

FINAL REPORT

2003-2004

Del Norte County Grand Jury

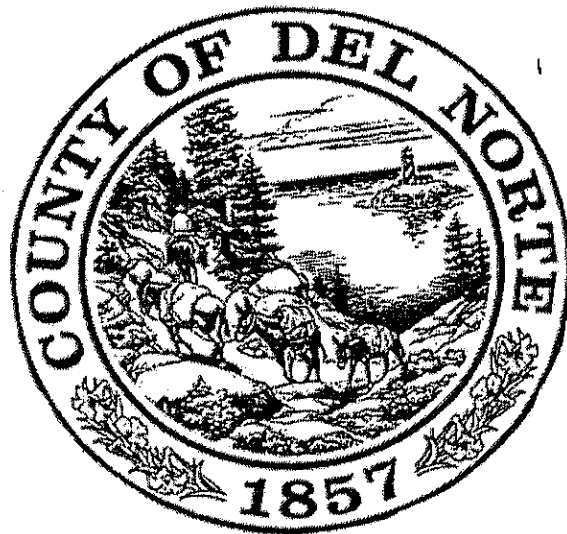


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Del Norte County Superior Court
Honorable Judge Weir

The 2003-2004 Del Norte County Grand Jury respectfully submits its final report. Each report has the required concurrence of the Grand Jury.

California law requires Superior Court Judges in each California County to impanel a civil grand jury. Civil grand juries investigate local government activities. At the end of the year, grand juries publish reports about what they have found.

Grand jurors are bound by secrecy and confidentiality in grand jury service. Each member of the grand jury, under Penal Code section 911, swears an oath of office to not disclose any evidence brought before the grand jury, nor any discussions or deliberations that occur during a grand jury investigation. This oath ensures protection for those who come before the grand jury and maintains the independence and validity of the grand jury.

This year a trainer from the American Grand Jury Foundation came to Del Norte County to train the 2003-2004 grand jury. The training set a solid foundation for this year's grand jury.

Grand Jury reports and responses to the Grand Jury reports are on file at the County Clerk's Office, 981 H Street, Suite 160. Since some of the items in this 2003-2004 Grand Jury report are follow-up investigations from the 2002-2003 grand jury, those interested should review last year's grand jury report and the responses.

This year's grand jury consisted of a remarkable group of individuals. It was amazing to see such a diverse group come together for a common goal. It was an absolute pleasure to work with these dedicated individuals.

Many people are quick to criticize our local government, grand juries and politicians. For the most part, we have a dedicated group of people running our county government. If you feel changes need to be made, complaining won't help. There are two things that will change government: The first is **voting** in elections, voting is the only way to ensure the government is of the people by the people. The second is **getting involved**, attending local board meetings, joining committees, participating in the grand jury or running for public office.

A quote from Theodore Roosevelt "It's not the critic who counts: not the man who points out how the strong man stumbles or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes up short again and again, because there is no effort without error or shortcoming, but who knows the great enthusiasm, the great devotions, who spends himself for a worthy cause; who, at best knows, in the end, the triumph of high achievement, and who, at the worst, if he fails, at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who knew neither victory nor defeat."

Respectfully,
Rose M. Tryon, Foreman
2003-2004 Del Norte County Grand Jury

This report will be on file at the County Clerks Office, 981 H Street, Suite 160, Crescent City, CA, and on the web at www.co.del-norte.ca.us.

Correctional Facilities in Del Norte County:

Alder Conservation Camp
Bar-O Boys Ranch
Del Norte County Jail
Del Norte County Juvenile Hall
Pelican Bay State Prison

Reason for Inspection:

Routine annual inspection

Findings:

In spite of continued problems with the State Budget, the preceding facilities continue to provide services as mandated by their specific operational procedures. Unannounced visits were made to the jail and juvenile hall. The Grand Jury found that all facilities were in compliance and operating efficiently.

Conclusions:

The 2003-2004 Grand Jury would like to commend all of the individuals who are involved with the operation of these facilities for continuing to provide as many services as possible during these difficult times.

Recommendations:

None

Response Required:

None

Del Norte County Health Department:

Reason For Inspection:

To review the efficiency of restaurant inspections and follow-up procedures, members of the Del Norte County 2003-2004 Grand Jury visited a total of 15 randomly selected local restaurants. The Grand Jury also interviewed the Public Health Inspector.

