



Grand Jury

**FINAL REPORT
WITH RESPONSES**



2010-2011

2010/2011

Shasta County

***Grand Jury Report With
All Responses***

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Shasta County

GRAND JURY

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REDDING, CA 96099-2086
VOICE MAIL: (530) 225-5098

June 27, 2011

Hon. Molly Bigelow
Presiding Judge of the Superior Court
1500 Court Street
Redding, CA 96001

Re: Shasta County Grand Jury
2010/2011

Dear Judge Bigelow,

On behalf of the 2010/2011 Grand Jury and in accordance with the laws of the State of California, the Grand Jury's final report is respectfully submitted.

This report is being presented for publication after hundreds of hours of careful deliberation and a rigorous review process and represents the dedication and professionalism displayed by the other 17 members of this year's Grand Jury.

As the Foreperson, I would like to express my gratitude to my fellow Grand Jurors for their hard work and integrity and acknowledge the time and energy they have devoted to this very important community service.

We would like to give special thanks to Senior Deputy County Counsel David Yorton, retired County Counsel Karen Jahr, Court Administrative Officer Melissa-Fowler-Bradley, Judicial Secretary Diana Wasson, and Agency Staff Services Analyst Megan Dorney for their support and counsel throughout this process.

It has been our honor to serve as members of the 2010/2011 Shasta County Grand Jury.

Sincerely,

Jim Berg, Foreperson

Your Shasta County Grand Jury

Authority to Act

In California, the state constitution requires the Superior Court in each county to impanel at least one grand jury each year. The California Penal Code and other state laws govern and guide grand juries. More specifically, Section 925, et. seq. of the Penal Code authorizes the grand jury to investigate and report on the operations of any local governmental agency within the county.

The Shasta County Grand Jury functions as an arm of the judicial branch of government, operating under the guidance of the Presiding Judge of the Shasta County Superior Court. In this capacity, the grand jury inquires into and investigates the operations of local government agencies and officials, ensuring that their activities are authorized by law and services are efficiently provided.

All communications with the grand jury are confidential. Information provided to the grand jury to support a complaint is carefully reviewed to determine what further action, if any, is required. If it is determined that the matter is not within the investigative authority of the grand jury, no further action is taken. If the matter is within the legal scope of the grand jury's investigative powers and warrants further inquiry, the grand jury will contact and interview those individuals who may be able to provide additional information. During an investigation, all information and evidence will be considered; however, a review may not result in any action or report by the grand jury.

Jurisdiction

Acting on its own initiative or responding to a written complaint, the grand jury:

- May investigate aspects of county and city government departments and programs, local public officials' functions and duties, and the operations of special districts. Almost any governmental entity that receives public money may be examined.
- May return indictments for crimes committed in the county. When an indictment has been voted on, the case proceeds through the criminal justice system. The decision whether or not to present criminal cases to the grand jury is made by the county District Attorney.
- May bring formal accusations against public officials for willful misconduct or corruption in office. These accusations can lead to removal from office.

The grand jury must inquire into the condition and management of all the adult or juvenile detention or correctional facilities within the county.

The grand jury is not allowed to continue an oversight from a previous panel. If the grand jury wishes to look at a subject which a prior panel was examining, it must start its own investigation and independently verify all information. It may use information obtained from the prior jury, but this information must be verified before it can be used by the current jury.

The grand jury is exempt from the requirements of the state's open meeting law (the Brown Act). Actions are taken by vote of the jury, in accordance with an approved set of rules of procedure.. The ability to internally police itself allows the grand jury to operate completely independent of external pressures. The desired result is a self-directed body of citizens that has the power to uncover and pursue unlawful conduct within local government .

Citizen Complaints

The grand jury reviews all complaints and conducts investigations when appropriate. Each complaint is treated confidentially. The complainant may be asked to appear as a witness. A complaint form may be obtained by contacting:

Shasta County Grand Jury
P.O. Box 99286
Redding Ca. 96099-2085
(530) 225-5098 or online at www.co.shasta.ca.us

Why should you serve?

As a grand juror, you will have an opportunity to make a difference. You will become involved with other interested citizens in learning more about the operations of local government, including the county, cities, special districts and school districts. The grand jury issues informational reports about the performance of local government agencies, offering recommendations aimed at improving the agencies that serve this community. A challenging year of investigations, interviews and reporting will give you a unique opportunity to delve into local government issues, while working with a group of civic-minded individuals.

To be a Grand Juror

The Shasta County Grand Jury is composed of 19 county citizens. A prospective juror should be willing to work as a team member, understand small group dynamics and be willing to work in a collaborative manner to reach consensus. Although not essential, access to a computer and the ability to research topics on the internet will be helpful to the prospective juror. Prospective jurors apply in April for the coming fiscal year. The Presiding Judge randomly selects grand jurors from a pool of up to 30 applicants. To preserve continuity, the Presiding Judge may select a few jurors to continue into a second term; however, jurors may not serve more than two consecutive terms.

Prospective Grand Jurors

An application to serve on the Grand Jury may be requested from the following address:

Shasta County Superior Court
Courthouse Room 205
1500 Court Street
Redding, Ca. 96001 or on line at www.co.shasta.ca.us

Reports issued by the grand jury do not identify the 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. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full and honest testimony in civil grand jury investigations by protecting the privacy and confidentiality of those who participate in any civil grand jury investigation.



2010/2011 SHASTA COUNTY GRAND JURY

Jim Berg, Foreperson

Pat Arnold	Colette Butler
Christina Candelaria	Patricia Carver
George Clarke	Douglas Cook
James Dillon	Mark Doyle
John Gonzalez	Jeff Herndon
Dorothea Howerton	Rochelle (Shelly) Jenkins
Martha Leard	Erin Murphy
Alvin Parker	David Plowman
Charlotte Ramage	

Grand Jury Committees

Audit and Finance
 City Government
 Continuity
 County Government
 Criminal Justice
 Editorial
 Information Technology
 Local Districts and Agencies

Summary of 2010/2011 Grand Jury Activities

Agencies, Departments and Facilities Toured	.....	20
Autopsies Attended	.....	8
Committee Meetings Held	.....	116
Complaints Received	.....	46
Criminal Hearings Held	.....	0
Interviews Conducted During Course of Investigation	.....	155
Final Reports Issued	.....	12
Governmental Board Meetings Attended	.....	1
Indictments Issued	.....	0
Joint Audit Committee Meetings Attended	.....	2
Meetings of the Full Grand Jury	.....	29
Interviews Conducted in the Course of Investigations	.....	155

Responses to the Grand Jury Final Report

Section 933.05 of the California Penal Code requires that responses to the final report of the grand jury be submitted to the court no later than 90 days after the report's release to the public if the respondent is a governing body, or 60 days if the respondent is an elected official. The responses must be sent to the Presiding Judge of the Shasta County Superior Court. .

The respondents are required to comment on the findings and recommendations contained in the report. With regard to each finding, the respondent must indicate whether the respondent agrees with the finding, or disagrees wholly or partially with the finding, and the grounds for any disagreement. With regard to recommendations, the respondent must indicate that the respondent has implemented the recommendation, plans to implement the recommendation in the future, will further analyze and study the recommendation or will not implement the recommendation and, if not, provide an explanation as to why it will not be implemented.

Copies of the Shasta County Grand Jury's reports and the required responses made by governing boards and elected officials may be found on the Shasta County Grand Jury's webpage at www.co.shasta.ca.us Electronic copies of reports and responses date back to the 2001/02 Grand Jury's report.

At the time this Consolidated Final Report was compiled, the information it contained was accurate to the best of the grand jury's knowledge and belief. However, some facts may have changed since the individual reports were completed. Whenever possible, the report has been updated.

When there is a perception of a conflict of interest involving a member of the grand jury, that member has been required to recuse herself or himself from any aspect of the investigation involving such a conflict and from voting on the acceptance or rejection of that report.

*SPECIAL THANKS TO
MARION SCHMITZ AND
SUSAN THORSTEINSON FOR
THEIR HELP TO THE NEW
GRAND JURY PANEL AT THE
BEGINNING OF THE
2010-2011 TERM.*

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AUDIT and FINANCE COMMITTEE

Overview: The Audit and Finance Committee is required by law to annually examine the financial accounts and records of Shasta County. This examination is conducted in conjunction with the annual audit required by Government Code 25250.

Audit of Shasta County Accounts

“No Exceptions Noted”

Penal Code Section 925 requires the Grand Jury to annually examine the financial accounts and records of the county.

In addition, Government Code Section 25250 requires the Board of Supervisors to conduct an annual audit of all county accounts. This audit is conducted by a “contract auditor” pursuant to Government Code Section 31000. Penal Code Section 926 allows the Grand Jury to enter into a joint contract with the Board to employ an auditor for both of these purposes.

A Joint Audit Committee consists of members of the Grand Jury Audit and Finance Committee, the Grand Jury Foreperson, the Chairperson and Vice Chairperson of the Shasta County Board of Supervisors, the County Administration Officer, the Budget Officer, County Counsel, the Treasurer-Tax Collector and the Auditor-Controller.

