

EL DORADO COUNTY GRAND JURY 2010-2011

Mission Statement

*The Grand Jury acts as the citizen oversight for
El Dorado County*

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**El Dorado County Grand Jury
2010 - 2011**

Front row left to right (sitting): Ann Lee; Jerry McMahon; Valerie Stevens; Ted Long; Vera Doettling; David Keneller
Standing back rows, left to right: Steve Baker (Foreman); Don Williams; Cliff Cova; Greg Wood; Dick Tipton (Pro Tem); Kyle Crangle; Richard Crouch; Bruce Tellardin; Michael Barrett; Jim Allsup; Ginger Cockcroft; Harris Holler; (not pictured-Barbara Haukedalen). Photo by Keely Giovannoni



**GRAND JURY
El Dorado County**

P.O. Box 472
Placerville, California 95667
(530) 621-7477 Fax: (530) 295-0763
E-mail address: grand.jury@edcgov.us

June, 2011

To: Citizens of El Dorado County

Re: Final Report of the 2010-2011 El Dorado County Grand Jury

Dear Fellow Citizens:

I am happy to report that the hard work of the El Dorado County Grand Jury is complete for this session. For one very eventful year nineteen of your fellow citizens have spent hundreds of hours of their time to investigate the issues contained in this report. Through hours of interviews with county officials and others, and additional hours of research, review of documentation and thoughtful analysis and discussion, your Grand Jury has indeed acted upon the key charge to all Grand Juries...to act as the citizen watchdog on your county government.

Not all of the work of your Grand Jury is popular or endearing to county officials or officials of the political subdivisions of the county like cities and special districts. But it is the job of your Grand Jury to inform and educate citizens about what they need to know, not necessarily what those officials would like you to hear or know.

You have reason to be proud of the work of this Grand Jury. It has focused on some issues that heretofore have not been popular, politically correct or even visible. But each report herein has been carefully investigated. Key findings and recommendations have been diligently and thoughtfully considered and offered.

It is an amazing idea when you think about it. Gather nineteen good citizens like yourselves together for a year, put them in a room and charge them with being your Grand Jury...a citizen watchdog on anything and everything to do with county government. Have them interview key witnesses high and low, gather and analyze relevant documentation, debate and discuss the issues, then report their findings and recommendations to the public. Then have them get the word out through any means appropriate, through the print and electronic media, community meetings, the web, through hard copies...even word of mouth.

Does it work? You bet it works! Does it make a difference? Sometimes the effects are immediate, and huge changes result. Other times the changes sparked by the Grand Jury reports unfold more quietly and take some time. But the ripple effects of a good Grand Jury report serve to put issues on the front burner, lend them credibility and visibility, and provide the public airing they richly deserve.

This Grand Jury has done its part by speaking truth to power. You would have it do no less. Now, good citizens, it is your turn to hold your public officials accountable.

Warm Regards

A handwritten signature in blue ink, appearing to read "S. Baker", written over a white background.

Steve J. Baker
Foreman, 2010-2011
El Dorado County Grand Jury



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

**495 Main Street
Placerville, California 95667**

**(530) 621-6451
Fax: (530) 622-5729**

May 27, 2010

Dear Grand Jury Members:

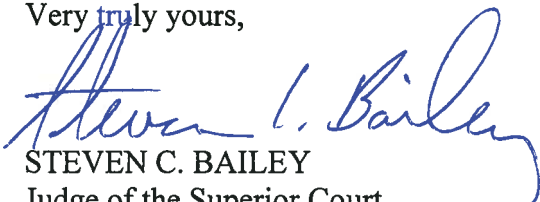
As Supervising Judge of the 2010/2011 Grand Jury, and on behalf of the El Dorado County Superior Court, I want to express my thanks to all of you for your hard work, dedication, and accomplishments.

Grand Jurors always assume a great deal of responsibility whenever they agree to be a part of a year's panel. They willingly do this as volunteers without any purpose together than to insure that governmental agencies and individuals are properly performing their duties. Your hard work has helped fulfill the Grand Jury's goal of better government for all the citizens of El Dorado County.

Special thanks to Mr. Steve Baker, Foreperson of the 2010/2011 Grand Jury. Steve has been a hard-working and able leader in this time-consuming position. It is due largely to his leadership skills that your work was conducted harmoniously and well.

In closing, I applaud each member of this Grand Jury and congratulate you on your 2010/2011 Grand Jury service.

Very truly yours,


STEVEN C. BAILEY
Judge of the Superior Court



GRAND JURY
El Dorado County

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Notice to Respondents

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to carefully read the pertinent provisions below and prepare your official response accordingly. Please pay particular attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

RESPONSE TO FINDINGS

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

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

RESPONSE TO RECOMMENDATIONS

The responding person or entity shall report one of the following actions:

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

RESPONSES

There are two different response times set forth in the Penal Code essentially depending upon whether the respondent is elected or not elected.

1. Public Agencies

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public. The response must be addressed to the Presiding Judge of the El Dorado County Superior Court as indicated in the Response Section of each report.

2. Elective Officers or Agency Head

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public. Responses must be sent to the Presiding Judge of the El Dorado County Superior Court, as specified in the Response Section of each report, with a copy to the El Dorado County Board of Supervisors.

FAILURE TO RESPOND

Failure to respond as required to a grand jury report is in violation of California Penal Code Section 933.05 and is subject to further action. Such action is likely to include further investigation on the subject matter of the report by the grand jury.



EL DORADO COUNTY GRAND JURY 2010 - 2011

EL DORADO COUNTY SHERIFF'S OFFICE INCENTIVE PAY

Case Number GJ10-011

REASON FOR REPORT

In February 2010, a candidate for El Dorado County Sheriff dropped out of the race after newspaper stories alleged that his college degree was not issued by an accredited college or university.

In April 2010, the interim El Dorado County Sheriff ordered an internal investigation to determine whether any employees of El Dorado County Sheriff's Office (EDCSO) receiving Educational Incentive Pay (EIP) had degrees from questionable sources. At that time, it was determined that of the 194 sworn personnel on duty, 79 were receiving EIP. Additionally, there were eighteen Correctional Officers of the EDCSO receiving EIP who were not included in this audit.

EDCSO Internal Affairs reviewed the training files of all 79 sworn personnel receiving EIP. Each file documented the type of degree held and the college or university attended. The 79 files also contained either the college transcript, a copy of the diploma or both.

The EDCSO Internal Affairs investigation determined that two Deputies, two Sergeants and one Lieutenant were receiving EIP based upon degrees issued by unaccredited institutions, which did not require appropriate levels of coursework when issuing diplomas. The matter was turned over to the District Attorney's Office for further investigation.

Pending the results of the District Attorney's investigation, EDCSO Internal Affairs suspended its administrative investigation. EDCSO also modified its procedure for receiving EIP, requiring a copy of the diploma. However, the controlling document is the

labor agreement in force between El Dorado County and the two bargaining units representing EDCSO sworn personnel. EIP provisions in these agreements do not require applicants to provide diplomas from accredited colleges and have no requirements for validating the legitimacy of the degrees.

On May 28, 2010, an anonymous letter was sent to the Board of Supervisors (BOS) and to the Grand Jury alleging that EDCSO had awarded EIP based upon degrees issued by “diploma mills”. Webster’s Third New International Dictionary defines a diploma mill as “*an institution of higher education operating without supervision of a state or professional agency and granting diplomas which are either fraudulent or because of the lack of proper standards worthless.*”

BACKGROUND

On December 15, 2009 the El Dorado County Board of Supervisors (BOS) signed Resolution NO. 270-2009 stating that an impasse had been reached in negotiating a good faith labor agreement with the Deputy Sheriff’s Association Law Enforcement Unit. The resolution adopted a Modified Last Best Final Offer that remains in effect currently and is subject to renegotiation. In addition, the agreement with the El Dorado County Law Enforcement Manager’s Association expired on June 30, 2010 and is also subject to renegotiation.

EDCSO sworn personnel are represented by two different bargaining units. Deputies and Sergeants are represented by the Deputy Sheriff’s Association, Law Enforcement Unit. Lieutenants and Captains are represented by the El Dorado County Law Enforcement Manager Association. While both agreements provide longevity pay as a benefit for extended service, the amounts available differ, as illustrated below:

<u>Longevity Pay</u>	
<u>Deputies and Sergeants:</u>	<u>Lieutenants and Captains:</u>
5 Years = 2.5% of Base Pay	10 Years = 5.0% of Base Pay
15 Years = 5.0% of Base Pay	15 Years = 10.0% of Base Pay
20 Years = 7.5% of Base Pay	20 Years = 13.0% of Base Pay
	25 Years = 15.0% of Base Pay
	30 Years = 18.0% of Base Pay

In 2001, the Memorandum of Understanding (MOU) for both bargaining units was modified to include incentives for achieving California Peace Officers Standards and Training (POST) Certificate awards.

POST Certificates are available to law enforcement personnel, based upon a combination of law enforcement experience, POST training points and education. POST requires that all college degrees or college unit courses shall be by a national or regional accrediting body that is recognized by the Secretary of the United States Department of Education.

Degrees or course credits not issued by an accredited institution, as described above, are only allowed if they are accepted and recorded on transcripts of a college that is accredited.

Certificates are awarded by POST for multiple levels of education and service in law enforcement. POST Certificate incentive pay was included in the MOU as an alternative to longevity pay. Personnel could elect to receive either incentive, but not a combination of the two. The election to take either POST Certificates incentives or longevity pay is irreversible. The incentive pay for POST Certificate awards is different for each of the two bargaining units, as illustrated below:

<u>POST Certificates</u>	<u>Deputies and Sergeants</u>	<u>Lieutenants and Captains</u>
Intermediate POST	6.5% of Base Pay	5.0% of Base Pay
Advanced POST	12.5% of Base Pay	10.0% of Base Pay
Supervisory POST	N/A	12.0% of Base Pay
Management POST	N/A	13.0% of Base Pay
Executive POST	N/A	15.0% of Base Pay

The POST requirements for certificate awards are illustrated below:

Intermediate Certificate (with Basic Certificate)

<u>Degree or Ed. Points</u>		<u>Law Enforcement Experience</u>		<u>Training Points</u>
Bachelor's Degree	(and)	2 years	(plus)	0
Associate Degree	(and)	4 years	(plus)	0
45 Ed Points	(and)	4 years	(plus)	45
30 Ed Points	(and)	6 years	(plus)	30
15 Ed Points	(and)	8 years	(plus)	15

Advanced Certificate (with Intermediate Certificate)

<u>Degree or Ed. Points</u>		<u>Law Enforcement Experience</u>		<u>Training Points</u>
Master's Degree	(and)	4 years	(plus)	0
Bachelor's Degree	(and)	6 years	(plus)	0
Associate Degree	(and)	9 years	(plus)	0
45 Ed Points	(and)	9 years	(plus)	45
30 Ed Points	(and)	12 years	(plus)	30

Education points achieved through college course work and training points awarded for completion of POST training modules may be combined to achieve POST certificates without completion of an Associate or Bachelor degree.

Supervisory POST Certificates require possession of, or eligibility for, an Intermediate POST Certificate plus a minimum of 60 college semester units, completion of a POST-

certified Supervisory Course and a minimum of two years law enforcement experience as a permanent first-level supervisor or higher.

Management Certificate awards require possession of or eligibility for a POST Advanced Certificate, plus completion of a POST- certified Management Course and two years experience in law enforcement as a permanent middle manager or higher.

Executive POST Certificates include the same requirements as a Management Certificate, plus a minimum of two years law enforcement experience as a permanent department head with the current employing agency. The department head for the Sheriff's Office is the Sheriff, an elected official who is not eligible for incentive pay. Consequently, the MOU for the El Dorado County Law Enforcement Manager's Association contains a benefit for which no one is eligible.

In addition to incentive pay for POST Certificates, the County added EIP to the labor contracts issued in 2001. Unlike POST Certificates, EIP can be combined with longevity pay and does not require degrees or college course credits to be issued from an accredited college or university. The MOU does not require applicants to provide sealed transcripts with the diploma when applying for EIP.

While POST Certificate Incentive Pay cannot be combined with longevity pay, it can be combined with EIP. The only differences between the requirements for POST Certificates and the County requirement for EIP is that POST requires accredited degrees and two years of law enforcement experience. Consequently, an individual with a POST Certificate is also qualified for EIP and can combine either POST with EIP or EIP with longevity pay. A Captain, for example, with a Management POST Certificate may receive an incentive equal to 13% of base pay for POST and another 5% incentive for EIP. This 18% increase in total pay may be earned in much less time than the 30 years of service that would be required for the 18% available in longevity pay. As a result of these benefits, a Captain with a base pay of \$144,441 is paid as much as \$170,044. This \$26,000 in benefits is PERS eligible and would be worth over \$500,000 to the employee over the course of a 20-year retirement.

It should be noted that at the time EIP was added as a provision of the EDCSO Labor Agreements, "Catalog Colleges" were commonplace and Internet "Diploma Mills" had also become available. Furthermore, the minimum qualifications specified in the job classifications for all EDCSO sworn personnel state that, "*Where college degrees and/or college course credits are required, degrees and college units must be obtained from an accredited college or university.*" Nevertheless, the MOU provided in the labor agreements does not specify that college degrees must be issued by accredited colleges or universities. The MOU only specifies a "four year Bachelor degree" or a "two year Associate degree" as the requirement for EIP. The determination of the types of degrees acceptable for EIP is left to the discretion of the Sheriff or his command designees.

The lack of a defined standard in the MOU for acceptable institutions issuing degrees complicates the process of auditing the legitimacy of an applicant's diploma. Had the MOU specified a degree from a college or university accredited by a governing body

recognized by the Secretary of the United States Department of Education, a simple web search could easily validate the legitimacy of the institution. Alternatively, the MOU could have specified a “state approved college or university.” The California Private Postsecondary Education Act of 2009 (AB48) established a regulatory agency for institutions approved by the State of California. Either governing authority provides easy verification that the institution granting the degree is not a “diploma mill.”

As a means of remaining competitive for recruitment purposes, other local law enforcement agencies offer POST Certificate Incentives and Educational Incentives. In Folsom, for example, Police Officers and Sergeants may apply for either an Educational Incentive or a POST Certificate, but not both. The Folsom Police Department provides a 5% incentive for an A.A. Degree or an Intermediate POST Certificate and a 10% incentive for a B.A. Degree or a POST Advanced Certificate.

Placerville Police Department provides an Educational Incentive of \$125 per month for possession of a POST Intermediate and/or AA Degree or \$400 per month for a POST Advanced Certificate and/or a BA/BS Degree.

The City of Roseville provides Police Officers and Sergeants with a 5% incentive for either a POST Intermediate Certificate or an Associate Degree or a 10% increase in pay for a Police Officer or Sergeant with a POST Advanced Degree or Bachelor Degree.

It is noteworthy that these three cities do not allow Officers and Sergeants to combine POST incentives with EIP. All three cities provide personnel with a choice of POST or EIP and none offers a maximum benefit greater than 10%. It is also noteworthy that Lieutenants and Captains are not eligible for incentive pay.

As a result of vague language in the current EDCSO Labor Agreements, two deputies, two sergeants and one lieutenant of EDCSO received EIP after providing Bachelor degrees from universities that are currently being investigated by the United States Attorney General as “Diploma Mills.” Richardson University, also known as Hamilton University, has been under investigation for selling college diplomas. Hamilton University was first established in Hawaii as American State University and then moved to Evanston, Wyoming. The school issued degrees based upon “life experiences.” Candidates obtained degrees after answering a few questions from a booklet and submitting a paper of approximately 2,000 words.

In 2004, CBS News reported that Hamilton University was operated by Rudy Marn, who pled guilty to tax fraud in 2008 and was sentenced to two years in federal prison. Hamilton University has since changed its name to Richardson University and moved its “campus” to the Bahamas.

The District Attorney’s Office is concluding its criminal investigation into the EIP awarded to the five individuals in the Sheriff’s Office. The investigation revealed the five officers in question have received a total of \$166,459.72 in additional pay since their application for EIP was approved. One officer applied for entrance into Richardson

University on August 20, 2004, and graduated with a Bachelor's Degree in Criminal Justice only 27 days later, after completing 22 classes.

Only one of the five individuals investigated agreed to be interviewed by the District Attorney's investigator. This deputy stated that the Lieutenant under investigation encouraged him to obtain a degree from Hamilton University. The investigation also revealed that all five of the applications for EIP were approved by the EDCSO command staff. These approvals for EIP were granted even though the "four year degrees" were earned in as little as four weeks.

As of this writing, the District Attorney has not determined there is sufficient evidence to prosecute for the following reasons:

- The MOU was the controlling document for EIP and the wording in this document was vague.
- At least one Deputy was encouraged by his superior officer to attend Hamilton University, and all of the EIP applications were approved by EDCSO Commanders.
- Many of the actual admission records of the institutions in question had been destroyed and the difficulty in obtaining admissible evidence that could prove guilt beyond a reasonable doubt made successful prosecution questionable.

METHODOLOGY

Interviews were conducted with the following officials:

- El Dorado County Director of Human Resources
- El Dorado County Auditor-Controller
- El Dorado County Sheriff
- El Dorado County Sheriff's Office Internal Affairs
- District Attorney's Investigator, and
- Staff of the EDC Payroll Department.

The Grand Jury reviewed the following websites and documents:

- El Dorado County Human Resources document, *Employee Count by Position for Sheriff's Department*, pages 9-10, not dated.
- EDCSO document, *Education List Sworn*, EDCSO Internal Affairs, pages 1-2, April 28, 2010
- El Dorado County Website, www.edcgov.us/Government/HumanResources/Labor
- El Dorado County Website, www.edcgov.us/sigma/jobclass, Minimum Qualifications, page 4.

- Memorandum of Understanding Between City of Folsom and Folsom Police Officers Association, *Educational Incentive Pay*, article V (e), pages 11-13, July 1, 2010.
- Resolution NO. 7432 of the City of Placerville and the Memorandum of Understanding by and Between Placerville Police Officers Association and the City of Placerville, *POST/Educational Incentive Maintenance*, article 17, pages 12 & 14, September 26, 2006.
- Memorandum of Understanding for El Dorado County Law Enforcement Manager's Association, *Education Incentive*, article 10, section 7, page 18 dated June 30, 2010.
- Modified Last Best Final Offer for El Dorado County Sheriff's Association, Law Enforcement, article 6, (d, e & f), *Longevity Pay/POST Certificate Pay/Education Incentive Pay*, pages 7-8, dated 12/15/2010
- Memorandum of Understanding for Roseville Police Officer Association, chapter 2, article III, *Educational Incentive*, page 3, October 8, 2009 – December 31, 2012.
- POST Administrative Manual, *Certificate Terminology and Policy*, § 9070 (c-k), chapter 7, pages 3-8.

FINDINGS

1. According to sworn testimony given to the Grand Jury, EDCSO Internal Affairs audited the degrees of EIP recipients in 2002 and found one individual with a degree from Hamilton University. This individual did not appear to warrant EIP. Internal Affairs reports directly to the Under-sheriff and does not conduct investigations without direction from or approval by the Under-sheriff or Sheriff. Testimony indicated that when approached by Internal Affairs, the Under-sheriff ordered Internal Affairs to cease any further investigation. However, when Internal Affairs was interviewed by the District Attorney's investigator, this audit was said to have been conducted in 2008.
2. A simple Web search provided information that Hamilton University was operated by a convicted felon. Hamilton University changed its name to Richardson University and relocated to the Bahamas after Hamilton University was shut down by authorities.
3. In 2010, the issue of questionable degrees resurfaced. An Internal Affairs investigation revealed three individuals with diplomas from Hamilton or Richardson University and two other individuals with degrees from other questionable institutions. Internal Affairs turned the matter over to the District Attorney's office to determine if criminal charges should be brought against these five sworn personnel. Internal Affairs did not obtain statements from the accused officers before turning the matter over to the District Attorney.

4. The District Attorney's Office spent eight months investigating the issue but has elected not to prosecute any of the individuals involved, due to a lack of sufficient evidence.
 - Four of the accused deputies declined to provide statements to the District Attorney's Office.
 - The District Attorney's investigation revealed that the five officers in question received a total of \$166,459.72 in additional pay after the EDCSO Commanders approved their application for EIP.
 - The investigation revealed that the "four year degrees" were approved by EDCSO Commanders even though they were obtained in as little as four weeks of coursework.
5. EDCSO Internal Affairs delayed any administrative investigation while the District Attorney's investigation was ongoing. During this time, two of the individuals in question retired and the other three have remained employed.
6. The Modified, Last, Best and Final offer for the EDCSO Deputy Sheriffs Association, Law Enforcement Unit and the El Dorado County Law Enforcement Manager's Association are the two labor agreements currently in force between El Dorado County and the sworn personnel of the Sheriff's Office. Both agreements are subject to renegotiation.
7. Both labor agreements provide incentives for longevity pay, POST Certificate Awards and Educational Incentive Pay. POST incentives are available as an alternative to longevity pay and these two incentives may not be combined. However, EIP may be combined with either POST incentives or longevity pay. A Captain, for example, receiving the maximum benefit for EIP and longevity pay could receive nearly \$32,000 in additional pay.
8. In 2010, the County paid in excess of \$300,000 in EIP to EDCSO personnel. At the current rate, this incentive program will cost the County in excess of \$3,000,000 over the next ten years.
9. Neither labor agreement provides a standard for evaluating the legitimacy of college degrees and diplomas. The language of the agreements does not specify either "accredited colleges" or "State approved" colleges as a means of identifying legitimate institutions.
10. Two deputies, two sergeants and one lieutenant received degrees from unaccredited institutions that are being investigated by the U.S. Attorney General as "diploma mills." All five of these individuals applied for and received EIP. Applications were approved by EDCSO Commanders.

