

PUBLIC HEALTH PROTECTION IN NEVADA COUNTY

REASON FOR INVESTIGATION

The Nevada County Civil Grand Jury has the responsibility to review departments of Nevada County to see if they are meeting the needs of our community.

PROCEDURE FOLLOWED

The Grand Jury interviewed management and staff of the Community Health Department, inspected various facilities, consulted professionals in other counties and health organizations and obtained legal guidance.

FINDINGS

1. Nevada County did not have a health plan at the time of the Grand Jury investigation. A health plan has been promised by June 2001.
2. According to the California Code of Regulations and the California Health and Safety Code, each county is required to have a county health officer.
3. The Nevada County Health Officer position was vacant for at least two years despite a California Department of Health Services letter (Appendix A) and a California Conference of Local Health Officers letter (Appendix B) stating the requirement for a full-time county health officer.
4. In the absence of a full-time county health officer, the county contracted with a physician to provide four hours per week of health clinic coverage.
5. The Grand Jury was told by a health official that, during the absence of a full-time county health officer, the professional staff and facilities such as schools were handicapped by lack of medical and professional guidance.
6. The Nevada County Board of Supervisors appointed a qualified individual to fill the county health officer position on a part-time (46%) temporary basis effective November 9, 2000.
7. The current county health officer cannot work more than part-time for Nevada County due to personal obligations.
8. The Grand Jury learned that key public health positions are unfilled.

9. The total Nevada County Human Services Agency budget is \$38 million; of this total, the public health budget is \$3.5 million of which \$61,000 (less than 2%) comes from the county general fund (county taxpayers). The remainder comes to the county from federal and state grants.
10. The Grand Jury learned that money is available through Tobacco and Realignment Funds to employ a full-time county health officer and fill needed public health positions at competitive compensation.
11. As classified by the California Government Code, the county health officer is an officer of the county, on a level with the elected positions of sheriff, district attorney, tax collector and assessor, who have full authority over their departments.
12. Although he is an officer of the county, the current Nevada County Health Officer, a medical doctor with an additional degree in public health, reports to the Director of Community Health, a non-medical administrator who is not an officer of the county.
13. An admission was made to the Grand Jury that public health decisions might be dependent upon political implications.
14. Under state law, the county health officer holds authority for preventive medicine, substance abuse programs, disease control, food safety, and environmental health and safety to ensure the public health.
15. Under current county organization, many of the above programs have been fragmented and parceled out to other departments. For example, the Environmental Health Department is responsible for food establishment inspections. Currently such inspections are scheduled to be carried out once a year. As another example, the Behavioral Health Department carries out mental health medical functions under the supervision of a non-medical administrator.
16. The California Code of Regulations and the California Health and Safety Code specify 10 county duties and responsibilities (Appendix C) and 38 county health officer duties and responsibilities (Appendix D).
17. Title 17, Chapter 3, California Code of Regulations states that the county health officer should devote "full time to official duties and these duties shall constitute his primary responsibility and no other activities shall interfere with performance of his official duties".

CONCLUSIONS

1. The fragmentation of public health duties and responsibilities across county departments impedes the development and implementation of a coordinated county health plan.
2. The Grand Jury believes that the county's responsibilities are not being met. See Appendix C.

3. Nevada County has lacked the guidance and professional leadership that would be available from a full-time county health officer.
4. The Grand Jury is concerned by information received that political implications would be considered before making public health decisions.
5. The Grand Jury is convinced that a part-time county health officer cannot carry out the full range of duties listed by the National Association of County and City Health Officials and by State Regulations. See Appendix D.

RECOMMENDATIONS

1. The Grand Jury recommends that the county prepare a comprehensive health plan that includes specific duties, responsibilities, goals and activities of the county health officer and the county health department.
2. The Grand Jury recommends that the county use available funds to hire a full-time county health officer to establish and direct priorities in public health.
3. The Grand Jury recommends that the county assure that no administrator or officer is allowed to interfere with the county health officer's public health decisions for any political or other consideration.

REQUIRED RESPONSES

Board of Supervisors, due by July 5, 2001
County Administrative Officer, due by June 5, 2001
Director, Human Services Agency, due by June 5, 2001
Director, Community Health, due by June 5, 2001
County Health Officer, due by June 5, 2001

APPENDIX A

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES

714/714 P STREET
P.O. BOX 042732
SACRAMENTO, CA 95834-7320
(916) 657-3475



MAR 29 1993

Bill Schultz, Chairman
Nevada County Board of Supervisors
P.O. Box 6100
Nevada City, CA 95959-6100

Dear Mr. Schultz:

We understand that the Health Officer in Nevada County recently retired. It is also our understanding that you are considering filling that position with a part-time individual under contract.

I am writing to remind you that the California Health and Safety Code (H&S) and the California Code of Regulations (CCR) contain requirements pertaining to the county Health Officer. These specify that the Board of Supervisors shall appoint a Health Officer who is a county officer (H&S 451); that the Health Officer shall be a graduate of a medical school of good standing and repute and shall be eligible for a license to practice medicine and surgery in the State of California (H&S 454; CCR 1300), and that the health department shall be under the direction of the Health Officer devoting full time to official duties (CCR 1260). In addition, it is the opinion of the Attorney General that the Health Officer is declared a county officer and no independent contractual arrangement may be made for appointment of a county officer (26 Ops. Atty. Gen. 14, 7-15-55, enclosed).

Not only is the Health Officer responsible for assessing the community's health status and for directing the county's mandated health protection functions, the Health Officer also exercises police powers to enforce laws, ordinances and orders of the State Department of Health Services to protect the public's health. For these reasons, it is important that the Health Officer be a physician employed full-time and have experience in public health.

Please contact Ms. Tameron Mitchell, Acting Deputy Director, Health Information and Strategic Planning if you have questions. She can be reached at (916) 654-1643. We may be able to offer assistance in recruiting qualified individuals to serve your county as Health Officer.

Very truly yours,

Molly Joel Coye
Molly Joel Coye, M.D., M.P.H.

Molly Joel Coye, M.D., M.P.H.
Director

Enclosures

cc: Dick Webb, Personnel Director
Nevada County

APPENDIX B

STATE OF CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

NOTE: USE BACK COVER

CCLHO

California Conference of Local Health Officers

Health Information & Program Planning, Department of Health Services

15 P.O. Box 9776

O. Box 97779

San Francisco, CA 94124-7799

TEL: (415) 877-8296 FAX: (415) 834-8023

Director: M. P. Rasmussen, Executive Secretary



February 24, 1993

Bill Schultz, Chairman
Nevada County Board of Supervisors
P.O. Box 6100
Nevada City, CA 95959-6100

Dear Mr. Schultz:

Several members of the California Conference of Local Health Officers have received your County's Request for Proposal for a Contract as the part-time medical officer to serve as the health officer. We want to make sure that you are aware that the laws of California require a full-time physician health officer.

The duty of the health officer is to assure the health of the community. He or she is responsible for assessing the community's health status and for directing the county's mandated health protection functions including services related to communicable disease control, maternal and child health, disaster and emergency response, public health laboratory services, vital statistics, environmental health and public health nursing.

The health officer enforces the public health statutes, regulations, and local health orders and ordinances. Enforcement functions include the exercise of police powers, as in quarantine situations. Many health laws are subjective or general in nature and require medical expertise and experience for rational interpretation and enforcement.

To protect the health of your community, it is imperative that you have the counsel of a full-time, medically trained health officer who will put the health of the community first, over and above the needs of a private practice or personal time off.

