

Sierra County Grand Jury

2016-2017 Final Report

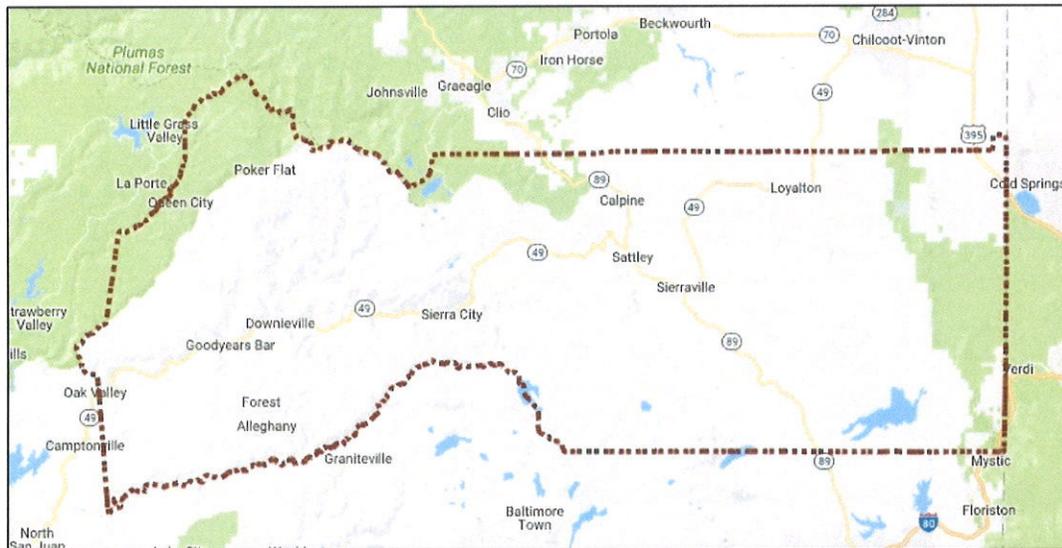


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MEMBERS OF THE 2016-17 GRAND JURY

Anne Berardi, Secretary	Goodyear's Bar
Carrie Blakely	Downieville
Don Epperson, Sergeant at Arms	Downieville
Kathy Fee	Loyalton
Monica Funk, Pro Tem	Loyalton
Tamara Hubbs	Loyalton
Candace Hunter, Foreperson	Verdi
Dal Hunter	Verdi
Lawrence Mitchell	Loyalton
Julie Walsh	Sierraville

TRANSMITTAL LETTER TO JUDGE CHARLES ERVIN AND SIERRA COUNTY CITIZENS

On behalf of the 2016-2017 Sierra County Grand Jury and in accordance with California Penal Code Section 933, it is my privilege to submit the 2016-17 Final Report.

The Grand Jury chose to focus investigations on a review of the Auditor/Treasurers/Tax Collector's Department as well as a follow up of the building code tracking/violations investigated in 2012-13 within the Building and Planning Department. In addition, although no longer required by law, the Jurors conducted an inspection of the day-holding facilities in Loyalton and Downieville for detainees pending transport to jail facilities outside of Sierra County. The balance in staffing for detainee transportation and routine law enforcement was a major part of this review.

Two jurors served at the request of the Clerk to oversee the County election process with the California Grand Jury Association. After the election process, one Grand Juror attended the California Grand Jury Association Report Writing Workshop, and the entire Jury completed a day of orientation provided by volunteers Marsha Caranci and Larry Johnson.

Jurors appreciated the receipt of many suggestions and complaints for investigations from Sierra County citizens over the course of their year of service. A review of past investigations also drove decision-making regarding issue selection. Robust discussions ensued over which concerns could be investigated, based not only on the merits of the complaint, but also the reasonable ability of the Grand Jury to successfully complete an adequate investigation. The lack of a quorum due to required recusals precluded an investigation in multiple situations.

I extend my thanks to my fellow jurors who faithfully convened despite personal challenges, road closures during the historic winter of 2016-17, and the lack of enough citizen volunteers to adequately seat a full Grand Jury. To the citizens of Sierra County, I would encourage and recommend the process of serving as a juror to learn more about County governance and ensure that our voices are heard. The Grand Jury suggests use of the formal summons process to ensure full citizen representation.

The Grand Jury extends appreciation to Judge Ervin for his guidance; and the elected and/or appointed officials, Sierra County employees and citizens who answered our questions and provided resources for better understanding of the issues. We are fortunate to have such a dedicated and hard-working group of employees and representatives in our small County.

As a final note, it is our sincere hope that the work of this Grand Jury will be respected through actions taken to improve efficiency and effectiveness in county services.

Candace Hunter
Foreperson 2016-17

1
2 **SIERRA COUNTY SHERIFF'S DEPARTMENT**
3 **DAY-ONLY HOLDING FACILITY**

4 **SUMMARY**

5
6 The elimination of Sierra County's overnight jails occurred in March 2015 when the decision
7 was made to house inmates in the Wayne Brown Correctional Facility (WBCF), located in
8 Nevada County. Based on financial challenges with required staffing levels, unmet facility
9 requirements and the resultant risk of costly lawsuits, Sierra County chose this new cost effective
10 option.

11 Recent state legislation to relieve prison overcrowding (Appendix: Assembly Bill 109, Senate
12 Bill 678) now returns low level offenders from state prisons to county jails; Sierra County
13 receives funding under these statutes to transport detainees and retain them in the WBCF.

14 The Sierra County Grand Jury (SCGJ) determined that it was in citizens' best interests to review
15 current processes for managing and transporting detainees while ensuring adequate staff for
16 patrol duties. The 2016 AB 109 Community Corrections Partnership (CCP) Compliance report
17 indicates that there are unresolved issues and service gaps related to current deputy and dispatch
18 staffing levels related to the transportation of detainees across the county.

19 **BACKGROUND**

20
21 Based on legal advice from county counsel, the grand jury technically is no longer required to
22 review the current temporary holding facilities employed by Sierra County under California
23 penal code, sections 919 (a) and (b) as they are not considered a prison.

24 Lacking funds for staff required to house detainees overnight and correct physical jail
25 deficiencies, there have been no overnight jail facilities in Sierra County since 2015.

26 Sierra County administrators and the Sheriff made a practical and cost effective decision in 2015
27 to close County jails and house inmates in a neighboring county at a daily cost of \$77.07 each.
28 To date, costs have been reasonable in this endeavor and support the decision. However, Grand
29 Jurors are alarmed about the loss of deputies to increased transport of detainees over what is
30 covered by AB109 funds, which effectively removes them from law enforcement activities.
31 Given the considerable travel distances in Sierra County required of nine deputies for patrol
32 duties, frequent poor road and weather conditions, and the challenges of covering shifts 24-
33 hours, seven-days-a-week, Jurors are concerned about the ability of law enforcement to respond
34 to citizens in a timely manner.

35 **METHODOLOGY**

36 **Site Tours**

37 The 2016/2017 Grand Jury formed two subcommittees to inspect the Sierra County holding cell
38 facilities. One committee of five members inspected the Downieville office and seven committee

1 members inspected the current Sierra County Loyalton Sheriff's Sub Station Temporary Holding
2 Facility. Budget line items and inmate counts were received and reviewed.

3 A review of inspection reports for the facilities revealed several building deficiencies identified
4 during the Inspection by the Office of the State Fire Marshall (see appendix). The Sheriff's
5 Department, through the Plant Maintenance Department, plans successful correction of these
6 problems within the time frames established by the inspectors.

