliance with program requirements necessary for Medi-Cal reimbursement. The Targeted Case Management program is operated through the Department of Human Services' Public Guardian and Linkages programs.**
- ❑ **Most of the Targeted Case Management records reviewed for Public Guardian clients were found non-compliant with one or more aspects of Program regulations. If this pattern holds true for all Public Guardian clients, a good portion of the Department's Medi-Cal revenues for this program are at risk of being disallowed for non-compliance with Targeted Case Management regulations. On the other hand, records reviewed for Linkages program clients were found to be substantially compliant. These records were more thorough and structured consistent with Targeted Case Management requirements. Some areas of the Linkages program billing records, however, were found to be non-compliant with program requirements or determinations of compliance could not be made because of the form in which case file records were provided by DHS.**
- ❑ **This audit of Targeted Case Management program Medi-Cal billing records was impaired by the documentation provided by the Department of Human Services in that: 1) the case file documents provided could not be positively identified as those of the clients randomly selected for review because client identification numbers from the Department's client master lists were blacked out by the Department on case file documents and replaced with handwritten numbers; 2) documentation provided did not allow for verification of whether or not claims were submitted for Medi-Cal reimbursement for the cases reviewed; 3) case file documents were so extensively redacted in some cases that it was not possible to verify compliance with some program regulations; and, (4) Assessment and Individual Client Service Plan documents provided by the Department for a number of clients were prepared after the Periodic Reviews provided so it was not possible to determine if service plans and objectives in effect at the time of the Periodic Reviews had been assessed by the case managers.**
- ❑ **Given the rate of non-compliance found with the sample Targeted Case Management records reviewed, the Department of Human Services is at risk of Medi-Cal disallowances of up to \$147,747 for Fiscal Year 2006-2007 if the sample results apply to all Medi-Cal beneficiary program clients. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.**

**Section 4: DHS Targeted Case Management Medi-Cal Billing**

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The Department of Human Services received approximately \$233,271 in Medi-Cal revenues in FY 2007-08 for its Targeted Case Management (TCM) program: \$168,405 for the Public Guardian and \$64,866 for the Linkages program. Authorized by State law, TCM is comprised of specialized case management services for targeted Medi-Cal-eligible individuals. The purpose of the TCM program is to ensure that those individuals can gain access to needed medical, social, educational, and other services. Case management services eligible for Medi-Cal reimbursement include needs assessment, setting needs objectives, individual service planning, service scheduling, crisis assistance planning and periodic evaluation of service effectiveness.

The State of California has received approval from the federal Centers for Medicaid and Medicare Services to provide Medi-Cal reimbursement for TCM services provided by Local Government Agencies or their contractors for the following types of Medi-Cal beneficiaries. As can be seen in Exhibit 4.1, the first four allowable provider groups correspond to county functions while the fifth and sixth allowable providers represent services that could be provided by a combination of county agencies and/or contractors.

**Exhibit 4.1  
Groups Eligible for TCM Services**

	<b>TCM providers allowed by State law</b>	<b>Medi-Cal beneficiary group profile</b>
1.	Public Guardian	Persons 18 years or older who are under conservatorship of person and/or estate or who have otherwise demonstrated an inability to handle their personal, medical or other affairs.
2.	Aging and Adult Services/Linkages	Persons 18 years or older, in frail health and in need of assistance to access services in order to keep them from becoming institutionalized
3.	Public Health	High risk persons with a need for public health case management services such as women, infants and children up to age 21
4.	Adult Probation	Persons 18 years or older on probation who have a medical and/or mental condition.
5.	Outpatient medical service clinics	Persons unable to access or appropriately use services such as persons unable to understand medical directions because of language or comprehension barriers
6.	Community	Adults and children at risk of abuse and unfavorable developmental, behavioral, psychological or social outcomes such as persons who abuse alcohol or drugs.

#### *Section 4: DHS Targeted Case Management Medi-Cal Billing*

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TCM services are not mandated by the federal or State governments but when a Local Government Agency such as a county department elects to provide TCM services, they must enter in to an agreement with the State specifying the terms and conditions of the services to be provided and the mechanism for claiming Medi-Cal reimbursement. El Dorado County has opted to participate in the TCM program and receive Medi-Cal revenues for allowable services provided by the Public Guardian and the Linkages program.

The Public Guardian program within the Department of Human Services is provided to: 1) individuals who are conserved by the Superior Court after determination that they are not capable of providing for their own needs, managing their own financial resources, or are subject to fraud or undue influence<sup>1</sup>; 2) individuals who receive benefits from a program such as Social Security and voluntarily receive financial management services through the Office's Representative Payee program. Services provided by the Department include needs assessment, placement planning and treatment, medical decision consultation with professional staff and family, and financial management on behalf of the conservatee or client. The Public Guardian provides services to both Medi-Cal beneficiaries and others. As of January 2008, the Public Guardian was serving 327 clients, of which 153 were Medi-Cal beneficiaries.

The DHS Linkages program is offered to County residents 18 years of age or older who require assistance due to illness, injury, or disability in order to live independently, and need support in managing care and obtaining services that are not available through other resources. Linkages case managers coordinate and manage: the provision of in-home support services; respite care; personal care; chore services; home safety modifications; transportation; emergency response services; housing; nutritional services; government benefit programs; and other services as needed.

The Linkages program is offered to individuals regardless of whether they are eligible for Medi-Cal though only the services provided to Medi-Cal beneficiary program participants are reimbursed from Medi-Cal. As of January 2008, the Linkages program had 101 participants, of which 60 were Medi-Cal beneficiaries.

As required by State law and in DHS' agreement with the State, DHS is required to conduct a time survey for one month each year to determine the percentage of staff time spent on TCM services. These time percentages are applied to the Department's estimated annual costs for the most recent complete fiscal year and divided by the projected number of client encounters for the current fiscal year to determine the rate claimed for Medi-Cal reimbursement for TCM services in the current fiscal year.

Claims are made for each qualified client encounter with Medi-Cal beneficiaries who are under the jurisdiction of the Public Guardian or who are in the Department's Linkages programs. For the Public Guardian, an encounter is defined as, "a face-to-face contact or

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<sup>1</sup> The Public Guardian program description is posted on the Department's website <http://www.co.el-dorado.ca.us/humanservices/PG.html>

a significant telephone contact with or on behalf of the Medicaid-eligible person for the purpose of rendering one or more TCM service components by a case manager”.

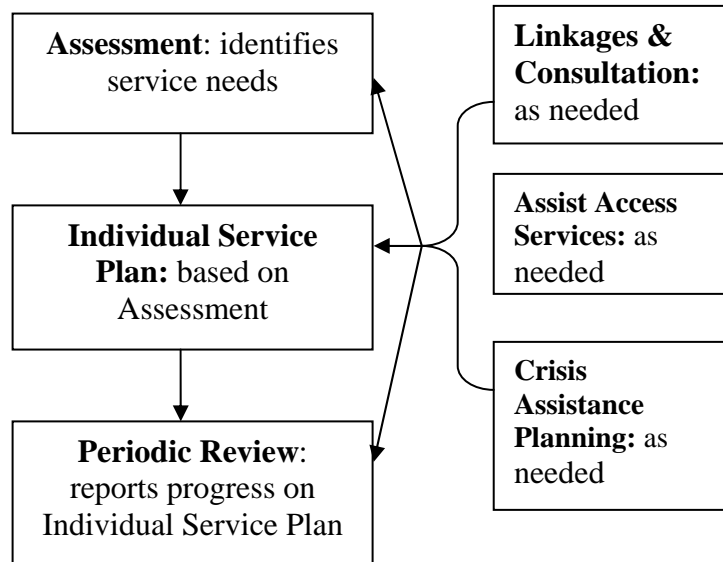
The definition of an encounter is the same for the Linkages program except telephone contacts are only allowed “in lieu of a face-to-face encounter when environmental considerations preclude a face-to-face encounter”. The allowable rates per encounter for FY 2007-8 are \$472.57 for the Linkages program and \$1,305.26 for the Public Guardian. These rates were determined through the required time study and cost reporting process governed by State regulations. The cost reports supporting the rates charged by DHS were obtained and reviewed but the supporting documents and bases of the rates charged were not analyzed as part of this audit.

Allowable TCM services to be provided and documented for Medi-Cal reimbursement include the following. Any of these services can qualify as billable encounters if they are provided in face to face meetings with the client.

1. *Needs Assessment.* The Assessment documents the conditions of the client and supports the selection of services for the individual. The Assessment should contain at least the following elements: 1) medical/mental health; 2) training; 3) vocational needs; 4) social/emotional issues; 5) housing/physical needs; 6) family/social matters; and, 7) finances.
2. *Individual Client Service Plan.* The case manager is required to develop a comprehensive written individualized service plan based on the Assessment. The Plan should identify the services to be provided to address the concerns identified in the Assessment. It must identify specific actions to be taken and include the duration and frequency of such actions. These Plans must be signed by the case manager’s supervisor.
3. *Periodic review.* This is an evaluation of the beneficiary’s progress toward achieving goals in Individual Client Service Plans must be assessed at least every six months. The Linkages program requires periodic review at least every 3 months.
4. *Linkage and consultation.* Case managers may provide beneficiaries with linkage and consultation and referral to service providers as needed. If such referrals are provided, case managers are required to follow up within 30 days of the referral service date to determine the outcome.
5. *Assistance accessing services.* This includes arranging appointments and/or transportation to medical, social, educational, and other services; or arranging translation services to facilitate services.
6. *Crisis assistance planning.* Crisis planning evaluates, coordinates, and arranges immediate service or treatment in a crisis situation.

Exhibit 4.2 presents a graphic depiction of the relationship between these elements.

**Exhibit 4.2**  
**Required TCM Program Element Relationships**



## **Audit Tests**

A random sample of Medi-Cal client billing records from the Linkages and Public Guardian programs were reviewed for this audit to determine if services are being provided and documented consistent with TCM regulations and that adequate documentation is in place to support Medi-Cal claims. To make this determination, documentation was requested for the most recent invoiced encounter for each selected client in August 2007 or before and for all other encounters or contacts for the thirteen months prior to that most recent encounter. August 2007 was selected as the latest point for an invoiced encounter because the Department had not billed the State for TCM services beyond that month at the time the case billing records were requested.

In addition to the most recent invoiced encounter, documentation was requested for each client's Assessment in effect during the review period, Individual Service Plan(s) in effect during the review period for the client, Periodic Reviews and any Linkage and Consultation, Service Access Assistance and Crisis Assistance Planning services provided for the thirteen months preceding the most recent invoiced encounter. Thirteen months' worth of records were requested to ensure that a determination could be made regarding compliance with Periodic Review interval requirements since TCM requirements are for Periodic Reviews at least every six months for the Public Guardian and every three months for the Linkages program. It also allowed for a comparison of

#### *Section 4: DHS Targeted Case Management Medi-Cal Billing*

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Assessments, Individual Service Plans and Periodic Reviews to analyze whether the same objectives and services were identified and monitored in all three documents, consistent with TCM requirements.

There were a number of impairments to the review of the random sample of TCM billing records. To avoid providing documents with client names, the Department of Human Services provided clients lists for sample selection with client identification numbers only. Consistent with the terms of the February 20, 2008 court order issued requiring the Department to provide the records reviewed, a request was made by the auditors that the identification numbers on the Department's client master list be visible in the case file documents to verify that the client billing records provided by the Department were in fact those of the randomly selected clients. This intended method of validating that the selected records were the actual records provided was not possible as the Department blacked out the client identification numbers in the case file documents and handwrote the identification numbers on each document. As a result, it cannot be confirmed that the selected records were the ones provided by the Department.

Another impairment to the audit process was that it was not possible to validate that the selected records contained client encounters for which the Department billed Medi-Cal. A request was made for documentation showing a cross-reference such as the client identification number of the reviewed records on the invoice but this was not provided by the Department. As a result, it was not possible to verify which encounters reviewed were billed to Medi-Cal.

Two other impairments affected this TCM case file review. First was the extensive redacting of the case file documents by DHS to the extent that compliance with some TCM program regulations could not be determined. Details of this matter are discussed further in the subsequent discussion of the case file review. The second other impairment was that the Assessment and Individual Client Service Plan documents provided for some of the case records were prepared after the Periodic Review documents provided though the request was made for Assessments and Client Service Plans in effect during the review period for each client. As a result, it was not possible to assess compliance with TCM program regulations for those Periodic Reviews since they are supposed to assess the extent to which the client has achieved the service goals and objectives detailed in preceding Assessments and Individual Client Service Plans. More details on these impairments are provided in the following analysis of the case records reviewed.

According to DHS, these impairments would not occur if the State were to audit TCM program records since they would be entitled to review all aspects of case records and records. However, a system should be established so that other parties with an interest in County Medi-Cal revenues, such as the Chief Administrator's Office, the Auditor-Controller or future Grand Juries, can audit these records without these impairments and still protect the confidentiality of the clients. Other agencies subject to audit of client records have made arrangements where names and key identifiers are struck out of records but the substance remains largely in tact.

## **Public Guardian Client Records Reviewed**

Twenty Medi-Cal eligible clients were randomly selected for review from the Public Guardian's client list. DHS did not submit documentation for eight of the 20 requested sets of records for the following stated reasons: three had billings after the August 2007 cutoff date, two were erroneously attributed to the program sample and three had not received services. Consequently, twelve of the twenty requested Public Guardian Medi-Cal beneficiary client case records were reviewed.

A minority of the twelve randomly selected sets of Public Guardian client records reviewed were found to be fully compliant with TCM program regulations and are thus at risk for Medi-Cal disallowance. Some measures of compliance were difficult to determine since so much of the content of the records provided was redacted by the Department of Human Services. For example, Periodic Reviews are supposed to assess accomplishment of the objectives set forth in Individual Client Service Plans. Unfortunately, much of the text in the Periodic Reviews and Individual Client Service Plan documents was blacked out by DHS to the point that it could not be determined in all cases what services or service objectives were being discussed. In spite of that, it was still possible to determine in the majority of cases whether or not the Periodic Reviews were compliant with most TCM requirements.

DHS compliance with TCM program and documentation requirements was assessed in spite of the limitations posed by the impairments described above. The results are presented below for each TCM service component. In cases where compliance could not be determined due to the state of records provided, no conclusion was drawn.

### **Assessments**

The purpose of the required TCM Assessment is to document the client's needs in the following areas: 1) Medical/Mental Health; 2) Training needs for community living; 3) Vocational/Education needs; 4) Physical needs, such as food and clothing; 5) Social/Emotional status; 5) Housing/Physical environment; and, 6) Family/Social Support systems. TCM Assessments are to serve as the basis for the activities and services suggested and selected for the client.

The Assessment documentation provided by DHS for all but one of the twelve Public Guardian clients reviewed were Re-assessments rather than the requested clients Assessments in effect for the period being reviewed. These Re-assessments unfortunately did not contain all service elements required by TCM regulations nor are they required to do so. However, the Public Guardian's Initial Assessments that take place when clients are first conserved does include all the required TCM elements. However, since the initial Assessments were not provided in the case records and the Re-assessment documents are more abbreviated, it was not possible to determine from the documents provided by the Department if issues identified in the initial Assessments were being addressed in Individual Client Service Plans, as required by TCM regulations.

The Public Guardian's Re-assessment form contains only four categories: 1) Medical/Mental; 2) Social/Environmental; 3) Financial; and 4) Closing (for comments and summary statements). While some of the other elements required for TCM Assessments are embedded in the four Re-assessment categories (e.g., Family/Social Support Systems is a subsection of the Social/Environmental category) or may be addressed in summary written comments, some of the TCM required elements such as Training or Vocational/Education needs are simply not included and could potentially go unaddressed in Re-assessments. The Public Guardian could ensure greater compliance with TCM Assessment requirements and greater continuity in client services by revising its Re-assessment standardized forms to include all required Assessment elements.

## **Individual Client Service Plans**

According to TCM regulations, Individual Client Service Plans are supposed to be based on each client's Assessment (or Re-assessment) document. The Plans should specify actions to be taken to meet the clients' service needs and are supposed to identify the nature, frequency and duration of activities and specific strategies to achieve service outcomes in the areas addressed in the Assessment (e.g., medical/dental, training, vocational/educational, etc.). The Plans are supposed to be comprehensive written documents.

None of the Public Guardian Individual Client Service Plans reviewed appear to fully comply with TCM regulations. First, so much of the content of the Assessments and Individual Client Service Plans had been redacted in the records provided by DHS that it made auditing these records very difficult as it was not always possible to tell what client issues, if any, were addressed in the Individual Client Service Plans or if those issues related to the Assessments. In cases where a reasonable amount of Assessment content could be discerned, there was no apparent reference to it in the associated Individual Client Service Plans.

Another problem with the Individual Client Service Plans reviewed is that DHS provided only the Assessments or Re-assessments prepared simultaneous with the Plans rather than those in effect for the full year reviewed for each client, as requested. As a result, it was not possible to determine if the Plans provided were addressing issues identified in previous Assessments or only in the Re-assessments.

The Individual Client Service Plan documents in the sample client records could be characterized more as checklists rather than "written, comprehensive individual service plans"<sup>2</sup>, as required by TCM regulations. Instead of writing, many Plans simply contained checked off boxes for "Problems or Service Areas" such as "Financial" with no written commentary or specific objectives or actions to be taken. Many of the Plans reviewed did not identify services the client would be referred to, as required by TCM regulations, or were simply comprised of notes regarding previous actions taken by the case manager such as, "Deputy Public Guardian got a temporary card for file."

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<sup>2</sup> Targeted Case Management Overview, page T-2-1-1, California Department of Health Care Services.

Though a TCM program requirement, none of the Plans in the twelve sets of case records reviewed identified the frequency or duration of the proposed actions to be taken. Combined with the weak nexuses between Individual Client Service Plans and the Assessments reviewed, a low percentage of the Individual Client Service Plans were determined to be compliant with TCM Medi-Cal requirements, as documented in Exhibit 4.3.

**Exhibit 4.3  
Summary of Results  
Review of 24 Individual Client Service Plans  
Public Guardian**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Plans based on Assessments	6	4	14	24	25%
Plans listing specific activities	9	13	2	24	37.5%
Plans with activity frequency & duration	0	24	0	24	0%

**Periodic Reviews**

According to TCM regulations, follow up on the extent to which the objectives of the Individual Client Service Plans are being accomplished is supposed to occur and be documented through face-to-face Periodic Reviews conducted at least every six months. The twelve sets of Public Guardian case records in the sample should have contained 27 Periodic Reviews<sup>3</sup> but as shown in Exhibit 4.4, only ten Periodic Review documents were found to be compliant with the six month regulation. This amounts to 37 percent of the total 27 Periodic Reviews in the sample.

Of the Periodic Reviews evaluated, only one included a link to Individual Client Service Plan objectives in the write-up as required by TCM regulations. Another case file was assumed to be compliant even though it didn't contain a Periodic Review because the client had not been under the jurisdiction of the Public Guardian for six months as of August 2007, the cutoff date for requested records since no encounters after that date had

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<sup>3</sup> 13 months of records for reviewed for each client picked. Since 12 sets of case records were provided by DHS and Periodic Reviews are supposed to occur at least every six months, this should have produced at least 24 Periodic Reviews. However, some of the case records reviewed were for new clients who had not been Public Guardian clients long enough to generate two Periodic Reviews. A few had more than two Periodic Reviews in their case records which increased the number of Periodic Reviews that should have been 26 Periodic Reviews in the case records to be compliant with TCM regulations.

been invoiced by the County at the time records were requested from the Department for this audit. The remaining twenty-five Periodic Reviews were considered non-compliant because seventeen did not include assessments of Individual Client Service Plan objectives and seven that should have been conducted and in the case records reviewed were missing entirely.

The median number of days between Periodic Reviews was 89 days for compliant cases but 322, or 142 days in excess of the TCM 180 day requirement, for non-compliant cases. The median number of days between Periodic Reviews for all cases records reviewed that contained Periodic Reviews was 199 days.

**Exhibit 4.4  
Summary of Results  
Review of Periodic Reviews  
Public Guardian**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Total</b>	<b>% TCM compliant</b>
Encounters completed every six months	10	17	27	37.0%
Median # days between Periodic Reviews	89	322	199	n.a.
Periodic Reviews assessing Service Plan objectives accomplished	2	25	27	7.4%

**Linkage & Consultation**

As mentioned above, TCM services can include providing clients with referrals to service providers and placement activities. When such services, called Linkage and Consultation, are provided, TCM regulations require that the initial referral or consultation be documented and that a documented follow-up occurs within a maximum of 30 days to determine whether the services were provided and whether they met the client’s needs. Linkage and Consultation services are not required but when they are provided, they must follow the protocols described.

Linkage and Consultation services were provided eleven times in the twelve sets of Public Guardian client records reviewed. None of the recorded Linkage and Consultation services reviewed were fully compliant with TCM requirements. In all cases, there were either no service referrals or, if there were, the nature of the services could not be confirmed because so much of the text in the report was blacked out by DHS. Documentation of required 30 day follow-ups to the Linkage and Consultation services were not found in any of the eleven reported incidents.

**Exhibit 4.5  
Summary of Results  
Review of Linkage and Consultation Services  
Public Guardian**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Referrals for Services documented	1	5	5	11	9.1%
Follow up within 30 days	0	11	0	11	0%

**Assistance Accessing Services**

This TCM allowable service can include arranging appointments, transportation to appointments, and other services identified in Individual Client Service Plans. Three of the twelve case records reviewed included documentation of providing this service. Due to the extensive amount of text blacked out on the report documents provided, it was not possible to tell what services were being in two of the three records reviewed. In one case, it was possible to tell that transportation was being arranged. In this case, the arranged service had also been cited as a need in the client’s Individual Client Service Plan.

**Crisis Assistance Planning**

None of the case records reviewed included reports of this service having been provided.

## **Linkages Program Client Records Reviewed**

Fifteen Medi-Cal eligible clients were selected for sampling from the DHS Linkages program. Documentation for five of the 15 clients was not provided by DHS because the Department reported there had been no encounters billed for those clients during the review period since they became clients after August 2007. Since the most recent Medi-Cal invoices submitted at the time of this audit was in August 2007, encounters after that time were not reviewed for this audit. As a result of the five clients having no billed encounters, only ten sets of Linkages client records from the original random sample selection were reviewed.

The TCM service components and requirements for the Linkages program is the same as for the Public Guardian with the exception that Periodic Reviews must take place at least every three months instead of the Public Guardian requirement of every six months. Otherwise, the approach to the review of these program case records was similar to the review of Public Guardian case records.

Overall, compliance with TCM program requirements was much higher for the Linkages program than for the Public Guardian program. Progress report documentation was much better and the program's standardized progress notes and forms are thorough and appear to be designed to integrate Assessments, Individual Client Service Plans and Periodic Reviews.

However, some areas of documentation were found non-compliant with TCM regulations, as reported below, and are therefore at risk of having their Medi-Cal reimbursement disallowed.

### **Assessments**

As with the Public Guardian records, the Linkages records reviewed contained more Re-assessments than initial Assessments; of the ten sets of client records reviewed, four contained initial Assessments and the other six contained annual Re-assessments. However, unlike the Public Guardian, the standardized forms used for Linkages Assessments and Re-assessments are the same and contain all of the service elements required for TCM programs except for Vocational/Educational needs, which are not called out on the standardized Linkages Assessment form. In some cases, these needs may be addressed in the Comments section but, if there are no such comments, there is no assurance from the documentation that the clients' needs in this area were assessed, as required by TCM.

### **Individual Client Service Plans**

All ten sets of case records reviewed contained Individual Client Service Plans, generally prepared at the same time as Re-assessments. Unlike the Public Guardian's Plan documents, Linkages program staff uses a standardized Service Plan form that requires the case manager to propose specific actions to be taken in various service categories

**Section 4: DHS Targeted Case Management Medi-Cal Billing**

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such as Case Management, Transportation, Respite/Homemaker, etc. For example, in a Service Plan reviewed in one of the audit sample sets of records, under the Service category, “Housing Assistance/Chore/Homemaker”, the following specific actions were proposed:

“Monitor the client’s ability to maintain her home. Refer to volunteer and handyman services for home repairs/maintenance. Assist with providing a one-time heavy duty housecleaning service if necessary.”

A space is also included on the Service Plan form for the case manager to describe the status of each action in Plan Addendums. In most cases reviewed, dates and descriptions of specific actions taken on at least some of the items were recorded by the case manager.

Linkages program Service Plan documents are superior to those used by the Public Guardian’s Office in that they require the case manager to identify specific actions to be taken. Though much of the text in the documents provided by DHS was struck out and could not be read, in all of the Service Plan documents reviewed, at least one issue identified could also be found in the discussion in the Assessment or Re-assessment documents. Only one Plan had so little text left after the Department’s redactions that it was not possible to find corresponding issues in the Assessment document.

Exhibit 4.6 shows the results of the selected TCM requirements pertaining to Individual Client Service Plans in the ten Linkages case records reviewed.

**Exhibit 4.6  
Review of  
10 Individual Client Service Plans  
Linkages Program**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Plans based on Assessments	9	0	1	10	90%
Plans listing specific activities	10	0	0	10	100%
Plans with activity frequency, duration	0	10	0	10	0%

As shown in Exhibit 4.6, Linkages Service Plans were found to contain specific services and actions to be taken and were thus determined to be compliant with TCM regulations in this regard. The consistency of approach found in the case records reviewed makes it appear that Linkages program management has directed its staff to include actions to be

taken in Plan documents, an approach that does not appear to be in place in the Public Guardian's Office. Actions specified in Linkages Plans include referring the clients to individuals, organizations and/or agencies that will meet their service objectives. Unfortunately, the nature of these referrals could not be verified due to the heavily redacted documents provided by the Department. However, the Linkages Re-assessment documents reviewed did include information on the specific services and agencies to which the clients have been referred since their last Assessment.

While the Linkages Individual Client Services Plans represent an improvement over the Public Guardian Plans reviewed, they were found not fully compliant with TCM regulations in that none of the Service Plans reviewed described the frequency or nature of the activities and specific services to be performed, as required by TCM regulations.

## **Periodic Reviews**

Though TCM regulations require Periodic Reviews of program clients at least every six months, the Linkages program has a more restrictive requirement that Periodic Reviews take place at least every three months. The purpose of the reviews is to determine if the client is achieving the objectives identified in their Individual Client Service Plans and to determine if current services should be continued, modified or discontinued.

As shown in Exhibit 4.7, the majority of Linkages Program Period Reviews were conducted within the required three month interval requirement. The median number of days between Periodic Reviews for the compliant cases in the case records reviewed was 46.5 days. For the three non-compliant cases, the median number of days between Periodic Reviews was 53.5 days. Most Periodic Reviews in all records reviewed were within the required 90 day maximum but there was one Periodic Review in each of the three non-compliant sets of case records that exceeded the allowable interval time. However, Periodic Reviews in the sample case records were generally very specific and addressed issues such as Housing, Medical Services, Transportation and others.

A determination of whether the Linkages program is complying with the TCM requirement that Periodic Reviews evaluate the client's progress toward achieving their Service Plan objectives could only be definitively made for four of the ten case sets of case records reviewed. A determination could not be made for the remaining six case sets of case records either because the Service Plans provided were for time periods after the periods covered by the Periodic Reviews provided and thus could not be compared, or, because so much text has been redacted that it was not possible to tell what services were being assessed in the Periodic Reviews. Some of the Service Plans provided by DHS were those prepared after the 13 month review period for the case records.

Exhibit 4.7 presents the results of the assessment of Periodic Reviews conducted for this audit.

**Exhibit 4.7  
Periodic Reviews in 10 Sets of Case Records  
Linkages Program**

	<b>TCM compliant</b>	<b>Not TCM compliant</b>	<b>Could not be determined due to state of records</b>	<b>Total</b>	<b>% TCM compliant</b>
Encounters completed every three months	62	3	0	65	95.2%
Median # days between Periodic Reviews	46.5	53.5	n.a.	53.5	n.a.
# assessing Service Plan objectives accomplished?	4	0	6	10	40%

**Linkage & Consultation**

Linkage and Consultation services are when case managers provide clients with referrals to services and placement activities consistent with the clients’ service needs and objectives. TCM regulations require that referral to such services be followed up within 30 days to determine if the services were received and whether they met the client’s needs. Though progress notes in the case records reviewed showed that Linkage program case managers do provide Linkage and Consultation services, the Program’s encounter documentation does not classify such services by this name. None of the case records in which such services are recorded contained 30 day follow-up documentation either. Linkage and Consultation encounters in these case records were embedded in progress notes classified as either Assessments, Re-assessments, Quarterly Visits or Home Visits.

While the case records reviewed showed that most Linkages clients do receive visits from the case managers more frequently than the minimum required four times a year, the fact that certain Linkage and Consultation services are not documented as such has resulted in an absence of TCM required 30 day follow-ups to such services. The intent of this TCM requirement appears to be to enhance the effectiveness of case manager services by not only making referrals, but determining if the clients used the service and if the service met their needs.

## **Assistance Accessing Services**

TCM allows case managers to provide Assistance Accessing Services to their clients. As the name implies, this can include arranging appointments and/or transportation for medical, social, educational or other services, or arranging translation services to facilitate communications between clients and case managers or others. Linkages progress notes reviewed for the ten sample case records showed that such services are frequently provided by Linkages staff but they are not classified as such. Instead, all client encounters are classified only as Assessments, Re-assessments, Quarterly Visits and Home Visits. Classifying progress notes with the title Assistance Accessing Services would make the records more clear which TCM allowed services are being provided.

## **Crisis Assistance Planning**

This final service allowed for the TCM program is for arranging or coordinating immediate services or treatment when the client is in an emergency situation. There were no records of such services in the ten sets of case records reviewed.

## **Fiscal impact of non-compliance with TCM requirements**

Medi-Cal disallowances for TCM services can be determined in different ways. Billings are submitted for “encounters” which, as discussed above, must be face-to-face interactions between a TCM case manager and a client. Billing for driving a client to an appointment or billing for an encounter that is not documented would both not be acceptable and the amount billed for such an encounter would presumably be disallowed through a State audit. Inaccurate time study or cost report details could also lead to a disallowance if the data in these documents were inaccurate or not properly used for billing purposes.

Another way of determining the appropriateness of Medi-Cal billings for TCM services is through a review of case records to assess adherence to TCM program requirements. Medi-Cal reimbursement for TCM services is based on the premise that all program requirements are being met. This was the approach used for this audit and the results are discussed above.

Based on the findings discussed above regarding TCM program requirement compliance in the Public Guardian’s Office and the Linkages program, an estimate of fiscal impact has been made. The basis of this estimate is the number of billable encounters determined to be substantially out of compliance with TCM program requirements. Since the TCM program has many requirements, some more significant than others, some judgment was necessary to define substantial compliance. For example, none of the case records reviewed for either the Public Guardian or the Linkages program contained the frequency or duration of activities recommended for clients in the Individual Client Service Plans, as required by TCM regulations. Using this measure, all encounters billed for during preparation of Client Services Plans are out of compliance with TCM regulations and are therefore subject to Medi-Cal disallowance.

A different standard was used though since the absence of frequency and duration of Service Plan activities was not considered as serious a breach of compliance as, for example, lack of compliance with the TCM requirement that a face-to-face Periodic Review of progress be conducted with the client at least every six months. If a case file was found compliant with all TCM requirements except including the frequency and duration of activities in the Individual Client Service Plan, the file was considered compliant. If a case file was non-compliant in a variety of areas such as: not specifying activities for the client in the Individual Client Service Plan; not cross-referencing service needs from the client's Assessment in the Individual Client Service Plan; and, not specifying the frequency and duration of activities in the Individual Client Service Plan, the case file was considered non-compliant and subject to Medi-Cal disallowance.

Using this approach, 36 of the 42 Public Guardian encounter records reviewed and three of the 67 Linkages program encounter records reviewed were considered non-compliant with TCM requirements and subject to Medi-Cal disallowances. Applying these ratios of non-compliant encounters to total Fiscal Year 2006-2007 Medi-Cal revenues for the two TCM programs in the Department of Human Services produces the following fiscal impacts.

**Table 4.8**  
**Estimated Impact of**  
**Non-Compliance with TCM Regulations**  
**on DHS Medi-Cal Revenue**

	<b>Public Guardian</b>	<b>Linkages</b>
# Encounters Reviewed	42	67
# non-Compliant	36	3
% non-compliant	85.7%	4.5%
Total FY 2006-07 Medi-Cal Revenue	\$168,405	\$64,866
Potential Medi-Cal Disallowance	\$144,828	\$2,919

As shown in Table 4.8. the fiscal impact on the Department would be \$140,338 for the Public Guardian's Medi-Cal revenues and \$19,460 for the Linkages program. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.

## **Conclusion**

Many of the Department of Human Services Public Guardian program case records appear to be out of compliance with TCM program requirements, based on a review of a sample of client case records and documentation supporting Medi-Cal claims for reimbursement. Few of the case records reviewed make the required link between client Assessments, Individual Client Service Plans and Periodic Reviews to ensure that client

needs have been identified and addressed with specific activities and service strategies. Though a TCM requirement, follow-up checks on services to which clients are referred are routinely not taking place. Most cases are not meeting the six month Periodic Review requirement.

The Department's Linkages program, on the other hand, was found substantially in compliance with TCM program requirements in the ten sample sets of case records reviewed. Linkages program management appears to have designed their case file documentation and established policies and procedures with TCM program requirements, or intent, in mind. Periodic review documents are structured to ensure that service objectives and client needs identified in previous assessments and reviews continue to be addressed.

## **Recommendations**

The Director of Human Services should:

- 4.1 Direct Public Guardian Office management to establish written policies and procedures and documentation requirements that are consistent with Targeted Case Management program requirements and regulations, to include: inclusion in Individual Client Services Plans of client issues identified in Assessments; inclusion of specific actions and services in Individual Client Services Plans; and, specific discussion in Periodic Reviews of client progress in meeting service objectives and needs identified in previous Assessments and Service Plans.
- 4.2 Direct Linkages program management to direct staff to include frequency and duration of activities and services in their Individual Client Services Plans.
- 4.3 Direct the Department's TCM Coordinator to conduct periodic spot audits of Public Guardian and Linkages program Medi-Cal beneficiary client case records to ensure that they are compliant with TCM requirements and report the results in writing to the Director every six months.
- 4.4 Establish protocols for periodic reviews and audits of TCM and other Medi-Cal program case records by oversight agents such as the County Auditor-Controller, the Chief Administrative Officer and future Grand Juries that will allow for unimpaired audits of Medi-Cal programs by providing all documents needed to assess program compliance while still protecting client privacy.

## **Costs and Benefits**

The costs of implementing the above recommendations will mostly be in the form of Department of Human Services staff time. The benefits of implementing the recommendations will include better managed services for TCM clients and reduced risk of Medi-Cal disallowances for both programs. Based on the review of TCM client case records from the Public Guardian Office and the Linkages program, the Department is at risk of an estimated Medi-Cal disallowance for Fiscal Year 2006-2007 of \$144,828 for

*Section 4: DHS Targeted Case Management Medi-Cal Billing*

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the Public Guardian and \$2,919 for the Linkages program, for a total disallowance of \$147,747. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.

# **Final Draft Response to the 2007-08 Grand Jury Final Report Part 1**

## **Assisting Road Repair Community Service Districts Case No. GJ 07-026**

### **REASON FOR REPORT**

Community Service Districts (CSD's) are a category of Special Districts. They are established and regulated under State Government Code §61001. Regulations generally have increased over time and can be a burden for small districts with limited budgets and management expertise. The present and previous Grand Juries have received complaints alleging misconduct by a few small special districts. Alleged misconduct is not necessarily intentional. Rather, it may result from inadequately trained boards of directors. Consequently, the Grand Jury sought ways for the County to assist road repair district boards of directors to better manage their responsibilities and reduce incidents of alleged misconduct.

### **BACKGROUND**

El Dorado County has 57 special districts, most of which are CSD's. Each covers a specified geographic area that can be large or small and each is governed by a board of directors comprised of property owners in the district. Budgets of these CSD's vary greatly. CSD's are allowed by the State code to conduct several activities. A few County CSD's do road maintenance along with providing other services within their district. Examples are Consumnes River CSD and Showcase Ranches CSD. However, 15 of the County CSD's only repair roads (including road related drainage repair work) in their districts. These districts are usually small communities, mostly rural and formed following development of a land parcel or sub-division. Each road repair CSD is independent of any supervision other than its own board of directors.

A Zone of Benefit (ZOB) is essentially the same as a single purpose road repair CSD, except it is not independent. The County has 33 ZOBs that also conduct road repairs in their zones. In effect, ZOBs have transferred executive authority and responsibility for conducting road maintenance in their zones to a County Service Area (CSA). County Service Areas are themselves a type of special district, falling under State Government Code §25210. They are umbrella agencies that usually contain several ZOBs. All CSAs are directed and controlled by the County Board of Supervisors. El Dorado County's road repair ZOBs are in CSA # 9, which is run by the County Department of Transportation (DOT). Zones of Benefit have advisory committees composed of zone property owners.