Enclosed is a copy of "The Local Health Officer in California, An Analysis by the California Conference of Local Health Officers." This will provide a broader description of the duties and functions of health officers within a local government setting. CCLHO is available to assist you in your recruitment efforts for this position. Please feel free to contact me if you have any questions or if you would like our assistance.

Sincerely,

A handwritten signature in cursive script that reads "Betty G. Hinton M.D.".

Betty G. Hinton, M.D., M.P.H.
President

cc: see next page

APPENDIX C

COUNTY'S DUTIES AND RESPONSIBILITIES

(as compiled by the Nevada County Counsel)

1. The board of supervisors of each county shall take measures as may be necessary to preserve and protect the public health in the unincorporated territory of the county. (Health & Safety Code (H&S) 101025)
2. Each county health department shall be the local lead agency for its county for preventive health education/anti-tobacco programs. (H&S 104400)
3. Local health departments shall provide services in occupational health to promote the health of employed persons, including educational, consultative, statistical, investigative and other activities. (H&S 105150)
4. The local health department may be authorized to enforce regulations pertaining to retail food establishments. (H&S 111015)
5. The State Department of Health may grant funds to a county to administer a program to provide drug treatments to persons inflicted with HIV. (H&S 120955)
6. The governing body of each county shall establish a community child health and disability prevention program for the purpose of providing early and periodic assessments of the health status of children in the county. (H&S 124040)
7. The board of supervisors, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program. The County Medical Services Program shall have responsibilities for specified health service to county residents certified eligible for those services by the county (Welfare & Institutions (W&I) 16809)
8. Every county shall relieve and support all incompetent, poor, indigent persons and those incapacitated by age, disease or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions. (W&I 17000)
9. The health department shall offer at least the following basic services:
 - a. Collection, tabulation and analysis of all public health statistics, including population data, natality, mortality and morbidity records, as well as evaluation of service records. (Title 17 California Code of Regulations (17 CCR) 2502)
 - b. Health education programs.
 - c. Communicable disease control.

(17 CCR 2501)

- d. Medical, nursing, educational, and other services to promote maternal and childhealth.
- e. Laboratory service
- f. Services in nutrition.
- g. Services in chronic disease.
- h. Services directed to the social factors affecting health.
- i. Services in occupational health.
- j. Appropriate services in the field of family planning.
- k. Public health nursing services. (17 CCR 1276, 1371)
- l. Environmental health and sanitation services and programs relating to the following:
 - (1) Food. (17 CCR 13671; H&S 110440, 111020)
 - (2) Housing and institutions.
 - (3) Radiological health in local jurisdictions contracting with the State Department of Health to enforce the Radiation Control Law.
 - (4) Milk and dairy products in local jurisdictions maintaining an approved milk inspection service.
 - (5) Water oriented recreation.
 - (6) Safety.
 - (7) Vector Control.
 - (8) Waste management.
 - (9) Water supply.
 - (10) Air sanitation.
 - (11) Additional environmentally related services and programs as required by the county board of supervisors, city council, or health district board
 - (12) May include land development and use.

Each county shall submit to the State Department of Health, annually for approval, program plans in each of the categories (1) through (10). (17 CCR 1373)

10. Each local health department in the county where a newborn resides shall be responsible for making every reasonable effort to obtain specimens when requested by the department approved area genetic center or the State Department of Health with regard to testing for preventable heritable disorders, to it as a case of a disorder characterized by lapses of consciousness. (H&S 103900)

RESPONSES



COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

BOARD OF SUPERVISORS

Peter Van Zant, 1st District
Sue Horne, 2nd District
Bruce Conklin, 3rd District
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Cathy R. Thompson
Clerk of the Board

June 26, 2001

The Honorable Kathleen Butz
Presiding Judge of the Nevada County Courts
Nevada County Court House
Nevada City CA 95959

Subject: Board of Supervisors Responses to the 2000-2001 Nevada County Civil Grand Jury Interim Report No. 8, dated April 4, 2001, regarding Public Health in Nevada County.

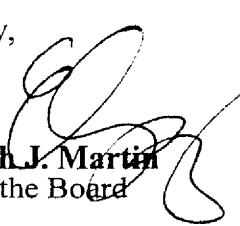
Dear Judge Butz:

The attached responses by the Board of Supervisors to the 2000-2001 Nevada County Civil Grand Jury Interim Report No. 8, dated April 4, 2001 is submitted as required by California Penal Code §933.

These responses to the Grand Jury's findings and recommendations were approved by the Board of Supervisors at their regular meeting on June 26, 2001. They are based on either personal knowledge, examination of official county records, review of the responses by the County Administrator, Health Services Agency Director, Community Health Director and Public Health Officer, or testimony from county staff members.

The Board of Supervisors would like to thank the members of the 2000-2001 Grand Jury for their participation and effort in preparing this report.

Sincerely,


Elizabeth J. Martin
Chair of the Board

Attachment

ejm:pjw:pb

cc: Foreman, Grand Jury
Ted Gaebler, County Administrator
County Counsel

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2000-2001 CIVIL GRAND JURY INTERIM REPORT NO. 8
DATED APRIL 4, 2001
RE: PUBLIC HEALTH PROTECTION IN NEVADA COUNTY**

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by County Administrator, Human Services Agency Director, Community Health Department Director and the Public Health Officer, or testimony from the board chairman and county staff members.

I. GRAND JURY INVESTIGATION:

Public Health Protection in Nevada County.

A. RESPONSE TO FINDINGS & RECOMMENDATIONS:

Findings:

- 1. Nevada County did not have a health plan at the time of the Grand Jury investigation. A health plan has been promised by June 2001.**

Agree.

However, there is no requirement for the County to have a specific document called a "health plan". The Community Health Department is following all state and federal regulations and guidelines established for the programs they administer and is planning for future program requirements.

The department intends to develop a community health assessment and status report that will be used as part of the department's strategic planning process to identify long range needs and anticipated levels of service. This plan should be developed during the next fiscal year. It has been delayed due to staff vacancies, increased workloads and the allocation of resources to higher priority projects.

- 2. According to the California Code of Regulations and the California Health and Safety Code, each county is required to have a county health officer.**

Agree.

There is no consistent interpretation of the Code throughout the state that the Health Officer must be a full-time position and/or be the administrator of the County public health agency. There are presently only three doctors Statewide administering County public health agencies and one will be replaced by an administrator upon retirement.

3. **The Nevada County Health Officer position was vacant for at least two years despite a California Department of Health Services letter (Appendix A) and a California Conference of Local Health Officers letter (Appendix B) stating the requirement for a full-time county health officer.**

Disagree.

The Health Officer position was not vacant. It was always filled using interim contract appointments during an on-going recruitment process for a permanent half-time Health Officer.

The Board of Supervisors can determine that a staff person other than the Health Officer may direct the functions of the County Health Department. In Nevada County and as recognized by the state, the Community Health Department Director oversees the overall management of the Department. The Health Officer oversees Public Health services related to communicable disease control, maternal and child health, medical policies and protocols as well as a range of other specifically defined activities. The Health Officer functions as a consultant to these programs and coordinates issues with the Community Health Department Director. This arrangement is not unusual and is commonplace in many small and medium counties throughout the state.

4. **In the absence of a full-time county officer, the county contracted with a physician to provide four hours per week of health clinic coverage.**

Agree in part.