As part of the Joint Audit Committee, the Audit and Finance Committee monitors the contract auditor, Gallina, LLP, and reviews its report. Gallina indicated in this year's report that everything was in order and found no concerns. Gallina also reported that the controls in place for the county are working well.

The Joint Audit Committee met three times this year to receive reports and consider the renewal of the Gallina, LLP, contract for an additional year. Since the contract is with the County of Shasta, the Shasta County Grand Jury and Gallina, LLP, the liability policies maintained by the contractor now name the Grand Jury as an additional insured.

The final result of the auditor's report was an “unqualified opinion”, meaning no exceptions were noted. Due to the complexity of county finances and the different accounting and reporting requirements, it is no small feat for a government entity to receive an unqualified opinion on their audit.

CITY COMMITTEE

Overview: The City Committee investigated the impact Measures A and B on the November, 2010 ballot had on City finances; a complaint by a City landowner that the City had violated the law when it approved the construction of three subdivisions in her neighborhood.

Redding Ballot Measures A and B

“Misuse of City Funds or Negotiating Tool?”

SUMMARY

The Grand Jury decided to look into ballot measures A and B on the November, 2010 ballot for City of Redding voters. The focus of the investigation was whether these measures should have been put into place by a vote of the City Council or whether the Council's decision to place these measures before the voters constituted a misuse of City funds.

GLOSSARY

MEASURE A -- An ordinance making it a labor negotiations policy providing that City employees and City officials pay the full employee contribution of CalPERS pension benefits to be phased in over a period not to exceed four years.

MEASURE B -- An ordinance making it a labor negotiations policy that City contributions to retiree health care plan premiums be changed from no time requirement to a formula based on years of service with a minimum five-year vesting requirement.

BACKGROUND

At a City Council meeting in June of 2010, the Council asked the City Attorney to look into putting Measures A and B before the voters. After researching the question, the City Attorney advised the Council that the ballot measures they were proposing were legal and would not impair existing contract negotiations or violate laws regarding good faith negotiations. Later that month, the Council voted to place both measures on the November ballot.

APPROACH

The Grand Jury began its investigation months prior to the November, 2010 election and terminated it with the writing of this report. The Grand Jury interviewed City Council members, a member of the City Attorney's office, a member of the City Manager's office and a union representative. Each expressed their views on the advisory election process versus an up or

down vote by City Council members which could save the City the cost of an election which was then estimated to be \$50,000.

DISCUSSION

The Grand Jury determined that during Fiscal Year 2010/2011, the City will be negotiating with nine different unions in an effort to come up with new labor contracts. Each contract expires at different times so negotiations are ongoing throughout the year. Up to the time of the November election, negotiations had all but come to an impasse with a number of those unions. A union representative interviewed by the Grand Jury stated that Measures A and B opened the eyes of the community on the cost of union benefits for City employees and got the discussion going.

In order to move the negotiations along, City Council members favored the referendum process that could guide future City Council members in their efforts to negotiate new contracts, so the two measures were placed on the ballot. At the November, 2010 election, 64.23 percent of the City of Redding voters approved Measure A and Measure B passed by 69.37 percent.

The Shasta County Clerk determined the actual cost to the City for placing these two measures on the ballot was \$10,676.76. City Council members who were in favor of placing Measures A and B on the November ballot have stated that they believe the cost of the election was money well spent. One city official stated it is too soon to say for sure because the election was in November, only four months prior to the completion of this report.

That same city official stated that two union contracts were finalized in January, 2011, two months after the November election. A union representative however said that Measures A and B had no impact on those negotiations because they had been ongoing for some time prior to the election.

FINDINGS

The Grand Jury found that the Redding City Council did not misuse City funds because it acted within its authority.

RECOMMENDATIONS

Since the decision to place Measures A and B on the November 2010 ballot was favored by a majority of the members of the Redding City Council and ultimately approved by the voters, the Grand Jury makes no recommendation.

DISCLAIMER

This report was issued by the Grand Jury with the exception of one member who was recused due to a potential conflict of interest. That juror was present for some interviews but was excluded from all other parts of the investigation, including deliberations and the making and acceptance of this report.



Response:

CITY OF REDDING

Redding Ballot Measures A and B *“Misuse of City Funds or Negotiating Tool?”*

SUMMARY

The Grand Jury decided to look into ballot measures A and B on the November, 2010 ballot for City of Redding voters. The focus of the investigation was whether these measures should have been put into place by a vote of the City Council or whether the Council's decision to place these measures before the voters constituted a misuse of City funds.

RECOMMENDATIONS

Since the decision to place Measures A and B on the November 2010 ballot was favored by a majority of the members of the Redding City Council and ultimately approved by the voters, the Grand Jury makes no recommendation.

RESPONSE

Redding Ballot Measures A and B

The Redding City Council agrees with this Finding.

Response By Missy McArthur, Mayor

Nuisance Water Run-Off from Neighboring Properties

“Violation of Subdivision Map Act?”

SUMMARY

A City of Redding property owner submitted a complaint to the Grand Jury alleging the City of Redding Planning Department had violated Government Code Section 66411, part of the California Subdivision Map Act when it approved three new subdivisions in her neighborhood. She alleged that the construction of those subdivisions has caused a health hazard and environmental damage to her property with the loss of native trees.

The Grand Jury found the city is in compliance with the Subdivision Map Act and the California Building Code, but did find nuisance water flow (irrigation and domestic) migrating onto the claimant's property.

BACKGROUND

The property owner purchased her property over 30 years ago. From 1994 to 2006, three new subdivisions were constructed so that some of the lots would drain onto the northwest corner of her property. The property owner stated that she started noticing nuisance water, irrigation and domestic, accumulating on her property during the summer of 1999.

On September 22, 2010, the Grand Jury visited the site and observed one to three inches of standing water, dead trees and weeds in a swale (a marshy depression between ridges). As part of the investigation, the Grand Jury also interviewed the property owner, four employees of the City of Redding, an environmental assessor, a consulting engineer and a neighboring property owner.

The Subdivision Map Act states at Government Code Section 66411 that each local agency, such as a city, must have an ordinance that provides for "proper grading and erosion control, including prevention of sedimentation or damage to offsite property."

DISCUSSION

In 2004, the property owner hired a private professional firm to prepare a Current Conditions Report of the subject site. That report stated on July 27, 2004 water was present on the property.

The report also stated that in the summer months, landscape irrigation from other properties creates a pond in the swale and the flow is frequent enough that the area is never allowed to completely dry out. The property owner also contends that the standing water has stressed and killed several trees and shrubs, and has created a mosquito habitat and an unsightly weeded area.

The firm's environmental assessor testified to the Grand Jury the topography and vegetation in the vicinity of the site is indicative of a foothill woodland plant community which

receives little rainfall in the summer months. An ephemeral stream channel runs through the swale during major winter storms. But for irrigation runoff, the channel would be dry from late spring through the summer months and into the fall.

Some other factors the Grand Jury considered are:

- Four City of Redding employees testified they could only recall two complaints within the last ten or 11 years and one was in the same vicinity as this one.
- A city planning official testified that private engineers have been retained by developers to design grading and drainage plans for subdivisions. They are required to comply with the California Subdivision Map Act and city ordinances.
- A city building official testified that the city has adopted the California Building Code which is amended every three years and the term "nuisance water" is not addressed in this code.
- The consulting engineer testified he had never received a complaint regarding nuisance water, but was aware of at least 20 sites that may have wet soil or a small amount of standing water from nuisance water.
- All those interviewed above agree that Government Code Section 66411, part of the California Subdivision Map Act was intended to regulate storm water, not nuisance water. No one was aware of any city ordinances regulating nuisance water.
- The neighbor stated that he had observed that the swale on the subject property was dry in the summer before the subdivisions were constructed and confirmed that a number of trees had died after the nuisance water started to flow.
- It is possible that a new subdivision could add to the accumulation of nuisance water to a downstream owner's property during the dry season and cause a standing water problem.
- It would be difficult for a property owner to foresee such a problem or for the city to calculate the volume of nuisance water flows.

FACTS

The City of Redding has no policy in place regarding nuisance water flows that may affect nearby properties.

Section 66411 of the Subdivision Map Act does not deal with potential damage to nearby property owners by nuisance water.

All city employees and the consulting engineer agree that Section 66411 of the Subdivision Map Act was intended for storm water, not nuisance water. No one was aware of any city ordinances regulating nuisance water.

FINDINGS

- F-1 Developers, consultants and city planners should take into consideration the possibility of nuisance water flow onto nearby properties during the design phase of a project, including single family dwellings, subdivisions, commercial properties and projects requiring a city permit.
- F-2 Measures are available to reduce nuisance water flow such as French drains on downstream properties, if irrigation water is foreseen. Those measures should be included in the drainage system during the planning stage of a project.

RECOMMENDATIONS

The Grand Jury makes no recommendation on this complaint because there is no evidence the City violated Section 66411 of the Subdivision Map Act.