7 **Interviews**

8 During this Inspection, the Grand Jury interviewed nine people, including several administrators,
9 managers and employees of the Sheriff's Department, members of the Sierra County Board of
10 Supervisors, and Sierra County Finance Department personnel.

11 **Documents**

12 Grand Jurors reviewed the following documents from the Sheriff's Department:

- 13 • 2016 Biennial Inspection Fire Safety Correction Notice #40-46-44-0001.
- 14 • 2016 Biennial Inspection Fire Safety Correction Notice #40-46-44-0002.
- 15 • California Department of Corrections and Rehabilitation. (December 19, 2013) *Overview*
16 *of AB 109/SB 85 (Public Safety Realignment)*. Retrieved from:
17 <http://www.cdcr.ca.gov/realignment/docs/Realignment-Fact-Sheet.pdf> .
18
- 19 • *Senate Bill 678*. (October 11, 2009). Retrieved from:
20 <http://www.courts.ca.gov/documents/sb678.pdf>.
21
- 22 • Sierra County Community Corrections Partnership: *Minutes May 16, 2016 and*
23 *September 16, 2016*. Retrieved from: [Sierra County government website](#)
24
- 25 • Criminal Justice Research Foundation: *Sierra County Criminal Justice System: SB 678*
26 *Community Corrections Performance Incentive Act & AB 109 Public Safety Realignment*
27 *Act Integrated Implementation & Compliance Progress Report*. December 2016.
28
- 29 • Sierra County Community Corrections Partnership. *Criminal Justice System: SB 678*
30 *Community Corrections Performance Incentive Act & AB 109 Public Safety Realignment*
31 *Act Integrated Implementation Plan*. December 18, 2013.
32
- 33 • *Sierra County final 2016/17 budget resolution 2016-091 adopted September 6, 2015*.
34 Retrieved from: <http://www.sierracounty.ca.gov/DocumentCenter/View/2416>
35
- 36 • Sierra County Health and Human Services Holding Facility Inspections
37 - Adult court and temporary holding facilities, Local Detention Facility Health
38 Inspection Report, Health and Safety Code Section 101045, July 11, 2016.

- 1 - Environmental Health Inspection Checklist Attachment, July 11, 2016.
- 2 - Medical/Mental Health Evaluation, Adult Court and Temporary Holding Facilities,
- 3 July 11, 2016.
- 4 - Nutrition Health Evaluation, Adult Court and Temporary Holding Facilities, July 11,
- 5 2016.
- 6
- 7 • Office of the State Fire Marshal. *Sheriff County Jail Fire Safety Correction Notice.*, File
- 8 Number 40-46-44-0001, 2016 Biennial Inspection.
- 9
- 10 • *Sierra County Sheriff's Office Custody Services Manual.* July 16, 2014.
- 11 • *Sierra County Sheriff's Office Policy Manual (Draft): Temporary Custody of Adults.* May
- 12 2, 2016.
- 13 • Criminal Justice Research Foundation. *Sierra County Sheriff's Office, Jail Closure*
- 14 *Assessment and Feasibility Study.* May 6, 2014.
- 15

16 **DISCUSSION**

17

18 Findings from the inspections show that the Sheriff's day holding facility at the Loyalton Sub-
19 Station consists of the main waiting room, an office, and a small conference room. The Grand
20 Jury found that potentially dangerous detained persons are more likely to be retained in the back
21 of a locked squad car for a few hours, rather than being held inside the building. The
22 Downieville holding area consists of space set aside for detainees for booking and transport. The
23 site also manages dispatch and record retention.

24 Originally, the Jail Closure Assessment and Feasibility Study in 2014 indicated the need for
25 additional sheriff's office personnel if the jail were to remain open. In fiscal year 2013-14,
26 eighteen positions existed consisting of nine funded full-time equivalency (FTE) patrol positions,
27 two approved but unfunded patrol positions, and seven dispatch/jailers. "The Community
28 Corrections Partnership (CCP) Integrated Plan at the request of the sheriff in FY2015-16
29 included the funding for recruiting and hiring two other sworn deputy sheriffs to fill the position
30 vacancies which existed in the patrol service's budget established by the board of supervisors"
31 (CCP Plan). These two new positions were funded by the CCP budget.

32 The Board of Supervisors approved the existing 2016-17 Sheriff's Department budget with
33 eleven sworn positions, along with dispatch personnel consisting of one full-time correctional
34 sergeant and five dually trained dispatcher/jailers for a total of seventeen positions.

35 Full details of the Sheriff's Department duties and responsibilities are found in the 2016
36 Compliance Report. The Compliance Report outlines both the changes to the Sierra County Jail
37 and the personnel funding related to the new legislation:

1 A. *Summary Description:* In light of the sheriff’s change in the operational status of the
 2 Downieville jail from a 24-hour, seven-days-a-week custody facility to a day only
 3 holding detention facility, the CCP Integrated Plan included funding for the
 4 recruitment and hiring of two full-time sworn deputy sheriff positions.

Changes in the Sheriff's Office Patrol and Dispatcher / Jailer FTE Staffing Patterns 2013 - 2017			
<u>Fiscal Year*</u>	<u>Funded / Filled Approved FTE Positions</u>	<u>Approved But Not Funded FTE Positions</u>	<u>Total Approved / Funded Positions</u>
Patrol Services:			
FY 2013-14	9	2	11
FY 2015-16	11	0	11
FY 2016-17	11	0	11
Dispatch:			
FY 2013-14	7	0	7
FY 2015-16	6	0	6
FY 2016-17	6	0	6

* Includes the number of approved and funded Sheriff's Office
 Patrol and Dispatch FTE positions included in the adopted new
 FY 2016-17 budget prepared by the Board of Supervisors

5

6 The assignment of the deputies was intended to give the sheriff’s office the personnel
 7 needed to transport pretrial and sentenced male / female detainees between the WBCF
 8 and Downieville day only holding facility and superior court or for other inmates who
 9 may require treatment services while under the custody of the sheriff.

10 The sworn full time equivalency (FTE) positions would further ensure the sheriff’s
 11 office had sufficient staffing capacity to cover countywide emergency responses and
 12 other law enforcement activities in the event arrestees are being transported to the
 13 Nevada County correctional facility or to Downieville for custody hearings and court
 14 appearances scheduled for the Sierra County Superior Court. The deputies’ positions
 15 were also provided to assist the probation department when needed with the
 16 monitoring of high-risk felony probationers and AB 109 offenders and reporting to
 17 the court.

18 Although eleven positions are filled in the Sheriff’s Department, funding for two of the eleven
 19 deputies comes from State CCP funds, designed to provide revenue to counties for “specified
 20 purposes relating to improving local probation supervision practices and capacities, as specified”
 21 (Senate Bill 678). Although these two positions are filled, sworn staff must specifically conduct
 22 activities related to expanded inmate transport and probation assistance. They cannot replace an
 23 existing County budget item for a sheriff’s department and are thus not funded for routine law
 24 enforcement activity.

25 Grand Jurors were advised that additional deputies over the CCP funded positions are now
 26 occasionally removed from law enforcement activities while transporting detainees due to Sierra
 27 County’s minimal staffing pattern. As the consultant for the Criminal Justice Research Center,

1 writes in the 2016 Compliance Report:

2 The sworn staffing levels, including the two additional deputies, is not sufficient to
3 permit scheduling an assigned officer other than an “on-call” to patrol or respond to the
4 community during graveyard shift hours (12 AM- 5AM), seven-days-a-week. The ability
5 of the office to maintain an ongoing optimum level of available patrol staff that
6 effectively responds to community emergencies is further eroded when deputies, for
7 example, are on vacation, family leave, sick leave, training, or disability status because of
8 injuries. Patrol services are also seriously impacted when a deputy is reassigned to the
9 Downieville office to cover personnel shortages which occur at the dispatch center.”