11. There is no requirement for personnel applying for EIP to provide a duplicate diploma and/or sealed transcripts to the El Dorado County Human Resource Department for independent verification.
12. The District Attorney's investigation confirmed that the five employees investigated were the only then current sworn personnel receiving EIP based upon degrees issued by questionable institutions.
13. Other local law enforcement agencies offer EIP and POST but the incentives cannot be combined, are currently limited to a maximum benefit of 10% of base salary, and are not available to command rank (Lieutenants and above).
14. The EDCSO reviewed the training files of 79 sworn personnel in 2010 to determine the legitimacy of college degrees. However, there were an additional 18 Correctional Officers receiving EIP who were not included in that review.

RECOMMENDATIONS

1. As provisions of the EDCSO labor agreements are renegotiated, the provision for providing EIP should be modified to include a standard for measuring the legitimacy of the institutions providing the qualifying degrees. Either "accreditation by a governing body recognized by the Secretary of the United States Department of Education" or "State Approved Colleges" recognized by the bureau established by the California Private Postsecondary Education Act of 2009 provides easy verification of the legitimacy of the institutions.
2. Accreditation by a governing body recognized by the United States Department of Education would be preferred because it is consistent with the standards required by POST.
3. A memorandum from the Sheriff should be sent to all employees clarifying that the current MOU language means "two year" or four year" degrees must be Associate and Bachelor degrees from colleges or universities which are accredited by an accrediting agency recognized by the Secretary of the United States Department of Education.
4. Any future applications for EIP by sworn personnel should include sealed transcripts and a diploma from the accredited college or university. Copies of these documents should be provided to both the Under-sheriff for approval and the Director of El Dorado County Human Resources for independent review.
5. An administrative investigation by EDCSO Internal Affairs should determine whether any of the five sworn officers investigated for EIP abuse were culpable of any violation of department policy that would warrant administrative

penalties. Appropriate penalties including termination or demotion should be enforced if justified.

6. The El Dorado County Department of Human Resources should be required to verify the accreditation status of any college or university granting degrees for which EIP is currently being paid or for which an application is submitted. No payment should be made for EIP or POST Award certificates without pre-specified evidence of eligibility from both the Sheriff's Office and the El Dorado County Human Resource Director.
7. In order that the paid compensation of the EDCSO is consistent with other local law enforcement agencies, the CAO should direct the Department of Human Resources to periodically conduct compensation reviews of those other local agencies to ensure that the compensation is consistent and competitive with local standards.
8. In addition to the EDCSO the personnel files of all past and present County, City and Special District employees receiving EIP should be reviewed by an independent auditor to evaluate the legitimacy of all degrees on file.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided to the El Dorado County Sheriff, the El Dorado County Human Resources Department and the El Dorado County CAO for response.

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

SHERIFF'S OFFICE OPERATIONS BUDGET ANALYSIS Case Number GJ010-015

REASON FOR REPORT

The El Dorado County Sheriff's Office (EDCSO) accounts for approximately 20% (\$41 million) of the County's General Fund. This investigation examines the historical and current Sheriff's Office Operations budget, including cost and revenue implications, with the goal of determining how and where cost savings are possible. The Grand Jury's emphasis was to identify potential cost savings through means other than staff reductions.

BACKGROUND

The Mission Statement of the EDCSO states that "The Sheriff's Office is responsible for law enforcement in the unincorporated areas of the County, liaison, coordination and cooperation with other law enforcement agencies at the local, State and Federal levels; court security and inmate transportation; service of Civil processes and warrants; operation of the County's adult detention facilities. The Sheriff also functions as the County Coroner and Public Administrator."

The EDCSO is made up of three Divisions; Custody, Patrol-Investigative Services, and Support Services. The Department is headed by the Sheriff and Undersheriff. According

to the EDCSO, as of January 2011, there are 364.5 allocated positions, of which 20 are vacant and 180 are sworn deputies.

The EDCSO has experienced substantial budget reductions over the past three years and operates at reduced staffing levels. This report demonstrates there are significant budget reduction opportunities.

Comparative data for El Dorado and Placer Counties:

	<u>Placer County</u>	<u>El Dorado County</u>
Total Population	348,432	178,447
Incorporated Population	236,439 (6 cities)	34,409 (2 cities)
Unincorporated Area Population	112,000	144,038
Square miles	1,404	1,711
Allocated positions	451	364.5
Sworn positions	212	180

The population of Placer County is almost twice as large as EDC but its geographical area is about 20% smaller. The Placer County Sheriff's 2010-2011 budget is \$83 million which represents 13% of their General Fund. It is important to note that there are six cities in Placer County. Placer County Sheriff's Office provides law enforcement services in two of these cities (Colfax and Loomis) on a contract basis. There are approximately 6.5 deputies assigned to contract duties (2 in Colfax, 4.5 in Loomis). Contract patrol service is divided into beat areas which overlap adjacent unincorporated County land. Since these deputies provide service in both contract and unincorporated areas they are included in the number of sworn positions for Placer County listed above.

METHODOLOGY

The Grand Jury interviewed the following persons:

- The immediate past El Dorado County Sheriff
- El Dorado County Undersheriff
- Placer County Undersheriff
- Sheriff's Captains
- Sheriff's Lieutenants
- Correctional Lieutenant
- Chief Administrative Officer (CAO) analysts
- Sheriff's Dispatch Manager
- El Dorado County Sheriff's Financial Manager
- Placer County Sheriff's current and former Financial Managers

- Sheriff's Financial Technician

The Grand Jury reviewed the following documents:

- 2008 South Lake Tahoe Patrol Allocation Study (March 31, 2010 by Lt. Marc Adams)
- 2009 Patrol Allocation Study West Slope Patrol (undated document)
- Budget Reduction Impacts to Sheriff's Office from former Sheriff Fred Kollar (11/1/2010)
- CAO memorandum to Board Of Supervisors Re: Agenda Item #10-0990 FY 2011-2012 Budget Reduction Plan (October 29, 2010)
- CAO recommendation for 2011-2012 Budget Reductions dated 10/18/2010
- Computer generated list from EDCDOT showing EDCSO vehicle usage and maintenance data for F/Y 2009-2010 (3 pages, undated document)
- Computer generated list of all EDCSO Vehicles (93) and marked Take Home (63) or At Office (30) (undated document)
- Cook/Chill introduction information from "Victory" web site, printed from web March 25, 2011 (no URL or page numbers available)
- EDCBOS Special Meeting Agenda For Law and Justice Departments (November 1, 2010)
- EDCSO Ten Year budget history (fiscal years 2001-2002 to 2010-2011)
- El Dorado County Crime Statistics for 2007 (Criminal.com website 11/17/2010)
- El Dorado County Crime Statistics for 2007 (historical data from 1998-2006)
- FBI news story "Some Good News" (from the FBI website 01/12/2009)
- Patrol Staffing and Deployment Study (International Association of Chiefs of Police – undated)
- Placer County Annual Report from 2009
- Placer County Sheriff's Office Strategic Plan (January 1, 2006)

FINDINGS

During this investigation the Grand Jury focused on the areas listed below.

1. **Salaries:** Salary schedules were reviewed for Sheriff's Departments in the following Counties: Amador, El Dorado, Placer, and Yolo. Some of these agencies report actual base salaries, while others show salaries including incentives. For comparison purposes the lowest and highest base salaries of each agency were used and compiled to form a median salary, which was \$5,264 per month. The median salary for El Dorado County deputies is \$5,420. While El Dorado County is slightly above the median (\$156), the variables mentioned

indicate El Dorado County deputy salaries are in line with those in several nearby jurisdictions.

2. **Overtime:** EDCSO achieved a substantial reduction in overtime. It is reported that at the end of Fiscal Year 2007-08, overtime costs were \$4,095,143. In the third quarter of Fiscal Year 2009-2010, overtime costs were \$2,015,511. When extrapolated to a full year, that number is \$2,687,348, a reduction of \$1,407,795, or approximately 34%.
3. **Budget:** The CAO budget proposal for F/Y 2010-2011 provides a ten year history of Sheriff's Office financials and staffing patterns. In F/Y 2001-2002 the Sheriff had 362 Full Time Equivalent (FTE) positions and a budget of \$22.5 million. The budget and staffing peaked in F/Y 2007-2008 at 399 FTE and a budget of \$43.3 million. During the three intervening years since F/Y 2007-2008, the Sheriff's Office had to adapt to substantial reductions in budget and staff, with staffing reduced from 399 FTEs to 377, and the budget reduced from \$43.3 million to \$40.5 million, a \$2.8 million reduction.
4. **Position classifications:** Sworn deputy sheriffs are the front line for law enforcement responsibilities. Sworn positions have a rank structure including deputy sheriff, sergeant, lieutenant, captain, undersheriff, and sheriff (an elected official). The majority of jail personnel are non-sworn correctional personnel, but also have a rank structure including correctional officer, sergeant, and lieutenant. Many other civilian personnel are assigned who perform financial, dispatch, and other administrative support functions throughout the Department.
5. **Patrol Staffing:** It is incumbent on law enforcement to deploy their limited resources in the most efficient and cost-effective manner possible. The EDCSO deploys patrol personnel based on a nationally recognized Patrol Allocation and Deployment Study developed by the International Association of Chiefs of Police (I.A.C.P.). This study is a workload-based analysis using information produced by the Computer Aided Dispatch system (CAD). The computer captures raw data and compiles it in ten different categories of officer status. The predominant category is dispatch related activity which includes calls for service, report writing, and time spent at the jail resulting from an arrest. Also factored into the equation are vacation, sick time and training. The compilation of this data is used to make staffing decisions for the number of deputies required in each of the EDCSO patrol zones. The Patrol Allocation Study indicates the South Lake Tahoe patrol zone has three to four more positions than are justified by the workload. These figures were affirmed by the former Sheriff in printed material used in his budget presentation to the EDCBOS November 1, 2010. The Patrol Allocation Study contrasts sharply with the historical method of making decisions based on one officer per 1,000 population. This had been the historic method used in making patrol deployment decisions and is still used in many patrol

jurisdictions. The CAD based patrol staffing and deployment approach is a superior method in making sound personnel and geographic patrol coverage decisions.

- 6. Vehicle “take home” policy:** Currently, all EDC Sheriff’s detectives, managers above the rank of sergeant, and selected other positions are authorized take home County vehicles without restriction. This policy represents significant cost to the County and does not appear to be in line with current trends in law enforcement. The ability for employees to take EDC vehicles home seems to fall somewhere between operational need and a departmental perk, depending on the position. There are approximately 63 EDC Sheriff’s Office take home vehicles being driven by staff.

A vehicle summary prepared in January, 2011 showed the following costs associated with the 63 take home vehicles:

Fuel	\$134,883
<u>Maintenance</u>	<u>\$346,500</u>
Total	\$481,383

In addition to the above costs, three vehicles listed as “take home” are unassigned (two in narcotics, one in detectives). A Ford F350 crew-cab diesel truck for boat patrol is listed as “take home.” This is a particularly expensive commute vehicle.

Recently, Placer County Sheriff’s Office restricted the practice of “take home” vehicles and saved approximately \$500,000.

- 7. Fleet Management of Patrol Vehicles:** Until recently deputies assigned to patrol were not assigned a particular vehicle for their shift, but would obtain a vehicle based on personal preference. This practice was not a good model for fleet management. EDC Department of Transportation (EDCDOT) and EDC Sheriff’s Office informed the Grand Jury this practice has changed. Vehicles are now being assigned to and shared by one officer on day shift and another on night shift. It is reported that in addition to the obvious benefits of improved accountability, maintenance, and damage tracking, the vehicles are receiving better care as the assigned officers tend to take greater pride in assigned equipment they feel is “theirs.”
- 8. Institutional Food:** Food served to inmates meets State standards for nutrition and quantity. It is currently prepared on site by a combination of county employees and inmates.

The South Lake Tahoe Jail Facility runs a model culinary program in partnership with the local community college. In addition to preparing food for inmates and staff, food is prepared for community events on a contract basis.

A significant cost reduction of \$12,000 per year for inmate food was achieved recently by shifting the cost of condiments from the County to the inmate population through the commissary program.

9. **New Personnel:** Two key vacant positions have been filled in the EDCSO since January 1, 2011, which will potentially contribute significant improvement in the organizational development and management of the EDCSO, particularly as it relates to financial and operational controls.

First, the new Undersheriff brings qualifications and experience to the agency which will allow him to employ effective management of day to day operations, and apply discipline to financial controls. Second, the appointment of a new financial manager brings a background in financial management to the Department, gained as a senior staff member for the Los Angeles County Board of Supervisors. Both of these individuals bring what has been missing in the management of the Sheriff's Office, and both fill critical positions that have been vacant for more than one year. The fact that both are new to the department and neither is tied to the past in the organization is a major plus.

RECOMMENDATIONS

1. It is imperative that future cost cutting be achieved through careful analysis, rather than simply eliminating staff by across the board cuts.
2. **Take Home Vehicles:** The EDCSO practice on take home county vehicles should be revised and made job related, which would provide substantial savings. Take home vehicles for command staff may be appropriate. Other take home vehicle assignments should be made based on careful analysis. For example, a take home vehicle policy should consider how frequently an employee is called from home outside of normal working hours. Detectives should not be taking cars home just because they are detectives, the weekly on-call detective should be the only detective to routinely take a vehicle home. It is rare that numerous detectives are required to respond to a crime scene without delay. Some other disciplines require a great deal of personal gear (SWAT Team, Bomb Squad, and K-9), although the 24/7 on-call factor should apply here as well. An exception to this would be with the narcotics unit, since the nature of this job and working hours required must remain flexible.

Even where it is deemed proper for an employee to take a county vehicle home, there should be restrictions. Some jurisdictions restrict commute driving only to locations within the county of employment. It would, by extension, seem proper to restrict vehicles to the State of California as well. Employees living outside these boundaries can leave their vehicles at the duty station nearest their residence and commute from there. Another option would be to charge the current county mileage rate for all commute driving.

A reform of the take home vehicle policy may not be popular among the staff, but it represents a prudent use of public funds. As mentioned earlier Placer County realized substantial savings by implementing such a policy.

The Grand Jury was informed there is no written policy on vehicles or take home vehicles. A written policy on vehicles should be developed as soon as possible and distributed to all personnel in the office.

3. **Patrol Staffing:** Staffing in the SLT patrol zone should be reduced to the level indicated by the Patrol Allocation Study.
4. **Re-classifying Positions:** In other jurisdictions cost savings have been achieved by reclassifying positions and staffing them with civilian personnel. Further study is required to determine if any potential cost saving with the EDCSO could be achieved. Several job functions that could lend themselves to potential savings include:
 - Converting sworn civil court bailiffs to civilian court attendants
 - Civilian personnel monitoring building security X-ray machines
 - Lower level process serving in the Civil Unit
 - Vehicle abatement (abandoned vehicle removal)

There may be merit and cost savings associated with the consolidation of some support staff positions. This would be done by cross-training selected personnel who are currently performing support services in a single unit. By cross-training, their skills would be enhanced, enabling them to assume responsibilities in multiple units and broader job responsibilities.

This concept has the potential to reduce personnel costs while affording greater flexibility in staffing patterns. Such a practice follows a general trend in law enforcement in moving from specialist to generalist duties, and it has been adopted in other jurisdictions successfully.

5. **Institutional Food Reform:** Another area for potential savings may exist if the method for food preparation is modernized. This could be accomplished by switching from traditional food preparation to a “Cook/Chill” system. Cook/Chill

is a process whereby food is prepared on or off site, chilled for preservation, reheated and kept warm at the service area just prior to serving. While Cook/Chill is commonly associated with larger institutional food service operations, new compact quick chill equipment designs place a Cook/Chill system within the reach of many types and sizes of food service operations. Cook/Chill methods are used extensively by restaurants, hotels, caterers, and on airplanes and ships. It was learned during interviews that a Cook/Chill program had been considered, but was not adopted. The projected savings of \$50,000 was not considered cost effective. However, if substantial annual savings can be achieved in a reasonable time frame, it is worth further consideration.

6. **Additional areas worthy of mention:** Two additional areas of potential savings were brought to our attention by an official outside EDC. These were not investigated by the EDCGJ due to time constraints but are mentioned here as being deemed worthy of consideration;
 - **Telephones:** A substantial amount of money is spent each month by duplicating telephone service. Basically all EDCSO personnel have a desk set telephone in their work area, the cost of which (currently about \$179,000 per year) is billed to the Sheriff's Office. Some of these same employees may be assigned cell phones. It seems prudent to maintain a limited number of desk telephones to guarantee service in the event of a cellular outage, but routinely maintaining both types of telephones for an employee seems to serve no purpose other than spiking the cost of communication.
 - **Service Centers & Leased Facilities:** The Sheriff's Office currently spends approximately \$200,000 per year on rent or leases. Also, the leased facility on Pierroz Road in Placerville houses the investigative unit and narcotics units. We understand this space was leased in anticipation of planned expansion of the investigative section which has not occurred. It would be beneficial for the EDCSO to evaluate physical plant needs at all Sheriff's facilities, and analyze those needs to identify areas which might lend themselves to space consolidation and ultimately a cost saving.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided to the El Dorado County Sheriff, El Dorado County BOS, and El Dorado County CAO for response.

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

INVESTIGATION OF GENDER BIAS IN THE SHERIFF'S OFFICE

Case Number GJ010-001

REASON FOR REPORT

An anonymously written letter dated May 28, 2010 was forwarded to the current El Dorado County Grand Jury (EDCGJ) by the 2009-2010 Grand Jury. This letter, purportedly written by a Sheriff's Office employee, described a work environment in the Sheriff's Department that was disrespectful and discriminatory to female members of the department. In addition, the public's concern over gender bias in the Sheriff's Department increased when articles appearing in the Mountain Democrat and Sacramento Bee described two lawsuits filed by Sheriff's Department employees alleging sexual harassment. To address concerns regarding gender bias in the Sheriff's Department, the EDCGJ opened an investigation to review related written policies and practices within the Department.

BACKGROUND

In 2010, there were 386 men and women working in the Sheriff's Office. Of this total, 119 were female (30.8%). Of the 184 sworn officers, ten were women (5%). In a study undertaken by the Bureau of Justice in 2003 (the latest data available), the national average of female officers (deputies, sergeants, lieutenants and captains), for communities with a population between 100,000 and 249,000 was 12.8%. El Dorado County (EDC) employed 4.5% females in sworn positions in 2003. The Department's turnover rate for

sworn and civilian personnel (not including retirement) in 2010 for women was 6.7% and 1.1% for men. There were 12 gender bias complaints in 2010, which was twice the number filed in 2008 and 2009 combined.

Nine out of the 12 complaints in 2010 were filed by civilian Community Service Officers (CSO) or sworn deputies. Six female deputies and all eight CSOs were interviewed by the EDCGJ. Areas of concern included the selection process for lateral, specialized assignments and the Internal Affairs investigation process. Some interviewees stated that they would not recommend without reservation, employment with the Sheriff's Office to other women. Almost half of the interviewees indicated that they experienced gender bias at some time during their career at the EDC Sheriff's Office.

METHODOLOGY

1. The EDCGJ conducted the following interviews:

- Six female deputies for El Dorado County were subpoenaed to appear before the grand jury.
- Eight female Community Service Officers for El Dorado County were subpoenaed to appear before the Grand Jury.
- Director of Human Resources for El Dorado County
- EDC Sheriff's Department Support Services Division Commander
- Interim Sheriff for El Dorado County
- Current Sheriff for El Dorado County
- Detective, El Dorado County Sheriff's Office

2. The EDCGJ examined the following written sources during the investigation period of July 1, 2010 through April 30, 2010:

- El Dorado County Sheriff's Office Policy Manual
- County of El Dorado Policy Prohibiting Discrimination, Harassment and Retaliation, and Reporting and Complaint Procedure
- 2007 complaint alleging sexual harassment and gender bias
- Letter of Counseling dated May 31, 2007, subject "Complaint"
- 2009 complaint alleging misconduct of a command officer
- Sheriff's Office memorandums dated June 13, 2009 and June 17, 2009, subject "Complaint"
- Copies of e-mails dated June 4, 2009 subjects "Complaint" and "Inappropriate"
- Letter of Counseling dated September 16, 2009

3. The EDCGJ obtained statistical data from the following sources:

- Website <http://bjs.ojp.usdoj.gov/index> accessed March 14, 2011 regarding statistics on female employment in Sheriffs' Departments
- El Dorado County Human Resources Department
- Telephone inquiries to Shasta, Placer, Amador, King, and Madera counties
- El Dorado County Sheriff's Office, Investigative/Detective Unit.

