



SIERRA COUNTY  
GRAND JURY  
2010-2011

FINAL REPORT

**Sierra County  
GRAND JURORS  
2010-2011**

**Billy Epps**

**Ernest Finney**

**Darold Gress**

**David Hutchison**

**Rebecca Kinkead**

**C. Ingrid Larson**

**Stuart Lauters**

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**Suzanne Williams**

**Downieville**

**Alleghany**

**Loyalton**

**Downieville**

**Loyalton**

**Downieville**

**Downieville**

**Downieville**

**Sierra City**

**Sierra City**

**Sierra City**

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SIERRA COUNTY GRAND JURY 2010-2011  
P.O. Box 476  
Downieville, CA 95936

June 30, 2011

The Honorable John Kennelly  
Presiding Judge, Sierra County Superior Court  
100 Courthouse Square  
Downieville, Ca 95936

**Re: Sierra County Grand Jury 2010-2011 Final Report**

Dear Judge Kennelly:

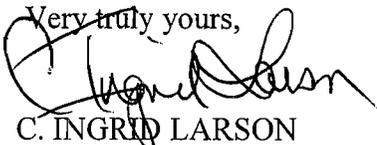
The 2010-2011 Sierra County Grand Jury respectfully releases its Final Report to be published on July 12, 2011. Each of the eleven Grand Jurors actively participated in the Grand Jury process. The Final Report has been approved by a quorum of the Grand Jury.

In addition to the attached Reports, this Grand Jury revised the Grand Jury Complaint form, copy attached. We mutually agreed that the prior form was not user friendly. We mailed a copy to every registered voter in Sierra County. We received over 40 responses covering a variety of topics and issues. We responded by letter to each complaint received that was not anonymous. The Complaints that were not investigated will be handed over to the 2011-2012 Sierra County Grand Jury for its consideration.

The report is being published primarily in electronic form and is available on the Sierra County website at [www.sierracounty.ws](http://www.sierracounty.ws). Hard copies will be distributed as necessary, by contacting the Sierra County Grand Jury, P.O. Box 476, Downieville, CA 95936.

Thank you for your guidance. Please also extend our appreciation to the Grand Jury Commissioner, Jan Hamilton, for her assistance. She is exemplary!

Very truly yours,



C. INGRID LARSON

Foreperson

2010-2011 Sierra County Grand Jury

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**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

**SIERRA COUNTY GRAND JURY 2010-2011**  
**REPORT OF ANNUAL INSPECTION OF THE**  
**SIERRA COUNTY JAIL [Downieville]**  
**AND SUB-STATION [Loyalton]**

**SUMMARY**

Listed in this report are the findings and recommendations of this Grand Jury regarding the Sierra County Jail in Downieville and the Loyalton Substation. Some of the problems we address are minor: for example, a leaking roof that's been dripping for many years. Others are more serious, like inadequate staffing at the jail, which poses safety issues for both Corrections Officers and inmates that could result in a major disaster.

The big question for Sierra County is this: Will this Grand Jury's recommendations for the Sierra County Jail be taken seriously for action to be taken before someone gets hurt?

**BACKGROUND**

California Penal Code, Section 919(b) provides as follows:

**The Grand Jury shall inquire into the condition and management of the public prisons within the county.**

In compliance with the above mandate, the Sierra County Grand Jury 2010-2011 has conducted an inspection of the holding facilities and jails in the County, to wit, the Sierra County Jail in Downieville and the Sheriff's Sub-Station in Loyalton.

## **INVESTIGATION METHODS**

The Grand Jury physically inspected the Sierra County Jail in Downieville, California on October 21, 2010. The Grand Jury also physically inspected the Loyalton Sub-Station on December 1, 2010, because, at that location, individuals who have been arrested are sometimes detained for a brief period before being transported to the Jail in Downieville.

We interviewed the following regarding the jail and its operations: a number of Corrections Officers, a few jail inmates, and the Sierra County Sheriff.

Documents that were reviewed by the Grand Jury for this investigation are attached as Appendix A.