10 The Consultant goes on to note that the dispatch communications functions are also seriously
11 impacted by inadequate staffing requiring use of sworn staff in dispatch rather than patrol, and
12 overtime by the correctional sergeant.

13 Given the new transport issues under AB109 with the relocation of detainees to Nevada County,
14 the large area of Sierra County, the often-poor road and weather conditions, and the challenges
15 of covering shifts 24-hours, seven-days-a-week, the SCGJ believes the ability of law
16 enforcement staff to respond to incidents in a timely manner is compromised.

17 The report also voiced concerns about potential increases in transports:

18 If the jail [WBCF] places any limitations on the use of video conferencing technology,
19 inmate transports will likely increase and the sheriff’s patrol services division could be
20 further impacted. This could result in even fewer deputy sheriffs available for patrol
21 service calls, particularly when the superior court is in session.

22 The SCGJ reviewed minutes of the September 26, 2016 Community Corrections Partnership
23 meeting which included a discussion of sheriff’s office staffing levels and funding. Conflicting
24 and confusing reports of general fund staffing positions were noted. Members of the Committee
25 reported recalling that final analysis on the report included thirteen positions for the Sheriff’s
26 office, which included an authorization for two additional CCP funded positions over the eleven
27 General Fund positions. It was reported that the final staffing level was a policy decision for the
28 Board of Supervisors. The Auditor’s Department reports that nine of the eleven General Fund
29 positions in 2013-14 were authorized for sworn staff in the sheriff’s office. As a consequence of
30 the Board decision, only nine positions were funded for duties outside of the CCP activities (i.e.
31 regular community patrol response).

32
33 Current staffing patterns indicate a total absence of patrol during the hours from midnight to 5:00
34 a.m. daily, and the assignment of only one or two patrol staff (includes the sheriff and
35 undersheriff) most of the time (see chart below). With the loss of one officer, currently on
36 extended leave from duties, and the coverage needed for sick leave, vacations, etc. there are
37 often serious staff shortages. There are occasional situations in which additional sworn personnel
38 have to handle multiple transports in one day to and from the Nevada County jail. The chart
39 below from the Sierra County Compliance Report details the limited patrol staffing.

**Sierra County
Sheriff's Office Patrol Staffing and Schedule
June 2016**

Schedule	Sunday					Monday				
	Admin	Sup.	Deputies	Others	Total	Admin	Sup.	Deputies	Others	Total
5AM - 9AM	1			1	2	2			1	3
9AM - Noon	1			1	2	2			1	3
Noon - 3PM	1		2	1	4	2		2	1	5
3PM - 6PM	1		2	1	4	2		2	1	5
6PM - 9PM			2		2			2		2
9PM - 12AM			2		2			2		2
12AM - 5AM					0					0

Schedule	Tuesday					Wednesday				
	Admin	Sup.	Deputies	Others	Total	Admin	Sup.	Deputies	Others	Total
5AM - 9AM	2	1		1	4	1	1		1	3
9AM - Noon	2	1		1	4	1	1		1	3
Noon - 3PM	2	1	2	1	6	1	1	2	1	5
3PM - 6PM	2	1	2	1	6	1	1	2	1	5
6PM - 9PM			2		2			2		2
9PM - 12AM			2		2			2		2
12AM - 5AM					0					0

Schedule	Thursday					Friday				
	Admin	Sup.	Deputies	Others	Total	Admin	Sup.	Deputies	Others	Total
5AM - 9AM	1	1			2	1	1			2
9AM - Noon	1	1			2	1	1			2
Noon - 3PM	1	1	2		4	1	1	2		4
3PM - 6PM	1	1	2		4	1	1	2		4
6PM - 9PM			2		2			2		2
9PM - 12AM			2		2			2		2
12AM - 5AM					0					0

Schedule	Saturday				
	Admin	Sup.	Deputies	Others	Total
5AM - 9AM	1				1
9AM - Noon	1				1
Noon - 3PM	1		2		3
3PM - 6PM	1		2		3
6PM - 9PM			2		2
9PM - 12AM			2		2
12AM - 5AM					0

Compiled Staffing Manual

1
2 Sierra County Compliance Report, December 2016

3 There were 115 bookings on average during the years 2011 – 2015. In calendar year 2015, there
4 were 123 bookings and 142 in calendar year 2016. Sierra County paid the WBCF an average of
5 \$3178.97 monthly for an average of 3.5 detainees in the years from 2012-16. In a fifteen-month
6 period, the charges amounted to \$121,234 or \$8082.27 monthly, an average of \$46,234.05. Costs
7 were largely related to one inmate in this case who incurred 17.4% of the total. Although though
8 not required, the Sheriff does track personnel time for transports, and occasionally must himself
9 provide transportation for detainees due to lack of staff.

10 To address the short staffing on patrol shifts for transportation of detainees, the Compliance
11 Report recommends two action steps:

- 12 1. Purchase of specialty-built six-person custody van to transport multiple detainees. It
13 would be a one-time expense estimated at \$60,000 and in service for 10-12 years.

- 1 2. The Board of Supervisors and Sheriff fund an additional dispatch/jailer position to
2 help handle the 911 workload. This additional staff member would relieve the deputies
3 from covering routine dispatch vacancies and the supervisor from additional overtime
4 to cover vacancies.
5

6 The SCGJ learned that the cost of the specialty-built six-person custody van is now estimated at
7 more than \$85,000 due to the need for modifications for four-wheel drive capability. Jurors felt
8 the cost was too high if it was not used with great frequency and that the CCP Committee and
9 Sheriff should carefully consider this recommended purchase

10 **FINDINGS**

- 11
- 12 F1. The 2016-17 Grand Jury agrees that it is financially imprudent for the county to operate
13 its own jail at this time, given the relatively low number of prisoners and the fact that
14 both an increase of two additional jailer/dispatchers in the Sheriff's staff and substantial
15 facility improvements would be required by state law.
- 16 F2. It is the SCGJ's opinion that the Sheriff's Department is doing a commendable job given
17 their limited staff and the budget limitations of Sierra County, however there is now
18 inadequate staff to cover patrol duties to provide for the public safety. The transportation
19 of detainees, long distances for Sheriff's patrol in Sierra County, dispatch coverage,
20 personnel absences and road conditions adversely impact the availability of law
21 enforcement officers for patrol. Graveyard shifts (12:00 a.m. – 5:00 a.m.) are uncovered
22 and 62% of shifts have only two personnel.
- 23 F3. Option 2 of the Feasibility Study recommended consideration of outsourcing dispatch
24 operations as a cost effective alternative.
- 25 F4. It is the SCGJ's understanding that the Sierra County Sheriff Office is currently fiscally
26 unable to offer a package of salary and benefits that is sufficient to attract qualified
27 law/correctional officers who are also willing to live in a small town environment. The
28 combination of the compensation and small town environment will limit the number of
29 qualified applicants for any open deputy sheriff positions.

