

MONO COUNTY GRAND JURY



Final Report
2014-2015

TABLE OF CONTENTS

| | |
|--|-------|
| Judge's Filing Decree..... | 1 |
| Jury Foreperson's Letter to the Judge..... | 2 |
| The Grand Jury System..... | 3 |
| Grand Jury Advisors..... | 4 |
| Grand Jurors | 5 |
| Matters Investigated | |
| Mono County Grand Jury 2014-15: Case #01..... | 6 |
| Mono County Grand Jury 2014-15: Case #02..... | 7 |
| Mono County Grand Jury 2014-15: Case #03..... | 8-10 |
| Mono County Grand Jury 2014-15: Case #01..... | 11-19 |
| Mono County Grand Jury 2014-15: Case #01..... | 20-24 |
| Statutory Examination of the Mono County Jail, Bridgeport..... | 25-38 |

LOGO

Laura Patterson Design

COVER

Haven Kiers

LAYOUT

Alyse Caton

PRODUCTION

Don Sage & Alyse Caton

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONO

IN RE:

2014-2015 Grand Jury

GENERAL ORDER

I certify that the 2014-2015 Mono County Grand Jury Final Report complies with Title Four of the California Penal Code and direct the County Clerk to accept and file the final report as a public document.

Dated this 21 day of July ~~2014~~ ²⁰¹⁵


STAN BEER
Presiding Judge of the Superior Court



GRAND JURY OF MONO COUNTY

P.O. Box 3994

Mammoth Lakes, CA 93546

June 26, 2015

The Honorable Judge Stan Eller
Mono County Superior Court
P.O. Box 1037
Mammoth Lakes, CA 93546

Please find attached the final 2014/2015 Mono County Grand Jury Report.

The jury conducted several investigations that were substantially more convoluted and involved than they initially appeared. If not for the dedication and professionalism of my counterparts, these investigations would not have been completed in a timely and thorough manner. A tremendous amount of time and energy went into these investigations and I want to thank all members of the jury for their dedication to this important community service.

I especially want to thank Karen Johnston who not only served as vice foreperson and secretary of the jury but also provided invaluable insight and knowledge into the functioning of local government.

I would also like to acknowledge the support of Hector Gonzalez, Executive officer of the court, Marshall Rudolph, County Council, Tim Kendall, District Attorney and Alyse Caton, Executive Assistant. Without their assistance and prompt availability whenever we called, our job would have been much more difficult if not impossible.

All investigations, whether received from the public, initiated by the jury or mandated by state law were conducted in a thorough and conscientious manner and the conclusions and recommendations were well thought out. I believe that the government agencies involved in those investigations should take advantage of the recommendations made by the jury.

Finally, I would encourage the court to continue the recently- started outreach program to recruit grand jurors and suggest that the recruiting efforts start in February or March of each year.

It has been my privilege and honor to serve on this jury. Thank

you,

Jonathan D. Boyer

Foreman, Mono County Grand Jury 2014/15

THE GRAND JURY SYSTEM

Shrouded in secrecy, the functions of a Grand Jury are not widely known. The following summary describes what a Grand Jury is and does:

The Grand Jury system dates back to 12th century England during the reign of Henry II. Twelve “good and lawful men” were assembled in each village to investigate anyone suspected of crimes. The jurors passed judgment based on what they themselves know about a defendant and the circumstances of the case. It was believed that neighbors and associates were the most competent to render a fair verdict. By the end of the 17th century, the principle that jurors must reach a verdict solely on the basis of evidence was established, and that practice continues today. Although California Supreme Court decisions have curtailed the historical criminal indictment function, the Grand Jury still serves as an inquisitorial and investigative body functioning as a “watchdog” over regional government.

The Mono County Grand Jury, as a civil Grand Jury, is not charged with the responsibility for criminal indictments except in the case of elected or appointed county officials. Its primary function is the examination of county and city government, including special legislative districts such as community service districts and fire protection districts. The Grand Jury seeks to ensure that government is not only honest, efficient and effective, but also conducted in the best interest of the citizenry. It reviews and evaluates procedures, methods and systems used by governmental agencies to determine compliance with their own objectives and to ensure that government lives up to its responsibilities, qualifications and the selection process of a Grand Jury are set forth in California Penal Code Section 888 et seq.

The Grand Jury responds to citizen complaints and investigates alleged deficiencies or improprieties in government. In addition, it investigates the county’s finances, facilities and programs. The Grand Jury cannot investigate disputes between private citizens or matters under litigation. Jurors are sworn to secrecy, and all citizen complaints are treated in strict confidence.

The Mono County Grand Jury is a volunteer group of 11 citizens from all walks of life throughout the county. Grand jurors serve a year-long term beginning July 1, and the term limit is two consecutive years. Lawfully, the Grand Jury can act only as an entity. No individual grand juror, acting alone, has any power or authority. Meetings of the Grand Jury are not open to the public. By law, all matters discussed by the Grand Jury and votes taken are kept confidential until the end of term.

One of the major accomplishments of a Grand Jury is assembling and publishing its Final Report. This document is the product of concentrated group effort and contains recommendations for improving various aspects of governmental operations. When it is completed, the Final Report is submitted to the presiding judge of the Superior Court. After release by the court, it is directed first to county department heads for review, then to the communications media. The Final Report is a matter of public record, kept on file at the court clerk’s office. It is also available on line at: www.monocourt.org.

GRAND JURY ADVISORS

Stan Eller

Judge, Superior Court, Mono County

Hector Gonzalez Jr.

Executive Officer, Superior Court, Mono County

Tim Kendall

District Attorney, Mono County

Marshall Rudolph

County Counsel, Mono County

Alyse Caton

Executive Assistant, Superior Court, Mono County

GRAND JURORS

2014-15 Grand Jurors

Jonathan Boyer, Foreperson
Mammoth Lakes

Karen Johnston, Assistant Foreperson
Mammoth Lakes

Sharon Clark
Mammoth Lakes

Karen Smart
Benton

Don Zeleny
Mammoth Lakes

Kenneth Murray
Mammoth Lakes

Robert Deforrest
Lee Vinning

Deb Pierrel
Mammoth Lakes

Cleland Hoff
Mammoth Lakes

Pam Bartley
Mammoth Lakes

Richard Hihn
Mammoth Lakes

**Mono County Grand Jury 2014-15
Case #01**

SUMMARY

The Grand Jury received via US Mail a one-page handwritten document that included nine photos printed on it, with a notation they had been taken in October 2012. The envelope did not have a return address, and the paper contained no identifying information about the sender.

The writer alleged that a named person in the Chalfant Valley area was dumping sewage, presumably illegally, at a vaguely specified location. The writer also referenced a Mono County Sheriff's case number, and alleged the Sheriff's Department and Mono County Code Enforcement had "covered up" the "sewage dump site." The writer also alleged that the person dumping the sewage was engaged in "extortion, blackmail and tax-evasion" but offered no details.

METHODOLOGY

The Grand Jury obtained a copy of the referenced report and reviewed it. A deputy documented his response to an address in January 2013 for a complaint of a tenant dispute, and that he spoke to the landlord and the two tenants. There were issues about rent and power and water, to which the deputy offered suggestions for mediation and renegotiation. The report also noted one tenant had accused the other tenant (living in separate residences on the property) of illegal dumping of sewage, although the accuser had never seen it happen. The deputy inspected the area in question and did not see or smell any evidence of spilled sewage.

FINDINGS/RECOMMENDATIONS

The Grand Jury concluded that the issue had been appropriately investigated and resolved by the Sheriff's Department. The vague allegations contained in the complaint and the lack of attribution did not give the Grand Jury any sense that the complaint needed to be pursued further, and the Jury voted to close the investigation.

RESPONSES

None required.

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

The original complaint document and a copy of the MCSO report were sealed for the Grand Jury archive.

**Mono County Grand Jury 2014-15
Case #02**

SUMMARY

The Grand Jury received a memo and several pages of attachments, dated June 22, 2014, from the 2013-14 Grand Jury. The prior Jury recommended consideration of an examination of a complaint about an individual who had been dismissed by Mono County for allegations of misuse of funds. The funds were paid back and no charges were filed against the named individual. The former Jury was concerned that the individual in question might also be defrauding a special district within the county, but had no specific details. A handwritten, anonymous note had been received via US Mail to the Grand Jury Post Office Box insinuating that if the person in question had defrauded the county, he/she had perhaps done the same during involvement with the special district.