FINDINGS

1. A total of 18 gender bias/sexual harassment complaints originating in the Sheriff's Office were filed over the last three years. Three were filed in 2008, three filed in 2009 and twelve filed in 2010. Six of the 18 complaints were sustained (found to be true).
2. Of the six sustained allegations, three individuals did not have records of disciplinary action related to the complaints in their files in the El Dorado County Human Resources Office. Of the remaining three complaints, one of the accused retired and one was terminated. The third complaint involved multiple accused employees and the final discipline resulted in one termination, a forty-hour suspension, and a Letter of Reprimand.
3. There are two pending lawsuits filed with the United States District Court against the County of El Dorado, El Dorado County Sheriff's Department, and individual plaintiffs within the Sheriff's Department alleging discrimination, harassment, and retaliation.
4. Operations within the Sheriff's Department are governed by the following:
 - El Dorado County Sheriff's Office Policy Manual
 - Memorandum of Understanding (MOU) with applicable bargaining units
 - County of El Dorado Policy Prohibiting Discrimination, Harassment and Retaliation and Reporting and Complaint Procedure
 - Federal and State regulations outlined by the Equal Employment Opportunity Commission and enforced by the El Dorado County Human Resources Department
5. El Dorado County Sheriff's Office Policy 329, "Discriminatory Harassment", prohibits and defines discrimination, harassment and retaliation.

- Section 329.2 states that “*Employees . . . found to be participating in any form of employment-based harassment, discrimination or retaliation against any applicant or employee may be subject to disciplinary action up to and including termination from employment.*”
 - Section 329.4.1 states that for Department Heads, Management and Elected Officials, “*Failure to take corrective action when a department head/manager/elected official knew, or should have known, that an employee was being subjected to unlawful discrimination, harassment or retaliation on the job is a violation of this policy and may subject the . . . official to a disciplinary action up to and including termination or other appropriate sanctions.*”
 - Section 329.4.1 states that “*A failure to report conduct that may constitute unlawful discrimination, harassment and/or retaliation to the Department of Human Resources (Equal Employment Officer) or CAO (Chief Administrative Officer) . . . may result in disciplinary action up to and including termination.*”
 - Section 329.4.3 states that the Human Resources Director and Department shall be responsible for “*Scheduling and auditing periodic training of County management and employees in the area of unlawful workplace discrimination, harassment, retaliation including identification of prohibited conduct, procedures for reporting the occurrence of such conduct and prohibition against retaliation for complaints.*”
 - Section 329.5.3 states that “*if the determination is made that discrimination, harassment and/or retaliation occurred which violates County policy, the Director of Human Resources (Equal Employment Officer) or CAO (Chief Administrative Officer) shall take and/or recommend prompt and effective remedial action commensurate with the severity of the offenses(s), taking into account the principles of progressive discipline as well as the County’s zero tolerance policy towards unlawful discrimination, harassment and retaliation.*”
6. Forty-two percent (6 of 14) women interviewed by the EDCGJ indicated that they have experienced gender bias at some time during their careers with the EDC Sheriff’s Department. Three women stated they would not recommend employment with the Sheriff’s Department to other women. Two stated that they would recommend the Sheriff’s Department only after they explained the difficult working conditions. Nine said they would recommend the Sheriff’s Department to other women.
7. In addition to the 18 complaints filed since 2008, the Grand Jury examined three sustained complaints that originated from an allegation in 2007 by three male deputies who reported events where females were subjects of gender bias. The El Dorado County Human Resources Office forwarded the complaint to an outside attorney for review. The attorney recommended that three of the reported incidents outlined in the complaint had sufficient evidence to sustain the allegations, specifically stating that one of the comments “*was reasonably understood as a*

8. The above referenced individual was promoted to a command position in 2009 and during his probationary period for that promotion, received another Letter of Counseling for an additional sustained complaint involving conduct which reflects unfavorably upon the Department. Using a Letter of Counseling twice for the same ranked individual does not adhere to section 329.5.3 of the Policy Manual “. . . *taking into account the principles of progressive discipline. . . .*”
9. The Sheriff’s Office Policy Manual states that discriminatory behavior based on gender, ethnicity, religion, and sexual orientation is prohibited. There are no written guidelines for disciplinary action if these policies are violated. When asked if mandatory discipline for violating such policies should be delineated in the Policy Manual to serve as a deterrent, one Sheriff’s Office Commander stated that doing so would take away the discretion of supervisors and managers in assigning punishment.
10. Some of the women interviewed expressed a lack of confidence in Internal Affairs to handle a gender bias complaint. Their concerns included a lack of objectivity, as well as the potential for compromised confidentiality that could lead to possible retaliation by co-workers.
11. Although formal training on rules and regulations regarding Equal Employment Opportunity is given every two years for sergeants and above, no formally scheduled training takes place for sworn and civilian members in the Sheriff’s Department.
12. The El Dorado County Recruitment and Selection section 1000.3.6 lists discipline for acts constituting racial, ethnic or sexual harassment or discrimination as disqualifying for applicants of positions within the County. Section 1000.3.4 also requires that applicants must be effective in dealing with people without arousing antagonism. In at least one promotion the EDCGJ reviewed, an applicant who received a Letter of Counseling for discourteous, disrespectful or discriminatory treatment, was promoted to a command rank two years after he received the discipline.

13. The Grand Jury's review of two sustained complaints found no verification that the Sheriff was informed about the content of the complaint or took part in disciplining the guilty individuals.
14. Although El Dorado County ranks second from the bottom among Shasta, Placer, Amador, Kings, and Madera counties in the number of female deputies with a rank of sergeant or above, the majority of the female deputies did not have any concerns about the process used to promote candidates for sergeant or above. The process involves testing facilitated by an outside consulting company. However, it should be noted as stated in Finding 21, gaining experience to be successful in promoting to sergeant or above is controlled in part by the lateral assignment process. There were four attempts by women to obtain a promotion to sergeant since 2003, and only one woman was successful. Twenty-six men were promoted to sergeant or above during the same time frame.
15. Sergeant openings in the West Slope area are typically filled by sergeants with higher seniority, leaving the South Lake Tahoe position vacant when they transfer. The vacant position is then filled by a newly promoted sergeant with less seniority. This practice can discourage potential candidates with families or other responsibilities rooted in the West Slope to seek promotion.
16. Policy 1001 of the Sheriff's Office Policy Manual defines the process that is used to select individuals for specialized job assignments. All employees are notified via e-mail of job openings, and applicants are ranked by a panel of supervisors within the Department. If the position has three or more candidates, is full time or involves skill pay, only the top three candidates ranked by the panel are invited to compete in an oral interview. After the interviews are concluded and final ranking is tabulated, the panel's numerical ranking is forwarded to the Division Commander.
17. Personnel in the Sheriff's Office provided the following information regarding detective positions:
 - There is no mandatory rotation of detective positions.
 - There are currently 20 male and zero female detectives in the EDCSO.
 - Over the last five years no women were added to the Detective Unit.
 - In 2008, one female detective left the Investigative Detective Unit because she was promoted to sergeant.
 - Detectives receive a 5% pay increase and a take home vehicle, making this a coveted position for deputies.
18. According to the Bureau of Justice Statistics website, data from a 2003 census (the latest available) showed that the national average for the percentage of sworn female officers in communities between 100,000 and 249,000 is 12.8%. The per-

19. In testimony, the Sheriff indicated there are no plans to recruit female deputy applicants to bridge the Department's existing gender gap in sworn positions.
20. Although there is a written policy that defines the process for selecting candidates for lateral assignments, the majority of the six deputies interviewed expressed dissatisfaction with the methods used to select candidates for lateral, specialized work assignments. Concerns include:
 - The selection process was too subjective since most assignments did not involve written testing, relying instead on the ranking of candidates by a selected panel.
 - Not having a chance to appear before the selection panel if they did not receive one of the top rankings.
 - Not getting any feedback or coaching on how they can improve their chances for being selected in the future.
 - The low number of openings due to non-rotation of some assignments such as detective.
21. The Grand Jury finds that lateral assignments such as Detective, Field Training Officer, and River Patrol are a gateway for promotion into the ranks of sergeant or above. In addition, the El Dorado County Grand Jury concludes that the selection process for lateral assignments is subjective and somewhat arbitrary.

Without experience gained from lateral assignments a candidate who applies for sergeant or above has a slim chance of succeeding when competing against a candidate who has detective or other lateral assignment experience. It is not surprising that only one woman achieved the rank of sergeant since female detectives have been almost nonexistent. Having female deputies on the force who have gained experience from lateral assignments also contributes to a more effective and culturally competent law enforcement organization for El Dorado County.

RECOMMENDATIONS

1. The EDCGJ strongly urges the Sheriff's Office to implement the following regarding lateral, specialized assignments:
 - Implement a plan to rotate specialized lateral assignments such as detective with the goal of creating more opportunities for deputies to gain valued job skills while at the same time ensuring that expertise within the Department is preserved.
 - Establish objective means wherever possible to measure candidates' abilities against written job qualifications.
 - Give *all* qualified candidates the opportunity to compete in oral examinations conducted by the selection panel.
 - Consider alternatives to the practice of allowing sergeants with seniority to force newly hired sergeants with less seniority to locate in South Lake Tahoe since it has the unintended consequence of discouraging those with family or other responsibilities rooted in the West Slope to apply for promotion.
 - Provide a venue for unsuccessful candidates to receive feedback from the selection panel.
2. The Sheriff's Office must identify and recruit qualified female and other minority candidates to apply for future openings in the Sheriff's Office. This outreach would enable the Sheriff to take a leadership role in eliminating bias and the appearance of discrimination that exposes El Dorado County to civil liability.
3. The Sheriff's Office zero tolerance policy regarding discriminatory harassment must be better communicated and implemented by:
 - Establishing set scheduling of formal training for all employees on proper workplace behavior.
 - Ensuring that sustained allegations of sexual harassment and/or gender bias discrimination are duly weighed against individuals applying for promotion.
 - Aggressively implementing Policy 329.4.1 advocating disciplinary action for supervisors when complaints are filed in their sphere of influence and it is determined that they "*knew, or should have known, that an employee was being subjected to unlawful discrimination, harassment or retaliation on the job*".
 - Performing a review of Internal Affairs to eliminate perceptions of lack of objectivity and confidentiality.
 - Routing all allegations of sexual harassment/gender bias complaints through Internal Affairs to the Sheriff.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided to the El Dorado County Sheriff and the Director of Human Resources for El Dorado County for response.

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EL DORADO COUNTY GRAND JURY 2010-2011

EL DORADO HILLS FIRE DEPARTMENT BUDGET AND OPERATIONAL REVIEW

Case Number GJ010-013

REASON FOR REPORT

A County official advised the Grand Jury that the El Dorado Hills Fire Department (EDHFD) was overspending its budget despite receiving a disproportionate amount of property tax revenue. On September 12, 2010, the Department's Fire Chief publicly disclosed that the Department was "overstaffed" and was suffering from "runaway overtime." A Sacramento Bee editorial published on March 13, 2011 was highly critical of the Sacramento Metropolitan Fire Department's salary and benefit package, which is similar to the EDHFD. To ensure the efficient provision of fire safety services to El Dorado Hills residents, the Grand Jury investigated the current administration, operations, and spending practices of the EDHFD.

BACKGROUND

In 1963, the EDHFD was formed when the El Dorado Hills Joint County Water District was given legal authority to form a fire department. In 1973, El Dorado Hills residents voted to obtain their water and sewer services from the EDC Irrigation District (EID), thus ending the provision of water and sewer services by the El Dorado Hills County Water District. However, the EDHFD continued as a Special District, providing medical and fire services to El Dorado Hills. In its present state, the Fire Department is governed by a five member Board of Directors, who serve four-year terms. In official documents, the EDHFD still refers to itself at times as the El Dorado Hills County Water District.

The El Dorado Hills Joint County Water District's property tax revenue was enhanced by the following key factors:

- EDHFD had a high tax rate and revenues for the three years prior to Proposition 13 taking effect in 1978. The average of the three years as compared to the same average for the other 80 plus El Dorado County (EDC) taxing jurisdictions was the key factor in determining the base revenue for post-Proposition 13 property tax revenue.
- EDHFD high tax rate and revenues prior to Proposition 13, allowed for a significant share of the future Proposition 13 property tax increment to be established. The EDHFD's share of the 1% property tax revenue is 17.5%. The EID collects 5.8% of the 1% to compensate for taking over the El Dorado Hills County Water District's water and sewer services. The EDHFD share of property tax is essentially frozen in place unless changed by annexation or renegotiation through the El Dorado County Board of Supervisors.
- EDHFD was exempted by the State Legislature from Education Revenue Augmentation Funds (ERAF) cycle 1, 2, and 3 property tax shifts for several reasons, including their dual county status (the Water District extends into a small portion of Sacramento County), and that fire services are provided. Other fire districts benefit from an inter-county designation.
- EDH Fire's boundaries encompass a territory where expansive growth of upscale properties has occurred over the last 25 years. Thus, the Assessed Valuation (AV) of the territory increased overall more than the AV of the remainder of the county.

The District receives 73% of its revenue from property taxes, which when combined with developer fees enabled the District to build and staff two new fire stations. The two new stations, along with the two older stations, have been staffed at higher levels than surrounding fire departments. The Department also offers a more expensive salary and benefit package to its employees than comparable agencies.

The Department has accumulated a General Reserve Fund of \$14,273,038, and a Capital Reserve Fund of \$7,288,483. Opinions vary on the sizes of the General and Capital Reserve Funds. By comparison, the Sacramento Metropolitan Fire Department, which is roughly ten times the size of the EDHFD, has a General Reserve Fund of \$9,482,801 and a Capital Reserve Fund of \$1,749,586. Critics state that the General Reserve is too low to cover the future unfunded liability of the EDHFD retirement plans and retiree medical plans. The Capital Reserve Fund balance is generally a product of Fire Impact Fees paid to the EDHFD by developers.

Because of its ample share of the property tax revenues, the questionable spending practices of the Department did not surface until a reduction in property tax revenues began to stress the Department budget.

The EDHFD is a “stand-alone” agency that does not have to compete with other public services for precious budget dollars like municipal and county fire departments. In the past, the Board has made funding decisions with little citizen oversight. Though the Department has an expansive website, few residents attend Fire Board meetings. Board members have to do little political campaigning, and the Firefighters Union contributes funding and time to their limited campaigns.

The Department sustained a \$900,000 budget deficit in Fiscal Year 2009-10, which necessitated the use of reserve funds to balance the annual budget. The Reserve Fund will be accessed again in Fiscal Year 2010-2011 for an estimated \$700,000. The Department is at a financial crossroads. Property tax revenues are dropping and labor contract negotiations for Fiscal Year 2011-2012 started in January 2011.

Overtime spending and Educational Incentive Pay have increased threefold since the 2005-2006 Memorandum of Understanding was signed. Although the local economy was slipping, EDHFD firefighters received annual cost of living allowance raises totaling 13.5% from 2006 to 2008. The firefighters in El Dorado Hills pay nothing towards their “3 at 50” pension plans, which allow firefighters to garner 3% retirement increments for each year worked, and become eligible to retire at age 50. After thirty years, a Firefighter can retire at 90% of their base pay plus other contractual enhancements. During their EDHFD employment, firefighters do not contribute toward their medical, dental, or vision plans.

Calls for service trends from 2006 to 2010 are depicted in Table 1. Total Calls for Service decreased by 7%, Structure Fires increased by 5%, while Brush and Grass Fires decreased by 30%.

From an EDHFD analysis of Calls for Service, the Grand Jury found that for each of the District’s fully staffed and equipped fire stations, total dispatches ranged from .87 to 1.7 responses every 24 hours. According to the EDHFD former chief, only six true structure fires occurred in 2009, and the Annual report estimated property damage from fire was \$1.2 million. Dividing the EDHFD 2009-10 annual total budget of \$18,304,077 by the total of calls for services (which includes false calls, cancelled calls, rattlesnake calls, lock-outs, “service” calls, as well as a very small number of fires), the average call response costs the taxpayer \$8,153. Using the same formula for 2010, with a budget of \$16,108,638, the average cost per call for service is \$7,150.

Table 1: Calls For Service (CFS) Compared to Prior Year										
Call Type	2006 Actual	2007 Actual	2007 % Change Prev. Year	2008 Actual	2008 % Change Prev. Year	2009 Actual	2009 % Change Prev. Year	2010 Actual	2010 % Change Prev. Year	Change 2006-2010
Total CFS	2,427	2,532	4%	2,565	1%	2,245	-13%	2,253	0.40%	-7%
Structure Fires	35	30	-14%	41	27%	30	-27%	37	19%	5%
Grass/Brush Fires	57	74	23%	70	-5%	33	-53%	40	17%	-30%

According to the EDHFD Board of Directors, contract provisions that will be reviewed during contract negotiations include mandatory staffing levels, educational incentive pay, use of “floaters” to reduce overtime, and employee contributions toward their retirement, health, dental, and vision plans. The Grand Jury supports the Board’s “everything is on the table” approach.

The Board appears to be heading in the right direction, by hiring an outside consultant to help develop budget reduction strategies. Additionally, in late April 2011 four firefighters retired, and once each retirees’ sick and vacation leave buy-outs and \$50,000 retirement incentives are paid, the retirements should give the Department some staffing breathing room.

The Grand Jury does not wish to diminish the work of the EDHFD Firefighters, and is mindful the EDHFD labor contract was achieved by the collective bargaining process approved by the Board of Directors. The Grand Jury is concerned with the Department expenditure of tax dollars and whether current spending practices are sustainable and necessary. The key budget decisions will be made by the Board of Directors, but ultimately it is the voters who must decide how much they want to spend for fire services in El Dorado Hills.

METHODOLOGY

The following individuals were interviewed by Grand Jury members during 2010 and 2011:

- Members of the EDHFD Board of Directors
- Chief level members of the EDHFD
- EDH Professional Firefighters Union official
- American River College Career Counselor

- Officials from El Dorado County Sheriff's Office and Cal Fire dispatch centers.

Grand Jury members reviewed the following documents:

- EDHFD Annual Plans 2009 and 2010.
- EDHFD Five Year Plan
- EDHFD Memorandums of Understanding 2006-present
- EDHFD Procedures Manual - 2010.
- EDHFD Budgets 2009 and 2010
- Pertinent sections of California Government Code
- All National Fire Information Reporting System structure fire reports from calendar years 2009 and 2010
- Village Life newspaper articles pertaining to EDHFD budget issues, 2010 to 2011
- September 10, 2010 article from Firehouse Magazine, Firefighter Tactics, Measured Scientifically

The Grand Jury also surveyed seven other fire departments by sending out written and electronic survey forms to the Chiefs of the various departments.

FINDINGS

1. The EDHFD salary and benefit package is significantly higher than other fire departments.

The EDHFD is impacted by three entities: the Board of Directors, Fire Chief, and the EDH Professional Firefighters' Union Local 3604. The Grand Jury learned from their interviews the Board wants to balance costs, but at the same time wants to maintain high wage and benefits to minimize loss of skilled personnel to other fire departments. The Union wants to maximize firefighter and citizen safety, as well as prevent layoffs, regardless of cost. This leaves the Fire Chief in the unenviable position of having to run a department on a collision course with fiscal reality, and who is responsible and accountable, but excluded from labor contract negotiations.

Key budget categories for Fiscal Years 2009-10 and 2010-11 are:

Table 2: Key EDHFD Budget Components		
	2009-10	2010-11
Wages and Benefits	75%	84%
Operations	8%	9%
Contingency Funds	6%	1%
Fixed Assets	6%	6%
Capital Reserve	5%	0%

The EDHFD budget contains many salary and benefit figures that seem out of sync with today's struggling governmental agencies. The Department's budget pressures have their origin in the 2005-06 Memorandum of Understanding (MOU) or labor contract.

Cost of Living Allowances

From July 1, 2006 to July 1, 2008, the following Cost of Living Allowances were awarded to EDHFD uniformed staff:

- Effective July 1, 2006 4%
- Effective July 1, 2007 4.5%
- Effective July 1, 2008 5%

Compounded, these raises total 14.11%. From July 2006 to July 2008, inflation rose 7.5%, so in effect the EDHFD firefighters netted a 6.61% raise over this three year period. However, there has been no Cost of Living adjustment for Firefighters since July 1, 2008.

Salary Adjustments

An additional equity salary adjustment of 1% for Engineers, and 2% for Firefighters was granted on September 26, 2006 by the Board of Directors. Another 0.5% equity salary adjustment was granted to Captains, Engineers, and Firefighters on July 1, 2007. With the equity adjustments added to the cost of living allowance, wages were boosted up to 16% from July 1, 2006 to July 1, 2008.