## **FACTS**

1. There is insufficient staff at the jail to cover the jail, the 911 calls and Sheriff's dispatch.
2. Bleach, mops, cords and straps were found in the jail common area where they were accessible to inmates.
3. There is often no supervisor available to Corrections Officers when needed.
4. The air in the common area used by the inmates is "stuffy".
5. The roof leaks.
6. The kitchen is dirty.
7. Existing security systems and equipment have limitations and can be breached.
8. The jail has no outdoor exercise area.
9. The Loyalton substation has no secure detention area.

## FINDINGS

1. An inadequately staffed jail jeopardizes the safety of not only inmates and staff but the public at large. It is virtually impossible for one Corrections Officer on duty to respond to 911 calls, Sheriff's dispatch and inmate needs simultaneously.
2. Those items found by the Grand Jury in the common area are potential weapons. The safety of staff and inmates is at risk.
3. Inadequate supervision of Corrections Officers can result in harm or injury to staff and inmates.
4. The ventilation system in the Jail and in particular in the common area is inadequate. The air seems to be unhealthy.
5. A roof that has leaked for more than just a brief period of time suggests the lack of care given to the facility by county building maintenance staff and ultimately by the Board of Supervisors. Although it is not the direct responsibility of the Sheriff for fixing a leaking roof, it is his responsibility to report it, and to make a motivating case to the Board of Supervisors.
6. A dirty kitchen attracts vermin and allows for the unsafe handling of food, putting inmates at risk for food borne diseases.
7. There is no on-going program for replacing essential equipment and systems components. Presently, repair or replacement of aging or damaged equipment or systems occurs only when these items fail. These failures are potentially catastrophic. For instance, should the command center control panel fail, none of the locking or lighting systems could be safely controlled, and the Corrections Officer would have no way to insure the safety of staff or inmates.
8. The lack of outdoor exercise and fresh air for inmates has been noted as a problem in past Grand Jury reports as well as in other state inspection reports.
9. At the Loyalton substation deputies are at risk from the absence of a secure holding area. There is also no interview room. The existing detention furnishing is a plastic chair that is not secured to the wall or floor. Means of public access to the substation seems erratic/unclear. Options to provide secure access to the facility seem limited.

## RECOMMENDATIONS

1. The Board of Supervisors must immediately adjust the Sheriff's budget to include two full time Corrections Officers salaries per shift. In the interim, the Sheriff must use current funds to staff the jail with two temporary/part time Corrections Officers until permanent staff is hired.
  
2. The Sheriff must immediately do the following:
  - a. Remove or secure all potential weapons within the jail;
  - b. Increase training and supervision of staff regarding safety;
  - c. Establish routine and regular safety inspections.
  
3. The Sheriff must increase the supervision of all Correctional Officers.
  
4. The ventilation system in the Jail and common area needs to be evaluated and corrected so that the air is healthy.
  
5. The Board of Supervisors must direct County staff to repair the roof and approve funds to do so.
  
6. The Sheriff or the Supervising Corrections Officer must establish regular kitchen inspections to insure cleanliness.
  
7. The Sheriff must reevaluate the entire security system and equipment and replace the same as necessary.
  
8. The Sheriff must conduct a feasibility study to develop an outdoor exercise area. The Board of Supervisors must fund the project in the next fiscal year.
  
9. The Sheriff must install a secured "cuffing chair" (or similar) within the Loyalton substation. Additionally, the Sheriff must clarify access to public and secured areas. The Sheriff should provide the Board of Supervisors with a cost study for converting existing substation space into an interview room and detention cell

## **REQUESTS FOR RESPONSE**

The Sierra County Grand Jury requests response to this report from:

- **Sierra County Sheriff**
- **Sierra County Board of Supervisors**
- **Sierra County Auditor**
- **Sierra County County Counsel**

**The Sierra County Grand Jury 2010-2011 extends its sincerest thank you to the Sheriff and his staff for their complete cooperation and for their helpfulness as it conducted the state-mandated review of the Sierra County Jail.**

## APPENDIX A

Documents that were reviewed by the Grand Jury for this investigation include:

- County Jail Inspection Reports of previous Sierra County Grand Juries
- *Sierra County Sheriff's Response to the 2007/2008 Grand Jury Report dated June 30, 2008*
- Sierra County Sheriff's Memo to the Law Enforcement Committee dated May 8, 2008, regarding "Requested/Projected Sheriff's Office Personnel Staffing Desired"
- Sierra County Sheriff's Response to the 2008/2009 Grand Jury Report, dated October 8, 2009
- Sierra County Sheriff's Memorandum to County Counsel regarding "Personnel Issues Requests to Go Before the Board of Supervisors, dated February 12, 2010
- *Sierra County Sheriff's Response to the 2006/2007 Grand Jury Report, dated October 2, 2007*
- State of California, Department of Corrections and Rehabilitation, Corrections Standards Authority ("CSA") 2008-2010 Biennial Inspection Report, dated March 29, 2010
- Sierra County Sheriff's response letter to the CSA Inspection Report, dated November 26, 2010
- *State of California, Department of Corrections and Rehabilitation, Corrections Standards Authority ("CSA") 2006-2008 Biennial Inspection Report, dated September 9, 2008*
- *Biennial Inspection – Response to Corrective Action Plan, dated September 18, 2008. State of California, Department of Corrections and Rehabilitation, Corrections Standards Authority ("CSA") 2006-2008*
- Jail Budgets for 2009-2010 and 2010-2011
- Sierra County Sheriff's Office, Jail Policy and Procedures Manual, revised 01/28/2003
- Handcuff Policy
- Minutes of the Sierra County Law Enforcement Committee Meeting, December 14, 2010
- Minutes of the Sierra County Board of Supervisors Meeting, December 21, 2010
- Inmate Detentions Facility, Monthly Fire Inspection Logs for 2010.

# **SIERRA COUNTY GRAND JURY 2010-2011 REPORT**

## **RE: DOWNIEVILLE FIRE PROTECTION DISTRICT**

### **SUMMARY**

This report states the findings and recommendations of this Grand Jury regarding the Downieville Fire Protection District (DFPD). The problems discussed are alarming, from the safety of the Cadets to significant financial issues, including the absence of Worker's Compensation Insurance coverage for many years and the neglect of required yearly audits. The current DFPD Board of Fire Commissioners (Fire Commissioners) has taken measures to resolve some of these issues, and must continue to exercise control of the DFPD in order to resolve those problems which remain.

### **BACKGROUND**

The Downieville Fire Protection District (DFPD) was reorganized by Resolution No. 81-33 of the Board of Supervisors of the County of Sierra pursuant to California Health and Safety Code, Section 13976. That Resolution provided for a Board of Directors (Commission) of five members appointed by the Sierra County Board of Supervisors for four year terms. The initial Duties of the Board of Directors (aka Fire Commissioners) included: "must maintain Workmen's Compensation Insurance for employees"; "must keep a record of all of its acts, and all money received and disbursed by it."

The Grand Jury became aware of concerns about administrative and financial problems within the Downieville Fire Protection District through a memorandum from Sierra County Auditor, Van Maddox, to the Fire Commissioners (which was copied to the Grand Jury) regarding the fact that the DFPD had not filed an independent audit with the Sierra County Auditor's Office for more than a year. In fact, the DFPD had not filed an audit in several years. This initial notification to the Grand Jury resulted in an investigation that uncovered other issues neglected by the DFPD and its governing board, the Board of Fire Commissioners.

### **INVESTIGATIVE METHODS**

Responding to the memorandum from the Sierra County Auditor to the Downieville Fire Protection District Commissioners, the Grand Jury interviewed DFPD Commissioners and employees, reviewed relevant documents of the Downieville Fire Protection District including Resolution No. 81-33, Bylaws, Policy and Procedure Manual, Minutes of Meetings, Financials and Correspondence.