City Committee Chair, George Clarke, takes notes from the property owner during a tour of the property

Response:

**Nuisance Water Run-Off from Neighboring Properties
“Violation of Subdivision Map Act?”**

SUMMARY

A City of Redding property owner submitted a complaint to the Grand Jury alleging the City of Redding Planning Department had violated Government Code Section 66411, part of the California Subdivision Map Act when it approved three new subdivisions in her neighborhood. She alleged that the construction of those subdivisions has caused a health hazard and environmental damage to her property with the loss of native trees.

The Grand Jury found the city is in compliance with the Subdivision Map Act and the California Building Code, but did find nuisance water flow (irrigation and domestic) migrating onto the claimant's property.

RECOMMENDATIONS

The Grand Jury makes no recommendation on this complaint because there is no evidence the City violated Section 66411 of the Subdivision Map Act.

RESPONSE

Finding No. 1

Developers, consultants and city planners should take into consideration the possibility of nuisance water flow onto nearby properties during the design phase of a project, including single-family dwellings, subdivisions, commercial properties and projects requiring a city permit.

Response to Finding No. 1

The Redding City Council agrees with this Finding.

Finding No. 2

Measures are available to reduce nuisance water flow such as French drains on downstream properties, if irrigation water is foreseen. Those measures should be included in the drainage system during the planning stage of a project.

Response to Finding No. 2

The Redding City Council agrees with this Finding.

Submitted By Missy McArthur, Mayor

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CRIMINAL JUSTICE COMMITTEE

Overview: The Criminal Justice Committee prepared eight reports this year, most dealing with the operations of local law enforcement agencies. One report deals with a complaint from an inmate at the Shasta County Jail.

Shasta County Coroner's Office

“Excellence and Professionalism”

SUMMARY

The duties of the Coroner's office are to identify the deceased, the medical cause of death, the manner of death and the mechanism of death in all cases of homicide, suicide, accidental, suspicious or unexplained death.

The Shasta County Coroner's office is currently staffed with qualified and dedicated employees and is fortunate to have one of the only two forensic pathologists in the north state. The Grand Jury would like to commend the Sheriff, Chief Deputy Coroner and all of the employees of the Shasta County Coroner's Office for their continued excellence and professionalism.

APPROACH

The Grand Jury toured the Coroner's office and reviewed materials provided at the time of the tour. The sheriff, supervisors and employees of the Coroner's office were also interviewed.

BACKGROUND

The 2010-2011 Grand Jury toured the Shasta County Coroner's office, which is located at 4555 Veterans Lane in Redding. The Shasta County Sheriff is the county coroner and the Chief Deputy Coroner is a sheriff's lieutenant. They are assisted by two deputy coroner investigators, one forensic pathologist, a civilian pathologist's assistant as well as one administrative assistant.

The facility was built in the 1970s and is well maintained. All the areas toured were clean and organized. The office is operating well with minimal resources, despite staff having to work with old gurneys.

The Grand Jury attended autopsies conducted by the forensic pathologist. It was informative to see the forensic pathologist and her assistant coordinate throughout this intricate procedure, working with smooth and efficient synchronization.

After an autopsy has been completed, the forensic pathologist sends a written report to the Sheriff/Coroner who then determines if an inquest (inquiry) or death review is required.

The Shasta County forensic pathologist is often requested to conduct autopsies in other northern California counties which do not have a pathologist on staff. The Shasta County Sheriff's Office is reimbursed for these services. This reimbursement is later transferred into the County's general fund.

Occasionally autopsies are outsourced when the forensic pathologist is on vacation. Documents reviewed by the Grand Jury showed in 2010, one autopsy was conducted by an outside agency. Four autopsies were conducted by a local pathologist and of these two were full autopsies, one was a medical review and one was an external examination.

Coroner's records show during 2010, the coroner's office reviewed or dealt with 988 routine information deaths. A portion of those deaths were categorized as:

- 41 suicides
- 18 vehicle-related deaths
- 3 homicides
- 52 drug-related deaths
- 146 natural causes
- 10 undetermined

Of the 259 bodies transported and examined by the Coroner's office, 160 resulted in full autopsies and 99 involved only external examinations.

DISCUSSION

Some of the duties that are entrusted to the Sheriff-Coroner are to:

- Investigate all suspicious, violent, unattended, in custody or unexpected deaths that occur within Shasta County.
- Monitor the forensic pathologist in the performance of autopsies.
- Work closely with California Department of Public Health Vital Statistics, medical doctors and mortuaries in the completion of death certificates and permits.
- Maintain the county-owned cemeteries at Clear Creek, Shasta Lake and Whiskeytown for the burial of decedents.

- Assist other northern California coroners in their investigations when requested including Humboldt, Trinity, Siskiyou and Modoc County.
- In addition, employees occasionally participate in the "Choices for Life" program with local youth to emphasize the prevention of untimely deaths due to, alcohol and drug use or unsafe driving.

FINDINGS

F1. The Grand Jury has determined that the Coroner's office is in dire need of new gurneys.

RECOMMENDATIONS

R1. The Grand Jury recommends Shasta County allocate resources in next year's budget or seek grant funding for much needed newer gurneys.

REQUEST FOR RESPONSES

The Shasta County Sheriff is requested to respond to F1 and R1.



Shasta County Coroner's Office

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Response:

SHASTA COUNTY SHERIFF/CORONER

Shasta County Coroner's Office “*Excellence and Professionalism*”

SUMMARY

The duties of the Coroner’s office are to identify the deceased, the medical cause of death, the manner of death and the mechanism of death in all cases of homicide, suicide, accidental, suspicious or unexplained death.

The Shasta County Coroner's office is currently staffed with qualified and dedicated employees and is fortunate to have one of the only two forensic pathologists in the north state. The Grand Jury would like to commend the Sheriff, Chief Deputy Coroner and all of the employees of the Shasta County Coroner's Office for their continued excellence and professionalism.

RECOMENDATIONS

R1. The Grand Jury recommends Shasta County allocate resources in next year’s budget or seek grant funding for much needed newer gurneys.

RESPONSE

The Sheriff agrees with the finding and recommendation. Prior to the Grand Jury tour, finding and recommendation, the Sheriff had already identified the need to replace the gurneys. Funds have been allocated for replacement gurneys.

Response By Tom Bosenko, Sheriff/Coroner

Fire Arms Training Simulator

“Making Split Second Decisions”

SUMMARY

The 2010-2011 Shasta County Grand Jury attended one part of the firearms training for the Shasta County Sheriff’s Department. This training is called FATS (Fire Arms Training Simulator). Law enforcement officers are exposed to a number of dangerous situations in the field and FATS training is designed to help them make smart split second decisions, no matter what position they find themselves confronted with.

BACKGROUND

Several Grand Jury members participated in the same FATS training that Shasta County Sheriff’s deputies take. The training was conducted in a mobile unit operated by a professional firearms instructor who provides this training to law enforcement agencies throughout the west.

During the training, officers are equipped with an actual handgun with simulated bullets, baton and pepper spray. A simulator is set up depicting different situations that an officer could encounter in the field. For example, the driver of a vehicle is shown responding to an officer’s verbal commands. The officer asks the driver to step out of the vehicle and the driver steps out. But as sometimes happens in the field, things can escalate when the suspect suddenly pulls a weapon from his clothing and threatens the officer with it. FATS presents alternative ways the officer can diffuse a dangerous situation for his safety and the safety of others in the area.

Law enforcement officers are required to make split second decisions to whatever is presented to them at the time. If that decision is wrong, the officer could jeopardize not only his own life but the lives of other officers and citizens in the area. Through the simulator, the officer can review his reactions with the instructor and in hindsight, determine whether his response was appropriate.

The Grand Jury commends the Sheriff’s Department for providing this training to its deputies and finds FATS to be essential training that should be continued in the future.



Grand Juror Charlotte Ramage gets tips from the instructor during FATS training.

Shasta County Jail ***“Inspection Report”***

SUMMARY

The 2010-2011 Shasta County Grand Jury inspected the Shasta County Jail. The jail is being operated efficiently, despite an entire floor of the jail being closed for budgetary reasons.

BACKGROUND

The Grand Jury inspected the Shasta County jail located at 1655 West Street, Redding, CA. The jail houses male and female inmates in separate sections.

The jail has a computerized information vending system which provides information on how to make complaints, how to place food orders and how activities are handled in the jail. Additionally, inmates are instructed on how to order from the commissary.

Inmates may have money put into their commissary account, also known as putting money on an inmate’s books by friends or family to spend on commissary items. The commissary supplies items such as books, candy or items of this type that are not required to be supplied by the jail. These items can only be shipped from an approved vendor.

During the Grand Jury’s inspection of the jail, a minor problem with the ventilation system was discovered. An accumulation of dust was observed in the heating and air conditioning vents. Once the problem was reported to the staff, it was repaired promptly. During a follow-up visit, the Grand Jury found the problem resolved.