Paramedic Incentive

Further, even though an EDHFD Firefighter must have a paramedic license to meet minimum qualifications before being hired, a paramedic incentive stipend began being paid effective September 26, 2006, at a rate of 4% for Captains, 5% for Engineers, and 9% for Firefighters.

Overtime

The Firefighter Paramedics have had significant increases in overtime since the 2005-06 contract. Overtime costs have increased from \$12,810 on average per firefighter in Fiscal Year 2005-06 to \$39,501 in Fiscal Year 2009-10. One factor that contributed to the overtime was a 2005-06 MOU section that mandated 24/7 minimum staffing levels at the Department's Fire Stations, and locked the Department into an inflexible staffing model. Another MOU section prohibits the Department from using flexible overtime reducing positions called "floaters," which are commonly used by other fire departments. Volunteers, trained as Emergency Medical Technicians, are rarely used to reduce overtime. Two Captains on paid administrative leave, pending disciplinary disposition for more than a year, also contributed to 2010 overtime increases.

BY contrast the El Dorado County Sheriff's Office has made great strides in reducing overtime. By the end of Fiscal Year 2007-08 overtime costs were \$4,095,143. By the end of the third quarter of Fiscal Year 2009-2010, overtime costs were \$2,015,511. When extrapolated to a full fiscal year, the overtime costs were \$2,687,348 – a reduction of \$1,407,795, or approximately 34%.

Education Incentives

The amount of funds paid towards Educational Incentive Pay (EIP) has increased from \$122,000 in Fiscal Year 2005-06 to \$437,000 in Fiscal Year 2009-10, an increase of 258%. This amounts to an average of over \$7,800 per fire employee per year, by far the highest in the Sacramento area. Board of Directors representatives said the education incentive program was designed for "leadership development." EIP pay is incorporated into overtime pay and the Public Employees Retirement System (PERS) retirement calculations, a process commonly referred to as "PERSable." Surprisingly, two Directors testified that they were not certain if the EIP was PERSable. EIP and the mandatory staffing provisions of the 2005-06 labor contract were termed "hidden escalators" by some at the time of their ratification by the Board of Directors, and this term proved prophetic.

According to members of the Board of Directors, the cost increase in EIP from 2006 to Fiscal Year 2009-10 was due to greater usage by employees when the stipend changed from a set amount to a percentage.

For the 2005-2006 MOU, the following education incentives were offered:

- EMT-1: \$100 per month.
- Associate of Arts or Science Degree: \$200 per month

- Bachelor of Arts in Science Degree: \$300 per month
- State Fire Officer Certification: \$200 per month
- State Chief Officer Certification: \$300 per month

Up to July 1, 2008 the following percentages replaced the above dollar amounts which are stackable (cumulative) to 25% of pay (including the paramedic incentive) for non-management and 19% for management staff:

- EMT-1 1.5% of base pay
- AA/AS 3% of base pay
- BA/BS 5% of base pay
- MA/MS 5% of base pay
- Fire Officer 3% of base pay
- Chief Officer 3.5% of base pay

In addition, a Paramedic in good standing receives the following paramedic incentive pay:

- Firefighter 9% of base pay
- Engineer 5% of base pay
- Captain 4% of base pay

Candidates applying to EDHFD for hire must possess a California Paramedic License before their date of hire. To qualify to be a paramedic in California, an applicant must be 18 years of age, a high school graduate, possess an Emergency Medical Technician Certificate (210 class hours and 96 hours clinical training), and have earned a Paramedic License (320 hours classroom instruction, 96 hours clinical training).

One community college career counselor equated a paramedic license to an associate college degree in terms of time and expense. A Chief Officer told the Grand Jury that obtaining a paramedic license is a “year-long process.” According to a union representative, for the last 15 years, EDHFD firefighter applicants had to possess a California State Paramedic License at the time of their appointment to meet minimum qualifications. However firefighters are paid up to 9% during the course of their career and retirement for having a paramedic license. For example, at \$100,000 salary, the paramedic certificate can earn a firefighter \$450,000 over a 30 year career and 20 year retirement.

By contrast, teachers, who spend a minimum of five years in college for a degree and teaching credential, earn no salary perks for their credentials.

Further, firefighters can study during work hours, and AA, BA, and Masters Degrees do not have to be germane to Fire Science or management.

- Many firefighters earn promotional preparation “Fire Officer” pay when they have completed a State certified curriculum. According to a Chief-level staff member, the program entails attending ten classes at the firefighter’s expense and time. Each class is 40 hours long and costs the firefighter \$390. This earns the firefighter an additional 3%, in pay. Firefighters can also earn Chief Officer pay which includes a salary boost of 3.5%. Those who earn both the Chief Officer and Fire Officer pay increase their salary total 6.5%, which again is PERSable.
- Other fire departments do not reward pay incentives for Fire Officer or Chief Officer, or pay less for the incentives.
- Two captains were paid \$21,003 and \$23,080 in PERSable EIP in Fiscal Year 2009-10. The previous Fire Chief was paid \$13,199 in EIP, while three other Chief Officers each were paid over \$13,000 as well.

The EDHFD provided the Table 3 that illustrates the rate of pay per employee per rank during Fiscal Year 2009-10 (Note: Paramedic pay is included in Base Salary, but EMT pay is included in Educational Incentive pay. Also, benefit compensation such as retirement contributions, medical, dental, and vision are not included in Table 3 figures.)

Other Notable Budget Findings

According to Table 3, a recently retired Fire Chief earned over \$304,000 in pay in 2008 – which includes State Office of Emergency Services overtime - but not including benefits. In 2010 this same Chief was paid a \$75,000 retirement incentive bonus even though he had already reached his 30-year PERS retirement benchmark.

- A Captain supervises only one engineer and one or two firefighters, and acts as an incident commander, but is paid over \$25,000 more than a top step firefighter.
- Three Fire Captains earned over \$180,000 in base salary, holiday pay, educational incentive, and overtime for Fiscal Year (FY) 2009-10.

- Each firefighter receives 100% Department funded PERS retirement, 100% funded medical and dental plans, and an eye care program.

Table 3: EDHFD 2009 Wages

RANK	CURRENT 2009 WAGES							2009		2008		
	BASE	HOLIDAY	EDUCATION	MANAGEMENT INCENTIVE	TOTAL Annual 26	OVERTIME	W-2	W-2	W-2	W-2		
							26 pay periods	27 pay periods	26 pay periods	27 pay periods		
AC & C	113,183.20	-	9,238.84	-	122,422.04	3,299.17	125,721.21	128,021.84				
BC	120,612.18	4,970.16	13,199.94	-	138,782.28	44,212.13	182,994.41	174,278.28				
BC	120,612.18	4,970.16	9,599.98	-	135,182.32	43,829.95	179,012.27	170,520.89				
BC	120,612.18	4,970.16	13,199.94	-	138,782.28	70,637.89	209,420.17	195,952.95				
C	109,357.30	4,506.58	6,808.62	-	120,672.50	37,306.84	157,979.34	149,113.93				
C	109,357.30	4,506.58	12,065.82	-	125,929.70	41,804.51	167,734.21	181,403.03				
C	105,143.48	4,332.90	13,893.10	-	123,369.48	24,362.05	147,731.53	142,671.68				
C	109,357.30	4,506.58	3,904.42	-	117,768.30	46,181.68	163,949.98	159,892.62				
C	105,143.48	4,332.90	5,481.58	-	114,957.96	58,844.15	173,802.11	172,105.17				
C	105,143.48	4,332.90	23,080.20	-	132,556.58	33,633.69	166,190.27	184,502.29			AL 9-09	
C	109,357.30	4,506.58	21,003.06	-	134,866.94	46,853.33	181,720.27	174,221.93			AL 9-09	
C	105,143.48	4,332.90	8,885.76	-	118,362.14	11,157.52	129,519.66	126,735.68				
C	105,143.48	4,332.90	8,635.90	-	118,112.28	37,663.97	155,776.25	164,576.02				
C	104,133.12	4,291.30	6,008.34	-	114,432.76	78,667.46	91,027.60	123,666.28				
C	109,357.30	4,506.58	3,654.30	-	117,518.18	69,587.83	196,185.64	179,628.89				
C	109,357.30	4,506.58	6,308.64	-	120,172.52	40,211.54	150,555.02	152,241.22			Start July 08	
E	96,288.14	3,967.86	2,751.06	-	103,007.06	51,607.78	154,614.84	147,086.45				
E	96,288.14	3,967.86	2,751.06	-	103,007.06	43,803.99	146,811.05	147,493.68				
E	96,288.14	3,967.86	5,502.12	-	105,758.12	33,781.41	139,539.53	137,002.10				
E	96,288.14	3,967.86	2,751.06	-	103,007.06	26,554.34	129,561.40	133,646.96				
E	96,288.14	3,967.86	5,502.12	-	105,758.12	23,476.29	129,234.41	127,885.18				
E	96,288.14	3,967.86	5,502.12	-	105,758.12	25,655.11	131,413.23	134,300.71				
E	96,288.14	3,967.86	10,087.48	-	110,343.48	43,738.67	154,082.15	170,304.06				
E	96,288.14	3,967.86	2,751.06	-	103,007.06	8,049.69	111,056.75	114,529.62				
E	91,704.60	3,779.10	-	-	95,483.70	44,211.70	139,695.40	120,441.23			Start May 08	
E	96,288.14	3,967.86	-	-	100,256.00	22,678.09	122,934.09	118,665.25				
F	87,156.16	3,591.64	4,797.26	-	95,545.06	44,191.72	139,736.78	125,553.62				
F	87,156.16	3,591.64	2,398.76	-	93,146.56	7,566.82	100,713.38	133,041.82			W/C 11-09	
F	87,156.16	3,591.64	2,398.76	-	93,146.56	37,197.64	130,344.20	127,535.56				
F	87,156.16	3,591.64	6,396.52	-	97,144.32	23,984.89	121,129.21	103,428.44				
F	87,156.16	3,591.64	2,398.76	-	93,146.56	9,271.50	102,418.06	153,346.82				
F	79,055.08	3,257.80	-	-	82,312.88	19,078.60	101,391.48	99,459.61				

F	87,156.16	3,591.64	-	8,795.28	90,747.80	29,639.01	120,386.81	92,086.48
F	87,156.16	3,591.64	8,795.28	99,543.08	39,672.58	139,215.66	128,374.23	
F	87,156.16	3,591.64	6,396.52	97,144.32	32,030.02	129,174.34	128,511.14	
F	87,156.16	3,591.64	-	90,747.80	66,768.82	157,516.62	134,406.04	
F	87,156.16	3,591.64	-	90,747.80	15,837.90	106,585.70	115,728.12	
F	79,055.08	3,257.80	5,803.20	88,116.08	22,517.93	110,634.01	106,145.52	
F	87,156.16	3,591.64	-	90,747.80	42,189.46	132,937.26	146,174.07	
F	79,055.08	3,257.80	3,627.00	85,939.88	10,933.80	96,873.68	90,389.28	
F	83,003.70	3,420.56	8,376.68	94,800.94	25,248.46	120,049.40	122,532.86	
F	87,156.16	3,591.64	-	90,747.80	2,811.18	93,558.98	93,659.25	
F	79,055.08	3,257.80	2,176.20	84,489.08	26,225.35	110,714.43	94,284.00	
F	79,055.08	3,257.80	-	84,489.08	Work Comp	81,049.49	81,883.71	
F	75,301.46	3,103.10	2,072.20	80,476.76	9,509.33	89,986.09	81,101.21	
F	79,055.08	3,257.80	3,627.00	85,939.88	19,097.60	105,037.48	101,392.73	
F	87,156.16	3,591.64	-	90,747.80	10,951.90	101,699.70	93,831.02	
F	87,156.16	3,591.64	2,398.76	93,146.56	Pregnancy Lv.	77,241.62	88,621.47	
F	79,055.08	3,257.80	2,176.20	84,489.08	21,965.34	106,454.42	101,221.35	
F	87,156.16	3,591.64	4,797.26	95,545.06	11,268.96	106,814.02	116,584.62	
F	87,156.16	3,591.64	8,795.28	99,543.08	23,959.94	123,503.02	130,368.34	
F	75,301.46	3,103.10	2,072.20	80,476.76	19,529.53	100,006.29	69,671.36	
F	79,055.08	3,257.80	2,176.20	84,489.08	33,596.72	118,085.80	105,254.05	
Div Ch	142,619.88	-	9,600.02	12,000.00	164,219.90	12,503.86	176,723.76	185,350.30
Chief	186,000.10	-	13,199.98	12,000.00	211,200.08	20,849.89	232,049.97	304,511.60
RE	91,704.60	3,779.10	5,626.66	101,110.36	74,399.46	175,509.82	131,208.47	
R Div Ch	142,619.88	-	13,199.98	12,000.00	167,819.86	Work Comp	134,854.09	171,766.27
R DepCh	161,159.96	-	13,199.98	12,000.00	186,359.94	72,426.20	258,786.14	213,222.15

Note: When a Chief, Deputy Chief, Division Chief or Battalion Chief has Overtime, it is generally caused by working on a strike team and earning the stipend reimbursed by the State.

Note: Workers Comp is not charged to the W-2. The District still pays the wages, however they are non-taxable to the employee

Code
 CHIEF
 DEPUTY CHIEF
 DIVISION CHIEF
 BATT CHIEF
 CAPTAIN
 ENGINEER
 FIREFIGHTER
 ADMIN CAPT
 RETIRED

Chief
 Dep Ch
 Div Ch
 BC
 C
 E
 F
 AC

An "R" in front designates they retired that year and would have additional payouts and incentives. (Dec 09)

- Four Chief Officers earn \$12,000 in PERSable Management Incentive Pay each year in compensation for the inability to earn overtime like their subordinates.
- Retirees receive 100% District paid health care coverage
- Two Fire Captains on administrative leave for fiscal year 2009-2010 were paid \$247,000, not including taxes and benefits. Their absence also required MOU mandated back-staff overtime. One of these Captains has recently retired, but as of April 2011, the other Captain is still on paid administrative leave, pending resolution of the disciplinary action that prompted the administrative leave.

Aside from the monetary benefits described above, the EDHFD Firefighters receive a number of other annual benefits:

- For uniformed shift firefighters, a two-day work schedule that involves two 24-hour consecutive work shifts every six days - commonly known as “Two-On / Four-Off.” The work-week is tracked (per an industry standard formula) as 56 hours per week. Without factoring in vacation and other categories of leave, a firefighter generally works 10 days per month.
- Vacation Leave is based on seniority and varies significantly. Those with five years or less at the Department earn 8 days of vacation when assigned to a shift schedule and 13 days when working a non-shift (administrative) schedule. Those with 20 or more years of EDHFD employment receive 12 days of vacation (shift), and 26 days (non-shift).
- Sick Leave for non-shift personnel is 17 days per year.
- Sick Leave for shift employees is 192 hours or eight (24 hour) days per year.
- Longevity Pay that ranges from \$500 annually at 10 years to \$2,000 annually at 30 years.
- 12 holidays for non-shift firefighters and holiday in-lieu pay for shift firefighters.
- \$500 uniform allowance

2. A Grand Jury survey of comparable fire departments revealed that the EDHFD pays higher salaries and benefits, but has lower service demands.

The Grand Jury surveyed the following seven comparable Fire Departments to gain a reference to the EDHFD budgetary and staffing practices: El Dorado County Fire; El Dorado Hills, Rocklin, Lincoln, South Lake Tahoe, Sacramento Metropolitan, and Sacramento (See Table 4). The survey table reveals in most

comparisons EDHFD pays much more in salaries and benefits, but has less service demand. The most striking comparisons are:

EDHFD has the second highest staffing level, but

- lowest annual alarms
- lowest alarms per day per station
- lowest percentage of calls that are medical in nature
- lowest number of structure fires
- lowest proportionate population

Though the lowest in service demand, EDHFD is among the highest in the following categories:

- Highest Firefighter, Engineer, and Captain pay
- Numbers of staff assigned to an engine and truck
- Total budget amount (proportionate)
- Highest Overtime pay and proportionate budget
- Educational Incentive pay and proportionate budget
- Fire Officer and Chief Officer Pay
- Second highest Chief, Deputy Chief and Battalion Chief pay
- EDHFD is the only Department that offers 100% funded retirement, medical, and dental plans
- EDHFD has a disproportionate number of Captains and Battalion Chiefs

Areas that are similar to the other fire departments include:

- Span of Control between ranks
- EIP is incorporated in overtime calculations

TABLE 4: RESULTS OF GRAND JURY SURVEY OF 8 COMPARABLE FIRE DEPARTMENTS								
	EDC	EDH	Rocklin	Lincoln	SL Tahoe	Sac Metro	Folsom	Sacto
Total staff numbers by rank?	110	56	37	24	39	503	64	653
	1 Chief	1 Chief	1 Chief	1 Chief	1 Chief	\$1	\$1	1 Chief
	2 Asst Ch.	1 DpC / 1DvC	1 Fire Mar	NA	3 Div Ch.	AC / 1 DC / 1 FM	Vacant	2 DpC, 5 AC
	4 Bat Ch.	4 Bat Ch.	4 Bat Ch.	2 Bat Ch.	NA	15	6 (2Vacant)	11 Bat. Ch.
	20 Capt.	14 Capt.	9 Capt.	6 Capt.	3 Capt.	136	15	105
	NA	12 Eng. Pm	9 Eng.	NA	9 Eng.	129	15	97
	44 FF	23 FF Pm	9 FF 4 FF Pm	15 FF	17 FF	204 / 11 Insp.	25 FF, 1 PM	288 FF, 144 FFPm
Population of your jurisdiction?	77,000	40,000	56,019	41,111	25,819	640,000	64,394	525,000
Square miles of your jurisdiction?	281	44	19.87	19.2	13 / 5 UW	417	21.74	148
Number of fire stations? Staffing per station?	15 / 7	4 / 4,4,4, 6	3 / 3,3,3-4	3 Stns, 3,3,0	4 Stn. / 4,4,5,0	41 Stns.	4, 3 to 7	24 Stns.
Total alarms or responses for year?	7,565	1,815	3,309	3,066	2,949	75,525	5,600	70,000
Percentage of medical calls?	75%	55%	67%	67%	68%	68%	77%	64%
Average number of alarms p/station p/ day?	.5 to 7	.8 to 1.7	3	3.7	3.15, 1.94, 2.99	5.04	3.84	8.3
frames?	378	6 to 21	140	28	66	422	71	1,200
Annual property loss due to fires ?	\$2,252,786	\$1,207,000	\$2,746,106	\$35,000	\$282,771	\$24,101,102	\$610,000	\$2,252,786
Number of fire staff assigned to an engine?	2 to 3	4	3	3	2	3	3	4
Number of fire staff assigned to a truck?	NA	5	3 to 4	NA	2	4	4	4
Does your agency use floaters?	Yes	No	Yes	Reserves	Yes	No	No	Yes
Span of control between Captains and engineers/FF?	1 to 4	1 to 2 or 3	1 to 2	1 to 2 or 3	1 to 3	No Answer	1:2-4	3 to 1 or 5 to 1
Base Salary Top Step FF	\$67,063	\$79,996	\$74,316	\$66,426	\$62,400	\$79,044	\$78,297	\$65,072
Base Salary Top Step Engineer	\$69,189	\$91,704	\$82,560	N/A	\$68,652	\$87,492	\$86,127	\$77,322
Base Salary Top Step Captain	\$83,691	\$105,144	\$94,368	\$83,864	\$78,936	\$98,028	\$94,739	\$87,416
Base Salary Top Step Battalion Chief	\$108,264	A \$129,648	\$116,052	\$112,902	N/A	\$119,316	\$133,375	\$123,441
Base Salary Top Step Deputy Chief	AC / FM \$122,720	\$161,148 DpC \$142,620 DvC	NA	N/A	DvC \$118,524	AC \$151,632, FM 116,796, DpC \$166,788,	DvC \$140,044, DpC \$152,110, FM \$152,148	AC \$152,048, FM \$152,048, DpC \$168,943
Base Salary Top Step Chief	\$158,704	\$185,000	\$188,688	\$148,907	\$149,640	\$224,736	\$170,278	\$186,176
Span of control between Battalion Chiefs and Captains?	1 to 5	1 to 4	1 to 3	1 to 2	1 to 3	No Answer	1 to 4	8 to 1
Salary increase percentage from engineer to Captain?	20%	13%	14%	N/A	15%	No Answer	10%	10%
Total agency budget for Fiscal Year 2009-2010?	\$12,004,315	\$16,108,638	\$8,007,992	\$3,980,331	\$6,932,897	\$148,269,642	\$14,404,185	\$101,000,000
Total annual overtime budget for Agency?	\$645,000	\$2,250,000	\$529,892	\$85,927	\$203,000	\$11,406,807	\$507,000	\$4,300,000
Average annual overtime pay per employee?	\$14,336	\$39,501	\$15,585	\$10,383	\$5,996	\$22,036	\$10,040	\$7,000
Educational Incentive Pay percentage of total budget?	1.40%	3%	0.41%	Not Answer	1.12% GF, .87% other funds	No Answer	1.80%	2%
s EIP is incorporated into overtime pay calculations?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Average Educational Incentive pay per employee?	\$0	\$7,800	\$1,714	\$0	10 receive FO, 1 CO, 2%/4%	\$4,918	\$3,950	\$0
Amount of employee contributions to retirement, medical, dental, and vision plans?	10% - 20% Medical	\$0	Retirement 3%, Med. 0, Dental 0, Vision 0	9% PERS, 0 MDV	0 Retirement, med. \$1,187 Annual for Family	9% Ret., \$1,756 Med. Ann, Dental \$127 M, \$18.75 M	0 Retirement, Med \$190 pm, 0 Dental/Visions	Ret. 0, Medical Dental, Vision Flat fee \$800
Number of staff receiving "Fire Officer" salary enhancement, and what is pay rate hike?	None	34 / 3%	11 / \$75 per mth.	17 / 5%	10 / 2%	122 / .5%	18 / 5%	None
Does your Fire Chief participates in contract negotiations?	Yes	No	No	No	Yes - advisory	Yes	Yes	Yes

Note: The EDHFD figures do not reflect April 2011 retirements of 1 Battalion Chief and 3 Captains

3. The EDHFD staffing and deployment strategy does not fit service demands of the community and is not cost effective.

The Department top-heavy business model is inflexible and out of step with the realities of what an EDH fireman does on a daily basis. El Dorado Hills Firefighters are, for the most part, a first responder medical resource and non-emergency community service provider. On balance, the Firefighters perform fire related services about 4.2% of the time, and very little of that time entails actually fighting a fire. Firefighting duties are more frequently needed when firefighting companies perform Strike Team support for outside jurisdictions during the peak fire season. However, the EDHFD is staffed and deployed as a fire fighting force for a community that sustains relatively few fires.