### **METHODOLOGY**

The Grand Jury reviewed documents governing the establishment and proper operation of CSDs. Information about CSD's was obtained from El Dorado County's Local Agency Formation Commission (LAFCO), which is responsible for setting boundaries between special districts and assisting in settling disputes between them. Current budget and

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

expenditure information was obtained from the County Auditor-Controller. Road maintenance technical information was obtained from DOT.

### People Interviewed:

- El Dorado County Auditor-Controller
- El Dorado County Assistant Auditor-Controller
- El Dorado County Department of Transportation Deputy Director for Maintenance and Operations.
- LAFCO, Executive Officer
- Road Repair CSD Members

### Documents Reviewed:

- Memo to Grand Jury from Executive Officer of LAFCO, November 26, 2007, with Attachments
- “Zones of Benefit Advisory Committee Manual” (First Draft, December, 2007)

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. Road repair CSD's obtain most of their funds through special assessments previously approved by the district property owners and included as a separate item in their property tax bill. Annual funds accumulate over years and are held by the County Treasurer. The reserve funds are available to hire a contractor to provide road repairs when needed. Typically in a district, a repair project does not occur every year.

***Response to Finding 1: The respondent agrees with the finding.***

2. Road repair CSD's could opt to become Zones of Benefit under CSA #9, but this would necessitate paying fees for County DOT services. Department of Transportation charges hourly rates for time spent assisting ZOB's, and the Auditor-Controller charges one percent of the annual budget for providing financial services. While these fees may be reasonable, road repair CSD budgets on average are considerably smaller than ZOB budgets.

***Response to Finding 2: The respondent agrees with the finding.***

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

3. Road repair districts have limited technical expertise and may have limited understanding of State rules. Roads in their districts are legal public roads and rules must be followed that are not required for private roads in gated communities. Typical problems encountered are: creating or obtaining adequate specifications for road maintenance and drainage construction projects, drafting the scope of work for projects, seeking bids and selecting contractors, inspecting and approving work, and maintaining acceptable financial documentation.

***Response to Finding 3: The respondent agrees with the finding.***

4. Road repair district directors will benefit from more job training. The Department of Transportation provides annual training classes for ZOB advisory committee members that would be very useful to road repair district directors and could be provided to them at negligible incremental cost.

***Response to Finding 4: The respondent disagrees partially with the finding. The training provided to the Zone of Benefit Advisory Committees by the Department of Transportation is specifically tailored to address Zones of Benefit and is not necessarily applicable to Community Services Districts. Including CSD members in the ZOB training most likely would be confusing for attendees who are typically looking for specific answers related to Zones of Benefit. In addition, although Department of Transportation staff are knowledgeable concerning Zones of Benefit, they are not trained or knowledgeable about Community Services Districts.***

5. Very recently, the DOT prepared a prototype handbook (“Zone of Benefit Advisory Committee Manual”) for advisory committee members. This Manual includes information on: ethics, the open meeting law (The California Brown Act), road maintenance and repair (engineering) guidelines, contracting and purchasing, insurance, volunteer work procedures, and budget preparation. This Manual is an excellent product, put together from existing information at DOT in a very short period of time. The Department of Transportation is *commended* for this effort. This Manual would also be very useful to board directors of road repair districts.

***Response to Finding 5: The respondent agrees with the finding.***

## RECOMMENDATIONS

1. The County Department of Transportation should invite road repair district directors to its annual training sessions held for Zones of Benefit advisory committee members, and do so on a continuing basis.

***Response to Recommendation 1: The recommendation will not be implemented because it is not reasonable. The training provided to the Zone of Benefit Advisory Committees is specifically designed to address ZOB issues. Combining ZOB and CSD issues would be confusing and is anticipated to detract from the department***

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

*responsibility for the ZOB Program. Staffing is not adequate to assume additional responsibility assisting Community Services Districts.*

2. The County should publish the "Zone of Benefit Advisory Committee Manual" and make it available, free of charge, to every road repair district director. As soon as possible, this Manual should also be provided through the internet. This will allow easy upgrading by the Department of Transportation and ready access of the latest upgrade by users. Hard copy Manuals should continue to be published.

***Response to Recommendation 2: The recommendation has not been implemented, but will be implemented in the future. The department will post the "Zone of Benefit Advisory Committee Manual" or similar documentation on the Department of Transportation web page, with a target date of January 1, 2009. Hard copies could be made available to the public for a nominal fee.***

3. The Manual published by the Department of Transportation should also include the following:
  - A. A section listing contacts, with phone numbers, email addresses and mail addresses, where users can obtain information about sourcing licensed contractors; this listing should include the Builders Exchange of El Dorado County.

***Response to Recommendation 3A: The recommendation will not be implemented because it is not warranted. Contractor information is readily available on the internet, yellow pages and other sources. The County should not list specific contractor information in an effort to avoid any appearance of favoritism or a perceived recommendation of a particular contractor.***

- B. References for many specifications that are given in the "Road Maintenance and Repair Guidelines" section of the Manual which will allow users to obtain more detailed specification information when needed.

***Response to Recommendation 3B: The recommendation will not be implemented because it is not reasonable. References for specifications are available for road projects from contractors when projects go out to bid. Including references for specifications will likely involve the Department of Transportation in projects for which the county has no part.***

# Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

## Clean Tahoe Program Case No. GJ 07- 011

### REASON FOR REPORT

The El Dorado County Grand Jury received a letter from the South Lake Tahoe District Attorney's Office that prompted an investigation of the Clean Tahoe Program's procedures for managing its funds.

### BACKGROUND

The Clean Tahoe Program is a non-profit organization funded primarily by the City of South Lake Tahoe and El Dorado County. Its mission is to improve the visual quality of the Tahoe Basin within El Dorado County. Because it is publicly financed, it has a fiduciary responsibility, similar to the City and County, to properly manage its funds.

The Clean Tahoe Program performs an important service to the community. This is accomplished through the dedication and hard work of the Clean Tahoe staff.

### METHODOLOGY

The Grand Jury visited the offices in South Lake Tahoe of the Clean Tahoe Program and the South Tahoe Refuse Company (STR) to obtain information. STR is a private corporation with an exclusive franchise from the City and County to gather, sort, recycle, and dispose of refuse in the South Tahoe Basin. The investigation included a review of records, cashed checks, credit cards and the security of petty cash.

#### People Interviewed:

- Clean Tahoe Program Board, Two Directors
- Clean Tahoe Program Manager
- Clean Tahoe Program Outside Bookkeeper
- Clean Tahoe Program Treasurer
- El Dorado County Assistant District Attorney
- South Tahoe Refuse Company Controller
- South Tahoe Refuse Company President

#### Documents Reviewed:

- Clean Tahoe Program Brochure
- Clean Tahoe Program By-laws, Procedures and Personnel Manual
- Clean Tahoe Program Financial Documents
- Clean Tahoe Program Budget vs. Actual Income and Expenses, October '06 through September '07

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

- Clean Tahoe spreadsheets showing field work assignments
- Comparative cost study by STR in 2004 showing cost savings if STR assumed Clean Tahoe Program duties
- E-mail memos from Clean Tahoe Program Manager
- Mission Statement of Clean Tahoe Program
- South Tahoe Refuse Company controller memo (11/16/07) with financial spreadsheets

### RESULTS OF INVESTIGATION

In the investigation of Clean Tahoe's management of funds, financial controls were found to be deficient. However, the deficiencies are in the process of being corrected.

The Clean Tahoe Program is small and requires management and overhead functions that are disproportionately high and expensive in small publicly financed organizations. These costs would be lower if shared with similar costs in a larger organization. In principle, this can be achieved either by absorbing Clean Tahoe into a larger organization or by selecting a larger organization to perform the essential services that are now performed by the Clean Tahoe Program. The Grand Jury investigated these possibilities and found the following:

### FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it was addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The refuse picked up by the Clean Tahoe Program is deposited at the STR company transfer station in the City of South Lake Tahoe. There, the refuse is processed, with some of it recycled. The Clean Tahoe Program is charged for this at standard rates for this service.

***Response to Finding 1: The respondent agrees with the finding.***

2. South Tahoe Refuse is capable and willing to assume the operations of the Clean Tahoe Program if asked by the City and County to do so. However, it has been reluctant to initiate this change because it does not wish to appear hostile to the Clean Tahoe Program.

***Response to Finding 2: The respondent disagrees partially with the finding. Currently, South Tahoe Refuse Co., Inc. (STR) does not have a program that provides the same service as the Clean Tahoe Program.***

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

3. Because of its franchise agreements, the rates charged for STR services are controlled by the City and County. Consequently, the transfer of the complete operations of the Clean Tahoe Program to STR could be accomplished easily and without requiring a competitive bid process.

***Response to Finding 3: The respondent disagrees partially with the finding.***

*The City and County each have existing Franchise Agreements with South Tahoe Refuse Co., Inc. The City Council and the Board of Supervisors set the rates to be charged by STR. The County would have to negotiate with STR to incorporate services not currently included in the existing franchise agreements. No competitive bid process would be required.*

4. During 2003, STR was provided a copy of the FY 2002/03 Clean Tahoe Budget and asked to review the budget for opportunities for cost savings if STR were operating the Clean Tahoe Program. After doing a line-by-line assessment of each cost item, STR estimated that it could reduce the annual cost by \$49,720. Details of this assessment are shown in a spreadsheet that is Exhibit A. South Tahoe Refuse management expressed to the Grand Jury that it believes this estimate is still reasonable.

Elimination of the Clean Tahoe Program's management and overhead costs is an important area of savings if STR assumes operations of the Clean Tahoe Program, but these costs are not included in the previous study that resulted in Exhibit A. Work now being carried out by two field assistants of the Clean Tahoe Program would continue to be required at STR. The additional net payroll savings were estimated by the Grand Jury as follows:

Elimination of Clean Tahoe's full payroll budget for 2006-2007:	\$112,000
Less full payroll of two field assistants at STR costs:	<u>( 71,480)</u>
Estimated Net Payroll Cost Savings:	\$ 40,520

The total estimated savings expected from transferring the Clean Tahoe Program duties to STR are obtained by adding the former estimate of \$49,720 to the net payroll cost estimate of \$40,520. This yields an estimated total annual cost savings of \$90,240. It is important to recognize that these are recurring savings. The present value of these savings aggregated over the next 10 years can be calculated by discounting the savings each year at 5 percent. This is the County Treasurer's Pool Rate that is used for project loans that have been approved by the County Board of Supervisors. The calculated savings is a present value over 10 years of \$698,806. The actual savings will depend on details of any agreement between the service-provider selected to take over the Clean Tahoe Program. Nevertheless, the estimated potential savings are significant and lead to the following Grand Jury recommendations:

***Response to Finding 4: The respondent disagrees partially with the finding.***

*The financial information used as the basis of this finding was from Fiscal Year 2002/2003. A comprehensive review of the current financial statements would*

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

*need to be conducted to determine the cost effectiveness and potential savings regarding a change in the program management.*

### RECOMMENDATIONS

1. The City and County should seek a capable public or private organization to provide, at less cost, the services now provided by the Clean Tahoe Program.

***Response to Recommendation 1: The recommendation will not be implemented.***  
*In Fiscal Year 2007-08 the County's portion of Clean Tahoe's total budget is 13% or \$29,499. The County is not able to perform the services of the Clean Tahoe program for the available funding of approx \$30,000 per year.*

2. Savings that may be realized by the City and County replacing the Clean Tahoe Program with a new service provider should be passed to the property owners by reducing their property tax assessments.

***Response to Recommendation 2: The recommendation will not be implemented.***  
*After a review of the Clean Tahoe program budget, there would not be savings generated based on the County contribution to the program.*

# Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

## El Dorado County Jail Placerville

### **BACKGROUND**

The El Dorado County Jail located in Placerville was built in 1988. The maximum capacity is 265 beds. The jail population at the time of the Grand Jury inspection was 208 inmates.

### **FINDINGS**

The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The jail is well maintained, having addressed past Grand Jury concerns regarding maintenance issues.

*Response to Finding 1: The respondent agrees with the finding.*

2. The jail staff is committed to public safety and the secure incarceration of inmates. Providing excellent programs and services for inmate self-improvement facilitates inmates' assimilation back into the community.

*Response to Finding 2: The respondent agrees with the finding.*

### **COMMENDATION**

The leadership and staff of the Placerville Jail are commended for their rigorous adherence to its mission statement and dedication to the rehabilitation of incarcerated adults.

# Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

## El Dorado County Jail South Lake Tahoe

### REASON FOR REPORT

Section 919(a) and 919(b) of the California Penal Code requires the grand jury to annually inspect any jail or prison within the county. This includes juvenile correctional facilities.

### BACKGROUND

The South Lake Tahoe Jail was built in 1970 and was renovated in 1991. The jail has a maximum capacity of 158 inmates. Recently, there has been an average of 110. Staff consists of 1 lieutenant, 7 sergeants, 25 correctional officers, 1 cook supervisor, and 1 lead registered nurse to operate the institution in 12-hour shifts.

### FINDINGS

The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The number of correctional officers needed to cover all shifts is 34.

***Response to Finding 1: The respondent agrees with the finding.***

2. There is no dedicated general service worker for the facility. It was noted that the facility has been on a waiting list for needed repairs for two years.

***Response to Finding 2: The respondent disagrees partially with the finding. General Services dedicates one man-year worth of maintenance labor between the South Lake Tahoe Jail and the South Lake Tahoe Juvenile Hall. General Services staff estimate that approximately 60% of the maintenance staff time is spent at the Jail, while 40% is spent at the Juvenile Hall. Items on waiting list are capital improvement projects.***

3. The staff provides many opportunities and programs for inmates to improve their skills as contributing members of society, i.e. BRIDGE, TOPS, GED, culinary arts, counseling, and the Tahoe Mentor Program.

***Response to Finding 3: The respondent agrees with the finding.***

4. During the recent Angora Fire, the staff and inmates provided additional resources and comfort to the South Lake Tahoe community as well as to fire and law enforcement agencies.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

*Response to Finding 4: The respondent agrees with the finding.*

### RECOMMENDATIONS

Safety and security are of paramount importance in a correctional facility – for inmates, staff and visitors.

1. It is recommended that the Board of Supervisors provide funding to adequately staff the jail and to provide needed maintenance within the 2008-2009 fiscal year.

*Response to Recommendation 1: The recommendation will not be implemented because it is not reasonable. The Board of Supervisors agrees that safety and security in the County's correction facilities is of paramount importance. However, the County as a whole is facing a significant budget shortfall. The Board of Supervisors may consider increasing correctional officer staffing levels over the next three to five years as resources permit. It is noted that as of May 1, 2008 there were 23 correctional officers and five sergeants allocated to the South Lake Tahoe Jail. Service levels in the Tahoe jail have been stable over the past few years. Any additional resources committed to the Tahoe facility will have to be weighed against the need for the same resources in the Placerville facility which is potentially expanding to accommodate the growth in western El Dorado County.*

2. It is recommended that one maintenance worker from General Services be dedicated to the South Lake Tahoe Jail in order to make necessary decisions, provide preventative maintenance and complete critical work in a timely manner.

*Response to Recommendation 2: The recommendation will not be implemented because it is not reasonable. As mentioned in the response to Recommendation 1, El Dorado County is facing a significant budget shortfall. The Board of Supervisors is unable at this time to exclusively dedicate a General Services worker to the South Lake Tahoe Jail. However, the Board will consider increasing maintenance staff at the Jail and other county facilities as resources permit.*

### RESPONSES

Response(s) to this report is required in accordance with California Penal Code §933.05.

### COMMENDATION

Despite needing increased personnel and repairs in certain areas of the facility, many programs leading to rehabilitation of inmates were noted, most specifically in the areas of mental health, vocational training and community service.

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 1**

The leadership and staff at the South Lake Tahoe Jail are commended for their rehabilitation programs for inmates. Further, the leadership and staff are commended for their outstanding community response during the Angora Fire.

# Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

## El Dorado County Juvenile Hall Placerville

### REASON FOR REPORT

Section 919(a) and 919(b) of the California Penal Code requires the grand jury to annually inspect any jail or prison within the county. This includes juvenile correctional facilities.

### BACKGROUND

The Placerville Juvenile Hall was built in 1971. The facility houses a maximum of 40 male and female minors. The El Dorado County Probation Department is responsible for the care of the minors, as well as the facility and personnel, while the El Dorado County Office of Education is responsible for the education of the minors. The relationship between the two departments is integral to the success of both programs. Children who are sent to juvenile hall become temporary wards of the court pending adjudication. During this time, a minor's health, safety and education are protected by Welfare and Institution Code, California Code of Regulations - Title 15 and Title 24, and federal and state educational codes.

Programs are in place to educate and support youthful offenders and their families in effective rehabilitation information and strategies. These programs include counseling programs, mental health programs and many vocational programs. Providing an education to youthful offenders who have been detained for errors in judgment and unlawful behavior allows the young person the opportunity to stay abreast of or catch up on his/her school work. Graduating a youthful offender from high school furthers the potential to re-enter the community ready to become a productive member of society. Last year, the juvenile hall school (Golden Ridge School) graduated four such individuals.

### FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings.

The facility is in excellent, pristine condition. There is a plan to update the communication system and to expand the facility. Both of these items are in the current capital improvement program.

***Response to Finding: The respondent agrees with the finding.***

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

### RECOMMENDATION

It is recommended that the Board of Supervisors fund necessary work entailed in the expansion of the facility and updating the communication system during the 2008-2009 fiscal year.

*Response to Recommendation: The recommendation has not yet been implemented, but will be implemented in the future. General Services has secured a contract to update the communication system, and should begin repairs/replacement of the system on or before August 4, 2008. General Services has secured a contract to expand the entrance and control room of the Juvenile Hall. Construction should begin on or before August 4, 2008.*

### RESPONSES

Response(s) to this report is required in accordance with California Penal Code §933.05.

### COMMENDATION

The El Dorado County Probation Department and the Office of Education are commended for their outstanding advocacy and rehabilitation programs for at-risk children. The Grand Jury finds that the probation and educational staff have gone above and beyond what is required. The probation staff and the education staff are further commended for their immaculate facility observed during an unannounced visit.

# Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

## El Dorado County Juvenile Hall South Lake Tahoe

### REASON FOR REPORT

Section 919(a) and 919(b) of the California Penal Code requires the Grand Jury to annually inspect any jail or prison within the county. This includes juvenile correctional facilities.

### BACKGROUND

The South Lake Tahoe Juvenile Treatment Center is located at 1041 Al Tahoe Boulevard. It is approximately three years old. The facility houses a maximum of 40 male and female minors. On the days the site was visited, there was an average of 20 children in residence. The El Dorado County Probation Department is responsible for maintaining the facilities that house youthful offenders. El Dorado County Office of Education is responsible for education during the child's period of retention. The name of the school located in the juvenile hall is Blue Ridge School. The relationship between the Probation Department and the School is integral to the success of both programs.

Children who are sent to juvenile hall have become temporary wards of the court pending adjudication. During this time, a minor's health, safety and education are protected by Welfare and Institution Code, California Code of Regulations, Title 15 and Title 24, and federal and state educational codes.

### METHODOLOGY

Members of the Grand Jury visited the South Lake Tahoe Juvenile Treatment Center twice. Both the probation superintendent of the facility and the school principal were present to answer questions as the Grand Jury toured the facility on both occasions. Subsequent to the visits, an investigation that included a review of materials and conversations with other experts in county and state education, as well as juvenile court schools was conducted. The focus pertained to processes that ensure that school records, including proof of immunization, were properly in place.

People Interviewed:

- Chairs - El Dorado County Office of Education School Attendance Review Board (SARB)
- Chief Probation Officer - El Dorado County Probation Department
- Consultant - The California State Department of Education, Education Programs
- Deputy Chief Probation Officer - South Lake Tahoe Juvenile Hall
- Director - Los Angeles County Juvenile Court and Community Schools

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

- Principal - Blue Ridge School
- Probation Staff - Sacramento Juvenile Hall
- Staff Members - Juvenile Hall (including the cook, deputy probation officers, and school personnel)

### Documents Reviewed:

- California Code of Regulations, Title 15, Section 1029, Policy and Procedures Manual
- California Code of Regulations, Title 15, Section 1280, Facility Sanitation, Safety and Maintenance
- California Code of Regulations, Title 17, Section 6000-6075
- California Education Code 49068 & 49403
- Health and Safety Code, Sections 120325-120380
- Mission Statement, Blue Ridge School

### Websites:

- California Department of Education

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings.

1. The facility was generally in excellent condition with three exceptions which have been approved for remediation through the current capital improvement plan. The three areas which need renovation are:
  - A. The recreation area - the top of the walls of the area is open to the outside and therefore extremely cold during the winter months.

***Response to Finding 1A: The respondent agrees with the finding.***

- B. A pass-through window needs repair.

***Response to Finding 1B: The respondent agrees with the finding.***

- C. An acoustic problem (vibration noise) in the classroom needs repair.

***Response to Finding 1C: The respondent agrees with the finding.***

2. Staffing can be a problem due to the high cost of either living locally or commuting.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

### ***Response to Finding 2: The respondent agrees with the finding.***

3. All probation and education staff is dedicated to increasing a young person's ability to succeed in his/her environment. Programs are in place to educate, support, and promote youthful offenders and their families in effective rehabilitation information and strategies. These programs include the Challenge Program, the Ranch Program, counseling programs, mental health programs, and many vocational programs.

### ***Response to Finding 3: The respondent agrees with the finding.***

4. There have been no fights in three years.

### ***Response to Finding 4: The respondent agrees with the finding.***

5. The concern for the health of at-risk youngsters incarcerated in a juvenile correctional facility has been thoroughly reviewed. The Grand Jury finds that the probation staff and the educational staff have gone above and beyond what is required. In addition to sending for and receiving complete school records (including proof of immunization) within 24 hours of intake, the probation staff has also initiated a more effective health review upon in-take.

### ***Response to Finding 5: The respondent agrees with the finding.***

## RECOMMENDATIONS

1. It is recommended that the capital improvement plan be implemented this fiscal year in order to remedy the facility issues which pose health and security risks.

***Response to Recommendation 1: The recommendation has not yet been implemented, but will be implemented in the future.*** In regard to the findings (F1-A / F1-B) that identify capital improvements to the outside recreation area, and the repair of a pass-through window, both projects have been repaired. Contact with Richard Collier, who is responsible for Capital Programs, indicates that F1-C (Acoustic problems above the classroom) is presently at the contract stage and should be resolved within 120 days. It is estimated that the project will be completed on or before August 4, 2008.

2. It is recommended that the probation department study salaries to include possible "hardship" clauses in order to improve staffing.

***Response to Recommendation 2: The recommendation has been implemented.*** Since the Juvenile Treatment Center was constructed and open for service, staffing the facility at the mandated staff to minor ratio has been very much a challenge. During the first two (2) years, the facility attempted to

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 1

*hire staff at a level of 21 staff. Unfortunately, thirteen (13) detention staff left after being hired each year. During the following year, eleven (11) detention staff and five (5) support staff left after being hired, and thirteen (13) detention staff and another three (3) support staff left for various reasons including better paying jobs.*

*In an effort to attract staff, the educational requirements were reduced from a minimum of a two (2) year degree to that of high school graduation for entry level staff. This failed to increase eligible applicants. With the approval of the Board of Supervisors, the salary for Deputy Probation Officers – Institutions was increased to a level equivalent to 5% percent below a field Probation Officer. This failed to increase eligible applicants. Probation Management has increased recruitment efforts by participating at recruitment days at colleges on both the Western Slope and South Lake Tahoe. The Assistant Chief Probation Officer in South Lake Tahoe and his staff have made many visits to the University of Nevada, Reno to recruit new staff. These efforts have failed to increase eligible applicants and fully staff the Juvenile Treatment Center.*

*On April 22, 2008 the Board of Supervisors adopted Resolution 89-2008 to amend the Authorized Personnel Allocation resolution to add two Supervising Deputy Probation Officers—Institutions positions as mandated by Title 15 of the California Code of Regulations. It is hoped that these two additional supervisory positions increase retention by improving staff coverage, training and disciplinary issues at the Juvenile Treatment Center.*

*Although South Lake Tahoe is a unique community which has a limited pool to draw from, an actual comparison of local salaries would not paint a true picture of the area. However, it should be noted that the South Lake Tahoe Differential for County employees is \$200 per month. The Human Resources Department indicates that there are no resources for increased salaries or differentials for Probation staff.*

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

## **COMMENDATION**

The 2007-2008 Grand Jury commends the El Dorado County Probation Department and the El Dorado County Office of Education for their outstanding advocacy and rehabilitation programs for at-risk children.



June 17, 2008

Rosemary Mulligan, Foreperson  
2007-2008 Grand Jury  
State of California El Dorado County  
360 Fair Lane  
P.O. Box 472  
Placerville, CA 95667

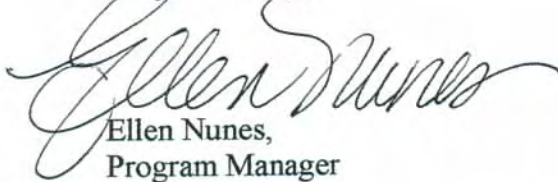
RE: RESPONSE TO GRAND JURY CASE NO. GJ 07-11

Dear Ms. Mulligan,

Enclosed, please find the formal response from the Clean Tahoe Board of Directors to the report issued by the El Dorado County Grand Jury in March 2008 regarding the Clean Tahoe Program.

In addition, South Tahoe Refuse President, Jeff Tillman, has requested that his letter, with respect to the above-mentioned, be included with Clean Tahoe's response.

Very Sincerely,



Ellen Nunes,  
Program Manager

Enc.

2311 Lake Tahoe Boulevard, Suite 5 – South Lake Tahoe, CA 96150  
(530) 544-4210 Fax (530) 544-5710 e-mail: [cleantahoe@sbcglobal.net](mailto:cleantahoe@sbcglobal.net)

**Clean Tahoe Program  
Case No. GJ 07- 011**

**REASON FOR REPORT**

The El Dorado County Grand Jury received a letter from the South Lake Tahoe District Attorney's Office that prompted an investigation of the Clean Tahoe Program's procedures for managing its funds.

**BACKGROUND**

The Clean Tahoe Program is a non-profit organization funded primarily by the City of South Lake Tahoe and El Dorado County. Its mission is to improve the visual quality of the Tahoe Basin within El Dorado County. Because it is publicly financed, it has a fiduciary responsibility, similar to the City and County, to properly manage its funds.

The Clean Tahoe Program performs an important service to the community. This is accomplished through the dedication and hard work of the Clean Tahoe staff.

**METHODOLOGY**

The Grand Jury visited the offices in South Lake Tahoe of the Clean Tahoe Program and the South Tahoe Refuse Company (STR) to obtain information. STR is a private corporation with an exclusive franchise from the City and County to gather, sort, recycle, and dispose of refuse in the South Tahoe Basin. The investigation included a review of records, cashed checks, credit cards and the security of petty cash.

People Interviewed:

- Clean Tahoe Program Board, Two Directors
- Clean Tahoe Program Manager
- Clean Tahoe Program Outside Bookkeeper
- Clean Tahoe Program Treasurer
- El Dorado County Assistant District Attorney
- South Tahoe Refuse Company Controller
- South Tahoe Refuse Company President

Documents Reviewed:

- Clean Tahoe Program Brochure
- Clean Tahoe Program By-laws, Procedures and Personnel Manual
- Clean Tahoe Program Financial Documents
- Clean Tahoe Program Budget vs. Actual Income and Expenses, October '06 through September '07

- Clean Tahoe spreadsheets showing field work assignments
- Comparative cost study by STR in 2004 showing cost savings if STR assumed Clean Tahoe Program duties
- E-mail memos from Clean Tahoe Program Manager
- Mission Statement of Clean Tahoe Program
- South Tahoe Refuge Company controller memo (11/16/07) with financial spreadsheets

## RESULTS OF INVESTIGATION

In the investigation of Clean Tahoe's management of funds, financial controls were found to be deficient. However, the deficiencies are in the process of being corrected.

The Clean Tahoe Program is small and requires management and overhead functions that are disproportionately high and expensive in small publicly financed organizations. These costs would be lower if shared with similar costs in a larger organization. In principle, this can be achieved either by absorbing Clean Tahoe into a larger organization or by selecting a larger organization to perform the essential services that are now performed by the Clean Tahoe Program. The Grand Jury investigated these possibilities and found the following:

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it was addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The refuse picked up by the Clean Tahoe Program is deposited at the STR company transfer station in the City of South Lake Tahoe. There, the refuse is processed, with some of it recycled. The Clean Tahoe Program is charged for this at standard rates for this service.

***Response to Finding 1: The Clean Tahoe Board of Directors, hereinafter "the Respondent", agrees with the finding.***

2. South Tahoe Refuse is capable and willing to assume the operations of the Clean Tahoe Program if asked by the City and County to do so. However, it has been reluctant to initiate this change because it does not wish to appear hostile to the Clean Tahoe Program.

***Response to Finding 2: The Respondent disagrees partially with the finding. South Tahoe Refuse does not currently perform the same services as the Clean Tahoe Program. Clean Tahoe Services include, but are not limited to, walking the highways and neighborhoods performing litter abatement, issuing ten-day***

*courtesy notices, re-inspection of properties in violation of trash ordinances, and assisting the disabled and seniors with pick and haul issues at a reduced or no cost. In addition, Clean Tahoe mandates the pick up of overflowing dumpsters, performs bulk item pick ups, cleans Conservancy lots, maintains the bus stops benches and trash cans and further assists the community by removing snow at the stops in the winter. South Tahoe Refuse Company has recently provided a letter to the Clean Tahoe Board that supports our Program. Please see attached letter.*

3. Because of its franchise agreements, the rates charged for STR services are controlled by the City and County. Consequently, the transfer of the complete operations of the Clean Tahoe Program to STR could be accomplished easily and without requiring a competitive bid process.

***Response to Finding 3: The Respondent has no comment.***

4. During 2003, STR was provided a copy of the FY 2002/03 Clean Tahoe Budget and asked to review the budget for opportunities for cost savings if STR were operating the Clean Tahoe Program. After doing a line-by-line assessment of each cost item, STR estimated that it could reduce the annual cost by \$49,720. Details of this assessment are shown in a spreadsheet that is Exhibit A. South Tahoe Refuse management expressed to the Grand Jury that it believes this estimate is still reasonable.

Elimination of the Clean Tahoe Program's management and overhead costs is an important area of savings if STR assumes operations of the Clean Tahoe Program, but these costs are not included in the previous study that resulted in Exhibit A. Work now being carried out by two field assistants of the Clean Tahoe Program would continue to be required at STR. The additional net payroll savings were estimated by the Grand Jury as follows:

Elimination of Clean Tahoe's full payroll budget for 2006-2007:	\$112,000
Less full payroll of two field assistants at STR costs:	<u>( 71,480)</u>
Estimated Net Payroll Cost Savings:	\$ 40,520

The total estimated savings expected from transferring the Clean Tahoe Program duties to STR are obtained by adding the former estimate of \$49,720 to the net payroll cost estimate of \$40,520. This yields an estimated total annual cost savings of \$90,240. It is important to recognize that these are recurring savings. The present value of these savings aggregated over the next 10 years can be calculated by discounting the savings each year at 5 percent. This is the County Treasurer's Pool Rate that is used for project loans that have been approved by the County Board of Supervisors. The calculated savings is a present value over 10 years of \$698,806. The actual savings will depend on details of any agreement between the service-provider selected to take over the Clean Tahoe

Program. Nevertheless, the estimated potential savings are significant and lead to the following Grand Jury recommendations:

***Response to Finding 4: The Respondent disagrees partially with the finding.***

*In 2003, South Tahoe Refuse Company was provided with Clean Tahoe's operating budget and was asked to compare costs if they were to operate the Program. At that time, the Clean Tahoe Board was neither informed of this movement nor given the privilege of a response. The Grand Jury used this comparison done in 2003 to formulate their recommendation that the Clean Tahoe Program could be operated in a more cost effective manner by STR. A current detailed cost or service analysis was not prepared, the current Chief Financial Officer of the Clean Tahoe Program was not interviewed, and a budget from 2002/2003 which contained one-time expenditures was used as the basis for their recommendation. It is the opinion of the Clean Tahoe Board that the Grand Jury did not thoroughly compile or review current financial information to make a statement of this magnitude.*

*The Grand Jury also suggested that the elimination of the Clean Tahoe Program's management and overhead costs would be an important area of savings. It appears that the Grand Jury only considered the actual labor of the field service worker to be valuable and essential to the community. Clean Tahoe's administration works diligently to provide a coordinated community Program to accomplish a cleaner community. The Program serves as the El Dorado County Coordinator for the California Coastal Commission's Coastal Cleanup Day - an annual event that cleans up tons of trash from our beaches and meadows. In addition, the Program manager is involved in the planning for community events such as Earth Day and Firefest. Program management also organizes the annual Community Clean Up Day which is held in June. The Clean Tahoe Board is resolute that current Program management is critical to the Program's success and has been undervalued by the Grand Jury.*

*The entire staff of the Clean Tahoe Program performs an important function in our community and has done so for twenty years. The Clean Tahoe committee was originally formed in 1988 to address the unmet trash and litter issues in the City of South Lake Tahoe and has gone through many changes since that time. Clean Tahoe became a non-profit organization in 1994 at the recommendation of the City Attorney in order to provide a more cost effective service. Today, the Clean Tahoe Program facilitates more trash removal and affects more change in our community through Courtesy Notices and education than ever in the history of the Program. The Clean Tahoe Board of Directors has the best interest of our community at heart and stands behind the staff and management of this small community based non-profit organization.*

## **RECOMMENDATIONS**

1. The City and County should seek a capable public or private organization to provide, at less cost, the services now provided by the Clean Tahoe Program.
2. Savings that may be realized by the City and County replacing the Clean Tahoe Program with a new service provider should be passed to the property owners by reducing their property tax assessments.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

Consolidation of Fire Protection Districts

**Case No. 07-025**

### **REASON FOR REPORT**

The Fire Protection District Law of 1987, in the State Health and Safety Code §13800, governs all of the Fire Protection Districts (FPDs) in California. Fire protection districts can only provide fire protection and emergency medical services. At the printing of the 3<sup>rd</sup> edition of "What's So Special About Special Districts?" there were 386 FPDs in California. El Dorado County has nine FPDs on the West Slope and two FPDs in the Tahoe Basin. The County also has two multi-purpose Community Service Districts (CSDs) that provide fire protection along with other services: Fallen Leaf Lake CSD and Cameron Park CSD. The City of South Lake Tahoe has its own fire department.

El Dorado County has a disproportionately high number of fire protection districts compared with the average of other counties in California. El Dorado County would benefit from consolidation. During the Grand Jury investigation, the scope was limited to the West Slope of the County

### **BACKGROUND**

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 2**

Each FPD and CSD is governed by a board of directors. These boards of directors are independent of any other supervision in the County.

Consolidation is not a new idea. Responses to ALL fire and medical emergencies on the west slope of El Dorado County are dispatched from the Emergency Communications Center (ECC), operated by the California Department of Forestry and Fire Protection (CAL FIRE) located in Camino. Three communication specialists and a captain are on duty 24/7 utilizing a state-of-the-art computerized facility. These personnel track in real time the location and availability of all fire and medical response equipment and crews from all of the nine fire protection districts and Cameron Park CSD. Tracking and dispatching services are financed under a Joint Powers Agreement, representing the County and fire districts. Most of the calls are for medical emergencies. These costs are proportionately paid by County Service Area #7, which is dedicated to this purpose.

The Camino ECC dispatches equipment and crews to each emergency site, choosing the closest available and most suitable equipment and personnel, regardless of the fire district owning the dispatched equipment and crew. Operationally, boundaries between west slope County fire protection districts are transparent. With respect to emergency response, they act together as one fire department. All of the County fire management officials interviewed praised this central dispatch system as efficient and working well. When asked, there were no complaints voiced about it by any of the interviewed officials.

Consolidation of previous small fire districts has already occurred. The El Dorado County FPD resulted from the consolidation of Pleasant Valley, Pollock Pines/Camino and Shingle Springs fire protection districts. In 1993, two additional fire protection districts were added to the El Dorado County FPD: Coloma/Lotus and Northside. Lake Valley FPD covers most of the Lake Tahoe basin located within the County that is not in the City. The Lake Tahoe basin also includes Meeks Bay FPD and Fallen Leaf Lake CSD; both districts are small and geographically isolated.