Shasta County Jail and Justice Center

Shasta County Jail Cell Searches

“Cold Redding Winters”

SUMMARY

The Grand Jury received a complaint from an inmate of the Shasta County Jail. The complainant alleges that during cell searches in December of 2010 and again in January of 2011, inmates were taken outside in the winter cold while a search was conducted of the inmate housing unit. The Grand Jury determined that the inmates were not provided with adequate protection from the elements during the searches.

BACKGROUND

Jail staff routinely conduct searches of inmate housing units. These proactive searches are generally used to search for contraband. During the search, the inmates are removed from the inmate housing area (pod) and are normally relocated to the booking unit holding cells. When the booking unit is determined to be too busy to hold the inmates, they are placed outside in the recreation yard.

APPROACH

The Grand Jury interviewed three inmates of the County Jail, as well as supervisors and staff of the Jail. Jail daily logs were reviewed by the Grand Jury and temperature highs and lows for the days in question were researched.

DISCUSSION

The Grand Jury’s investigation determined that on December 22, 2010 a pod search was initiated by jail staff. Inmates were relocated outside to the recreation yard during the search from 10:30 p.m. to 12:40 a.m. On January 8, 2011 the search was conducted between 3:41 p.m. and 5:00 p.m.

At the time of their booking, inmates are provided with a short sleeved pull-over shirt. No sweaters or jackets are provided. During these pod searches, inmates were relocated to an outside recreation yard. The Grand Jury determined that the short sleeved pull-over shirts provided by the jail were inadequate protection from the elements. Research indicates that on that particular day in December, the overnight low temperature was 37 degrees. On the day of the January pod search, the high temperature for the day was 36 degrees.

FINDINGS

F1. Inmates are not provided with adequate protection from the cold during the inmate housing unit searches that occur in winter.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. Inmates are relocated to other areas of the jail during pod searches.
- R2. If required to be relocated outside, inmates be provided with adequate means for warmth.

REQUEST FOR RESPONSES

Shasta County Sheriff to respond to F1, R1 and R2



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Response:

Shasta County Jail Cell Searches “Cold Redding Winters”

SUMMARY

The Grand Jury received a complaint from an inmate of the Shasta County Jail. The complainant alleges that during cell searches in December of 2010 and again in January of 2011, inmates were taken outside in the winter cold while a search was conducted of the inmate housing unit. The Grand Jury determined that the inmates were not provided with adequate protection from the elements during the searches.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. Inmates are relocated to other areas of the jail during pod searches.

R2. If required to be relocated outside, inmates be provided with adequate means for warmth.

RESPONSE

Sheriff Response to Recommendation # 1

One of the Sheriff's primary responsibilities while operating a jail is to provide a safe and secure environment for each inmate as well as the correctional personnel who work there.

One of the methods used to help maintain a safe and secure jail environment is to perform random, routine, or investigative inmate cell or housing unit searches. These searches can cause the removal of 1 to 32 inmates at a time. When several inmates have to be removed, they are typically housed in the other interior housing areas, when available. If that area of the jail is too busy or too full, the inmates may be placed in one or more of the outdoor recreation yards. During these routine housing unit searches, inmates would not be placed in the outdoor recreation yards when there is inclement weather, such as rain or snow.

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Sheriff Response to Recommendation # 2

Inmates are typically housed in the other interior housing areas, when available. During the housing unit search in question, the weather as indicated by the Internet showed Redding to be approximately 37 degrees. We do not know how cold the recreation yards were but likely were warmer than stated on the Internet as the recreation yard walls are adjacent to warmer cells on two of the four-sided rooms and are protected from winds.

While it is clear the Sheriff Office does not provide sweaters or jackets to inmates, they could have taken their wool blankets if requested. Inmates are supervised and/or monitored by staff while in housing and recreation areas of the jail. Inmates who are alleged to have been cold could have requested from staff blankets or other adequate means for warmth if they were cold. Inmates routinely receive exercise periods that are similar in the length of time as the incidents in the Grand Jury report. The inmates had the ability to exercise while in the recreation yard raising their body temperature. It is not the Sheriff's intent to place inmates into unnecessarily poor weather conditions without providing blankets or additional clothing.

Sheriff's Office research of this incident could find no grievances or medical requests resulting from the placing of these inmates into the alleged cold weather for the brief duration of the search.

The Sheriff and staff make every attempt to ensure a safe and secure environment for all Shasta County inmates.

Response By Tom Bosenko, Sheriff/Coroner

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Shasta County Juvenile Hall

“Inspection Report”

REASON FOR INQUIRY

California Penal Code Section 919 mandates that the Grand Jury inspect the condition and management of all public prisons located within Shasta County which would include Juvenile Hall.

BACKGROUND

The Shasta County Juvenile Hall is located on Radio Lane in Redding. The facility holds a maximum of 65 minors. However, due to recent budget cuts, the county has been forced to close a wing of the facility reducing the maximum capacity to 35 minors. The average stay for each minor is approximately 14 days.

Unit A of the facility is comprised of eight single bed “wet cells” that are designed to house maximum security minors. Wet cells have a toilet and sink in the cell. Units B and C are made up of cells with two beds each and no toilet or sink in the cell. Restroom facilities for these cells are in a centrally located dayroom.

The Shasta County Probation Department is attempting to get funding from the State of California to construct a new Juvenile Hall facility. A new facility would be funded by State loans which would be paid with future State bonds. The new facility will have a capacity for 90 minors. However, the lack of County funding for additional staffing may limit the population to current levels.

APPROACH

In October of 2010, the Grand Jury toured the Juvenile Hall with a follow-up visit in April of 2011. Areas toured included wet and dry cells, a nurse's station, dayrooms, recreation yard, classrooms and kitchen.

FACTS

- Medical care for the Juvenile Hall is provided by the California Forensic Medical Group (CFMG), a privately owned provider of health care for correctional institutions. A full time nurse is on site during the day with other medical professionals, including mental health workers on call in the evenings.
- Inmates attend school five days a week from 8:00 a.m. to 2:00 p.m. There are currently two teachers and two aides assigned to the Juvenile Hall school.
- Drug and alcohol programs are available to the minors, as well as religious services. In addition, Project 18 teen mentoring program makes visits to Juvenile Hall to give minors

an opportunity to interact and talk with juveniles of their own age. On occasion, military recruiters come and talk with the minors.

- Some minors are used for preparing and serving meals. This gives them an opportunity to develop job skills and a work ethic that can benefit them later in life. On the Grand Jury' initial visit, the aroma of homemade baked goods permeated the grounds.
- The Grand Jury was pleased to see the progress in building a new Juvenile Hall as it was evident that the current facility is showing its age.

RECOMMENDATIONS

None

REQUEST FOR RESPONSES

None



Shasta County Juvenile Hall

Sugar Pine Conservation Camp

“Inspection Report”

REASON FOR INQUIRY

California Penal Code Section 919 mandates that the Grand Jury inquire into the condition and management of all public prisons located within Shasta County.

BACKGROUND

Nestled in the woods off of Hwy 299, 30 miles east of Redding sits the Sugar Pine Conservation Camp. The California Department of Corrections and California Department of Forestry and Fire (Cal Fire) jointly operate the camp. The primary mission of the camp is to provide inmate fire crews for fire suppression in Shasta County. Inmate crews can be called to any area of California to provide a work force for flood prevention, conservation projects and community services.

The camp houses approximately 125 minimum security inmates. Inmates come from the California Correctional Prison in Susanville. Most inmates transfer to Sugar Pine near the end of their sentence for an average stay of nine months.

Before an inmate is deemed eligible to enter Sugar Pine, he must go before a classification committee at the Susanville Correctional Prison. The committee reviews the inmate’s probation reports, criminal record and recommendations from the Department of Corrections. Inmates who have committed a sex offense, arson, have a high violence potential or are an escape risk are excluded from being considered for assignment to Sugar Pine.

Inmates that are assigned to Sugar Pine are classified as “minimum security” inmates. There are some inmates at Sugar Pine that have been convicted of violent crimes. However, they have become eligible for assignment to Sugar Pine by having their classification reduced to a “minimum security” level. This is accomplished by time served, good behavior and further recommendations from the Department of Corrections.

All inmates at Sugar Pine are required to have jobs at the camp where they are paid \$1.45 per day. When fighting fires, the fire crews are paid \$1.00 per hour.

APPROACH

In October of 2010, the Grand Jury toured the Sugar Pine Conservation Camp where we engaged in a question and answer session with members of Cal Fire and Cal Dept of Corrections. We interviewed four inmates and then toured the dormitories, kitchen and dining area, hobby shop, fire fighting equipment building and garage.

The Grand Jury revisited Sugar Pine again in April of 2011, where we witnessed the morning transfer of inmates from the correctional staff to the forestry staff as they prepared for their daily work projects.