30 **RECOMMENDATIONS**

- 31
- 32 R.1. The Grand Jury recommends continuation of the transport of detainees to WBCF in place
33 of a Sierra County Jail, and concludes negotiations prior to the start of the 2017 WBCF
34 contract to use video conferencing to the fullest extent possible in place of physical
35 transportation.
- 36 R.2. The Grand Jury recommends that the Board of Supervisors fund two additional full time
37 sworn positions for patrol beginning in FY2017-18 to better cover a 24-hour, seven-day-
38 a-week patrol schedule and to offer more flexibility with vacations, sick days and long-
39 term disability.
- 40 R.3. The Grand Jury recommends the Board of Supervisors reconsider outsourcing dispatch
41 operations or support the recommendation from the CCP Compliance Report to hire an

1 additional dispatcher/jailer in FY2017-18:

2 Recommendation #2: CJRF is recommending the Sheriff's office and Board of
3 Supervisors consider funding an additional dispatcher / jailer position to help
4 handle the 911 communications workload. Continually having to use the
5 supervisor to temporarily cover routine dispatcher staffing vacancies in addition
6 to regular workload responsibilities is not an ideal approach for managing this
7 essential public safety function. Routinely having to reassign deputies from patrol
8 shift duties may also negatively affect incident response times, particularly if a
9 serious public safety situation occurs when patrol staff is covering dispatch
10 communications.

11 R.4. The Grand Jury recommends that Sierra County Board of Supervisors consider a one-
12 time "signing bonus" for new deputy sheriffs, provided they commit to 3 to 5 years of
13 service. In addition it is recommended that the pay scale and benefits for all employees
14 within the sheriffs department be, at least, comparable to that of other low population
15 counties such as Plumas, Alpine, Butte or Modoc, to name a few.

16 **REQUEST FOR RESPONSES**

17 Pursuant to Penal Code section 933.05, the following responses are *required*:

- 19 ■ The Sierra County Sheriff: respond to F1, F2, F3, F4, and R1, R2, R3, R4 within 90 days.
- 20 ■ Sierra County Board of Supervisors: Peter Huebner, Chair; Paul Roen, Scott Schlefstein,
21 Lee Adams, Jim Beard respond to F1, F2, F3, F4, and R1, R2, R3, R4 within 90 days.

22 The Grand Jury *invites* the following individual to respond:

- 23 ■ Fred Campbell, Consultant, CRIMINAL JUSTICE RESEARCH FOUNDATION P.O.
24 Box 60566, Sacramento, CA 95860□
- 25 ● Jeff Bosworth, Chief Probation Officer and Chairman of the Sierra County Community
26 Corrections Partnership

27 Responses are to be submitted to the Presiding Judge of the Sierra County Superior Court in
28 accordance with the provisions of Penal Code section 933.05.
29

30

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the 31 Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the 32 Grand Jury.
--

33 **APPENDIX**

34
35 **California Penal Code, Section 919:** (a) The grand jury may inquire into the case of every
36 person imprisoned in the jail of the county on a criminal charge and not indicted.
37 (b) The grand jury shall inquire into the condition and management of the public prisons within
38 the county.
39

1 **California Assembly Bill 109:** In 2011, Governor Edmund G. Brown Jr. signed Assembly Bill
2 (AB) 109 and AB 117, historic legislation to enable California to close the revolving door of
3 low-level inmates cycling in and out of state prisons. It is the cornerstone of California's solution
4 to the U.S. Supreme Court order to reduce the number of inmates in the state's 33 prisons to
5 137.5 percent of original design capacity.

- 6
- 7 - Under Realignment, newly convicted low-level offenders without current or prior
8 serious or violent offenses stay in county jail to serve their sentence; this has
9 reduced the annual admissions to less than 36,000 a year. Prior to Realignment,
10 there were approximately 55,000 to 65,000 new admissions from county courts to
11 state prison.
- 12
- 13 - AB 109 provides a dedicated and permanent revenue stream to the counties
14 through Vehicle License Fees and a portion of the State sales tax outlined in
15 trailer bills AB 118 and Senate Bill 89. The latter provides revenue to counties for
16 local public safety programs and the former establishes the Local Revenue Fund
17 2011 (Fund) for counties to receive the revenues and appropriate funding for 2011
18 Public Safety Realignment.
- 19

20 **California Senate Bill 678:** Senate Bill 678, the California Community Corrections Performance
21 Incentive Act was signed into law on October 11, 2009. The legislation allocates funds to
22 probation departments annually based on costs avoided by the California Department of
23 Corrections and Rehabilitation (CDCR) from a reduction in the percentage of adult probationers
24 sent to prison. The SB 678 funds are to be utilized by probation departments specifically for the
25 development and implementation of evidence-based community corrections programs. Programs
26 are to be developed and implemented by the Chief Probation Officer with advice from the local
27 Community Corrections Partnership (CCP).

28

29 The goal of the Community Corrections Performance Incentive Act is to provide for the
30 implementation of evidence-based community corrections practices, programs, supervision and
31 rehabilitative services for adult felony offenders. Examples include (a) evidence-based risk and
32 needs assessments, (b) evidence-based substance abuse treatment, mental health treatment,
33 cognitive behavior programs, anger management, job training / employment services, and (c)
34 intensive probation supervision.

35

1
2 **AUDITOR/TREASURER/TAX COLLECTOR INVESTIGATION**
3

4 **SUMMARY**
5

6 Although an impartial Certified Public Accounting (CPA) firm conducts annual audits to ensure
7 that taxpayer dollars are successfully managed, the Auditor/Treasurer/Tax Collector's Office has
8 not been the subject of a Grand Jury investigation for 12 years. With the responsibility for
9 managing a \$29,885,322 budget, accounting for innumerable federal and state grants and
10 miscellaneous revenue funds, tax and fee collections and payments including payroll, it's clear
11 that the Department has a tremendous responsibility.
12

13 With only six staff including the Department head, Sierra County finances appear to be very well
14 managed in a professional, technically advanced and practical manner.

15 **BACKGROUND**
16

17 During our review of various Sierra County documents, the grand jury noted that the
18 Treasurers/Auditor/Tax Collector office had not been reviewed since 2005. The 2016/2017
19 Grand Jury elected to conduct a brief interview, primarily to assess the general fiscal condition of
20 Sierra County but also in regards to the contribution that Building Department fees and fines
21 make to the overall County budget.

22 **METHODOLOGY**
23

24 **Interviews**

25 Members of the Grand Jury interviewed a Finance Department administrator and the Board of
26 Supervisors.

27 **Documents:**

28 Retrieved from: <http://www.sierracounty.ca.gov/>:

- 29
- *2015-16 Audited Financial Statement.*
 - 30 • *2015-16 Gann Limit: Independent Accountant's Report on Agreed-Upon Procedures*
31 *Applied to Appropriate Limit Calculation.*
 - 32 • *2015-16 LTC (Transportation Commission) Audit.*
 - 33 • *2015-16 Management Report Letter.*
 - 34 • *2015-16 Transportation Audit.*

- 1 • *2016-17 Final Budget*
- 2 • *Board of Supervisors, County of Sierra, State of California Resolution No. 2016-090*
- 3 *Appropriate Limit*
- 4 • *County of Sierra Single Audit Year End June 30, 2016*
- 5 • *Sierra County Code*. October 15, 2014. Retrieved from: [Sierra County Code](#)

6 **DISCUSSION**

7

8 The Sierra County Treasurer/Auditor/Tax Collector is an elected position. The current

9 Treasurer/Auditor/Tax Collector was appointed in 1997 to fill the Auditor retirement vacancy,

10 won election in 1999, and has run unopposed since then. The position now requires the person to

11 head two separate departments: the Auditor's and the Treasurer's office. While this is,

12 reportedly, not uncommon in small counties, it does require a detail-oriented person who can

13 keep the duties separate; and considerable oversight, review and redundancy, with checks and

14 balances, particularly in the accounting department.