The locally contracted physician provided a wider range of services than just clinic services. He also updated nursing protocols, consulted with practitioners on difficult cases and saw patients himself. Additionally, he coordinated with the Placer County Health Officer to provide back-up coverage as needed.

5. **The Grand Jury was told by a health official that, during the absence of a full-time county health officer, the professional staff and facilities such as schools were handicapped by lack of medical and professional guidance.**

Disagree with the witness testimony.

The Board has no knowledge of any instance in which a requested medical response was not provided. The locally contracted physician also has a private medical practice and at times was in high demand at both his practice and the Community Health Department. Despite a heavy workload, he was always able to address priority medical issues requiring his attention. The department was also able to utilize key professional nursing staff to address many of the routine and more complex public health questions that arose. Difficult medical questions were

addressed by consultation with the back up Health Officer in Placer County if the contracted Health Officer was not immediately available either in person or by pager.

6. **The Nevada County Board of Supervisors appointed a qualified individual to fill the county health officer position on a part-time (46%) temporary basis effective November 9, 2000.**

Agree.

The contracted Health Officer was appointed on a temporary basis for a maximum of 960 hours.

7. **The current county health officer cannot work more than part-time for Nevada County due to personal obligations.**

Agree.

On May 9, 2001, Dr. Charles Johnson has hired as the permanent Health Officer and is presently budgeted to work 1248 hours annually (.6 FTE). Since his appointment, Dr. Johnson has actually worked closer to 60% time based on financial savings in the first part of the fiscal year.

Dr. Johnson is also reachable by pager and back up coverage is always provided when he is on vacation or otherwise not available. He is also available to work extended hours if needed. This recently occurred during the recent Meningitis outbreak in Truckee when he worked three consecutive 15-hour days.

8. **The Grand Jury learned that key public health positions are unfilled.**

Agree that at the time of the Grand Jury investigation this was the case. Since then, all key management positions have been filled. Current employees will be assigned on a temporary basis to fill future vacancies that may occur pending recruitment of permanent replacements.

9. **The total Nevada County Human Services Agency is \$38 million; of this total, the public health budget is \$3.5 million of which \$61,000 (less than 2%) comes from the county general fund (county taxpayers). The remainder comes to the county from federal and state grants.**

Partially disagree.

The total Human Services Agency Budget for FY 2001-2002 is \$30 million. The actual General Fund contribution is \$1.1 million. The Community Health Department Budget for FY 2001-2002 is \$5.7 million of which \$116,000 represents General Funds. The department also

receives realignment funds from the State, which are considered local funds. Fee revenues generated from clinics operated by the Community Health Department also generate funds.

10. **The Grand Jury learned that money is available through Tobacco and Realignment Funds to employ a full-time county health officer and fill needed public health positions at competitive compensation.**

Disagree.

The Board is unclear as to what specific funds are being referred to by the Grand Jury.

The term "Tobacco Funds" is often interchangeably used to describe three different types of revenue sources. Each type has different uses and restrictions.

Proposition 99 funds were made available by the ballot initiative process in 1989 from a surcharge placed on the sale of cigarettes. The purpose of the funds was to reimburse counties for a portion of the cost of providing public health and medically indigent services. These services included county hospital inpatient care, indigent medical services, physician care, and other related county medical services. Tobacco education services are also an authorized use of these funds. As tobacco use has declined in California, revenues from Proposition 99 surcharges have also continued to decline, resulting in less program funding.

Proposition 10 funds were also made available through the ballot initiative process in 1998. These funds are also provided through a surcharge on tobacco products. The independent Children and Families First Commission primarily administers these funds to promote, support, and improve the early development of children from the prenatal stage to five years of age.

The tobacco lawsuit settlement funds are intended to reimburse states and counties for the expenses incurred for dealing with tobacco related illnesses. The Federal government has not restricted the states and counties in how these funds can be used and California has not added any additional restrictions. These funds are fully discretionary and may be used as approved by the Board.

The Proposition 99 tobacco education funds are all used to provide direct Public Health services to clients. We only receive \$150,500 in funding to offset existing staff. These services could be curtailed to fund a full time Health Officer, but not without reducing funding presently used to offset the cost of a Tobacco coordinator, Health Specialist, a part time Health Technician and appropriate operating expenses. There is also no need at this time to fund a full time Health Officer since the department director and his staff accomplish department administrative duties. If clinics and services are expanded in the future, the Board will consider funding a full time Health Officer at that time.

11. **As classified by the California Government Code, the county health officer is an officer of the county, on a level with the elected positions of sheriff, district attorney, tax collector and assessor, who have full authority over their departments.**

Agree.

As previously indicated however, the State has granted counties wide latitude in the method of administering Public Health services. Counties can choose to hire a Health Officer or a non-medical administrator to oversee County Public Health functions. The present Health Officer has been appointed by the Board to oversee County Public Health programs and a non-medical administrator has been appointed to administer the Community Health Department. This practice has been accepted by the State and is commonly used statewide, especially in small and medium counties with limited resources and fewer demands for service.

12. **Although he is an officer of the county, the current Nevada County Health Officer, a medical doctor with an additional degree in public health, reports to the Director of Community Health, a non-medical administrator who is not an officer of the county.**

Agree. See the response to Finding No. 11

13. **An admission was made to Grand Jury that public health decision might be dependent upon political implications.**

Disagree with the witness testimony.

Public Health decisions are not made for political reasons but on the basis of sound Community Health policies and practices. No examples have been provided to the Board that would support the testimony of the Grand Jury witness.

14. **Under state law, the county health officer holds authority for preventive medicine, substance abuse programs, disease control, food safety, and environmental health and safety to ensure the public health.**

Agree.

At Board direction, oversight of substance abuse programs has been assigned to the Behavioral Health Department and Environmental Health responsibilities to the Community Development Agency.

15. **Under current county organization, may of the above programs have been fragmented and parceled out to other departments. For example, the Environmental Health Department is responsible for food establishment inspections. Currently such inspections**

are scheduled to be carried out once a year. As another example, the Behavioral Health Department carries out mental health medical functions under the supervision of a non-medical administrator.

Agree.

As indicated in the response to Finding No. 14, the Board has discretion to assign operational responsibility for mandated Public Health programs to other departments and agencies. Collaboration and inter-departmental coordination on Environmental Health issues and substance abuse programs is common and the Health Officer has frequently provided medical consultation on Environmental Health and substance abuse issues.

State law allows a non-medical administrator to oversee the management of a Behavioral Health department. The county is presently recruiting for a Medical director to oversee the medical components of Behavioral Health Department programs.

16. **The California Code of Regulations and the California Health and Safety Code specify 10 county duties and responsibilities (Appendix C) and 38 county health officer duties and responsibilities (Appendix D).**

Agree

17. **Title 17, Chapter 3, California Code of Regulations states that the county health officer should devote "full time to official duties and these duties shall constitute his primary responsibility and no other activities shall interfere with performance of his official duties."**

Agree.

The Health Officer under the current organizational structure is able to carry out his responsibilities as specified in the California Health and Safety Code. The Health Officer has a specific set of official duties and is responsibilities and has not been assigned other activities that would interfere with his mandated responsibilities.

RECOMMENDATIONS

1. **The Grand Jury recommends that the county prepare a comprehensive health plan that includes specific duties, responsibilities, goals and activities of the county health officer and the county health department.**

The recommendation has not been implemented but will be partially implemented by the end of Fiscal Year 2001-2002.