METHODOLOGY

The current Jury formed an investigation committee. That committee determined, after speaking with people with knowledge of the special district and of the specific individual, that the district's Board of Commissioners had taken steps to look into the same anonymous complaint, and that the vague allegation had become public knowledge within the district boundaries, prompting a higher level of resident scrutiny of the district. It did not appear that the Jury could add anything of value or cause to happen anything other than what was already going on in the community.

FINDINGS/RECOMMENDATIONS

There remained the possibility of doing a general investigation of the special district under the Grand Jury's legal scope to do so; however, it was decided to focus Grand Jury time and attention elsewhere. The Jury voted to close this investigation.

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

The memo and supporting documentation from the 2013-14 Jury and the anonymous complaint were sealed and filed in the Grand Jury archive.

**Mono County Grand Jury 2014-15
Case #03**

SUMMARY

California Penal Code Section 925 charges a grand jury with investigating and reporting on the operations, accounts and records of the officers, departments and functions of the county. After realizing that no prior grand jury had performed such a review, the 2014-2015 Grand Jury selected Animal Control (AC) in Mono County as a function to be reviewed. Because half of the population in Mono County resides in the Town of Mammoth Lakes (TOML), Animal Control within the TOML was included in accordance with CA Penal Code Section 925a. Since the review was not a response to a complaint, the focus was on improving department function and making service more efficient.

BACKGROUND

An understanding of Animal Control in Mono County requires that one review the history of the Town of Mammoth Lakes (TOML) and the County/Town relationship during and after the incorporation of the Town. In addition, it is helpful to understand the budget for AC in both the County and the TOML and the statutory requirement for AC.

AC in Mono County has gone through three distinct periods: 1) prior to September 1986; 2) September 1986 until 2009; 3) 2009 until the present.

Prior to incorporation of the Town of Mammoth Lakes, all AC was performed by two County employed Animal Control Officers (ACOs). One ACO worked from June Lake north and east to the Nevada state line and the other serviced the south end of the county including Mammoth Lakes, Crowley, Sunny Slopes, Swall Meadows, Chalfant, Hammil and Benton. If either was unavailable, the other officer responded to calls throughout the County. Both officers were trained and allowed to carry firearms and they were re-qualified each year to do so. During a study session of June 5, 1985 with the Mammoth Town Council, the County Animal Control Director stated that the annual cost of the two officers and a part-time shelter attendant was approximately \$90,000. In addition, he stated that based on data from the 1981-1984 period, 452 dogs and 81 cats were picked up annually in the TOML which represented 63% of the dogs and 32% of the cats the County handled. He also estimated that there was a 70% license compliance in Town and that court fees, shelter fees, and license fees generated revenue of \$18,845.

Although the Town was officially incorporated on August 20, 1984, the transition of services from the County to the Town took several years. After considering other options, the Town Council approved a contract with the County for ACO services on September 18, 1985 and approved a contract for temporary shelter services at the old County-owned Whitmore fire station on 27 June, 1985. A decision was made to make the ACO a Town position in August 1986. At that time, one County ACO position was defunded and the south County ACO was hired to fill the Town position. Initially, the Town operated another animal control facility which could board animals and the staff developed plans to construct a new facility. On March 7, 1990, the Council directed staff to discontinue operations at the animal control facility due to liability problems, to discontinue planning for a new facility and to instead investigate upgrading the inadequate water and sewer systems at the Whitmore facility with costs to be shared with the County. The facility was subsequently upgraded and the Town agreed to pick up the cost of the Whitmore shelter attendant. On May 2,

2000, the Council approved Resolution 00-24 which created the Joint Powers Agreement for the management of the Whitmore Animal Shelter.

The final chapter of the TOML AC story began in 2009 when the Town staff was reduced to satisfy serious budget deficiencies. The Town ACO retired when it became clear that the position was going to be defunded. Other costs were reduced by defunding all services related to the Whitmore shelter. Currently, the AC service in the TOML is performed on an as-needed basis by uniformed police officers who can still deliver animals to the Whitmore shelter even though the Town does not pay for it. On February 17, 2010 the Council approved changes to Town Code Section 6.08 Animal Control And Wildlife Management Officer. This Code section provides for services within the Town boundary. The change added the wildlife control service as performed by a contractor who only deals with bear issues. The contractor is deputized with the same authority as an ACO, is provided a badge and uniform, and is authorized to carry a firearm.

The fiscal year 2013-2014 budgets for both Mono County and the TOML are available on-line. The adopted County 2013-2014 AC budget is for revenues of \$29,500 and Expenditures/Appropriations of \$516,344. The 2013-2014 TOML budget does not provide a breakout of revenues for AC but it does include \$60,864 for Animal Control Services.

There are extensive statutory requirements for AC. Of the sixteen California Codes, nine contain verbiage pertaining to AC. The governing statutes most pertinent to AC in the County are:

- a) Food and Agricultural Code Division 14 Section 30501 and following. This section states that the board of supervisors of any county or the governing body of any city may adopt code sections which cover regulation and licensing of dogs. It states that a county is not required to enforce the provisions within the territorial limits of any city located in the county.
- b) Health and Safety Code Division 105 Part 6, Section 121210 and following. These sections define the requirement for the County Health Department for control of rabies.
- c) Penal Code Section 597. The section governs Crimes Against Animals.
- d) TOML Code Title 6. This Code provides TOML statutes pertaining to animals.

METHODOLOGY

The 2014-2015 Grand Jury interviewed current Mono County Animal Control staff and current and former MLPD employees who supervise (d) Animal Control in Mammoth. The Bridgeport and Whitmore shelters were toured. In addition, the Mono County website and the TOML Granicus archive of Town Council minutes and resolutions were searched for relevant data.

FINDINGS

1. County Service Level. AC staffing level in the County is about the same as existed in 1984 when the County was also responsible for the TOML. That level is appropriate for the jurisdiction outside of TOML. The County Health Officer provides all required rabies control services. The County budget supports an appropriate level of AC.
2. TOML Service Level. Today, Mammoth Lakes has about twice the population it had when incorporated in 1984. From 1984 until 2009 AC service was provided by an ACO with access to a funded shelter. Today, AC service is provided as “other duties” by uniformed police officers from an understaffed TOML Police Department. Complaints are responded to when required. The TOML budget is inadequate for providing the service level required to enforce Title 6 requirements for licensing, vaccinations, interference with street use, barking and nuisance abatement.
3. Record Keeping. Records for complaints, licenses, and vaccinations are maintained as hand written records at both the County and TOML levels. Today, it is difficult to obtain data similar to that cited by County Animal Control Director in 1985.

RECOMMENDATIONS

1. County/TOML Service Level. Although the County is not required to provide AC services within the TOML, the Code does not preclude it. The TOML should consider providing an adequate budget for contracting with the County for AC services.
2. AC Record Keeping. The County and TOML should implement common AC software for record keeping.

REQUEST FOR RESPONSES

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

From the following individuals:

Mono County Board of Supervisors, Findings #1 and #3 and Recommendations #1 and #2

Mammoth Lakes Town Council, Findings #2 and #3 and Recommendations #1 and #2.

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

Mono County Grand Jury 2014-15
Case #04

SUMMARY

The Town of Mammoth Lakes (TOML) relies heavily on Transient Occupancy Tax (TOT) to fund the Town's operation through the General Fund. Between 60 and 70 percent of yearly operating expenses historically are covered by TOT. In 2013, the TOML instituted Tourism Business Improvement District (TBID) fees. While TBID is a fee and not a tax, TBID collection was folded into the system commonly referred to as "tax collection." The TOML Finance Department is responsible for collecting TOT and TBID, but budget cuts and staff reorganizations in recent years have changed the structure and management of the department, perhaps not for the better.

The 2014-15 Grand Jury wanted to determine whether the TOML Finance Department is collecting taxes with effective supervision and oversight using proper processes as outlined in the Town Municipal Code. Our decision to conduct this investigation was prompted by a written complaint submitted to the Grand Jury by a citizen.