Findings:

Six of the restaurants visited did not have the inspection reports available for review. In some cases, it was the employees, not the owners or managers of the establishments, who were unable to locate the inspection reports. According to the paperwork presented, two restaurants had numerous violations cited; one was not inspected at all last year and the other showed no evidence of follow-up inspection. In fact, follow-up inspections had been completed and the results are available to the public at the county health department.

Inspecting over 185 eating establishments is only one of the duties of the two public health inspectors. A third position is vacant due to budget constraints. To correct violations and deficiencies the public health inspectors focus on education in an effort to avoid future problems.

Conclusion:

The public health inspector interviewed by the Grand Jury was found to be highly qualified and working to the best of his ability under budget constraints to ensure that food service facilities are operating safely and in compliance with the law.

Recommendations:

The Grand Jury recommends that the health inspectors continue to educate food service facility owners/managers and request that their inspection reports be available for public review, as required by law.

Response Required:

None

Del Norte County Jail:

Reason for Inspection:

A follow-up to the 2002-2003 Grand Jury Report was made to assure that deficiencies found in the Board of Corrections inspection of January 2003 are corrected in these areas:

- 1) Health inspection
- 2) Staffing
- 3) Maintenance
- 4) Policy and Procedure manual

Findings:

- 1) The 2003-2004 Grand Jury found that the health inspections for the Del Norte County Jail have been placed on an annual schedule to ensure compliance with the Board of Corrections.
- 2) Staffing continues to be an area of concern due to the budget crisis. During the past year the sheriff has been in the process of reorganizing the jail to compensate for inadequate staffing levels.
- 3) The issue of jail maintenance has been addressed with the approval of a full time maintenance worker assigned to the jail.
- 4) The policy and procedure manual has been replaced and is available to all staff.

Conclusions:

The 2003-2004 Grand Jury would like to commend the Sheriff and all staff associated with the operations of the jail for their efforts to address the deficiencies found in the Board of Corrections inspection.

Recommendations

None

Response Required:

None

Del Norte County Unified School District – Item #1:

Reason For Inspection:

Clarification of the 2002-2003 Grand Jury Final Report and subsequent response.

Findings:

The 2002-2003 Del Norte County Grand Jury presented in its final report the results of a request made by the 2001-2002 Grand Jury to the California Attorney General. That request regarded a conflict of interest on a Del Norte County Unified School District Board vote to purchase equipment for and to establish a class ultimately taught by a school board member.

According to the California Attorney General's response, there was a conflict of interest; however; because of the perceived benefit to the community, successful prosecution would be unlikely.

Government Code section 1090 *et. seq.* prohibits an official, including a school board member, in his official capacity from making a contract in which he is financially interested. In addition, section 81000 *et. seq.* prohibits an official from using his official position to influence a board decision in which he has a financial interest.

The case law indicates that the purpose of the conflict of interest law is to eliminate temptation, avoid the appearance of impropriety, and assure the board members undivided and uncompromising loyalty to the board. The aim is to remove or limit the possibility of any personal influence, either directly or indirectly which might bear on an official's decision. The scope of the law is not limited to instances of actual fraud, dishonesty, unfairness or loss to a governmental entity. Further, criminal responsibility can be assessed even if the contract in question is fair to the governmental entity.

The Grand Jury would direct the School Board to the following: Fraser-Yamor Agency, Inc. v. County of Del Norte 68 C.A.3d 201; 137 Cal.Rptr. 118 which states that it is not sufficient to abstain from voting on an issue in which you may have an interest, the interested party is even precluded from taking part in any discussion on the issue; and Opinion of Bill Lockyer, Attorney General, No. 03-302 dated July 24, 2003, which states, "Although section 1090 nowhere specifically defines a 'financial interest,' case law and our previous opinions indicate that forbidden financial interests may be indirect as well as direct, and may involve financial losses, or the possibility of losses, as well as the prospect of pecuniary gain."

Conclusion:

In closing this issue, although no intentional criminal conduct is perceived by the 2003-2004 Grand Jury, it was and is apparent that a violation of the government conflict of interest code did occur.