As indicated in the response to Finding No.1, The department intends to develop a community health assessment and status report that will be used as part of the department's strategic planning process to identify long range needs and anticipated levels of service. It will be broad in nature and examine the health status of County residents to set priorities and plan for the allocation of resources. This plan will be developed during the next fiscal year and will be complete by June 30, 2002.

The document will not include a detailed work plan for the Health Officer since the duties and responsibilities of the Health Officer are clearly identified in the California Health & Safety Code. A reiteration of these responsibilities would be a duplication of effort, redundant and inflexible as new issues arise.

2. The Grand Jury recommends that the county use available funds to hire a full-time county health officer to establish and direct priorities in public health.

The recommendation will not be implemented at this time.

The Human Services Agency Director has recommended the Health Officer position continue to be funded as a .6FTE during FY 2001-2002 due to higher priorities and limited financial resources. The goal is to eventually employ a full time Health Officer as new programs are developed and clinics are expanded. The Board supports this recommendation.

The Board will monitor the need to increase the number of Community Health services requiring involvement of the Health Officer and continue to seek additional funding and revenue options needed to expand Community Health Department services and programs. A decision regarding an increase in the Health Officer's hours will be made as part of the FY 2002-2003 Budget process.

3. The Grand Jury recommends that the county assure that no administrator or officer is allowed to interfere with the county health officer's public health decisions for any political or other consideration.

The recommendation has been implemented.

The decisions of the Health Officer are not influenced by political or other considerations. They are made based on compliance with specific duties and responsibilities as outlined in the California Health & Safety Code and sound professional judgement.

The Board fully supports this policy and will direct the County Administrator, Human Service Agency Director, and the Director of the Community Health Department to ensure the Health Officer is not influenced by inappropriate considerations. The Board will also continue to support and encourage the Health Officer's direct and unrestricted access to the Board of Supervisors regarding any issue of concern.

B. OTHER RESPONSES REQUIRED:

County Administrative Officer – June 5, 2001
Director, Human Services Agency – June 5, 2001
Director, Community Health – June 5, 2001
County Health Officer – June 5, 2001

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COUNTY OF NEVADA

COUNTY ADMINISTRATOR

Eric Rood Administrative Center

950 Maidu Ave.

Nevada City, CA 95959

(530) 265-7040

Fax 265-7042

E-MAIL: cao@co.nevada.ca.us

June 1, 2001

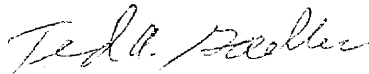
Honorable Judge Kathleen Butz
Nevada County Superior Court
201 Church St.
Nevada City, CA 95959

Dear Honorable Judge Butz:

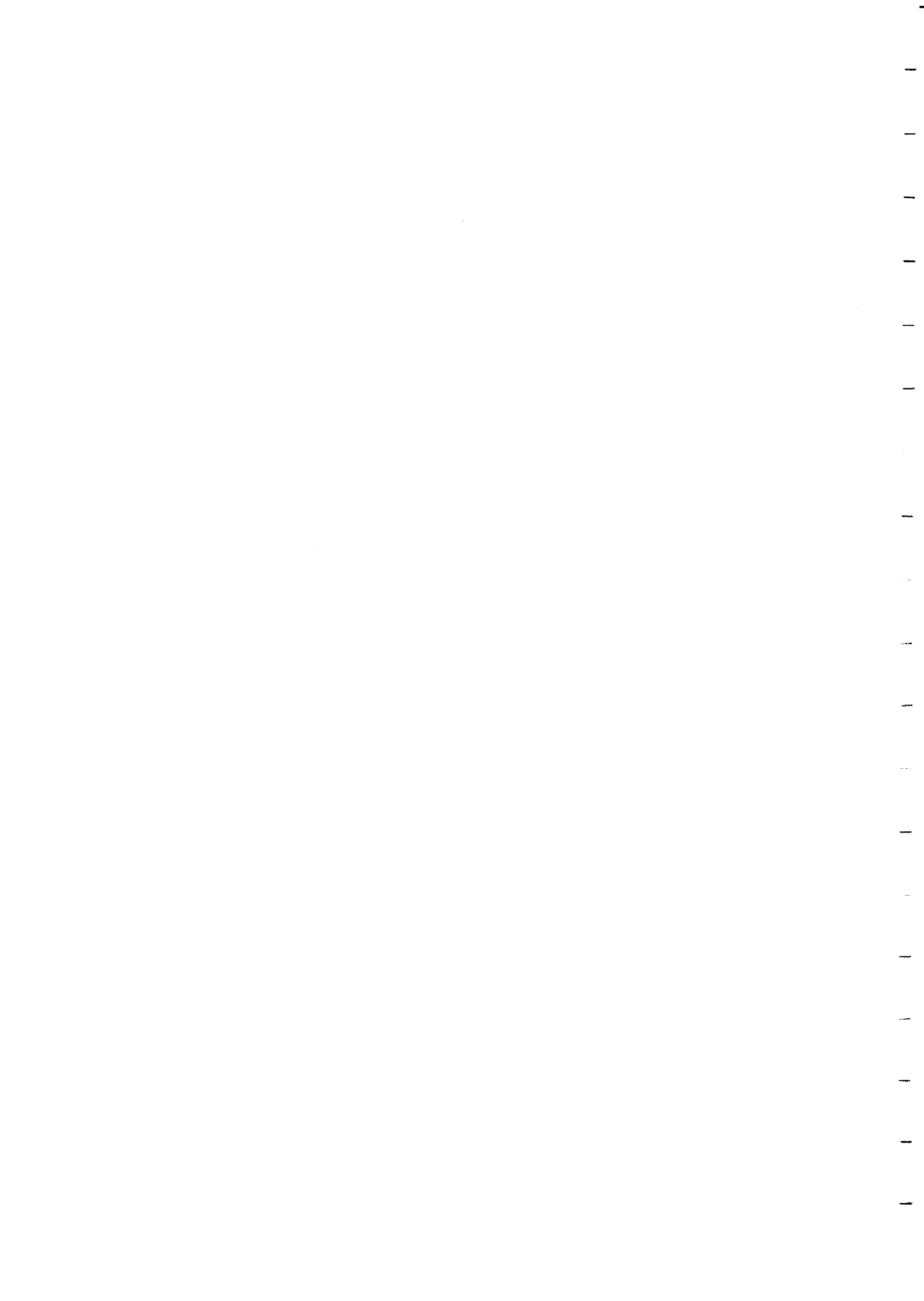
Re: Response to Grand Jury Report - Nevada County Administrator

Attached is the Nevada County Administrator's response to the Nevada County Grand Jury report on the Nevada County Community Health Department. I believe my response to be accurate and appropriately detailed to address the issues raised by the Grand Jury.

Sincerely,



Ted A. Gaebler
County Administrator



Nevada County Administration
Grand Jury Report
Response to Nevada County Health Department Inquiry

1. Nevada County did not have a health plan at the time of the Grand Jury investigation. A health plan has been promised by June 2001.

Response: Partially Disagree

While there was no specific document known as a "Health Plan", the department certainly has established policies, procedures and protocols in place before, during and after the Grand Jury investigation. The department is currently developing a Community Status Report which will serve as a strategic planning document.

2. According to the California Code of Regulations and the California Health and Safety Code, each County is required to have a County Health Officer.

Response: Agree

The Comment is correct.

3. The Nevada County Health Officer position was vacant for at least two years despite a California Department of Health Services letter (Appendix A) and a California Conference of Local Health Officers Letter (Appendix B) stating the requirement for a full time County Health Officer.