During our investigation, we found a poor working environment in the Finance Department. Within the department there is inadequate communication, poor teamwork and little trust. We found procedural shortfalls, particularly in the areas where the Municipal Code allows for a great deal of flexibility. We found a lack of management accountability and also a lack of operator (business taxpayer) accountability. We found that there is an almost complete lack of training for both employees and businesses. All of these things combine to affect service to the public, and raises the possibilities that the Town is giving preferential treatment to some operators, losing tax revenue to which it is legally entitled, and that operators are, in some instances, overpaying.

The Grand Jury recommends the Town Council, as the setter of policy, instructs the Town Manager to take steps to improve transparency, efficiency, accountability and morale in the department, as well as institute training for both employees and tax remitters.

GLOSSARY

Transient Occupancy Tax is 13% of the gross rent charged by lodging operators. Rent is defined by the Mammoth Lakes Municipal code as any non-refundable costs paid by a customer to secure a unit for rent, such as the actual room cost and any additional charges, such as resort fees, pet fees, cleaning fees, etc. It does not include Federal, State or local taxes or the cost of food or beverage.

It is due the 20th of each month, with the payment being for the prior complete month. Example: TOT paid on January 20 is for the amount collected by the lodging operator from December 1 through December 31. If the payment is 1-30 days late, a 15% penalty, or \$10 is added, whichever is greater. If the payment then becomes 31 or more days late, an ADDITIONAL 15%, or \$10 is added, whichever is greater. Delinquent payments are ALSO subject to an interest payment, which is calculated at 1.5% of the original tax payment, times the month(s) delinquent. A partial month of delinquency is charged as a full month on the interest payment.

The dollar amount reported by an operator is accompanied by a declaration from the reporter, signed under penalty of perjury, that the amount is "a true, correct and complete statement of the rents received." Thus, TOT is reported on the "honor system," a standard in California municipal and county government.

Tourism Business Improvement District fees are 1% of the same gross rent standards. TBID also carries the same delinquency penalties and interest as are charged for late TOT.

Town of Mammoth Lakes Finance Department, Tax Collection section: The Town Manager has ultimate oversight of Finance. The Town Manager works for the Town Council. The Finance Director reports to the Town Manager and acts as the Tax Collector per the Municipal Code. The Accounts Manager supervises all work pertaining to the collection of all taxes and fees imposed by the Town per the authority of the Municipal Code and any applicable State and Federal codes. He/she reports to the Finance Director. Three Revenue Specialists report to the Accounts Manager. Each Revenue Specialist has a case load of approximately one-third of the approximately 800 businesses that remit any taxes or fees to the Town.

An **Operator** is any business in town that pays Transient Occupancy Tax. These include hotels, motels, condominium complexes, rental agencies, and/or individuals who own residences eligible for transient occupancy rent. Each operator is issued a Business Tax Certificate Number by the Town Finance Department.

BACKGROUND

The Grand Jury received a complaint from a citizen with knowledge of the TOML tax collection procedures. The complainant also has long-standing knowledge of general accounting practices and of public service and customer relations.

The complaint alleged in part that the municipal codes governing tax collection were not followed in a particular case. The complainant alleged that the Town Manager and Finance Director had conspired with an operator to reduce the required tax burden. In addition, the complainant alleged that there had been secret meetings between the operator and the Town Manager that resulted in a gift of public funds. Furthermore, it was alleged that certain members of the Finance Department staff had been coerced, threatened and retaliated against after they challenged the Town Manager and Finance Director about the alleged misconduct. There were additional allegations of personnel issues, which the Grand Jury determined were not within its scope to investigate, but they did lead to general and relevant observations about departmental staffing, policies, procedures and accountability.

METHODOLOGY

Documents

The Grand Jury reviewed the following documents from the Town of Mammoth Lakes Finance Department:

Tax appeal: 382 Hillside Drive, February 20, 2013

Tax appeal: Austria Hof/Slopeside Rentals, March 6, 2013

Tax appeal: 275 John Muir Road, May 15, 2013; June 19, 2013; July 24, 2013

Tax appeal: 344 Starwood, October 16, 2013

Town of Mammoth Lakes Code, Chapter 3.12 Transient Occupancy Tax

TOML Transient Occupancy Tax Audit Procedures, last update 8/2012

Revenue Collection TOT and TBID Policies and Procedures, Town of Mammoth Lakes Finance Department, August 2014

Resolution 2013-61, Mammoth Lakes Town Council, Establishing the Mammoth Lakes Tourism Business District, July 24, 2013; including Agenda Bill

Town of Mammoth Lakes Tourism Business Improvement District Staff Direction for Facilitating TBID; Appeal Process and Procedures, undated

Town Council of Mammoth Lakes: agendas listing TOT matters; May 4, 2011; June 1, 2011; June 15, 2011; November 2, 2011; January 4, 2012; April 18, 2012; October 18, 2012; January 25, 2013; February 20, 2013; March 6, 2013; May 15, 2013; June 5, 2013; June 19, 2013; July 3, 2013; July 24, 2013; October 16, 2013; April 2, 2014

TOT remittances, specific TOT case investigated, January 2012 through July 2014

Grand Jury records request for any and all documents pertaining to: policy and procedure governing TOT and TBID collections; the particular 2014 TOT case investigated; and to any TOT appeals filed in 2013-14.

Town of Mammoth Lakes email system documents, 106 total. Because all of the emails pertained to the tax case in question, they are not appended here because they contain confidential information under the Town Municipal Code. Many of the emails were replies and/or forwards, so the records request produced numerous duplications of documents when entire email chains were reproduced to be provided; all copies were sealed to be filed with the Grand Jury's documentation for the 2014-15 term.

Interviews

During the investigation, the Grand Jury interviewed eight people, including the complainant, current and former employees of the Finance Department and the Town Manager's office, and members of the Town Council.

DISCUSSION

The Specific Tax Case

Because the Municipal Code makes TOT and TBID returns confidential (section 3.12.150) only generalities can be provided in this report. The Grand Jury, however, was entitled to, and did examine, the specific paperwork for this case.

In September 2014, some members of the Finance Department became aware of a possible TOT and TBID error or deliberate omission being made by a lodging operator. An outside complaint was made to the Finance Department stating that a certain lodging business in town wasn't paying appropriate taxes, allegedly because a taxable fee charged to customers was not being reported as taxable revenue. The TOML does accept "tips" on TOT and TBID irregularities from anyone, including those who wish to be anonymous.

All tax paying businesses are assigned to specific Revenue Specialists within the Finance Department and the Specialist assigned to the accused lodging operator investigated the complaint. At issue was the amount of taxable revenue being reported and the length of time the alleged underreporting had been going on. The Revenue Specialist created a mock-up of potential taxes owed, going back over a three-year period, using common sense assumptions and historical data from the establishment. Creating such a mock-up of delinquent taxes owed is a standard process known as an assessment and provides a starting point for a conversation with the operator with the object of getting the actual and verifiable numbers from the operator. Since back taxes owed are also subject to penalties and interest, the total estimate in this case was a large sum of money.

The Revenue Specialist was not successful in getting the operator to answer emails or phone calls, or address the certified letter, to determine if indeed there was a discrepancy. Instead, in December 2014, three months after the Revenue Specialist had started trying to contact the operator, the operator had an impromptu discussion with the Town Manager. The Town Manager told the operator to work with the Finance Director to determine taxes owed. Even though the town code allows for an operator to go to the Town Manager or the Finance Director to discuss taxes, some staff members in the department felt that this constituted a back-room deal. This was reinforced in two ways: firstly, that the Finance Director openly discussed the benefits of waiving penalties and interest in this case with the staff and implied the Town Manager agreed, and secondly, that the operator met with the Finance Director in a private meeting to discuss taxes and penalties owed, a meeting that did not meet the standards of a "hearing" that is described in the Town Code. There was mixed opinion among staff as to whether this was inappropriate. In this private meeting the operator brought in information about back taxes owed, including when the underreporting had started. This information was not provided as a formal, validated, remittance document with supporting documentation that is expected at a tax discussion, and the back taxes admitted to by the operator were vastly lower than the estimate calculated by the Revenue Specialist. After this meeting, the Finance Director told the Revenue Specialist to complete the tax assessment using the new, unsupported numbers supplied by the operator.