15 The current staffing level consists of 2.5 Full Time Equivalency (FTE) employees in the

16 Auditor's office, a 0.5 FTE in Risk Management and 2.0 FTE in the Treasurer's office. In

17 addition, the Treasurer/Auditor/Tax Collector oversees both departments and also provides

18 Human Resource services and employee performance reviews.

19 It is our understanding that there has not been a cost of living raise for Sierra County employees

20 for eight years. In addition, managers and department heads reportedly took an 11.4% salary

21 reduction during the recession, which has not yet been restored. While burnout is a problem,

22 excellent staff and a new, improved accounting system, seem to have kept the departments

23 running smoothly.

24 The accounting department undergoes an independent audit annually, the most recent being

25 completed for the year ending June 30, 2016. The audit was conducted by Smith and Newell,

26 CPAs of Yuba City, CA and found the department to be operating within standard guidelines. It

27 should be noted that this particular grand jury does not have the expertise or financial resources

28 to independently audit the Treasurer's Department or even the independent auditors' report. As a

29 consequence, we are assuming that the outside audit was thorough, accurate and honest; we have

30 no reason to believe otherwise. A few minor recommendations from the Prior Year Audit for the

31 Year Ending 2015 were noted to have been fully implemented:

- 32 • All payroll liability account balances be reconciled at least monthly.
- 33 • The County should record the accrued payroll liability as of June 30 each year. The
- 34 County should continue to improve its internal control system and its policies and
- 35 procedures in reviewing detail general ledger accounts for accuracy.
- 36 • Actual inventory items on hand at June 30 agree to the inventory count sheet.

1 The approved budget for 2016-17 is \$29,885,322 of which \$9,138,966 comes from the General
2 Fund. The website <https://sierracounty.opengov.com> provides data on how the funds are spent.

3 The Assessor's Office is responsible for setting the tax rates and then collecting the taxes.
4 Properties with back-taxes can be sent to the District Attorney for collection. Property taxes from
5 the failed mobile home park in Loyalton are minimal and written off. Sierra County is already
6 one of the cheapest places to build, so fees can't really be cut. Industry and retail require the least
7 amount of government services, but pay the most in taxes.

8 The County's ability to attract entrepreneurs is limited; there is some logging, ranching, tourism,
9 and now, legal marijuana farms. Typically, the counties doing well in this country are those with
10 an interstate highway, a major airport, a college/university or a national park or monument, none
11 of which are present in or proposed for Sierra County.

12 We understand that Sierra County is fiscally sound at this time, however that condition has been
13 described by some as "delicate." A significant portion of the county budget comes from the
14 United States Department of Agriculture for logging operations within the county. There is some
15 concern that those payments may cease in the future, either through cessation of logging itself or
16 through changes in government regulations.

17 The investments by the Sierra County Treasurer's Department are reportedly performing
18 adequately with overall interest rates "rising and solid." Money is currently going to Certificates
19 of Deposit (CDs) as the County has the maximum allowable percentage of higher-
20 yielding/higher-risk corporate bonds. Government bonds are providing little potential upside.
21 The Treasury Department is looking for other financial vehicles with safety and liquidity as
22 priorities. Investments are typically staggered so that they come due on a rotating basis. The \$23
23 million portfolio currently managed by the Treasurer's Department is the largest in county
24 history, partly resulting from Governor Brown's directive to state agencies to return funds to
25 counties. Of the \$23 million dollars, \$17 million are invested with the remaining \$6 million in
26 banks and CDs.

27 It is our understanding that in many counties, permit fees and fines generate approximately 50%
28 of the budget for the planning and building departments. Sierra County fees and fines cover far
29 less than 25% of the department budget. Essentially the permit costs (for plan check, inspection
30 and overhead) are subsidized by property taxes on existing citizens, and there are no impact fees
31 assessed for schools, roads or other impacts. Fees and fines collected by the building department
32 go into the general fund; fees and fines collected by the Health Department go directly into their
33 own budget. A review of Lassen, Butte, Yuba, Alpine and Plumas counties indicated that most
34 update their fee schedules on an as-needed basis with no set time frames or annual review.

35 Over the years, a county-wide Code Enforcement Officer has been considered, and was actually
36 written into the County Code as a required position in 1991:

37 **1.17.050 Code Enforcement Officer and Duties**

38 The position of Code Enforcement Officer is hereby created and shall be filled by an appointment of the
39 Sierra County Board of Supervisors. The Code Enforcement Officer shall supervise the process of
40 enforcing code violations at the administrative level, including the issuance of notices and Abatement
41 Orders, documenting and assessing costs, and preparation of the administrative records. The Code

1 Enforcement Officer shall be responsible, where applicable, for communicating information gained from
2 investigations and hearings and transmitting Orders issued to the District Attorney, County Counsel, the
3 County Clerk, and the Sheriff. The Code Enforcement Officer may request assistance of any or all of the
4 foregoing in carrying out Code Enforcement. (Ord. 775, eff. 9/19/91)
5

6 The position has never been filled by the Board as required by Code, but such an Officer could
7 monitor and enforce marijuana growing regulations and health department issues, as well as
8 building permit and code violations. Although increased fees and fines from a full-time Code
9 Enforcement position should cover some of its own overhead, it's possible that cuts might be
10 required elsewhere in the county budget to fully offset the cost burden. Alternatively a part time
11 position might suffice with adequate funds to cover the salary/benefits.

12 The Treasurer's office would welcome an increase in Building Department fees and/or fines in
13 order to increase the support level to at least 25%. Such changes have reportedly been considered
14 on a number of occasions, but with no significant changes ever having been put in place by the
15 Board of Supervisors. Changes to the fee structure within Sierra County require a simple
16 majority vote by the Board of Supervisors. While the County Supervisors may profess to support
17 such changes, they appear to respond to the pressure and will of the most vocal segment of the
18 populace.

19 FINDINGS

20
21 F1. Sierra County is fiscally sound and department funds are accurately accounted for based
22 on annual audits.

23 F2. Sierra County cannot expand any departments with local funds without cutting budgets in
24 other departments or raising fees and/or taxes.

25 F3. In the Building/Planning Department, for example, the last fee study was conducted 10
26 years ago. The Auditor/Treasurer/Tax Collector is willing to review departmental fees
27 and fines that contribute to operating expenses across all departments.

28 F4. There is no countywide plan for resource development for Sierra County.

29 RECOMMENDATIONS

30
31 R.1. During FY17-18, continue internal control and other operational accounting practices to
32 comply with recommendations from auditors.

33 R.2. Conduct an annual/bi-annual internal audit of all county departments to ensure
34 compliance with county ordinances and codes and assess for inefficiencies or duplication
35 of services.

36 R.3. By July 31, 2018 based on best practices in small counties related to frequency and
37 intensity, implement standard operating procedures for the fee studies in each Sierra
38 County department.

39 R.4. In FY17-18, assign task of researching resource development through grant list-servs,
40 membership in governmental resource development groups, Federal Register publications
41 and other resources to an employee in the Department to scan regularly for Sierra County
42 funding opportunities and report findings to County Commissioners.

1 **REQUEST FOR RESPONSES**

2

3 Pursuant to Penal Code section 933.05, the following response is *required*:

4 ▪ Van Maddox, Sierra County Treasurer/Auditor/Tax Collector: respond to F1, F2, F3, F4
5 and R1, R2, R3 within 90 days.