Response: Partially Disagree

The position was always filled using interim appointments during recruitment periods. There were several failed recruitments. The Board of Supervisors upgraded the compensation package and a successful recruitment occurred. There is no specific statutory requirement for a full-time Health Officer.

4. In the absence of a full time County Health Officer, the County contracted with a physician to provide four hours per week of health clinic coverage.

Response: Partially Disagree

An Interim Health Officer was hired for 4 hours a week. He was a locally contracted physician. He provided a wider range of services than just clinic coverage including the rewrite of protocols and coordination with the Placer County Health Officer regarding additional coverage for the County.

5. The Grand Jury was told by a health official that during the absence of a full time County Health Officer, the professional staff and facilities such as schools were handicapped by lack of medical and professional guidance.

Response: Disagree

Coverage was coordinated for all services by the department. This office has heard no concerns regarding levels of service from the department or the community.

6. The Nevada County Board of Supervisors appointed a qualified individual to fill the County Health Officer position on a part-time temporary basis effective November 9, 2000.

Response: Agree

The part-time temporary status changed in May 2001 to a .6 FTE position.

7. The current County Health Officer cannot work more than part-time for Nevada County due to personal obligations.

Response: Partially Disagree

The position is less than full-time because administrative duties are fulfilled by other staff. All medical duties are handled by the .6 FTE Health Officer.

8. The Grand Jury learned that key Community Health positions are unfilled.

Response: Disagree

While there are always periods of transition, currently all key management positions are filled.

9. The total Nevada County Human Services Agency Budget is \$38 million; of this total, the Community Health budget is \$3.5 million of which \$61,000 (less than 2%) comes from the County General Fund (County Taxpayers). The remainder comes from Federal and State grants.

Response: Partially Disagree

The total Nevada County Human Services budget for FY 01/02 is \$30 million. The actual County General Fund contribution is \$1.1 million. The Community Health FY 01/02 budget is \$5.7 million of which \$116,000 represents County General Funds. The department also receives realignment funds from the State which are considered local funds and there are also fee revenues locally generated from clinics operated by the department.

10. The Grand Jury learned that money is available through Tobacco and Realignment Funds to employ a full-time County Health Officer and fill needed Community Health positions at competitive compensation.

Response: Disagree

The funds identified above are used for direct service to clients. Services could be curtailed to fund a full-time Health Officer, but since administrative duties are handled by the Director and his staff there is no need at this time for a full-time Health Officer. Should clinics be expanded, the department will consider funding a full-time Health Officer at that time.

11. As classified by the California Government Code, the County Health Officer is an officer of the County, on a level with elected positions of Sheriff, District Attorney, Tax Collector and Assessor, which have full authority over their departments.

Response: Disagree

The Board of Supervisors has the discretion to allow and authorize a different organizational structure. This practice is common statewide particularly with counties of our size.

12. Although he is an officer of the County, the current Nevada County Health Officer, a medical doctor with an additional degree in Community Health, reports to the Director of Community Health, a non-medical administrator who is not an officer of the County.

Response: Agree

The Board of Supervisors has the discretion to allow and authorize a different organizational structure. The Health Officer oversees the medical aspects of the department. The Community Health Director has extensive experience administering Community Health Programs.

13. An admission was made to the Grand Jury that Community Health decisions might be dependent on upon political decisions.

Response: Disagree

If such a comment was made, it was made in error. Politics must never be confused with policy. Community Health decisions should be made on the basis of sound Community Health policies and practices.

14. Under State law, the County Health Officer holds authority for preventive medicine, substance abuse programs, disease control, food safety, and environmental health and safety to ensure the Community Health.

Response: Agree

To accomplish this, the Health Officer collaborates with other County departments such as Behavioral Health and Environmental Health.

15. Under current County organization, many of the above programs have been fragmented and parceled out to other departments. For example, the Environmental Health Department is responsible for food establishment inspections. Currently such inspections are carried out once a year. As another example, the Behavioral Health Department carries out mental health medical functions under the supervision of a non-medical administrator.

Response: Disagree

The programs are fragmented and have not been parceled out, but rather they have been assigned to the appropriate departments. These assignments are commonplace statewide.

Behavioral Health has always contracted psychiatric services, but the Board just authorized a full-time Medical Director for that department and that recruitment is underway.

16. The California Code of Regulations and the California Health and Safety Code specify 10 County duties and responsibilities (Appendix C) and 38 County Health Officer duties and responsibilities (Appendix D).

Response: Agree

There is a broad description of duties in the State law.

17. Title 17, Chapter 3, California Code of Regulations states that the County Health Officer should devote "full time to official duties and these duties shall constitute his primary responsibility and no other activities shall interfere with performance of his official duties".

Response: Agree

The issue of how this County and others in the State handle this matter has been previously addressed.

Recommendations

1. The Grand Jury recommends that the County prepare a comprehensive health plan that includes specific duties, responsibilities, goals, and activities of the County Health Officer and the County Health Department.

Recommendation will be implemented in the 2001/2002. A Community Status Report to be completed this year will fulfill this recommendation.

2. The Grand Jury recommends that the County use available funds to hire a full time County Health Officer to establish and direct priorities in Community Health.

Recommendation will not be implemented at this time. Fiscal realities preclude doing this at this time. Should clinic services be expanded this recommendation will be given serious consideration.

3. The Grand Jury recommends that the County assure that no Administrator or Officer is allowed to interfere with the County Health Officer's Community Health decisions for any political or other consideration.

Recommendation has always been implemented. The County depends on the Health Officer's expertise.

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COUNTY OF NEVADA HUMAN SERVICES AGENCY

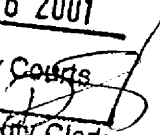
Phyllis L. Murdock
Agency Director

Director:
Art Davis
Veterans Services
Robert Erickson, LCSW, M.P.A.
Behavioral Health Services
Jess Montoya
Community Health Services
Philip S Reinheimer
Adult & Family Services

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May 17, 2001

The Honorable Carl Bryan II
Nevada County Superior Court
201 Church St.
Nevada City, Ca 95959

FILED
JUN - 6 2001
Nevada County Courts
By 
Deputy Clerk

Honorable Judge Bryan:

Attached is the required response from the Human Services Agency Director to the Grand Jury regarding the Public Health Protection report published by the 2000-2001 Grand Jury.

Finding #

1. Agree with the finding, however there is no requirement that a County have a health "plan". Counties have obligations to follow the guidelines established for the programs they deliver, and because we by nature do future planning, we are developing a more formal plan, but this is not a requirement that has gone unmet in Nevada County.
2. Agree with the finding. Nevada County has in the past and currently has a Health Officer.
3. Disagree with the finding. The position was not vacant, Nevada County did have a contract Health officer. A permanent position was recruited for repeatedly and we did have difficulty filling the position due to salary considerations. The implementation of the class and compensation study has resolved this problem. It is not accurate however to state that the position was vacant. Regarding the Department of Health Services letter and the CCLHO letter, the County Board of Supervisors has the right to determine that a staff person other than the Health Officer may direct the functions of the county health department. HSC Div. 5 Ch. 1 section 33202.
4. Agree with the finding.

5. Disagree partially with the finding. The physician who contracted to be the Health Officer also has a private practice. At times he was in high demand in both locations but he always was able to address the issues needing his attention, if not in person, he was available by pager and was responsive to requests. We know of no instances in which a proper medical response was not provided.