Most of the interviewed County's FPD officials favored more consolidation of fire districts. The major potential cost savings from consolidation, if done well, are expected to be in the elimination of redundant administrative positions. Consolidation may also lead to more efficient service and lower administration costs, but these are difficult to quantitatively evaluate. Hence, they have not been included in this report.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 2

One official believed that a single fire protection district covering the entire County, analogous to the operation of the County Sheriff, should be an eventual goal. Based on the success of ECC central dispatch system, **several FPD officials believed that a single fire protection district covering the West Slope of the County would be optimum.**

### METHODOLOGY

The Grand Jury reviewed documents governing the establishment and proper operation of FPDs and CSDs. The history of previous consolidation attempts in El Dorado County were obtained from El Dorado County's Local Agency Formation Commission (LAFCO), which is responsible for setting boundaries between special districts and assisting in settling disputes. Current budget and expenditure information was obtained from the County Auditor/Controller.

#### People Interviewed:

- CAL FIRE, Amador-El Dorado Unit, Chief
- Diamond Springs-El Dorado Fire Protection District, Chief
- El Dorado County Assistant Auditor-Controller
- El Dorado County Auditor-Controller
- El Dorado County Fire Protection District, Assistant Chief
- El Dorado County Fire Protection District, Chief
- El Dorado Hills County Water District (fire district), Chief
- LAFCO, Executive Officer
- Mosquito Fire Protection District, Board of Directors President
- Mosquito Fire Protection District, Chief

#### Documents Reviewed:

- Amendment #1 to the Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services (memo from Auditor-Controller dated October 4, 2001)
- Assistant Auditor-Controller furnished Exhibits A, B, and C of this report
- Memo to Grand Jury from Executive Officer of LAFCO November 26, 2007, with Attachments
- "What's So Special About Special Districts?" 3<sup>rd</sup> edition,

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 2

February 2002

### FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. Either a fire protection district or LAFCO can initiate a consolidation study including a cost/benefit analysis. LAFCO has been reluctant to aggressively pursue consolidation of fire protection districts, waiting instead for one or more of them to initiate movement toward consolidation.

***Response to Finding 1: The respondent disagrees partially with the finding.*** *The Board of Supervisors agrees that either a fire protection district or LAFCO can initiate a consolidation study including a cost/benefit analysis. Without additional information, the Board of Supervisors is unable to express agreement or disagreement with the statement regarding LAFCO's reluctance to initiate a study. In addition, although the Board of Supervisors appoints some LAFCO representatives, LAFCO is an independent agency. Consequently, whether or not to initiate a consolidation study is a policy question more appropriately addressed by the LAFCO Board and its executive management.*

2. There is often institutional resistance to changing the status quo of an organization. Consolidation and reorganization are likely to lead to elimination of redundant positions, which typically will not be well received by current employees. Should consolidation occur, these difficulties can be ameliorated by
  - a) selecting at least one director from the district to be a director of the new district, and
  - b) continuing former district volunteer firefighter associations, such as was done with the mergers to form the El Dorado County FPD.

***Response to Finding 2: The respondent disagrees partially with the finding.*** *While it is reasonable to assume that any organization change will face some level of resistance, the Board of Supervisors does not have sufficient information to evaluate the amelioration strategies suggested by the Grand Jury.*

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 2

3. The County Board of Supervisors supplements revenues for six FPDs on the County west slope and two small districts providing fire protection in the Tahoe Basin, Fallen Leaf Lake CSD and the Meeks Bay FPD. This is a subsidy by the County at large to these particular fire districts. **These subsidies raise a fairness issue for taxpayers outside these districts** who are supporting their own fire protection district through various taxes while also contributing, through the County's General fund, an extra amount of money to these subsidized districts.

These subsidies are based on an agreement between the County Board of Supervisors and the eight districts, "Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services." This agreement was amended by an Auditor-Controller memo of October 4, 2001, to provide for a correction in tax rates for fire protection in some of these districts. Under this agreement, the eight districts receiving less than 13 percent of the *ad valorem* property tax revenue collected within their boundaries will receive a supplemental contribution from the County general fund. This supplement is intended to be sufficient to provide the district with revenue for fire protection services equal to approximately 13 percent of their tax revenue base.

The amount of this subsidy is calculated by the Auditor-Controller each year using the final assessed property valuation from the prior year to establish the 13 percent threshold. The difference between the 13 percent threshold and the prior year estimated actual tax revenue plus the prior year subsidy is the basis for the current year subsidy. For the eight subsidized districts, their percentage of total Tax Rate Area (TRA) taxes is always less than 13 percent; whereas for the five non-subsidized fire districts the percentage exceeds 13 percent. Exhibit A, column D, shows the amount of the County supplemental contribution to bring all fire protection districts up to the equivalent of 13 percent of the total TRA taxes for FY 2006/07. The supplemental amounts contributed by the County to all eight subsidized districts in FY 2006/07 totaled \$1,188,142. The share of this amount received by the six West slope FPDs was \$856,908, which is 72.2 percent of the total subsidy for FY 2006/07. The County supplemental in FY 2006/07 for all eight subsidized districts was \$1,188,242.

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 2**

The subsidy for the six FPDs in the present year, FY 2007/08, is \$926,948, an 8.2 percent increase over the previous year. The subsidy for all eight districts in FY 2007/08 is \$1,300,347, which is a 9.3 percent increase over FY 2006/07.

***Response to Finding 3: The respondent disagrees partially with the finding.*** *The county does supplement revenue for fire districts as described in the finding. The county funding is generally referred to as "Aid to Fire" and is included in the budget each year. For the current and next fiscal year the Board of Supervisors has specifically discussed Aid to Fire through the annual budget process or mid-year budget discussions. Most recently, on May 20, 2008 the Board of Supervisors requested that the Auditor-Controller engage fire district representatives to evaluate the formula for distribution of Aid to Fire. While fairness (in terms of taxpayer equity) is definitely one issue that the Board considers, other issues such as the overall condition of the county's General Fund, and the cost-effectiveness and probability of preventing a catastrophic fire event and subsequent county costs must also be evaluated.*

4. All of the subsidized FPDs receive "special taxes" and/or "special assessments" except Pioneer FPD. These funds are not considered when the subsidy calculation is made. These special funds have been previously authorized on a continuing basis by an election of property owners within the districts. Special taxes require a vote of 2/3 of the property parcel owners. Special assessments are "fire suppression assessments," which are allowed under State law and require only a property parcel vote of 50 percent plus one.

***Response to Finding 4: The respondent agrees with the finding.***

5. The tax revenues for FY 2006/07 for the West Slope FPDs are summarized in Exhibit B. The tax revenues for each district, including special taxes and special assessments, are combined in one column. Note that all but Pioneer FPD and Latrobe FPD receive tax revenues exceeding 13 percent of their tax base, and all but Pioneer FPD have total funding including the County Supplemental Contribution that exceeds 13 percent of their tax base. With the exception of Pioneer FPD and Latrobe FPD, the County supplemental is much smaller than the other tax revenue received by the subsidized districts.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 2**

***Response to Finding 5: The respondent agrees with the finding.***

6. With advance notification, the Board of Supervisors can discontinue these subsidies. The County has a fiduciary responsibility to minimize them, preferably without degrading fire protection capabilities. Elimination of the subsidies would require these fire protection districts to either find other sources of revenue in a similar amount, or find equivalent budget savings that would not degrade fire protection capability.

***Response to Finding 6: The respondent agrees with the finding.***

7. Consolidation of the six West Slope subsidized fire districts, and especially mergers into the three financially stronger fire districts on the West Slope, should allow elimination of the fire chiefs and other administrative positions in the subsidized districts. The potential personnel savings that could result are shown in Exhibit C, where the administrative personnel costs for each fire district are shown in column L, with a total amount of \$944,084. The County supplemental contributions for these fire districts are shown in column M, and the total amount is similar to the total administrative personnel costs shown in column L.

***Response to Finding 7: The respondent partially disagrees with the finding. While it is reasonable to assume that consolidation of fire districts would lead to the elimination of some positions, the Grand Jury report alone does not provide the Board of Supervisors sufficient insufficient information with which to evaluate the position reductions suggested in the report.***

8. If supplemental payments to the six West Slope fire protection districts are eliminated, the savings to the County general fund will be recurrent, rather than one-time. Over ten years and with an annual increase of 9 percent, the **SAVINGS** will amount to **\$14,018,235**. If supplemental payments to all eight subsidized fire districts are eliminated, the **SAVINGS** over ten years will amount to **\$19,665,148**.

***Response to Finding 8: The respondent disagrees partially with the finding. The Board of Supervisors is unable to validate the savings amounts calculated by the Grand Jury. The***

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 2

*growth from year to year has been based on the growth of the property tax base. However, it is clear that eliminating or reducing Aid to Fire potentially results in significant savings to the county's General Fund.*

### RECOMMENDATIONS

1. The El Dorado County Board of Supervisors should discontinue the "Supplemental Funding Agreement for Rural Districts for Enhanced Fire Protection and Emergency Medical Services" as it pertains to the following six fire protection districts: Pioneer, Rescue, Garden Valley, Mosquito, Georgetown, and Latrobe.

***Response to Recommendation 1: The recommendation requires further analysis.*** As noted in the response to Finding 3, on May 20, 2008 the Board of Supervisors requested that the Auditor-Controller work with representatives of the fire districts to evaluate the formula for distribution of Aid to Fire. The Board expects a report back from the Auditor-Controller in September during the hearing of the final budget.

2. LAFCO and the El Dorado County Board of Supervisors should actively encourage consolidation or merger agreements between these presently subsidized fire protection districts and any of the following fire protection districts: El Dorado County Fire Protection District, Diamond Springs-El Dorado Fire Protection District, and El Dorado Hills County Water District.

***Response to Recommendation 2: The recommendation will not be implemented because it is not warranted.*** It is not the role of the Board of Supervisors to advocate for the consolidation or merger of outside agencies with independently elected boards of directors. The Board of Supervisors will work with the fire districts and clearly communicate its intent with respect to Aid to Fire. Fire districts will have to draw their own conclusions based off of future Board action with respect to Aid to Fire, and determine whether consolidation is reasonable.

3. The boards of directors of the following nine fire protection districts should make a good faith effort to reach consolidation agreements: Rescue, Pioneer, Mosquito, Latrobe, Georgetown, Garden Valley, El Dorado County, Diamond Springs, and El Dorado Hills. Each of these nine fire protection districts should

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 2**

report the results of their efforts to the Grand Jury within the Penal Code timeframe requirements.

### **RESPONSE**

Responses to this report are required in accordance with the California Penal Code §933.05.



## EL DORADO COUNTY GRAND JURY 2007-2008 Facilities Reports

### El Dorado County Building C



#### REASON FOR REPORT

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

#### BACKGROUND

The security measures utilized in Building C were inspected this year as a follow up to a prior year's Grand Jury investigation (2005-2006). That investigation recommended that the area behind the metal detector (in the corridor leading to the Superior Court downstairs) be secured at all times, not just when the screening station is staffed. The

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 2

situation in Building C has recently been changed. A locking door has been installed in the area on the lower level as recommended by the prior Grand Jury Report.

### FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

There are other court facilities on the ground level of Building C and there is no security station on that level. Additionally, there is a door into the court off of the lobby with an inoperative lock. When court is in session, the bailiff uses a portable metal detector to screen people entering the court. The problem is there are two entrances and only one bailiff. The ideal situation would be to secure all of Building C, but this has been rejected due to budget constraints. According to the Sheriff, to secure the entire building, at least three deputies would be needed to be on duty during all open hours. This expense is exacerbated by the fact that the Planning Department uses the building and often has meetings that continue as late as 9:30 p.m.

*Response to Findings: The respondent agrees with the findings.*

### RECOMMENDATIONS

1. The door between Building C's ground level lobby and courtroom should be locked so that all people entering the court would need to pass through the entrance that is controlled by the bailiff.

*Response to Recommendation 1: The recommendation has been implemented. At the request of the Assistant Court Executive Officer, General Services installed a lock on the lobby entrance to the courtroom the week of May 19, 2008.*

2. In looking at longer term building needs and uses, the Board of Supervisors should consider dedicating Building C to only court activities, or include only those other county departments that would not need access to the building during non-court hours. This would allow for securing the entire building, providing enhanced security to all employees and participants in any court proceedings.

*Response to Recommendation 2: The recommendation will not be implemented because it is not reasonable. Separating court and county operations from Building C requires significant investment in another facility or facilities to accommodate the separated function. Given the county's current fiscal condition and lack of investment in court facilities from the State, the Board of Supervisors will not be able to consider this recommendation in the foreseeable future.*

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 2**

### **RESPONSES**

Response(s) to this report is required from the El Dorado County Board of Supervisors in accordance with California Penal Code §933.05.



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **South Lake Tahoe Administration Facility El Dorado Center**



### **REASON FOR REPORT**

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

## **BACKGROUND**

One of the county's buildings in South Lake Tahoe, known as El Dorado Center, was inspected by the Grand Jury. This facility was built in 1968 as a commercial bank and was purchased by the county in May of 1991. The building currently serves as an administrative service complex for the county. The building provides 17,476 square feet of office space, although approximately 300 square feet in the basement is not utilized.

## **FINDINGS**

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury inspected the El Dorado Center facility, which revealed the following problem areas:

- Foul odor when entering building from parking lot
- No designated break room
- Inadequate heating and air conditioning system
- Loose and stained ceiling tiles
- No alternate evacuation route on third floor
- Single pane windows in some areas
- Badly deteriorated exterior, i.e. paint, wood, stucco
- Shortage of parking in winter

***Response to Findings: The respondent agrees with the findings.***

## **RECOMMENDATION**

Given the myriad problems facing this building, in addition to its design unsuitability for county purposes, the Grand Jury recommends that this building be replaced. The recommendation should be considered in the context of long-term county office space needs throughout the Tahoe Basin. This replacement project should remain in the El Dorado County capital improvement program as a high priority project.

***Response to Recommendation: The recommendation has not yet been implemented but will be implemented in the future. As the recommendation points out, the replacement of the El Dorado Center is already envisioned in the Capital Improvement Program. This project would consist of the construction of a new joint-use facility to house those county functions currently located in the El Dorado Center in conjunction with City of South Lake Tahoe and the South Lake Tahoe School District functions. This would include the Building Department, the Assessor's Office, the Recorder's Office and various disciplines within the Environmental Management Department. The El Dorado Center, originally constructed by the private sector as a banking facility, has many noted deficiencies due to***

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 2**

*space configuration and age. This plan would include the marketing of this facility in an effort to offset the costs of new construction. Key elements of this plan would include land acquisition, design, agency permitting and building construction. On October 23, 2007 the Board of Supervisors issued a letter of intent to the City of South Lake Tahoe and the Lake Tahoe Unified School District regarding the joint-use facility. Although the project remains in the 2007 CIP, it is impossible to determine a precise timeframe to implement this recommendation due to the complexity of the project and the lack of secured funding. Depending on the availability of funding, the planning, permitting and construction of such a facility could take up to five years.*

### **RESPONSES**

Response(s) to this report is required from the El Dorado County Board of Supervisors in accordance with California Penal Code §933.05.

## EL DORADO COUNTY GRAND JURY 2007-2008

### El Dorado County Sheriff's Building



### REASON FOR REPORT

The El Dorado County Grand Jury conducts inspections of county, city and special district facilities owned or leased within El Dorado County per California Penal Codes §925, §925(a) and §928. The focus of the inspection is health and safety conditions.

### BACKGROUND

The El Dorado County Sheriff's Building was built in 1974, housing both the sheriff's operations and the county jail until 1988. The growth in El Dorado County has rendered this facility inadequate to properly handle current needs, predominantly due to lack of space. The Sheriff's Department currently operates throughout the county from nine locations. The Sheriff's recommendation for solving the space issue is to consolidate central operations into a new 80,000 square foot facility in El Dorado Hills, the largest

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 2

and fastest growing community in the county. It has been suggested that the existing Sheriff's building (after appropriate reconfiguration) could be utilized as a substation for the Placerville area. Another substation already exists in the Tahoe Basin.

### FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. Staff crowding, which hampers maximum efficiency, is the most significant problem. Indications of space limitations are:
  - Closets have been turned into offices
  - Inadequate space for secure evidence storage
  - No room for a forensic lab
  - No space for a conference room
  - No privacy for citizens when reporting crimes
  - Insufficient parking space
  - Shortage of employee lockers

*Response to Finding 1: The respondent agrees with the finding.*

2. In spite of the space problem that currently exists, the Sheriff's Department is commended for efficiently utilizing its current 13,000 square foot facility. At the time of the inspection, the facility was clean and safety regulations were generally being followed. Due to the age of construction, the building is not totally compliant with the American Disabilities Act. Areas noted as requiring immediate attention due to health and safety concerns are:
  - Cluttered hallways in the evidence area (creating a potential egress problem)
  - Asphalt repair needed in the parking lot
  - Payroll administrative area does not have proper evacuation signs posted

*Response to Finding 2: The respondent agrees with the finding.*

### RECOMMENDATIONS

1. It is recommended that the three areas listed in finding # 2 above be remedied immediately.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 2

*Response to Recommendation 1: The recommendation has not yet been implemented but will be implemented in the future. The administration section of the Sheriff's Office has been moved to a leased facility on Broadway in Placerville. Revenue from the Accumulated Capital Outlay fund will be used to remodel the Sheriff's Administration Building. The remodel plan is consistent with the substation design if and when a new primary administration building is constructed. Current plans call for a remodel of the locker-room/showers, briefing room, sergeants' office, report writing room and records rooms. Plans are presently in plan check. Once approved, the project will go out to bid for construction. This project will likely take upwards of eight months to one year. Parking lot repairs and evacuations signs will be addressed as part of the remodel effort.*

2. The sheriff's facilities upgrade is already in the El Dorado County capital improvement program, indicating a new main facility in Placerville, and sub-station in El Dorado Hills. This Grand Jury, however, agrees with the sheriff's current recommendation identified in the background section of this report, specifically a new main facility in El Dorado Hills, and converting the current main facility in Placerville for use as a sub-station.

*Response to Recommendation 2: The recommendation has not yet been implemented but will be implemented in the future. The administration section of the Sheriff's Office has been moved to a leased facility on Broadway in Placerville. Revenue from the Accumulated Capital Outlay fund will be used to remodel the Sheriff's Administration Building. The remodel plan is consistent with the substation design if and when a new primary administration building is constructed. Current plans call for a remodel of the locker-room/showers, briefing room, sergeants' office, report writing room and records rooms. Plans are presently in plan check. Once approved, the project will go out to bid for construction. This project will likely take upwards of eight months to one year.*

## RESPONSES

Response(s) to this report is required from the El Dorado County Board of Supervisors in accordance with California Penal Code §933.05.



# El Dorado County Office of Education

June 18, 2008

Vicki L. Barber, Ed.D.  
Superintendent

Francie Heim  
Deputy Superintendent

Cathy Bean  
Deputy Superintendent

El Dorado County Superior Court  
Honorable Judge James R. Wagoner  
Presiding Judge of the Grand Jury 2007-2008  
495 Main Street  
Placerville, CA 95667

Dear Judge Wagoner:

Enclosed please find the Response to the 2007-2008 Grand Jury Report prepared by the El Dorado County Sheriff, Office of Emergency Services, County Board of Education and the County Superintendent of Schools.

If you have any questions, or if I can be of further assistance, please don't hesitate to call me at (530) 295-2229.

Sincerely,

Vicki L. Barber, Ed.D., Superintendent  
El Dorado County Office of Education

VB:jkm

Cc: Jeff Neves, El Dorado County Sheriff

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Placerville, CA 95667-8984

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RESPONSE TO THE GRAND JURY FINAL REPORT, PART II  
2007-2008

PREPARED BY THE EL DORADO COUNTY SHERIFF, OFFICE OF EMERGENCY SERVICES, COUNTY BOARD OF EDUCATION AND THE COUNTY SUPERINTENDENT OF SCHOOLS

FINDINGS – School Safety (National Incident Management System)

- F1 *Other than fire drills and drop drills, not all school sites practice with regularity (a minimum of annually) crisis management procedures that include evacuations. Some schools stated they do "round table" practices, as opposed to actually conducting a physical practice. Some sites stated they did not want to scare the students, so, therefore, do not have practices. One school stated that they do summer practices that do not include the children.*

**Response:**

The respondent agrees with the finding.

Education Code requires that all schools do fire drills and that governing boards adopt policy regarding civil defense and disaster preparedness plans. Schools throughout El Dorado County adhere to these procedures and have adopted safe school plans for each school throughout the county. We appreciate the attention that the Grand Jury has focused on school safety and their encouragement for additional safety practices to be conducted.

- F2 *No evidence was found that schools include parents or the community in an educational component to inform them about the crisis plan adopted by the district and site.*

**Response:**

The respondent disagrees wholly or in part with the finding.

Schools throughout El Dorado County have developed and implemented safety plans at all sites. In addition, parents and the community are informed of issues as they arise through a variety of means. In recent years, most schools have put in place a telephone contact system that allows all parents to be notified almost simultaneously of issues or situations that have occurred and how the school is addressing the concern.

- F3 *Although considered a work in progress, the Office of Emergency Services has not actually walked the grounds of every school site. Therefore, OES does not have a digital image of the sites not visited, nor indication of possible unique or special needs in their BowMac computer system should a crisis occur. Also in progress is the*

*development of live school-site images which can be viewed in law enforcement vehicles – to be used as events are unfolding and as units are rushing to the scene.*

**Response:**

The respondent agrees with the finding.

The Office of Emergency Services has undertaken an ambitious and cutting edge project to ensure that school site images are available in law enforcement vehicles should an issue arise that necessitates law enforcement being able to respond in an emergency. All schools have also provided detailed information on site specific issues, such as where electric and gas connections are located. This information has been entered into the system on the BowMac computer website.

**F4** Not all schools have conducted, or been a part of, an integrated evacuation which includes OES and/or other response units.

**Response:**

The respondent agrees with the finding.

**F5** Neither OES nor EDCOE keeps records of site visits by OES with regard to training for crisis management.

**Response:**

The respondent agrees with the finding.

**RECOMMENDATIONS – School Safety (National Incident Management System)**

**R1** *In order to alleviate natural parental panic that arises when parents are separated from their children during perceived danger, it is recommended that OES and EDCOE collaborate on the creation of a video, presented by the Sheriff and the Superintendent of Schools. It is further recommended that the video be completed and ready to share with parents by the beginning of the 2008-2009 school year. The DVD and related printed material would outline generic safety plans as well as law enforcement codes designed to protect not only the victims, but also concerned and well-meaning parents/community members. It is also strongly recommended that the video be a mandated parent presentation in all schools, to be viewed as school sites see most efficient, i.e. Back to School Night, district web-sites, CDs included in Parent Handbooks, etc.*

**Response:**

Part of the recommendation has not yet been implemented, but will be implemented in the future.

Part of the recommendation will not be implemented because it is not warranted or is not reasonable.

The Sheriff and the County Superintendent of Schools concur with the recommendation to prepare a video that would be made available to schools for use with parents and community groups explaining generic safety plans. The Sheriff and the County Superintendent of Schools intend to have the video completed prior to the beginning of the 2008-09 school year and will post the video on the County Office of Education website with links from school district websites. Copies of the video will also be made available for all schools, in order that they may utilize the material at appropriate parent meetings. However, there is no legal basis to mandate parents to observe the video, and as such the further recommendation set forth by the Grand Jury is not reasonable.

- R2** *As another educational effort designed to further alleviate parental panic both before and during an incident, the Grand Jury recommends that every Parent Handbook include a section on Emergency Crisis Management which informs parents of the school plan should an incident occur. This book would be on hand as a ready reference in time of need.*

**Response:**

The recommendation has not yet been implemented, but will be implemented in the future.

The County Superintendent of Schools with the advice and counsel of the Sheriff has prepared information to be included in Parent Handbooks that are utilized by school sites. The generic safety information has been distributed to all school districts, with a recommendation that it be included in the Parent Handbooks beginning in the 2008-09 school year. In addition, material has been included in the Parent Rights Notice, referencing that school safety plans are in effect at all schools, which will be distributed to all parents at the beginning of the next school year. The following information has been added to the Parents' Rights Notice: "Emergency Preparedness is addressed through the school district's [county office's] comprehensive school safety plan which includes: disaster procedures and plans, routines, emergency response measures, staff training programs, procedures for the use of public buildings and notification

procedures. A copy of the plan is available at district administrative offices. [E.C. 32282]"

- R3** *The Grand Jury recommends that at least one full evacuation and practice of the REDI II emergency plan – a system which applies the Incident Commander concept providing for multi-jurisdictional and multi-disciplinary coordination and cooperation, and which also allows school leaders the ability to network with emergency response teams – be conducted annually at each site. The practice should include all staff and students as well as OES and/or other emergency response units.*

**Response:**

The recommendation will not be implemented because it is not warranted or is not reasonable.

The recommendation, while admirable and noteworthy, exceeds the authority of both the Sheriff and the County Superintendent to mandate such an action. There are no statutory provisions which mandate such an action, nor are there adequate resources for either the OES or all schools to undertake such an effort. Many schools throughout the county voluntarily implement a practice session in a variety of ways. However, this recommendation as set forth which calls for the inclusion of all staff and all students, is excessive and beyond the reasonable limits of public agencies in a time of dire financial resources.

- R4** *The Grand Jury recommends that OES survey and photograph the physical grounds of every school site – to be included in their BowMac emergency database (software used by law enforcement). Also included in this information would be any unique and possibly problematic features which would require additional support or resources, i.e. ingress and egress.*

**Response:**

The recommendation has been implemented.

Site maps have been completed for all schools sites and the OES has made these available through the BowMac emergency database. Photographs have also been completed on the majority of school sites and these are available to emergency personnel. It is the goal of schools and OES to complete this by September 2008.

**RS** *The Grand Jury recommends that both OES and EDCOE, as well as individual school sites and districts, keep emergency response records that include dates of training and practice - to be maintained and supervised by EDCOE.*

**Response:**

The recommendation will not be implemented because it is not warranted or is not reasonable.

The recommendation, while admirable and noteworthy, exceeds the authority of both the Sheriff and the County Superintendent to mandate such an action. There are no statutory provisions which mandate such an action, nor are there adequate resources for the OES, EDCOE, school districts, or all schools to undertake such a data collection and data maintenance effort. However, OES will make every effort to maintain records on their work with the schools regarding emergency planning.

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## Latrobe Fire Protection District

P. O. Box 178 7660 South Shingle Road  
Shingle Springs, California 95682  
Phone and Fax (530) 677-6366  
lfpd@zetabroadband.com



Chief:  
Christopher Couper

LFPD J. Haverty  
Fire C. Domecq  
Board: B. Stumpf  
D. Carroll  
L. Ridgeway

August 12, 2008

El Dorado County Grand Jury  
P.O. Box 472  
Placerville, CA 95667-0472

Ladies & Gentlemen of the Grand Jury:

Please find attached Latrobe Fire Protection District's response to the 2008 Grand Jury Report. Should you have any questions, or require further information, please feel free to contact me at the telephone number or address listed above.

Respectfully,

John J. Haverty  
Chairman  
Latrobe Fire Protection District  
Board of Directors

JJH:ms

## **Latrobe Fire Protection District Responses as required in accordance with the California Penal Code §933.05.**

### *FINDINGS*

*In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County*

*Grand Jury has arrived at the following findings:*

*1. Either a fire protection district or LAFCO can initiate a consolidation study including a cost/benefit analysis. LAFCO has been reluctant to aggressively pursue consolidation of fire protection districts, waiting instead for one or more of them to initiate movement toward consolidation.*

The LFPD agrees that we can initiate a consolidation study that includes a cost/benefit analysis or many other factors important to consolidation at any time. Historically we have done this every few years either formally or informally. To date none of the possible consolidation studies have proven to be more effective than our current organizational model.

The LFPD has no comment on the statement that LAFCO has been reluctant to aggressively pursue consolidation of fire protection districts.

*2. There is often institutional resistance to changing the status quo of an organization. Consolidation and reorganization are likely to lead to elimination of redundant positions, which typically will not be well received by current employees. Should consolidation occur, these difficulties can be ameliorated by a) selecting at least one director from the district to be a director of the new district, and b) continuing former district volunteer firefighter associations, such as was done with the mergers to form the El Dorado County FPD.*

While in general consolidations of organizations with a significant number of paid administrative positions will benefit from a reduction in those administrative positions, this is not the case with the LFPD. The LFPD has only a few part time administrative positions. Most of the department staff is operational, of which there is no redundancy that could be offset by consolidation. In fact most of the operational positions are either being done by volunteers or underpaid staff. If the LFPD were to consolidate with another fire district there would not be any significant cost savings.

The LFPD believes the examples given for amelioration are not good examples of best practices nor would they result in a positive impact to the community nor a savings to the citizens of El Dorado County, but in fact would decrease services and/or increase costs.

*3. The County Board of Supervisors supplements revenues for six FPDs on the County west slope and two small districts providing fire protection in the Tahoe Basin, Fallen Leaf Lake CSD and the Meeks Bay FPD. This is a subsidy by the County at large to these particular fire districts. These subsidies raise a fairness issue for taxpayers outside these districts who are supporting their own fire protection district through various taxes while also contributing, through the County's General fund, an extra amount of money to these subsidized districts. These subsidies are based on an agreement between the County Board of Supervisors and the eight districts, "Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services." This agreement was amended by an Auditor-Controller memo of October 4, 2001, Board of Supervisors' action on 10-9-01, to provide for a correction in tax rates for fire protection in some of these districts. Under this agreement, the eight districts receiving less than 13 percent of the ad valorem property tax revenue collected within their boundaries will receive a supplemental contribution from the County general fund. This supplement is intended to be sufficient to provide the district with revenue for fire protection services equal to approximately 13 percent of their tax revenue base. The amount of this subsidy is calculated by the Auditor-Controller each year using the final assessed property valuation from the prior year to establish the 13 percent threshold. The difference between the 13 percent threshold and the prior year estimated actual tax revenue plus the prior year subsidy is the basis for the current year subsidy. For the eight subsidized districts, their percentage of total Tax Rate Area (TRA) taxes is always less than 13 percent; whereas for the five non-subsidized fire districts the percentage exceeds 13 percent. Exhibit A, column D, shows the amount of the County supplemental contribution to bring all fire protection districts up to the equivalent of 13 percent of the total TRA taxes for FY 2006/07. The supplemental amounts contributed by*

*the County to all eight subsidized districts in FY 2006/07 totaled \$1,188,142. The share of this amount received by the six West slope FPDs was \$856,908, which is 72.2 percent of the total subsidy for FY 2006/07. The County supplemental in FY 2006/07 for all eight subsidized districts was \$1,188,242. The subsidy for the six FPDs in the present year, FY 2007/08, is \$926,948, an 8.2 percent increase over the previous year. The subsidy for all eight districts in FY 2007/08 is \$1,300,347, which is a 9.3 percent increase over FY 2006/07.*

This analysis does not include any effort to understand the value of services provided. There are many factors not properly included such as the frequent response of a district like Latrobe to the adjacent districts. The value of this service is not evaluated. The entire fire protection service evaluation requires a much more sophisticated and detailed approach than is provided here.

The use of the terms "subsidized district" and "subsidies" is, in our opinion, a poor choice of words. The augmentation funds are not a subsidy, but an effort to provide for a minimal value of compensation for services. The Grand Jury should have compared the tax basis that all of the fire districts in the county receive. The value of the service to ALL citizens of El Dorado County is clearly not included in this "discussion of numbers".

Funds are allocated from a tax revenue pool, based on certain criteria using an allocation basis. This criteria and allocation base is a good faith attempt to allocate funds in a manner as equitable as possible, to enable different districts, ranging from lightly populated rural districts, to densely populated suburban districts, to provide an acceptable level of service under normal day to day conditions.

Funding allocations are at best subjective and open to criticism, but in the final analysis, the question should be, "how much does it cost to provide an acceptable level of service?" This question should be the starting point, not the allocation basis used.

One size does not fit all. A fire is a moving target recognizing no boundaries, or cost allocation methods. We should be guided by common sense principles rather than rules that give rise to the use of the term "subsidy."

There is a finite pool of funds (tax revenues) available, none of which should be looked upon as a "subsidy". Ask the residents of Butte County, Paradise, Concow, and other areas hard hit by fires, and find out how they feel about being subsidized by the services provided by "out of town" districts.

A wildfire recognizes no jurisdiction, boundaries, districts, county lines or other man made attempts to divide, allocate, and apportion responsibility for service. This has been eminently demonstrated in the current series of fires engulfing Northern California. Not only are fire districts, including Latrobe, crossing county lines to render assistance, but out of state districts and foreign countries are also providing support.

*4. All of the subsidized FPDs receive "special taxes" and/or "special assessments" except Pioneer FPD. These funds are not considered when the subsidy calculation is made. These special funds have been previously authorized on a continuing basis by an election of property owners within the districts. Special taxes require a vote of 2/3 of the property parcel owners. Special assessments are "fire suppression assessments," which are allowed under State law and require only a property parcel vote of 50 percent plus one.*

It is proper that these funds are not included in the analysis because they were put in place by the citizens of the respected communities in order to deal with issues specific to their needs. The LFPD would like to note that while the current State law requires only a simple majority to pass a special tax of this type, at the time the LFPD special assessment as established, State law required greater than a 2/3 majority.

*5. The tax revenues for FY 2006/07 for the West Slope FPDs are summarized in Exhibit B. The tax revenues for each district, including special taxes and special assessments, are combined in one column. Note that all but Pioneer FPD and Latrobe FPD receive tax revenues exceeding 13 percent of their tax base, and all but Pioneer FPD have total funding including the County Supplemental Contribution that exceeds 13 percent of their tax base. With the exception of Pioneer FPD and Latrobe FPD, the County supplemental is much smaller than the other tax revenue received by the subsidized districts.*

The LFPD agrees with the statements made in point 5. We do however do not agree that the value of 13% has any bearing on the issue. While the Grand Jury report indicated that all fire districts except for Pioneer and Latrobe receive tax revenues in excess of 13 percent of their tax base that in itself is not sufficient enough to determine need.

There are many factors to determine the costs of fire related services. Amongst them are the density of the population (rural versus urban), the call volume, the types of possible incidents, the types of structures in the district, the fire hazard severity zone value, the distance from other possible districts resources, etc. A detailed analysis by knowledgeable persons is required to determine what the tax basis should be for any fire district and cannot be done simply by using the same value across the entire county.

*6. With advance notification, the Board of Supervisors can discontinue these subsidies. The County has a fiduciary responsibility to minimize them, preferably without degrading fire protection capabilities. Elimination of the subsidies would require these fire protection districts to either find other sources of revenue in a similar amount, or find equivalent budget savings that would not degrade fire protection capability.*

The LFPD agrees that while it is true that the Board of Supervisors can discontinue these subsidies and perhaps should in certain cases, it should only be done with consideration on how it will affect the level of services to the community. The discrepancy is in what should be the minimal level of service that the county should support and what are the costs are to provide that service? If a fire district has identified a need for funds to support that minimal level of service, then the most logical funding source should be the tax base.

The fire services are not a profit motivated business and our funding sources are extremely limited. The LFPD does agree that all the fire districts, including those that do not receive the augmentation funds, should operate in the most efficient manner possible resulting in the best possible savings to the budget. The county should review the requirements and funding for all districts, not just those that are receiving augmentation funds, to determine what tax revenues are used for what services.

*7. Consolidation of the six West Slope subsidized fire districts, and especially mergers into the three financially stronger fire districts on the West Slope, should allow elimination of the fire chiefs and other administrative positions in the subsidized districts. The potential personnel savings that could result are shown in Exhibit C, where the administrative personnel costs for each fire district are shown in column L, with a total amount of \$944,084. The County supplemental contributions for these fire districts are shown in column M, and the total amount is similar to the total administrative personnel costs shown in column L.*

The LFPD disagrees with the analysis. There is no data to support the result of same or increased levels of service by reducing operational personnel by any title. Small district chiefs and other "Administrative" personnel do not perform "redundant" chores that can be instantly absorbed into a larger organization. These people predominantly perform significant operational activities as well as response operations that still need to be performed regardless of title or agency.

In fact evidence through many studies has shown that when consolidation occurs between organizations where much of the services were performed by volunteers in one organization with paid personnel in another organization, costs to the community increase and the level of services decreases. This is the major factor that eliminates most of the potential value of consolidation of special districts. Any consolidation needs to fully analyze the value provided by volunteers or underpaid services as compared to the same services paid for by full market value professionals.

A consolidation study must include the total value of all services performed, which services could be eliminated by reduction of redundant positions, and which services might be affected if the current volunteer positions are no longer being provided by the community. Our study has shown that many volunteers will not be interested in performing the roles they are currently providing if those same services are provided by fully funded professional staff in the parent organization.

We support, in principle, the idea of consolidation, but we feel that the Grand Jury has been misinformed as to the immediate financial benefits of consolidation. In our opinion, after considering the data for the smaller districts with budgets under \$500,000 there would be little, in any, financial savings.

Consolidation should result in lower administrative costs, but unless appropriate policies and procedures are revised to meet the newly consolidated organizational structure, the perceived benefits will never materialize. In addition, the operational policies and procedures, which differ from district to district need examining to ensure that there will be operational benefits from future consolidations.