6 ▪ Sierra County Board of Supervisors: Peter Huebner, Chair; Paul Roen, Scott Schlefstein,
7 Lee Adams, and Jim Beard respond to F2, F3, F4 and R2, R3, R4 within 90 days.

8 The Grand Jury *invites* the following individual to respond:

9 ▪ Tim Beals, Planning Director, Building Official

10

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the 11 Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the 12 Grand Jury.
--

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INVESTIGATION OF BUILDING CODE VIOLATIONS

4

SUMMARY

5

6 Sierra County has a large backlog of building permit violations dating back to 1986 inclusive of
7 162 entries. Despite the best intentions of Building/Planning Department staff, resources have
8 not been available to manage the current workload simultaneously with addressing the violators.
9 Based on interviews and document reviews, it appears that the violations are not a high priority
10 for the Board of Supervisors and that the general fund essentially subsidizes new construction at
11 a cost to current taxpayers.

12
13 As an example, the egregious violations at the Loyaltan Mobile Home Estates have recently
14 come in the spotlight as numerous health, safety and environmental hazards were documented
15 and the State of California has suspended the operating permit. High costs to Sierra County in
16 terms of law enforcement calls, health hazard mitigation (water, sewer, solid waste) and safety
17 concerns (child protection, environmental damage) have been significant and might well
18 illustrate the cost saving effect of prevention through timely permit management.

19
20 Sierra County citizens express concerns for unpermitted building activity as well as unresolved
21 violations in their neighborhoods. The perception is that the County allows this illegal activity to
22 continue without resolution and thus diminishes the quality of life in Sierra County.

23

GLOSSARY

24

25 ***Egregious:*** conspicuously bad, extraordinary in some bad way

26
27 ***General Fund:*** In public sector accounting, the primary or catchall fund of a government,
28 government agency, or nonprofit entity such as a county. It records all assets and liabilities of the
29 county that are not assigned to a special purpose fund.

30
31 ***California Building Code:***

32 The California Building Standards Commission (CBSC) is authorized by **California Building**
33 **Standards Law** to administer the many processes related to the development, adoption,
34 approval, publication, and implementation of California's building codes.

35
36 The **California Building Standards Code**, Title 24 serves as the basis for the design and
37 construction of buildings in California. Improved safety, sustainability, maintaining consistency,
38 new technology and construction methods, and reliability are paramount to the development of
39 building codes during each **Triennial and Intervening Code Adoption Cycle**.

40
41 California's building codes are published in their entirety every three (3) years. Intervening
42 Code Adoption Cycles produce Supplement pages halfway (18 months) into each triennial
43 period. Amendments to California's building standards are subject to a lengthy and transparent
44 public participation process throughout each code adoption cycle.

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Code Enforcement Officer Definition:

"A Code Enforcement Officer is a sworn or non-sworn inspector, officer or investigator, employed by a city, or county, or city and county, who possesses specialized training in, and whose primary duties are the prevention, detection, investigation, and enforcement of violations of laws regulating public nuisance, public health, safety, and welfare, public works, business activities and consumer protection, building standards, land-use, or municipal affairs."

Code Enforcement Definition:

"Code Enforcement is the prevention, detection, investigation and enforcement of violations of statutes or ordinances regulating public health, safety, and welfare, public works, business activities and consumer protection, building standards, land-use, or municipal affairs."

Red tag: The term "red tag" is often used to describe different situations involving unpermitted work. Building and planning departments might use it to describe a notice on property that is potentially dangerous or unfit for human habitation when noticed by the officials. It is generally an official warning that remediation is required.

BACKGROUND

Sierra County has a large geographic area of 962 mi.², a population of only 3,240 potential taxpayers, and a small building department localized in Downieville, California. For these and other reasons (to be discussed below) it has historically been difficult to enforce building permit and building code requirements for construction projects, particularly in the more isolated areas of the county.

In a section of the report entitled "SIERRA COUNTY FOSTERS A DISRESPECT OF THE LAW" the 2012/2013 Grand Jury admonished the County for lack of uniform enforcement of the California Building Code. In that report they recommended that computer software be obtained in order to efficiently track all building permits and violations. They further recommended that faithful and equal application of the Building Codes be implemented in order to maintain respect for the rule of law.

Although the County started the implementation of an in-house spreadsheet tracking system, the efforts over the past three to four years have not fulfilled the intent for the Planning Director and County Health Officer to "jointly pursue software options for a permit tracking system that can be uniformly applied to building permits, environmental health permits, planning permits and land use enforcement, and road encroachment permits."

The Board of Supervisors only partially agreed with the second Grand Jury recommendation to enforce the Building Code uniformly on all landowners and leaseholders in 2012-13, stating,

The Board of Supervisors partially agrees. However, equal application of the law is absolutely correct. Faithful application of the law assumes that all laws must be enforced all the time. Like it or not, the reason for local control of most police matters is so that such can be attuned to any community's wishes, desires, customs, and traditions and Sierra County is no different. There is a huge level of discretion given to enforcement

1 authorities and their oversight rests with either the electorate in the case of elected
2 officials, or the board of supervisors with appointed department managers.

3
4 The 2016/2017 Grand Jury has received complaints regarding "red tags" of construction projects
5 that are still proceeding with no building permits and with no apparent enforcement or even
6 verification of building codes. Given that non-permitted construction has a long and ongoing
7 history in Sierra County, and that significant recommendations were made by a previous Grand
8 Jury, the 2016/2017 SCGJ elected to conduct a follow-up investigation to assess progress within
9 the permit and enforcement process. The review of previous Grand Jury investigations showed
10 that the Building Department has only been investigated one time since 1998, most recently in
11 2012-2013.

12 **METHODOLOGY**

13 **Interviews**

14
15
16 The 2016/2017 grand jury interviewed employees of the Sierra County Building Department and
17 the District Attorneys' office, in regard to building permit processes and how violations are
18 handled. We also interviewed a member of the Sierra County Treasurer/Auditor/Tax Collector
19 department, partially in regards to building permit fees and costs, but also in the context of the
20 overall fiscal condition of Sierra County as it relates to building and planning.

21
22 The Grand Jury interviewed Sierra County Supervisors to get their general views and philosophy
23 on the building permit violations and the potential to raise fees and fines to support additional
24 enforcement staffing. To aid in evaluating whether or not a raise in building permit fees/fines
25 could be appropriate and justified, the Grand Jury contacted building departments in nearby
26 smaller California counties, as well as Washoe County in Nevada. Washoe County was
27 contacted mainly in regard to enforcement policy and methodology.

28
29 Finally, the Grand Jury interviewed two citizens who experienced the building permitting
30 process and obtained a final inspection.

31 **DOCUMENTS**

- 32
- 33 • California Building Standards Commission. *California Building Code*. July 1, 2016.
34 Retrieved at: <http://www.bsc.ca.gov/Codes.aspx>.
 - 35 • Fee Schedules for Yuba, Placer, Alpine, Butte, Plumas and Sierra County.
 - 36 • Tim Beals, Director. *Grand Jury Orientation Packet to Department of transportation and*
37 *Planning, 2016-17 Fiscal Year*.
 - 38 • Sierra County Building and Planning Department. *Violations Data Base*.
 - 39 • Sierra County Building Department. *Permit-tracking Database*.
 - 40 • *Sierra County Code*. October 15, 2014. Retrieved from: [Sierra County Code](#).
 - 41 • Sierra County Grand Jury. *Final Report 2012-2013*. Retrieved from:
42 <http://www.sierracounty.ca.gov/DocumentCenter/View/697>.
 - 43 • *Washoe County Code*. Retrieved from: <https://www.washoecounty.us/clerks/cco/>.