At this point, the Revenue Specialist refused to do any further work on the case, notifying the Finance Director that he/she could not ethically do so, at least according to his/her interpretation of the town code. At this time the Revenue Specialist also proposed an audit of the business, but the Town Manager did not agree that an audit was appropriate. The Finance Director then assigned another employee in the department to complete the tax assessment with the operator's new numbers. Since accepting an operator's numbers as accurate is normally a standard procedure (the honor system), this employee accepted the assignment and created a tax assessment with the new, though unsupported, numbers. In late December 2014, this employee made the new

assessment without speaking with the original Revenue Specialist about the potential issues. This employee told the operator that a tax assessment would be made with the unofficial numbers. The employee also instructed the operator to submit signed amended returns for the contested time period as soon as possible. Those amended returns did not come in, despite repeated communications with the operator, until mid-April 2015, almost four months after being requested. As of April 2015, the Finance Department officially closed this case; the operator admitted to some underreporting of revenue and taxes, and interest and penalties have been paid. However, there remains a sense of impropriety as the operator claimed the error only went back five months when the original Revenue Specialist assigned to the case suspected that underreporting had gone on for closer to two years. This possibility has not been looked into and without an investigation/audit is unlikely to be cleared up one way or another. The perception that the entire process was a political favor handled behind closed doors was a strong view held by some employees in the course of the investigation.

GENERAL FINDINGS

After conducting this investigation, which included a review of the relevant sections of the municipal code, the Grand Jury found no hard evidence of any crime, but did find poor judgment and a lack of transparency, communication and documentation within the Finance Department, all of which contributed to the perception of wrongdoing. Municipal Code section 3.12.130 says any operator failing to report and remit TOT by the monthly deadline allows the tax collector (which includes delegation of the work to a Town Revenue Specialist) to "proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due [the tax assessment]." The "facts and information," includes, but is not limited to, historical tax data from the property in question and/or data from comparable properties. This assessment is then relayed to the operator, who can either pay it or submit a written request for a hearing to dispute the dollar amount. At that hearing, the operator is expected, per code, to "offer evidence why such specified tax, interest, penalties and enforcement charges should not be so fixed."

The complainant believes this language to mean that the operator must provide actual business paperwork (ledgers, bank statements etc.) to support a presumably lower tax number than the one calculated by the Town. The complainant also believes that such a discussion needs to be at a formal hearing. In documents requested by the Grand Jury and provided by the Town, there were examples of other cases where bank statements and similar documents were attached to the file, showing that other lodging operators had provided that type of information during the resolution of their cases. The complainant alleged lack of such paperwork in this case and lack of a formal hearing, ultimately characterizing the process as being very informal with little or no documentation and alleging it did not involve the correct people.

The Grand Jury found that interpretations of the Municipal Code varied among the staff with different levels of comfort about who should be doing what. The phrases that created the most confusion were, "as he [the Tax Collector] may deem best to obtain facts and information," and an operator's duty to "offer evidence." It became clear that there is no accepted practice within the department because there is little to no training or set procedures given to the staff. The Town does have a "Revenue Collection TOT and TBID Policies and Procedures" document, dated August 2014, but it lacks details such as employee job descriptions, supervisory duties/descriptions, current staffing flow chart, glossary of terms, and set procedures for what should be done in exceptional situations,

such as when a staff member has reason to suspect the accuracy of numbers given under the "honor system".

Based upon the conversations of those people interviewed, the Grand Jury concluded that it did not appear that there were any secret meetings involving the operator in question nor had there been a conspiracy to illegally reduce taxes or penalties and interest owed. The interpretation by some members of staff that all person-to-person conversations must be in a hearing setting was not upheld by the wording in the Municipal Code. However, the Grand Jury concluded that there were sufficient questions raised to warrant an audit on this particular business. Audits going back three years are allowed for in the Municipal Code. Additionally, the Grand Jury feels the Town could insure an unbiased report by using an outside auditor with municipal government tax experience. The Grand Jury recognizes that this is a complex decision, as audits may or may not uncover money owed and even when they do, the recovered money may or may not cover the cost of the procedure. Nonetheless, the Grand Jury feels that the difficulties created by this case warrant the additional investigation that an audit would provide. Finally, the Grand Jury did not find any evidence of coercion of, or implied/overt threats to, employees to prepare unethical work. It was apparent that many conversations between all levels of employees were construed in ways to match the person's preconceived notions and that misinterpretation or jumping to conclusions was a major cause of many of the misunderstandings between staff members. Without a sense of teamwork that allows for respectful discussions and questioning of actions, everyone is left to their own assumptions and biases about why certain events are occurring.

This case also allowed the Grand Jury to look at the general workings of the department, which led to the points described below.

Procedural Issues: Audits and the "Honor System"

When a business operating in the Town of Mammoth Lakes is required to pay TOT and/or TBID, a representative of that business, otherwise known as the remitter, fills out and files a remittance document entitled, "Monthly Return for Transient Occupancy Taxes (TOT) and TBID." A copy of the remittance document is attached in the report appendix.

The remitter signs the remittance under penalty of perjury, certifying that the dollar amounts listed are "true and correct." If a remitter "intentionally provides and delivers false information" on a remittance, the crime of perjury has been committed. It is a felony and can be punishable with prison time, but is generally adjudicated with a fine (up to \$10,000), probation, and little or no local jail time. The Grand Jury found in this investigation that TOT/TBID remittance forms are taken at face value and the matching checks for tax remittance are deposited and receipted largely without question. Revenue Specialists sometimes have the time to spot check remittance forms, but the process generally runs on the honor system. This appears to be an accepted practice among small towns. The towns, however, have the legal power to audit businesses at any time. Legally, the limit in California for records retention, and, therefore an audit cycle, is six years. The TOML, under Municipal Code section 3.12.150, has chosen to require a three year records retention period. This means that the TOML should audit all tax remitters once every three years, or risk losing access to relevant data. Since the TOML has around 600 TOT remitters that would mean around 200 audits per year would have to be conducted to truly know whether tax remittances were correct. According to the TOML's own document titled "TOML Transient Occupancy Tax Audit Procedures" (last revision, August 2012), each audit reasonably takes three to five days, and requires an audit team

of at least two people, plus data entry time. To complete 200 audits per year, at least six people would have to be doing nothing but audits. The Grand Jury understands that the staffing required for 200 audits per year is not feasible for the TOML. However, doing no audits at all, as is current practice, is an equally bad scenario. The Town Manager should find a way to allocate staffing to complete some number of audits per year, to include a mix of large and small remitters and accounts that "red flag" themselves in some way. Doing a small number of spot audits per year is still a meaningful check and balance. Accepted government practice indicates that no entity audits every business in every records cycle, as audits should be a surprise, not something that comes up on a predictable basis. The Grand Jury was surprised to find that audits have not been conducted on any business in recent memory (possibly since 2009) especially given that the TOML recognizes the value of such procedures. According to the Audit Procedure manual, audits do the following:

1. To determine whether the operator is in compliance with the Town's Transient Occupancy Tax Ordinance section 3.12.
2. To determine whether revenues reported in the tax returns agree with the general ledger and are supported with source documents.
3. To perform the audit in accordance with generally accepted auditing standards and generally recognized sampling techniques in order to yield a fair and impartial result in accordance with the normal conditions of the business.
4. To educate operators regarding Transient Occupancy Tax reporting, collection and enforcement efforts.

While it appears the vast majority of tax remitters do so honestly and correctly, it is not prudent for the Town to continue on a course where no one in the system is held accountable.

The Working Environment in the Finance Department

In conducting interviews for this investigation, the Grand Jury found instances of significant communications breakdowns among Finance staff members which seemed to foster a lack of teamwork and trust. For example, many vital communications appeared to happen via emails, which are prone to misinterpretation. In another example, during the hand-off of the case in question from the Revenue Specialist to the employee newly assigned the duty, there was no conversation between the two staff members about the case. This lack of communication within the department exacerbates the fact that employees have little common understanding of some procedures. This appeared to result in employees drawing their own conclusions, which, in complex cases, resulted in problems. It also appeared to the Grand Jury that personality conflicts in the workplace are not addressed, or if they are, they are not addressed to the point of being resolved. These are personality conflicts that seem to negatively affect the quality of the work.

This complaint highlighted for the Grand Jury how much Finance Department staff turnover, changes in duties and assignments for many employees, and frequent changes in supervisors, including the Town Manager, has contributed to the poor working environment over the past three years. As a side note, the Town is in the process of upgrading its accounting software. It is expected that this will streamline data entry process. This might give staff time to reinstate the audit program in some form.