In conclusion, it is believed, by some, that if the county is really interested in cost benefits, there should be, in time, a major consolidation of all districts, resulting in one district for the West Slope that would also include ambulance services.

8. *If supplemental payments to the six West Slope fire protection districts are eliminated, the savings to the County general fund will be recurrent, rather than one-time. Over ten years and with an annual increase of 9 percent, the SAVINGS will amount to \$14,018,235. If supplemental payments to all eight subsidized fire districts are eliminated, the SAVINGS over ten years will amount to \$19,665,148.*

We hold serious reservations as to the calculations and assumptions. We believe this analysis is over simplified. The only appropriate approach to evaluating this entire issue would be with a professional group performing the analysis. Professional fiscal evaluation tools need to be coupled with a keen understanding of all levels of fire service delivery operations including the value of volunteer service.

For example, as was pointed out above, most of the services provided to the LFPD are done through volunteer or significantly underpaid staff. If the county removed the supplemental payments it would probably result in removing the funding required to provide the minimal level of service to the community. This in turn would prohibit the current staff to operate safely and with state required resources and cause the department to collapse, thus eliminating the services to the Latrobe and surrounding communities. In turn the county would have to provide these services with one or more of the surrounding districts that are predominantly based on paid staff. This in turn would cost the county significantly more money than what is spent today.

#### *RECOMMENDATIONS*

1. *The El Dorado County Board of Supervisors should discontinue the "Supplemental Funding Agreement for Rural Districts for Enhanced Fire Protection and Emergency Medical Services" as it pertains to the following six fire protection districts: Pioneer, Rescue, Garden Valley, Mosquito, Georgetown, and Latrobe.*

The LFPD disagrees that the El Dorado County Board of Supervisors should discontinue the "Supplemental Funding Agreement for Rural Districts for Enhanced Fire Protection and Emergency Medical Services" as it pertains to the Latrobe Fire Protection District for the reasons cited in above.

2. *LAFCO and the El Dorado County Board of Supervisors should actively encourage consolidation or merger agreements between these presently subsidized fire protection districts and any of the following fire protection districts: El Dorado County Fire Protection District, Diamond Springs-El Dorado Fire Protection District, and El Dorado Hills County Water District.*

The LFPD is already in discussion with other fire districts to the applicability of consolidation and do not require encouragement from either LAFCO or the El Dorado County Board of Supervisors.

3. *The boards of directors of the following nine fire protection districts should make a good faith effort to reach consolidation agreements: Rescue, Pioneer, Mosquito, Latrobe, Georgetown, Garden Valley, El Dorado County, Diamond Springs, and El Dorado Hills. Each of these nine fire protection districts should report the results of their efforts to the Grand Jury within the Penal Code timeframe requirements.*

We agree that it is always appropriate for a public service agency to periodically evaluate performance delivery. From the LFPD perspective, the evaluation of potential for reorganization with another agency does not, and has never needed a politically motivated Grand Jury report to provide the stimulus to perform the evaluation.

The LFPD has historically performed periodic evaluations of service levels and optional approaches to organization and agency affiliation. When the agency was formed in 1981 we had detailed discussions with multiple existing agencies to understand how we could provide the best possible service with virtually no resources available. These discussions included CDF, Cameron Park, Shingle Springs, and El Dorado Hills. There were no better options at that time for the funds available than to form our own district.

We have subsequently had detailed discussions with other agencies. Those included detailed presentations made to the LFPD Fire Board from the former Shingle Springs Fire Protection District, a discussion without a formal analysis with Cameron Park Fire, an evaluation of possible reorganization with the current El Dorado County Fire Protection District at the time that district was organized and a formal presentation made by the El Dorado Hills Fire Department approximately 6 years ago. The fire board evaluations continued to show that we were performing at an acceptable level of service for the resources available and that consolidation would not provide an increase level of service nor a reduction in costs. In fact in all cases just the opposite was indicated.

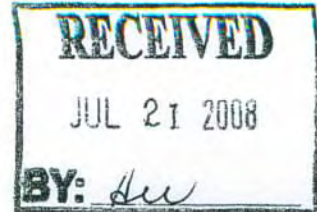
Prior to the receipt of this report, two officers and a board member of Latrobe Fire Protection District had already started informal discussions with El Dorado Hills Fire Department board members and officers to explore reorganization possibilities. Subsequent to the informal discussion both boards agreed to meet formally to discuss the issues of organization and delivery of emergency response services to the citizens in both of our agencies. This "good faith" effort is ongoing and will continue with the LFPD evaluations of other organization possibilities beyond the timeframe for response to this Grand Jury report.



# MOSQUITO

## FIRE PROTECTION DISTRICT

8801 Rock Creek Road  
Placerville, CA. 95667  
(530) 626-9017



July 17, 2008

El Dorado County Superior Court  
Honorable Judge James R. Wagoner  
Presiding Judge of the Grand Jury 2007-2008  
495 Main Street  
Placerville, CA 95667

Re: Response to Grand Jury Report on Fire District Consolidations

Dear Judge Wagoner:

The Mosquito Fire Protection District Board of Directors finalized and approved its responses to the Grand Jury's findings on Case # 07-025, Consolidation of Fire Districts, at their Regular Board Meeting on July 13, 2008. The following pages constitute that response. If there are questions or clarifications concerning our response, please do not hesitate to contact either myself or Board Member, John Moalli. We can be reached through the Fire District office.

A handwritten signature in cursive script, appearing to read "Ralph Hern".

Ralph Hern,  
President, Board of Directors  
Mosquito Fire Protection District.

**Mosquito Fire Protection District  
Response to Grand Jury Case No. 07-025**

<b>Grand Jury Finding</b>	<b>Mosquito Fire Protection District Response</b>
<p>1. Either a fire protection district or LAFCO can initiate a consolidation study including a cost/benefit analysis. LAFCO has been reluctant to aggressively pursue consolidation of fire protection districts, waiting instead for one or more of them to initiate movement towards consolidation.</p>	<p>Mosquito Fire Protection District (MFPD) agrees that a fire protection district can initiate a consolidation study including a cost/benefit analysis.</p> <p>MFPD is not able to comment on LAFCO's position toward consolidation.</p>
<p>2. There is often institutional resistance to changing the status quo of an organization. Consolidation and reorganization are likely to lead to elimination of redundant positions, which typically will not be well received by current employees. Should consolidation occur, these difficulties can be ameliorated by</p> <ul style="list-style-type: none"> <li>a) Selecting at least one director from the district to be a director of the new district, and</li> <li>b) Continuing former district volunteer firefighter associations, such as was done with the mergers from the El Dorado County FPD.</li> </ul>	<p>MFPD disagrees in part with finding 2. While elimination of positions can certainly lead to resistance to change within an organization, it is the position of MFPD that the most likely cause of resistance to consolidation will be the reluctance to provide a degraded level of service to the residents in the district.</p>
<p>3. The County Board of Supervisors supplements revenues for six FPDs on the County west slope and two small</p>	<p>The MFPD disagrees in part with finding 3. In the background section of the report, the Grand Jury states that "Operationally,</p>

**Mosquito Fire Protection District  
Response to Grand Jury Case No. 07-025**

<b>Grand Jury Finding</b>	<b>Mosquito Fire Protection District Response</b>
<p>districts providing fire protection in the Tahoe Basin, Fallen Leaf Lake CSD and the Meeks Bay FPD. This is a subsidy by the County at large to these particular fire districts. <b>These subsidies raise a fairness issue for taxpayers outside these districts who are supporting their own fire protection district through various taxes while also contributing, through the County's general fund, an extra amount of money to these subsidized districts.</b></p>	<p>boundaries between west slope County fire protection districts are transparent. With respect to emergency response, they act together as one fire department." This statement is contradictory to the fairness assertion, as taxpayers outside of the subsidized district clearly receive benefit from subsidized district operations. In the MFPD, for example, the subsidy is used to finance an emergency vehicle. As this vehicle is often called to emergencies outside of the Mosquito district, non-Mosquito taxpayers receive a direct benefit from the general fund subsidy.</p>
<p>These subsidies are based on an agreement between the County Board of Supervisors and the eight districts, "Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services." This agreement was amended by an Auditor-Controller memo of October 4, 2001, to provide for a correction in tax rates for fire protection in some of these districts. Under this agreement, the eight districts receiving less than 13 percent of the ad valorem property tax revenue collected within their boundaries will receive a supplemental contribution from the County general fund. This supplemental is intended to be sufficient to provide the district with revenue for fire protection services equal to approximately 13 percent of their tax revenue base.</p>	
<p>The amount of this subsidy is calculated by the Auditor-Controller each year using the final assessed property valuation from the prior year to establish the 13 percent</p>	

**Mosquito Fire Protection District  
Response to Grand Jury Case No. 07-025**

<b>Grand Jury Finding</b>	<b>Mosquito Fire Protection District Response</b>
<p>threshold. The difference between the 13 percent threshold and the prior year estimated actual tax revenue plus the prior year subsidy is the basis for the current year subsidy. For the eight subsidy districts, their percentage of Tax Rate Area (TRA) taxes is always less than 13 percent; whereas for the five non-subsidized fire districts the percentage exceeds 13 percent. Exhibit A, column D, shows the amount of the County supplemental contribution to bring all fire protection districts up to the equivalent of 13 percent of the total TRA taxes for FY 2006/07. The supplemental amounts contributed by the County to all eight subsidized districts in FY 2006/07 totaled \$1,188,142. The share of this amount received by the six West slope FPDs was \$856,908, which is 72.2 percent of the total subsidy for FY 2006/07. The County supplemental in FY 2006/07 for all eight subsidized districts was 1,188,242.</p> <p>The subsidy for the six FPDs in the present year, FY 2007/08, is 926,948, an 8.2 percent increase over the previous year. The subsidy for all eight districts in FY 2007/08 is 1,300,347, which is a 9.3 percent increase over FY 2006/07.</p> <p>4. All of the subsidized FPDs receive "special taxes" and/or "special assessments" except pioneer FPD. These funds are not considered when the subsidy calculation is made. These special funds have been previously authorized on a</p>	<p>The MFPD agrees with this finding.</p>

**Grand Jury Finding**

**Mosquito Fire Protection District Response**

continuing basis by an election of property owners within the district. Special taxes require a vote of 2/3 of the property parcel owners. Special assessments are "fire suppression assessments" which are allowed under State law and require only a property parcel vote of 50 percent plus one.

5. The tax revenues for FY 2006/07 for the West Slope FPDs are summarized in Exhibit B. The tax revenues for each district, including special taxes and special assessments are combined in one column. Note that all but Pioneer FPD and Latrobe FPD receive tax revenues exceeding 13 percent of their tax base, and all but Pioneer FPD including the County Supplemental Contribution that exceeds 13 percent of their tax base. With the exception of Pioneer FPD and Latrobe FPD, the County supplemental is much smaller than the other tax revenue received by the subsidized district.

The MFPPD agrees with this finding.

6. With advanced notification, the Board of Supervisors can discontinue these subsidies. The County has fiduciary responsibility to minimize them preferably without degrading fire protection capabilities. Elimination of the subsidies would require these fire protection districts to either find other sources of revenue in a similar amount, or find equivalent budget savings that would not degrade fire protection capability.

The MFPPD disagrees in part with this finding. Firstly, the Board of Supervisors also has responsibility to ensure its citizens are adequately provided with emergency medical services and are protected against fire hazards; the subsidies are an important component of these services. Without a thorough analysis of the manner in which the subsidies are spent, the Grand Jury has no basis for establishing whether or not the elimination of the subsidies would be fire

**Mosquito Fire Protection District  
Response to Grand Jury Case No. 07-025**

Grand Jury Finding	Mosquito Fire Protection District Response
<p>7. Consolidation of the six West Slope subsidized fire districts, and especially mergers into the three financially stronger fire districts on the West Slope, should allow elimination of the fire chiefs and other administrative positions in the subsidized districts. The potential personnel savings that could result are shown in Exhibit C, where the administrative personnel costs for each district are shown in column L, with a total amount of \$944,084. The County supplemental contributions for these fire districts are shown in column M, and the total amount is similar to the total administrative personnel costs shown in column L.</p>	<p>The MFPPD disagrees with this finding.</p> <p>Firstly, consolidation will not necessarily eliminate the personnel costs to the extent the Grand Jury claims in Exhibit C of the report. While consolidation may remove a salaried position with the title of "Chief", it is likely that in order to maintain the current level of fire protection capability, a salaried position of "Captain" (or similar title) would be created. Similarly, it is unlikely that a single secretary or Administrative Assistant in the consolidated organization could perform all of the functions of the four positions the Grand Jury proposes to eliminate; some positions would need to be carried over or new positions created. Thus, Exhibit C of the report</p>
	<p>protection capability neutral.</p> <p>Secondly, it is the position of the MFPPD that degradation of fire protection capabilities is not an acceptable consequence of subsidy elimination.</p> <p>Finally, the MFPPD believes this finding is internally inconsistent, stating on the one hand that the county can eliminate the subsidies and try its best not to degrade fire protection capabilities, and on the other hand asserting that the FPPD's cannot degrade capabilities if the subsidies are discontinued. Clearly, the standard should be the same for both the County and the FPPD's – capabilities cannot be degraded.</p>

**Mosquito Fire Protection District  
Response to Grand Jury Case No. 07-025**

<b>Grand Jury Finding</b>	<b>Mosquito Fire Protection District Response</b>
<p>8. If supplemental payments to the six West Slope fire protection districts are eliminated, the savings to the County general fund will be recurrent, rather than one-time. Over ten years and with annual increases of 9 percent, the SAVINGS will amount to <b>\$14,018,235</b>. If supplemental payments to all eight subsidized fire districts are eliminated, the SAVINGS over ten years will amount to <b>\$19,665,148</b>.</p>	<p>overstates the level of savings that could be realized by the County.</p> <p>Second, stating that the County supplemental contributions for the subsidized districts is similar to the total administrative personnel costs can be misleading. Although the total subsidy and personnel costs are of the same order in sum, the two are grossly disparate in some FPD's. For example, in the MFPPD, the total personnel costs are estimated to be \$107,122 in Exhibit C, while the county supplemental contribution is only \$28,246. Finally, the MFPPD notes that the total of column L in Exhibit C is \$726,919, not the \$944,084 mentioned in this finding.</p> <p>The MFPPD disagrees with this finding, as it believes that the Grand Jury has over-estimated the savings.</p> <p>Firstly, the calculation assumes an annual increase of 9 percent, cumulatively, over the ten year period. This level of increase is not predictive nor consistent with the current economic conditions. For example, the assessed property valuations in the county will clearly be less in FY 2008/09.</p> <p>Secondly, the calculation assumes that all subsidies from the general fund can be eliminated once consolidation occurs. As the level of fire protection capability must be maintained in the new organization, it is not clear that (nor has any study been done to validate such) all subsidies can be discontinued.</p>

**Mosquito Fire Protection District  
Response to Grand Jury Case No. 07-025**

<b>Grand Jury Recommendation</b>	<b>Mosquito Fire Protection District Response</b>
<p>1. The El Dorado County Board of Supervisors should discontinue the "Supplemental Funding Agreement for Rural Districts for Enhanced Fire Protection and Emergency Medical Services" as it pertains to the following six fire protection districts: Pioneer, Rescue, Garden Valley, Mosquito, Gerogetown, and Latrobe.</p>	<p>As this recommendation is for the Board of Supervisors, the MFPD cannot speak to its implementation. However, for the reasons mentioned in the findings sections above, it is the position of the MFPD that the supplemental funding should not be discontinued.</p>
<p>2. LAFCO and the El Dorado County Board of Supervisors should actively encourage consolidation or merger agreements between these presently subsidized fire protection districts and any of the following fire protection districts: El Dorado County Fire Protection District, Diamond Springs-El Dorado Fire Protection District, and El Dorado Hills County Water District.</p>	<p>As this recommendation is for the Board of Supervisors and LAFCO, the MFPD cannot speak to its implementation.</p>
<p>3. The boards of directors of the following nine fire protection districts should make a good faith effort to reach consolidation agreements: Rescue, Pioneer, Mosquito, Latrobe, Georgetown, Garden Valley, El Dorado County, Diamond Springs, and El Dorado Hills. Each of these nine fire protection districts should report the results of their efforts to the Grand Jury within the Penal Code timeframe requirements.</p>	<p>The MFPD has not yet implemented this recommendation, but will do so in the future. The MFPD proposes that over the next year, it will analyze the effects of consolidation on key factors including level of service and fire protection capability. For example, it is currently unclear as to how consolidation will effect level of service metrics in Mosquito including:</p> <ul style="list-style-type: none"> <li>i) A 9 minute average response time for emergency equipment to arrive on scene</li> <li>ii) A 5 minute average response time for a Command</li> </ul>

**Mosquito Fire Protection District  
Response to Grand Jury Case No. 07-025**

<b>Grand Jury Recommendation</b>	<b>Mosquito Fire Protection District Response</b>
	<p>Officer to arrive on scene.</p> <p>iii) A 15 minute average response time for on-scene arrival of additional personnel and equipment</p> <p>iv) Personnel responding to medical calls for service trained to a minimum level of EMT with Combe Tube certification.</p> <p>v) An ISO rating of 5 in those areas served by fire hydrants and a rating of 8 in those areas not served by hydrants.</p> <p>vi) Station 75 staffed with at least one trained, emergency response person during normal business hours 7 days a week and opened to the public for information, burn permits, etc. for at least 5 hours a day M-F.</p> <p>After this analysis is complete, the MFPD will be in a good position to determine if consolidation is feasible.</p>



# El Dorado Hills Fire Department

June 13, 2008

Ms. Rosemary Mulligan, Fore Person  
Members of the Grand Jury  
El Dorado County  
P.O. Box 472  
Placerville, CA 95667

RE: Response to El Dorado Grand Jury Report 2007-2008  
Final Report Case No. 07-025

Dear Ms. Mulligan & Members of the Grand Jury:

The El Dorado Hills County Water District (El Dorado Hills Fire Department) has attempted consolidations/annexations with the following agencies over the last 10 years:

- Cameron Park CSD/Fire
- Rescue Fire Protection District
- Latrobe Fire Protection District

All of these attempts ended in the other district backing away for one reason or another. This year, we have once more established a goal to attempt consolidations/annexations/contracting, etc. As of today, we have contacted all three of the above agencies regarding these goals. Rescue Fire Protection District and Cameron Park CSD/Fire have responded with "Thanks, but No Thanks". We have initiated discussions with Latrobe Fire Protection District.

We hope this response meets your expectations. We are available to answer any questions you may have.

Sincerely,

EL DORADO HILLS FIRE DEPARTMENT

Brian K. Veerkamp  
Fire Chief



## GARDEN VALLEY FIRE PROTECTION DISTRICT

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August 20, 2008

El Dorado County Superior Court  
Honorable Judge James R. Wagoner  
495 Main Street  
Placerville, CA. 95667

Grand Jury Case No. 07-025

Dear Judge Wagoner,

The Garden Valley Fire Protection District has spent many hours evaluating the report submitted for consolidation of the fire districts in El Dorado County. The report shows a lack of investigation, by not interviewing all 10 of the fire districts involved. The only district interviewed that would face the loss of funding was Mosquito Fire Protection District. Nor was the potential increase in the cost of personnel and benefits considered when the larger departments take-in the smaller districts.

The larger districts pay their personnel at higher salary rates and benefit scales than most of the smaller districts. This along with the projected loss of funding from the county would leave our district with a deficit of over \$400,000.00 dollars a year after consolidation. This of course is projected at the current level of service the GVFPD provides the public both in and out of district boundaries. If the county decided to follow the recommendations of the Grand Jury and remove it's funding to the districts, it becomes questionable if the level of service now provided by these districts would remain at its present level. The savings to the county of 14 to 19 million dollars over the next ten years sounds great, but when you look at the intensity of the fires taking place in our area, in the last few years, the largest loss in the country being the Tahoe fire last year, it doesn't make much sense to be looking at decreased spending for fire suppression in El Dorado County.

All of the districts work together in this county to produce fire suppression planning to benefit everyone, not just our local districts. Dispatching of district fire apparatus is not done by district boundaries, but by the nearest equipment to the scene. Also, in talking with the larger districts, we found them hesitant to commit to the idea of picking up the added cost of consolidation. Nor did we find the larger districts willing to reorganize district boundaries to allow other districts a way to consolidate.

We did investigate the possible consolidation of the GVFPD with many other districts including County Fire and Cal Fire schedule "A", which is not consolidation but was another possibility. As mentioned above, the cost increases put a dim light on the idea. Please see the attached reports from County Fire and Cal Fire. The County Fire report shows a wage cost increase of \$ 102,350.00, and the Cal Fire report shows a cost increase of \$ 209,839.38.



## GARDEN VALLEY FIRE PROTECTION DISTRICT

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In closing, we find the report lacking the insight necessary to make the kind of judgment call the Grand Jury is recommending from the board of supervisors. We feel any reduction in funding to any district in El Dorado County would have a negative in-pack. This would cause reductions in fire service personnel and equipment response times, thus requiring a greater reliance on volunteers for district coverage. With the state increasing requirements for training and certification of volunteer personnel, it is much harder to find community members willing to give the time required to become a volunteer. We find the need to continue funding to all the districts a priority and any change, based on this report, would pose a risk to the people of El Dorado County.

Respectfully,

Robert Rogers, Board Chair  
Garden Valley Fire Protection District



**EL DORADO COUNTY  
FIRE PROTECTION DISTRICT**

P.O. Box 807 / 4040 Carson Road / Camino, CA 95709  
(530) 644-9630 • Fax (530) 644-9636

July 17, 2008

Hon. James R. Wagoner  
Supervising Judge  
El Dorado County Superior Court  
495 Main Street  
Placerville, CA 95667

RE: Response by El Dorado County Fire Protection District Board of Directors to Part II of the 2007-2008 Grand Jury Final Report

Honorable Judge James R. Wagoner:

The El Dorado County Fire Protection District Board of Directors has received and reviewed Part II of the 2007-2008 El Dorado County Grand Jury Final Report concerning Consolidation of Fire Protection Districts. What follows is our response to the Grand Jury's findings and recommendations as required by Penal Code § 933.05.

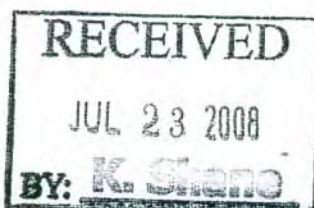
We sincerely thank the members of the 2007-2008 Grand Jury for the time and attention given to review of the vital issue of fire protection and emergency medical services in our County.

**Response by El Dorado County Fire Protection District Board of Directors  
Consolidation of Fire Protection Districts  
Case No. 07-025**

**I  
FINDINGS**

**GRAND JURY FINDING NO. 1**

Either a fire protection district or LAFCO can initiate a consolidation study including a cost/benefit analysis. LAFCO has been reluctant to aggressively pursue consolidation of fire protection districts, waiting instead for one or more of them to initiate movement toward consolidation.



**RESPONSE TO GRAND JURY FINDING NO. 1**

The El Dorado County Fire Protection District Board of Directors agrees with the finding.

**GRAND JURY FINDING NO. 2**

There is often institutional resistance to changing the status quo of an organization. Consolidation and reorganization are likely to lead to elimination of redundant positions, which typically will not be well received by current employees. Should consolidation occur, these difficulties can be ameliorated by (a) selecting at least one director from the district to be a director of the new district, and (b) continuing former district volunteer firefighter associations, such as was done with the mergers to form the El Dorado County FPD.

**RESPONSE TO GRAND JURY FINDING NO. 2**

The El Dorado County Fire Protection District Board of Directors agrees, in part, and disagrees, in part, with the finding. We agree there is often institutional resistance to change in an organization. This is so for many reasons. For example, with respect to forced consolidation of fire agencies, one major concern for members of the El Dorado County Fire Protection District Board of Directors is dilution of the District's already scarce available resources to attempt to provide comparable fire and emergency medical services to other communities.

The El Dorado County Fire Protection District is already challenged in providing adequate staffing, facilities, equipment, infrastructure and service levels to our citizens. We agree that a single fire agency on the Western Slope of the County would be theoretically optimum. We are steadily doing our part to ultimately achieve that goal. However, we do not believe forced consolidation of fire agencies is necessary or desirable. Only after careful and thoughtful analysis by the governing boards of the potentially consolidated agencies and consideration of the effects on service levels to the public should a consolidation occur.

We agree that redundancies in certain job titles (most notably, fire chief) would be eliminated and some economies of scale would be realized through consolidation. We do not agree with the generalization that elimination of redundancies is typically not well received by current employees. Further, we believe that consolidation of fire agencies does not necessarily result in the elimination or numerical reduction of positions allocated to the fire service mission at the local agency level because staffing levels are already at (and in some cases below) minimum levels. In more rural and geographically remote fire agencies with a lower number of full-time staff and a greater reliance on volunteers, the fire chief often serves as the agency's chief executive as well as a necessary working hand on emergency incidents.

Even though the job title of the fire chief in a consolidated fire agency may change, the occurrence of consolidation does not nullify the need to have the available staffing to serve the emergency needs to the community. While the job title of the fire chief in a consolidated agency may change, the person holding that title will most probably remain a vital part of the organization. Thus, there would be no salary "savings" since the employee would remain employed holding a different job title.

We agree that some of the many challenges arising from the consolidation of fire agencies can be ameliorated in some measure by a representative composition on the newly constituted agency's governing board and the continued investment in strong, active, community-based volunteer programs. However, these are just two of a multitude of organizational considerations that must be addressed if a consolidation is to succeed. We measure the success of consolidation primarily by the level and quality of service delivered to the public.

### **GRAND JURY FINDING NO. 3**

The County Board of Supervisors supplements revenues for six FPDs on the County west slope and two small districts providing fire protection in the Tahoe Basin, Fallen Leaf Lake CSD and the Meeks Bay FPD. This is a subsidy by the County at large to these particular fire districts. These subsidies raise a fairness issue for taxpayers outside these districts who are supporting their own fire protection district through various taxes while also contributing, through the County's General fund, an extra amount of money to these subsidized districts.

These subsidies are based on an agreement between the County Board of Supervisors and the eight districts, "Supplemental Funding Agreement for Rural Fire Districts for Enhanced Fire Protection and Emergency Medical Services." This agreement was amended by ~~an Auditor-Controller memo of October 4, 2001, Board of Supervisors' action on 10-9-01,~~ to provide for a correction in tax rates for fire protection in some of these districts. Under this agreement, the eight districts receiving less than 13 percent of the *ad valorem* property tax revenue collected within their boundaries will receive a supplemental contribution from the County general fund. This supplement is intended to be sufficient to provide the district with revenue for fire protection services equal to approximately 13 percent of their tax revenue base.

The amount of this subsidy is calculated by the Auditor-Controller each year using the final assessed property valuation from the prior year to establish the 13 percent threshold. The difference between the 13 percent threshold and the prior year estimated actual tax revenue plus the prior year subsidy is the basis for the current year subsidy. For the eight subsidized districts, their percentage of total Tax Rate Area (TRA) taxes is always less than 13 percent; whereas for the five non-subsidized fire districts the percentage exceeds 13 percent. Exhibit A, column D, shows the amount of the County supplemental contribution to bring all fire protection districts up to the equivalent of 13 percent of the total TRA taxes for FY 2006/07.

The supplemental amounts contributed by the County to all eight subsidized districts in FY 2006/07 totaled \$1,188,142. The share of this amount received by the six West slope FPDs was \$856,908, which is 72.2 percent of the total subsidy for FY 2006/07. The County supplemental in FY 2006/07 for all eight subsidized districts was \$1,188,242. The subsidy for the six FPDs in the present year, FY 2007/08, is \$926,948, an 8.2 percent increase over the previous year. The subsidy for all eight districts in FY 2007/08 is \$1,300,347, which is a 9.3 percent increase over FY 2006/07.

### **RESPONSE TO GRAND JURY FINDING NO. 3**

The El Dorado County Fire Protection District Board of Directors has not verified the accuracy of the calculations in the finding.

### **GRAND JURY FINDING NO. 4**

All of the subsidized FPDs receive "special taxes" and/or "special assessments" except Pioneer FPD. These funds are not considered when the subsidy calculation is made. These special funds have been previously authorized on a continuing basis by an election of property owners within the districts. Special taxes require a vote of 2/3 of the property parcel owners. Special assessments are "fire suppression assessments," which are allowed under State law and require only a property parcel vote of 50 percent plus one.

### **RESPONSE TO GRAND JURY FINDING NO. 4**

The El Dorado County Fire Protection District Board of Directors agrees with the finding.

### **GRAND JURY FINDING NO. 5**

The tax revenues for FY 2006/07 for the West Slope FPDs are summarized in Exhibit B. The tax revenues for each district, including special taxes and special assessments, are combined in one column. Note that all but Pioneer FPD and Latrobe FPD receive tax revenues exceeding 13 percent of their tax base, and all but Pioneer FPD have total funding including the County Supplemental Contribution that exceeds 13 percent of their tax base. With the exception of Pioneer FPD and Latrobe FPD, the County supplemental is much smaller than the other tax revenue received by the subsidized districts.

### **RESPONSE TO GRAND JURY FINDING NO. 5**

The El Dorado County Fire Protection District Board of Directors agrees with the finding.

**GRAND JURY FINDING NO. 6**

With advance notification, the Board of Supervisors can discontinue these subsidies. The County has a fiduciary responsibility to minimize them, preferably without degrading fire protection capabilities. Elimination of the subsidies would require these fire protection districts to either find other sources of revenue in a similar amount, or find equivalent budget savings that would not degrade fire protection capability.

**RESPONSE TO GRAND JURY FINDING NO. 6**

The El Dorado County Fire Protection District Board of Directors agrees, in part, and disagrees, in part, with the finding. We agree the Board of Supervisors presumably could discontinue these subsidies. We cannot agree, however, the Board of Supervisors has a "fiduciary responsibility" to do so even though the El Dorado County Fire Protection District is not a beneficiary of the County subsidy described.

Fire protection and emergency medical services are among the most basic and essential functions a government can provide for its citizens. It seems to us that the County's responsibility to ensure the provision of reliable, trained, capable, and adequately equipped fire and emergency medical services responders to the citizens and visitors to our County overbalances any perceived need to divert those funds to other uses.

When the El Dorado County Board of Supervisors approved this supplemental funding to the named fire districts, it was intended to equalize and balance the varying property tax rates to ensure that each fire district in the County received at least thirteen percent (13%) of the ad valorem tax collected by the Assessor's office for the provision of fire and emergency services.

Elimination of subsidies to these smaller, underfunded fire agencies will likely do more to inhibit than to promote the consolidation of fire agencies because if those funds were not eventually replaced the underfunded (and unsubsidized) fire agency would be an unattractive candidate for consolidation with other, larger fire agencies. Further, eliminating these subsidies could impair the subsidized agency's ability to provide mutual and automatic aid responses to other fire agencies, or services during peak periods within their jurisdictional boundaries, thus increasing the demand on neighboring fire agencies to fill these gaps. These examples serve to illustrate the existing integrated and interdependent nature of the El Dorado County fire service, even though the agencies are not yet consolidated as a single political subdivision.

Instead, the Board of Supervisors should consider offering additional financial incentives to fire agencies that consolidate, particularly where the consolidation involves less populous, more geographically remote, and harder-to-serve jurisdictions.

**GRAND JURY FINDING NO. 7**

Consolidation of the six West Slope subsidized fire districts, and especially mergers into the three financially stronger fire districts on the West Slope, should allow elimination of the fire chiefs and other administrative positions in the subsidized districts. The potential personnel savings that could result are shown in Exhibit C, where the administrative personnel costs for each fire district are shown in column L, with a total amount of \$944,084. The County supplemental contributions for these fire districts are shown in column M, and the total amount is similar to the total administrative personnel costs shown in column L.

**RESPONSE TO GRAND JURY FINDING NO. 7**

The El Dorado County Fire Protection District Board of Directors agrees, in part, and disagrees, in part, with the finding. We agree that a single fire protection district serving the Western Slope would be theoretically optimal. As discussed above, we believe the duplication of certain job titles would be eliminated but the number of allocated positions necessary to serve the reorganized agencies would remain roughly the same. Therefore, we believe an unknown amount of savings through economies of scale would be realized but most of any savings would necessarily be reinvested to maintain adequate staffing levels, facilities, equipment, infrastructure, and service levels rather than as a realized financial "savings."

**GRAND JURY FINDING NO. 8**

If supplemental payments to the six West Slope fire protection districts are eliminated, the savings to the County general fund will be recurrent, rather than one-time. Over ten years and with an annual increase of 9 percent, the **SAVINGS** will amount to **\$14,018,235**. If supplemental payments to all eight subsidized fire districts are eliminated, the **SAVINGS** over ten years will amount to **\$19,665,148**.

**RESPONSE TO GRAND JURY FINDING NO. 8**

The El Dorado County Fire Protection District Board of Directors agrees, in part, and disagrees, in part, with the finding. Of course, we agree that eliminating subsidies to the named fire protection districts will result in a reduction in the County' budget allocation for that line item. However, we do not agree that that there will be a net savings. First, those funds we undoubtedly be channeled to other unspecified (perhaps less essential) uses. Second, elimination of the subsidies without a plan for replacing those funds could result in lost property tax revenue should an underequipped, understaffed, or underfunded fire agency be unable to prevent or extinguish a fire.

## **II** **RECOMMENDATIONS**

### **GRAND JURY RECOMMENDATION 1**

The El Dorado County Board of Supervisors should discontinue the "Supplemental Funding Agreement for Rural Districts for Enhanced Fire Protection and Emergency Medical Services" as it pertains to the following six fire protection districts: Pioneer, Rescue, Garden Valley, Mosquito, Georgetown, and Latrobe.

### **RESPONSE TO GRAND JURY RECOMMENDATION 1**

This recommendation is directed to the El Dorado County Board of Supervisors rather than the El Dorado County Fire Protection District. Accordingly, this recommendation will not be implemented because it is not reasonable, inasmuch as the El Dorado County Fire Protection District is without any authority to implement it.

### **GRAND JURY RECOMMENDATION 2**

LAFCO and the El Dorado County Board of Supervisors should actively encourage consolidation or merger agreements between these presently subsidized fire protection districts and any of the following fire protection districts: El Dorado County Fire Protection District, Diamond Springs-El Dorado Fire Protection District, and El Dorado Hills County Water District.

### **RESPONSE TO GRAND JURY RECOMMENDATION 2**

This recommendation is directed to the LAFCO and the El Dorado County Board of Supervisors rather than the El Dorado County Fire Protection District. Accordingly, this recommendation will not be implemented because it is not reasonable, inasmuch as the El Dorado County Fire Protection District is without any authority to implement it.

### **GRAND JURY RECOMMENDATION 3**

The boards of directors of the following nine fire protection districts should make a good faith effort to reach consolidation agreements: Rescue, Pioneer, Mosquito, Latrobe, Georgetown, Garden Valley, El Dorado County, Diamond Springs, and El Dorado Hills. Each of these nine fire protection districts should report the results of their efforts to the Grand Jury within the Penal Code timeframe requirements.

**RESPONSE TO GRAND JURY RECOMMENDATION 3**

The recommendation has been implemented.

The philosophy of the El Dorado County Fire District has always been to support the concept of consolidations and mergers of surrounding fire agencies, provided that such actions would increase (or at the very least preserve) the level of service to the constituents that we serve.

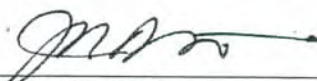
The El Dorado County Fire Protection District has been a leader for two decades in the consolidation of fire agencies on the Western Slope. As noted in the Grand Jury's report, the El Dorado County Fire Protection District is the product of consolidation of the former Pleasant Valley, Pollock Pines-Camino, Shingle Springs, Coloma-Lotus, and Northside fire protection districts. (Grand Jury Report, p. 7, ¶ 3.)

We continue, as we have for twenty years, to actively pursue good faith consolidation discussions with other West Slope fire agencies and implement plans for consolidation when they are mutually beneficial to the citizens of the consolidating agencies.

Should you have any questions regarding this response or require clarification or additional information please contact me.

Sincerely,  
EL DORADO COUNTY F.P.D.

By:

  
\_\_\_\_\_  
JOSEPH W. ROSE  
Chair, Board of Directors

JWR/

## **GEORGETOWN FIRE DISTRICT**



**Office Phone: 530-333-4111**

**Facsimile: 530-333-4020**

**[www.georgetownfiredepartment.com](http://www.georgetownfiredepartment.com)**

**Post Office Box 420**

**6283 Main Street**

**Georgetown, California 95634-0420**

July 25, 2008

El Dorado County Grand Jury  
P.O. Box 472  
Placerville, CA 95667-0472

### Response to El Dorado County Grand Jury Recommendations

We have read the El Dorado County Grand Jury report on consolidation of Fire Protection Districts. While we would have preferred participating in the discussions and evaluations that led to the recommendations, we offer the following comments.