FINDINGS

- F-1. There are currently eight correctional officers, two sergeants and a lieutenant on staff at Sugar Pine.
- F-2. Inmates are responsible for meal preparation and serving. The kitchen area toured was clean and organized. The lunch meal provided to the Grand Jury by the inmates was impressive in both taste and quality of the food and the kitchen staff obviously took pride in their work.
- F-3. The grounds and facilities were very clean and well maintained.
- F-4. The Grand Jury talked with inmates who conduct meetings such as Narcotics Anonymous, Alcoholics Anonymous and Bible studies. Classes to obtain a GED are also offered.
- F-5. There is no medical facility at Sugar Pine other than basic first aid. Inmates that require emergency medical care are transported to Redding, if non-emergency care is required, inmates are transferred to Susanville.
- F-6. Inmates learn job skills and a work ethic that will help them after their prison sentence is completed.
- F-7. Sugar Pine Conservation Camp is to be commended for maintaining a well run facility that saves the State of California money by providing labor to fight fires and assist in other conservation efforts.

RECOMMENDATIONS

None

REQUEST FOR RESPONSES

None

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City of Redding's Use of Sobriety Checkpoints

“Deterrent for Impaired Drivers”

SUMMARY

The Grand Jury initiated an investigation into the City of Redding’s Sobriety checkpoint and DUI Enforcement Program. The purpose of the program is to maximize the deterrent effect and increase the perception of “risk apprehension” of motorists who would operate a vehicle while impaired by alcohol.

Members of the Grand Jury observed Sobriety Checkpoints in action and rode with Redding Police Department’s DUI Saturation Patrol. Interviews were conducted with Officers of the RPD and volunteers from MADD. (Mothers Against Drunk Driving).

The Grand Jury found that Sobriety checkpoints when integrated with an aggressive enforcement program and judicial support are an effective deterrent to combat the impaired driving problem.

BACKGROUND

A 1984 California Attorney General’s opinion and the 1990 US Supreme Court upheld the constitutionality of conducting Sobriety Checkpoints. Redding receives state grants to fund the DUI enforcement program, which includes the Sobriety Checkpoint program as well as the salaries of specialized DUI enforcement officers that have taken extensive training in detecting impaired drivers. In 2009 there were 731 total DUI arrests in Redding, with 138 alcohol related collisions, which is 2nd highest in the state of like size cities

APPROACH

Members of the Grand Jury were present at and witnessed two Sobriety Checkpoints and spent two Saturday nights riding with a Redding Police Department DUI patrol. Interviews were conducted with officers of the RPD and volunteers of MADD. Grand Jury members observed DUI court in action, and sat in on the Sober Choice mandatory DUI class. A number of documents were reviewed by the Grand Jury.

DISCUSSION

The 2009 *California Office of Traffic Safety Report* compared traffic collisions in 104 California cities with similar populations of Redding. Redding was ranked fifth in both fatal and injury accidents as well as third in overall accident rates. In the same study, the City of Redding ranked 2nd in “driving under the influence” (DUI) of drugs or alcohol-associated collisions.

In light of these disturbing numbers the RPD has made DUI enforcement a high priority. The use of Sobriety Checkpoints is but one tool of enforcing and deterring the impaired driving problem that is plaguing our community.

Another tool used is the DUI Saturation Patrol. Redding currently has 2 officers assigned to DUI enforcement. The officers concentrate their enforcement on impaired driving behaviors, such as driving left of center, following too closely, reckless driving and speeding. Saturation patrols afford a more effective means of detecting repeat offenders who are likely to avoid detection at sobriety checkpoints. These patrols also may target specific areas with a history of high number of alcohol-related crashes.

The Grand Jury had an opportunity to ride with the DUI patrol on 2 Saturday nights from 8:00 p.m. to 2:00 a.m. The DUI patrol does not have a specified beat and officers are free to patrol areas that they feel need to be targeted. During each shift observed by the Grand Jury, the officer stopped over 20 vehicles and assisted other officers in conducting Field Sobriety Checks. DUI arrests were witnessed on both evenings.

Prosecutorial support is another factor in the DUI enforcement effort. In October of 2010 the Shasta County's District Attorney's office received a \$245,000 grant to fund 2 positions, a Deputy District Attorney to prosecute felony DUI cases and an investigator to assist with DUI investigations.

Redding has at least six preferred locations to set up Sobriety checkpoints within the city limits. The purpose of the checkpoint is to deter or detect DUI or suspended/unlicensed drivers. The officers attempt to stop every vehicle when possible, however if traffic backs up where it will take four minutes or more to go through the checkpoint, the traffic will be sent through until an acceptable traffic level is achieved. In the Grand Jury's observation of the checkpoint, when traffic backs up to an unacceptable level, the officers use a set number of cars to be sent through the checkpoint without checking and are diligent in not discriminating due to the appearance of the driver or type of vehicle. Random stops are not utilized.

An "escape route" must be available to drivers who wish to avoid the checkpoint by legally turning before entering the checkpoint area. A driver can be pulled over only if an officer observes a traffic violation or probable cause exists to take action. The act of avoiding a checkpoint does not constitute grounds for a stop.

In stopping the vehicles, the officers greet the driver and asks for and checks driver license, they ask about drinking and observe for signs of DUI. The officers make a concerted effort to limit contact to less than 30 seconds. If an officer suspects that a driver is under the influence, the driver will be directed to a parking area where a Field Sobriety Check (FST) is given, normally 2 officers handle the FST. The FST would consist of the Walk and Turn test, One-Leg Stand test and the Horizontal Gaze Nystagmus. After the completion of the FST, the officer may use a portable breath testing device (PBT). If drugs are suspected, an officer who is specifically trained to detect drugs is called. If it is determined that the driver is impaired, an arrest is made and the car is impounded.

After an arrest an evidential test to determine blood alcohol concentration is administered either at the County Jail booking area or Shasta Regional Medical Center. The arrestee has a choice of providing blood ,urine or may utilize a specially calibrated breathalyzer.

Over 600 cars were screened at one of the checkpoints observed by the Grand Jury with 15 drivers given additional screening. Field Sobriety Tests were administered to six drivers, with three being arrested for DUI. There were also four drivers with suspended or no license and five cars impounded.

FINDINGS

- F1. Impaired driving and impaired related crashes are a threat to the safety and well being of the citizens of Redding.
- F2. Sobriety checkpoints should be integrated with DUI saturation patrols, public information and education.
- F3. Prosecutorial support is needed for the DUI enforcement program to be successful
- F4. Sobriety checkpoints when integrated with an aggressive enforcement program and prosecutorial support are an effective deterrent to combat the impaired driving problem.

RECOMMENDATIONS

- R1. The Grand Jury recommends that the City of Redding continue to fund the Sobriety Checkpoint Program, as well as the DUI Enforcement.
- R2. That the Redding Police Department continue the use of specialized DUI patrols that can focus on removing impaired drivers from the roadways.

REQUIRED RESPONSES

Redding City Council to respond to findings F1 through F4 and recommendations R1 and R2.

REQUESTED RESPONSES

Chief of Redding Police Department to respond to F1 through F4 and R1 and R2.

City Manager of Redding to respond to F1 through F4 and R1 and R2.

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Response:

City of Redding's Use of Sobriety Checkpoints “Deterrent for Impaired Drivers”

SUMMARY

The Grand Jury initiated an investigation into the City of Redding’s Sobriety checkpoint and DUI Enforcement Program. The purpose of the program is to maximize the deterrent effect and increase the perception of “risk apprehension” of motorists who would operate a vehicle while impaired by alcohol.

Members of the Grand Jury observed Sobriety Checkpoints in action and rode with Redding Police Department’s DUI Saturation Patrol. Interviews were conducted with Officers of the RPD and volunteers from MADD. (Mothers Against Drunk Driving).

The Grand Jury found that Sobriety checkpoints when integrated with an aggressive enforcement program and judicial support are an effective deterrent to combat the impaired driving problem.

RECOMMENDATIONS

R1. The Grand Jury recommends that the City of Redding continue to fund the Sobriety Checkpoint Program, as well as the DUI Enforcement.

R2. That the Redding Police Department continue the use of specialized DUI patrols that can focus on removing impaired drivers from the roadways.

RESPONSE

Response to Recommendation No. 1:

The City of Redding Police Department will continue to fund the Sobriety Checkpoint Program, as well as DUI Enforcement, within budget limitations. The Redding Police Department will continue to actively pursue available grants to fund special operations for DUI Enforcement.

Response to Recommendation No. 2:

The Redding Police Department will continue the use of specialized DUI patrols that can focus on removing impaired drivers from the roadways within budget limitations. The Redding Police Department will continue to seek grant funds to support this program.

Submitted By: **Missy McArthur, Mayor - Kurt Starman, City Manager
Peter T. Hanson, Chief of police**

What It Takes to Become a Law Enforcement Officer in Shasta County

“Finding the Best Applicants”

SUMMARY

The Grand Jury initiated an investigation into the hiring practices of three law enforcement agencies in Shasta County: the Anderson Police Department, the Redding Police Department and the Shasta County Sheriff's Department. Administrative staff from all three agencies were interviewed and provided the Grand Jury with materials that are routinely distributed to potential applicants as part of the hiring process.

The Grand Jury found all three agencies engage in similar hiring practices.

Although certification is not mandatory, the Grand Jury determined that not all police agencies in Shasta County utilize POST certified background investigators in their screening process. The cost of POST training is very reasonable. All Shasta County law enforcement agencies could take advantage of that training.