Training, Both Internal and External, Including Written Policy and Procedure

The Grand Jury's investigation found that tax collection policies and procedures are lacking. The Finance Department should make it a priority to update or create manuals to give all tax collection employees clear direction. Where the Municipal Code allows for interpretation or flexibility, the manuals should address best accounting practices as applied to the TOML. The department should consider requiring a team approach to problem tax cases, particularly for assessment hearings. With two employees in a meeting with an operator, transparent results and mistakes can be minimized. Clear guidelines for documentation of questions from operators, especially in cases that become complicated or a problem, would also safeguard the TOML and individual employees from allegations of impropriety or wrongdoing.

The one clearly defined policy/procedure in this section is the Audit process. There are many aspects of this procedure that can be adopted for complex or problem TOT accounts that have not yet reached the audit stage, particularly in methodology, documentation and supervision.

As for TOT and TBID remitters, the investigation revealed that operators are confused about which revenues must be included, which can be eliminated, and which can only be excused with a formal waiver. The last time the Town made an attempt to train operators on TOT was in 2009. There are instructions on the forms and on the Town website, but several people interviewed believe this is not sufficient customer service. There was an indication that the department had put some planning into re-tooling and reinstating the training, but it was unclear whether the latest reorganization in the department would continue to support the effort and actually get it to happen. The current TOML management team should strongly consider finishing the job. While making sure the TOML gets all the revenue to which it is entitled is a compelling argument, providing excellent service and facilitating good relationships with TOT and TBID operators should also be important.

SPECIFIC FINDINGS

- F1 The Town Finance Department had a problem tax case that needs to be looked at in detail to determine whether or not the Town of Mammoth Lakes received all TOT and TBID owed.
- F2 The Town Finance Department needs to adopt formal policies and procedures for the tax collection section.
- F3 The Town Finance Department needs to train employees and tax remitters.
- F4 The Town Finance Department needs to reinstate the TOT audit program.
- F5 The Town Finance Department staff has a lack of teamwork.

RECOMMENDATIONS

- R1 The Town Finance Department should pay for an outside audit on the business that was the subject of this complaint.
- R2 The Town Finance Department should write a policies and procedures manual.

R3 The Town Finance Department should train employees on the polices and procedures manual; the department should also train TOT remitters by updating its old training program.

R4 The Town Manager needs to set staffing in Finance sufficient to handle collections and audits.

R5 The Town should hire a consultant experienced in team building to address the lack of respectful communication and trust in the Finance Department in order to create a professional working team.

REQUEST FOR RESPONSES

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

From the following individuals:

Town Manager Dan Holler, Findings 1-5 and Recommendations 1-5.

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

APPENDIX

Copy, Monthly Return For Transient Occupancy Taxes (TOT) and TBID

Mono County Grand Jury 2014-15 Case #05

INTRODUCTION AND BACKGROUND

As a result of a complaint, the Mono County Grand Jury (MCGJ) has investigated the Mono County Assessor's Office (MCAO). The function of the MCAO is to annually assess all taxable property in the county. The head of the MCAO, the Mono County Assessor, is an elected official. The current Assessor began work in June of 2003 as a Property Appraiser and was appointed interim Assessor

in October of 2014 by the Mono County Board of Supervisors. In January of 2015, he assumed his elected position as Assessor.

THE COMPLAINT

In March of 2015, the MCGJ received a complaint from a private citizen on behalf of some employees of the MCAO. The complaint alleged three broad concerns: a hostile work environment, unrealistic workloads, and unauthorized computer access. Upon investigation, the MCGJ was given numerous examples of a poor work environment, as well as uneven and possibly unethical treatment of office employees.

Some employees allege that the reason for such treatment was their political non-support of the Assessor during the public election in 2014. Sometime during January or February of 2015, one or more employees filed a harassment charge with their Public Employees Union representative (PEU). The PEU in turn filed a complaint with Mono County and an investigation was subsequently initiated. The Mono County Board of Supervisors required hiring an outside contractor to conduct the investigation. The staff was interviewed and was told the report would be made available to them. However, the final report was deemed confidential under attorney/client and client/work product law and was not released.

METHODOLOGY

DOCUMENTS

The Assessor provided the MCGJ with two personnel “flow charts.” One chart showed the office personnel under the previous Assessor; the other showed the office personnel under the current Assessor. Under the previous Assessor there were nine positions listed: Assessor, Assistant Assessor, four appraisers (one of whom is now the current Assessor), one Auditor Appraiser, one Appraiser Aide, and one Fiscal and Technical Specialist (FTS) IV. Under the current Assessor there are seven positions listed: Assessor, Assistant Assessor (vacant), two Appraisers, one Auditor Appraiser, one Administrative Services Specialist, and one FTS IV.

Also provided by the Assessor were three photographs of some staff offices. The Assessor states that one photo is of the original arrangement, the second one is of the Assessor’s adjusted arrangement, and the third is a compromise between affected employees and the Assessor. Members of the MCGJ visited the offices to get a first-hand look at the current arrangement.

INTERVIEWS

During the investigation the MCGJ interviewed twelve people, including the complainant, County Counsel, the District Attorney, the current Assessor, the immediate past Assessor, and all MCAO employees who worked under the current and immediate past Assessor.

DISCUSSION

Information learned from specific interviews is as follows:

1. Complainant interview. The complainant outlined the various issues and made suggestions for people we should interview.
2. County Counsel interview. As a result of this interview, we learned that County Counsel was “generally aware” of the situation, although it was the County Counsel’s deputy who most closely worked on the case. We learned that an investigation was conducted on behalf of Mono County and that a report existed, but that neither the MCAO employees involved nor the MCGJ were allowed to know the contents of the report. The reason given to the MCGJ was that the report was confidential under attorney/client and attorney/work product law. At least two employees said they were told they would receive a copy of the report, though ultimately it was never provided.
3. District Attorney (DA) interview. The DA was asked about the possibility of a subpoena for access to the report. After a preliminary investigation, the DA confirmed the confidentiality of the report under attorney/client privilege and work product law. We were also told that the confidentiality would not be waived.
4. All office employees were interviewed, as well as the Assessor and immediate past Assessor. It is clear to the committee from the interviews that there is a deep, ongoing rift between two “camps” of employees that has worsened over time. The division of the two camps appears to be largely between those who supported the current Assessor during the 2014 election and those who did not.

Additional information found relevant to the complaint is as follows:

1. Hostile Work Environment. Soon after being appointed interim Assessor, the Assessor rearranged the configuration of office cubicles in order to “keep an eye” on office personnel. The change was made while several employees were away for a training program, with no advance notice to the employees who were away. Upon their return, these employees were upset at the office arrangement, and believed it was in retaliation for their non-support of the Assessor during the election. The employees noted that those who supported the Assessor kept their private offices. As a result of the complaints, the Assessor stated that he modified the arrangement, with staff helping with the move, but under his direction. The Assessor took photographs of the office at different stages of reconfiguration.

Throughout the course of the interviews the MCGJ heard a variety of accusations stating that the Assessor used language and/or actions designed to be intimidating, disparaging, and retaliatory to some members of the staff. Other employees stated that these accusations were not true, and that the accusers needed to “let go” of the past election issue. Parties from both sides agreed that the office environment is unhealthy, and that they often do not speak with one another. No one in the office seems to have a solution to the problem.

2. Workload. The workload in the Assessor’s office is heaviest between January 1 and July 1 when all county properties subject to taxation are assessed. From July 1 to December 30, the work shifts to ownership transfers, completion of deferred construction, mapping, training, audits, and hearings. There are approximately

17,000 county properties to be assessed. Some of these properties are easier to assess than others. For example, the assessment of commercial property is the most time consuming, private homes generally less so, and condominium homes even less so. Large and unique properties are particularly difficult to assess and require appraisers with specific experience and knowledge of those types of properties. The MCAO has discretion to hire outside experts to assess the more unique situations, but the current Assessor appears reluctant to do so.