Recommendations:

This Grand Jury understands that the School Board's conflict of interest code complies with the Fair Political Practices Commission. To alleviate any future problems, the 2003-2004 Grand Jury recommends that the school district review its board policy regarding conflict of interest and conform with the more stringent government code. As stated in the Attorney General's opinion, the aforementioned statute is intended "not only to strike at actual impropriety, but also to strike at the appearance of impropriety."

Response Required:

None

Del Norte County Unified School District – Item #2:

Reason for Inspection:

The 2003-2004 Grand Jury requested information from the Del Norte County Unified School District (DNCUSD) regarding both Special Education and Educational Options/Charter Schools in Del Norte County.

The Grand Jury interviewed the Assistant Superintendent of Curriculum and Instruction, as well as the Coordinator for Special Education. The purpose was to gain knowledge about the impact of state budget cuts within the district. In consideration of such cutbacks, a review was made of the special education department to learn more about the process and procedures for special education placement, implementation, and how cutbacks might affect the overall programs.

The Grand Jury also interviewed the District Superintendent regarding educational options, budget issues and enrollment.

Findings:

Special Education

Special education programs follow mandated state and federal guidelines for initial processing, decision-making, testing, and maintenance of services. The State specifies that special education has to be maintained at the same level of programs previously provided and that there may be no reduction of those services.

DNCUSD provides a full range of special education services and the number of students enrolled has increased this year. The State budget crisis cannot affect these programs due to regulated federal laws and state mandates.

Educational Options/Charter Schools

In addition to traditional elementary and high school facilities, the district offers Sunset Continuation High School, Juvenile Hall School, Bar-O Boys Ranch, Home-Hospital, Community Day, McCarthy Center, Adult Education and independent study programs for students in grades Kindergarten through grade 12 (K-12). Independent study programs include Avalon and Paragon, as well as Castle Rock Charter School.

Annual funding from the State for charter schools is \$5400 for K-12 students, and \$2900 for adult students. Annual funding from the State for all other school students is \$4700 per student. Effective June 30, 2004, the charter school will no longer serve adult students.

Charter school teachers meet independently with the students and their salaries are calculated on a per student basis. The Charter School is in the process of becoming accredited and requires students to take the standardized state tests. Enrollment continues to grow.

Conclusions:

The Grand Jury is satisfied that the school district is maintaining compliance with both state and federal mandates in the aforementioned areas. The state budget is a continuing concern for the school district.

Recommendations:

None

Response Required:

None

Smith River Community Service District:

Reason For Inspection:

A complaint by a Smith River Community Service District (SRCSD) rate payer was submitted to the 2002-2003 Grand Jury. The complaint alleged a lack of public disclosure prior to a vote on a benefit package for board members and that the District had "no bylaws or district manager."

The 2002-2003 Grand Jury investigated the complaint and preliminary findings were reported in the 2003 Grand Jury Report. It was requested that the 2003-2004 Grand Jury continue the investigation in the following specific areas:

- 1) the hiring of a full-time General Manager for the District,
- 2) the proper public notification of resolutions and ordinances,
- 3) the voting on compensation and benefits for members during closed session,
- 4) the lack of bylaws.

Findings:

For each of the concerns numbered above, the current Grand Jury has made the following determinations:

- 1) In a document provided by SRCSD titled "Agreement for Employment of General Manager" the following information was disclosed. The Board appointed a full time General Manager whose duties commenced in June of 2003; however, the employment agreement was not signed until six months later on January 12, 2004.

- 2) It cannot be determined if the rate payers were given proper notification of all meeting notices, agendas, resolutions and ordinances. It appears that, since the 2002-2003 Grand Jury Report, better record keeping methods have been implemented.
- 3) Although the Board discussed a new benefits package (Resolution 2001-7) in closed session (September 10, 2001), the vote on the resolution was taken in open session (September 24, 2001). It should be noted, however, that 2001-7 did not appear on the agenda for that meeting. The Brown Act, as it pertains to this case, carries a 90-day period for action, which has long since lapsed.
- 4) No bylaws are required since the SRCSD is bound by the California State Government Code.

The current rates of monetary compensation, retirement and medical benefits to elected Board members from the Smith River, Gasquet, and Bertsch-Oceanview Community Service Districts are compared in the following table.