GLOSSARY

Entry Level Officer	An applicant who has graduated from a police academy, is POST certified and has less than one year of experience in law enforcement.
Lateral Officer	An applicant who has graduated from a police academy, is POST certified and has more than one year of experience in law enforcement.
POST	Peace Officer Standards and Training (POST) is a state commission established by the Legislature in 1959 to set minimum selection and training standards for California law enforcement.
Recruit	An applicant who has not been to a police academy or is currently enrolled in a police academy and has a minimum of 30 semester units from a college. A POST certified academy or community college gives a score for the applicant's math, writing and memory skills. Each department sets the minimum score for its recruits. Entry level officers and lateral transfers are not required to take this test because they earned a score in the academy.

DISCUSSION

In reviewing the materials provided by each agency, the Grand Jury noted that most policies employed by one department mirror those of the other two with few exceptions. For example, Anderson gives applicants a spelling test and Redding gives a physical agility test, but the overall process utilized by the departments is fundamentally the same. All three agencies require that an applicant must be a US citizen, 21 years of age and have a high school diploma or GED (General Education Development) high school diploma.

The applicant cannot have any felony convictions and must pass a criminal history background check conducted by an in-house background investigator. The applicant must also pass a physical examination conducted by a local health clinic and a psychological evaluation conducted by a psychologist. Credit reports, military records, educational background, family criminal history and driving records are also taken into consideration. During the background check, the applicant is asked about marital status to assess whether there have been incidents of domestic violence or bigamy in the applicant's past.

Applicants are required to interview before an oral review board. The oral review board is made up of individuals selected by administrative personnel. Sometimes an officer from an outside agency, someone from the city's personnel department or a civilian from the community is invited to participate. The oral board seeks to determine the applicant's ability to work effectively with others, express themselves clearly and exercise good judgment in stressful situations. They also assess the applicant's interest in law enforcement as a profession.

Once the screening and oral board interview process has been completed, applicants are ranked according to their scores. A ranking is provided to the chief or the sheriff who makes the final determination of who should be hired. All three agencies say they also consider how well the applicant will "fit" into their department in making a final determination.

Redding and Anderson utilize a polygraph examination in the screening process. The Sheriff's Department prefers to use a CVSA (Computer Voice Stress Analysis) which can be administered by a trained employee.

The Sheriff's Department allows new hires to be related by blood or marriage to a current employee. Redding allows employees to retain their position should they marry a co-worker after their date of hire. Anderson Police Department prohibits employees from being related in any way with the exception of seasonal workers, part time help or volunteers.

Although it is not mandatory, the Anderson Police Department is the only agency in the County that does not utilize a POST certified background investigator. It was determined by the Grand Jury that a 32-hour certification class is available at American River College in Sacramento at a cost of \$73. POST reimburses the department for travel expenses, lodging, meals and pays a per diem for an officer taking the class.

Although it is not mandatory, POST provides training for background investigators and gives a certification to officers who have completed that training. All three agencies have had to

cut employees because of budget constraints at the state, county and city level. All three indicated that it is common for positions not to be funded when a vacancy occurs and new employees are not being hired to fill those positions.

FINDINGS

F1 The Anderson Police Department is the only police agency in the county that does not use a POST certified background investigator.

RECOMMENDATIONS

None.

RESPONSES

None.



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Anderson Police Department

SHASTA COUNTY COMMITTEE

Overview: The County Committee investigated the Mountain Gate Community Services District and came up with a number of recommendations to improve the operations of the district.

Mountain Gate Community Services District

“Claims of Questionable Decisions by the Board”

SUMMARY

The Grand Jury initiated an investigation into the Mountain Gate Community Services District after several citizens from that district questioned the conduct of the board of directors. Complaints addressed the possibility of violations of the Brown Act, misuse of the district’s credit card policy and tailoring a job description to fit a predetermined candidate.

BACKGROUND

The district was formed in 1956 to provide water service and fire protection to the community. There are 670 water meters and 147 fire hydrants. The district currently has ten employees that include a manager, a part-time fire chief, six full-time employees (three are water certified), two part-time employees and 18 volunteer fire fighters.

The current board consists of five board members who reside in the district. Three board members are required for a quorum.

APPROACH

The Grand Jury attended seven of the board’s monthly meetings, reviewed documents including board minutes, agendas, bylaws, and interviewed all five board members, the general manager and several community members.

DISCUSSION

Early on in the investigation, the Grand Jury noted that the meetings were disorganized with audience members speaking out of turn, and a marked lack of control of the proceedings was prevalent. During board meetings, it was observed that there was disrespectful behavior among the board members.

As the Grand Jury continued to attend board meetings throughout the year, an improvement was noted in meeting decorum after board members and the general manager received training in the Brown Act. According to the board, the training was provided by the California Rural Water Association. Audience outbursts were controlled and meetings were then being run appropriately.

One complainant alleged that there was a lack of accountability for credit card charges. The board is in the process of updating bylaws and has no current policies and procedures manual detailing proper accounting methods for credit card transactions.

In the Grand Jury's investigation, it was discovered that there were three questionable transactions on the district's credit card account. Transactions were incorrectly reported as fuel purchases where in reality the charges were for employee lunches.

The district's bylaws state that gas, oil, repairs of vehicles, travel expense, hotel, meals, tuition for board members and managerial staff, office supplies and equipment, materials and miscellaneous necessary items may be bought by the district. These bylaws were recently augmented to state that no personal use of the district's credit cards will be authorized and the district manager, office manager, managerial staff and the fire chief are the only employees authorized to use district credit cards.

A complainant alleged favoritism by the board in the hiring of the former board chairman as general manager. The Grand Jury determined that the current manager served on the board of directors from February 24, 2009 to December 11, 2009. He resigned from the board on December 17, 2009 and on March 9, 2010 was hired as the general manager on an interim basis. He was subsequently hired as permanent general manager on December 9, 2010.

The board sent eight of the applications it had received for the general manager position to the managers of three water districts to review and rank those applications. The current Mountain Gate general manager was rated eighth in the list of applicants by those managers.

The complainant also alleged that in July of 2009, while the current manager was chairman of the board, the board voted to lower the employment standards for the manager's position. The Grand Jury determined that the board altered the job description for the general manager's position by eliminating the need for a Grade 2 Water Treatment Certification and overseeing the operations of the fire department.

The board voted 3-2 in favor with the chairman of the board casting one of the three votes in favor. That action worked to the chairman's personal financial benefit since he had been paid \$50 per meeting per month, not to exceed \$100 per month as the board chairman and now earns \$5,250 per month as General Manager. The complainant alleged the changes to the job description were made for the specific purpose of benefiting the former board chairman.

The Grand Jury reviewed the district's counsel's opinion letter in which it was stated that this did not constitute a conflict of interest. The change to the employment standards may have been questionable or inappropriate; however, the Grand Jury did not determine it was a violation of the Brown Act.

All five board members and the general manager have completed ethics training as mandated by Assembly Bill 1234. The training was provided by the Fair Political Practices Commission.

FINDINGS

- F1. The Mountain Gate board was advised by its legal counsel that there was no conflict of interest in the hiring of the General Manager. The Grand Jury, however, determined there was the appearance of favoritism when the board lowered the employment standards and hired the former board member to be general manager.
- F2. Prior to the board implementing a policy on credit card usage, charges to the district's credit card were incorrectly reported as fuel expenses when actually they were meals for employees. Although the bylaws allow for a per diem, there is no specific authorization in the bylaws for employees to charge meals on the district's credit card.
- F3. After receiving training, board meetings attended by the Grand Jury were orderly.

RECOMMENDATIONS

The Grand Jury recommends:

- R1. The board create a policies and procedures manual separate from the bylaws for all operations of the district. The manual should state which personnel may use the district's credit card and for what purpose.
- R2. All board members complete training on the Brown Act and government ethics every two years as required by law.
- R3. The policies and procedures manual should designate the maximum reimbursement rates for lodging. Further, meal reimbursement should be limited to authorized out-of-county travel.

REQUEST FOR RESPONSES

Mountain Gate Community Services District board to respond to all findings and recommendations.

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Response:

Mountain Gate Community Services District “*Claims of Questionable Decisions by the Board*”

SUMMARY

The Grand Jury initiated an investigation into the Mountain Gate Community Services District after several citizens from that district questioned the conduct of the board of directors. Complaints addressed the possibility of violations of the Brown Act, misuse of the district's credit card policy and tailoring a job description to fit a predetermined candidate.

FINDINGS

F1. The Mountain Gate board was advised by its legal counsel that there was no conflict of interest in the hiring of the General Manager. The Grand Jury, however, determined there was the appearance of favoritism when the board lowered the employment standards and hired the former board member to be general manager.

F2. Prior to the board implementing a policy on credit card usage, charges to the district's credit card were incorrectly reported as fuel expenses when actually they were meals for employees. Although the bylaws allow for a per diem, there is no specific authorization in the bylaws for employees to charge meals on the district's credit card.

F3. After receiving training, board meetings attended by the Grand Jury were orderly.