The current Assessor instituted a system of weighted scale “units” as a guideline for the amount of time it should take to complete an assessment. One unit is equal to one hour of work, and ten units of work are required daily. Due to the resignation of one employee, that employee’s workload was divided among all remaining qualified employees. The Assessor also requested and was given permission to award a temporary appraiser certification to a current employee so that person could help with the workload. Employees differed in their opinion as to whether the workload was reasonable or unreasonable, again depending upon which side of the political fence the employee was on.

The Assessor stated that closing the 2015 tax roll by the mandated deadline of June 30 would be close, but that the office would be able to do it. Many employees either disagreed with that statement, or said that the deadline could be met only at the expense of accuracy. This raises concerns about revenue due to the County, the Town of Mammoth Lakes, and all of the special districts in the County (school, fire, hospital, public utilities, etc.). All of those budgets count on revenue from the assessed value of taxable property within the County.

3. Unauthorized computer access. More than one employee stated that they witnessed the current Assessor accessing a former Assessor’s computer. There is considerable computer security in the office, and all employees are required to learn IT protocol on the subject. The committee heard both affirmations and denials of the incident, depending upon whether those interviewed were political supporters or non-supporters of the Assessor. At least one person said they did not understand how that access could have occurred, given the security. The Assessor denies that there has been any unauthorized computer access under his leadership.
4. Mediation. The Assessor stated that he was responsible for initiating a mediation procedure to resolve office tensions, although the MCGJ suspected it was due to direction from the confidential County report. The mediation process is currently underway, and is expected to take six months. The MCGJ was told that the mediation facilitator openly acknowledged the office tensions. Although there are early suggestions that the mediation process will be useful, employees on both sides of the office rift are annoyed with the process, saying that it is time consuming and unnecessary.

FINDINGS

- The MCGJ believes there is a clear picture of dysfunction within the Assessor's Office. The office appears to be divided into two "camps" of employees, with various and conflicting points of view among all involved.
- The MCGJ believes the current number of employees in the Assessor's office is too small to support the workload in a timely and accurate manner. In addition, the MCGJ believes that without expert and independent appraisers, the County, Town of Mammoth Lakes and all special districts will lose revenue in the assessment of large and difficult properties.
- In spite of repeated allegations that current and past Assessors illegally accessed other employee's computers, the MCGJ was unable to find hard evidence supporting the complaint.
- Members of the MCAO were told that the report from the County investigation would be released to them but that has not been done.

RECOMMENDATIONS

- The MCGJ believes that the Mono County Board of Supervisors should more closely monitor the morale of the MCAO employees. In addition, the MCGJ believes that the already initiated mediation procedure is a potentially useful one that should be carried out to completion. It should be taken seriously, and honest efforts should be made by all parties for the sake of the office environment.
- The MCGJ believes that given the current state and past history of problems within the MCAO, the Mono County Board of Supervisors should appoint an independent party to oversee office personnel. The MCGJ feels this is necessary to insure that the timeliness and accuracy of the critical work of the Assessor's Office is not jeopardized.
- The MCGJ believes that additional appraiser staff, including experienced appraisers with knowledge of large and difficult county properties, should be hired to insure that the mission of the Assessor's Office is carried out in a timely and accurate manner.
- The MCGJ believes the County investigation report should be released to the staff. If this report cannot be released for intractable legal reasons, a legally defensible general summary, findings and recommendations should be made available. If that is not possible, involved employees should receive a written explanation detailing the reasons for the non-release, and any further recourse they may have.

Pursuant to Penal Code section 933.05, the Grand Jury requests responses from:

The Mono County Board of Supervisors, findings and recommendations 1-4

Assessor Barry Beck, findings and recommendations 1-4

**2014-15 Grand Jury
Statutory Examination of the Mono County Jail, Bridgeport**

SUMMARY

The 2014-15 Grand Jury visited the Mono County Jail in Bridgeport as statutorily required by Penal Code sections 919(b), 921 and 925. The Jury also observed at two currently unused holding facilities: the Juvenile Probation building in Bridgeport and the Mammoth Branch of Mono Superior Court.

GLOSSARY

AB 109 -- The designation given to the legislation that, among several things, moved the responsibility of housing some inmates from state prison to County jails to serve their sentences. This means prisoners could be housed in the local jail for three or more years instead of months or days.

AB 900 -- A funding mechanism available to counties to expand/improve jail facilities to accommodate the influx of prisoners as a result of AB 109. The structure of the Assembly Bill, however, meant all of the money was quickly claimed by large population counties, and Mono County received no funding.

AB 867 -- The latest funding mechanism available to counties to expand/improve facilities, AB 867 was written for the counties with lower population numbers who were shut out of AB 900 funding. Mono County will qualify for the funding, but will have to compete for it, as is the custom in these types of programs.

METHODOLOGY

A five member delegation from the Grand Jury visited on April 7, 2015. At the Jail, the committee spoke with Mono County Sheriff-Coroner command staff and three members of the Jail command staff. The group toured the entire facility in person.

The committee also toured the Juvenile Probation Department, although it is no longer used as a custody facility, and spoke with Probation officers and staff.

A cursory examination was made of the Superior Court holding facility in the Mammoth Courthouse, along with conversations with Sheriff's Department staff acting as bailiffs and court screeners in the facility.

DISCUSSION

Specific observations about the County Jail are noted in detail in the attached California Grand Jurors' Association document entitled "INSPECTION FORM."

Generally, the committee found the facility to be in good working order, properly staffed (with the exception of the kitchen), and equipment up to date and in good condition.

The Sheriff and Jail command staff believe the facility is currently handling prisoner numbers well, although the impacts of AB 109 will take some years to be accurately evaluated. Facility capacity is

48. At the time of the inspection, the facility housed 19 inmates. Of those 19, seven are AB 109 prisoners; one inmate serving an eight-year sentence, and six more committed to three-year terms. Although the facility is generally sized appropriately for a county of Mono's size, overcrowding does remain a possibility, and has happened in past years. Factors that are always present include: the female population increasing or one or more complex segregation situations presenting. Both are now more possible because of AB 109. The jail staff has a number of stringent legal obligations to ensure that prisoners with backgrounds likely to cause conflict (one example: rival gang members) are kept in separate areas of the facility. In a jail with a relatively small footprint like Mono County, a single prisoner could end up housed in a space designed for several, pushing other inmates into areas already close to or at capacity. Jail staff is confident that a variety of tools are available to ease short-term crowding situations, such as early release of qualified inmates. Also, Proposition 47, passed in 2014 by California voters, notably reduced sentencing requirements for a number of crimes, and the loss of half of the Mammoth Lakes Police Department and elimination of 24-hour patrol in the Town has dropped the number of prisoners taken to Mono County.

One of the issues that housing long-term inmates has created is whether outside programs available to inmates can be reasonably expanded to offer some rehabilitative opportunities. Obviously, the California State Prison system is far better funded and equipped to provide programs like education, job skills and the like. As an example, the Mono County Office of Education currently does not have budget or staff to provide a high school equivalency (GED) program in the jail. If the long-term population does increase, such funding might have to be considered by both the Education and Sheriff's departments. One thing that is being pursued currently to position the jail facility for possible expanded programming is a planned conversion of the former Emergency Operations Center in the administrative part of the Sheriff's office complex into a secure part of the jail for use as a meeting/classroom for inmates. This is possible because the room is located directly next to the secure jail area, and relatively simple construction to add secure doors and walls will safely quarantine it from the business side of the building and fold it into the jail side. In the short term, this will allow religious services and counseling programs like Alcoholics Anonymous, currently held in much smaller parts of the jail, to move to a more appropriate setting. In the long term, additional educational or job skill programs could be housed in the room. AB 867 funding is expected to be available soon, and jail staff is already working on Mono's application. Funding is available in the \$60,000 to \$180,000 range, with a 5% match required from the county. The Sheriff hopes Mono will receive the funding. If not, there are contingency plans to attempt to find whatever the cost of the project turns out to be somewhere in the county budget to see that it still is completed.