We at the Georgetown Fire Protection District believe that the residents in our community place a high value on the fire protection and emergency response services provided by our District. They see these services as a highly visible and direct return on the property taxes and assessments they pay each year when the County sends out the tax bills. We believe that, if asked their opinion, our constituents would say the last place to make budget cuts would be in fire and police services. If we were to suggest that the County were to spend \$14 to \$19 million less on fire safety in the next ten years without offering any evidence that the level of service would not be degraded, we do not think the citizens in our area would view that suggestion favorably.

While we agree that all of us should endeavor to provide fire protection and emergency services as efficiently and as cost-effectively as possible, recommendations like those contained in the Grand Jury report should be made only when supported by an extensive analysis of the operational, fiscal and political aspects of their implementation. In our opinion, the report does not convey to us that the analysis has been completed, rather that only a superficial review of some selected fiscal aspects was considered. For example in the operational area:

The report states that "El Dorado County has a disproportionately high number of fire protection districts compared with the average of other counties in California." In evaluating the number of districts, one needs to consider that the county covers a large

**"Neighbors helping Neighbors - Since 1854"**

geographic, and more importantly a geographically diverse, area. This geographical diversity results in increasing the number of fire risks. In El Dorado Hills and Cameron Park, reasonably compact suburban areas, the risks are mainly confined to fires starting within a structure. Fighting these fires requires specialized equipment and expertise possessed by city and suburban fire departments. In Georgetown we are surrounded by forested lands and have population thinly scattered throughout the District. While we must combat similar structure fires as in more developed areas, our primary risk is from the exterior threats as a result of brush and forest fires. We must maintain the equipment and provide special training to accomplish that task. While we endorse centralized dispatch to coordinate and enhance resource sharing, we believe the key to success is to put the right equipment and personnel on scene as quickly as possible under supervision of those experienced in command and control. So, we do not see much that can be changed in the placement of stations and equipment or in the training or supervisory requirement as a result of consolidation. To the extent that combining with more urban districts dilutes or deemphasizes the unique forest/residential population interface aspect of the fire protection we provide, it would place the residents of our area at greater risk.

In the financial area, the report focuses on the 'subsidies' that the County provides to six fire protection districts and raises a fairness issue for taxpayers outside those districts. In Georgetown we receive one of the smaller annual supplemental payments. However, we do not consider the return of property tax revenue to a district providing fire protection to the properties within it a 'subsidy', but rather, an effective, proper and beneficial use of those revenues. We believe the residents in our district would support that view. In contrast, the report recommends possible merger into "the three financially stronger fire districts" without mentioning potential equity issues arising from the combination of special assessments and benefits assessments already in place.

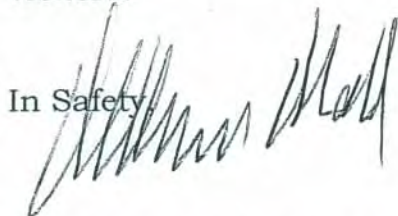
In a rather cavalier statement, the report states that elimination of the 'subsidies' "would require these fire protection districts to either find other sources of revenue in a similar amount, or find equivalent budget savings that would not degrade fire protection capability". In another section of the report, it states that "consolidation may also lead to more efficient service and lower administration costs, but these are difficult to quantitatively evaluate. Hence, they have not been included in this report." We can only conclude that given this lack of analysis, there is no foundation for recommending reductions of support for fire protection, forcing increases in the tax burden on residents in the affected districts or suggesting budget cuts that could be made magically without reducing service levels. In fact, we find it very peculiar that the Grand Jury would make such recommendations with only the most superficial analysis in the face of the recent history of devastating wildland interface fires and the potential of increasing risks due to drought conditions and increasing development in forested areas.

In the political arena, the citizens of El Dorado County are, for the most part indicated by voting trends, of a conservative nature believing that the best government is that closest to home. In Georgetown we have a strong sense of community. The fire department is an integral part of that sense. That commitment to ones' neighbors and community is a key reason we are able to attract and retain volunteer firefighters. This is the key reason we are able to provide the level of service we do within the limitations of our budget. With only five full-time paid staff, we have 36 volunteers who donate a large part of their time to

protecting the community. They have all undergone extensive training in the academy that we operate and must continually maintain and upgrade their skills to meet the increasing number of regulatory requirements placed upon us. They also contribute financial support through fund raising events and social activities. We do not believe we could continue to attract or retain the number of dedicated volunteers if governance of the organization were moved outside of the community. Loss of volunteer participation would most certainly result in decreases to current levels of protection and it is doubtful the County or any consolidated district would have the resources to replace volunteer participation.

In conclusion, while we do not reject the concept of targeted or functional consolidation (Indeed, we are always open to examining if consolidating with an adjacent district would be beneficial); we find the Grand Jury's recommendations to be superficial and lack the sound basis that would have been provided by detailed analysis. In a sense, we believe that they are reckless in that they propose significant cuts in funding at a time when we should be looking for ways to increase fire protection and emergency services in our County. The core mission of county government is to provide for public safety to all of its citizens and visitors.

In Safety

A handwritten signature in black ink, appearing to read "William Mahl", written over the words "In Safety".

WILLIAM MAHL, President of the Board of Directors  
Georgetown Fire Protection District

C: Greg Schwab, Fire Chief  
File



# Rescue Fire Protection District

• P.O. Box 201 Rescue, CA 95672 • Phone: (530) 677-1868 • Fax: (530) 677-9609  
www.rescuefiredepartment.org

May 14, 2008

El Dorado County Superior Court  
Honorable Judge James R. Wagoner  
495 Main Street  
Placerville, CA 95667

Dear Honorable Judge Wagoner,

Please find attached the Rescue Fire Protection District's reply to the Grand Jury Final Report, Part II 2007/2008 that was received on April 21, 2008.

The Rescue Fire Protection District Board of Directors would like to make a few observations. We appreciate the time and effort that went into this report though we do not think that this report is completely accurate in its information and that the methodology was flawed. Lines E, F, and G on Exhibit A should not be included in the calculations. This report was also missing some pertinent information. We also think that all the Districts which receive the money from the County should have been interviewed, not just the bigger Districts. Their input would have been helpful in seeing the whole picture. No where in this report does it say that the level of fire and emergency service would at least remain the same or improve with consolidation. If not, then why consolidate? Finally, our Board believes that the level of service for fire and emergency services would decrease exponentially if the Board of Supervisors no longer provides the supplemental funding to Rescue Fire Protection District.

If you have any questions, please feel free to contact either me or Chief Tom Keating at the above numbers.

Sincerely,

A handwritten signature in cursive script that reads 'Anne Walker'.

Anne Walker, Board Chair  
Rescue Fire Protection District Board of Directors

MAY 22 2008



# Rescue Fire Protection District

• P.O. Box 201 Rescue, CA 95672 • Phone: (530) 677-1868 • Fax: (530) 677-9609  
www.rescuefiredepartment.org

## RESPONSE TO FINDINGS:

1. This is an opinion so we can neither agree nor disagree. Question: Can LAFCO initiate a consolidation?
2. Rescue Fire Protection District (RFPD) disagrees with this finding, which we believe is an opinion, not a fact. RFPD considered consolidation with another district a few years ago. The community overwhelmingly rejected the consolidation by a vote of 3-1. The employees themselves actually wanted to consolidate. As to point a) of finding #2, it is difficult to ensure that the smaller district will continue to be represented on the new Board after the consolidation.
3. RFPD does not think there is a fairness issue involved nor do we think the County contribution is a subsidy. RFPD sends 90 cents of every tax dollar to the County, whereas El Dorado Hills sends only 83 cents. The money we receive from the County was intended to correct this inequity. It is NOT a subsidy. Because of the mutual aid agreement in El Dorado County where all the fire departments will and do respond outside of their districts, the taxpayers receive fire and emergency services from all the districts, not just the one in which they reside. The 9.3% increase mentioned in the fourth paragraph is a prediction, not a fact.
4. This is a statement of fact so we cannot agree or disagree. Voters chose to pay for improvements not available with County monies with benefit assessments. These assessment dollars should have no bearing on the money the District receives from the County. The residents should not be penalized for their vote.
5. RFPD disagrees with this finding. The information for RFPD on Exhibit B is not accurate. In FY 06/07, Rescue received \$133,864 from a FEMA grant, \$83,502 for strike team reimbursement, and transferred \$400,000 from development fees that had been collected in past years for a new engine. These were all one time funds and should not be considered revenue. Therefore the total financing figure should be \$1,424,344, not \$2,041,530. That would also change our 'Total Funding as % of Base' from 26.66% to 18.32%. Also in Exhibit B, the N/A entries need to be filled in to show the true picture. That information should be readily available.



## Rescue Fire Protection District

• P.O. Box 201 Rescue, CA 95672 • Phone: (530) 677-1868 • Fax: (530) 677-9609  
www.rescuefiredepartment.org

6. RFPD does not disagree that the Board of Supervisors can discontinue these 'subsidiaries' at any time. Doing so would definitely degrade the fire protection abilities of those Districts, and the County as a whole, because of the mutual aid agreement.
7. RFPD does not agree that the consolidation of the fire districts would necessarily result in personnel savings equal to the amount of \$944,084. The three larger districts have a higher pay scale than Rescue. In a consolidation, the employees of RFPD would most likely get pay increases. Also, administrative cost savings would not be as much as represented. In many cases of consolidation, the Fire Chief and administrative assistant are absorbed into the newly formed district at the same rate of pay.
8. RFPD agrees that if the supplemental payments are eliminated the County will save money but at what cost to the citizens of El Dorado County who expect a certain level of fire and emergency service? Due to devaluation of properties and slow/no growth, the 9% increase is just speculation, not fact.

### RESPONSE TO RECOMMENDATIONS:

1. RFPD does not have the power to implement or not implement this recommendation. The Board of Supervisors must make that decision. In fact, Laura Gill, El Dorado Co. CAO, has recommended that the Districts continue to receive funding at the current amount. She has been working with the Fire Chiefs to explain the necessity of the funding to the Board of Supervisors.
2. RFPD does not have the authority to implement or not implement this recommendation. The Board of Supervisors and/or LAFCO should respond to this recommendation.
3. This recommendation will not be implemented at this time. The voters overwhelmingly voted to NOT consolidate four years ago and to help maintain their own district with a benefit assessment.



**PIONEER FIRE PROTECTION DISTRICT**  
**FIRE • RESCUE • EMS**

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P.O. Box 128  
7061 Mt. Aukum Road  
Somerset, California 95684  
Phone (530) 620-4444 • Fax (530) 620-4317  
[www.pioneerfire.org](http://www.pioneerfire.org)

To: **Presiding Judge of the El Dorado County Superior Court**  
El Dorado County Grand Jury  
P.O. Box 472  
Placerville, Ca 95667  
(530) 621-7477

Date: Wednesday, June 11<sup>th</sup> 2008

**RE: PIO Fire's Response to El Dorado County's 2007-08 Mid-Term Grand Jury Report (Part-II, dated April 5<sup>th</sup> 2008)**  
**IAW-California Penal Code Section-933.05, Consolidation of Fire Protection Districts (Case No: 07-025)**

**Pioneer Fire Protection District's Response to Findings:**

Pioneer Fire Protection District disagrees wholly in the 2007-08 Mid-Term Grand Jury Report's findings, in which case our response shall specify the portions of the findings that are disputed in the report and shall include our explanations of the reason therefore.

**1.) Reason for Report:**

The first paragraph discusses nine local gov't fire districts and a CSD that provides fire/rescue services. Why is the CSD not a part of the consolidation scheme? Without all organizations being involved it is not a complete consolidation.

Paragraph two justifies this report on the basis of a comparison with the "average of other counties in California". El Dorado County is not an average county nor is Pioneer Fire Protection District an average local gov't fire protection district. The district encompasses 296 square miles which makes it one of the largest in the state. Paragraph two states that "El Dorado County would benefit ...". Such a statement could only be made with consideration of the quality of service, the timelessness of service and the cost. By their own admission in the Background Section "Consolidation may also lead to more efficient service and lower administration costs, but these are difficult to quantitatively evaluate. Hence they have not been included in this report." We take that to mean that the necessary analysis has not been done. A review of the Findings & Recommendations and supporting exhibits would indicate that the issue being addressed is funding of the local gov't fire districts and not consolidation. If that is the issue, then the report should be withdrawn and a new report specially addressing funding should be issued.

**Conclusion**, there is no rational basis for the investigation or report by the EDC Grand Jury.

**2.) Background:**

In paragraph two of this section the statement is made "consolidation is not a new idea." That is a true statement and the Pioneer Fire Protection District has on two prior occasions studied the consolidation or merger of the district with El Dorado County Fire Protection District. The first such effort was when the Pioneer Fire District was considering

contracting for services with Cal-Fire (CDF), the second was when a benefit assessment per Prop-218 failed and other alternatives were examined. In this last effort, consultation by a committee of the EDC Fire Chief's Association assisted and an alternative of county-wide consolidation was never suggested. In both instances it was shown that, for both operational and financial reason, a consolidation with County Fire could not be effected without severe degradation of fire/rescue services.

The example given of the Cal-Fire Camino Dispatch Center (ECC) is not pertinent in that this was centralization, not consolidation, of dispatch services that is primarily one involving communication and related electronics and does not deal with operational issues. This was a costly and time consuming exercise with at least two iterations of software development. None of the problems of geographic and demographic distribution were inherent in this centralization as would be the case with widely distributed local gov't fire/rescue districts with limited infrastructure.

Paragraph six of this section states, "Most of the interviewed El Dorado County Fire Protection District officials favored more consolidation of local gov't fire districts."

This statement has no merit since in the "Methodology Section" it is clearly stated that of the nine local gov't fire protection districts and the CSD, only three were interviewed. This is hardly a representative sample and fails every statistical test for reliability or believability.

**Conclusion**, the section demonstrates that the El Dorado County Grand Jury has failed to develop background information that would justify the investigation or report and has in fact addressed the wrong issue.

### 3.) Methodology:

The size and make-up of the sample does not fairly represent the local gov't fire protection districts of El Dorado County California. Not only are rural districts excluded but the reliance on financial data without due consideration of operational matters makes the methodology faulty.

**Conclusion**, the methodology is fatally flawed due to inappropriate data gathering and analysis. Since the methodology is flawed the "Findings & Recommendations" are without merit and requiring a response is a misuse of taxpayer funds.

Findings definition, Item 3.b of Merriam Webster's Collegiate Dictionary, Eleventh Edition "The Results of an Investigation."

1. As discussed above, Pioneer Fire Protection District has conducted studies. If LAFCO lacks sufficient motivation to explore the subject, that is their concern.

**Conclusion**, the respondent disagrees as stated above.

2. (a) This method had been tried by the El Dorado County Western Slope Prehospital Emergency Services Joint Authority (JPA) for a period of over ten years and proven to be dysfunctional. The method has now been replaced.

(b) This statement shows a complete lack of understanding of local volunteer firefighter organizations in the outlying areas of El Dorado County. The Pioneer Volunteer Firefighters (PVFA) Association has over 200 volunteers. These are not firefighters; they work on annual crab banquets to raise funds for the district. An additional group of 40 to 50 volunteers provide year around service in publishing the bi-monthly PVFA Turnout Community Newsletter. Our six local communities would not be interested in supporting a consolidated fire protection district.

**Conclusion**, the findings is a presumption, and not the result of investigation. The respondent disagrees with the findings as discussed above.

3. Not with the purview of the Pioneer Fire Protection District.

**Conclusion**, the respondent disagrees with the findings.

4. A statement, not a finding that in any case does not apply to Pioneer Fire Protection District.

**Conclusion**, the respondent disagrees with the finding.

5. No correlation is made considering size, geographics, infrastructure, demographics and the tax base, and so does not provide a basis for a finding.

**Conclusion**, the respondent disagrees with the finding.

6. A Board of Supervisors option, and not in the purview of the Pioneer Fire Protection District.

**Conclusion**, respondent disagrees with the finding.

7. This is doubtful conjecture based on insufficient data and not supported by prior studies. Although there might be a reduction in District Fire Chiefs there could be a corresponding increase in deputy and/or associate chiefs, who in other local gov't fire protection districts, are more expensive than the chief at Pioneer Fire Protection District. The assumption that the personnel costs in Exhibit-C would result in savings has not been demonstrated.

**Conclusion**, the respondent disagrees with the findings.

8. One of the primary duties of the government is to provide for health and safety of its residents. The finding shows no comparison of the level of service with supposed savings. Further Item-8 is again a statement of what the El Dorado County Grand Jury seems to believe and is not a finding.

**Conclusion**, the respondent disagrees with the finding.

**Recommendations:**

1. This item is addressed to the El Dorado County Board of Supervisors, and not a local gov't fire protection district.

**Conclusion**, not within the purview of the Pioneer Fire Protection District.

2. Recommendation is directed to LAFCO and the El Dorado County Board of Supervisors, and not a local gov't fire protection district.

**Conclusion**, not directed to the Pioneer Fire Protection District. Will not be implemented.

3. The Pioneer Fire Protection District has already explored the consolidation issue on two separate occasions as reported above. Further, this recommendation is in conflict with Recommendation Two. The El Dorado County Grand Jury needs to decide which agency should be the lead agency.

**Conclusion**, recommendation will not be implemented.

Respectfully,

Dave Boucke, President  
Board of Directors



Robert L. Gill, Fire Chief



Cc: PIO Board of Directors and PIO Administrative Staff  
Ms. Helen K. Baumann, El Dorado County District-II Supervisor

Since 1980, proudly serving the El Dorado County communities of Mt. Aukum, Fair Play, Outingdale, Grizzly Flats, Omo Ranch and Somerset!

# EL DORADO LAFCO

## LOCAL AGENCY FORMATION COMMISSION

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AT2

June 25, 2008

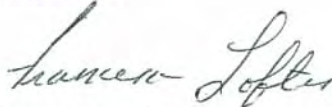
Rosemary Mulligan, Foreperson  
Grand Jury  
El Dorado County  
P.O. Box 472  
Placerville, CA 95667

Dear Ms. Mulligan,

We have received the recent Grand Jury Report on the Consolidation of Fire Protection Districts, Case No. 07-025.

LAFCO believes the Grand Jury report has merit and LAFCO has knowledge that consolidation discussions are occurring among the districts.

Regards,



Francesca Loftis  
El Dorado LAFCO

### COMMISSIONERS

Public Member: Francesca Loftis • Alternate Public Member: Norm Rowett

City Members: Carl Hagen, Ted Long • Alternate City Member: Roberta Colvin

County Members: Ron Briggs, James R. Sweeney • Alternate County Member: Helen Baumann

Special District Members: Ken Humphreys, Harry J. Norris • Alternate Special District Member: Michael Cooper

### STAFF

José C. Henriquez, Executive Officer • Erica Sanchez, Policy Analyst

Denise Tebaldi, Interim Commission Clerk • Andrew Morris, Commission Counsel

# **Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**



**EL DORADO COUNTY  
BOARD OF SUPERVISORS**

**September 16, 2008**

# TABLE OF CONTENTS

<b>Use of El Dorado County Vehicles .....</b>	<b>3</b>
<b>Emergency Permits in the Development Services Department .....</b>	<b>10</b>
<b>Audit of Human Services and Mental Health Medi-Cal Revenues .....</b>	<b>15</b>
<b>APPENDIX A .....</b>	<b>22</b>
<b>APPENDIX B .....</b>	<b>43</b>
<b>El Dorado County Procurement Department .....</b>	<b>45</b>
<b>Victim Restitution .....</b>	<b>50</b>



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Use of El Dorado County Vehicles**

Case No. 07-030

#### **REASON FOR REPORT**

The El Dorado County Grand Jury received complaints regarding the use of County-owned vehicles designated as “take-home” vehicles. There was also media attention to the subject matter. Specifically, these complaints questioned why some County employees were assigned permanent and overnight retention of County-owned vehicles when they seemingly did not qualify under the requirements specified in the Board of Supervisors (BOS) Policy #D-4 for Vehicle Use, Standards, Procurement and Disposal, adopted 12/22/87 and revised 6/20/06. After initial review of the complaints the Grand Jury determined there was sufficient cause to investigate the use of County-owned vehicles.

#### **BACKGROUND**

The County owns 542 vehicles, although only 475 are specifically managed by Fleet Management. These vehicles range from passenger cars to heavy-duty vehicles for use by our Department of Transportation (DOT). Currently 83 vehicles in this fleet are assigned to individual employees of the County and are driven to and from their respective residences.

The Board Of Supervisors Policy #D-4 sets forth rules regarding the use and operation of vehicles while on official County business; the assignment, use, operation, procurement and disposal of County-owned vehicles, and the methods used by the County to meet business transportation needs of County employees.

The County’s Fleet Management Unit in the Department of General Services operates a vehicle pool and coordinates department requests for leased, rented, or purchased vehicles to make them available to County departments. Where appropriate, County vehicles are assigned to specific County departments and managed by Fleet Management.

County department heads are responsible for ensuring compliance with all provisions of the BOS Policy and maintaining and monitoring vehicle usage logs.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

### METHODOLOGY

The Grand Jury gathered data from many sources. Personnel were interviewed from the Chief Administrative Office (CAO), Auditor-Controller's Office and General Services.

Documents Reviewed:

- Board of Supervisors Policy #D-4 For Vehicle Use, Standards, Procurement and Disposal adopted 12/22/87 and revised 6/20/06
- Fleet Rates Spreadsheet Draft (08/09)
- General Services – Fleet Management Draft Vehicle Cost Estimates Fiscal Year 08/09 Budget
- General Services – Fleet Management Vehicle Rate Reduced Calculations Fiscal Year 07/08
- Take Home Vehicles 2007 Spreadsheet

### FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. BOS Policy #D-4 is not being followed. Paragraph B.2 titled "Vehicle Use" requires the CAO's Office to review permanent assignment and overnight retention of County-owned vehicles on an annual basis and to continue or rescind authorization. Interviews with the CAO's office revealed that this has not been done for several years.

***Response to Finding 1: The respondent partially disagrees with the finding. Policy D-4 was revised in 2006 so it is inaccurate to suggest that the policy has not been followed for "several years." At the time of their interview with the Grand Jury, Chief Administrative Office staff indicated that a full review of assigned vehicles has not been done this year, but would be completed following the conclusion of the annual budget process. Staff also indicated that the Board of Supervisors considered permanent assignment and overnight retention of vehicles within the Department of Transportation on March 11, 2008.***

2. Paragraph B.2.a of the policy specifies that an employee who is responsible for responding to emergency situations related to public health or safety and protection of property on a 24-hour basis may be assigned a vehicle for on-call duty. Those on those days the employee is assigned the on-call duty. However, paragraph B.2.b is subject to interpretation and allows any County employee that can demonstrate to the Board of Supervisors that it is in the best interest of the County for that employee to be assigned permanent and overnight retention of a County-owned vehicle.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

### **Response to Finding 2: *The respondent agrees with the finding.***

3. The purchase of County vehicle fuel is a budget item within various County departments, and **is not** a component of the Fleet Management process. This is a significant County expense...estimated to be over 1.6 million dollars next year and represents nearly 40% of total fleet costs.

### **Response to Finding 3: *The respondent agrees with the finding.***

4. Fuel purchases for County vehicles are not centrally managed or controlled. The County's primary fuel vendor possesses very sophisticated reporting capabilities and would be able to provide excellent tools in an effort to better manage fuel purchases.

### **Response to Finding 4: *The respondent agrees with the finding.***

5. The 50 vehicles identified as "Department 99" or department owned are not managed by Fleet Management, so the efficiency of operating those vehicles (which represent nearly 10% of the County total) is difficult to determine.

### **Response to Finding 5: *The respondent agrees with the finding.***

6. County fleet costs for 2008-2009 are estimated to be 4.2 million dollars, with projected total miles at over 5.4 million. These costs represent a cost to the County of 77.2 cents for every mile driven. As a point of reference, the rate the County reimburses employees to drive their own vehicles on County business is 50.5 cents per mile, or 26.7 cents per mile *less* than the County spends on its own vehicles. We do recognize that the County per mile cost is an average of ALL vehicles, including some heavy duty vehicles.

### **Response to Finding 6: *The respondent partially disagrees with the finding. Section 5(b) of the county travel policy (D-1) says, "Travel by private auto in the performance of "official County business" shall be reimbursed at the Federal rate as determined by the Internal Revenue Service." The IRS recently announced a new mileage reimbursement rate for the period of 7/1/08 through 12/31/08 of 58.5 cents per mile.***

7. In reviewing the take-home vehicle list many of the assignments are not for "health and safety" or on-call status use. Take-home vehicles are driven 21% more miles per year, per vehicle when compared to the balance of the Fleet managed vehicles. One reason is that take-home vehicles include "commute" miles.

### **Response to Finding 7: *The respondent agrees with the finding.***

8. Potential cost savings to the County exist in two areas:
  - a. The conversion of miles driven in County-owned vehicles to private vehicle reimbursement would save 26.7 cents per mile. If a 10%

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

reduction were achieved, the County would save an estimated \$145,278 annually.

**Response to Finding 8a:** *The respondent partially disagrees with the finding. As indicated by the Grand Jury in Finding 6, the average cost per mile driven in a county vehicle is potentially inflated by the inclusion of heavy duty vehicles which are more expensive to purchase, operate and maintain. In addition, the Internal Revenue Service recently announced a new mileage reimbursement rate for the period of 7/1/08 through 12/31/08 of 58.5 cents per mile. These factors combined suggest that the Grand Jury overestimated the savings per mile to the county from increased reliance on employees' personal vehicles. The Board of Supervisors also notes that it is infeasible to substitute personal use vehicles for heavy duty vehicles contained in the county fleet.*

*More problematic however is the fact that over the past approximately 10 years, the top selling vehicles in the County of El Dorado have been Sport Utility Vehicles and Trucks. Nationwide the Ford F-Series truck was the top selling vehicle for over 20 years. Those vehicles purchased over the last 10 years are currently the most commonly owned vehicles by El Dorado residents. As shown below the ownership cost per mile of these vehicles is well above the 58.5 cents per mile reimbursement rate. Given this negative reimbursement rate it is unlikely to see a 10% reduction in miles driven because there is little incentive for employees to use their own vehicles for county business.*

COMMON CURRENTLY OWNED VEHICLES IN EL DORADO COUNTY			
Vehicle Model Year & Type	Ownership Costs Over 5 Years	Ownership Mileage Over 5 Years at 12k Miles Per Year**	Ownership Cost Per Mile
2007 Chevy Tahoe	\$ 50,664.00	60000	\$ 0.84
2007 Ford F-250	\$ 58,130.00	60000	\$ 0.97
2007 Ford Explorer	\$ 44,106.00	60000	\$ 0.74

\*\* 12,000 miles per year based on www.epa.gov

*However, over the past year or so the trend has changed. The top selling vehicles in El Dorado County are currently the Toyota Camry, the Toyota Corolla, and the Honda Civic. The ownership cost per mile of these vehicles is far less than those historically sold in El Dorado County, making reimbursement for some uses more acceptable in upcoming years.*

COMMON CURRENT TOP SELLING VEHICLES IN EL DORADO COUNTY			
Vehicle Model Year & Type	Ownership Costs Over 5 Years	Ownership Mileage Over 5 Years at 12k Miles Per Year**	Ownership Cost Per Mile
2007 Toyota Camry	\$ 30,796.00	60000	\$ 0.51
2007 Toyota Corolla	\$ 24,743.00	60000	\$ 0.41
2007 Honda Civic	\$ 24,952.00	60000	\$ 0.42

\*\* 12,000 miles per year based on www.epa.gov

- b. A 10% reduction of total County vehicle miles driven would yield a 77.2 cent per mile savings, estimated to be \$419,862 annually.

**Response to Finding 8b:** *The respondent partially disagrees with the finding. It is obvious that reduced driving saves money. Given the factors outlined in the response to*

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

*finding 8a however, it is likely that the Grand Jury has overestimated the actual savings per mile and failed to recognize the difficulty of providing a cost-effective incentive for employees to use personal vehicles for county business. In addition, reduction in vehicle miles incurred on county business potentially results in service reductions to the public. The Grand Jury has not specified where these services reductions should occur or provided a compelling rationale for why service reductions should occur.*

9. Our investigation indicated that Fleet Management is performing their function well.

**Response to Finding 9: *The respondent agrees with the finding.***

## RECOMMENDATIONS

1. The CAO to complete the required annual review of permanent assignment and overnight retention for County-owned vehicles for each County department by the end of this calendar year. Those assignments that cannot be justified should be rescinded.

**Response to Recommendation 1: *The recommendation has not yet been implemented but will be implemented in the future. The Chief Administrative Office will complete the required annual review by December 31, 2008.***

2. Paragraph B.2 in the County vehicle policy should provide a clear definition of what constitutes “in the best interest of the County” for assigning take-home vehicles when the vehicle is not used for the public health and safety of citizens or does not meet the on-call qualification.

**Response to Recommendation 2: *The recommendation will not be implemented because it is not warranted. The Board of Supervisors vehicle policy is intended to generally guide the use and assignment of vehicles but should not be interpreted to limit the Board of Supervisors overall discretion and authority in determining the best interest of the county.***

3. The purchase of fuel for County vehicles should be consolidated under Fleet Management so that all vehicle cost accounting and oversight is managed under a single program.

**Response to Recommendation 3: *The recommendation has not yet been implemented but will be implemented in the future. Oversight of fuel card system process should be consolidated and standardized across all County departments. Fleet Management will work to ensure and mandate all departments use the two card (individual driver / individual vehicle) system. With department head discussion, a reasonable way to control “off hour” use of take home vehicle gas cards may be the “DATE & TIME” component of the Hunt and Sons System. A timeframe for full implementation of this recommendation is difficult to establish, but the county expects this to be a priority when a new Facilities and Fleet Management Directors is hired.***

### **Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

4. The management of “Department 99” vehicles should be consolidated under the Fleet Management process to insure that effective oversight and efficiency is achieved.

***Response to Recommendation 4: The recommendation has not yet been implemented but will be implemented in the future.*** Currently Fleet Management is only tracking department owned vehicle smog checks. By providing oversight of individual department owned vehicle services, safety inspections, and other required maintenance needs, the county will ensure vehicles are safe, reliable, and remain cost effective. With the expected addition of a third vehicle lift, Fleet will be able to accommodate those “Department 99” vehicles currently not on a routine maintenance schedule. A timeframe for full implementation of this recommendation is difficult to establish, but the county expects this to be a priority when a new Facilities and Fleet Management Directors is hired.

## **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

## PROJECTED 2008-2009 COUNTY VEHICLE MILES AND RELATED COSTS

<b>TOTAL FLEET MILES:</b>	<b>5,437,318</b>	
		<u><b>COST / MILE</b></u>
<b>ALL COSTS LESS FUEL:</b>	<b>\$2,560,397</b>	<b>47.1 ¢</b>
<b>FUEL COST (407,806 gals.):</b>	<b>\$1,638,224</b>	<b>30.1 ¢</b>
<b>TOTAL COUNTY COST:</b>	<b>\$4,198,621</b>	<b>77.2 ¢</b>
<b>COUNTY PRIVATE VEHICLE REIMBURSEMENT RATE:</b>		<b>50.5 ¢</b>
<b>SPREAD BETWEEN COUNTY PER MILE COST AND REIMBURSEMENT RATE:</b>		<b>26.7 ¢</b>

**POTENTIAL ANNUAL SAVINGS:**

- > EACH 10% REDUCTION IN OVERALL MILES DRIVEN = **\$ 419,862**
- > EACH 10% CONVERSION FROM COUNTY TO PRIVATE VEHICLE = **\$ 145,278**

<u>Vehicle Categories</u>	<u>Count</u>	<u>% of Fleet Managed Vehicles</u>	<u>Miles</u>	<u>% of Miles</u>	<u>Miles/Vehicle</u>
"Take-Home" Vehicles:	83	17.5%	1,112,350	20.5%	13,402
All Other Fleet-Managed Vehicles:	392	82.5%	4,324,968	79.5%	11,033
<b>Total Fleet Managed Vehicles:</b>	<b>475</b>	<b>100%</b>	<b>5,437,318</b>	<b>100%</b>	<b>11,447</b>
"Department 99" Vehicles:	50				
Inactive Vehicles:	17				
<b>Total County Owned Vehicles:</b>	<b>542</b>				

**NOTE:** costs and miles for the 50 "Department 99" vehicles are not included, as they are not managed by Fleet Mgmt.



## EL DORADO COUNTY GRAND JURY 2007-2008

### Emergency Permits in the Development Services Department

Case No. GJ 07- 027

#### REASON FOR REPORT

The Grand Jury became aware of lengthy delays in the permit process for the reconstruction of damaged buildings.

#### BACKGROUND

Fires, floods, earthquakes and other unexpected damage to buildings can cause great hardship to occupants and owners. Often a business must cease or curtail operations and homeowners must find temporary lodging until building repair or reconstruction is completed. Expediting reconstruction is in the interest of building owners and occupants, as well as the community. However, unlike most construction contractors, building occupants and owners struck by fire or other emergencies are usually not familiar with the rigorous County construction permit and inspection regulations.

The El Dorado County Board of Supervisors commissioned a study of private development review processes conducted by the County, principally within the Development Services Department. Results were presented in a document and power point presentation, "Permits Evaluation and Recommended Tasks Report," March 25, 2008. This report was aimed at changes that would facilitate private commercial development in the County. While it made several recommendations regarding the Development Services Department, it omitted any discussion of the Department's response to emergency repair and reconstruction of damaged buildings.

#### METHODOLOGY

The Grand Jury investigated the County Development Services Department's process for emergency permits. The Grand Jury interviewed several individuals and reviewed many documents.

People Interviewed:

- El Dorado County Assistant Chief Administrative Officer (interim)
- El Dorado County building contractors and business owners

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

- El Dorado County Development Services Department personnel
- Fire Protection District personnel

### Documents Reviewed:

- “Angora Fire Reconstruction Expedited Process,” El Dorado County Development Services Department
- Building Permit Application (form), El Dorado County Development Services Department
- Contractor’s Project Notes for the re-building of a damaged business
- “Fire Damage Rapid Response Permit Process,” with charts, El Dorado County Development Services Department
- “Permits Evaluation & Recommended Tasks Report,” March 25, 2008, Assistant Chief Administrative Officer, El Dorado County (interim)
- “Scheduling of Permits for Reconstruction of a Fire Damaged Building,” El Dorado County Development Services Department

## FINDINGS

In accordance with the California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings:

1. The need for a rapid response to expedite repair and reconstruction of damaged buildings is recognized in a Development Services Department’s document, “Fire Damage Rapid Response Permit Process.” Grand Jury interviews provided anecdotal evidence that this process takes much longer than necessary.

***Response to Finding 1: The respondent disagrees partially with the finding. The Board of Supervisors cannot adequately respond to anecdotal evidence presented by the Grand Jury. Other anecdotal evidence suggests that the majority of people who have come through the building permit process after the Angora Fire have generally been happy with the county’s performance which suggests a timely process. In fact, approximately one-month before the publication of the Grand Jury’s report, the county had received 165 single-family dwelling building permit applications. 118 of those permits had been issued and one permit had been finalized. This evidence demonstrates that the Development Services Department is appropriately keeping up with the workload created by the Angora Fire.***

2. The building construction inspection steps received little criticism. Most of the problems were deemed to occur in the permit process. Owners of damaged buildings often don’t have the knowledge and experience that developers have in navigating through the complicated

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

process. They usually require guidance on how to proceed, both at the beginning and along the way to the completion of the permit process. Several persons within the Development Services Department, including outside officials such as fire marshals, are usually involved in a series of sequential steps. There is no evidence of an overall coordinator to actually obtain rapid response. Other than a red cover sheet (“red tag”) placed on the document package, there was no evidence of a systemic rapid response process. The Development Services Department has been characterized as insufficiently energetic in expediting permits under emergency response conditions.

***Response to Finding 2: The respondent disagrees partially with the finding. The Board of Supervisors has extensively discussed the overall building permit process, as well as the specific issues and procedures related to processing Angora Fire building permits.***

*It is true that many property owners choose to go through the permit process without professional assistance. The county has no control over the expertise or prior experience of applicants. The county attempts to educate applicants and guide them along the proper path. However, this can add to the time it takes to process permits which subsequently causes frustration for the applicant.*

*Under direction of the Development Services Director, the Chief Building Official is the master coordinator for processing of building permits. As mentioned in the response to Finding 1, as of the middle of May, 2008, less than 10 months after the Angora Fire, the county had issued 118 building permits out of the 165 applications it had received. Again, this evidence demonstrates that the Development Services Department is appropriately keeping up with the workload created by the Angora Fire.*

3. Reconstruction of damaged buildings to meet current codes required by State law leads to confusion between owners and the Development Services Department regarding the necessary reconstruction plans and re-submittals. This leads to delays.