6. Agree with the finding. Since that time the health officer has become a permanent 60% employee.

7. Agree with the finding.

8. Disagree with the finding. The Health Department has been at full staffing for many months. Any vacancies due to attrition are filled with current employees in acting roles pending the recruitment process for replacement.

9. Agree with the finding.

10. Agree partially with the finding. There are monies in both of the referenced accounts, however, these funds are the sole operating dollars outside of grants for the department. In the past years, these monies have been shrinking due to rising costs of personnel, infrastructure needs and impacts from other agency departments. It is at the discretion of the Board of Supervisors, County Administrator and Human Services Agency Director to recommend a prudent spending plan of available dollars. The budget reflects current recommendations and can be amended at any time the need to do so arises.

11. Disagree. The County Health officer is appointed by the Board of Supervisors.

12. Agree with the finding.

13. Disagree with the finding. Some who disagree with a decision may perceive this to be true, but decisions about the public's health and safety and our requirements for protecting the same are clear in statute and in core public health functions.

14. Agree with the finding.

15. Disagree with the finding. While the law may specify that the health officer has authority over the programs noted in item 14, it must be noted that this law was written when the size and populations of most of the State of California were much smaller and less complex. In addition, many of the areas noted are now specialty fields in their own right, requiring specialized training and experience. Environmental Health which includes food safety is one such area and so is the substance abuse field. In Nevada County the Health Officer works closely with environmental health as evidenced by the many times you see the health officer working on a food borne illness issue or on a water quality issue.

The Behavioral Health department is operating within existing state law allowing a non-medical administrator(who has more than 25 years experience in all facets of Mental Health and substance abuse programs), and has an open recruitment for a medical director in addition to having 7 part-time psychiatrists on staff.

16. Agree with the finding.

17. Agree with the finding. Again we could discuss the reasons for language in an old piece of legislation, but I feel the intent is clear. The health officer has a specific set of duties and responsibilities and is charged with carrying them out and nothing should interfere with carrying them out. In Nevada County the health officer does carry out his official duties and collaborates with many other departments and agencies in delivering the services that make up the Community Health department.

Conclusions

1. Disagree with the conclusion. The health officer works across county departments to fulfill his official duties and will continue to do so. As stated previously, there is no requirement for a health plan, the grand jury may be referencing a code section requiring annual reports in the environmental health division scope of responsibilities but other than that, there is no requirement for a county health plan. Despite that, a health status report detailing our goals for improving the health of the community is and has been an agenda for the department. This report will be completed during the current fiscal year.

2. Strongly Disagree. Appendix C Items 1-10 are being handled by either the Community Health department or the Environmental Health department. Occupational health is a specialty field which is contracted out by the county. These obligations are being met in this county. Regulations specific to environmental health issues are enforced by the Environmental Health Department and the health officer is involved when any irregularity or food borne illness issue arises. Routine notification of items of interest to each department already occur and will continue to occur in the future.

3. Disagree. The issue of whether leadership is best provided by a full-time health officer or by a team of health professionals which include a health officer is an individual county policy decision. The majority of counties in California have a system of administration similar to ours with a health officer as a part of a team, not the director of the department. I continue to believe that we are best serving the needs of the public and of our staff by using the current configuration of staffing.

4. Neither agree nor disagree. The information received by the Grand Jury regarding this question is not known to me so I cannot comment on whether it is true or untrue. However as earlier stated, when it comes to the health of the public, political implications are not deciding factors in decision making. There is a significant list of

required responsibilities which the health officer is well versed in and attends to as his primary responsibilities.

5. Disagree. The health officer can and does carry out his full range of duties.

Recommendations

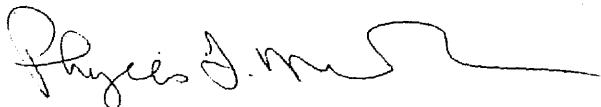
1. As stated earlier, the county is in the process of developing a Health Status document, which is a work plan of our status in public health areas relating to core public health functions. The county health officer's specific job duties are outlined in the personnel code, the job description and in the state regulations. The department is well versed in those responsibilities and in our ability to relay those to the public or anyone who wishes to understand more about the health officers duties or those of the department.

2. The decision to staff all departments at a certain level rests with the Board of Supervisors. Currently I would recommend, in light of our financial situation and in light of the kinds of services we deliver, that the current staffing pattern stay as it is.

If in the future, we revamp the Community Health department, and are able to secure additional funding to cover costs and increase the number of services which require the Health Officers involvement, I would certainly recommend a full-time position.

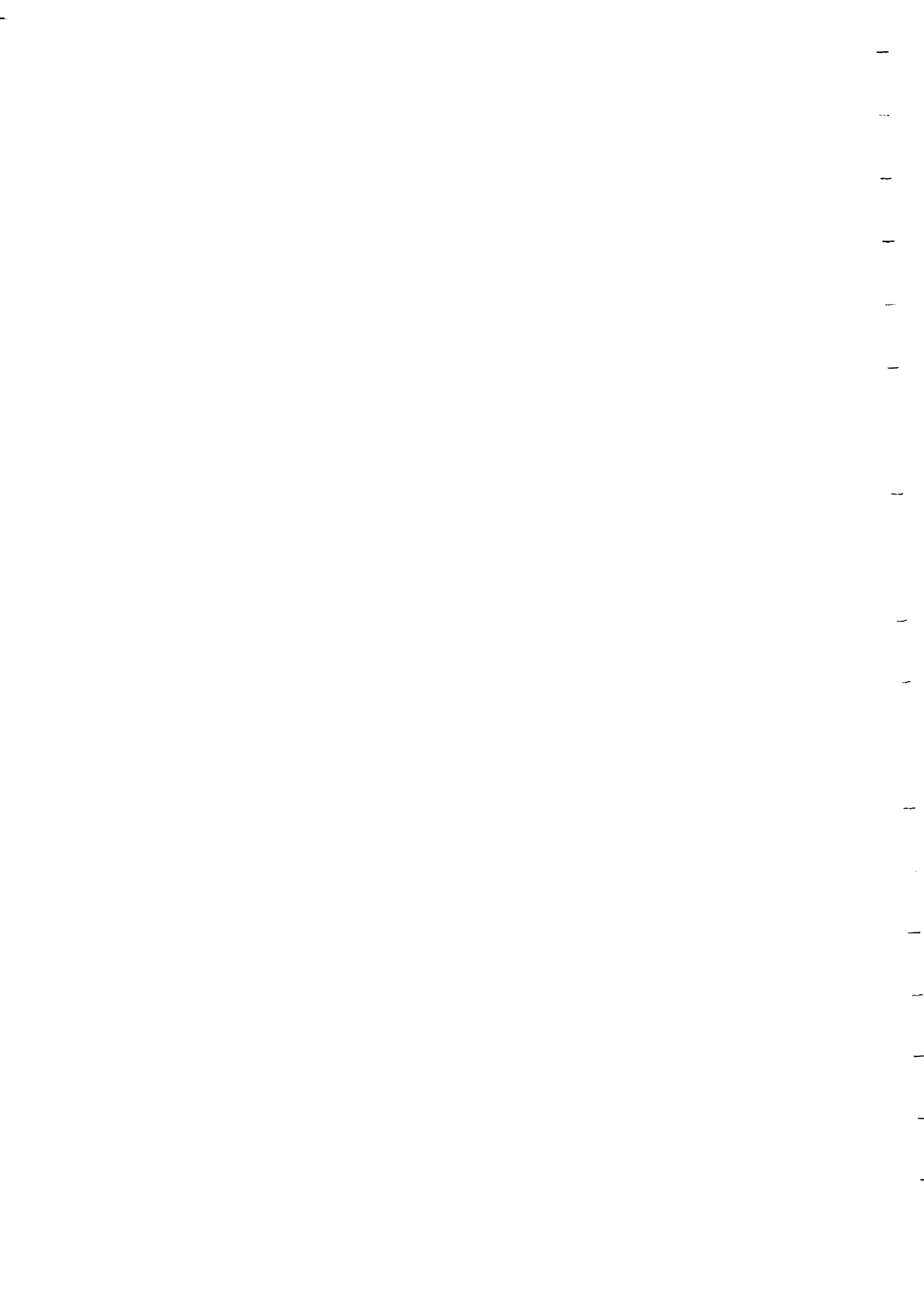
3. Decisions regarding the scope of responsibilities of the health officer are made by the Health Officer and I do not believe that he is impeded from his work by an administrator or officer. I will assure that this practice continues in the future.