One program that has always been available to county correctional facilities is an inmate worker program. Mono is fully committed to this, with inmates qualified to be outside of the jail working to wash and detail County and Town of Mammoth Lakes owned vehicles, and to do lawn and landscaping maintenance and care in all the Mono County parks and cemeteries. In years of substantial snowfall, inmates also work on behalf of the fire departments to make sure hydrants are free of snow and ice in case of emergency. "The inmates take a lot of pride in it," according to staff. While the work is limited, it does help the County Parks and Facilities division to save some money. The work program is open to both male and female prisoners. Also available at times are jobs preparing mass mailings from the County, such as from the Tourism or Health departments. These "envelope stuffing" jobs enable inmates who can't do physical labor, or who can't qualify to be outside of the jail, to do work that saves money for whatever department needs it. Medical and mental health treatment is readily available to inmates. The staff particularly wanted to commend the Bridgeport medical clinic staff, and Behavioral Health Director Robin Roberts and her

staff for their commitment to working with the jail staff in meeting mandates for care, as well as offering extra programming when appropriate. Behavioral Health counselors visit once a week, plus a psychiatrist from UCLA Medical Center is available by a telemedicine computer/camera connection. Most of the clergy in Mono County also offer some type of regular outreach to inmates, and citizen volunteers provide Alcoholics and Narcotics Anonymous meetings and support at least once a week.

Formerly, the jail budget included around \$11,000 to maintain a law library. Now, for less than \$500 a year, the jail maintains a subscription to a legal research service, and provides hardcopies of the five most used code texts.

The visiting hours have been expanded because of the AB 109 inmates. Evening hours have been added.

The inmate store, which is allowed by law, but not required, sells snack food and toiletry items, plus phone cards. The profits are used to pay for the TV sets in the common areas, plus the cable subscription for them. It has also purchased all of the gardening and vehicle detailing equipment and protective clothing used by the work program. According to the jail staff, inmate money has always been used for these items, instead of taxpayer dollars from the county budget.

New since the last inspection is the dispatch center remodel. The work stations and chairs feature the latest in ergonomics to minimize injury potential of repetitive hand movement and being seated for long hours. The control of doors, lights, water, power and other jail infrastructure is now much easier for staff as it is on the computer consoles instead of a separate control board. New surveillance cameras and audio throughout the building were also updated to current technology, offering better coverage in the building and better retrieval/archiving of images and audio.

The only concern noted was the fact that the jail kitchen staff remains, as it has for several years, at two employees. Each budget year, there has been a request for a third employee, as there is no provision for a part-time relief cook. When someone is on vacation, or if one of the cooks was ill or injured for a long period, there is only one cook to work seven days a week, which results annually in a large overtime cost just for time-off coverage. Such overtime usage in the case of a long term employee injury or illness would likely exceed the cost of a relief cook's salary and benefits. The jail serves the biggest meal of the day as a hot lunch to allow the cooks to prepare dinner as a cold meal (sandwiches or similar) that is easily served by jail staff in the evening after the cooks depart in the late afternoon. This allows for scheduling only one shift in the kitchen to keep costs appropriate for a small facility. Some inmate worker help is available, but it is limited to serving and cleanup, and is only available when there are inmates in the facility who can qualify to hold that position.

Since the Probation office in Bridgeport no longer contains a juvenile holding facility, it is no longer subject to Grand Jury oversight. However, the Jury members noted that a structural issue still remains that could compromise the safety of the employees there. The lobby of the building remains an open space, with direct access to the Probation Administrative Assistant, and also to the remaining office space. A few years ago, a peephole and doorbell were installed at the front door, allowing it to remain locked. While this might allow the staff to keep an obviously enraged or upset person outside, it does not prevent someone entering the facility from causing harm after being let in. Also, the act of letting someone in the door exposes that employee to physical harm. With the

abrupt changes in sentencing laws in California this year, individuals who would have in the past been in prison or jail are free on probation. This will bring a different type of criminal clientele to Probation in both the Mammoth and Bridgeport offices. The Grand Jurors noted that Probation might now have a heightened need to revamp office security.

When the new courthouse was built in Mammoth a few years ago, the state architectural and construction teams designed a small area on the second floor to be used to hold prisoners who needed to make court appearances. Once the facility was completed, however, Sheriff's Department staff quickly found that the area had been poorly designed. Consequently, the space remains largely unused, and prisoners continue to be seated in the open courtrooms, under jail staff and bailiff guard. The issue was discussed at the time of the building completion, but seemingly has not been reviewed since.

FINDINGS

F1: Creating a relief cook position for the jail would avoid the unnecessary expenditure of overtime to cover vacation time usage, as well as any potential illness/injury absences. Also at issue is the prospect of one employee having to work seven days a week for whatever period of time, which is an unnecessary hardship on that person.

F2: The Bridgeport Probation office still has an open lobby space that does not help protect the staff from the potential of harm, given the potential created by a criminal clientele. The space also has uncontrolled access to the rest of the office space.

F3: The Mammoth courthouse prisoner holding facility is unused because of poor design.

RECOMMENDATIONS

R1: While budget constraints are a fact of life for many aspects of Mono County government, the Grand Jury once again recommends the creation of a relief jail cook position, and the filling of same.

R2: Again, budget is always the issue, but Mono County should strongly consider finding the funding to construct at the Bridgeport Probation office a counter/partition to create a barrier to the actual workspaces, and to secure the top of it with appropriately tempered glass and other materials. Also, the Mammoth Probation office's security measures should be reassessed to determine if they need to be upgraded as well.

R3: The Sheriff's Department should again approach the Judicial Council and any other participating agency to speak again about fixes that could be made to the prisoner holding facility in the Mammoth Courthouse to make it useable.

REQUEST FOR RESPONSES

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

From the following individuals:

Sheriff-Coroner Ingrid Braun; Findings and Recommendations #1 and #3

Chief of Probation Karin Humiston, Findings and Recommendations #2

The interim (or newly hired) Mono County CAO or his/her designee, Findings and Recommendations #1, #2 and #3

APPENDIX

CGJA Inspection Form

INSPECTION FORM

Please fill out those sections that apply to the facility you are inspecting

| | |
|--|--|
| Facility Name: <i>Alameda County Jail</i> | Inspection Date: <i>April 7, 2015</i> |
| Facility Capacity: <i>48</i> | Last Inspection Date: <i>Grand Jury 2013-14</i> |
| Address: <i>49 Bryant St. PO Box 1616 Berkeley CA 94701</i> | Telephone Number: <i>(760) 932-7544</i> FAX Number: <i>(760) 932-7435</i> |
| Facility Administrator: <i>Lt. Mike Boosner</i> | Staff Interviewed: <i>redacted</i> |
| Type of Facility: Jail <input checked="" type="checkbox"/> Lockup/Temporary Holding <input type="checkbox"/> Court Holding <input type="checkbox"/> Juvenile Hall <input type="checkbox"/> Juvenile Camp <input type="checkbox"/> Other <input type="checkbox"/> | |
| Committee Inspection Team Members: <i>redacted</i> | |
| Findings and Recommendations: <div style="text-align: center; font-size: 1.2em;"><i>see Grand Jury Report</i></div> | |

| AREA INSPECTED/REVIEWED (Please Check) | | |
|--|---|---|
| Quality of Life | Programs | Persons Interviewed |
| <input checked="" type="checkbox"/> Physical Plant | <input type="checkbox"/> Educational | <input type="checkbox"/> Inmates ⁴ |
| <input checked="" type="checkbox"/> Meals/Nutrition | <input checked="" type="checkbox"/> Vocational | <input checked="" type="checkbox"/> Facility Manager |
| <input checked="" type="checkbox"/> Mental Health | <input type="checkbox"/> Community Services | <input type="checkbox"/> Medical |
| <input checked="" type="checkbox"/> Physical/Dental Health | <input checked="" type="checkbox"/> Domestic Violence | <input type="checkbox"/> School Staff |
| <input checked="" type="checkbox"/> Religious Services | <input type="checkbox"/> Victim/Gang Awareness | <input type="checkbox"/> Mental Health Staff |
| <input checked="" type="checkbox"/> Visiting | <input checked="" type="checkbox"/> Substance Abuse | <input checked="" type="checkbox"/> Line Staff |
| <input checked="" type="checkbox"/> Volunteer Involvement | <input type="checkbox"/> Other | <input checked="" type="checkbox"/> Food Services Staff |
| <input type="checkbox"/> Other | | <input checked="" type="checkbox"/> Other Sheriff Braun |

GENERAL INFORMATION

What is the capacity of the facility?