1 **DISCUSSION**

2
3 The Building Department acknowledged the past and ongoing problems with building permit
4 violations, some of which are known as legacy violations and over 20 years old. In all, the Jury
5 understands that there are 162 violations on the current Building Department list, including some
6 going back to 1986. The mobile home park in the City of Loyalton alone has numerous
7 violations.

8
9 On April 19, 2017, the Board of
10 Supervisors held a workshop with
11 Loyalton Mobile Home Estates
12 residents and concerned members of
13 the community to address the
14 violations. These violations included
15 leaking, exposed sewer lines;
16 squatters; electrical hazards; solid
17 waste (garbage) dumping; and
18 unpermitted structures. The
19 operating permit was suspended by
20 the State in November 2015 and the
21 violations have multiplied.



22
23 “Dumping” of garbage and other solid waste.

24 Sierra County has never had, and currently does not have, a dedicated Code Enforcement
25 Officer. However, the County Board of Supervisors formally created an appointed position of



Code Enforcement Officer, and defined his/her duties, in the Sierra County Ordinances Code (Section 1.17.050; Ord. 775, eff. 9/19/91). This position was not specifically funded and has yet to be filled. Instead, the Planning Director/ Building Department Director acts as the “Enforcement Official.”

Procedures and fines for all manner of code violations are established in Sections 1.16, 1.17.070 through 1.17.140 and 1.18 of the Sierra County Ordinance Code. Violations judged to be misdemeanors are punishable by a fine of not more than \$500 and/or imprisonment, not to exceed 6 months. Most code violations are judged to be infractions and are punishable by a fine not

42 Exposed sewer lines
43

1 exceeding \$50 for the first violation, up to \$100 for the second within the same year, and not
2 exceeding \$250 for each additional violation of the same provision of this code within one year.
3 Further, each and every day the violation goes unabated is considered a separate offense so that
4 fines are cumulative on a daily basis.

5
6 In accordance with the recommendations of
7 the 2012/2013 Grand Jury, the Building
8 Department implemented a computer
9 system to more effectively track the
10 progress of current and older building
11 permits and violations. Commendably, the
12 tracking program consists of a spreadsheet
13 created in-house at minimal cost. While
14 maybe not as thorough as some of the
15 commercially available programs for
16 permit tracking software, it is certainly
17 cost-effective and should be capable of
18 tracking the eight “stick homes” and 2
19 manufactured new home building permits
20 the county received in 2016, as well as the
21 100 or so annual smaller permits for decks,
22 sheds, garages and home additions. In
23 addition the system could be modified to
24 incorporate more information, as needed.



Squatters, use of four spaces

25
26 There was discussion as to whether higher building department fees or fines could be appropriate
27 and sufficient to fund employment of the Code Enforcement Officer, as specified in Sierra
28 County Ordinance Code. There is some sense that the County Supervisors may not all be
29 entirely in favor of increasing fees, but that is an issue that supervisors review periodically and
30 over which they have full control. The Building Department feels that the system could benefit
31 from a full-time Code Enforcement Officer (see description in Auditor Investigation section)
32 however there is a question as to whether there would be sufficient work available in the
33 Building Department alone. The officer would likely need to also be involved with enforcement
34 of Health Department regulations and even agriculture, specifically the now legal growing of
35 marijuana in California and Sierra County.

36
37 The Building Department is reportedly making an effort to process the older building permit
38 violations as well as keep current with new and recent permits. The department, of course, is
39 limited by budgets and staff to the extent that building permit violations, particularly minor ones,
40 cannot always be given top priority.

41
42 The SCGJ understands that, after repeated warnings of permit violations, a package of
43 documentation is submitted to the Sierra County District Attorney for review and enforcement.
44 There appears to be some conflict/confusion here, in that the Building Department claims they
45 have submitted at least three such packets, while the District Attorney has not received any, at
46 least recently. Enforcement can consist of additional, written, warnings from the District

1 Attorney, fines or even arrest in the most blatant cases where public safety is a concern. It does
2 not appear that the process is getting to the enforcement stage, regularly or consistently. Some of
3 this may have to do with simply not wanting to harass people in small communities for relatively
4 minor violations.

5
6 Fees collected by the Building Department for various aspects of various projects are insufficient
7 to fully fund the department and, in fact, account for less than 25% of the department budget.
8 Unfortunately, according to a prediction of the Sierra County Department of Transportation and
9 Planning Grand Jury Orientation Packet, "The budget is 100% General Fund and it historically
10 has been supported by fees and costs for services estimated to recover between 5 to 10% of the
11 budget. The current fee schedule, adopted in 2005, should have the impact of recovering up to
12 50% of the budget." While the Treasurer's Department would welcome a larger contribution
13 from the Building Department through increased fees and fines, it is a decision left entirely to the
14 County Supervisors.

15
16 Grand Jury research of California counties Butte, Yuba, Placer and Alpine revealed that basic
17 building permit fees in Sierra County appear to be in the upper middle of the range for the
18 smaller counties. Exact comparison is difficult. In some counties fees are based on purely on
19 square footage, and in others fees are set according to valuation. Assessments for Public Facility
20 fees and School Impact fees may or may not be added to the total. To the best of our
21 information, approximate permit and inspection fees for the listed counties are summarized
22 below for an assumed 2000 square foot house without a garage and excluding a septic system or
23 well:
24

County	Building Permit for 2,000 square foot house
Sierra County	\$3670
Alpine County	\$8500
Butte County	\$3450
Placer County	\$3190
Yuba County	\$2900

25
26 There is little question that the smaller rural counties commonly attract independent people who
27 forgo some advantages of city living, partially to avoid a perceived overbearing local
28 government. While these people may intend to follow building codes, and may be fully capable
29 of doing so, they do not necessarily want the local government collecting fees and telling them
30 what they can and can't do on their own property. We suspect that this has been the case in Sierra
31 County for many years and may even include some employed by the county. While nearly all
32 local officials, elected, appointed and hired, profess support for much more rigid enforcement of
33 the law, as well as higher building permit fees and fines, these changes just never seem to come
34 about. Citizen interviews indicated that the website was quite informative, permit fees were
35 reasonable, and building costs could add up quickly due to state regulations. A request for more
36 guidance for owner/builders was noted to more easily understand complex building codes and
37 permit requirements. Staff was reported to have been extremely helpful, in particular one of the
38 administrative staff.

1 **FINDINGS**

2
3 F1. The current permit tracking system is not integrated to include health, safety and
4 environmental components of the process.

5 F2. County Ordinance Code establishes the position of Code Enforcement Officer; however
6 the Board of Supervisors has not authorized funding for the position. Building Code
7 violations are handled by the Building Department with the head of the department acting
8 as Code Enforcement Official. Given that most of the employees of the
9 Building/Planning Department have multiple duties, they are unable to devote regular
10 hours to the backlog of violations.

11 F3. A full time Code Enforcement Officer would be beneficial to other departments besides
12 just Building and Planning. Given the limited County budget, however, funding for the
13 position would likely have to come from budget cuts in other areas. Better enforcement
14 of County policy on building permit fees and fines might partially offset costs for the
15 Code Enforcement Officer.

16 F4. Sierra County Ordinance Code adequately specifies fines and procedures for code
17 violations that can be judged as either infractions or misdemeanors, depending on
18 severity and public safety concerns. Section 1.16.040 of the code defines each day that
19 the violation continues unabated, as a separate offense. This daily accumulation of fines
20 can be excessive, given the limited enforcement staff and may be part of the reason
21 enforcement can be lax.