RECOMMENDATIONS

The Grand Jury recommends:

R1. The board create a policies and procedures manual separate from the bylaws for all operations of the district. The manual should state which personnel may use the district's credit card and for what purpose.

R2. All board members complete training on the Brown Act and government ethics every two years as required by law.

R3. The policies and procedures manual should designate the maximum reimbursement rates for lodging. Further, meal reimbursement should be limited to authorized out-of-county travel.

RESPONSE

FINDINGS:

F1

The respondent disagrees partially with the findings, the board of directors did not lower the employment standards. The General Managers job description was revised to conform with the ACWA Joint Powers Insurance Authority Water Industry Job Descriptions and Americans with disabilities act manual. ACWA/JPIA is our insurance carrier.

F2

The respondent agrees with the findings.

F3

The respondent agrees with the findings.

RECOMMENDATIONS:

R1

The recommendation has not yet been implemented, but will be implemented in the future, the district's attorney is already writing the new by-laws and a draft has been presented to the board. The adoption of these by-laws should be within the next few months. The policies and procedures manual is a work in progress with completion in the near future.

R2

The recommendation has been implemented.

R3

The recommendation has been implemented.

Response By:

**David Selby, Chairman of the Board - Cary Park, Vice Chairman - Greg Peterson,
Director - Gary Gunter, Director - Janice Heck, Secretary to the Board**

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LOCAL DISTRICTS & AGENCIES COMMITTEE

Overview: The LD&A Committee with the assistance of the City Committee investigated a citizen complaint about the operation of the Burney community swimming pool.

Burney Water District

“Financial Solvency of Local Swimming Pool”

SUMMARY

The Grand Jury received a complaint claiming the Burney Water District is “utilizing monies intended for water and sewer services paid for by the district’s rate payers to balance the community swimming pool (fund) without voter approval is a violation of Proposition 218 and an injustice to the community as a whole.”

The complaint also states that the pool has not been financially self-sufficient since it became the responsibility of the district and the fees charged to the public for the use of the pool do not cover the cost of maintaining the pool, requiring the district to subsidize pool operations.

The Grand Jury determined the Burney Water District is in compliance with Proposition 218 but did find that the district has been deficit spending to maintain its water and sewer service and the operation of the community pool. The district does not maintain enough money in the three enterprise funds to cover operation expenses and depreciation of equipment. Reserve funds have fallen dangerously low and will not cover the cost of system upgrades, modernization and catastrophic repairs in the future.

GLOSSARY

Proposition 218	Passed in 1996 and deals with reform of assessments and property related fees. Fees cannot be charged by a government agency unless voters approve.
California Constitution XIII (D)	Amendment to the California State Constitution in 1996 that implemented the requirements of Proposition 218.
Enterprise Fund	A government fund that is used to account for business-type activities of a public agency, such as utility operations.
Oversight Committee	A standing committee formed to oversee government functions.

BACKGROUND

The Burney community pool was built in 1990 on surplus land that was purchased from a local school district for one dollar. In 1990, the district took over maintenance of the pool. In 1995, Measure B was passed by the voters to assess district customers a pool fee of two dollars on their monthly bill. In return, customers were given pool passes to use the community pool during free swim hours.

In 2005, another Measure B was placed on the ballot. It authorized the Burney Water District to increase the pool fee per month from two dollars to four dollars and gave the district authority to raise the fee one dollar per month every five years, upon the recommendation of the oversight committee. Measure B passed with a 66.7% to 33.3% vote.

The Board of Directors appointed a five member oversight committee to serve a two-year term. Members may be re-appointed by the board for additional terms. This committee was instituted in the district's bylaws in April 2006 and its first members were selected in January 2007. The committee was created to recommend changes to pool fees, per Measure B.

In 2008, the district received a \$200,000 grant from the Pacific Forest and Land Council to replace pool decking and to plaster and tile the pool. In recent years the district has received other grants to cover community pool expenses.

In March 2011, the oversight committee recommended an increase in monthly pool fees by one dollar to five dollars per month per customer which is expected to increase annual revenue by \$18,000. Of the four oversight committee members present at that meeting, the vote was unanimous. As of April, 2011, the Board of Directors had not approved this increase.

Maintenance and repair of the pool and pool equipment are provided by district employees. Minimal care is required until preparation for the swim season. During this time, seasonal employees (the pool manager and lifeguards) run the pool and offer water safety instruction and swimming lessons to the community.

APPROACH

The Grand Jury reviewed Proposition 218 and Article XIII (D) of the California Constitution. The Grand Jury interviewed all five district board members, a quorum of the oversight committee, the manager and an employee. The Grand Jury reviewed the Burney Water District Audit Report for fiscal years 2009 and 2010; time reports submitted by field staff for a breakout of hours to water, sewer or pool enterprises accounts; the pool budget for fiscal year 2010/11, the Stewardship Council Grant Application for a \$200,000 grant; a sample customer billing statement and job descriptions for field superintendent, utility workers, pool manager, assistant pool manager and lifeguards, and minutes from several board meetings.

Income and Expenses for 2010 ¹

	<u>Pool</u>	<u>Water</u>	<u>Sewer</u>
Capital grants and contributions	\$ 2,606	\$ 0	\$ 0
Property taxes	\$ 0	\$ 0	\$ 56,342.
Utility revenue	\$ 0	\$656,912	\$390,524
Water customer fees, gate fees and swimming lesson fees	\$88,576	\$ 0	\$ 0
Interest income from the reserve fund	<u>\$ 897</u>	<u>\$ 3,582</u>	<u>\$ 3,325</u>
TOTAL REVENUE	\$92,079	\$660,494	\$450,191
Operating expenses	\$73,530	\$616,643	\$418,125
Depreciation for the pool and equipment	<u>\$25,545</u>	<u>\$ 95,388</u>	<u>\$ 84,734</u>
TOTAL EXPENSES	\$99,075	\$720,781	\$502,859
OPERATING INCOME (LOSS)	(\$6,996.)	(\$60,287)	(\$52,668)

¹ (1) Burney Water District Audit Report, June 30, 2010

FACTS

The district:

- Maintains three enterprise funds (pool, water, and sewer). These funds are invested and managed by the Shasta County Treasurer.
- Did not maintain accounting records showing complete cash balances or interest income. Depreciation and interest income were not being posted to the individual funds.
- Ended each fiscal year with a net operating loss for at least the last three years.
- Did not budget for sick pay, vacation pay, compensation time or standby time and did not budget for increases in health insurance premiums.
- Did not budget for interest payments on municipal bonds.

- Incurred unanticipated legal expenses regarding the formation of an employee association.
- Clearly designates the pool fee in customer bills.
- Submitted all increases in pool fees to the district voters.
- Correctly reported employee time reports to the appropriate proprietary fund.
- Did not include maintenance and repair of the community pool in job descriptions.
- Ends each fiscal year with a net operating loss in all three of the enterprise funds.

FINDINGS

The district:

- F1. Has sufficient funds to maintain operations.
- F2. Does not consider depreciation, equipment costs and future upgrades when pool expenses are budgeted.
- F3. Did not transfer funds from water or sewer accounts into the pool fund for the period covered by the Grand Jury’s investigation.
- F4. Did not violate Proposition 218 because voters approved all fees and increases in fees for the community pool.

RECOMMENDATION

- R1 The district needs to eliminate its operating losses and be able to handle unanticipated future expenses.
- R2 The district should continue to designate funds for system upgrades and replacement, as cash flows permit. It should carefully monitor operations to bring the district into a break-even position.
- R3 The district should continue to look at all sources to increase the revenue stream.

REQUEST FOR RESPONSES

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

Burney Water District board of directors as to all findings and recommendations.

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

Workers ready the Burney community pool for season opening in 2009



Photo by Cindy Dodds, Intermountain News

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Response:

Burney Water District
“Financial Solvency of Local Swimming Pool”

SUMMARY

The Grand Jury received a complaint claiming the Burney Water District is “utilizing monies intended for water and sewer services paid for by the district’s rate payers to balance the community swimming pool (fund) without voter approval is a violation of Proposition 218 and an injustice to the community as a whole.”

The complaint also states that the pool has not been financially self-sufficient since it became the responsibility of the district and the fees charged to the public for the use of the pool do not cover the cost of maintaining the pool, requiring the district to subsidize pool operations.

The Grand Jury determined the Burney Water District is in compliance with Proposition 218 but did find that the district has been deficit spending to maintain its water and sewer service and the operation of the community pool. The district does not maintain enough money in the three enterprise funds to cover operation expenses and depreciation of equipment. Reserve funds have fallen dangerously low and will not cover the cost of system upgrades, modernization and catastrophic repairs in the future.

FINDINGS

F1. Has sufficient funds to maintain operations.

F2. Does not consider depreciation, equipment costs and future upgrades when pool expenses are budgeted.

F3. Did not transfer funds from water or sewer accounts into the pool fund for the period covered by the Grand Jury’s investigation.

F4. Did not violate Proposition 218 because voters approved all fees and increases in fees for the community pool.