Page: DFPD - 1

## FACTS

### A. Employees; Payroll; Worker's Compensation Insurance

1. Employees are "any person employed by the District, including a volunteer firefighter, E.M.T., dispatcher, etc." [Bylaws, Article 2, Section 2.4].
2. Fire Department Personnel shall be considered "employees of the District when acting in any official capacity for the District." [Bylaws, Article 2, Section 2.7] California Labor Code, Section 3361, provides:

**Each member registered as an active firefighting member of any regularly organized volunteer fire department having official recognition, and full or partial support of the government of the county, city, town, or district in which the volunteer fire department is located, is an employee of that county, city, town, or district for the purposes of this division, and is entitled to receive compensation from the county, city, town or district in accordance with the provisions thereof.**

3. For several years prior to 2011, DFPD employees entitled to receive compensation were not issued paychecks on a regular and timely basis.
4. Employer Quarterly Tax Returns, both Federal and State, were not prepared or filed by the DFPD (as of March 2011) for the years 2006 through the first half of 2010.
5. The DFPD did not have a policy of Worker's Compensation Insurance or a Certificate of Consent to Self-Insure as required by law for a number of years prior to 2011. At the time of the Pearl Street Residence fire in July of 2010, the DFPD did not have Worker's Compensation Insurance.
6. California Labor Code mandates that employers have Worker's Compensation Insurance or a Certificate of Consent to Self-Insure. Failure to do so can result in severe penalties, criminal and financial. California Labor Code, Section 3700.5 (a) provides as follows:

**The failure to secure the payment of compensation as required by this article by one who knew, or because of his or her knowledge or experience should be reasonably expected to have known, of the obligation to secure the payment of compensation, is a misdemeanor punishable by imprisonment in the county jail for up to one year, or by a fine of up to double the amount of premium, as determined by the court, that would otherwise have been due to secure the payment of compensation during the time compensation was not secured, but not less than ten thousand dollars (\$10,000), or by both that imprisonment and fine.**

## **B. Financials; Annual Audit; Handling of Funds**

7. Prior to January 2011, the Fire Chief had the overall responsibility for the “administration, book keeping” of the DFPD, including: “maintaining all financial records”, and “preparing payroll and accounting records in a timely manner.” [DFPD Policy No.] D-2 0004. This policy was adopted in May of 2000.
8. The DFPD has not prepared periodic (monthly, annual) financial reports, including balance sheets and profit and loss statements, for a number of years prior to 2011.
9. The DFPD’s checking accounts had not been balanced for a number of years, specifically 2007, 2008, 2009 and 2010.
10. Over the past few years bills were paid late. Late fees and penalties were incurred on a regular basis.
11. The DFPD has not had an annual audit since 2006 as required by California Law.
12. The DFPD’s Policy Manual provides for a systematic process for the handling of funds [DFPD, Policy Manual, Section A, DFPD Policy No. A-1 through A-9].
13. Since January 2011, the current DFPD Fire Commission adopted policy revisions to address some of these financial reporting failures. The revised policies are yet not being fully practiced. Bills are not always paid on time. Purchase orders and credit card purchases (that require approval by the Fire Chief) are still not always processed within the time limits set forth in the revised policies.
14. Policy No. D-2 0004 was revoked by the DFPD on January 5, 2011, and a revised Policy No. D-2004 was adopted by the DFPD on January 14, 2011. That policy removed the administration and book keeping responsibilities from the Fire Chief. The Fire Chief was advised in writing by the Fire Commissioners of this policy change on January 5, 2011.
15. Audited financial statements are required for many grant applications. Small districts such as the DFPD can benefit from grant funding.
16. In January 2011, the DFPD retained Jensen Smith, Certified Public Accountants to audit the financial statements of the DFPD for the years ending June 30, 2007, 2008, 2009 and 2010.

### **C. Safety**

17. Cadets were permitted to actively fight the fire at 148 Pearl Street in Downieville in July of 2010. A 14 year old female cadet was injured as the result of fighting the fire and incurred medical expenses.
18. None of the fire firefighters or cadets knew of the lack of Worker's Compensation insurance coverage at the time of the Pearl Street fire.

### **D. Vehicle Maintenance**

19. Evidence of a routine maintenance program for vehicles and equipment was not provided to this Grand Jury.
20. The DFPD does not belong to the "BIT" Program (Biennial Inspection of Terminals) as required by the California Commercial Motor Vehicle Safety Act of 1988, which is conducted by the California Highway Patrol.