By contrast an EDHFD union leader testified that there was a shortage of ambulances in El Dorado County, even though responding to medical emergencies is the Department’s primary service. A chief level officer disagreed with this assessment of ambulance service and described a seemingly well-coordinated and flexible system that is deployed to maximize EDC ambulance coverage.

As of March 2011, the EDHFD was staffed as follows:

Table 5: March 2011 EDHFD Firefighter and Administrative Staffing			
Firefighter Staffing		Administrative Staffing	
1	Acting Chief	1	Chief Financial Officer
1	Deputy Chief	1	Systems Administrator
1	Division Chief (Fire Marshal)	3	Administrative Assistants
1	Battalion Chief (Admin)	1	Operations Specialist
3	Battalion Chief (Shift)	1	Fire Prevention Specialist
13	Captains	7	Total Administrative Staff
11	Engineers		
23	Firefighters		
56	Total Firefighting Staff		

Note: This table does not include the one Battalion Chief and three Captains that retired in April 2011.

An EDHFD staff report prepared which summarized a January 26, 2009 Ad Hoc Committee Meeting shed light on the Department staffing and low service demands in EDH. The report was used by Department administration to oppose adding a fourth firefighter Engine Company position to outlying stations due to

low service demands (NOTE: this was before the 2009 13% downturn in calls for service, 28% reduction in structure fires, and 50% reduction in wild land fires):

“Our safety record is great; other jurisdictions minimum staff at 2 in El Dorado County, 3 in the Sacramento region, 4 on Truck Companies and Sacramento City. We currently are at 4 minimum on the truck, 4 at one outlying station, and 3 at the other two stations. As far as incident statistics go, emergency personnel respond on a half dozen confirmed structure fires per year in district and up to a dozen outside our district (Auto-Mutual Aid.) Our reasons for such low numbers are an affluent community, newer construction, early electronic detection, some residential sprinkler systems, very well planned and commercial development, mostly concrete tilt-up with sprinkler systems and electronic detection, as well as national average for minimum staffing of 2 Engine/Truck Companies and meet NFPA 1710...NFPA is a standard that is very costly to meet and maintain.”

According to a Union official and Chief level officer, the Department’s firefighters have semi-structured hours during their two-day work week. He described a typical day (absent calls for service) as follows:

- 7:00 AM - Wake up and have breakfast
- 8:00 AM - Check Fire Rig, safety equipment, and medications
- Morning - Work out for sixty minutes followed by a 30 minute cool down period (the time of the workout is flexible)
- 10:00- 11:00 AM - Participate in a late morning training or community services
- One hour lunch
- Afternoon - Conduct community services such as: tours, school visits, inspections, prevention training, and station chores
- After 5PM - Dinner and uncommitted time, unless the above chores or exercise periods were not completed during the day
- Sleep and wake up at 7:00

2009 and 2010 Staffing Comparisons

Table 6 was produced by the EDHFD in November 2010 at the request of the Grand Jury with respect to the issue of fire engine and fire truck (with ladder) staffing compared to other fire departments.

Table 6: 2009 and 2010 Engine and Truck Staffing Comparisons				
	2009 Engine	2009 Ladder Truck	2010 Engine	2010 Ladder Truck
Cameron Park/Cal Fire	2 to 3	0	2 to 3	0
Folsom City	3	4	3	4
El Dorado County	2	0	2	0
El Dorado Hills	4	5	4*	5*
Roseville City	3	4	3	4
Sacramento Metro	4	4	3	4
South Placer	2	2 to 4	2	2 to 4

*In speaking to a chief officer, he corrected the graph to state that the Department currently staffs an Engine Company with three (except Station 87) and each Truck Company has a crew of four (it takes two teams of two to man the apparatus).

Span of Control

Span of control refers to the number of employees over which a supervisor has authority. The 54-member department is staffed in a traditional manner, with seven ranks and seven pay scales. Twenty of the uniformed staff supervises the other 34. A Fire Captain supervises one or two Firefighters and one Engineer. Battalion Chiefs also work two 24-hour shifts every six days, and supervise four Captains and four stations.

Floater

A floater is generally the least senior Firefighter on duty who is used as a flexible position to fill in for vacancies throughout the Department as a means to reduce a 24-hour shift of overtime. The Department's Memorandum of Understanding specifically forbids the use of floaters for daily staffing.

Volunteers

The Department budgets \$85,000 annually for its volunteer program. There are currently 35 EDHFD volunteers. Volunteers are paid \$15 per incident to which they respond. A \$100 fee is paid to the Volunteer Firefighter's Association each time a full engine is staffed by volunteers and when certain criteria are met. A volunteer firefighter receives an hourly rate of pay when that firefighter is used to staff an ambulance or to respond on a Strike Team under a Joint Powers Agreement/Mutual Aid/Office of Emergency Service Agreement.

In 2010, volunteers participated in 2,326 alarm responses, and completed 2,668 hours of drill training, an average of 78 hours per volunteer. Their peak engine coverage by far was in July, followed by May.

The EDHFD Firefighter Union resists broader usage of volunteers to reduce overtime. A union official cited the volunteers' relative lack of training when compared to full-time Firefighters. However, volunteers possess Emergency Medical Technician certification, approximately 10 volunteers are paramedics, and volunteers attend annual update training as well. According to testimony, volunteers are currently used to supplant full-time firefighters, after the full-time firefighters have turned down overtime opportunities. Volunteers are also used to cover full-time Firefighters when they attend special events, such as funerals, and can ride along at will to assist full-time personnel.

4. Calls for service at the EDHFD's four fully staffed stations are surprising low compared to the investment in staff, equipment, and facilities.

In 93.7% of the cases, Department responses to calls for service involve medical calls, customer service, and auto accidents. If there is an incident involving a serious injury, the Fire Department responding Company either responds with an ambulance (from station 85) or waits for an El Dorado County Joint Powers Authority (JPA) ambulance to transport the victim. If the Station 85 JPA Ambulance is out of service, the closest alternative JPA ambulance responds.

The Fire Department's 2,245 calls for service in 2009, and 2,253 in 2010, rarely involved fires. According to the EDHFD 2009 Annual Report, only 4.8% (110) of the calls involved fires, and, as noted, according to the former Chief, only six were actual structure fires, and in 2010 only 4.3% (99) of the calls involved fires. According to the Annual Report, these fire losses amounted to only \$1.2 million in 2009 and only \$1.4 million in 2010. In 2009, two of these structure fires involved Cameron Park and Rescue jurisdiction fires that sustained a total of \$700,000 in property damage; but these property losses appear to be incorporated into the El Dorado Hills fire loss calculations.

The issue of defining and quantifying structure fires was perplexing. The former Fire Chief stated there were six structure fires in Fiscal Year 2009-10, yet the Board of Directors Annual Report for the same period listed 21 structure fires. The current Acting Chief told the Grand Jury that he did not know how his predecessor arrived at the figure of six annual structure fires. When the Grand Jury asked for clarification from two Board members they could not answer, nor could a union official. Any inconsistency in the reported data contained in this report concerning structure fires results from the inconsistency in the information given to the Grand Jury.

The Grand Jury requested available documentation for structure fires for 2009-10. The EDHFD administration provided 41 National Fire Incident Reporting System (NFIRS) Dollar Loss Threshold Reports that detailed responses to 40 of the 62 fire related responses between January 1, 2009 and December 31, 2010. An analysis of the two years of reports revealed the following:

- 40 of the 62 incidents occurred in the EDHFD jurisdiction.
- 19 of 40 EDHFD jurisdiction fire incidents did not have NFIRS reports – only log entries on the Dollar Threshold Report.
- Seven of the 40 EDHFD reported fire incidents occurred in other fire jurisdictions, but were entered as EDH fires.
- 22 of the 62 incidents occurred out of EDHFD jurisdiction.
- Of the 22 outside jurisdiction incidents, 12 responses entailed staging only, no fire action taken, or en-route cancelation.
- Overall responses to serious Structural Fire Calls in the El Dorado Hills jurisdiction involved an average response of 20 EDHFD Firefighters.
- Three of the outside jurisdiction structure fire responses involved only one EDHFD firefighter acting in an administrative capacity.
- None of the fires appeared to require a rescue from a structure

The Grand Jury examined the Alarm Statistics page contained in the 2010 Annual Report and found conflicting structure fire numbers, as Table 7 illustrates.

Table 7: 2009 AND 2010 FIRE RELATED ALARMS		
	2009	2010
Structure Fires	21	19
Fire in Building	5	12
Chimney Fires	4	6
Total Structure Fires	30	37
Grass/Brush Fires	33	40
Vehicle Fires	15	7
Misc. Fires	132	15
Total Misc. Fires	80	62

The Call for Service (CFS) numbers and percentage breakdowns from the EDHFD Annual Reports are contained in Table 8, as follows:

2009-2010 Calls for Service			2009-2010 Medical Calls Breakdown		
	2009	2010		2009	2010
Medical	55%	57%	General	51%	50%
Customer Service	17.4%	25%*	Injury from Trauma	15%	18%
False Canceled	13%	5%	Auto Accidents	13.1%	12%
Auto Accidents	8.3%	7%	Cardiac	13.1%	12%
Hazardous Materials	1.3%	2%	Respiratory	7.8%	8%
Misc. Fires	1.4%	2%	Transfers	.5%	0%
Brush Fires	1.5%	1%			
Structure Fires	1.3%	1%			
Vehicle Fires	.67%	0%			

Note: The above calls for service numbers are pulled directly from the Department's Computer Aided Dispatch System, and the categorization is based on what the caller reports, not necessarily what the event turns out to be. By contrast, crime statistics are pulled from crime reports, not the CAD system, and tend to be more outcomes directed.

*Customer Service calculations were changed in 2010 to include false calls (but the policy change was not indicated on the Annual Report).

Calls for Service per station vary between Stations as Table 7 depicts.

Table 9: 2009 Calls for Service Per Station			
	Responses	Percentage	Daily
	2009	2009	2009
Station 84 - Francisco Dr.	551	28.70%	1.5
Station 85 - Wilshire Blvd.	628	28.70%	1.7
Station 86 - Bass Lake Rd.	320	16.70%	0.87
Station 87 - Golden Foothill Pkwy.	416	21.70%	1.1

5. The EDH Firefighters Association is a primary contributor to the electoral campaigns of the EDH Board of Directors.

An EDH Professional Firefighter's Association representative stated the union represents 48 of the Department's 56 uniformed staff, and the union strives to find and back Board of Director candidates who are union friendly. In fact, the union funds the filing fees and campaign expenses for some candidates, and assists with

campaign activities. The Grand Jury contacted the EDC Elections Office to determine if any of the candidates filed itemized campaign statements for the November 2010 election. The Elections Office indicated none of the Fire Board candidates filed forms indicating they had spent over \$1,000 for their campaigns – thus relieving them of the responsibility of itemizing expenses or contributions.

The EDHFD union official informed the Grand Jury that during contract negotiations the Firefighter’s Association is represented by a labor attorney whose office is based in San Jose. He also said the Board of Directors is represented during contract negotiations by two Board members. Board members told the Grand Jury that they have an attorney they can consult, but that the attorney is not specifically a labor contract attorney. The current president of the Board of Directors is listed as a retired EDHFD firefighter in the EDHFD Annual Report.

6. The EDHFD indirect 911 system lengthens response times.

One EDHFD official commented that fire responses are delayed due to delays in call answering and processing times when callers use cell phones. Station 87 was built to reduce response times in its service area. The Grand Jury is concerned that some of the gains achieved by building, and staffing, and strategically locating its four stations could be negated by delays at the front end of the double-layered cell phone process.

When El Dorado Hills residents experience a fire related emergency and call 911 from a cell phone, the call is first routed to the Highway Patrol Communications Center in Rancho Cordova, the Public Safety Answering Point (PSAP). Law enforcement is generally the PSAP over fire agencies. Once the phone is answered, the dispatcher determines the appropriate jurisdiction and type of call; the fire emergency caller is transferred to the EDHFD’s shared Cal Fire Communications Center in Camino. The EDHFD encourages EDH residents to use the ten-digit direct Camino phone number (530-626-4911) to bypass the CHP step.

One official called the CHP’s 911 Center “overwhelmed” due to its service area of four counties. Another authority said the CHP does misroute calls on occasion and lacks the knowledge of local geography that is important to dispatchers. Another official commented that even if the initial CHP step was eliminated, the cell phone 911 calls would still go to the El Dorado County PSAP, the Sheriff’s Office, and not directly to the Cal Fire line. He also said he was unaware of any CHP delays beyond 45 seconds.

The Grand Jury asked if there was data on call answering and processing times at the CHP’s Rancho Cordova communications facility, but found that the information was not tracked by EDC authorities.

7. West Slope Fire District Consolidation Planners should be cognizant of disparate firefighter labor contracts.

Because EDC subsidies to some fire districts are expiring at the end of 2011, the issue of consolidating six fire districts on EDC's Western Slope is now being explored. One proposal calls for the EDHFD to annex other fire districts, all of which will struggle financially once the County subsidies are gone. Annexation would enable other fire districts to piggy-back onto the EDHFD exemption from "Education Revenue Augmentation Funds." The ERAF funding redirects up to 10% of the revenue from most special districts to local schools. Though such annexation could streamline services and increase revenues up to 10% for smaller fire districts, it is unclear how the disproportionate labor contracts for each of the fire departments would be impacted by consolidation and annexation.

8. Comments made by EDHFD union officials to the news media may mislead the public.

One study publicly cited by the EDHFD Firefighters Union, entitled "Firefighting Tactics, Measured Scientifically," to support the need for four firefighters on an "Engine" truck (no ladder), indicates that four firefighters can fight a fire from start to finish 25% more effectively and safely than three. However this study has little relevance to how fires are responded to in El Dorado Hills. When a fire call is dispatched in El Dorado Hills, three engines and a truck (with ladder) are dispatched simultaneously, and an average of twenty firefighters respond to reports of serious fires. The study involves only four firefighters fighting a fire from start to finish.

The other industry standard cited publicly by a Firefighters Association official involves the "Two-in -Two-out" rule where two firefighters must remain outside a potential burning structure while two enter. The Firefighters Association publicly cited this staffing rule to justify four firefighters on an "Engine" (fire truck without a ladder). The implication was that a resident would have to wait for a second engine to arrive before a rescue entry could be attempted.

The purpose for the "Two in-Two out" standard is to ensure an effective rescue of a firefighter can be achieved if one of the firefighters inside encounters difficulties. An EDHFD procedural exception to the "Two in- Two out" rule occurs when a resident rescue must be attempted. In other words, if three firefighters were present at a scene necessitating a rescue, the firefighters present would not wait for a second engine to be on the scene before entering. Again, three other fully staffed fire vehicles would be responding to assist. Further, nearly all surrounding Fire Departments surveyed have three firefighters assigned to an Engine. Significantly, in reviewing all the structural fire calls to which

EDHFD responded in 2009-2010, not a single one appeared to require an actual resident rescue.

RECOMMENDATIONS

- 1. During contract negotiations, the EDHFD Board of Directors must be aware of and take responsible action regarding contract provisions that impact long term retirement costs in order to safeguard and protect taxpayer funds.**

Prior Boards of Directors approved costly contract provisions that resulted in long term consequences that have come to haunt the current board, and will impact future boards unless they are addressed.

When the Grand Jury spoke to Board members they did not know if certain contract perks were PERSable, including Education Incentive Pay. Education incentives are PERSable, and over time cost taxpayers hundreds of thousands of dollars per employee, i.e. *hidden escalators*.

If a newly hired firefighter with a paramedic certificate starts at \$80,000 base salary, works for thirty years and lives in retirement for 20 years, the cost to taxpayers for the paramedic incentive is \$360,000. According to a publication from American River College and website Salary.com, the median annual salary for paramedics not employed by a fire department in the Sacramento region is \$41,229.

Obtaining a Fire Officer Certificate earns a firefighter a 3% pay increase. At \$80,000 annual salary over a 50-year employment and retirement period, this amounts to an additional \$120,000 for obtaining the Fire Officer certificate. If the same firefighter is promoted and is paid \$100,000 per year, and maximizes EIP pay at 25% of base pay, the cost to taxpayers is over one million dollars (\$1,000,000). It is no wonder that costs for the Educational Incentive Program tripled over a five-year period after contract language changed the educational incentive from a fixed amount to a percentage.

A Chief Level firefighter receives \$12,000 in “management pay.” Management pay is offered to compensate chief officers for their inability to earn overtime pay like their subordinates. Management pay is PERSable as well. Over a 20-year retirement period, chief level firefighters receive a \$240,000 bonus for not receiving overtime pay. In contrast, subordinates’ overtime pay is not PERSable.

The long term costs of these contract benefits go unnoticed by the general public who elects the Board of Directors to ensure the expenditure of taxpayer funds is conducted in a reasonable manner.

2. The EDHFD should reconsider the purpose of Educational Incentive Pay.

Members of the EDHFD Board of Directors told the Grand Jury that incentive pay was provided for two reasons: (1) to develop leadership within the Department, and (2) to maintain a benefit plan that would keep firefighters from transferring to a higher paying Fire Department. In the unlikely event a firefighter would leave the EDHFD due to cuts in the EIP program, there would likely be, in today's economy, a cavalcade of applicants to replace the firefighter - including highly qualified firefighters recently laid off from other jurisdictions. In many governmental agencies and private corporations, new hires are given automatic step increases as a reward for additional education. Step increases do not provide "stackable" career and lifetime benefits; they merely move the employee to a top step sooner. In terms of Fire Officer and Fire Chief pay, employees should not be rewarded for studying or preparing for promotion. The pay increase upon promotion is the proper financial reward, as is done in other fire departments.

3. The Proposition 13 property tax revenue allocation to the EDHFD needs to be re-evaluated.

Taxpayer money is taxpayer money regardless of its origin or revenue stream. The EDHFD is over compensated and staffed inefficiently. While teachers annually face layoffs and municipal fire departments struggle, the EDHFD Firefighters average annual overtime pay is \$39,000 and annual EID is nearly \$8,000. This is along with a two day work-week (not including vacation and other leaves) every six days in which eating, exercising, and sleeping is included. The firefighting staff also receives longevity pay, no-cost retirement, medical, and dental care. The Board also maintains comparatively high General and Capital Reserve Funds.

The existing property tax revenue tax redistribution formula should be evaluated by the El Dorado County Board of Supervisors to determine if the EDHFD is funded sufficiently to guarantee a reasonable level of quality public safety, and not to over-compensate their employees.

4. The Board of Directors must be more knowledgeable, professional, and proactive with its labor negotiation efforts.

The Board of Directors should hire professional management assistance when negotiating labor contracts with the Firefighters Union. The Board of Directors

does not hire professional negotiation consultants, and has not conducted a comprehensive compensation salary and work performance study of comparable fire departments since 2006. The Directors need to be forearmed with professional level facts and figures to adequately represent the interest of taxpayers. In the past, they appeared to be unprepared to deal with the EDHFD union, which hires a labor attorney specializing in representing public safety unions for their contract negotiations. The Board of Directors needs to be more proactive and should assess and evaluate the long term costs to taxpayers when negotiating contract terms such as education incentive pay, mandatory staffing, management pay, eliminating floaters, as well as zero cost retirement, medical, and dental plans.