RECOMMENDATION

R1 The district needs to eliminate its operating losses and be able to handle unanticipated future expenses.

R2 The district should continue to designate funds for system upgrades and replacement, as cash flows permit. It should carefully monitor operations to bring the district into a break-even position.

R3 The district should continue to look at all sources to increase the revenue stream.

RESPONSE

FINDINGS

F1

We agree with Finding F1, that the Burney Water District has sufficient funds to maintain operations.

F2

We agree with Finding F2, that the Burney Water District does not consider depreciation, equipment costs and future upgrades when pool expenses are budgeted. We will include depreciation in its 2011-2012 fiscal year budgeting process, and we will look to incorporate a capital improvement projects budget to account for equipment costs and future upgrades as we improve and refine our budgeting process.

F3

We agree with Finding F3, that the Burney Water District did not transfer funds from water or sewer accounts into the pool fund for the period covered by the Grand Jury's investigation.

F4

We agree with Finding F4, that the Burney Water District did not violate Proposition 218 because voters approved all fees and increase in fees for the community pool. In 2005, the voters within the Burney Water District boundaries passed Measure B to increase fees from \$2.00 to \$4.00, with provision for a \$1.00 fee increase every five years upon recommendation of an oversight committee and Board adoption.

RECOMMENDATIONS

R1

We have not yet implemented Recommendation R1, to eliminate operating losses and be prepared to handle unanticipated future expenses. We continue to work on managing expenses and adjusting rates in all District enterprises and will continue to work to implement this recommendation until operating losses are eliminated in all District enterprises.

R2

We have not yet implemented Recommendation R2, to continue to designate funds for system upgrades and replacement, as cash flows permit, and to carefully monitor operations to bring the Burney Water District into a break-even position. We continue to work on monitoring operating expenses in all District enterprises to bring the Burney Water District into a breakeven position and will continue to work to implement this recommendation until cash flows permit movement of funds to reserves for system upgrades and replacement.

R3

Recommendation R3 advises us to continue to look at all sources to increase the revenue stream. We continue to seek out new possibilities for increasing the revenue stream in all enterprises, and will continue to work to implement this recommendation to improve the longterm financial health of the Burney Water District.

Response By:

**Sharon K. Quinlan, President of the Board of Directors,
Burney Water District**

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SHASTA COUNTY
LOCAL DISTRICTS AND AGENCIES

Cemetery Districts

Anderson Cemetery District
Burney Cemetery District
Cottonwood Cemetery District
Fall River Mills Cemetery District
Halcumb Cemetery District
Manton Joint Cemetery District
Millville Cemetery District
Pine Grove Cemetery District

Mosquito Districts

Burney Basin Mosquito Abatement Dist.
Pine Grove Mosquito Abatement Dist.
Shasta Mosquito & Vector Control Dist.

Conservation Districts

Fall River Resource Conservation Dist.
Western Shasta Resource Conservation
District

School Districts, Agencies & Programs

Anderson Union High School District
Bella Vista Elementary School Dist.
Black Butte Union School District
Cascade Elementary School District
Castle Rock Elementary School Dist.
Columbia Elementary School District
Cottonwood Union Elementary
School District
Enterprise Elementary School District

Water Districts

Anderson-Cottonwood Irrigation District
Bella Vista Water District
Burney Water District
Cottonwood Water District
Shasta County Water Agency
Craig View Water Agency

Community Service Districts

Centerville Community Services District
Clear Creek Community Services District
Fall River Mills Community Services District
Igo-Ono Community Services District
Mountain Gate Community Services District
Shasta Community Services District

Other Districts/Agencies

Shasta Area Safety Communications Agency
Mayers Memorial Health Care District
Shasta County Air Quality Management Dist.
Keswick Community Services Area

Fire Districts

Anderson Fire Protection District
Burney Fire Protection District
Castella Fire Protection District
Cottonwood Fire Protection District
Fall River Mills Fire Protection District
Happy Valley Fire Protection District
McArthur Fire Protection District
Millville Fire Protection District
Shasta Lake Fire Protection District

School Districts, Agencies & Programs (Continued)

Fall River Joint Unified School District
French Gulch-Whiskeytown Union
 Elementary School District
Gateway Unified School District
Grant Elementary School District
Happy Valley Union School District
Igo-Ono Platina School District
Indian Springs Elementary School District
Junction Elementary School District
Millville Elementary School District
Mountain Union School District
North Cow Creek School District
Igo-Ono-Platina School District
Indian Springs Elementary School Dist.
Junction Elementary School District
Millville Elementary School District

Oak Run Elementary School District
Pacheco Union School District
Redding School District
Shasta County Office of Education
Shasta County Board of Education
Shasta-Tehama-Trinity Joint
 Community College District
Shasta Regional Occupational Program
Shasta Union Elementary School District
Shasta Union High School District
Shasta-Trinity Regional Occupational
 Program
Whitmore Elementary School District

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**Shasta County Grand Jury
Investigative Reports - 2000 to 2011**

CITY OF ANDERSON

City of Anderson	06/07
Economic Development	07/08

CITY OF REDDING

Development Services Department

Land Purchases	04/05
Redevelopment Agency	05/06
Redding Fire Department	05/06
Zoning and Planning	04/05
Nuisance Water Complaint	10/11
Stillwater Business Park	07/08
Wastewater Treatment Plants	09/10
Redding Ballot Measures A and B	10/11

Electric Utility Department

.....	09/10
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Finance Department

Assessment Districts (General)	99/00
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Information Technology

.....	08/09
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Police Department

.....	01/02, 05/06, 08/09
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Police Department Complaints	08/09
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Police Department Facility	08/09
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Red Light Enforcement Program	08/09
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Public Works Department

CITY OF SHASTA LAKE

Economic Development	07/08
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COUNTY OF SHASTA

Agriculture/Weights and Measures	08/09
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Assessor/Recorder Office	05/06, 08/09
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Auditor/Controller's Office	01/02, 08/09
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Audit and Management Report	annually
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Employee Orientation/Training	00/01
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Management Audit	03/04
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Audit – Retired Senior Volunteer Program	02/03
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County Clerk's Office

Registrar of Voters	00/01, 03/04
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County Fire Department	06/07
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Economic Development	07/08
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Mental Health Department	01/02, 04/05, 07/08
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**Shasta County Grand Jury
Investigative Reports - 2000 to 2011 (Continued)**

COUNTY OF SHASTA (Continued)

Planning Division	07/08
Probation Department		
Juvenile Assessment Center	00/01
P.A.C.T.	08/09
Public Health Department		
Small Pox Vaccination Program	02/03
Water Fluoridation Ballot Measure	03/04
Public Works Department		
Fall River Mills and Shingletown Airports	00/01
Public Works	06/07
Sheriff/Coroner's Office		
Animal Shelter	04/05, 06/07, 09/10
Boating Safety	07/08
Crystal Creek Boy's Camp	annually to closing in 2008
Firearms Confiscation	08/09
Fire Arms Training Simulator	10/11
Jail Inmate Welfare Fund	06/07
Property/Evidence Facility	08/09
Shasta County Coroner	10/11
Shasta County Detention Annex	annually to closing in 2004
Shasta County Jail	annually
Shasta County Jail Cell Searches	10/11
Shasta County Juvenile Hall	annually
Sheriff/Patrol Division	05/06
Sobriety Check Points	10/11
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Treasurer/Tax Collector's Office		
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Management of District Boards	09/10
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Anderson Fire Protection District	09/10
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**Shasta County Grand Jury
Investigative Reports - 2000 to 2011 (Continued)**

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Shasta Mosquito and Vector Control District	01/02, 04/05, 08/09
Shasta Lake Fire Protection District	02/03
Western Shasta Conservation District (WSRCD)	02/03

SCHOOLS AND SCHOOL DISTRICTS

Anderson Union High School District	02/03
Black Butte School District	99/00
Consolidation/Unification of Shasta County Schools	05/06
Cottonwood Union School District	07/08
Gateway Unified School District	04/05
Grant Elementary School	03/04
Safe School Initiative	06/07
Shasta County Office of Education	
Camp Latieze	99/00
Shasta Union High School District	04/05

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City and County Websites	07/08
Credit Cards – Usage by Public Entities	03/04
Duration of Independent Audit Contracts	99/00
Gangs/Gang Activities (SAGE)	06/07
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Shasta Interagency Narcotics Task Force	03/04, 06/07
Special Districts in Shasta County	07/08
Sugar Pine Conservation Camp	annually
Western Shasta Resource Conservation District	02/03
What It Take to Become a Law Enforcement Officer	10/11

2010 / 2011 Shasta County Grand Jury



Photo Courtesy of T.A. Schmidt & Associates

Left to Right, Front Row: Mark Doyle, Dorothea Howerton, Rochelle (Shelly) Jenkins, Foreman Jim Berg, Christina Candelaria, Patricia Carver, Alvin Parker

Second Row: Pat Arnold, Doug Cook, Colette Butler, John Gonzalez, James Dillon, Jeff Herndon, Charlotte Ramage, George Clarke, Erin Murphy, Marti Leard, David Plowman.