### **E. Fire Chief**

21. According to the Bylaws, the Fire Chief serves at the "will and pleasure of the District Board." The Fire Chief is to be elected by the active membership of the Downieville Fire Department. The Board (Commission) then "shall ratify a candidate to the position of Fire Chief." The term for all appointments to the Chief position shall end February 1st of the next leap year following the date of the appointment. [Bylaws, Article 6, Section 6.2].
22. The Policy and Procedure Manual, DFPD Policy No. D-2 0004 "Position Description, Fire Chief", adopted on 5/15/2000, gave the Fire Chief broad powers regarding maintenance of "all financial records" and "preparing payroll and accounting records in a timely manner."
23. Since approximately 2007, the administrative/financial matters assigned to the current Fire Chief have not been completed in a timely manner or have not been completed at all. (See Facts 3, 4, 5, 7, 8, 9, 10, and 11 above).

## FINDINGS

1. The DFPD has been unable to manage and maintain accepted principles of accounting and financial records since approximately 2007. The person responsible for these administrative duties, namely, the Fire Chief, not only failed to carry through on these duties, but also failed to advise or inform the DFPD Fire Commissioners that they had not been done.
2. During the period 2007 through 2010, the DFPD Fire Commissioners failed to exercise the oversight which could have prevented the financial and insurance problems previously noted.
3. The financial problems noted previously were the result of: a) too broad of a range of financial duties and responsibilities assigned to the Fire Chief; b) lack of communication from the Fire Chief to the Fire Commissioners; and c) lack of review by the Fire Commissioners.
4. The DFPD Fire Commissioners and the Fire Chief should have known that Worker's Compensation Insurance or a Certificate of Self Insurance was mandatory under State labor laws, yet neither took steps to secure the insurance, thus risking costly penalties.
5. All who have volunteered within the Downieville Fire Department including firefighters, EMT's, and ambulance drivers were at risk of becoming personally responsible for all of their medical expenses if they suffered an injury while on duty during the time period that the DFPD had no Worker's Compensation Insurance.
6. All who volunteered to fight the Pearl Street residence fire last July were similarly at risk because of the lack of Worker's Compensation Insurance.
7. The incident commander at the Pearl Street fire exercised poor judgment in letting cadets fight the fire.
8. The DFPD has lost opportunities for grants because of the lack of up-to-date financial statements.
9. Since January 2011, the current Fire Commissioners have begun to take charge of their responsibilities.

## RECOMMENDATIONS

1. The Fire Commissioners must make it clear that the governing body of the DFPD is the Board of Fire Commissioners, and that the Fire Commissioners have the final say in all issues of the Fire District..
2. The Fire Commissioners must make it clear to the Fire Chief that he reports to the Fire Commissioners and that he serves at the “will and pleasure of the District Board” (Fire Commissioners).
3. The DFPD Fire Commissioners should review and, if necessary, rewrite detailed job descriptions for the Fire Chief, a bookkeeper, office help, and any other DFPD paid staff, clarifying standards for organization, management and accounting.
4. The DFPD Fire Commissioners should review their Bylaws and amend them, as necessary, to reflect the actual policies and practices of the DFPD.
5. The DFPD Fire Commissioners should schedule a periodic review of administration, management, accounting, inventory, and chain of command functions within the DFPD (monthly for the remainder of 2011, and thereafter, at least quarterly).
6. The DFPD Fire Commissioners should hire a Bookkeeper to maintain and keep current all financial matters of the DFPD.
7. The DFPD Fire Commissioners should be responsible for scheduling annual audits by an independent auditor. Upon completion the audit report must be submitted to the Sierra County Auditor.
8. The DFPD Fire Commissioners should enroll the District in the “BIT” Program (Biennial Inspection of Terminals) as required by the California Commercial Motor Vehicle Safety Act of 1988, which is conducted by the California Highway Patrol.
9. Fire Commissioners need training and education. The District should consider joining the Professional Association of Fire Protection Districts.
10. Policies and Procedures regarding Cadets must be evaluated, revised and followed at all times. It must specify the limits of a Cadet’s participation at a fire or rescue scene.

## **REQUEST FOR RESPONSE**

The Sierra County Grand Jury requests response to this report from:

- **Downieville Fire Protection District Board of Fire Commissioners**
- **Sierra County Auditor**
- **Lee Adams, District 1 Supervisor, Sierra County Board of Supervisors**

**The Sierra County Grand Jury 2010-2011 appreciates the cooperation given from the Downieville Fire Protection District relative to this investigation.**