5. The Board of Directors must include their Fire Chief in labor negotiations to incorporate a management perspective.

Currently, the EDHFD Fire Chief is expected to manage a budget in which he has limited input. This was a common complaint of the recently retired Fire Chief. As Table 4 illustrates, the majority of fire departments do include the Chief in their negotiations. The Fire Chief needs the ability to provide management input into compensation and staffing issues before he is expected to implement them.

6. The Board of Directors should conduct a comprehensive study to compare its compensation package with other fire departments before approving a contract for 2011-2012.

The current Board is comprised of a different set of Directors than those who approved the 2005-2006 Memorandum of Understanding. The Board needs to fully comprehend that their Department pays the highest compensation but has the lowest calls for service ratio in the Sacramento region. When the Grand Jury spoke to Directors they were unable to answer basic questions, concerning overtime budgeting, calls for service, and structure fire quantification. The current board should be equipped with up-to-date facts and figures of compensation and service demand data for comparable fire departments. The Board should be up to date on alternative *best practices* staffing plans that have proven successful in other fire departments. The Board should also research ways to make the EDHFD a more cost effective organization, such as the use of floaters and volunteers to reduce overtime.

7. The Board of Directors should determine whether national standards are applicable to the service demands of El Dorado Hills and not take national studies at face value.

With low firefighting service demands, national standards that apply to major cities may not apply to El Dorado Hills. El Dorado Hills has six structure fires per year, but has four fully staffed and funded fire stations that are close in proximity. EDH buildings are relatively new, and well-equipped with sprinklers, alarms, and other fire prevention devices. There are no high rises, tenements, or oil refineries. EDH needs quality firefighting staffing and resources, but not at the same ratio as a major American metropolis with myriad firefighting challenges.

8. The Board of Directors needs to consider more efficient methods to deploy EDH Firefighters.

The Board of Directors needs to consider staffing alternatives to reduce overtime and operating budget expenditures. Budget priorities need to be identified by EDH community service needs. Examples of cost cutting measures the Board should consider are:

- Change the orientation of their 35-member EMT qualified volunteer force to more of a “Reserve” force to use as an overtime reduction and back staffing coverage tool. This will also help to assess potential candidates for Firefighter.
- Temporary closure or a reduction in services in one of the stations with the lowest service demands, and/or re-strategizing response deployments to medical responses.
- Develop a more flexible and efficient service-demand staffing plan. The recently retired Fire Chief called his agency “overstaffed” which is highly unusual in public safety circles. A union official testified to the lack of ambulance services in El Dorado County. The EDHFD administration should evaluate ambulance and fire services to determine if El Dorado Hills residents have too many resources for firefighting services and not enough for ambulance services. It is abundantly clear that medical care is the EDHFD core service. Employing industry “best practices” as a start for a flexible staffing plan that reflects EDH service demands should be developed and implemented.
- Reduce or eliminate the rank of Battalion Chief. The Department should find alternatives to staffing Battalion Chiefs for two-day 24-hour shifts, which appears to be an unnecessary layer of supervision. There are well trained and well compensated Captains on duty to supervise two or three subordinates for one to two calls per day. Having 24/7 Battalion Chiefs is good for supervisory continuity in a larger and busier fire department, but it is a costly strategy for a smaller / less busy department like the EDHFD. In the off-chance a captain could not adequately handle a situation, an on-duty or on-call

Battalion Chief, Deputy Chief or Division Chief could be contacted to answer a question or respond to command a scene.

9. Authorities considering consolidation and annexation of smaller El Dorado County fire departments into the El Dorado Hills Fire Department should closely consider the potential personnel costs before proceeding further.

Authorities contemplating annexation / consolidation of EDC West Slope Fire Departments should fully understand the EDHFD MOU. The smaller, more rural, fire districts surrounding EDHFD cannot afford the salary and benefit package currently in force at EDHFD. If consolidation were adopted, it is probable that in the future disparate firefighters of the merged fire districts would attempt to form one bargaining unit. Obviously, allied firefighters from the smaller agencies would start demanding “We want what EDHFD gets!”

Further, one avenue publicly discussed for consolidation involves the EDHFD annexing smaller EDC agencies. Annexation would possibly enable the smaller agencies to operate under the umbrella of the EDHFD dual county status. This status enables the EDHFD to avoid paying the 10% “Education Revenue Augmentation Funds” shift of property tax revenues that currently go to schools. It is probable that the property tax revenue that currently goes to schools would instead go to increasing the salaries and benefits of merged firefighters while local schools continue to lay off teachers and increase student to teacher ratios.

10. The EDHFD should make broader use of volunteers to reduce overtime.

Other fire departments use volunteers more effectively to reduce overtime costs than the EDHFD. Generally, there are three paramedic-licensed firefighters on an “Engine” in the EDHFD. There are many more paramedic-licensed firefighters at nearby stations to lend paramedic assistance if necessary.

Once a volunteer is EMT certified (12 volunteers have paramedic licenses), he or she should be satisfactory to fill in on the one to two calls per day service demands of the fire stations to save 24 hours of overtime pay.

The Fire Administration explained that a more structured volunteer program is being considered that may result in more of a firefighter “Reserve” Program, where volunteers are paid more substantial stipends. It was explained that some volunteers are persons who have full time jobs and commit their time out of a sense of civic duty, while others are planning careers as firefighters and are trying to gain job experience. The Board of Directors must ensure that the Fire Chief develops a scheduling model that ensures a reduction in future overtime cost to the minimum necessary.

11. The EDHFD should continue to research methods to reduce 911 call answering and processing time.

The front end of the cell phone call reporting process lengthens response times. To what degree the response time is increased is not known, as only anecdotal evidence has been cited or collected.

According to an EDC 911 center administrator, an ongoing state-funded project entitled the “Red Project” will enable El Dorado Hills callers to reach the EDC Sheriff’s Office PSAP directly, avoiding the CHP step. Therefore, the dispatcher answering the call would have an orientation to El Dorado County that a CHP dispatcher may not have. The project is a joint effort between the State, cell phone companies, CHP, and local fire and law enforcement authorities.

Panicked El Dorado Hills victims are not going to remember a ten-digit phone number, unless they have it programmed into their cell phones. Until the Red Project is fully implemented, EDH residents should have a dedicated 916 area code number to call to get routed directly to the Cal Fire dispatch facility on their land-line phones and cell phones.

The Grand Jury recommends that before the project is implemented, current benchmark data concerning call answering and call processing times should be collected and analyzed to determine what those factors are presently and how they have been impacted with the implementation of the Red Project.

12. Representatives of the EDHFD Professional Firefighter Association should ensure that their public statements are factually sound.

The general public supports their firefighters for the work they do and the sacrifices they make. Firefighter spokespersons should not violate that support by embellishing facts and figures to justify contract enhancements.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This Report has been provided to the El Dorado Hills Fire Department Board of Directors for response.

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

PIONEER FIRE PROTECTION DISTRICT

Case Number GJ010-014

REASON FOR REPORT

The El Dorado County (EDC) Grand Jury received three citizen complaints regarding the conduct of a member of the Pioneer Fire Protection District Board of Directors (BOD). All of these incidents occurred during 2010 while this member served on the BOD.

BACKGROUND

The Pioneer Fire Protection District (PFPD) was formed in 1999, replacing the all-volunteer fire department. The PFPD covers 296 square miles, and serves the communities of Somerset, Fairplay, Mt. Aukum, Grizzly Flat, and Outingdale. The mission of the PFPD is to respond to citizens of the District during emergency situations by providing cost effective, professional, quality emergency response for the protection of life, property, and the environment. There are six fulltime paid firefighters in the District, a fire chief, and one administrative staff member. The PFPD Board of Directors is comprised of five elected members who serve a four-year term.

METHODOLOGY

The Grand Jury interviewed the following persons:

- PFPD Board Members
- PFPD Chief
- PFPD Firefighters
- PFPD Support Staff

The Grand Jury reviewed the following documents:

- Chief's Settlement Agreement with the PFPD dated 11/17/2010
- Fire Chief's Policy and Management Controls
- Letters and E-Mails dated 11/2010 and 3/2011
- Memorandum of Understanding between Pioneer Fire Protection District and Pioneer Union International Association of Fire Fighters Local #4586 dated December 11, 2007
- PFD Board of Directors Policy Manual
- PFPD Standard Operating Guideline Manual

FINDINGS

1. All witnesses interviewed confirm that during 2010 the conduct of business by the PFPD BOD was dysfunctional, plagued by disharmony, conflict, and tension. One member of the Board characterized the conduct of business as a "convoluted mess".
2. The actions of the BOD resulted in a lawsuit by the Chief of PFPD against the BOD. This lawsuit was settled and ultimately cost the District \$122,500. The lawsuit and settlement may have been contributing factors in the resignation of three of five BOD members resigning in August 2010, including the individual involved in the multiple complaints.
3. The Fire Chief is seen by all parties interviewed to be competent in managing the day-to-day operations of PFPD.
4. A grievance procedure is not readily available for use by employees. There is no grievance form. A grievance procedure exists, but is referenced only in the BOD's Policy Manual Section 4.2 (Personnel - Grievance & Appeal).

5. There are no written bylaws to govern the District. There are several policy manuals which overlap, and are not directed to the proper areas of authority and responsibility. The BOD is using policies and procedures in lieu of bylaws.

RECOMMENDATIONS

1. The urgent need for bylaws demands the immediate attention of the District. LAFCO should be consulted for assistance. The bylaws should include a process for the removal of a Board Member from office.
2. A grievance procedure and grievance form should be developed without delay and be made available to all employees.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

Report provided to PFPD BOD Chairperson for response.

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

PREVENTION AND INTERVENTION FOR MENTAL HEALTH CRISES

Case Number GJ 010-007

REASON FOR REPORT

The El Dorado County Grand Jury (EDCGJ) learned that a number of recent encounters between law enforcement and persons in emotional crisis have resulted in confrontations leading to injury or even death. An investigation was initiated to develop workable recommendations for interagency collaboration that would reduce risks to officers, subjects and citizens.

BACKGROUND

Local law enforcement services within El Dorado County (EDC) are provided by the Placerville Police Department, South Lake Tahoe Police Department, and the El Dorado County Sheriff's Department. The California Highway Patrol provides back up to local law enforcement as needed. Emergency calls regarding community disturbances or life threatening behavior are responded to by the appropriate law enforcement agency. When a call involves a report of violent acts that have been committed or are in progress, a tactical law enforcement response is initiated. When a call involves threats of violence or suicide, officers are dispatched to respond, assess, and investigate. If initial attempts to de-escalate the situation fail, a quick assessment must be made in the interest of public and officer safety.

Nationwide calls for assistance involving threatening behavior now account for 15 to 20 percent of the total number of calls. This percentage is anticipated to increase as the at-risk population expands and mental health resources diminish. Recent encounters in El Dorado County culminating with the death of a mental health patient in Placerville in March of 2010 caused local authorities to acknowledge this disturbing trend. They have expressed a commitment to participate in an effort to strengthen prevention by

developing effective, tested, intervention protocols designed to de-escalate potentially violent encounters.

METHODOLOGY

- The Grand Jury conducted multiple interviews with law enforcement and persons involved in the administration and delivery of mental health programs, attended meetings, and collected information from a variety of sources. Persons from the following organizations were interviewed:
 - Commission on Accreditation for Law Enforcement Agencies
 - District Attorney Office, EDC
 - Emergency Services Authority, EDC
 - Health Services Department, Mental Health Division, EDC
 - Human Services Department, EDC
 - Marshall Hospital
 - Mental Health Commission
 - Multidisciplinary Team, EDCSO
 - National Alliance on Mental Illness
 - Placer County Sheriff Office
 - Placerville Police Department
 - Probation Department, EDC
 - Public Defender, EDC
 - Rocklin Police Department
 - Veterans Affairs, EDC
 - Veterans Affairs, Sacramento County
- The Grand Jury reviewed relevant portions of the following documents (August 2010 to April 2011):
 - Analysis of Crisis Services Provided 10/25/10 through 1/21/2011 by EDC Mental Health Division (2/8/11)
 - Autism Registry Guidelines -El Dorado County Sheriff Department (not dated)
 - Behavioral Health Team Guidelines - El Dorado County Superior Court May 2006
 - California Association of Mental Health Patient Rights Advocates, Rights Manual, 2011
 - Cooperative Law Enforcement Agreement between the Sheriff of El Dorado County and the Pacific Southwest Region of the USDA Forest Service. 5/23/03
 - CPES Estimates of Need for Mental Health Services For El Dorado County for 2007
 - Crisis Intervention 2.0: Law Enforcements Expanded Role; Pickens, Kirkham & Hammitt, 2009.
 - District Attorney Office Mental Health Statistics Summary, (4/1/2011)
 - District Attorney's Report of the Investigation of the Incident of 3/28/10 (8/10)

- El Dorado County Multi-agency Memo of Understanding addressing mental health custody issues – drafted February, 2011
- El Dorado County Sheriff’s Office Policy Manual
- Guide for Families of Arrested Mental Health Patients, Alameda County Sheriff’s Office, 3/20/11
- Guidelines for Recognizing Mental Illness, Rocklin Police Department Procedures Manual, revised November 2010
- Incident Report, USDA Forest Service, 3/27/10
- Mental Health Commission Mission and Organizational Underpinnings.
- Mental Health Commission/West Slope Report to BOS 2009
- Mental Illness And The Potential For Violence, Cato News Journal, summer 2010
- National Alliance On Mental Illness Resource Information, 10/27/10
- Placer County 5150 Emergency Response, 2/16/11
- Placerville Police Department Policy Manual
- Print Media Reports Regarding Mental Health Related Actions
- San Joaquin County Mental Health Services Policy and Procedure Manual- Revised May 21, 2004
- Security Management Guidelines-Marshall Hospital, revised 2010
- Welfare & Institutions Code §5150

FINDINGS

1. Agencies which have signaled an interest in participating in joint efforts to improve prevention and response to mental health crises include: El Dorado County Sheriff’s Office, EDC Mental Health, Placerville Police Department, EDC District Attorney, National Alliance on Mental Illness, EDC Emergency Services Authority, EDC Mental Health Commission EDC Probation Department and Marshall Hospital.
2. This commitment to move forward resulted in written agreements, augmented participation in training programs, and expanded use of the Sheriff’s Department sponsored Multi-Disciplinary Team.
3. There is a lack of leadership structure supported by agency heads and the Board of Supervisors. This deficiency could make the joint effort less effective and subject to collapse should interagency conflict arise or public interest wane.
4. The potential for continued or increased encounters with persons in crisis is apparent according to available data. There is a significant increase in the at-risk population. For example, in El Dorado County there are 521 veterans who have been diagnosed with Post Traumatic Stress Disorder and 681 veterans receiving care for other mental health disorders. This group represents a small portion of the at-risk population in the county.

5. Declining revenues limit the ability of organizations to commit resources to these mental health incidents.

RECOMMENDATIONS

1. The EDC Board of Supervisors should immediately appoint an ad hoc committee to develop a plan for prevention of and response to emergency health crises and make recommendations for the creation of an official structure to implement and manage this plan.

This committee would be chaired by the Director of Health Services and will be comprised of executive representatives of the Sheriff, the District Attorney, the Chiefs of South Lake Tahoe and Placerville Police Departments, EDC Emergency Services Authority and other entities as necessary (e.g. Mental Health Commission, National Alliance for Mental Illness).

The committee should meet and make its recommendations within ninety days from the date of its creation which will then be considered for adoption by the BOS.

The recommended official mental health emergency response organization might be a variation of the Incident Command System that originated in California to respond and fight fires and has been adopted nationally to respond to all emergencies, large and small.

2. The recommended emergency mental health crisis plan should also address conflict intervention training, required drills, intervention strategies, identification of warning signs, communication and notification protocols.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided to the following for response:

- El Dorado County Sheriff
- EDC Director of Mental Health
- Placerville Chief of Police
- EDC District Attorney

- Director, National Alliance on Mental Illness
- EDC Director of Emergency Services Authority
- President, EDC Mental Health Commission
- EDC Chief of Probation
- Director of Marshall Hospital Placerville, CA

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

MENTAL HEALTH DETENTION POLICY AND PROCEDURES

Case Number GJ010-009

REASON FOR REPORT

As a result of a complaint, the El Dorado County Grand Jury investigated the policies and procedures applicable to mental health patients held on the Western Slope of the county under the Welfare and Institutions Code §5150.

BACKGROUND

In March 2010, a United States Department of Agriculture Forest Service Officer took a citizen into custody who appeared to be a danger to self and severely impaired. This was done under the authority of Welfare and Institutions Code §5150 (5150) that establishes requirements and procedures for law enforcement and hospital personnel for taking such a person into custody for 72 hours of evaluation and treatment. The officer transported this citizen to the Crisis Center of the El Dorado County Mental Health Psychiatric Health Facility for a mental health evaluation. After approximately four hours, the patient was transported to Marshall Medical Center for a required medical clearance. Four hours later, a Marshall Emergency Department physician medically cleared the patient. About 10 hours later, while arrangements were being made for continuing care in a Sacramento psychiatric facility, the patient walked out (eloped) from the hospital emergency department. An ambulance with keys on the floor was parked outside of the emergency department. The patient found the keys

and drove away. Immediately, the Placerville Police Department was called. Subsequent events resulted in the death of the patient.

Department of Mental Health statistics revealed an average of 27 individuals per month held under §5150 on the Western Slope of El Dorado County for a three month period from October 25, 2010 through January 21, 2011.

POLICY AND PROCEDURE REVISIONS

MENTAL HEALTH

Under previous policies, some Western Slope 5150 patients detained by law enforcement were transported to the Crisis Center of the El Dorado County Psychiatric Health Facility (PHF commonly pronounced "puff") prior to being medically cleared at Marshall Medical Center.

After review, the State Department of Mental Health ordered that the Crisis Center not be used for evaluation and treatment of 5150 patients. Now, all Western Slope 5150 patients are taken directly to Marshall Medical Center for evaluation and treatment. The clearance is the physician's determination that the patient has no medical conditions that would preclude placement.

Mental Health Psychiatric Emergency Services is notified when a patient is being transported to Marshall and makes every effort to have a mental health crisis worker at Marshall within 20 minutes. If this is not possible, Marshall is notified when the mental health crisis worker will arrive. The purpose of this mental health crisis worker is to provide mental health care support but not to provide security.

Several subdivisions of the Department of Health Services participate in the Multi-Disciplinary Team coordinated effort to develop protocols in crisis prevention and intervention.

MARSHALL MEDICAL CENTER

As of March 2010, 5150 patients were observed by mental health workers, nursing staff and hospital security personnel under the supervision of the charge nurse. Communication between these groups was inconsistent and sometimes ineffective.

After March 2010, Marshall Medical Center developed a Plan of Correction in response to a list of serious federal violations received from the Department of Health and Human Services Centers for Medicare and Medicaid. This plan includes a commitment by Marshall for constant observation of 5150 patients, rapid response and triaging by nurses and physicians, and additional training of the nursing and other staff.

Emergency Department policies have been revised to clearly state that the hospital is solely responsible for the custody of persons suspected of being mentally ill.

Designated hospital personnel will be given Crisis Intervention Team (CIT) training including Emergency Medical Technicians (EMT) and paramedics. Supervisors will receive a 40-hour course and other employees will receive an eight-hour course.

MARSHALL MEDICAL CENTER SECURITY

Security is provided by Healthcare Security Services (HSS), a private security company. There are a total of 10 officers, including one supervisor. Two officers each staff three shifts per day, providing 7-day weekly coverage.

Neither the HSS Supervisor nor any of the other officers is required to have law enforcement training or experience. The officers have California state certificates and receive about two hours of 5150 training at the Northern California District Office of HSS in Livermore. The HSS officers received a local training course related to observing dementia patients taught by the Coordinator of Crisis Services for Mental Health Services.

In March 2010, under the previous policies, security officers were called on as needed to watch 5150 patients. Otherwise, the nursing staff or a mental health worker would observe the patients. Under the new policies, security will keep all 5150 patients under continuous observation. If a patient attempts to leave the area, security or emergency department staff will guide the patient back to bed. However, the security guard will not physically prevent an elopement; in that event, law enforcement would be called.

There is a video surveillance system in the Marshall Emergency Department consisting of two cameras and one monitoring station. The recordings are retained for one week and are available for investigations. Monitoring the video is not a priority duty.

AMBULANCE

Under the previous policy, ambulance keys were left on the floor of the ambulance. No keys were hidden. Under revised rules dated July 29, 2010, the keys may no longer be left in the ambulance, but instead the driver and both medics retain their own set of keys at all times.

LAW ENFORCEMENT AND FIRE DEPARTMENT

A Multi-Disciplinary Team (MDT) has been formed on the Western Slope of El Dorado County. The MDT provides a resource for mental health crisis prevention and intervention. Team member assistance can potentially de-escalate encounters between law enforcement and mentally ill persons. The Sheriff's Office has been an active and involved participant in the MDT; the Placerville Police Department's involvement has been less evident.