48 - currently 19 inmates

Has the facility exceeded capacity since the last inspection?

no, haven't for several years. If happens

What is the inmate classification system? Describe

Use current state system, asking segregation, medical and psychological questions at intake. Generally looking at: past criminal behavior, past custody behavior, Sex offender status, male/female

Since the last inspection indicate the following:

- Number of suicides 0
- Number of attempted suicides 0
- Number of deaths from other causes 0
- Number of escapes 0

Date of last fire/emergency drill will do one in June

Alarm system tested twice a year by the contract company.
General emergency drill scheduled in June of every year.

⁴ The generic term inmate is defined as someone who has been confined to an institution, either adult or juvenile.

INDIVIDUAL CELLS/ROOMS

Condition of walls: good - inmates required to keep own areas clean and in good repair

Personal possessions allowed in cell/room (Art, Books, etc.):

Religious items, yes Non-religious
Art on walls, yes
Graffiti present: none

Ample bedding: yes

LOCAL INSPECTIONS

Fire Inspection Conducted: YES/NO - Date: every other year, scheduled for September
Medical/Mental Health: YES/NO - Date: every other year, scheduled for September
Environmental Health: YES/NO - Date: every other year, scheduled for September
Nutritional Health: YES/NO - Date: annually - contract with qualified nutritionist who reviews menu/ingredients for required standards - menu is posted
Corrections Standards Authority: YES/NO - Date: twice a year, training and plant inspection each a separate inspection
Other (Describe): YES/NO - Date:

STAFFING

Is there enough staff to monitor inmates?

yes - 3 supervisors and 18 staff - Public Service Officers who are both jailers and dispatchers by training

Does staff communicate in language that an inmate can understand?

yes, several speak Spanish - 7 staff members - phone translation service available for other languages

Diversity of staff:

appropriate for area population diversity

Impression of staff/inmate interactions:

appropriate

Searches of all areas occupied by or accessible to inmates done weekly, but randomly

CONDITION OF GROUNDS (Lawns, Recreation Area, Blacktop, Asphalt, Other)

excellent

EXTERIOR OF BUILDING(S) (general condition, paint, roof, drains/gutters, other)

well kept - minor concrete repair in exercise yard scheduled for summer when weather is warm - money available to pay for it

INTERIOR OF BUILDING(S) (walls, paint, floors, drains, plumbing fixtures working, air vents, windows)

well kept
After a water pipe failure, fire system changed to chemical suppressant
Are cleaning fluids and chemicals labeled and safely stored?

yes

Weapons locker present:

yes - several

Recreation/sports equipment:

handball only for recreation/books, cable TV for inside

Are the hallways clear, are doors propped open or closed?

halls clear; door security maintained

Holding areas (cells/rooms) - [if present], is there access to drinking water and toilet?

yes

Are there individual cells/rooms, or dormitories:

both

Beds - Type of bed and is it off the floor?

metal racks/yes New sanitizable mattress pads have integrated pillows, saving laundry time and replacement money

Adequate lighting:

yes

Temperature:

comfortable

ORIENTATION OF INMATES

Are inmates oriented to rules and procedures?

yes

Are rules and grievance procedures posted?

yes

Are rules and grievance procedures understood by inmates?

yes

Inmates interviewed? *no* Number interviewed: _____

Comments:

MEALS/NUTRITION

The kitchen area – Is it clean? Are knives and chemicals locked?

yes

Have the inmates working in the kitchen been trained?

yes

Have the inmates had a medical clearance/review before assignment?

yes

Are meals served in the cell, dayroom or at a central cafeteria?

dayroom or cell, depending

Are inmates permitted to converse during meals?

yes

Length of time allowed for eating?

30 minutes (law only requires 15 minutes)

PERSONAL APPEARANCE OF INMATES

What is the appearance of inmates (dirty, unkempt, well groomed, etc.)?

clean

Showers – frequency, privacy, maintained, supervised by staff?

Allowed at will, but not at night unless on disciplinary lockdown.
Problem inmates released individually to shower after other inmates
locked down for the night.

meal cost approximately
50¢ per meal per
inmate

Any there any reported assaults by inmates on inmates?

inmate on inmate = 12 to 15 ; normal number for Mono Co
inmate on staff = 0

Condition of clothing (does the clothing fit; is it appropriate for the weather, etc.)?

good - appropriate clothing available for work details

PROGRAMS

Exercise is it inside or out? How frequently is it offered? How much time is each inmate offered? Do men get more exercise time than the women?

minimum 3 hours a week offered. More in summer during good weather.
Are there clergy available to inmates upon request? Is there access to religious services?

Based on the schedules of the clergy or volunteers. Several churches/
groups in county do come to facility to offer services
Are anger management and other applicable programs available?

Yes, through County Behavioral Health once a week, plus telemedicine
capabilities with Psychiatrist from UCLA Medical Center
Are medical services available? How frequently is medical staff onsite? How long do
inmates wait to be seen? Is a physician available by phone or come onsite?

Physician Assistant visits daily. Bridgeport Medical Clinic and Mono County Paramedics
also available. No waiting issues. Prescription medication costs average \$179/day/inmate

Are mental health services available? How frequently is mental health staff onsite? How
long do inmates wait to be seen?

Yes - several times weekly for groups and individual. Includes AA and NA.
No waiting issues

Are vocational classes available? If so, what types, cooking, gardening, painting,
computers, etc.?

no

Is there a program to involve community volunteers?

yes, limited to local clergy and AA/NA sponsors

Is there a work program: yes - Wash County vehicles and detail them; lawn/gardening
services at County buildings, parks and cemeteries. Shovel out/clear fire hydrants
in heavy snow years. Available to both male/female inmates if qualify.

Other:

Also available for those unable/uninterested in physical work are envelope
stuffing and other mass mailing chores for Tourism and other departments

DISCIPLINE OF INMATES

How often is discipline enacted? What is the range of discipline options?

When necessary. Handson, Taser, pepper ball, lethal firearm if necessary.

Inmates fighting or acting inappropriately can be pulled off of work
details or have other privileges taken away.

GRIEVANCES

What are the most common types of grievances filed by inmates? Is there a record kept based on type and number?

Depends on inmates; knowledge of system. Only 2 or 3 in past year.
State inspectors read all of them as must be in writing.

TELEPHONE

Do inmates have access to telephones?

yes, scheduled. Inmates pay for own phone cards.

CORRESPONDENCE

Is there limited free postage for inmates without money?

yes

Incoming/outgoing – are inmates aware that mail can be read?

yes

Confidential correspondence – letter to attorneys, legislators, BSCC, etc., How is it handled? Hand deliver all local ones; Sacramento addresses

VISITING

Is there adequate space, convenient times or accommodations to family's work schedule, etc.,

yes

Are there provisions for special visits with attorneys/clergy?

yes

Does staff supervise visits?

Via camera/audio

Do all inmates have access to visiting? – If not give reasons:

Yes, unless domestic violence or other inappropriate behavior occurs during

EDUCATIONAL PROGRAM

College level/high school level/other:

none at this time

Name of school district providing educational services:

Mono County Office of Education currently does not have money or staff to provide a program.

Teachers – number of full-time, number of substitutes:

N/A

Number of inmates in educational program:

N/A

Atmosphere of classroom:

Department working on grant funding to convert old Emergency Operations center to class/meeting room to be ready when program returns.
Are there adequate supplies (books, paper, computers, etc.)?

N/A

Activities and coursework assigned by teachers?

N/A

Relationship between educational program staff and facility staff:

N/A

Juveniles in Adult Facility

What is the proximity to adult inmates?

no juveniles enter this facility - if inmate lies about age, is removed from building as quickly as possible and turned over to Juvenile Probation

Is staff available to supervise juveniles?

N/A

Is there constant auditory access to staff?

N/A

Is the juvenile provided a snack if requested?

N/A

Is there access to toilets and washing facilities?

N/A

Is there access to drinking fountains or water?

N/A

Are there provisions to provide clothing or blankets to assure comfort?

N/A

CONDITIONS OF SECURE DETENTION OUTSIDE A LOCKED ENCLOSURE (e.g., CUFFING RAIL)

Is there a contact with other juveniles?

N/A

Is there constant supervision by staff?

N/A

Any timed intervals of supervision? What are the time limits?

N/A

Is there access to toilet and washing facilities?

N/A

Is there access to drinking fountain?

N/A

CONDITIONS OF NON-SECURE DETENTION

Is there constant supervision?

N/A

Are males and females in same room?

N/A