22 F5. Building permit fees in Sierra County are not out of line with surrounding small counties.
23 Given that the county issues only about 100 building permits a year it would take a major
24 and likely unreasonable increase in fees to significantly impact the county budget or fully
25 fund a Code Enforcement Officer. For example, Sierra County received about \$78,600 in
26 fiscal year 2015-2015 for building permits and planning fees. Even a 50 percent fee
27 increase would not cover salary and benefits for a qualified Code Enforcement Officer.
28 Most of the permits are for smaller projects like decks, sheds or garages; only eight new
29 stick homes in 2016 were charged the higher fees for new home construction.

30 F6. A similar fiscal case can be made for not increasing fines for permit violations. Building
31 permit/code violation fines are a very small percentage of Sierra County income and even
32 doubling them would not generate significant revenue. In addition fines can be a financial
33 drain on the county should the violator choose to appeal his/her case to the Board of
34 Supervisors, or worse yet, take the case to court.

35 F7. The Grand Jury has found a huge amount of incomplete and disorganized paperwork in
36 the Building and Planning Department related to 162 code violations dating back to 1986.
37 Building department employees estimated that many hours would be required to clear up
38 the backlog, with substantially more time for complex cases.

39 F8. The Grand Jury of 2012-3 addressed the “Red Tag” issue without substantial resolution.
40 Citizen complaints regularly detail frustration and disapproval related to multiple

1 violations, particularly in the Loyalton Mobile Home Estates, but also throughout the
2 entire County. Egregious violations result in unintended high costs for the taxpayer as
3 law enforcement, health and human services, and building department personnel must
4 attend to the adverse consequences for health and safety, environmental damage and law
5 violations.

- 6 F9. Existing taxpayers rather than owners of new construction bear the primary cost of
7 funding the permitting process in Sierra County, and thus have expectations that owners
8 comply with Building Codes created to ensure health and safety, environmental
9 protection and adherence to civil laws.

10 **RECOMMENDATIONS**

- 11
12 R.1. Maintain updated permit status for all permits beginning July 1, 2017 using the existing
13 spreadsheet workbook with enhancements for integration of health, safety and
14 environmental processes or purchase new permitting software as recommended by the
15 2012-13 Grand Jury.
- 16 R.2. The Board of Supervisors and Treasurer should fund and fill the position of the Code
17 Enforcement Officer position for the 2018 Fiscal Year or earlier, complying with Section
18 1.17.050 of the Sierra County Ordinance Code.
- 19 R.3. By December 31, 2017, establish a simplified, uniform, structure of fines for building
20 permit violations that can be included with the permit application packet.
- 21 R.4. Consider keeping permit fees static pending a more thorough study of adjacent counties,
22 but increase fines as a possible deterrent to long-term code violations. Sierra County
23 Ordinance Code 1.16.040, which defines each day of violation as a separate offense, is
24 well intended but likely unenforceable at the practical level. Anyone owing the thousands
25 of dollars that could accumulate in just a few weeks would surely either ignore the fines
26 too, or go to court, costing the county more than it would be possible to collect.
- 27 R.5. By December 31, 2017, organize the spreadsheets violations database on all permits
28 issued based on priorities related to health and safety. Subsequently, with the approval of
29 County Supervisors, assign staff to finalize violations on all building permits through
30 issuance of final notices, including indemnification of Sierra County for potential hidden
31 hazards or property value loss, District Attorney actions, or final approval by December
32 31, 2017. Essentially clear the books of violations that are too old or too muddled to
33 resolve.
- 34 R.6. By December 31, 2017, in partnership with the District Attorney, establish a written
35 policy and procedure detailing criteria for sending building permit violations for legal
36 action.
- 37 R.7. By December 31, 2017 establish an amnesty program for violations older than 2010 in
38 partnership with the District Attorney to waive fines pending completion of compliance
39 with regulations.

40 **REQUEST FOR RESPONSES**

41 Pursuant to Penal Code section 933.05, the following response is *required*:
42

- 1 From the following individuals:
2 • Tim Beals, Director of Building and Planning Department: respond to F1, F4, F7, F8 and
3 R1, R5, R6, R7 within 90 days.
4 • Elizabeth Morgan, Registered Environmental Health Specialist, Sierra County and State
5 of California respond to F1, F3 and F5 and R1, R5
6 • Larry Allen, District Attorney: respond to F4 and R4, R5, R6, R7
7 • Van Maddox, Auditor/Treasurer/Tax Collector: respond to R2
8

9 From the following governing bodies:

- 10 • Sierra County Board of Supervisors: Peter Huebner, Chair; Paul Roen, Scott
11 Schlefstein, Lee Adams, Jim Beard: respond to F1 through F9 inclusive; and R2, R3, R4,
12 and R7 within 90 days
13

14 The Grand Jury *invites* the following individuals to respond:

- 15 • Tim Standley, Sierra County Sheriff

16 **APPENDIX**

17
18 *Sierra County Code*, updated 10/15/2014, retrieved from: [Sierra County Ordinance Code](#)

- 19 • Sections 1.16 VIOLATIONS
20
21 • Section 1.17.050 CODE ENFORCEMENT AND NUISANCE ABATEMENT; Ord. 775, eff.
22 9/19/91 and 1.17.070 through 1.17.140
23
24 • Section 1.18 ISSUANCE AND RECORDATION OF NOTICES OF VIOLATION
25

Responses to 2015-16 Grand Jury Report

1
2
3
4 The Grand Jury reviewed the required responses to the 2015-16 Grand Jury Report and generally
5 supported the actions planned by the Board of Supervisors in the document (available online or
6 through Court).
7
8 Sierra County Waste Management Analysis: The Grand Jury understood the Supervisors are
9 continuing to work on the costs of waste management, including fee assessments for cost
10 recovery.
11
12 County Jail and Law Enforcement Facilities: The Jurors particularly valued the proposed salary
13 review considered in the report on the County jail and law enforcement, although it is not clear
14 whether the work has commenced.
15
16 Water Conservation Enforcement in Sierra Brooks: The Jury understood there to be plans for
17 adoption in 2016-17 of an ordinance amendment to water conservation in Sierra Brooks related
18 to administrative penalties.
19
20 Sierra County's Fire Protection Districts: The issue of fire protection was reviewed and
21 understood to be an ongoing conversation with citizens and fire department officials related to
22 eastern border communities.
23

SIERRA COUNTY GRAND JURY NEEDS YOUR INPUT!

*We welcome your suggestions or
complaints.*

PLEASE TURN TO THE FORM ON THE BACK OF THIS PAGE
TO MAKE YOUR COMMENTS.

**MAIL TO: SIERRA COUNTY GRAND JURY
P. O. BOX 476
DOWNIEVILLE, CA 95936**

PLEASE PROVIDE AS MUCH INFORMATION AS POSSIBLE

Your name (you may remain anonymous if you choose)

Home address _____

Work address _____

Phone (home) _____ (work) _____

To which county official, department or agency does your suggestion or complaint refer?

Address _____

Phone _____ Director, if applicable _____

Please summarize your suggestion or complaint, including date of events and names, departments or agencies involved. **Attach additional sheets if necessary.** All complaints are kept confidential.

What kind of action would you like to see the Grand Jury undertake?

Please attach any correspondence or documents you may have regarding this matter.

Signature _____

Date _____

Mail to:

Sierra County Grand Jury
Post Office Box 476
Downieville, CA 95936