Sincerely,



Phyllis L. Murdock
Director

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COUNTY OF NEVADA

HEALTH DEPARTMENT

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10075 Levon Ave., Ste.207
Truckee, CA 96161
(530) 582-7814

May 22, 2001

Honorable Carl F. Bryan, II
Nevada County Superior Court Judge
201 Church Street
Nevada City, CA 95959

Dear Honorable Judge Bryan:

The California Penal Code requires that responses to Grand Jury issues raised on the subject of Public Health Protection in Nevada County be addressed to you. The report dated April 4, 2001 identifies seventeen findings and three recommendations. Each item is responded to in numerical order. For the purpose of continuity I have restated each finding or recommendation and responded subsequently.

FINDINGS:

1. Nevada County did not have a health plan at the time of the Grand Jury investigation. A health plan has been promised by June 2001.

Agree: As the new Community Health Director I started my tenure with the County on May 5, 2000. On my start date we had a temporary Nursing Director, a vacant half time Health Officer position and a full time Health Education Manager/Tobacco Coordinator incumbent. Soon after my arrival the Health Education Manager left for another opportunity in another County. Over the course of the first 6 months I was in a recruitment mode and appointed the temporary Nursing Director into the permanent position, hired a new half time Health Officer and a Health Education Manager. Let me suffice it to say that our department was in a state of transition.

When I met with the Grand Jury, I stated that I would hire a half time Health Officer on a permanent basis. I also shared with the Grand Jury that one of my goals was to develop a Community Status Report by the end of the fiscal year. The Community Status Report is more than a Health Plan. This report is a report card of the Health Status of County residents and how they compare to state and nation. In addition, it is a strategic planning document on pursuing and expanding services based on need.

The Community Status Report has not and will not be completed by June 2001. It has not been completed based on the reasons outlined above as well as a multitude of other reasons which came up this year such as the preparation of the annual budget, and chairing the Community of Interest - Internal Service Committee. I have budgeted funds in the next fiscal year to complete this project and am now fully staffed to achieve this goal.

2. According to the California Code of Regulations and the California Health and Safety Code, each county is required to have a County Health Officer.

Agree: The requirement is outlined in the codes cited above. However, the requirement for a full time Health Officer has been interpreted differently in many jurisdictions. Historically, when the codes were developed, medical doctors administered public health agencies. Over the past twenty years there has been an evolution away from medical doctors being the administrator. In fact, there are only three directors in the state who are medical doctors and the county in one of those jurisdictions will hire an administrator when the medical doctor retires.

3. The Nevada County Health Officer position was vacant for at least two years despite a California Department of Health Services letter (Appendix A) and a California Conference of Local Health Officers Letter (Appendix B) stating the requirement for a full time county health officer.

Disagree: The requirement for a full time Health Officer position is a goal rather than a requirement. When the law was originally developed the intent was that all jurisdictions would have a full time position. Since California is so diverse throughout the 58 counties and many of these jurisdictions have half time positions or less due to size of the county, this requirement is not enforced. In counties over 300,000 in population it make sense to have a full time position because they are administering primary care clinics, providing medical services in detention facilities, overseeing environmental health functions and may have a county hospital. In a jurisdiction like Alpine which has less than 3,000 resident this requirement would be unduly burdensome. The reality is that the County Boards of Supervisors have been given latitude concerning this requirement.

In Nevada County the Board of Supervisors decided to appoint a lay administrator to oversee the overall management of the Public Health Department. We recognize the need of the Health Officer to oversee services related to communicable disease control, maternal and child health, medical policies and protocols as well as the others activities cited in Appendix B. The Health Officer functions as the consultant to these program and coordinates issues with the Community Health Director.

As for the two-year period vacancy period, the County went through several failed recruitment efforts to hire a permanent half time Health Officer. As a result of these efforts they upgraded the compensation package and a Health Officer was eventually hired.

4. In the absence of a full time county health officer, the county contracted with a physician to provide four hours per week of health clinic coverage.

Agree: The county made efforts to hire a half time Health Officer as stated above. However, during the interim period we did contract with a local physician to work at least 4 hours per week. The local physician not only provided clinic coverage, updated nursing protocols, staffed with practitioners on difficult cases or saw difficult cases himself, he coordinated with the Health Officer from Placer to provide backup coverage when he was not on his pager or on vacation.

5. The Grand Jury was told by a health official that during the absence of a full time county health officer, the professional staff and facilities such as schools were handicapped by lack of medical and professional guidance.

Disagree: In terms of medical and professional guidance, the department has historically had key nursing staff who could field many of the routine and more complex questions which arose in the community relative to communicable disease and immunizations. Questions, which were not easily addressed, were either held until the part time Health Officer returned or our back up Health Officer was consulted depending on the severity of the issue.

Currently, our 60% Health Officer is reachable by pager when he is not available in the office. When is on vacation or leave he makes arrangements for back up coverage with other Health Officers in other counties to field complex medical questions.

6. The Nevada County Board of Supervisors appointed a qualified individual to fill the county health officer position on a part-time temporary basis effective November 9, 2000.

Agree: The temporary Health Officer was appointed on a temporary basis or 960 hours due to personal obligations. On May 9th, Dr. Charles Johnson was hired into a permanent position and is budgeted to work .6FTE (1248 hours annually).

7. The current county health officer cannot work more than part-time for Nevada County due to personal obligations.

Agree: On November 9, 2000, when we hired Dr Johnson that was in fact the case. Since that time as stated above in number 6 he has been hired into a .6FTE permanent position. The reality was that Dr Johnson actually worked more than the original 46% budgeted. His actual hours were closer to 60% time based on savings in the first part of the year.

8. The Grand Jury learned that key public health positions are unfilled.

Agree: In item 1, this issue was addressed. At the time of the interview with the Grand Jury this was in fact the case. However, all key management positions have since been filled.

9. The total Nevada County Human Services Agency Budget is \$38 million; of this total, the public health budget is \$3.5 million of which \$61,000 (less that 2%) comes from the county general fund (county taxpayers). The remainder comes from federal and state grants.

Disagree: The actual county contribution is \$62,000, which we receive from the county in county general fund. In addition to the state and federal grants we also receive Realignment funding. This funding is a combination of Sales Taxes and Vehicle license fees which is distributed statewide to the 58 counties. We also generate revenues through our clinics based on Medi-Cal, CMSP and third party payer sources.