***Response to Finding 3: The respondent agrees with the finding. As mentioned in the response to Finding 2, many property owners choose to go through the permit process without professional assistance. The county has no control over the expertise or prior experience of applicants.***

4. The Grand Jury found some evidence that contractors feared reprisal if they made complaints about the permit process.

***Response to Finding 4: The respondent agrees with the finding. These fears and concerns have also been reported to the Acting Development Services Director. As a result, the Acting Development Services Director maintains an open door policy so applicants may report concerns and preventative or corrective measures can be taken if necessary.***

## RECOMMENDATIONS

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

1. The County Board of Supervisors should direct the three Development Services Branch Managers (Placerville, El Dorado Hills and South Lake Tahoe) to be master coordinators of rapid response to all building emergencies that occur in their areas. In this capacity, their duties should include expediting all activities related to repair and reconstruction by:
  - Close supervision of all involved Department employees
  - Aggressive coordination with fire marshals and other government officials outside the Department
  - Actively advising the owners and occupants of damaged buildings throughout permitting and inspection, from beginning to completion of building repair and reconstruction

**Response to Recommendation 1:** *The recommendation has been implemented. This is already a component of the permit process. As mentioned in the response to Finding 2, the Chief Building Official is the master coordinator under the direction of the Development Services Director. For clarification we note that the El Dorado Hills office has been closed.*

2. A dated events log should be kept on each emergency response by the Branch Managers. These logs, with relevant comments, should be reported monthly to the Director of the Development Services Department.

**Response to Recommendation 2:** *The recommendation has been implemented. The building permit record itself serves as a dated events log.*

3. Rapid response to emergency repair and reconstruction should be a consideration in evaluating job performance of Branch Managers within the Development Services Department.

**Response to Recommendation 3:** *The recommendation has been implemented. Appropriate evaluation requires a review of all job duties and actions. The Chief Building Official evaluates all activities and actions of each Branch Manager during evaluation, which includes the expeditious review of all building permit applications.*

4. The (new) Director of the Development Services Department should establish an “open door” policy in order to hear complaints from building owners and contractors on a strictly confidential basis and make it clear to the construction community that this policy has been adopted.

**Response to Recommendation 4:** *The recommendation has been implemented. As mentioned in the response to Finding 4, the Acting Director has already established this policy and, since January, has been meeting with people expressing a wide range of concerns. This activity is something that the Board will look to continue when a new permanent Director is selected.*

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

### **RESPONSE**

Responses to this report are required in accordance with the California Penal Code §933.05



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **Audit of Human Services and Mental Health Medi-Cal Revenues Case No. GJ 07-006**

#### **BACKGROUND**

During the past five years, the Grand Jury has received several requests for action relating to the poor internal administrative controls in the County Departments of Human Services (DHS) and Mental Health. The Grand Jury seated in 2005-2006 had an outside audit performed by qualified, respected, and seasoned consultants with expertise in the Mental Health and Medi-Cal Programs. The audit determined that both departments lacked necessary internal controls. Specifically in the administrative areas of time-keeping, completing reports, clients receiving incorrect information, and the programs administrated were not in compliance with State and/or Federal laws. The major areas of concern were the financial billing, time keeping, accurate report documentation, and recouping funds from the State of California.

A follow-up study was performed by the 2006-2007 Grand Jury and although both departments had made improvements, still more needed to be done. (See Grand Jury reports from 2005-2006 and 2006-2007.)

In 2007, the Sacramento Bee reported the Attorney General and the Director of DHS provided an estimate that the State's Medi-Cal Program was losing up to one billion dollars annually due to fraudulent activities. The Grand Jury received a less than satisfactory response into its inquiry to both the County Departments of Mental Health and Human Services about the status of its billing and financial reimbursement of clients' services.

#### **METHODOLOGY**

The 2006-2007 Grand Jury voted to allocate funds to perform an audit of the financial billing practices of both County departments in the Medi-Cal programs. The audit was initiated in 2006-2007, but was not complete by the end of the jury's term requiring the audit to be terminated. After a thorough analysis, the 2007-2008 Grand Jury voted to resume the audit with Harvey Rose Associates, LLC, adjusting the audit scope to include questionable programs in DHS and Mental Health Departments.

## FINDINGS

1. El Dorado County faces a severe budget crisis and the findings in the Audit Report provide evidence that the County could be at risk of losing up to **\$541,420**. If the State requested the money be refunded, it would have to come from the County's general fund. The potential losses are due to administrative errors and omissions, poor policy communications and procedures, and questionable management in the Human Services Public Guardian Program. Conversely, the Human Services Linkages Program was found to be well managed.

***Response to Finding 1: The respondent disagrees with the finding. The Board of Supervisors does not concur with the conclusion that the county is at risk of losing up to \$541,420 because the faulty sampling methodology used in this audit produced inaccurate findings from which no valid extrapolations can be concluded.***

*In general, in order to ensure that the characteristics of a sample are representative of an entire population, certain statistical standards must be met. The sample sizes in this audit do not meet reasonably acceptable thresholds and their random selection is highly doubtful.*

*With respect to Mental Health Department, the audit indicates that 52 clients among both the Adult Outpatient and Children's Outpatient programs were selected initially for analysis. Among these 52 client files, only 37 were actually reviewed. According to the California External Quality Review Organization's (CAEQRO) February 2008 review of the County mental health plan, there were 1,313 beneficiaries of mental health outpatient services in calendar year 2006. Assuming a client population of this size for 2007, in order to draw a statistically valid inference about the entire population of clients, with a 95% confidence level and a 5% confidence interval, 297 client files would have had to be reviewed.*

*This sampling error is perhaps further compounded by the way in which the sample was selected. There are four sampling methods commonly used in clinical audits, the first three of which are forms of probability sampling:*

1. *Simple Random Sampling. Each subject has an equal chance of being selected.*
2. *Quasi Random Sampling (or Systematic Sampling).*
3. *Stratified Sampling. Ensures the proportion of different groupings present in the population is reflected in the sample.*
4. *Consecutive Sampling (or Convenience Sampling).*

*This audit reviewed billing and documentation files for selected Western Slope clients who were provided services between the months of August and October 2007, but only for a period of one month prior to the time actual bills were submitted to the State. For the South Lake Tahoe Adult sample, the audit sample was limited to three billings per client between the months of March and October 2007. This inconsistent sampling methodology suggests that the sample was not identified randomly, as stated in the audit report. A non-random sample further erodes the reliability of the sample, and the ability to extrapolate characteristics of the sample to the population.*

### **Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

*Similar sampling errors are evident with respect to the Department of Human Services portion of the audit. For example, the TCM Program funding component within the Linkages Program served a total client population of 60 cases that met the Auditor's criteria. The audit reviewed 10 cases. In order to draw a statistically valid inference about the population with a 95% confidence level and a 5% confidence interval, 52 cases would have to be sampled. Similarly the TCM Program funding component within Public Guardian served a total client population of 153 cases that met the Auditor's criteria. At a 95% confidence level with a 5% confidence interval, 110 cases would have to be included in the sample in order to draw a valid inference. The audit reviewed 12 cases.*

*Given the extremely small sample sizes, there is insufficient evidence that the rate of disallowance suggested by the sample is representative of the Medi-Cal client file population.*

*The Board of Supervisors is further concerned about the auditor's ability to draw conclusions based on the data requested and reviewed. In particular, many of the alleged disallowances in the Mental Health component of the audit were attributed to "incomplete client plan/assessment notes." It is not clear that the auditor is professionally trained in medical documentation standards and clinical psychiatry to judge the quality of clinical progress documents.*

*The audit findings relative to Targeted Case Management in the Department of Human Services are based upon:*

- 1) An apparent lack of understanding of the TCM Program and its requirements.*
- 2) An apparent lack of understanding of the distinction between Medi-Cal beneficiaries and Medi-Cal beneficiaries eligible for or receiving TCM services.*
- 3) An apparent lack of understanding of the Public Guardian and Linkages Programs and target populations.*
- 4) Inaccurate underlying data due to reviewing redacted documentation.*

*A more detailed discussion of the audit inaccuracies affecting the audit results is available in Appendix A.*

*In addition, although the audit reviewed many aspects of Medi-Cal billing practices in two different departments, Finding 1 implies that the entire amount of "at risk" funds are due to management of the Public Guardian Program only. Although the Board of Supervisors believes the amounts suggested in the audit are in error, the audit itself suggests a potential Medi-Cal disallowance for the Department of Human Services' Public Guardian Program of \$144,828.*

*Finally, to the best of our knowledge, the County has no history of having these types of claims disallowed at the rates suggested by the audit. The audit does not provide any specific state or federal criteria indicating that disallowances would occur for the issues discussed. Even if the documentation reviewed was out of compliance with program requirements, the documentation deficiencies would more likely be the subject of a corrective action plan than of disallowed costs.*

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

2. The Grand Jury acknowledges the difficulty in administering and implementing mental health and human service programs. County staff is concerned and takes pride in caring for our citizens; however, there is room for improvement.

***Response to Finding 2: The respondent agrees with the finding. County staff is proud of these programs and is always looking for opportunities to improve services.***

3. The Grand Jury and the Auditor encountered multiple impediments in obtaining the necessary legally authorized and court-ordered records from DHS. Even with repeated County Counsel intervention, the Auditor, with the court-order, did not receive requested client case record information, including requested assessments in effect during the review period, pertinent to the performance of a comprehensive compliance audit. Only during the June 9, 2008 exit conference, did DHS acquiesce to allow the Auditor and grand jurors a chance to physically inspect the records, just six days before the audit was to be submitted to the Grand Jury. The Auditor gave DHS every possible opportunity to comply. After the exit conference, DHS did provide the Auditor with additional information requested. A subsequent letter from the Assistant Director of DHS to the Grand Jury dated June 13, 2008, extended a late invitation encouraging jurors to review the electronic records. The invitation was received in the Grand Jury after the audit review period and the closure of the investigation.

The impediments the Auditor experienced in acquiring information was in direct contrast with the Department of Mental Health. The Grand Jury commends the Department of Mental Health for their positive attitude and desire to improve customer service and providing information requested by the Auditor while still maintaining client confidentiality.

***Response to Finding 3: The respondent disagrees partially with the finding. Client privacy is of the utmost importance, and it is difficult to connect case management and reporting information for individual clients without compromising protected information.***

*The Department of Human Services welcomed the court order issued for this audit, which was actually a recommendation by the State of California to provide an outside auditor with access to case files that may contain clients' personal information. The Board of Supervisors understands that the auditor may have been frustrated by the redactions in the documentation provided as directed by the court order. However, during the audit process the auditor advised the Department of Human Services staff that he had sufficient information to proceed. Staff also notes that the auditor followed up with only limited questions about the information provided. The Department of Human Services expected an onsite audit of the case files and offered the auditor access to the case files with limited redactions. However, the auditor declined the onsite file review. Since the documents requested for review would be leaving the Department of Human Services office, staff exercised an abundance of caution in redacting client information.*

4. The results of the investigation and information from previous Grand Juries indicate that closer oversight of the leadership in the DHS by the Board of Supervisors is required.

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

***Response to Finding 4: The respondent disagrees with the finding.*** As stated in the response to Finding 1, the Board of Supervisors does not concur with the audit findings and believes that the suggested amount of potential Medi-Cal disallowances are inaccurate. However, even if the audit findings with respect to the Department of Human Services Medi-Cal billings were infallible, the total amount of suggested disallowance represents approximately one-quarter of 1% of the Department of Human Services annual budget.

In addition, the 2006-07 Grand Jury Wraparound Program Audit acknowledged improvements in the areas of administration and fiscal responsibility under Department of Human Services management. Although the Wraparound Audit made several suggestions for making the Wraparound Program a “model” program above and beyond state requirements, the audit noted that, “The County is operating in compliance with all State mandates pertaining to the Wraparound program” (*El Dorado County Grand Jury 2006-2007, Wraparound Program Audit, GJ 06-049, Prepared by Harvey M. Rose Associates, LLC, May 2007*). In fact, many of the audit recommendations had been implemented before the audit commenced.

In short, the Board of Supervisors concludes that the Grand Jury’s finding that additional oversight is required of DHS leadership is unsupported by evidence.

5. During the exit conference, the Auditor presented to DHS a copy of State regulations pertaining to Targeted Case Management and written comprehensive Individualized Service Plans. DHS stated they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation.

***Response to Finding 6: The respondent disagrees with the finding.*** As indicated in Appendix A, the auditor did not present a copy of this document to Department of Human Services staff, but rather briefly displayed his copy of what he said were regulations. No statement by Department of Human Services staff was made to the effect that they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation. The perception that staff failed to comply with “state regulations” suggests an insufficient understanding of the complexities of the state and federal regulatory environment.

The Board of Supervisors notes that the Department of Human Services analyst who has administered the Targeted Case Management Program for the County for the past seven years is considered by the State to be an expert in TCM administration, has collaborated with the California Department of Health Care Services to present statewide TCM trainings, and serves as a resource for ongoing technical assistance relative to the operation of TCM programs statewide.

## RECOMMENDATIONS

1. The Grand Jury agrees with the Audit findings and urges the Board of Supervisors to direct management in the Departments of Human Services and Mental Health to implement all the audit recommendations.

**Response to Recommendation 1:** *The recommendation will not be implemented because it is not warranted. As stated, the limited data reviewed and sampling methodology utilized does not support the findings of the audit. The Board of Supervisors recognizes that regardless of the quantitative findings of the audit, some of the recommendations are rather obvious suggestions for the Department of Human Services and Department of Mental Health Management. As evidenced from the departmental responses to the audit, the Board determines that no additional direction is required to Department of Human Services or Department of Mental Health management.*

2. The Board of Supervisors should direct the development of a comprehensive written policy and procedure for departments on “How To” process requests for confidential records from auditors and court orders.

**Response to Recommendation 2:** *The recommendation will not be implemented because it is not reasonable. As the implementers of numerous and disparate state programs, County departments are accountable not only to the Board of Supervisors but also to a wide range of state departments with different documentation and access requirements. Consequently, it is more reasonable and practical to evaluate each request for confidential information in context than to attempt to establish a “one policy fits all” approach to information requests.*

3. Next year’s Grand Jury should determine if DHS provided to the Auditor the documents requested in the court-order.

**Response to Recommendation 3:** *The Board of Supervisors has no response as this recommendation is apparently directed at the 2008-09 Grand Jury.*

4. Department of Health Services should actively engage in a process with the State of California to resolve any discrepancies in training when that training conflicts with statutes and program regulations. Resolutions should be well documented, communicated, and readily retrievable.

**Response to Recommendation 4:** *The recommendation will not be implemented because it is not warranted. (The Board of Supervisors notes that the Grand Jury most likely meant this recommendation for the County Department of Human Services, not the state Department of Health [Care] Services.) As mentioned in the discussion of the audit findings, the inferences of the audit are invalid, the County has no history of disallowances suggested by the audit, and County staff managing particular programs are viewed by the State as experts in the field. In short, the evidence does not support the conclusion that “discrepancies in training” exist.*

## **Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

### **RESPONSES**

Response(s) to this report is required in accordance with California Penal Code §933.05.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

**APPENDIX A**

**El Dorado County Department of Human Services  
Response to Grand Jury FY 2007-2008 Final Report  
Audit of El Dorado County’s  
Medi-Cal Revenues Generated by the  
Departments of Human Services  
and Mental Health**

<b>Doc Page</b>	<b>Grand Jury Report</b>	<b>DHS Response</b>
15	After a thorough analysis, the 2007-2008 Grand Jury voted to resume the audit with Harvey Rose Associates, LLC, adjusting the audit scope to include questionable programs in DHS and Mental Health Departments.	The meaning and intent of the term “questionable” are not clear. DHS programs are operated under State authority pursuant to the appropriate State and Federal laws, regulations and guidelines. DHS was not made aware of the referenced analysis or given an opportunity to respond.
16	Finding 1. El Dorado County faces a severe budget crisis and the findings in the Audit Report provide evidence that the County could be at risk of losing up to \$541,420. If the State requested the money be refunded, it would have to come from the County’s general fund. The potential losses are due to administrative errors and omissions, poor policy communications and procedures, and questionable management in the Human Services Public Guardian Program. Conversely, the Human Services Linkages Program was found to be well managed.	<p>DHS disagrees with this finding.</p> <p>The audit implies that the \$541,420 is attributable to the Public Guardian Program. As demonstrated by tables contained within the Audit Report, the majority of the amount claimed to be at risk (\$393,673) is attributable to Mental Health programs, with \$147,747 attributed to DHS, of which \$144,828 is attributed to Public Guardian and \$2,919 to Linkages.</p> <p>The Audit Report identified the scope of the audit as being the TCM Program, yet the finding implies that the Public Guardian Program as a whole suffers from questionable management. The Public Guardian Program Manager and any Deputy Public Guardians or Program Assistants within Public Guardian Program were not interviewed during this audit.</p> <p>Calculations and methodology substantiating the total possible disallowances are not provided in the Audit Report. DHS disagrees with the audit as to the total number of non-compliant TCM encounters and the potential risk.</p> <p>The TCM Program and the Public Guardian Program are separate and distinct programs. The relevance of TCM audit findings to the operations of the Public Guardian’s Program has not been articulated in the audit, nor are any facts supporting the claim of “questionable” management provided in the Grand Jury’s report.</p>

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

Doc Page	Grand Jury Report	DHS Response
16	<p>Finding 3. The Grand Jury and the Auditor encountered multiple impediments in obtaining the necessary legally authorized and court-ordered records from DHS. Even with repeated County Counsel intervention, the Auditor, with the court-order, did not receive requested client case record information, including requested assessments in effect during the review period, pertinent to the performance of a comprehensive compliance audit. Only during the June 9, 2008 exit conference, did DHS acquiesce to allow the Auditor and grand jurors a chance to physically inspect the records, just six days before the audit was to be submitted to the Grand Jury. The Auditor gave DHS every possible opportunity to comply. After the exit conference, DHS did provide the Auditor with additional information requested. A subsequent letter from the Assistant Director of DHS to the Grand Jury dated June 13, 2008, extended a late invitation encouraging jurors to review the electronic records. The invitation was received in the Grand Jury after the audit review period and the closure of the investigation.</p>	<p>The opportunity to review the subject records onsite at DHS with very limited redactions (e.g., name and Social Security Number) was available to the Auditor throughout the course of the audit. Based on early communications with HMR, DHS expected that HMR would perform an on-site case file review. In a phone conversation on February 11, 2008 between DHS Department Analyst Yasmin Hichborn and Monica Na of HMR, it was discussed that client files would be available on site for review but that any documentation leaving DHS offices would be redacted. On February 13, 2008, Ms. Na corresponded with DHS by email and indicated that they would begin on-site records inspection on February 15, 2008. As of February 13, 2008, the required court order had not been issued, and the Auditor was notified that County Counsel had advised that DHS would be unable to release records without it. The required court order was not issued until February 20, 2008. The Auditor went forward with their planned February 15, 2008 site visit, but did not schedule any visits after receipt of the court order allowing on-site inspection of the records, instead choosing to receive records by mail.</p> <p>On April 14, 2008, DHS staff received an email from the Auditor stating “I think we have everything from the request list now”.</p> <p>Despite ongoing communication between the Auditor and DHS relative to issues such as clarification of information and requests for additional information, DHS was not informed that the level of redaction in the documents was an impediment to the Auditor’s review. DHS’s first awareness of the Auditor’s concerns about redaction was upon receipt and review of the draft Audit Report (received by DHS after 5:00 pm on Friday, May 30, 2008).</p> <p>During the June 9, 2008 exit conference, in a good faith effort to assist the Auditor, DHS offered the Auditor and representatives of the Grand Jury the opportunity to review the records in question on-site to confirm that the correct records had been provided. The offer was declined.</p> <p>On June 13, 2008, the Assistant Director of DHS followed up with a written offer for members of the Grand Jury to make an on-site inspection of the records, but did not receive a response.</p>
16	<p>Finding 4. The results of the investigation and information from previous Grand Juries indicate that closer oversight of the leadership in the DHS by the Board of Supervisors is required.</p>	<p>Department of Human Services welcomes and appreciates Board of Supervisors oversight. However, a careful review of recent Grand Jury reports and responses to those reports will confirm that DHS is in compliance with State laws and that numerous deficiencies existed in prior audit work performed by or on behalf of the Grand Jury.</p>

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

<b>Doc Page</b>	<b>Grand Jury Report</b>	<b>DHS Response</b>
16	<p>Finding 5. During the exit conference, the Auditor presented to DHS a copy of State regulations pertaining to Targeted Case Management and written comprehensive Individualized Service Plans. DHS stated they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation.</p>	<p>DHS disagrees with this finding. The auditor did not present a copy of this document to DHS, but rather briefly displayed his copy of what he stated were regulations.</p> <p>No statement by DHS staff was made to the effect that they did not know of the regulation, had never received proper training by the State, and therefore, did not comply with the regulation. In fact, DHS staff informed the auditor that they had attended Statewide TCM training for Public Guardian providers, that DHS had assisted in the development of the State-accepted forms used during the training, and that DHS staff assisted in training representatives from other Public Guardian offices.</p>
17	<p>Recommendation 4. Department of Health Services should actively engage in a process with the State of California to resolve any discrepancies in training when that training conflicts with statutes and program regulations. Resolutions should be well documented, communicated, and readily retrievable.</p>	<p>The intent of this recommendation is unclear. There is no "Department of Health Services" in El Dorado County. DHS works closely with the State throughout the year. However, it should be noted that DHS has no authority to require any action on the part of the State.</p>

<b>Doc Page</b>	<b>HMR Audit Report Statement</b>	<b>DHS Response</b>
Cover Letter	<p>We found that, to varying degrees, opportunities for improvement exist in the program areas reviewed for improved compliance with Medi-Cal and Targeted Case Management documentation requirements to ensure that the County maximizes its Medi-Cal revenues and minimizes Medi-Cal reimbursements disallowances.</p>	<p>While DHS welcomes opportunities to improve program performance, the audit lacked sufficient specificity for the Department to identify or develop such improvements. The DHS audit was specific to TCM. The audit appears to have focused on an attempt to determine the potential risk for reimbursement disallowances rather than on maximizing revenues. DHS disagrees with the audit calculations relative to potential disallowances.</p>

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
E-4	4.1 Direct Public Guardian Office management to establish written policies and procedures and documentation requirements that are consistent with Targeted Case Management program requirements and regulations, to include: inclusion in Individual Client Services Plans of client issues identified in Assessments; inclusion of specific actions and services in Individual Client Services Plans; and, specific discussion in Periodic Reviews of client progress in meeting service objectives and needs identified in previous Assessments and Service Plans.	<p>This statement is recommending the development of policies and procedures for a discontinued program funding source. The State suspended billing for TCM services by Public Guardian offices Statewide effective March 3, 2008. If billing for TCM services for Public Guardian Programs is reinstated by the State, the State will issue necessary instructions to the counties.</p> <p>In a letter dated April 7, 2008, DHCS notified TCM providers that as of March 3, 2008, TCM providers may not submit invoices to DHCS for TCM services performed by staff of Public Guardian agencies. This letter is posted on the State's TCM website under the heading "Policy &amp; Legislation" as "End of TCM Claiming from AP and PG Agencies".<sup>1</sup></p> <p>The Auditor and representatives of the Grand Jury were informed of this development by DHS staff during the June 9, 2008 exit conference, at which time the Auditor acknowledged that he was aware at the time his "risk criteria" was developed that TCM funding would likely be terminated for Public Guardian Programs Statewide. The Auditor's recommendation to the Grand Jury was for review of a program that had a high probability of not being a viable future funding source for the County. Therefore, the audit of TCM in relation to Public Guardian services could be expected to be of limited benefit to the County, the Department and the community. By the time the draft Audit Report was provided to DHS, TCM was a discontinued revenue source for Public Guardian Programs Statewide. Neither the draft nor the final Audit Report disclosed this relevant information.</p>
19	The Targeted Case Management (TCM) program was recommended for more detailed review by the auditors and approved by the Grand Jury based on this risk criteria.	<p>The Auditor and representatives of the Grand Jury were informed of this development by DHS staff during the June 9, 2008 exit conference, at which time the Auditor acknowledged that he was aware at the time his "risk criteria" was developed that TCM funding would likely be terminated for Public Guardian Programs Statewide. The Auditor's recommendation to the Grand Jury was for review of a program that had a high probability of not being a viable future funding source for the County. Therefore, the audit of TCM in relation to Public Guardian services could be expected to be of limited benefit to the County, the Department and the community. By the time the draft Audit Report was provided to DHS, TCM was a discontinued revenue source for Public Guardian Programs Statewide. Neither the draft nor the final Audit Report disclosed this relevant information.</p>
E-4	4.2 Direct Linkages program management to direct staff to include frequency and duration of activities and services in their Individual Client Services Plans.	<p>The recommendation has been implemented.</p>
28	Though a TCM program requirement, none of the Plans in the twelve sets of case records reviewed identified the frequency or duration of the proposed actions to be taken.	<p>DHS has issued an instruction to Linkages staff to include frequency and duration on the form where the specific activity or service is documented.</p>
32-33	<p>Exhibit 4.6</p> <p>Review of 10 Individual Client Service Plans</p> <p>Linkages Program</p> <p>Plans with activity frequency, duration</p> <p>-----</p> <p>they were found not fully compliant with TCM regulations in that none of the Service Plans reviewed described the frequency or nature of the activities and specific services to be performed, as required by TCM regulations.</p>	<p>The recommendation has been implemented.</p> <p>DHS has issued an instruction to Linkages staff to include frequency and duration on the form where the specific activity or service is documented.</p>

<sup>1</sup> <http://www.dhcs.ca.gov/provgovpart/Pages/TCM.aspx>.

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
E-4	4.3 Direct the Department’s TCM Coordinator to conduct periodic spot audits of Public Guardian and Linkages program Medi-Cal beneficiary client case records to ensure that they are compliant with TCM requirements and report the results in writing to the Director every six months.	<p>The recommendation will not be implemented because it is not warranted. DHS created an audit tool and audits have been performed. A more regular audit schedule has been implemented for TCM services provided by Linkages and for those TCM services that have not yet been billed for Public Guardian.</p> <p>However, it is important to clarify that not all Medi-Cal beneficiaries are eligible for TCM services, so an internal audit of Medi-Cal beneficiary files by the TCM department coordinator is not warranted unless they also receive TCM services.</p>
E-4	4.4 Establish protocols for periodic reviews and audits of TCM and other Medi-Cal program case records by oversight agents such as the County Auditor-Controller, the Chief Administrative Officer and future Grand Juries that will allow for unimpaired audits of Medi-Cal programs by providing all documents needed to assess program compliance while still protecting client privacy.	<p>The State has the ability to review the TCM records at any time because these are State records. The relevant records may also be reviewed by the County’s CAO and the Auditor-Controller’s office. Requests for access by the Grand Jury will continue to require County Counsel review and approval and/or instruction from the State.</p>
25	According to DHS, these impairments would not occur if the State were to audit TCM program records since they would be entitled to review all aspects of case records and records. However, a system should be established so that other parties with an interest in County Medi-Cal revenues, such as the Chief Administrator’s Office, the Auditor-Controller or future Grand Juries, can audit these records without these impairments and still protect the confidentiality of the clients.	
i	Interviews were conducted with directors, program managers and key staff at the Department of Human Services and the Department of Mental Health.	DHS notes that “key” staff interviewed at the Department of Human Services did not include the Public Guardian Program Manager, Deputy Public Guardians or Program Assistants for the Public Guardian Program.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

<b>Doc Page</b>	<b>HMR Audit Report Statement</b>	<b>DHS Response</b>
ii	Due to the Department of Human Services' refusal to provide access to Targeted Case Management case records due to concerns about client confidentiality, it was necessary for a court order to be obtained to allow access to the records for audit purposes.	<p>DHS is required by law to protect records from access by unauthorized individuals or entities. On June 21, 2007, the State provided DHS with a letter specifying the legal requirements for protecting client records. The letter states:</p> <p style="padding-left: 40px;">These records are governed by Welfare and Institutions Code section 14100.2, which states that records about Medi-Cal beneficiaries may only be used or disclosed for purposes directly connected with the operation of the Medi-Cal program. We would not consider a disclosure to the grand jury to be directly connected with the operation of the program and, furthermore, as your letter indicates, a grand jury has no authority to investigate a state agency.</p> <p>The letter also states in regard to Medi-Cal records, that if the Grand Jury were investigating billing fraud, "Welfare and Institutions Code section 14100.2 and federal Medicaid regulations would prevent their release without a court order. The agency would likely oppose such an order on the ground that the grand jury auditor has no authority to investigate a state agency."</p> <p>DHS could not release Medi-Cal records, including TCM records, to the Grand Jury or the Auditor given the specific direction from the State of California.</p> <p>The Auditor was informed during the initial conference on January 25, 2008, that in accord with State guidance, a court order would be required to comply with the Grand Jury's request for records. DHS and HMR mutually developed and agreed upon the terms memorialized in the February 18, 2008 letter upon which the February 20, 2008 court order was based.</p>
25	Two other impairments affected this TCM case file review. First was the extensive redacting of the case file documents by DHS to the extent that compliance with some TCM program regulations could not be determined.	

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

<b>Doc Page</b>	<b>HMR Audit Report Statement</b>	<b>DHS Response</b>
ii	All records provided by the Department were to have client information such as name and Social Security number redacted though a unique identification number from each client’s records was to remain visible in the records so that it could be matched to a corresponding client master list to ensure that we were provided the randomly selected case records.	The request letter from HMR referenced by the court order stated:  “It was also agreed that identifying client information such as names and full Social Security numbers will be redacted from the selected documents, though a unique identification number from each client’s records will be provided on the anonymous client master list provided by the Department so that the [sic] we can verify that we have received the records of the clients selected from the master lists.”
ii	The required unique identification numbers were not included in the computer generated records as requested but were instead handwritten on each document. This reduced the assurance that the auditors received the randomly selected records requested.	The letter attached to the court order stated that a master list would be provided with the unique identification number. It did not state that a “unique identification number from each client’s records was to remain visible in the records”. HMR’s letter formed the basis for the court order. It was agreed that full Social Security numbers would not be provided. Other than Social Security numbers, no unique identifying number is common to the Department’s client records and the State’s TCM billing records. Even Social Security numbers do not appear on every type of document that was requested for review. Thus, a hand-written key was developed to facilitate client identification.
20	This audit of Targeted Case Management program Medi-Cal billing records was impaired by the documentation provided by the Department of Human Services in that: 1) the case file documents provided could not be positively identified as those of the clients randomly selected for review because client identification numbers from the Department’s client master lists were blacked out by the Department on case file documents and replaced with handwritten numbers; 2) documentation provided did not allow for verification of whether or not claims were submitted for Medi-Cal reimbursement for the cases reviewed;	The only way to relate Departmental records to State TCM records was to add handwritten unique identifying numbers to each page. This is because the State TCM system assigns random numbers to each encounter. These numbers cannot be duplicated or overridden at the county level.  The Department complied with the court order.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

<b>Doc Page</b>	<b>HMR Audit Report Statement</b>	<b>DHS Response</b>
25	<p>To avoid providing documents with client names, the Department of Human Services provided clients lists for sample selection with client identification numbers only. Consistent with the terms of the February 20, 2008 court order issued requiring the Department to provide the records reviewed, a request was made by the auditors that the identification numbers on the Department's client master list be visible in the case file documents to verify that the client billing records provided by the Department were in fact those of the randomly selected clients. This intended method of validating that the selected records were the actual records provided was not possible as the Department blacked out the client identification numbers in the case file documents and handwrote the identification numbers on each document. As a result, it cannot be confirmed that the selected records were the ones provided by the Department.</p> <p>Another impairment to the audit process was that it was not possible to validate that the selected records contained client encounters for which the Department billed Medi-Cal. A request was made for documentation showing a cross-reference such as the client identification number of the reviewed records on the invoice but this was not provided by the Department. As a result, it was not possible to verify which encounters reviewed were billed to Medi-Cal.</p>	

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
ii	<p>The arrangement in the court order did allow for provision of the needed records but the extent of Departmental redaction efforts exceeded name and Social Security number. Much of the content of progress reports and client service plans was blacked out, reducing the extent to which case record compliance with all Targeted Case Management requirements could be evaluated.</p>	<p>In addition to State and federal law, DHS is bound by the terms of the contract between DHCS and El Dorado County. Exhibit G to the contract states in part:</p> <p style="padding-left: 40px;">“Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health and dental care to an individual, or the past, present, or future payment for the provision of health and dental care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall have the meaning given to such term under HIPAA and HIPAA regulations, as the same may be amended from time to time.”</p> <p>Exhibit G further provides that, “Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of CDHS<sup>2</sup>, provided that such use or disclosure would not violate the HIPAA regulations, if done by CDHS.”</p> <p>Examples of personal identifying information that must be protected are provided in Welfare and Institutions Code section 14100.2(b) as “names and addresses, medical services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data, including diagnosis and past history of disease or disability.” Other relevant State and Federal laws may require additional protections (e.g., HIPAA).</p> <p>Additionally, Title 42, United States Code, Section 1396a(a)(7) requires agencies to provide “safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the state Medicaid program.” Confidentiality policies governing Medi-Cal and the Medi-Cal Eligibility Data System (MEDS) are discussed in greater detail in DHCS All County Welfare Directors Letter 08-04.</p> <p>Given the need to comply with the relevant State and federal laws, the court order did not limit redaction to names and Social Security numbers. HMR staff were informed that records leaving the office would be subject to much more extensive redaction than records examined in an on-site review.</p>

<sup>2</sup> CDHS refers to the California Department of Health Services, now the California Department of Health Care Services (DHCS).

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
ii	In spite of this impediment, it was still possible to determine compliance with most program requirements.	<p>“Most” could mean anything from 51% to 99%. That is too large of a range for DHS to be comfortable with as a measure of program compliance, either favorable or unfavorable.</p>
26	In spite of that, it was still possible to determine in the majority of cases whether or not the Periodic Reviews were compliant with most TCM requirements.	
ii-iii	Initially all Targeted Case Management records provided by the Department of Human Services had supervisor signatures redacted so it was not possible to determine if the Department was complying with the Program requirement that supervisors sign Client Service Plans. After the exit conference with the Department, a subsequent set of records was provided showing the signatures.	<p>DHS offered these records after reviewing the draft Audit Report, learning there was an issue, and determining the information was not protected.</p> <p>On April 14, 2008, DHS staff received an email from the Auditor stating “I think we have everything from the request list now”.</p> <p>Despite ongoing communication between the Auditor and DHS relative to issues such as clarification of information and requests for additional information, DHS was not informed that the level of redaction in the documents was an impediment to the Auditor’s review.</p> <p>DHS first became aware of the Auditor’s concerns about redaction upon receipt and review of the draft Audit Report. The opportunity to review the subject records onsite at DHS with very limited redactions (e.g., name and Social Security Number) was available to the Auditor throughout the course of the audit.</p>
20	3) case file documents were so extensively redacted in some cases that it was not possible to verify compliance with some program regulations;	
26	Some measures of compliance were difficult to determine since so much of the content of the records provided was redacted by the Department of Human Services. For example, Periodic Reviews are supposed to assess accomplishment of the objectives set forth in Individual Client Service Plans. Unfortunately, much of the text in the Periodic Reviews and Individual Client Service Plan documents was blacked out by DHS to the point that it could not be determined in all cases what services or service objectives were being discussed. In spite of that, it was still possible to determine in the majority of cases whether or not the Periodic Reviews were compliant with most TCM requirements.	
29	None of the recorded Linkage and Consultation services reviewed were fully compliant with TCM requirements. In all cases, there were either no service referrals or, if there were, the nature of the services could not be confirmed because so much of the text in the report was blacked out by DHS.	