District	Approximate Number of Rate Payers	Compensation		Benefits (monthly)	
		Per Meeting	Travel to Board Meetings	Retirement	Medical
Smith River	660	\$100 (up to \$600/month)	\$25/meeting	\$200	Full PERS coverage for Member* plus one dependent
Gasquet	240	\$40	none	none	none
Bertsch-Oceanview	700	none	none	none	none

* includes former board members qualified to receive benefits

Research of Public Employees Retirement System (PERS) records, community service district records and contact with community service district representatives indicate benefits are within legal limits. The 2003-2004 Grand Jury was advised by the SRCSD that it is operating under Resolution 2001-7 to determine medical benefits. The 2003-2004 Grand Jury was advised by the PERS legal department that it is administering SRCSD medical benefits according to previous Resolutions 97-No.3 and 97-No.4.

Conclusion:

SRCSB Board members are receiving a generous benefit package as indicated in the table above.

The current Grand Jury investigation concluded that SRCSD and PERS are operating under different resolutions when they should be operating under the same resolution.

The Grand Jury also acknowledges that the SRCSD is continuing to make progress to remedy past problems that have plagued the District.

Recommendations:

The Grand Jury recommends that the SRCSD board continues to familiarize itself with the various codes governing its entity. This Grand Jury would further recommend that the SRCSD board continue to be diligent in its efforts to ensure proper public disclosure and notification of resolutions, ordinances and agendas. This may encourage increased public participation in the operation of the District.

As a final recommendation, the SRCSD should contact PERS to ensure they are both operating under the same resolution.

Response Required:

None

Secretary's Report

On June 26, 2003, the Honorable Philip Schafer impaneled the 2003-2004 Grand Jury. Rose Tryon was appointed Foreperson of the nineteen-member panel. Eight of the nineteen members held over from the previous year in continued service to this community. Almost the same numbers from the current grand jury have chosen to serve a second year.

The 2003-2004 Grand Jury met three times a month in addition to special investigative meetings and numerous on-site inspections of schools, law enforcement facilities and other public agencies.

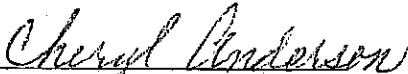
The 2002-2003 Grand Jury passed on seven complaints to the 2003-2004 Grand Jury for its monitoring or review. In addition, ten written complaints were received by this Jury for investigation. Each was given equal attention and deliberation.

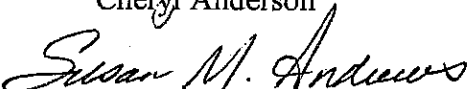
It was my pleasure to serve with such a diverse and interesting group of individuals as the 2003-2004 Grand Jury. I have come to appreciate the dedication of the people serving Del Norte County. I urge everyone to take an interest in the local government and boards throughout the area.

Debbie Cochran, Secretary
2003-2004 Del Norte County Grand Jury

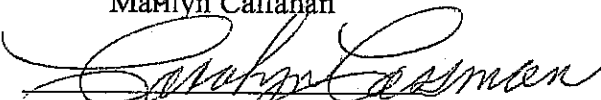
2003-2004 Del Norte County Grand Jury Formal Submittal of Report

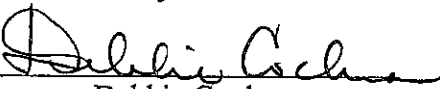
The undersigned, being duly sworn and acting members of the 2003-2004 Del Norte County Grand Jury, and comprising of at least twelve (12) members thereof, hereby affix their signatures, and submit this Final Report.


Cheryl Anderson



Susan Andrews


Marilyn Callahan


Carolyn Cassman


Debbie Cochran



Lori Cowan


Nancy Getman

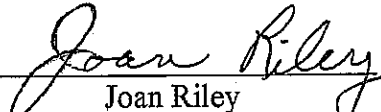

Byron Lundberg


Dee Mattz

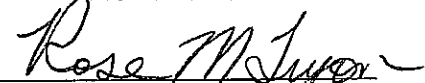

Beth Moore


Gary Moore

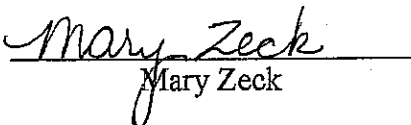

Anne Petrik


Joan Riley


Ken Thomas


Rose Tryon


Dean Valero


Mary Zeck