A Crisis Intervention Team (CIT) has also been formed. Crisis Intervention Team Cards (formerly called Yellow Cards) are being used to record and report contacts with individuals who have mental health issues. These cards are used in all law enforcement vehicles, ambulances, and fire trucks. The cards are forwarded to the Sheriff's Department where the information is evaluated by a team with Crisis Intervention Training. This evaluation may help law enforcement improve decision making during encounters in the field. In the future, it may also help identify means of providing individuals with needed assistance. This system was put in place in conjunction with the MDT. It is envisioned that in the future there will be a feedback mechanism so that information can be provided to officers on duty in the field.

The functions of the CIT system and the MDT are also referenced in the accompanying 2011 El Dorado County Grand Jury Report GJ010-007 entitled Mental Health Crisis Intervention.

METHODOLOGY

The 5150 policies and procedures of the various organizations in effect in March 2010 were reviewed. The revisions that were made from that date through March 30, 2011, were evaluated with particular attention to their effectiveness in preventing another incident.

The following persons were interviewed:

- Deputy District Attorney, El Dorado County
- Coordinator, Crisis Services, El Dorado County Mental Health Department
- Manager, Marshall Medical Center Emergency Department
- House Supervisor, Marshall Medical Center
- Current Sheriff, El Dorado County
- Director, El Dorado County Public Health Services/Mental Health
- Officer, United States Department of Agriculture Forest Service
- Parent of the mental health patient

- Supervisor, Hospital Security Services, Marshall Medical Center
- Executive Director, El Dorado County Emergency Services Authority

Documents Reviewed and Date Referenced:

- Marshall Medical Center Emergency Department Manual of Protocols, dated 7/10 (11/10)
- Cooperative Law Enforcement Agreement Between the Sheriff of El Dorado County and the Pacific Southwest Region of the USDA Forest Service, dated 5-23-03 (1/11)
- Amador County Health Services Department Policies and Procedures Manual, 5150 Hospital Call Out Routine, dated 9-15-09 (2/11)
- County of Sacramento Division of Behavioral Health Services policy #05-03 entitled 5150 Welfare & Institutions Code Certification & Designation (2/11); Mental Health Treatment Center policy #04-02 entitled 5150 Designation policy (2/11); Mental Health Treatment Center policy #04-03 entitled 5150 Application (2/11); Mental Health Treatment Center policy #0-01 entitled Intake Team (2/11)
- Placer County Mental Health Policy and Procedures for Adult System of Care and 5150 Memorandum of Understanding among partner agencies, Effective Date 11-06-09 (2/11)
- San Joaquin County Mental Health Service Policy and Procedure Manual – Revised May 21, 2004 (3/11)
- El Dorado County Emergency Medical Services Authority, Draft of 5150 Patients Policy, dated 10-25-10 (3/11)
- District Attorney's Official Report of Investigation of the incident, dated 3-28-10 (8/10)
- Department of Health & Human Services Centers for Medicare and Medicaid Services letter to Marshall Medical Center, dated 6-30-10 (12/10)
- Department of Health & Human Services Centers for Medicare and Medicaid Services Statement of Deficiencies and Plan of Corrections to Marshall Medical Center, dated 7-12-10 (12/10)
- El Dorado County Department of Mental Health Psychiatric Emergency Service Policies and Procedures - West Slope, dated 1-20-08 (1/11)
- El Dorado County Western Slope Agencies, MOU, Policy and Procedures Regarding Detention of Persons Pursuant to WIC §5150 Agreement #833-M0810, dated 6-08 (1/11)
- California Department of Mental Health to El Dorado County Health Services Department, Mental Health Division, Re: Notice of Completed Review with Deficiencies, dated 11-11-10 (1/11)
- California Health Services Department, Mental Health Division Correspondence from Director to County of El Dorado Grand Jury, dated 3-31-2011 (3/11)

FINDINGS

MENTAL HEALTH

1. A major causal factor in the March 2010 incident was the fact that previous to March 2010, attention to detail and awareness of the agencies involved in the care and observations of 5150 patients had lapsed.
2. The March 2010 incident shed light on the oversight of the agencies that relate to 5150 patients.

MARSHALL MEDICAL CENTER SECURITY

3. Hospital security, as currently provided by HSS, is marginally adequate. There is only one officer with law enforcement training. The other security officers were not extensively trained when hired and their training has not been updated.
4. The HSS Supervisor at Marshall spends a significant portion of his day doing administrative work and attending meetings. This leaves the only other day shift officer alone to deal with both the ordinary security functions as well as 5150 surveillance. In addition, the supervisor is the only designated on call person in case of an emergency.
5. Currently, hospital staff and HSS officers provide continuous 5150 patient observation within the emergency department. However, Marshall Medical Center is not a designated mental health facility with a locked, secure area for 5150 patients.
6. Hospital security failed to document important events and information from their shifts.
7. The video camera system is inadequate. There are areas in the Marshall Emergency Department that are not covered by cameras. The video recordings are retained for one week.

AMBULANCE

8. As of October 25, 2010, revisions to the ambulance policy have been under discussion. Proposed changes would require that all 5150 patients riding in El Dorado County Emergency Service Authority vehicles be secured. Gravely disabled and incapacitated patients would be secured with gurney straps. Patients, who have a history of violence or are violent, agitated or angry,

coupled with the physical capability of inflicting harm and endangering themselves, would be placed in a four-point restraint.

MULTI-DISCIPLINARY TEAM

9. Marshall Medical Center, Healthcare Security Services officers, Director of the Emergency Services Authority, and the USDA Forest Service Law Enforcement has expressed an interest in participating in the MDT.

RECOMMENDATIONS

Based on the Grand Jury's evaluations and findings, recommendations were developed for further policy and procedure changes to decrease the likelihood of another incident involving 5150 patients.

MENTAL HEALTH

1. The Mental Health Division of the El Dorado County Health Services Department should be the lead agency in an annual reminder of the March 2010 incident and training for all agencies involved in the care and monitoring of 5150 patients.

MARSHALL MEDICAL CENTER SECURITY

2. Coordination and communication between hospital personnel and the security guards is essential. All Marshall HSS security personnel should be trained to deal with mentally impaired patients.
3. HSS security staff needs training in documenting important events that occur on their shifts related to the monitoring of 5150 patients. All daily security notes regarding 5150 patients should be provided to the Charge Nurse.
4. The purpose, current usage and configuration of the video monitoring system should be re-evaluated. The current system must be upgraded if it is going to be of any use in preventing another incident.

AMBULANCE

5. The Executive Director of the El Dorado County Emergency Medical Authority has proposed changes to the Ambulance 5150 policy that are intended to reduce the likelihood that a patient would harm themselves or others. The proposed changes should be reviewed by other agencies; especially Marshall Medical Center, which has policies and procedures for transporting persons with mental health issues.

MULTI-DISCIPLINARY TEAM

6. Marshall Medical Center, Healthcare Security Services officers, Director of the Emergency Services Authority, and USDA Forest Service Law Enforcement should be included in MDT training.

EL DORADO COUNTY

7. El Dorado County should have a designated health facility where 5150 patients and others with mental health impairments would be evaluated and treated in a safe, secured environment.

RESPONSES

Responses to findings and recommendations in this report are required in accordance with the California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided for a response to the following agencies:

- Director, Health Services Department, 670 Placerville Drive Suite 1B, Placerville, CA 95667
- Chief Executive Officer, Marshall Medical Center, 1100 Marshall Way, Placerville, CA 95667
- Healthcare Security Services Supervisor, Marshall Medical Center, 1100 Marshall Way, Placerville, CA 95667
- Executive Director, Emergency Services Authority, 480 Locust Road, Diamond Springs, CA, 956667
- El Dorado County Sheriff, 300 Fair Lane, Placerville, CA 95667
- Chief, Placerville Police Department, 730 Main Street, Placerville, CA 95667

- Chairperson, El Dorado County Board of Supervisors, 330 Fair Lane, Placerville, CA 95667
- Patrol Captain, El Dorado National Forest, 100 Forni Road, Placerville, CA, 95667

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010 - 2011

OPERATIONS REVIEWS AND THE POTENTIAL FOR PUBLIC/PRIVATE PARTNERSHIPS

Case Number GJ010-018

REASON FOR REPORT

Grand Jury investigations and reports on El Dorado County government have produced a recurring picture. Though there is an increasing need for government to become more efficient and effective at less cost, there has been a lack of initiative and due diligence in assessing and evaluating the operations and performance of county government.

The functions and operations of county government, the mechanics of actual governance, have not been reviewed or updated, to the point where it is now out-of-step with the need and demand for change.

The County should show a willingness to utilize relevant experience and expertise from outside county government...from the various sectors of business, education, professional services, non-profits, even the general public...to participate in much needed operations reviews of departments, functions, systems, operations and processes. Such an outreach effort could provide valuable perspectives and relevant knowledge when properly focused.

This investigation reveals that relevant and needed experience and expertise exists in abundance among the citizenry of El Dorado County, and is just waiting to be tapped and incorporated in long overdue operations reviews of county government.

BACKGROUND

Grand juries are charged with the responsibility to be a citizen watchdog on county government. In so doing they regularly investigate and report on various aspects of county government. All one has to do is visit the Grand Jury website and peruse a series of reports over the years that point with regularity to inefficient and ineffective county operations. But grand juries were not designed to perform the actual practical function of county governance in an ongoing manner, and cannot supplant the work that needs to be done under the auspices and control of the county.

The last several decades have produced enormous changes in how we conduct business, utilize the Internet, produce and purchase products, and radically changed how services are accessed by and provided to the public. Changes in what we do, and how and why we do it, are being substantially driven by the need to conserve resources and provide better products and services at less cost.

El Dorado County government has experienced significant change as well, especially in the last three budget cycles. But the changes have been substantially negative in their nature and signify more of a retrenchment than a rethinking of what county government does and how it does it.

Amid all of this dramatic change, the Grand Jury has repeatedly and frustratingly discovered that the way in which El Dorado County government functions and conducts business, how it provides services to the public, is too-often outmoded, perhaps even hidebound, and substantially resistant and unresponsive to the increasingly desperate need to be even more, not less, responsive.

Some of the reasons for this lack of positive change at the county level are certainly attributable to diminishing financial and personnel resources. But this is far from the only reason...indeed it may not even be the primary reason explaining...why policies, operations, procedures and practices have not kept up with the times.

What seems to have been lacking in county government in substantial part is a serious and consistent effort to improve the operations of actual day-to-day governance.

The evaluation and assessment of legal authority, governing missions, organizational structure and working relationships, systems, functions, operations and processes seem a perfect sleep aid to many if not most people. But it is the stuff of which government is made. It is how services or deliverables are constructed and provided. It is how the proverbial pothole is filled. Assessments and evaluations of county government – why and what is done and how well it is done - may address issues involving a key service function, a departmental mission, management, staff, administrative system, policy, operation or process.

What are summarily referred to in this report as “operations reviews” actually encompass organizational, procedural and workload assessments and evaluations of what, whether and/or how work is currently being performed. Specific recommendations to improve efficiency and effectiveness, products and deliverables to and for the public, are the intended result of such reviews. Some may refer to this type of process as trying to get a “bigger bang for the buck,” or simply identifying ways government can operate more efficiently and at less cost. Others may think of these processes as also including ways to make government more accountable and user-friendly to the public.

The vast majority do not know and may not care about such details...until there is a direct impact upon them. We lack the time and energy to engage...unless perhaps we are directly affected. Yet, if the functions and services of our county government are not working, and not working well, each and every one of our lives, our businesses, our communities, are adversely affected. We may be among the first to complain, vote in frustration and anger, or, sadly, simply throw up our hands, give up and tune out.

During the 2009-2010 El Dorado County Grand Jury session, a report was produced that addressed the need for a significant restructuring and consolidation of county administrative services. Over two million dollars of annual cost savings was identified. Among the recommendations was the need to establish an internal management auditor function in the County Administrative Office. This official would be charged with the objective of evaluating operations and processes and acting to make them more efficient and effective. But the official County response to the report was extremely brief and even dismissive.

When evaluating and assessing how functions are performed, the Grand Jury frequently discovers not only the lack of any internal review and action to improve service delivery, but also the lack of an approach or practice of incorporating experienced members from the private sector with relevant expertise as part of any operations review. There has been no serious and concerted effort to systematically identify and bring in to long overdue reviews of county operations members of the public who have something to bring to the table, and who have deep and even recent and relevant experience and expertise. The Grand Jury has developed a concern that valuable and useful perspectives and advice are not only going unheeded, they have been largely unsolicited, even disdained.

But there are several reasons why the time is ripe for a new and fresh approach to review and renew county government operations:

- The public is increasingly and justifiably concerned about the ability of county government to spend tax dollars in the most efficient and productive manner.
- The Board of Supervisors, according to highly placed public and private county sources, is increasingly receptive to new ways of doing business.

- El Dorado County has a new Chief Administrative Officer ready and able to provide leadership.
- A new process has just begun involving “action teams” to review certain high priority county operations and functions designated by the CAO, and
- The general downturn in the economy places an added emphasis on doing more with less.

The Grand Jury asked those interviewed for this report, among other wide-ranging questions, to specifically respond to a proposal to establish a registry or clearinghouse containing a list of individuals from outside county government who were qualified and experienced with relevant knowledge, skills and abilities in certain areas of need. For example, various professional services come to mind such as engineering, human resources, accounting, contracting, purchasing, legal, educational, marketing, and various levels of administrative management. The idea was to reach out to members of the El Dorado County community and perhaps beyond to obtain information concerning individuals in a position to lend their expertise who would be willing to participate as part of a review team that would carefully assess and evaluate county operations.

At the same time the basic idea of the equivalent of a registry or clearinghouse function was suggested, interviewees were invited to propose alternative mechanisms to accomplish the same end. In actuality, there could be many ways for a CAO to implement such an idea. Looking at the county organization chart one can readily identify the kinds of experience and expertise, the knowledge, skills and abilities that could be utilized by county government. These needs could be categorized. Those with relevant experience and expertise could be listed and their qualifications vetted. But first they would have to be asked to participate.

In recognition of the need for a timely and serious review of what is done in county government, and how it is done, the Grand Jury has discovered a wealth of expertise and experience just waiting to be tapped throughout the county. Fresh eyes and experienced perspectives could be included on a review or action team otherwise comprised of county directors and/or staff. A mixed review team composed of participants representing a balance of public and private sector experience and expertise would result. Fresh insights, experience, contacts, and perspectives would be brought to bear on what is done and how and why it is done. A creative dynamic would be initiated whereby policies, operations and processes could be compared and contrasted. An existing monopoly of history, data and contacts would compete with private sector counterparts. Government processes, even at relatively low and operational levels, could be re-thought and recreated. At the very least, even if a particular process could not be improved upon, everyone engaged in attempting to make it more efficient and effective would know why it was apparently operating at optimal levels.

According to the March 17, 2011 article, “Taming Leviathan, A Special Report on the Future of the State,” in the Economist magazine, “In the surveys that measure people’s happiness, decent government is as important as education, income and health (all of

which are themselves dependent on government). To business, government can make an enormous difference. Even if government were to cost the same but produce more, the effect on private sector productivity would be electric.”

METHODOLOGY

Interviews have been conducted with a wide variety of community organizations and groups. Documentation has been referenced from prior Grand Jury reports, and relevant studies, articles and websites.

The Grand Jury interviewed officials from county government and the following community organizations:

- Chief Administrative Officer, El Dorado County
- Staff, Chief Administrative Office, El Dorado County
- Executive Director, El Dorado Community Foundation, an umbrella agency over a substantial number of non-profit organizations.
- Past President, League of Women Voters
- Director, Economic Development Advisory Committee
- Chief Executive Officer, El Dorado County Chamber of Commerce
- Director of Governmental Relations, Parker Development Company, El Dorado Hills
- President, Folsom Seniors in Retirement (SIR), with approximately one-third of the membership of this 180 plus member organization residing in El Dorado County.

Particular documentation referenced included recent Grand Jury reports such as the following:

2008-2009 El Dorado County Grand Jury:

- El Dorado County Charter Review
- El Dorado County Adult Protective Services
- El Dorado County Zones of Benefit
- El Dorado County Roadside Memorials

2009-2010 El Dorado County Grand Jury:

- Energy Conservation and Cost Savings
- Administrative Services Consolidation Cost Savings and Efficiencies
- Purchase of the Animal Control Shelter Property
- Fee Waivers

The 2010-2011 El Dorado County Grand Jury reports include a variety of findings and recommendations, including this particular report, that directly concern the operations of county government.

In addition, other documentation was referenced for this report, including:

- The Economist Magazine, “Taming Leviathan, A Special Report on the Future of the State,” March 17 and 19, 2011 Edition.
- The Economic Development Advisory Committee, (EDAC) El Dorado County, website. (April 10, 2011)
- El Dorado County Board of Supervisors, January 10, 2011 Agenda and Minutes
- EDAC Presents: Recommendations for Regulatory Reform through a review of the General Plan and Other Regulations
- El Dorado County Economic and Demographic Profile, 2007-2008, Center for Economic Development, California State University, Chico
- El Dorado County Chamber of Commerce website, Clubs and Organizations, (April 10, 2011)
- The website for “CatchaFire,” a non-profit business model that facilitates matching business start-ups with experienced and expert volunteers.

FINDINGS

1. The new Chief Administrative Officer for El Dorado County has identified four top priority county functions warranting review and improvement:

- Information Technology
- Human Resources
- Management
- Financial Accounting

These four functional areas are being reviewed at a department head level and have broad affects throughout all county operations.

2. There is an increasing recognition that county government operations are behind the times, insular in outlook, and stagnating from lack of competition...or at least the competition of new ideas. According to one prominent county official, “The County has a monopoly on the provision of certain services. We are lacking public feedback. We are discovering that the county is pretty good at compliance, but not so good at service delivery.”

3. As evidenced most recently by the use of the Economic Development Advisory Committee (EDAC), the clear potential exists to mobilize volunteer resources available in the wider community. El Dorado County has a diverse, rich and deep skill set of those who are still working or who recently worked in professions and occupations directly relevant to county operations. Whether it was a business, non-profit, social or charitable group, private association or community group surveyed during this report, there was a uniform and clear consensus that substantial experience and expertise exists and could be made available to meaningfully participate as part of a review team focused on improving a particular segment of county operations. In several instances the Grand Jury received comments like, “Nobody from the county has ever asked for our help.”
4. Every representative of a group interviewed for this report immediately and forthrightly stated that there would be “no problem” in obtaining volunteers from the community to assist in the conduct of operational reviews. Not one person interviewed for this report indicated otherwise. In one instance a prominent private sector individual in El Dorado County volunteered on the spot to participate as a member on a review team comprised of county officials and qualified individuals from the private sector.

There was a clear consensus among those groups contacted for this report that there would be two key areas of vulnerability for a proposed mechanism to produce qualified individuals for participation on review teams. Those two areas were either a lack of leadership from the County Administrator’s Office and/or a lack of willingness of individuals to volunteer their time and expertise for their county. A third area of vulnerability endangering potential success would be lack of acceptance of the review group at a departmental level.

5. A major determinant of success for the establishment and good use of public/private review teams was how the CAO reached out to and invited the meaningful participation of the public.
6. Participation on operations review teams could entail very different levels of commitment ranging from a few weeks to six to twelve months. This did not cause any party interviewed for this report to change their assessment about the potential participation of individuals from outside county government.
7. There was a strong recognition by everyone interviewed for this report that it would be very important to understand that county government exists to protect and further the greater good or public interest. Review teams could not be comprised of individuals or representatives from an interest group whose primary or exclusive reason for participating was to enhance their own or their own group’s interest at the expense of everyone else’s interest. One interviewee perhaps put it best when they said, “The greater the private interest, the greater the

risk.” This concern pointed to the need for clear standards to avoid conflicts of interest by participating members of a review team.

8. A significant benefit of such collaboration between public officials and private individuals (between the local public and private sectors) would be to foster a greater understanding of the professional environment, the unique challenges and demands, and yes, the inherent differences in operational flexibility, accountability, and speed of the sectors and how each may function. The rhetorical if not the practical clash of cultures between the public and private sectors could be diminished with greater cooperation, collaboration and communication focused on a specific and tangible need and objective. Mutual benefit would be the preferred goal of such reviews, with both government employees and members of the public seeking and obtaining a “win-win” of less cost, less time, greater productivity, and enhanced service delivery, with ultimate benefits to both a renewed faith in the ability of local government to function as well as an improved local economy.

RECOMMENDATIONS

1. The CAO should clearly express and publicize an operating principle and preferred method for county government operations reviews. The stated policy or operating principle should make clear a strong preference for a balanced approach that incorporates both internal and external personnel (public and private sector participants) on any significant operational, procedural, functional or systemic review of county government. Such a commitment would signal the value of outside perspectives as well as the likely benefit of comparing and contrasting public and private sector initiatives focused on improving the efficiency and effectiveness of county operations.
2. An emphasis needs to be placed on the deliberate and careful selection of participating members of review teams. Among the qualities expected for participating members would be their experience and expertise, as well as their ability to work as part of a team with a specific charge and within specified timeframes. There would need to be openness to information that contrasted with one’s own experience and perceptions, a willingness to compare and contrast information in general, and the ability to “roll up their sleeves” and engage in the sometimes laboriously detailed information used to find their way toward considered and deliberate recommendations for change.
3. Operations review teams should seek and incorporate in their deliberations relevant information from all primary stakeholders, public or private.