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
34	<p>Exhibit 4.7</p> <p>Periodic Reviews in 10 Sets of Case Records</p> <p>Linkages Program</p> <p># assessing Service Plan objectives accomplished?</p> <p>6 Could not be determined due to state of records</p>	
1817	<p>The primary objective of the Multipurpose Senior Services Program (MSSP) is “to avoid, delay, or remedy the inappropriate placement of persons in nursing facilities, while fostering independent living in the community. MSSP provides services [that] enable clients to remain in or return to their homes”.<sup>1</sup></p> <p><sup>1</sup> California Department of Aging, Multipurpose Senior Services Program Site Manual, 1-1, April 2004.</p>	<p>This statement does not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p style="padding-left: 40px;">“The primary objective of MSSP is to avoid delay, or remedy the inappropriate placement of persons in nursing facilities, while fostering independent living in the community. MSSP provides services <u>to eligible clients and their families</u> to enable clients to remain in or return to their homes”</p> <p>The Department notes that the currently applicable version of the page 1-1 of the MSSP Site Manual is September 2005.</p>
18	<p>Targeted Case Management (TCM) consists of case management services that assist Medi-Cal beneficiaries gain access to needed medical, social, educational, and other services. The objective of the program is to ensure that the changing needs of Medi-Cal eligible individuals are addressed on an ongoing basis and choices are made from the widest array of options for meeting those needs.<sup>2</sup></p> <p><sup>2</sup> State Department of Health Care Services, “Targeted Case Management: Fact Sheet.” Available for download at <a href="http://www.dhcs.ca.gov">http://www.dhcs.ca.gov</a></p>	<p>This statement does not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p style="padding-left: 40px;">“TCM consists of case management services that assist <u>Medi-Cal eligible individuals within a specific targeted population</u> to gain access to needed medical, social, educational and other services.”<sup>3</sup></p> <p>The goal of TCM is actually identified as:</p> <p style="padding-left: 40px;">“Ensure that the changing needs of Medi-Cal eligible <u>persons</u> are addressed on an ongoing basis and <u>appropriate choices are provided</u> among the widest array of options for meeting those needs.”</p>

<sup>3</sup> State Department of Health Care Services, “Targeted Case Management Fact Sheet.” Available for download at <http://www.dhcs.ca.gov/provgovpart/Documents/ACLSS/TCM/TCMFactSheet.pdf>.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

Doc Page	HMR Audit Report Statement	DHS Response
18	<p>The Public Guardian provides services that are contingent upon the Office’s appointment as conservator for an individual by the Superior Court or through its Representative Payee program for individuals who receive income through public entitlements, public benefits programs or other benefits programs and voluntarily seek financial management services.</p>	<p>The audit description of the Public Guardian services paraphrased from the County’s webpage omits that services provided by the Public Guardian Program are “defined and directed by the Probate Division of the Superior Court”.</p> <p>In critiquing Public Guardian TCM services, the audit does not address the differences between the target populations served by the Public Guardian, those being probate conservatees, LPS conservatees and representative payee clients. This is an important differentiation on many levels, specifically the nature of the services provided, program service and oversight responsibilities and, most relevant, the level and type of decision-making authority delegated to the Public Guardian for the three divergent client populations.</p> <p>The representative payee program consists primarily of services to those individuals who are required by the Social Security Administration to have a representative payee. The voluntary component is that the SSA benefit recipient may choose a representative payee, provided that person or organization meets SSA’s requirements.</p> <p>Given that 58.3% of the clients selected by the Auditor were representative payees, DHS would expect a statistically significant impact on the results of the audit. While financial management is mandatory, provision of TCM services requires the cooperation of the client. Representative payee clients participate in TCM services but may (and often do) decline specific services. Representative payees have the right to refuse Public Guardian referrals and assistance with any matter that is not financial in nature.</p>
18	<p>The Linkages program offers <b>case</b> management services and <b>referral</b> to...<sup>4</sup> [Emphasis added.]</p> <p><sup>4</sup> The Linkages program description is posted on the Department’s website at <a href="http://www.co.eldorado.ca.us/humanservices/Linkages.html">http://www.co.eldorado.ca.us/humanservices/Linkages.html</a></p>	<p>This statement does not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p align="center"><u>“care management as well as information and assistance regarding appropriate community resources...”</u>. [Emphasis added.]</p> <p>This website further states that “Linkages care managers work with you, your family, and other community agencies to provide essential links that help you live independently in your own home”.<sup>4</sup></p>

<sup>4</sup> <http://www.co.el-dorado.ca.us/humanservices/Linkages.html>.

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
19	The Targeted Case Management (TCM) program was recommended for more detailed review by the auditors and approved by the Grand Jury based on this risk criteria.	<p>In a letter dated April 7, 2008, DHCS notified TCM providers that as of March 3, 2008, TCM providers may not submit invoices to DHCS for TCM services performed by staff of Public Guardian agencies. This letter is posted on the State's TCM website under the heading "Policy &amp; Legislation" as "End of TCM Claiming from AP and PG Agencies".<sup>5</sup></p> <p>The Auditor and representatives of the Grand Jury were informed of this development by DHS staff during the June 9, 2008 exit conference, at which time the Auditor acknowledged that he was aware at the time his "risk criteria" was developed that TCM funding would likely be terminated for Public Guardian Programs Statewide. The Auditor's recommendation to the Grand Jury was for review of a program that had a high probability of not being a viable future funding source for the County. Therefore, the audit of TCM in relation to Public Guardian services could be expected to be of limited benefit to the County, the Department and the community. By the time of the draft Audit Report was provided to DHS, TCM was a discontinued revenue source for Public Guardian Programs Statewide. Neither the draft nor the final Audit Report disclosed this relevant information.</p>
19	And unlike the Multipurpose Senior Services Program, TCM has never been audited.	<p>The State conducted a desk review of the El Dorado County TCM Program in 2002. No adverse findings were communicated to DHS as a result of this desk review.</p> <p>State audits of 13 of the 49 counties that participate in TCM resulted in the issuance of Policy and Procedure Letter PPL 03-003. The State identified issues "that may prove useful when conducting internal reviews" and help the counties "maintain an accountable and effective program." DHS has applied the information provided by the State to its internal review process.</p>
19	The Program Manager who oversees the TCM and MAA program reimbursement claiming processes reviews encounter progress notes before invoicing the State for reimbursement, but does not review client files for overall compliance with program requirements. For example, although the progress notes for encounters may be reviewed discretely, the entire client file may not reviewed as a whole, and items that are required of the client file, such as annual Assessments may not be checked for compliance.	<p>The person who oversees the TCM reimbursement claiming process is actually a Department Analyst, not a Program Manager.</p> <p>An internal review of TCM encounters is conducted monthly by the Analyst. The internal review determines which encounters meet TCM requirements and will be submitted for reimbursement.</p> <p>TCM does not require annual re-assessments. Re-assessments on an annual basis are a California Department of Aging program requirement; annual re-assessments are not a TCM compliance requirement.</p>

<sup>5</sup> <http://www.dhcs.ca.gov/provgovpart/Pages/TCM.aspx>.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

<b>Doc Page</b>	<b>HMR Audit Report Statement</b>	<b>DHS Response</b>
20	The Public Guardian provides services that are contingent upon the Office's appointment as conservator for an individual by the Superior Court or through its Representative Payee program for individuals who receive income through public entitlements, public benefits programs or other benefits programs and voluntarily seek financial management services.	Given that 58.3% of the clients selected by the Auditor were representative payees, DHS would expect a statistically significant impact on the results of the audit. While financial management is mandatory, provision of TCM services requires the cooperation of the client. Representative payee clients participate in TCM services but may (and often do) decline specific services. Representative payees have the right to refuse Public Guardian referrals and assistance with any matter that is not financial in nature.
19	For example, although the progress notes for encounters may be reviewed discretely, the entire client file may not reviewed as a whole, and items that are required of the client file, such as annual Assessments may not be checked for compliance.	TCM does not require re-assessments. Re-assessments on an annual basis are a California Department of Aging program requirement for the Linkages Program (not the Public Guardian Program). The audit uses the term "re-assessment" to refer to TCM documents that are not utilized by, and are not required to be utilized by, Public Guardian.
26	The Assessment documentation provided by DHS for all but one of the twelve Public Guardian clients reviewed were Re-assessments rather than the requested clients Assessments in effect for the period being reviewed.	
27	The Public Guardian's Re-assessment form contains only four categories: 1) Medical/Mental; 2) Social/Environmental; 3) Financial; and 4) Closing (for comments and summary statements).	
20	Most of the Targeted Case Management records reviewed for Public Guardian clients were found non-compliant with one or more aspects of Program regulations. If this pattern holds true for all Public Guardian clients, a good portion of the Department's Medi-Cal revenues for this program are at risk of being disallowed for non-compliance with Targeted Case Management regulations.	Due to limitations in the data reviewed, DHS disagrees with the conclusion that most of the TCM records reviewed for Public Guardian were found non-compliant.
20	On the other hand, records reviewed for Linkages program clients were found to be substantially compliant. These records were more thorough and structured consistent with Targeted Case Management requirements. Some areas of the Linkages program billing records, however, were found to be noncompliant with program requirements or determinations of compliance could not be made because of the form in which case file records were provided by DHS.	TCM regulations do not specify documentation formats or type of forms. Linkages documentation conforms to the requirements of the California Department of Aging.

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
20	Assessment and Individual Client Service Plan documents provided by the Department for a number of clients were prepared after the Periodic Reviews provided so it was not possible to determine if service plans and objectives in effect at the time of the Periodic Reviews had been assessed by the case managers.	
25	The second other impairment was that the Assessment and Individual Client Service Plan documents provided for some of the case records were prepared after the Periodic Review documents provided though the request was made for Assessments and Client Service Plans in effect during the review period for each client.	
33	Some of the Service Plans provided by DHS were those prepared after the 13 month review period for the case records.	
20	Given the rate of non-compliance found with the sample Targeted Case Management records reviewed, the Department of Human Services is at risk of Medi-Cal disallowances of up to \$147,747 for Fiscal Year 2006-2007 if the sample results apply to all Medi-Cal beneficiary program clients. To the extent that deficiencies found can be corrected to the State's satisfaction, this amount would be reduced.	<p>The Audit Report does not provide the calculations or define the methodology substantiating the possible disallowances. DHS disagrees with the audit as to the total number of non-compliant TCM encounters and the potential risk of disallowance.</p> <p>DHS agrees that any amount resulting from potential disallowances would be reduced if deficiencies were corrected to the State's satisfaction.</p>
22	As of January 2008, the Public Guardian was serving 327 clients, of which 153 were Medi-Cal beneficiaries.	It must be clarified that not all Medi-Cal beneficiaries are eligible for or receive TCM services. As of February 2008 (not January 2008), the Public Guardian was serving 327 clients, of which 206 were Medi-Cal beneficiaries and of those 206, 153 were eligible for TCM services.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
23	<p>1. <i>Needs Assessment</i>. The Assessment documents the conditions of the client and supports the selection of services for the individual. The Assessment should contain at least the following elements: 1) medical/mental health; 2) training; 3) vocational needs; 4) social/emotional issues; 5) housing/physical needs; 6) family/social matters; and, 7) finances.</p>	<p>It appears this information was extrapolated from the TCM Provider Manual. These statements omit consideration or discussion of relevancy to the individual in assessing the client's needs.</p> <p>The more detailed discussion of the Assessment within the TCM Provider Manual states:</p> <p style="padding-left: 40px;">“The documented assessment identifies the beneficiary's needs. The assessment supports the selection of activities and assistance necessary to meet the beneficiary's assessed needs and must include the following, <u>as relevant to each individual</u>:</p> <ul style="list-style-type: none"> <li>• Medical/mental condition. The assessment may require obtaining evaluations completed by other providers of service.</li> <li>• Training needs for community living.</li> <li>• Vocational/educational needs.</li> <li>• Physical needs, such as food and clothing.</li> <li>• Social/emotional status.</li> <li>• Housing/physical environment.</li> <li>• Familial/social support system.<sup>6</sup></li> </ul> <p style="padding-left: 40px;">[Emphasis added.]</p>
26	<p>The purpose of the required TCM Assessment is to document the client's needs in the following areas: 1) Medical/Mental Health; 2) Training needs for community living; 3) Vocational/Education needs; 4) Physical needs, such as food and clothing; 5) Social/Emotional status; 5) Housing/Physical environment; and, 6) Family/Social Support systems.</p>	<p>For example, a 90-year old assisted living facility resident is unlikely to require a vocational needs assessment. Conversely, a mentally retarded 19 year old representative payee living with his or her parents would be unlikely to need a housing assessment.</p>
27	<p>The Public Guardian's Re-assessment form contains only four categories: 1) Medical/Mental; 2) Social/Environmental; 3) Financial; and 4) Closing (for comments and summary statements). While some of the other elements required for TCM Assessments are embedded in the four Re-assessment categories (e.g., Family/Social Support Systems is a subsection of the Social/Environmental category) or may be addressed in summary written comments, some of the TCM required elements such as Training or Vocational/Education needs are simply not included and could potentially go unaddressed in Re-assessments. The Public Guardian could ensure greater compliance with TCM Assessment requirements and greater continuity in client services by revising its Re-assessment standardized forms to include all required Assessment elements.</p>	<p>At the time a Periodic Review is performed, the Public Guardian case worker prepares an updated Service Plan, even if there are no changes to the previous Service Plan. This prompts the case manager to address 19 distinct areas identified on the form to be assessed in terms of meeting the client's needs.</p>

<sup>6</sup> TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-1.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

Doc Page	HMR Audit Report Statement	DHS Response
23	3. <i>Periodic review.</i> This is an evaluation of the beneficiary’s progress toward achieving goals in Individual Client Service Plans must be assessed at least every six months. The Linkages program requires periodic review at least every 3 months.	<p>It appears these statements were paraphrased from the TCM Provider Manual. However, the statements do not fully incorporate relevant elements of said document, resulting in a misrepresentation of said facts. The referenced document actually states:</p> <p>“The case manager must periodically reevaluate the beneficiary's progress toward achieving the objectives identified in the service plan to determine whether current services should be continued, modified, or discontinued. The review shall be:</p> <ul style="list-style-type: none"> <li>• Completed at least every <u>six</u> months”<sup>7</sup></li> </ul> <p>[Emphasis added.]</p> <p>There is a separate California Department of Aging requirement for the Linkages Program that a face-to-face contact with the client must occur every three months. This is a Linkages requirement, not a TCM requirement.<sup>8</sup></p>
24	TCM requirements are for Periodic Reviews at least every six months for the Public Guardian and every three months for the Linkages program.	
31	The TCM service components and requirements for the Linkages program is the same as for the Public Guardian with the exception that Periodic Reviews must take place at least every three months instead of the Public Guardian requirement of every six months.	
33	Though TCM regulations require Periodic Reviews of program clients at least every six months, the Linkages program has a more restrictive requirement that Periodic Reviews take place at least every three months.	
33	As shown in Exhibit 4.7, the majority of Linkages Program Period Reviews were conducted within the required three month interval requirement.	
34	While the case records reviewed showed that most Linkages clients do receive visits from the case managers more frequently than the minimum required four times a year, the fact that certain Linkage and Consultation services are not documented as such has resulted in an absence of TCM required 30 day follow-ups to such services.	

<sup>7</sup> TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-2.

<sup>8</sup> Linkages Program Manual, Section 7.E., Monitoring and Follow-Up, page 23.

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

<b>Doc Page</b>	<b>HMR Audit Report Statement</b>	<b>DHS Response</b>
	<p>Twenty Medi-Cal eligible clients were randomly selected for review from the Public Guardian’s client list. DHS did not submit documentation for eight of the 20 requested sets of records for the following stated reasons: three had billings after the August 2007 cutoff date, two were erroneously attributed to the program sample and three had not received services. Consequently, twelve of the twenty requested Public Guardian Medi-Cal beneficiary client case records were reviewed.</p>	<p>The cut-off date was actually July 2007, not August 2007. Documentation was not submitted for 8 clients because: 4 had not received TCM services prior to July 2007, 3 had not received billable TCM services within the 13 month time frame, and 1 client was erroneously included in the sample list. The Auditor did not request additional client records to bring the sample size back up to 20.</p>

**Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

<b>Doc Page</b>	<b>HMR Audit Report Statement</b>	<b>DHS Response</b>
26	A minority of the twelve randomly selected sets of Public Guardian client records reviewed were found to be fully compliant with TCM program regulations and are thus at risk for Medi-Cal disallowance.	DHS disagrees that records that <u>are fully compliant</u> with TCM Program regulations <u>are at risk</u> for Medi-Cal disallowances.
27	<p>The Individual Client Service Plan documents in the sample client records could be characterized more as checklists rather than “written, comprehensive individual service plans”<sup>2</sup>, as required by TCM regulations. Instead of writing, many Plans simply contained checked off boxes for “Problems or Service Areas” such as “Financial” with no written commentary or specific objectives or actions to be taken. Many of the Plans reviewed did not identify services the client would be referred to, as required by TCM regulations, or were simply comprised of notes regarding previous actions taken by the case manager such as, “Deputy Public Guardian got a temporary card for file.”</p> <p><sup>2</sup> Targeted Case Management Overview, page T-2-1-1, California Department of Health Care Services.</p>	<p>This statement misquoted the referenced document and did not fully incorporate relevant aspects of said document, resulting in a misrepresentation of facts. The referenced document states:</p> <p align="center">“written, comprehensive, <u>individualized</u> service plan”<sup>9</sup></p> <p>All Service Plans are client-specific. The TCM Provider Manual actually states that the plan will be individualized to the client. Therefore, some areas may not require written commentary or specific objectives or actions in need of attention. For example, a 90-year old assisted living facility resident is unlikely to require a vocational needs assessment. Conversely, a mentally retarded 19 year old representative payee living with his or her parents would be unlikely to need a housing assessment.</p> <p>Checkboxes are a tool used to indicate which areas need attention from the case worker. The Public Guardian case manager prepares the Service Plan, which prompts the case manager to consider 19 distinct areas identified on the form to be assessed for meeting the client’s needs. DHS agrees that case notes regarding actions by the case managers could be more directly related to the Service Plan areas and has taken steps to improve both the correlation of the areas and the review by supervisory staff.</p> <p>TCM Service Plans do not have a required format. Service Plans may be designed by each program participating in TCM using the format that works best for them. Check boxes are an acceptable method as evidenced by the State’s use of the forms, which El Dorado County Public Guardian staff participated in the development of, during a Statewide TCM training.</p> <p>In fact, DHS staff informed the Auditor that they had attended Statewide TCM training for Public Guardian providers, that DHS had assisted in the development of the State-accepted forms used during the training, and that DHS staff assisted in training representatives from other Public Guardian offices.</p>

<sup>9</sup> TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-1.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
29	When such services, called Linkage and Consultation, are provided, TCM regulations require that the initial referral or consultation be documented and that a documented follow-up occurs within a maximum of 30 days to determine whether the services were provided and whether they met the client's needs. Linkage and Consultation services are not required but when they are provided, they must follow the protocols described.	<p>This statement did not fully incorporate relevant aspects of said requirements, resulting in a misrepresentation of facts. The TCM Provider Manual states:</p> <p style="padding-left: 40px;">“Linkage and Consultation</p> <p style="padding-left: 40px;">TCM services provide beneficiaries with linkage and consultation and with referral to service providers and placement activities. The case manager shall follow up with the beneficiary and/or service provider to determine whether services were received and whether the services met the beneficiary's needs. The follow-up shall occur as quickly as indicated by the assessed need, not to exceed thirty (30) days from the <i>scheduled date</i> of the referral service.”<sup>10</sup> [Emphasis added.]</p> <p>Hence, 30-day follow-ups are only required on referrals with specific, scheduled services and must not exceed 30 days from the scheduled date of service. The 30-day follow up is not required for referrals with open time frames or for referrals without a scheduled service.</p>
29	Documentation of required 30 day follow-ups to the Linkage and Consultation services were not found in any of the eleven reported incidents.	
34	TCM regulations require that referral to such services be followed up within 30 days to determine if the services were received and whether they met the client's needs	
34	None of the case records in which such services are recorded contained 30 day follow-up documentation either.	
34	While the case records reviewed showed that most Linkages clients do receive visits from the case managers more frequently than the minimum required four times a year, the fact that certain Linkage and Consultation services are not documented as such has resulted in an absence of TCM required 30 day follow-ups to such services.	

<sup>10</sup> TCM Provider Manual, Section 2, Targeted Case Management Program Descriptions, page T.2-1-2.

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

Doc Page	HMR Audit Report Statement	DHS Response
	<p>Since the TCM program has many requirements, some more significant than others, some judgment was necessary to define substantial compliance. For example, none of the case records reviewed for either the Public Guardian or the Linkages program contained the frequency or duration of activities recommended for clients in the Individual Client Service Plans, as required by TCM regulations. Using this measure, all encounters billed for during preparation of Client Services Plans are out of compliance with TCM regulations and are therefore subject to Medi-Cal disallowance.</p> <p>A different standard was used though since the absence of frequency and duration of Service Plan activities was not considered as serious a breach of compliance as, for example, lack of compliance with the TCM requirement that a face-to-face Periodic Review of progress be conducted with the client at least every six months.</p>	<p>It is not clear how the Auditor arrived at the opinion that some TCM requirements are “more significant than others” or how the Auditor defines “substantial compliance”.</p> <p>The Audit Report acknowledged that the State would likely offer the Department an opportunity to correct deficiencies prior to a finding of disallowance. The Department’s understanding of Medi-Cal programs is that disallowances are not made unless the work was not performed or a duplication in services is identified.</p>
36	<p>If a case file was found compliant with all TCM requirements except including the frequency and duration of activities in the Individual Client Service Plan, the file was considered compliant. If a case file was non-compliant in a variety of areas such as: not specifying activities for the client in the Individual Client Service Plan; not cross-referencing service needs from the client’s Assessment in the Individual Client Service Plan; and, not specifying the frequency and duration of activities in the Individual Client Service Plan, the case file was considered non-compliant and subject to Medi-Cal disallowance.</p>	<p>Individual billed encounters do not have to contain all TCM components. Only those components specific to the TCM encounter being billed are required. Case files typically contain additional information relevant to the TCM encounter. Full case files were not reviewed by HMR nor were they requested.</p> <p>Case file compliance cannot be determined based on the limited number of and types of documents reviewed during the Audit.</p>

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

### APPENDIX B

#### El Dorado County Mental Health Department Response to the 2007-08 Grand Jury Final Report Part 3: *Audit of Human Services and Mental Health Medi-Cal Revenues* Case No. GJ 07-006

##### Response to Grand Jury Audit Recommendations for Mental Health Department

The Mental Health Department commends the 2007-2008 El Dorado County Grand Jury for its sincere effort to assure the clinical and fiscal integrity of the Department's Medi-Cal policies.

Although the Department has serious concerns about

- 1) the statistical legitimacy of generalizations (i.e., extrapolations) inferred from results based on the invalid audit sample selected by the Jury's auditor and
- 2) the multiple discrepancies between the Department's audits of the same charts analyzed by the Jury's auditor

the Department nevertheless completely agrees with the recommendations contained in the Jury's report. Specifically:

##### The Jury's Recommendations

The Director of the Department of Mental Health should:

- 1) Direct the Department's Utilization Management/Quality Improvement Coordinator to continue to focus Department manager training efforts on ensuring that complete progress notes, complete assessments and complete client plans are in every case file to minimize the risk of Medi-Cal disallowances for the Department and that all eligible services provided are included in Medi-Cal claims.

**Response to Recommendation 1:** *The recommendation has been implemented. The Department conducts its own internal documentation training program for clinicians and its own internal medical records' audits since the beginning of calendar 2006. In addition, the ongoing conversion to a combined electronic medical record and billing software application will assure that each billable service documented in the medical record will be correspondingly billed to Medi-Cal electronically.*

- 2) Direct the Utilization Review Coordinator to include reviews for unbilled services as part of the Department's routine Quality Improvement audits and to report the results of these audits quarterly to the Director.

**Response to Recommendation 2:** *The recommendation has been implemented. The Department's internal audit tool routinely identifies delivered services and cross-checks the billing system to insure that a claim is submitted to Medi-Cal for each billable service delivered. As the conversion to the new software billing application transpired between February and August 2007 (coincidentally, the time frame of the Grand Jury's audit), the Department was aware that not all billable Medi-Cal services were captured and claimed. As acknowledged in the auditor's report, this conversion-related omission has been fully rectified.*

### **Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

- 3) Set goals for each Program Manager that make them accountable for eliminating the number of potential Medi-Cal disallowances and unbilled services in their program areas, measurement and achievement of which should be captured through the Department's regularly performed Quality Improvement audits.

***Response to Recommendation 3: The recommendation has been implemented. The Department's internal audit process consists of ongoing, sequential, program-by-program medical records' reviews and plans of correction for which each clinical program manager is responsible. Each program manager's annual performance evaluation consists of reviewing the integrity of his or her unit's Medi-Cal billing errors and successful plans of correction.***

The Board of Supervisors should:

- 4) Direct the Director of Mental Health to annually report to the Board and Chief Administrative Officer the results of the Department's Quality Improvement audits and success in reducing potential Medi-Cal disallowances and unbilled services.

***Response to Recommendation 4: The recommendation has been implemented. This is accomplished both in the quarterly and annual reporting of the Department's QI performance indicators to the CAO's office and in the annual BOS performance evaluation of the Department's Director.***



## **EL DORADO COUNTY GRAND JURY 2007-2008**

### **El Dorado County Procurement Department**

Case No. GJ 07-019

### **REASON FOR REPORT**

The El Dorado County Grand Jury received a complaint regarding poor customer service levels delivered by the County Procurement and Contracts Division of the Chief Administrative Office (Purchasing Department). There was sufficient concern to warrant the Grand Jury investigating the allegations and determining if some corrective recommendations would surface.

### **BACKGROUND**

County Procurement Policy #C-17 states, "The County Purchasing Department is responsible for the procurement of services, supplies, materials, goods, furnishings, equipment, and other personal property for the County and its offices unless otherwise excepted by ordinance or these policies." The Purchasing Department is also responsible for providing leadership, guidance and assistance to departments in all procurement related matters, including interpreting and applying County policies and procedures related to procurement of goods and services. The department is expected to provide a high degree of customer service.

The Purchasing Department is staffed with seven people: a department manager, three buyers (of which one position is currently vacant), one analyst (concentrating primarily on contracts), and two administrative support personnel. This county decentralizes the purchasing function as it relates to contracts. There are currently seven additional employees engaged in the contract process within the departments of transportation, environmental health and public health.

### **METHODOLOGY**

The Grand Jury gathered data through interviews with county personnel, as well as reviewing written county documents.

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

El Dorado County Personnel Interviewed:

- Auditor/Controller
- Chief Administrative Officer
- Information Technology Department Manager
- Office of Emergency Services Manager
- Procurement Department Analyst
- Procurement Department Buyer
- Procurement Department Manager

Documents Reviewed:

- Document titled “Procurement and Contracts Division Workflow Analysis and Recommendations” dated 10-31-2007
- Document titled “Purchasing Issues” from Purchasing/Fiscal Staff meeting 1-30-2008
- Documented procurement problems from various county sources
- El Dorado County Procurement Policy C-17, adopted 10-11-2006; revised 3-20-07
- Several papers regarding procurement issues from various County sources

## FINDINGS

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 El Dorado County Grand Jury has arrived at the following findings.

1. Interviews with County personnel indicate a very poor internal and external customer service level for the purchasing function in the County. This is evidenced by late billings and payments, as well as excessive time to process contracts and bids.

***Response to Finding: The respondent disagrees partially with the finding. Over the past fourteen (14) months, the Procurement and Contracts Division has worked diligently to provide a heightened level of service to internal and external customers. Included in this was the implementation of a Contract Tracking System, Contract Retrieval System, Bid Tracking System and improved forms which are all available on the County’s intranet site for use by all internal customers. External customers have been provided with an enhanced online bid notification system, bid results system, and bid addenda notification process which are all available on the County’s internet site. Late billings and payments could occur for a variety of reasons, including delays by the vendor, delays by the department in submitting claims to the Auditor’s Office and should not be seen as an indication of quality or level of services provided by the Procurement and Contracts Division.***

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

2. A package put together by the Purchasing Department in October of 2007 titled "Procurement and Contracts Division Workflow Analysis and Recommendations" (PCDWAR) was reviewed. This document was prepared for the Chief Administrative Officer (CAO), and some of the recommendations in the document were presented to the Board of Supervisors (BOS). The main thrust of the recommendations was to increase staffing levels, with a few substantive process change recommendations. These recommendations were based on a comparison to Placer County's procurement processes and staffing. Comparing El Dorado County to Placer County is not a valid comparison as Placer County has four additional cities (six vs. two) making Placer County's procurement functions and needs greatly different.

**Response to Finding:** *The respondent disagrees wholly with the finding. The "Procurement and Contracts Division Workflow Analysis and Recommendations" document was prepared by the Procurement and Contracts Division at the request of the Chief Administrative Officer and a copy was provided to the entire Board of Supervisors (BOS) on October 31, 2007. While some of the comments in this document did recommend additional staffing to manage the increased workload and volume, many additional recommendations were presented that did not include the increase in staffing levels. The comparison to Placer County is a valid and warranted component to this report. Despite the fact that Placer County has four (4) additional incorporated cities results in Placer County's procurement needs and functions to be quite similar to those of El Dorado County. This was validated in a meeting with a representative of the Placer County Procurement Division in the preparation of this work product. However, this document was not intended to address what is typical in the context of what other county governments or private industry provide in terms of service levels to user departments.*

3. This PCDWAR package contained detailed process flow charts for each major segment in the procurement process. The processes are long, complex, and heavily "paper-based." There are also lead-time charts in the package, but nothing to tell the reader if these processes and lead times are typical in the context of other county governments, private industry, or any measure of meeting expected levels of service to user departments.

**Response to Finding:** *The respondent disagrees partially with the finding. The referenced PCDWAR package does contain detailed process flow charts for each major segment of the procurement process. As demonstrated by these flow charts, the processes are long, fairly complex and are, to a certain extent, "paper based". The purpose of the flow charts was to inform the Board and the CAO about processes currently in place and establish a starting point for improvement. However, this document was not intended to address what is typical in the context of what other county governments or private industry provide in terms of service levels to user departments.*

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

4. The current purchasing process involves a time period for County Counsel and Risk Management to review all contracts. The lag times built in for those reviews appear excessive, especially if it is a renewal of an existing contract.

**Response to Finding:** *The respondent partially disagrees with the finding. The timeframes noted in the PCDWAR with respect to the involvement of County Counsel and Risk Management are the agreed to timeframes between those departments and those departments that prepare contracts. Further, County Ordinance 2.06.040 mandates that any contract not written by County Counsel must be reviewed by County Counsel for approval as to form.*

5. When a purchase order or contract needs to be changed, the current process necessitates virtually going back to the beginning of the process, adding excessive time delays.

**Response to Finding:** *The respondent agrees with the finding.*

6. It is recognized by the purchasing department, and the CAO, that the purchasing data management system, Advanced Purchasing Inventory Computer System, is out of date and inadequate to facilitate faster turnaround times for processing change orders. However, there is no plan or budget to affect an upgrade to this software program.

**Response to Finding:** *The respondent agrees with the finding.*

7. Although the problems within the purchasing function are recognized and acknowledged by both the CAO and the purchasing department, there are no definitive plans to fix the problems.

**Response to Finding:** *The respondent partially disagrees with the finding. The Chief Administrative Officer and the Purchasing Division recognize that improvement opportunities exist within the purchasing function. It is expected that the new Chief Administrative Officer will monitor the progress of the purchasing function.*

## RECOMMENDATION

1. The Grand Jury recommends that a task force be formed comprised of expert end users and outside vendors, charging them with the responsibility of streamlining the procurement process and improving the customer service level to all internal departments and external vendors. This end user task force should include members from all major County functions. The BOS should champion this process and assign one of the Supervisors to oversee the progress of this task force, with a monthly update from the leader of this task force to him/her and the CAO. We recommend that this task force start with a “blank page,” and identify an appropriate flow process, effective computer systems’ support and lead times that best serve the needs of the County and outside vendors. Significant progress has already been made in identifying the current process, but the challenge to the team is to identify what changes should be made to improve the procurement process.

***Response to Recommendation:*** *The recommendation requires further analysis. The forming of a task force does have merit. However, more analysis and evaluation of the most appropriate way to implement this recommendation is necessary. The Chief Administrative Officer will consider alternatives and strategies to streamline the procurement process and improve customer service given the overall context of the county budget and relationship of the CAO Purchasing Division to other county departments. This may or may not require the convening of a task force. The CAO will bring the results of this analysis to the Board of Supervisors by December 31, 2008.*

2. The completed task force report should be written and submitted to the BOS with all recommended changes no later than the end of fiscal year 2008-2009.

***Response to Recommendation:*** *The recommendation requires further analysis. Please refer to the response to Recommendation 1 above.*

3. No additions to personnel should occur until such time as a full review of the procurement process is completed.

***Response to Recommendation:*** *The recommendation is not warranted. During the Fiscal Year 2007 - 2008 mid-year budget cuts, two (2) positions in the Procurement and Contracts Division were eliminated taking the total allocation to a staff of five (5). The proposed budget for Fiscal Year 2008 - 2009 did not include any additional personnel allocations to the division. We recognize the reasonableness that refraining from adding staff to the division prior to the completion of further analysis.*

## RESPONSES

Response(s) to this report is required in accordance with California Penal Code §933.05.



## EL DORADO COUNTY GRAND JURY 2007-2008

### Victim Restitution

GJ 07-014

#### REASON FOR REPORT

The Grand Jury elected to investigate the County's Victim Restitution activity to determine if El Dorado County is effectively and efficiently managing victim restitution.

#### BACKGROUND

The successful 1998 ballot initiative, known as the California State Constitutional "Victims' Bill of Rights," created a new **Constitutional Right** for all victims of crime to receive restitution from their offender.

*"It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the persons convicted of crimes for the losses they suffer."*

The State of California Victims Compensation and Governmental Claims Board (VCGC) assists victims of **violent** crimes. Victims of **non-violent** crimes must rely mostly on the County to assist with ensuring that their right to restitution is realized.

#### METHODOLOGY

The Grand Jury heard sworn testimony, information gathered from interviews and the review of documentation consisting of reports, written statements, and observation of court restitution proceedings.

The investigation focused on:

1. Processes and preparation necessary to attain and amend court orders of restitution
2. Court ordered restitution collection

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

3. Disbursement of payments
4. Enforcement of the court restitution order including financial reviews when offenders fail to consistently pay their restitution

Additionally, the investigation reviewed the efficiency and effectiveness of the following County restitution processes:

- Educating and supporting victims on restitution from the moment the crime is reported through the life of the restitution order
- Monitoring the offender's payment progress on existing restitution orders
- Determining if the County has a centralized and comprehensive county-wide restitution accounting system
- The collection and administration of restitution including:
  - a. Administrative fees
  - b. Financial reviews
  - c. Fines
  - d. Interest
  - e. Restitution orders payable to the victim(s)
- Disbursing restitution to the victim and reimbursement to the California State VCGC Board

People Interviewed:

- Alameda County Deputy District Attorney Restitution Specialist
- California Department of Corrections and Rehabilitation, Restitution Program Manager
- El Dorado County:
  - Assistant Court Executive Officer
  - Chief Probation Officer and staff members
  - District Attorney
  - Fiscal Administrative Manager
  - Public Defender
  - Sheriff
  - Sheriff's Team of Active Retirees (STAR)
  - Superior Court Judges
  - Treasurer-Tax Collector
  - Victim Witness Program Coordinator

Documents Reviewed:

- Alameda County Restitution Program Policy and Procedures
- Alameda County Superior Courthouse-Oakland Corpus Restitution Court Calendar
- Applicable California Restitution Statutes
- California Constitution, Victims' Bill of Rights

### **Final Draft Response to the 2007-08 Grand Jury Final Report Part 3**

- California Department of Corrections and Rehabilitation State Restitution Program Audit from 2002 and 2004

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

- California State Controller's Audit Report on Alameda Restitution Fines and Court Ordered Restitution, February 25, 2004
- California Victim Compensation and Governmental Claims Board Restitution Policy and Procedures
- El Dorado County District Attorney Victim Witness Program, Restitution Policy and Procedures
- El Dorado County Probation Department Restitution Policy and Procedures

### FINDINGS

1. The County's Restitution activity process is not centralized.

**Response to Finding 1:** *The respondent agrees with the finding.*

2. The County and City jails have no procedure to collect victims' restitution from inmates.

**Response to Finding 2:** *The respondent agrees with the finding. However, there is currently no legal mechanism for jails to collect victim restitution from inmates.*

3. There is insufficient follow-up with victims to obtain information as to their actual losses. This information is necessary to support the issuance of a victim restitution order by the court. According to the 2002 State Department of Corrections and Rehabilitation Restitution Audit, approximately 11% of offenders in the California State Prison system sentenced from El Dorado County have a court order to pay restitution to the victim(s).

**Response to Finding 3:** *The respondent disagrees partially with the finding. There is sufficient follow up if the offender is sentenced to formal probation. Insufficient follow up occurs when the offender is sentenced to summary or informal (unsupervised) probation.*

4. Attaining timely victim information, including losses, is essential. The Probation Department is responsible for determining victim losses if the offender is sentenced to probation, which may be well after the crime is reported.

**Response to Finding 4:** *The respondent disagrees partially with the finding. Attaining timely victim information, including losses, is essential. The Probation Department is responsible for determining victim losses if the offender is sentenced to formal probation. However, the Probation Department is not responsible for determining victim losses if the offender is sentenced to summary or informal probation.*

5. The District Attorney's Office of Victim Services is cognizant of the rights of victims and provides valuable services to victims of crime in El Dorado County. However, insufficient funding severely limits the services the District Attorney is able to provide.

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

**Response to Finding 5: *The respondent agrees with the finding.***

6. When offenders are sentenced to State prison, or a juvenile facility, all outstanding restitution ordered for all cases is transferred to the Department of Corrections for collections. The State of California is only able to disburse 25% of victim restitution collected to victims because victim information is unavailable. It is imperative that victim information is included in the case records file accompanying the offender when sentenced to State prison.

