

**SHASTA COUNTY GRAND JURY REPORT April 2021
“CARR FIRE INCIDENT”**

**WHEN RANK HAS ITS PRIVILEGES or
ADDING FUEL DURING THE FIRE**

SUMMARY

The 2020-2021 Shasta County Grand Jury received a complaint against a sitting member of the Shasta County Board of Supervisors. The scope of the complaint and the fact that the subject of the complaint was an elected official were significant. The Grand Jury formed an ad hoc committee to complete a thorough and detailed investigation into the complaint. Shasta County Counsel provides routine legal analysis to the Grand Jury. As Shasta County Counsel also provides legal representation to the Board of Supervisors, creating a conflict of interest, the Grand Jury was referred to the Shasta County District Attorney for legal assistance. The Grand Jury sought legal advice from the District Attorney’s Office throughout the investigation. Based on the information provided to this grand jury it was determined that sufficient evidence existed to confirm that the complainant’s concerns were warranted.

GLOSSARY

Malfeasance: The doing of an act that is positively unlawful or wrong; or the performance of a wrongful act that the person has no legal right to do.

Misfeasance: The improper doing of an act that a person might lawfully do; or the performance of a duty or act that one ought or has a right to do, but in a manner so as to infringe upon the rights of others.

Nonfeasance: The failure to act where duty requires an act; or neglect or refusal, without sufficient cause or excuse, to do that which is the officer’s legal duty to do, whether willfully or through malice; or willful neglect of duty.

Misconduct: To behave in an improper or unprofessional manner.

BACKGROUND

The Carr Fire began on July 23, 2018 and was contained on August 30, 2018. It was the seventh largest fire in modern California history. During the course of the fire, eight lives were lost-

A total of 229,651 acres burned and at least 1,604 destroyed structures, of which 1,077 were homes. Arguably this was one of the most devastating times in Shasta County history.

In addition to the loss of life and homes that occurred, there was an emotional toll inflicted upon the residents of Shasta County that still lingers today. For that reason, any report regarding the actions our local officials undertook during that event is a topic worthy of review.

During the Carr Fire, the public relied heavily on public safety professionals, local government and agency heads to continue upholding their oaths of office and put the needs of Shasta County first. Sadly, two public safety professionals gave their lives upholding their oaths, and several others lost their homes as they protected the homes of others.

Everyone who lived in the affected areas wanted to know the status of their homes, retrieve their belongings or start the process of accepting their losses. It was a difficult and chaotic time in which the agency heads were asked repeatedly for help. While many citizens were provided escorts to their homes to pick up belongings, vehicles and medication, many were not able to get that same courtesy. Whether that was due to lack of available manpower able to accommodate all of the overwhelming requests or the fact that they did not have a law enforcement representative personally available to them is unquantifiable.

Government Ethics vs. Personal Morality

The Grand Jury recognizes that human beings are imperfect. Misconduct, corruption, scandal, unethical behavior and just plain poor judgement are found in businesses, financial institutions, colleges, booster clubs, etc.

Name any enterprise or entity and there is likely a story to be found regarding an ethical breach of trust. Therefore, standards of ethical conduct have been well established in legal, medical, judicial, accounting, education, journalism and many other professions.

When examining ethics in government it is important to make a distinction between personal and public conduct.

Personal ethics exist to make people morally better and improve relationships.

Government ethics is not interested in the personal responsibility aspect of “being good,” rather it is centered upon the decision-making conflicts between public and private obligations.

METHODOLOGY

Interviewed several people including law enforcement officers

Interviewed the Shasta County District 2 Supervisor

Frequent consultation with the Shasta County District Attorney’s Office

A review of all written correspondence

Review of California State Assembly Bill No.1234

Review of Shasta County Board of Supervisors Policies and Procedures

DISCUSSION

In the matter presented to this grand jury the fine line of personal morality and government ethics became intersected. As the grand jury has no purview to determine the scope of an elected official’s personal morality it was necessary to review the totality of the circumstance to determine if there had been a breach of governmental ethics.

In doing so, it was established that the District 2 Supervisor for Shasta County had committed an act of misfeasance. By utilizing the authority of his position to gain a service not provided to his constituency and under the guise of performance of job duties, the supervisor was found to have “infringed upon the rights of others” by using county resources for personal benefit during a time of crisis.

This constitutes a breach of governmental ethics under California State Assembly Bill No.1234 (AB No. 1234) Article 2 Training 5324: ...” *prohibitions against the use of public resources for personal or political purposes*”. This jury determined that the Shasta County Board of Supervisors does not possess a separate code of ethics that could be a companion to AB No.1234. The Board’s policies instead follow state guidelines in regard to ethical conduct.

It is understandable that a Supervisor would tour the district in which they are responsible and that that supervisor’s home would be of interest during those tours. However, the supervisor received multiple escorted visits determined to be primarily in the supervisor’s neighborhood rather than the affected areas of his district.

Prior to those tours, the District 2 Supervisor did intentionally load fuel cans into a county vehicle with the expressed purpose of fueling the generator at his home. It could be stated that anyone who had similar access to the restricted area might choose to attend to matters at their own home. However, an elected official is held to a higher standard than the average citizen and thus their actions are scrutinized more closely.

Additionally, there is a perception expressed by department heads that if there is an opportunity to assist an official whose decisions might affect their budget, they are compelled to extend professional courtesies. However, extending courtesies repeatedly for one individual takes time away from duties and may impact citizens they serve.

CONCLUSION

The jury has concluded that the District 2 Supervisor did utilize the professional courtesy extended to him in an attempt to forestall loss of his personal perishable food items during the Carr Fire.

That does not negate the fact that he did take additional tours of his district and make his constituency aware of the status of their homes.

However, the District 2 Supervisor took advantage of the situation under the auspices of conducting the business for which he was elected. While the jury determined no laws were broken and proper escorts were provided, the act of bringing fuel on multiple occasions is a clear indicator the intent of the tours on those days was to fuel the supervisor’s personal generator.

FINDINGS

- F1. During the 2018 Carr fire evacuations the Supervisor of District 2 of Shasta County used the authority of his office to enter the evacuated area and fuel his personal home generator multiple times for personal gain.
- F2. Review by the SCGJ finds that this activity is prohibited by **California State Assembly Bill No. 1234**.

RECOMMENDATIONS

- R1. The Shasta County Board of Supervisors will place on their agenda by October 15, 2021, a motion to publicly censure the Supervisor of District 2 for actions taken during the 2018 Carr Fire.

R2. The Shasta County Board of Supervisors by October 15, 2021, will offer the Supervisor of District 2 an opportunity to publicly apologize for his actions.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses as follows:

- R1 and R2: Shasta County Board of Supervisors by October 1, 2021.

BIBLIOGRAPHY

California State Assembly Bill No. 1234, Article 2.4. Ethics Training 53234.

For the purposes of this article, the following terms have the following meanings:

- (a) “Legislative body” has the same meaning as specified in Section 54952.
- (b) “Local agency” means a city, county, city and county, charter city, charter county, charter city and county, or special district.
- (c) “Local agency official” means the following:
 - (1) Any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.
 - (2) Any employee designated by a local agency legislative body to receive the training specified under this article.
- (d) “Ethics laws” include, but are not limited to, the following:
 - (1) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
 - (2) Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
 - (3) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
 - (4) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

When there is a perception of a conflict of interest involving a member of the Grand Jury, that member has been required to recuse from any aspect of the investigation involving such a conflict and from voting on the acceptance of or rejection of that report. Two members of the Grand Jury were recused from this report.