4. Operations review teams should be charged with making their findings and recommendations advisory to both the CAO and the Board of Supervisors with concurrent reports going to each entity.
5. The CAO should identify and generally prioritize the need for operations reviews to include at least all large and medium size departments and key functions and systems across county departments.
6. The Chief Administrative Officer's office itself should be among the first to be the subject of an operations review. This would serve as an example to other county departments and underscore the commitment of the CAO to achieve meaningful and beneficial results.
7. Various methods could be employed to initially identify top priority departments or functions for operations reviews. Undoubtedly the CAO will give due consideration to the factors governing prioritization of such reviews. However, at least four key elements are important considerations for a prioritization of operations reviews:
 - Size of the department or pervasive impact of the function or system on county government operations
 - Impact of the department or function on the county budget
 - The potential for establishing workable public/private partnerships in the construction of a product or delivery of a service, and the
 - Impact of the department or function on the local economy
8. The CAO should establish a workable mechanism for obtaining, listing and utilizing private sector members for operations review teams based upon their experience, particular expertise, and overall ability to function as a productive member of such a team. The registry or clearinghouse concept is but one option to be considered as a workable structure or process.
9. The El Dorado County Board of Supervisors should support and encourage the CAO in the pursuit of a balance of public and private sector membership and participation on operations review teams and should seriously consider the findings and recommendations of such teams when approving changes in policy or process.

It is time for county government to reach out and incorporate in a very practical way the substantial and relevant experience and expertise of the very community it is intended to serve.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided to the El Dorado County Chief Administrative Officer, Auditor/Controller, and the Chairperson of the Board of Supervisors for response. Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

CONSENT CALENDAR

Case Number GJ010-010

REASON FOR REPORT

On June 17, 2008 and October 21, 2008 important items referring to an agreement between the South Lake Tahoe Area Transit Authority and El Dorado County (EDC) were placed on the Consent Calendar for consideration by the El Dorado County Board of Supervisors (BOS). A complaint was lodged with the Grand Jury alleging that placement of these items on the Consent Calendar was improper, and constituted an abuse of the process since it was later determined these items required additional review.

BOS Policy B-12 limits the dollar amount of contracts acted on by the BOS without Auditor review up to \$100,000. The contention is that these transactions were complex, involved substantial legal issues, and far exceeded the limitations on cost for agenda items as described in BOS Policy B-12. In addition, these actions violate generally accepted government practices of handling a Consent Calendar.

BACKGROUND

The following definition and examples of items appropriate for a Consent Calendar were obtained from two sources referenced as follows:

www.BOSsource.org 09/23/2010 BoardSource is a nationally recognized organization based in Washington, D.C., dedicated to building effective non-profit boards.

www.garberconsulting.com 09/23/2010 Nathan Garber & Associates is a consulting firm based in Ontario, Canada, dedicated to assisting nonprofit organizations in organizational development, governance, strategic and program planning.

A Consent Calendar (or Consent Agenda) is a component of a general meeting agenda that enables a BOS to group routine items and resolutions under one umbrella and approve all these items together. It differs from the regular BOS agenda in that regular items may involve substantial discussion, while Consent Agenda items involve no discussion. The EDC Chief Administrative Officer (CAO) directs which items are placed on the calendar. Any member of the BOS may pull or transfer an item from one category to the other. A member of the public may request transfer of an item from the Consent Calendar, but may not require that it be done. Members of the public may comment on items on the Consent Calendar before action is taken.

Unless a BOS member requests the removal of that item, the entire Consent Calendar is voted on as a package.

It is generally accepted in business and government that proper use of a Consent Calendar is vital to the conduct of business. Without use of a Consent Calendar some working bodies might grind to a halt.

Sample items which are generally considered appropriate for a Consent Calendar are listed below:

- Committee and previous BOS meeting minutes
- Office reports
- Routine correspondence
- Minor changes in procedure
- Routine revisions in policy
- Updating documents
- Standard contracts that are regularly used
- Final approval of proposals or reports that the BOS has been dealing with for some time and all members are familiar with the implications
- Committee appointments
- Staff appointments requiring BOS confirmation
- Reports provided for information only
- Correspondence requiring no action

2000-2001 EDC Grand Jury – Government and Administration Committee “Procedures for BOS Meetings”

The 2000-2001 EDC Grand Jury recommended that all written recommendations to the BOS concerning items of large financial impact should be submitted to the Auditor-

Controller for consultation prior to submission to the BOS. This item was intended to apply to items involving potential cost or liability exceeding the sum of \$10,000.

The BOS adopted a modified version of the recommendation, BOS Policy B-12 on 03/01/2005. This policy raised the dollar amount on contracts from \$10,000 to \$100,000 before a contract is sent to the Auditor-Controller for review.

The 2000-2001 EDC Grand Jury addressed the manner in which last minute unpublished and unnoticed changes to the agenda of public legislation and administrative bodies within the County were accomplished.

“In theory, Consent Calendar items are supposed to include only items as to which no possible controversy can reasonably be envisioned, e.g., payment of ongoing bills, resolutions for certificates or appreciation, etc. In the past, however, the Consent Calendar has included items involving some controversy. In the opinion of the Grand Jury, this has had the appearance of an attempt to evade public scrutiny of the items.”

The BOS should adopt and adhere to a policy prohibiting the placement on the Consent Calendar of any items which could reasonably be anticipated to be controversial to a significant number of members of the public.

METHODOLOGY

The EDC Grand Jury interviewed several staff members and elected officials:

- Auditor/Controller staff
- BOS staff
- Members of the BOS

The EDC Grand Jury reviewed relevant portions of the following documents:

- 2000-2001 EDC Grand Jury Report pages 92, 93, 98, 99, 100
- 2000-2001 EDC Grand Jury Report Responses to Finding F-7; Recommendation R-4; Response to Recommendation 4; Recommendation R-9; Response to Recommendation 9; Recommendation R-10; Response to Recommendation 10
- Amador County Policy & Procedures Manual policy 1-300 Agenda and Consent Agenda process (page 1 only) issued 02/05/2002
- Boardsource Organization (internet Q&A regarding Consent Agenda or Consent Calendar) 09/23/2010
- BOS Policy B-12 adopted 03/01/2005
- Contract routing sheet – Contract AGMT 08-1691 between EDC Department of Transportation and Area Transit Management, Inc. 05/07/2008

- EDC BOS Policy H-1: Written Communications to BOS from Non-County Agencies and Individuals 10/20/2010
- EDC Ordinance Chapter 2.03 – BOS Meetings 11/21/2010
- E-mail correspondence between EDC Principal Financial Analyst and Bluego Transit Administrator regarding further concerns about the legal structure and nature of STATA 12/08/2008
- First amendment to the Transfer Agreement between the STATA and EDC regarding funding of BLUE GO On Call Demand Responsive Transit Services (no date on document), effective date 11/01/2008
- Garber Consulting (internet Q&A regarding Consent Agenda) 09/23/2010
- Internet copies of articles appearing in the Tahoe Daily Tribune dated 7/2/2008, 6/6/2009, 5/25/2010, 6/1/2010, 10/15/2010
- Letter from EDC Auditor-Controller to TRPA dated December 11, 2008, expressing concerns on the legality of their allocation instructions. The letter specifically states the “entity” of STATA may not fall within the definition of a consolidated transportation service agency eligible for TRPA designation under California Law
- Letter from EDC County Counsel to EDC BOS recommending approval of the First Amended agreement 02/23/2009
- Memorandum from Tahoe Regional Planning Agency (TRPA) staff to TRPA Governing Board dated November 12, 2008, consisting of a resolution allocating Local Transportation Funds and State Transit Assistance funds to the South Tahoe Area Transit Authority for the operation of BLUE GO Transit Services in the City of South Lake Tahoe and EDC
- Placer County BOS policy Sec. 15.7 Agendas (d) 11/23/2010
- STATA Executive Committee Agenda 10/15/2009
- Transfer agreement between South Tahoe Area Transit Authority (STATA) and EDC 10/21/2008
- EDC Meeting Agenda Tuesday, March 15, 2011 (pages 1 & 2)
- South Lake Tahoe City Council Meeting Agenda January 3, 2006 (page 2)

FINDINGS

1. EDC does not have a written policy or procedure to direct the handling of a Consent Calendar. Past practice has been for the CAO to review all agenda items and indicate by writing on the item the letter “C” for consent, or “D” for discussion. The contract matter under review had neither letter designation. According to one prominent official the CAO knew that at least one member of the BOS was very interested in having the contract move forward, and allowed this item to “slip by.”
2. The EDC Fiscal Review Process (Policy B-12) was adopted March 1, 2005. The policy was not followed in this case.

3. The items under review substantially exceeded the dollar amount specified in BOS Policy B-12. In addition, the contract had been reviewed by Human Resources on 4/25/08, Risk Management and County Counsel on 5/14/08, none of whom detected the problems later discovered by the Auditor/Controller Office.
4. EDC does not have a written policy delineating guidelines covering what items are appropriate for inclusion in a Consent Calendar and the mechanics of inclusion (or removal) of such items. Development and implementation of, and adherence to such a policy, are seen as key components for the efficient function of EDC Government, and a positive step forward building confidence in the BOS.
5. The EDC Grand Jury was informed that in addition to any member of the BOS, any member of the public may request an item be pulled for further discussion or correction.
6. Printed copies of EDC BOS meeting agendas contain no information informing the public how to have an item pulled from the Consent Calendar for discussion.

RECOMMENDATIONS

1. The BOS should adopt a written policy for use of the Consent Calendar.
2. The EDC BOS should revise Policy B-12 to require Auditor/Controller review of contracts exceeding \$100,000.
3. EDC should provide instruction for the public on printed agendas explaining the method for pulling a Consent Calendar item for discussion.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided to the BOS Chairperson for response.

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

DEVELOPMENT SERVICES DEPARTMENT CUSTOMER SERVICE INVESTIGATION

Case Number GJ010-017

REASON FOR REPORT

The El Dorado County Grand Jury received complaints about the service provided by the El Dorado County Development Services Department (commonly referred to as the Building Department or Planning Department). El Dorado County officials reported receiving a large number of complaints regarding this Department. The number of complaints has not been quantified.

BACKGROUND

The Development Services Department is comprised of two parts. Building Services processes all requests for building permits and building inspections. It corrects and approves applications for building permits. Planning Services processes the collection of fees for El Dorado County and some special districts. The Development Services Department, located in Building C of the Government Center, is the first point of appeal for persons wishing to dispute a decision by the Department or oppose a building project within El Dorado County.

The complaints received covered all aspects of the Development Services Department.

METHODOLOGY

The El Dorado County Grand Jury investigation included the following:

Reviewed correspondence and documents:

- Individual complaint letters to the Development Services Department (12/10)
- Individual Building Services Project Files (1/11)
- Building Applications, fee schedules, and filing instructions (2/11)
- Uniform Building Codes (1/11; 2/11)
- Superior Court "Small Claims Advisor" Brochure (1/11)

Conducted the following interviews:

- A member of the El Dorado County Board of Supervisors (BOS)
- The El Dorado County Chief Administrative Officer
- Director of the Development Services Department
- Development Services Department personnel
- A member of the BOS staff
- Members of the public

Members of the El Dorado County Grand Jury conducted user interfaces to determine the manner and style used by the counter personnel.

FINDINGS

1. The current Department procedure requires consumer complaints and any responses be filed in individual building files, but does not require retention of all complaints in a single collective file. This procedure makes reviewing, monitoring and use for personnel customer service training difficult because of the overwhelming number of individual building files.
2. The Department processes two types of complaints: first, those received from applicants; second, those received from persons or groups who have been impacted by Department decisions and wish to alter or void them. According to county public officials and members of the public, there is concern among both types of applicants who felt the Department does not "listen" or pay sufficient attention to their complaints.

3. Applicants to the Department are of two general groups. The first group are professionals such as builders, architects and planners. This group generally understands the planning and building process and has fewer complaints. The second consists of members of the general public who possess little or no experience in building issues such as codes and fees. Our interviews indicate this group generates the most complaints.
4. When anyone approaches the Development Services Department, they are given a large packet of papers containing applications, instructions and fee schedules. To the untrained person, this packet generally is perceived as overwhelming and unclear because the building codes are complex.
5. The Department demonstrated an inconsistent quality of customer service during Grand Jury user interfaces. During interviews, county officials reported hearing complaints from the general public regarding customer service.

RECOMMENDATIONS

1. In addition to the current individual files, establish and maintain a central repository of complaints and subsequent responses. This system would make complaints and subsequent responses available for management monitoring, department accountability and personnel training.
2. Provide readily available customer service feedback forms. Written feedback would assist the Department in monitoring and improving customer service.
3. Train personnel in effective customer service. It would improve the Department's customer service, enhance public perception of the Department, and reduce public complaints.
4. Create a network of volunteers who are professionals in the building trades to guide the nonprofessional builder through the process. This group of volunteers would be available by telephone to the public for inquiries regarding applications and complaints. This group could be similar to the 'Small Claims Advisor' created by the courts to assist non-lawyers in the policies and procedures regarding small claims actions.
5. The following sample script could be used when training Department personnel in how a volunteer group could be used to promote customer service.

The Department customer service personnel could make a simple inquiry, "Are you familiar with the building permit process and the fees?" If the answer is, "No," the applicant would be advised of the volunteer group and be given a

printed sheet with names and phone numbers of those available to assist. It could contain a disclaimer such as, "The volunteers are available to assist you through the permit or dispute process. They can only give information on the application process, fees and cost, or advise you on a potential protest. They are not available to instruct you on construction or to prepare plans." The intent is to inform, educate, and extend to the public a "helping hand."

6. The complainants affected by Department decisions could be supported by the same volunteer advisory group. The volunteer professional could explain the complex details of the codes, planning, and appeals process. Public understanding of the building codes, planning process and accessibility to a hearing may help avoid many of the nonprofessional complaints.
7. Implementing best practices will improve the overall operation of the Department, including customer service. To accomplish this, it would be beneficial to compare and contrast the Department's current system of management practices with those best practices of other counties.

RESPONSES

Responses to both numbered findings and recommendations in this report are required in accordance with the California penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

Reports have been provided to the Director of the El Dorado County Development Services Department and the Chairperson of the El Dorado County Board of Supervisors for responses.

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.



EL DORADO COUNTY GRAND JURY 2010-2011

COUNTY PRESCRIPTION DRUG CARE PLAN

Case Number GJ010-004

REASON FOR REPORT

The El Dorado County (EDC) Grand Jury received a referral from the 2009-2010 Grand Jury regarding the potential abuse of EDC health care prescription service for County employees. The concern was that proper safeguards were not in place to monitor and prevent fraud and abuse which represented a significant potential cost to the County.

BACKGROUND

Caremark LLC is one of the largest national prescription service providers. Caremark and EDC executed a prescription services contract in June 2007 for one year, which is annually renewable unless either party gave notice of intent to terminate the contract. The annual cost of the contract was \$3,136,480 for 2010. Under the terms of the contract Caremark would cover the cost of prescriptions for a plan participant up to \$50,000 per year. EDC is self-insured for amounts above the maximum plan participant limit. The Caremark contract was annually renewed through June 2011.

In the Spring of 2010, Caremark made a presentation to the EDC Health Plan Advisory Committee. This is an ad hoc committee formed to select a plan provider for prescription drug services. It is comprised of four members from County management, four members from County unions, and chaired by the Director of the EDC Human Resources Office. The purpose of the presentation was to propose an Enhanced Safety and Monitoring Program to identify patterns of potential overuse or misuse of prescription drugs by plan participants.

About the time this plan amendment was discussed, it was determined that one employee of EDC was receiving an alarming amount of highly addictive prescription medication totaling roughly \$50,000 per month. This employee's prescription costs were tracked for a period of at least four years and amounted to \$2.4 million. This circumstance was a significant factor in EDC executing the Enhanced Safety and Monitoring Program with Caremark in June 2010. The cost of adding this plan amendment in 2010 was \$49,000 annually.

METHODOLOGY

The current EDC Grand Jury interviewed the complainant along with several EDC staff members and elected officials:

- Members of the Board of Supervisors
- Auditor/Controller staff
- Human Resources staff
- District Attorney staff
- Health Plan Oversight Committee members

The EDC Grand Jury reviewed the following documents:

- EDC contract with Caremark (7/1/07)
- Amendment #4 to EDC contract with Caremark (7/1/10)
- Sample letters from Caremark's Monitoring and Safety Program that are sent to EDC employees and doctors when prescriptions are under scrutiny (12/2010)
- EDC health plan rates (as of 01/2011)
- EDC prescription drug report from Caremark for a six month period (July 1, 2010-December 31, 2010)

FINDINGS

1. An audit was conducted by Caremark into this abnormally high use of addictive prescription medication by the EDC employee referenced above, and Caremark determined that there was no evidence of criminal or fraudulent conduct.
2. Two significant positions with EDC responsible for monitoring prescription health care services were vacated (2005 and 2007) and not backfilled. In mid-2010 the Director of the Department of Human Resources unsuccessfully attempted to monitor costs.

3. Shortly after the provision for monitoring prescription health care services was contracted at an annual cost of \$49,000, the costs for the employee declined by almost half.
4. Amendment #4 to the original contract includes safeguards to protect EDC from excessive prescription costs by providing the following programs:
 - **“Point of Sale Safety Edits Program:** *Caremark shall provide in accordance with Section 2.8 of the Agreement its automated concurrent Drug Utilization Review (DUR) services. The Point of Sale Safety Edits Program is necessarily limited by the amount, type and accuracy of Plan Participant information made available to Caremark.*
 - **Retrospective Safety Review Program:** *Caremark shall provide client retrospective Drug Utilization Review services, which are designed to provide appropriate clinical information concerning plan participant drug utilization for specific prescriptions. Caremark shall provide Prescribers with a Plan Participant-specific communication that identifies clinical issue and suggests alternative therapies, as appropriate.*
 - **Safety and Monitoring Solution Program:** *“On a calendar quarterly basis Caremark shall evaluate claims for patterns of potential overuse or misuse, including without limitation, the use of multiple Prescribers or multiple pharmacies. For circumstances that Caremark identifies patterns of potential overuse or misuse, Caremark may provide Prescribers or pharmacies with written notice of such issues.”*

RECOMMENDATION

1. EDC should ensure that all future health care prescription service contracts include a strong provision for monitoring waste, fraud and abuse.

RESPONSES

Responses are not required.



EL DORADO COUNTY GRAND JURY 2010 – 2011

EL DORADO COUNTY DETENTION FACILITIES

Case Number GJ010-016

REASON FOR REPORT

California Penal Code §919(b) requires that grand juries annually inspect all jails, prisons and juvenile detention facilities within their respective counties.

FINDINGS

Members of the 2010 – 2011 El Dorado County Grand Jury inspected the Placerville Juvenile Hall, Placerville County Jail, South Lake Tahoe Jail, South Lake Tahoe Juvenile Treatment Center and Growlersburg Conservation Camp. Interviews were conducted with staff at the facilities and a thorough inspection of each facility was completed. All facilities were found to be clean, safe and well managed. Detainees at each location had ready access to medical care and there was a process in place for addressing detainee grievances.

OTHER FINDINGS AND RECOMMENDATIONS

PLACERVILLE JUVENILE HALL

There are no findings or recommendations.

PLACERVILLE JAIL

The Placerville Jail is currently using a 22-year-old VHS system for surveillance. Due to inaccessibility of replacement parts, the system can no longer be maintained. Very poor images produced by this old technology are not suitable evidence required by the County's Justice System. A recent altercation between two inmates took place in a section of the jail's kitchen where there are no cameras. Although the altercation stopped before major injuries were inflicted, there was no recorded evidence of the conflict. The El Dorado County Grand Jury urges the Sheriff's Office to spend the budgeted funds and proceed with the 3 Phase plan to upgrade the surveillance system.

SOUTH LAKE TAHOE JAIL

Overtime is required on a continuing basis. The Sheriff's Department should return staffing to appropriate levels to alleviate this problem. The need remains to upgrade surveillance equipment as indicated in the Grand Jury Report 2009-2010.

SOUTH LAKE TAHOE JUVENILE TREATMENT CENTER

There are no recommendations.

GROWLERSBURG CONSERVATION CAMP

Previously budgeted renovation of Growlersburg's obsolete facility was put on hold due to State budget constraints. The renovation should be completed. Unlike other county detention facilities, the distance to emergency facilities from Growlersburg precludes the accessibility of staff and inmates to an Automatic Electronic Defibrillator (AED). To remedy this situation, an AED should be purchased for the Growlersburg facility.

RESPONSES

Responses are not required.