**Response to Finding 6: *The respondent disagrees partially with the finding.*** *It is true that when offenders are sentenced to a state prison or juvenile facility all outstanding restitution ordered for all cases is transferred to the California Department of Corrections and Rehabilitation for collections. The Board of Supervisors is unable to verify the state's disbursement of victim restitution.*

7. Although the Probation Department is diligent and successful in their efforts to collect and disburse restitution from those offenders on probation obtaining the victim information when the crime is reported and communicating that information to the appropriate collection and disbursing entities is lacking.

**Response to Finding 7: *The respondent disagrees partially with the finding.*** *As mentioned in the response to previous findings, the Probation Department is responsible for determining victim losses if the offender is sentenced to formal probation. However, the Probation Department is not responsible for determining victim losses if the offender is sentenced to summary or informal probation.*

8. Victims of misdemeanor crimes do not have their restitution orders actively collected by the County.

**Response to Finding 8: *The respondent disagrees with the finding.*** *If the restitution order is for an undetermined amount, there is currently no further action because there is nothing specific to collect. In misdemeanor cases with a specified restitution amount, the Court actively pursues collection and also goes through the revenue recovery process for collections. In misdemeanor cases resulting in formal probation, the Probation Department collects restitution.*

9. The restitution administration fee is currently being collected in an inefficient manner and occasionally at a rate higher than authorized by State statute. The current practice of the County is to collect the restitution administrative fee after the court-ordered amount is satisfied. The Grand Jury is aware of the justification for this method; however, research indicates the method of collecting administrative costs as payments are received improves the Restitution Program's ability to increase collections in future years.

**Response to Finding 9: *The respondent disagrees with the finding.*** *This finding is more appropriately addressed by the Court because it is the Court (not the County) which collects the restitution administration fee according to state Penal Code. The current practice of collecting the restitution administrative fee after the court-ordered amount is*

## Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

*satisfied is pursuant to state statute. The restitution administration fee is not collected at a higher amount. The restitution administration fee is 10% of the restitution amount.*

### RECOMMENDATIONS

1. The District Attorney should convene a team of restitution activity experts to analyze the feasibility and methodology that will best enhance restitution activities. The Alameda County Restitution Program Managers, the Alameda County District Attorney, the El Dorado County Superior Court, and the STAR volunteers are supportive to formalizing and improving the County's Restitution program.

***Response to Recommendation 1: The recommendation has been implemented. Within existing resources, the Board of Supervisors will support the District Attorney's approach as outlined in his response to this report.***

2. Increase victim services under the District's Attorney's Victim Witness Program, utilizing the assistance of the STAR Program (volunteers). Increased services should include:
  - Early contact with **all** victims of crime to provide comprehensive county-wide information on the restitution program
  - Obtain and confirm current victim losses and addresses and a process for victims to keep address information current and have that information passed on to the State when appropriate.

Victim contact by the District Attorney's Office will increase the success of identifying victim losses and information needed to request a Court Order in an amount commensurate with the loss, rather than an amount "to be determined." Collection cannot commence on orders to be determined where no dollar amount is stated.

***Response to Recommendation 2: This recommendation does not appear to require a response from the Board of Supervisors.***

3. In conjunction with the entities involved in restitution process, the El Dorado County District Attorney should adopt a more aggressive approach to the collection and enforcement of restitution that includes actively collecting restitution resulting from misdemeanor crimes. Delinquent accounts need to be identified and brought before the Superior Court. Alameda County has received statewide recognition as a leader in restitution enforcement with several counties in California successfully utilizing Alameda County's Restitution Enforcement Program as a model.

***Response to Recommendation 3: The recommendation has been implemented. Within existing resources, the Board of Supervisors will support the District Attorney's approach as outlined in his response to this report.***

### Final Draft Response to the 2007-08 Grand Jury Final Report Part 3

4. To offset operational costs collect the administration fee, authorized by State statute, as payments are received.

***Response to Recommendation 4: The recommendation will not be implemented because it is not reasonable. This recommendation appears to be directed at the Court however, collecting the administration fee as payments are received violates Penal Code section 1203.1d***

5. The Sheriff should analyze the feasibility of collecting restitution from offenders in the County jails, prior to depositing cash received into the offender's trust account. Hold offenders accountable until final payment is made regardless if the offender is in jail, on formal/informal probation, or work release programs.

***Response to Recommendation 5: This recommendation does not appear to require a response from the Board of Supervisors.***

6. A team or restitution experts should develop a comprehensive restitution and accounting system that tracks information from the date the crime is reported to the release of the offender from County jurisdiction. Also the system should track accurate records including the offender(s) name, case number, payment history, and link the offender(s) to the appropriate victim(s). Lastly, the system should interface with State systems.

***Response to Recommendation 6: This recommendation will not be implemented because it is not reasonable. Overall, this recommendation is cost-prohibitive. In addition, unless the state took the initiative and funding responsibility, it is unlikely that a system could be developed that interfaces with state systems. However the county is committed to analyzing this problem from a multidisciplinary standpoint to create a more integrated approach to victim restitution.***

# HILLWOOD COMMUNITY SERVICES DISTRICT

P.O. Box 381  
Shingle Springs, CA 95682



Larry Booher  
Chairman

August 25, 2008

Sam Axtell  
Vice-Chairman

The Honorable James R. Wagoner  
Presiding Judge of the Superior Court  
El Dorado County  
495 Main Street  
Placerville, CA 95667

Maria Cabla  
Director

Dear Judge Wagoner:

This year, the Grand Jury conducted an investigation of the Hillwood Community Services District (HCSD) Board of Directors because of a complaint filed by a resident regarding various actions taken by the Board, including allegations of violation of government codes and the collection of monies for the purpose of establishing a Road Improvement Group within the HCSD.

Joseph Egly  
Director

Enclosed please find the HCSD's responses to the Grand Jury's findings and recommendations. On August 21, 2008, the Board of Directors met and unanimously approved these responses and directed that they be filed with the Court and the Grand Jury pursuant to Penal Code Section 933.05.

J. Rozowski  
Director

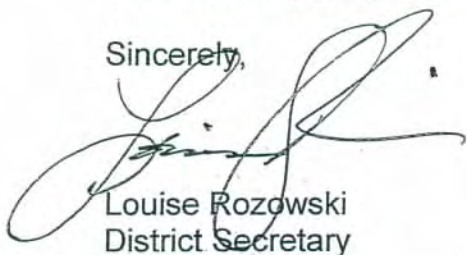
We would like to take this opportunity to thank the members of the Grand Jury Community Services District Committee. We feel they did an excellent job assessing the issues which were brought to them for investigation and that their recommendations were fair and reasonable.

Ron Kuch  
General Manager

I would also like to provide you with a copy of the HCSD's first newsletter. As you can see, we are working to open the line of communication with district residents, hopefully avoiding any future problems that might arise.

Louise Rozowski  
District Secretary

Sincerely,

  
Louise Rozowski  
District Secretary

Enclosure(s)

✓ cc: El Dorado County Grand Jury

# Hillwood Community Services District

## Grand Jury Final Report Part III

### Findings Section

**Finding 1:** The Grand Jury found no intentional wrongdoing on the part of the Hillwood Community Services District (HCSD) Board of Directors.

**Response to Finding 1:** *The respondent agrees with the finding.*

**Finding 2:** The information gathered revealed that the monies generated by taxes for road repair in the HCSD are insufficient to meet the needs of the District.

**Response to Finding 2:** *The respondent agrees with the finding.*

**Finding 3:** The HCSD Board is within its discretion to allow Monarch-Woodside to become a "zone" or RIG under the HCSD. Their position is supported by California Government Code §61140 and LAFCO.

**Response to Finding 3:** *The respondent agrees with the finding.*

**Finding 4:** There is a prevailing lack of trust by some residents in the HCSD that was clearly demonstrated when residents were interviewed by the Grand Jury. Most residents are not involved in the operation of the HCSD and do not support any tax increases to pay for improving roads. Combined with insufficient funds to meet HCSD road needs, there exists a contentious environment that continues to create turmoil among residents. These conditions do not create an environment where good governance and involved citizens can resolve issues that arise in the normal course of a CSD.

**Response to Finding 4:** *The respondent agrees with the finding.*

### Recommendations Section

**Recommendation 1:** The HCSD should create a newsletter, website or other form of communication to keep all residents informed of HCSD needs and proposed action(s) by the Board of Directors, to include activity by Monarch-Woodside RIG.

**Response to Recommendation 1:** *The recommendation has been implemented.* The current HCSD Board of Directors has approved distribution of a newsletter which will be sent to residents twice each year, the first to be distributed after the District's budget hearing in July (our first newsletter was

mailed July 31, 2008) and the second in February. The current Board has already implemented electronic distribution of agendas and minutes to interested residents. The Board would like to note that because of the voluntary nature of the District officers, that future Boards and administrative staff may not have the inclination or ability to provide these services to residents. The Board would also like to note that the Monarch-Woodside Road Improvement Group sent out periodic newsletters to residents in the proposed zone to keep them apprised of the group's progress .

**Recommendation 2:** The 2007-2008 Grand Jury Final Report Part-I released March 2008, "Assisting Road Repair Community Service District," made the following recommendations:

- a. The County Department of Transportation should invite road repair district directors to its annual training sessions for Zones of Benefit Advisory Committee members.
- b. The County should publish the "Zone of Benefit Advisory Committee Manual" and make it available, free of charge, to every road repair district directors. As soon as possible, this Manual should also be provided through the internet.

If these two recommendations are accepted by the Department of Transportation, we recommend that HCSD avail themselves to these resources.

**Response to Recommendation 2:** *The recommendation has not yet been implemented, but will be implemented in the future.* The HCSD feels these would be wonderful resources to draw from and will readily take advantage of them if County Department of Transportation implements the recommendations made by the Grand Jury.

**Recommendation 3:** To address the prevailing lack of trust in the Hillwood CSD that dates back over thirty years, the Grand Jury recommends that the Board of Directors inform residents of the powers and duties of the Board, and advise residents that there is a remedy called direct democracy in the form of initiative, referendum and recall. This gives power to citizens to propose items directly to the Board through notice, petition and election. A referendum gives citizens a direct vote in District matters and recall powers allow residents to remove members from office before the next election.

**Response to Recommendation 3:** *The recommendation has been implemented.* The first newsletter, mailed on July 31, 2008, addressed the powers and duties of the Board, and also provided a list of the District Officer's contact numbers with an open invitation for residents to contact any Board member or officer regarding any road related ideas, concerns or questions they may have. Future issues of the newsletter will provide additional information which will help educate residents on Board policies and operation, as well as the remedies referenced in Recommendation 3.

# HILLWOOD COMMUNITY SERVICES DISTRICT

Newsletter  
August 2008

*Our Mission Statement:  
To maintain and improve the roads within the  
Hillwood Community Services District,  
striving to provide reasonable safety for public travel,  
while fostering a spirit of community involvement.*



## *Newly Revived: The District Newsletter!*

Welcome to the new edition of the Hillwood CSD newsletter. At this time our goal is to publish a newsletter twice each year to keep you updated on District news. That way everyone can be involved and informed. Your District Officer's names and phone numbers will be included on the back page of each newsletter so that you can contact them with any road related ideas, concerns or questions. 📧

## *CSD Board - General Information*

CSD Directors are either elected or appointed. They are volunteers, therefore, receive no compensation for their time or work. They are charged with overseeing and administering tax monies that are designated for the upkeep of roads and drainage in the Hillwood CSD. The current Board Officers are dedicated to doing everything in their power to maintain a well run District.

Your Board of Directors hold regular meetings a minimum of four times each year. Regular meetings are scheduled for the third Thursday during the months of January, April, July and October, though a conflict in schedules may require this to change occasionally. Our goal is to hold the meetings at Shingle Springs Community Center since it is the facility which is

closest to the District. This may also change from time-to-time should the Community Center not be available. In that case, Ponderosa High School will be used as an alternate meeting location.

There is also sometimes a need to hold a special meeting. This type of meeting is called when issues arise that require Board attention prior to the next regularly scheduled meeting.

We make every attempt to post the time and place of regular meetings at least two weeks in advance on our two new District message boards which are located at the entrances to the District. Agendas are posted a minimum of 72 hours before a regularly scheduled meeting and 24 hours before a special meeting as prescribed by law.

The District's budget session is held during the July meeting of each year. At that time the Board discusses and sets forth its budgetary allocations for the new fiscal year. Generally, any road repair work is discussed at this meeting and bids from contractors are reviewed. This year, the contract for road repair and striping was awarded to California Pavement Maintenance (CPM). They will be out in the very near future filling potholes, painting signage and replacing stop signs.

You, as citizens, also have rights and responsibilities. Take every opportunity to keep yourselves

informed and up-to-date on District business and policies. 📧

## *Get Your District Information Via E-Mail*

Did you know that many residents are receiving agendas and minutes via e-mail? If you would like to be included in this distribution list, contact the District Secretary with your e-mail address. Future copies of this newsletter will also be distributed electronically to these residents, which will help keep printing and postage costs down. 📧

## *District Message Boards*

As mentioned earlier, there are two new HCSD message boards located at the entrances to the District. The first is located at the intersection of French Creek Road and Holly Drive and the second at the intersection of Monarch Lane and South Shingle Road. These are primarily used for posting District business, but residents are welcome to use the Boards to post notices such as lost or found pets, garage sale signs, etc. So feel free to use the boards for similar purposes.

Business postings or notices are the only use which the Board does not permit. 📧



# City of South Lake Tahoe

*"making a positive difference now"*

September 10, 2008

Honorable Suzanne N. Kingsbury  
Presiding Judge  
El Dorado County Superior Court  
Department 3  
1354 Johnson Blvd, Suite 2  
South Lake Tahoe California 96150

**Re: RESPONSE ON BEHALF OF THE CITY COUNCIL TO COMMENTS MADE  
BY THE GRAND JURY CONCERNING THE SOUTH LAKE TAHOE POLICE  
DEPARTMENT – GJ – 07-003**

Dear Judge Kingsbury:

I reviewed the report of the Grand Jury for 2007-2008, and I am providing the response below. At its regular meeting on September 9, 2008 the City Council of South Lake Tahoe authorized me by a unanimous vote to send to you this response.

## **Methodology**

This office reviewed the report of the Grand Jury, discussed the contents with trained local government consultants and advisors, discussed department operations with management and line personnel, reviewed the latest literature on police department operations, and discussed existing conditions internally with a selected group of Department personnel.

## **Overview and Comments**

The City of South Lake Tahoe has a highly trained, highly motivated, and highly effective resource of men and women, both sworn and non-sworn, who serve the community with skill and care. It is evident by their performance that they are committed to providing the best service possible to the people of South Lake Tahoe. The effectiveness of the South Lake Tahoe Police Department is demonstrated by their proactive work on a daily basis to protect life and property in our community. In 2007 overall crime was down 4% in the City limits from data collected in 2006. The men and women of the South Lake Tahoe Police Department are to be commended for their commitment to serving the community in a professional manner. I believe that all men and women of the

Department at their core have the best interest of the Department and the community at heart.

## **Response to Findings**

### **Finding #1**

"The Grand Jury interviewed several citizens of South Lake Tahoe who reported an altercation that occurred in September 2006. While having breakfast in a South Lake Tahoe restaurant, one citizen stated that he was approached by the Chief of Police who began to verbally accost and loudly berate him in front of two acquaintances. The citizen did not know what provoked the verbal tirade and felt the Chief of Police must have confused him with someone else. The citizen stated the loud disturbance in the restaurant was witnessed by patrons and staff alike, caused citizens to be fearful for their safety."

### **Response**

I do not agree with the finding for the following reason. There is insufficient information provided by the Grand Jury in the report or in a subsequent written request by me to the Grand Jury on July 1, 2008 to draw any conclusions about the allegations made. The alleged conduct occurred in 2006. Had a complaint been filed with the City in regard to the allegations, it would have been impartially investigated and evaluated as are all complaints against police officers. Had additional information been provided to this office by the Grand Jury the matter could have been investigated, but no additional information was provided. In my experience, people living in South Lake Tahoe are not shy about expressing their opinions on matters of interest and/or concern to them.

### **Finding #2**

"The Chief of Police, by losing his temper in public and verbally berating a citizen of South Lake Tahoe in a public restaurant, acted in an inappropriate manner and displayed conduct unbecoming an officer. All citizens of South Lake Tahoe should have an expectation of being treated fairly in a professional and dignified manner by ALL members of the SLTPD."

### **Response:**

I agree that "All citizens of South Lake Tahoe should have an expectation of being treated fairly in a professional and dignified manner by ALL members of the SLTPD."

I do not agree that there is sufficient information provided by the Grand Jury for this specific matter to be investigated and evaluated in a manner consistent with the Law and the rights of police officers under the Police Officer Bill of Rights.

Had complaints been made to the City about the alleged conduct of the Chief of Police near the time when they were alleged to have occurred, they would have been investigated and appropriate action taken. There is no evidence in the record to support the claim and no opportunity for the Chief of Police to respond to the allegations. If the Grand Jury would provide the names of citizens who are alleged to have reported on this altercation in September 2006, the matter will be investigated.

### **Finding #3**

"In the course of this investigation, the Grand Jury also learned of serious concerns among employees of the South Lake Tahoe Police Department on the state of the morale and cynicism that exists in the Department."

### **Response:**

I agree that there has been a morale problem and degree of cynicism on the part of some members of the South Lake Tahoe Police Department. The genesis of the situation has evolved over time and was exacerbated in my view by protracted labor relations in late 2007 that were outgrowths of wages, hours and working conditions and low staffing levels within the Police Department. Outstanding issues must be addressed in the near term.

### **Finding # 4**

"Although the Police Department is managed through a Participative Management Team (PMT) which was initiated in 1991-1992, the program has deteriorated over time and is currently ineffective. PMT is designed to allow all employees to participate in the decision making process of the Department. The Police Department leadership hired a consultant with the purpose of assisting in the PMT process."

### **Response**

I do not fully agree with the finding with an explanation. The South Lake Tahoe Police Department is managed by a *Chief of Police* and management personnel who are responsible and held accountable for the performance of the Department. The Participative Management Team process was created in the early 1990's as a way of involving and including line sworn and non-sworn personnel in certain levels of decision making within the Police Department. During its early years, I am told, this process was useful because police department personnel wanted to provide the time needed to involve themselves in police management issues.

From interviews and discussions with Department personnel and management I have had, the PMT process has been less effective and desirable in the last few

years. Some long-time members of the Department see benefits to it. Newer members of the Department have expressed more interest in a more traditional model of police management and do not think they have the time to participate in "management" decision making. With the existing work schedule, shortage of personnel (vacancies, cuts, injuries etc), the demands of their jobs and the requirements for time of family life, many officers have little interest to devote more time to work on department management issues.

In the end, whether there exists a PMT or not, sworn and non sworn members of the Police Department must be assured and believe that they will be treated fairly and impartially by Department supervisors and leadership, that their suggestions and observations about police operations will be heard, evaluated, and that Department management demonstrates through its action that they care about the welfare of employees and the future of the Department. Perceptions of ill will can be corrected over time by consistent and sustained actions of good will.

Early in his tenure as Chief of Police, Chief Daniels sought to have evaluated the existing PMT model and employee attitudes at a time when labor negotiations over wages, hours and working conditions were intense. An assessment of employee attitudes and concerns was assessed, and the findings indicated that there were morale issues among many of those who participated in the evaluation process. Not all employees of the Department participated in the initial survey in 2007 and fewer participated in the follow-up survey.

The approval of the City Council of multi-year labor agreements with recognized police sworn and non-sworn bargaining units should help to improve the labor/management environment. The City Council's decisions to approve a change in the existing work schedule of the Police Department in the adopted MOU's, add two new police officer positions in this year's budget and the proposal to add a new police sergeant position in the proposed FY 2008-2009 budget to implement the new schedule by January 1, 2009 will help to address outstanding labor concerns with the work schedule.

#### **Finding #5**

"The evidence received by the Grand Jury paints a picture of a Department in crisis. Many of the statements made by members of the SLTPD and information gathered through documents can only be classified as troubling..."

#### **Response**

I agree that among those persons who responded to the initial survey and to the supplemental survey that there is a degree of cynicism and a degree of disconnect between the perceptions of line personnel and police management. The Chief of Police and police management acknowledge that there are communication and cynicism problems, and they want to correct them.

Maintaining employee self esteem, rewarding employees for their efforts in achieving Department and City goals, employees believing that promotions are based on merit, believing that all management cares about employees of the Department, and allowing a free exchange of ideas and opinions within the context of a police (quasi-military) organization without fear of reprisal are important and essential to the healthy functioning of the Department.

Based on my interviews with management and line personnel I believe that all personnel in police management care about the Department, the people who work there, and the future of the Department. Management showing department personnel on a day-to-day basis they are sincere and concerned about their personal and professional development is an area where work is needed. Department leaders and managers, while maintaining discipline and a chain of command in a police department, must demonstrate by their **actions** their interest in and concern for the men and women in the Police Department. There will always be levels of agreement and disagreement in management/labor issues. Management must approach decisions in good faith and consider and evaluate constructive suggestions, and I have been assured that Police Management intends to do so.

Promotions within the Police Department are based on merit. The Human Resources Manager and her staff work with Department leadership in the conduct of promotional testing and evaluation process. There is no evidence in the record indicating that promotion is based on any other basis. However, Human Resources will work with the Department to better understand specific concerns of employees with regard to promotions and better inform them on the process. To the extent possible and available, standardized and validated testing processes from organizations like the Cooperative Personnel Services (CPS), will be used for all appointments and promotions to build confidence in the system.

#### **Finding # 6**

"The Chief recognized the Police department had many problems, and initiated the review knowing it may be unfavorable. The Grand Jury acknowledges this proactive efforts (sic) in requesting outside professional advice."

#### **Response**

I agree with the finding. The decision to seek an independent review by the Chief of Police is a mark of leadership, and he deserves that recognition and credit.

## GRAND JURY RECOMMENDATIONS

1. "The Grand Jury recommends that the SLTPD leadership attend Strategic Management, Leadership, Coaching & Mentoring, Business Management, Anger Management, and Human Skills Development Training"

### Response

I agree that leadership in the SLTPD should attend leadership training, team building, executive facilitation and coaching, change management and effective communication techniques. Team building exercises should also be conducted with line personnel using models provided by POST.

2. "The City Council and City Manager should take proactive measures in administering oversight to the Police Department. The City Council and the City Manager should assume the formalization of the Police Department oversight is established and fully implemented. The Grand Jury recommends the Chief of Police meet with the City Manager on a "monthly" basis to give a 'State of the Department' update to include performance measurement.

### Response

Formal oversight of the Police Department exists, and will continue. The Chief of Police and City Manager are meeting on a more-than-monthly basis and will continue to do so. The functioning of the Department and issues the men and women of the Department face will remain an important topic of discussion and evaluation.

3. "The Grand Jury recommends the Chief of Police prepare a written three and five year Strategic Plan. A copy of that plan should be published and available to the public."

### Response

I agree that a Corporate Strategy for the Police Department is desirable and shall be developed. The strategy will define values of the organization, identify emerging issues the Department will face in a three to five year period and address how effective and meaningful communication within the Department can and should occur. The development of this strategy will be facilitated and supported by professionals trained in the field.

4. "The City Manager, City Council and the Chief of Police should collectively agree on the type of organizational structure for the South Lake Tahoe Police Department."

### **Response**

The Chief of Police is ultimately responsible for the functioning and operation of the Police Department, and he is held accountable for its operation. The Chief of Police and his management team must work more closely together and be in concert on Department goals and objectives and work as a team to achieve them. At this time, a more traditional model of Department organization is appropriate.

5. "It is recommended that the SLTPD 'revitalize' a form of Participative Management Team. If SLTPD agrees to continue with that program, then management needs to be trained in the PMT process to completely utilize the full benefits of the program. Additionally, employees of the SLTPD must actively participate in the PMT to generate the desired results."

### **Response**

I agree that Department leadership should invite and encourage constructive dialogue with sworn and non sworn members of the Department about operations and this constructive dialogue must be nurtured and protected. In the final analysis, command decisions must be made by the Chief of Police and command staff. The concept of inviting participation and input that was contained in the traditional PMT will be encouraged, even though the Department will move to a more typical model of police department organization. Effective organizations including police departments invite and encourage constructive dialogue to vet issues and improve performance.

6. "The SLTPD's Strategic Plan should address clearly defined performance measures that include at a minimum the following areas of concern:
  - Confidence in Senior Management
  - Cynicism
  - Morale
  - Visions and Values of the Department "

### **Response**

I agree that a corporate strategy is needed as defined in response Recommendation #3

7. "The City Manager and City Council should maintain an active presence in tracking the Strategic Plan progress."

**Response**

I agree and the City Manager and City Council will continue to maintain an active interest in the success of the Department and its fine men and women. It is important that the existing professionalism in the Department be supported and encouraged by Police management. It is equally important that the Department, while remaining accountable, not become a political football that compromises the professionalism of Department, the effectiveness of Department operations, and brings into question the fine work of dedicated men and women of the Department.

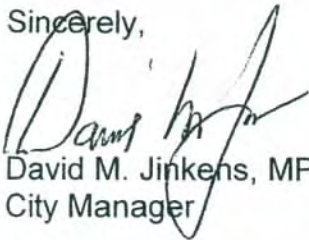
8. "The Chief's annual performance evaluation should include the progress of the goals set in the Strategic Plan."

**Response**

I agree with clarification. The Chief's annual performance evaluation includes addressing outstanding issues, building confidence and overcoming obstacles. Once the Corporate Strategy is developed and in place it too will become a measure of performance for all police management staff including the Chief of Police.

Thank you for the opportunity to reply.

Sincerely,



David M. Jinkens, MPA  
City Manager

- c: Mayor and Council  
City Attorney  
City Clerk  
Chief of Police  
Human Resources Manager



JEFF NEVES

SHERIFF - CORONER - PUBLIC ADMINISTRATOR  
COUNTY OF EL DORADO  
STATE OF CALIFORNIA

REPLY TO:

HEADQUARTERS  
300 FAIR LANE  
PLACERVILLE  
CA 95667  
530 621-5655  
FAX 626-8163

JAIL DIVISION  
300 FORNI ROAD  
PLACERVILLE  
CA 95667  
530 621-6000  
FAX 626-9472

TAHOE DIVISION  
1360 JOHNSON BLVD., SUITE 100  
SOUTH LAKE TAHOE  
CA 96150  
530 573-3000  
FAX 544-6809

August 7, 2008

The Honorable James R. Wagoner  
Presiding Judge, El Dorado County  
Grand Jury  
495 Main Street  
Placerville, California 95667

RE: Response to Grand Jury Report, GJ 07-014, Victim Restitution.

The Honorable James R. Wagoner:

This office has received and reviewed a Report by the 2007-2008 Grand Jury addressing Victim Restitution, including Grand Jury Findings and Recommendations. Please find below the Sheriff's Office response to those Findings and Recommendations relevant to the Sheriff's Office.

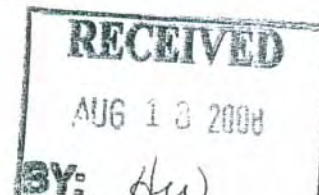
#### Sheriff's Response to Specific Findings

1. The Sheriff agrees with this finding.
2. The Sheriff agrees with this finding.

#### Sheriff's Response to Specific Recommendations

1. This recommendation has been implemented in part. Over the last several months, Sheriff's Office personnel have met with representatives of the District Attorney's Office to explore mutual opportunities to improve the County's restitution program.

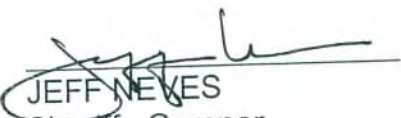
"Serving El Dorado County Since 1850"



Page 2 of 2  
Grand Jury Response  
August 7<sup>th</sup>, 2008

2. This recommendation has been implemented in part. The District Attorney has instituted polices regarding victim contact and restitution. However, the use of the Sheriff's STAR volunteers will require further analysis as they are a volunteer group, prompting challenges in the way of scheduling, training and confidentiality.
  
5. This recommendation will not be implemented because it is not reasonable. There are currently no legal provisions that allow the Sheriff to seize money on deposit in the offenders trust account, also known as an inmate account in the Commissary File.

Sincerely,



JEFF NEVES  
Sheriff - Coroner  
Public Administrator

JN/fk



OFFICE OF THE  
**DISTRICT ATTORNEY**  
EL DORADO COUNTY, CALIFORNIA  
**VERN PIERSON, DISTRICT ATTORNEY**

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August 4, 2008

The Honorable James R. Wagoner  
Presiding Judge  
El Dorado County Grand Jury  
495 Main Street  
Placerville, California 95667

**RE: RESPONSE TO GRAND JURY REPORT  
VICTIM RESTITUTION**

The Honorable James R. Wagoner:

This office has received a Report by the 2007-2008 Grand Jury addressing Victim Restitution (GJ 07-014) which includes Grand Jury Findings and Recommendations. A prevailing concern voiced by the Grand Jury is that crime victims are not receiving restitution amounts owed to them due to a lack of information on actual losses.

Senior-level management in the prior administration of the District Attorney's office did not make restitution a priority in case dispositions. Unfortunately, it appears that the prior administration viewed the establishment and collection of restitution to be the responsibility of the Probation Department and/or the Courts. Due to this failure by leadership, most cases were resolved without any determination of actual restitution owed. This caused a chain of events which resulted in a failure of enforcement of restitution in most cases.

After being sworn into office in January, 2007, the current District Attorney recognized that a determination of loss to crime victims was not sought on a regular basis before a case was resolved. Therefore, in October, 2007, the District Attorney implemented a Restitution Policy. As part of that policy, a victim restitution letter and claim form were also created to assist crime

**Please Reply To:**

✘ 515 Main Street  
Placerville, CA 95667  
(530) 621-6472  
Fax (530) 621-1280

☐ 1360 Johnson Blvd. Ste. 105  
South Lake Tahoe, CA 96151  
(530) 573-3100  
Fax (530) 544-6413

**WEB SITE:**

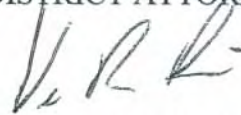
[www.co.el-dorado.ca.us/eldoda](http://www.co.el-dorado.ca.us/eldoda)

victims. The letter explains how to complete the form, where to return it and includes a phone number to the District Attorney Victim/Witness Program for further assistance. This letter along with the claim form are sent out at the same time the District Attorney files charges in a case where there is a victim. When the office receives the claim form back from a crime victim, it is placed in the case file and used to establish restitution amounts when the case is resolved. Further, it is now the policy of the District Attorney to ensure that, when practical, restitution is specified at entry of plea or sentencing.

While significant changes have recently been made in identifying specific losses to crime victims, the District Attorney recognizes that the issue is not completely resolved. Therefore, the District Attorney's Office will continue with its efforts to contact crime victims early on in case proceedings in order to effectively and accurately identify restitution amounts. Additionally, the District Attorney will work diligently to create a comprehensive county program which ensures crime victims receive appropriate restitution.

Sincerely,

EL DORADO COUNTY  
DISTRICT ATTORNEY



VERN R. PIERSON  
District Attorney

VRP:nva

Attachments

cc: El Dorado County Board of Supervisors

✓El Dorado County Grand Jury

**DISTRICT ATTORNEY RESPONSE  
TO SPECIFIC FINDINGS**

1. The District Attorney agrees with this finding.
2. The District Attorney agrees with this finding.
3. The District Attorney agrees with this finding in part. As explained in the above narrative, the Grand Jury's findings correctly recognize a historic shortcoming of the District Attorney. However, with the change in administration, this problem has largely been corrected.
4. The District Attorney agrees with this finding.
5. The District Attorney agrees with this finding.
6. The District Attorney agrees with this finding.
7. The District Attorney agrees with this finding in part. As explained in the above narrative, the Grand Jury's findings correctly recognize a historic shortcoming of the District Attorney. However, with the change in administration, this problem has largely been corrected.
8. The District Attorney agrees with this finding.
9. The District Attorney disagrees with this finding.

**DISTRICT ATTORNEY RESPONSE  
TO SPECIFIC RECOMMENDATIONS**

1. This recommendation has been implemented in part. Over the last several months, the current District Attorney has conducted meetings with representatives of the Superior Court, El Dorado County Probation Department, El Dorado County Revenue and Recovery, El Dorado County Child Support Services, and the El Dorado County Sheriff. It should be noted that the present District Attorney Senior Management (District Attorney and Chief Assistant District Attorney) were previously experienced prosecutors in counties without this shortcoming.
2. This recommendation has been implemented in part. As stated in the above narrative, the District Attorney's current administration implemented a policy change in October of 2007, which implements the recommendation regarding early victim contact and restitution identification. However, use of the Sheriff's STAR volunteers has not been implemented and will require further analysis regarding feasibility.
3. This recommendation has been implemented.
4. This recommendation requires further analysis. Upon consultation with the Superior Court, it is believed this recommendation may violate Penal Code § 1201.3.
5. This recommendation has been submitted to the El Dorado County Sheriff.
6. This recommendation has been implemented in part. Over the last several months, the current District Attorney has conducted meetings with representatives of the Superior Court, El Dorado County Probation Department, El Dorado County Revenue and Recovery, El Dorado County Child Support Services, and the El Dorado County Sheriff. It should be noted that the present District Attorney Senior Management (District Attorney and Chief Assistant District Attorney) were previously experienced prosecutors in counties without this shortcoming. However, the District Attorney does not believe it would be feasible to integrate with the state at this time.



OFFICE OF THE  
**DISTRICT ATTORNEY**  
EL DORADO COUNTY, CALIFORNIA

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**VERN PIERSON, DISTRICT ATTORNEY**

**M E M O R A N D U M**

**TO : All Attorney Staff**

**FROM : Vern Pierson, District Attorney**

**DATE : October 4, 2007**

**SUBJECT : Restitution Policy**

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It appears that in many cases our office does not consistently have an amount of restitution owing to the victim(s) at the time of plea. This results only in a general order of restitution and at some later time a restitution hearing being set to determine the amount owing. In order to have the restitution amount at the time of plea, the following is effective immediately.

Upon the filing of any case where restitution is, or may become, an issue, the filing attorney shall note on the filing form that a restitution letter to the victim is needed. This request should be noted before the case goes to staff members for filing.

Once the filing form is received by staff members with this notation, a victim letter shall be prepared (see attached example), signed by the filing attorney and sent to the victim. The letter directs that a separate form (Restitution Claim Form) be returned to the Victim/Witness Program to the attention of Sue Meyer. Once Victim/Witness receives the claim form, it will be matched up with the file and brought to an attorney's attention so that information can be noted in the file and documentation supporting any loss can be discovered to defense counsel.

The attorney handling the case in court shall look in the file for such information. As part of a plea bargain in any case, attorneys shall request a stipulation from defense counsel regarding the claimed amount, if supported by the documentation received. It should be the unusual case (i.e. ongoing medical expenses) where a specific amount of restitution is not ordered. Additionally, at the time of plea, the attorney shall request an Order of Restitution for the claimed amount as part of the probationary terms. If defense counsel is not willing to stipulate to the restitution amount, a restitution hearing shall be set immediately.



OFFICE OF THE  
**DISTRICT ATTORNEY**  
EL DORADO COUNTY, CALIFORNIA

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**VERN PIERSON, DISTRICT ATTORNEY**

<Insert Date>

Victim Name  
Address

RE: People v. Defendant

Dear Mr./Ms. Victim:

Our office has filed charges in the above-referenced matter in which you are a named victim. Based on information we have received, it appears you may have incurred some monetary loss as a result of the crime. Please complete the enclosed Restitution Claim form. The amounts you submit on the enclosed form will be used by our office, in Court, to seek repayment for your losses. Therefore, please be accurate in completing the form.

On the form, you should include the amount of loss, the nature of the loss (i.e. vehicle damage, medical bills, loss of wages) and whether insurance has made any payments. Please attach all necessary documents that support the amount being claimed. Additionally, there is space on the form to write a description of your expenses/losses and how you arrived at the amount of loss being submitted. If you have on-going medical expenses, please indicate that information on the enclosed form, but still include your total current expenses. Once you have completed the enclosed form, please sign it and return to our office within thirty (30) days in the enclosed envelope.

**Please Reply To:**

■ 515 Main Street  
Placerville, CA 95667  
(530) 621-6472  
Fax (530) 621-1280

□ 1360 Johnson Blvd., Ste. 105  
South Lake Tahoe, CA 96151  
(530) 573-3100  
Fax (530) 544-6413

If we do not receive a response within thirty (30) days, it may lead to the Court not being properly informed of your losses and may interfere with our ability to seek restitution on your behalf. Additionally, if you decide to exercise your option of civil recourse against the offender, please notify our office with that information immediately. If you have questions, please contact our Victim/Witness Assistance Program at (530)621-6414.

Sincerely,

WEB SITE:  
[www.co.el-dorado.ca.us/eldoda](http://www.co.el-dorado.ca.us/eldoda)

Name  
Deputy District Attorney

Enclosures