10. The Grand Jury learned that money is available through Tobacco and Realignment Funds to employ a full-time county health officer and fill needed public health positions at competitive compensation.

Disagree: The Tobacco funds are categorical in nature. Staff and operating expenses must be included in a Scope of Work, which is approved by the State. The Health Officer position was not included in this budget. Also, the State has reduced funding for this program in FY 2001/2002. We are scheduled to receive only 150k for next year. These funds will be used to offset the cost of a Tobacco Coordinator, Health Specialist, a part time Health Technician and appropriate operating expenses. This is no flexibility in this budget to offset the Health Officer's position.

Regarding Realignment funding, these funds have been used to offset the cost of the Salary Compensation Study, which was implemented over the last two years and will offset the upcoming fiscal year. Many of the positions have received salary upgrades in Community Health and made the public health positions more competitive to recruit. In fact our Public Health Nurses class series was upgraded twice in the same year because of our difficulty to recruit. The Board has been very supportive in assisting us in upgrading salaries for difficult to recruit positions.

The annual cost of offsetting the salary compensation study for Community Health equates to \$294,294 dollars. In addition, the department has had to absorb additional costs for doing business. Specifically, the department had to absorb another \$254,776 in operating expenses which the department had no control over. Also, with the January 10th incident, Community Health has had to transfer funds to the Behavioral Health department to offset their costs, and which were not anticipated. These expenses have impacted our flexibility to increase the Health Officer time.

The department is currently considering options on expanding clinics so that on a long-term basis we could offset a full time Health Officer position. We are several years from that goal.

11. As classified by the California Government Code, the county health officer is an officer of the county, on a level with elected positions of sheriff, district attorney, tax collector and assessor, which have full authority over their departments.

Agree: Under item 3 this issue was addressed. While there are regulations according to the California Code of Regulations and the California Health and Safety code, the reality is that these codes are antiquated and outdated. Examples were provided in item 3. As previously stated, the Board of Supervisors has had the discretion statewide to hire a Health Officer or a non-medical administrator to oversee the administration of their public health departments. Statewide very few counties have Health Officers overseeing the administration of their public health departments and many of those entities has less than full time Health Officer working. This is especially true in small and medium sized counties.

12. Although he is an officer of the county, the current Nevada County Health Officer, a medical doctor with an additional degree in public health, reports to the Director of Community Health, a non-medical administrator who is not an officer of the county.

Disagree: As stated in items 3 and 11, the Board of Supervisors has the discretion to hire a non-medical administrator to oversee the administration of the Community Health Department. They have chosen to hire a Health Officer to oversee the medical responsibilities of the department under the direction of the Community Health Director. The Board has the discretion to exercise this option.

Also, the current Community Health Director has over 17 years of experience of overseeing health-related programs.

13. An admission was made to the Grand Jury that public health decisions might be dependent upon political decisions.

Disagree: Public health decisions are not made based on political decisions. Decisions are made based on sound public health practices.

14. Under state law, the county health officer holds authority for preventive medicine, substance abuse programs, disease control, food safety, and environmental health and safety to ensure the public health.

Agree: This statement is essentially correct. Again, based on Board discretion they have opted to assign the oversight of substance abuse to the Behavioral Health Department and environmental health responsibilities to the Community Development Agency. Statewide there are a number of configurations in how these responsibilities can be organized structurally. The board has opted for the current configuration.

15. Under current county organization, many of the above programs have been fragmented and parceled out to other departments. For example, the Environmental Health Department is responsible for food establishment inspections. Currently such inspections are carried out once a year. As another example, the Behavioral Health Department carries out mental health medical functions under the supervision of a non-medical administrator.

Agree: As stated in item 14, the board has discretion to organize departments to the unique needs of county residents. It should be noted that there is a great deal of collaboration, which occurs between the Community Health Department, Environmental Health Department and Behavioral Health Departments. There are situations which have arisen where a project team for the three departments responded to an issue and make joint recommendations to mitigate the issue. There is also collaboration, which occurs when the Health Officer provides medical consultation on Environmental Health and Behavioral Health issues.

In term of the issue of who administers the Behavioral Health department, state law under Title 9, under section 620, © and (f) allows for a non-medical administrator to oversee the management of a Behavioral Health Department. The Behavioral Health Director is currently recruiting for a Medical Director to oversee the medical components. However, he has a temporary doctor to oversee this function.

16. The California Code of Regulations and the California Health and Safety Code specify 10 county duties and responsibilities (Appendix C) and 38 county health officer duties and responsibilities (Appendix D).

Agree: The duties, which are addressed in California Code of Regulation and California Health and Safety Code, are broad in nature. They were designed in such a manner as to geographically/demographically cover 58 counties. Broadly speaking these are goals, which each county strives to meet in their own individual manner. To some degree these issues have been addressed in items 10,11,14 and 15.

17. Title 17, Chapter 3, California Code of Regulations states that the county health officer should devote "full time to official duties and these duties shall constitute his primary responsibility and no other activities shall interfere with performance of his official duties".

Agree: The issue of full time has been extensively addressed in the various findings of this report. The Health Officer under the current organizational structure has the ability to carry his responsibilities under the California Code of Regulations and Health and Safety Code. Activities, which are not addressed under our current configuration such as Detention facilities and Environmental Health, continue to include Health Officer's input and consultation. There is no reason for management to interfere with performance of his official duties because of the benefit to the community.

RECOMMENDATIONS:

1. The Grand Jury recommends that the county prepare a comprehensive health plan that includes specific duties, responsibilities, goals, and activities of the county health officer and the county health department.

Agree: As stated in Finding #1, the goal of the Community Health Director and County Health Officer is to complete a Community Status report in 2001/02. The report will be broad in nature and will look at the health status of our residents. The document will also be used as a strategic planning document for short, medium and long range planning in pursuing new health programs.

This document will not be a detailed work plan of the Health Officer since the broad parameters and work activities are governed under California Code of Regulation and Health and Safety Code. Any document developed would be a duplication of effort, redundant and not flexible to issues as they arise.

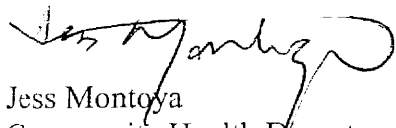
2. The Grand Jury recommends that the county use available funds to hire a full time county health officer to establish and direct priorities in public health.

Disagree: The funding issues have been addressed in Findings number 3, and 9. There is currently not the flexibility to hire the Health Officer on a full time basis based on fiscal constraints. However, our goal is to eventually employ a full time Health Officer. As we continue to expand and develop new programs and revenue options, we will increase the Health Officer's time from .6FTE to what ever is sustainable on a long-term basis. We do not want to increase the FTE at this point at the expense of other public health programs.

3. The Grand Jury recommends that the county assure that no administrator or officer is allowed to interfere with the county health officer's public health decisions for any political or other consideration.

Disagree: The Board has defined the reporting responsibilities organizationally between the Health Officer, the Community Health Director and the Human Services Agency Director. The Community Health Director relies on the medical expertise of the Health Officer in making good, sound public health decisions. As stated previously in Finding #13, political decisions are not a factor in making good public health decisions. There is an excellent working relationship and a great deal of collaboration and consultation between the Community Health Director and the Health Officer as well other departments that effect the public health activities of county residents.

Sincerely,



Jess Montoya
Community Health Department Director

JM/dw

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COUNTY OF NEVADA

HEALTH DEPARTMENT

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May 29, 2001

Honorable Carl F. Bryan, II
Nevada County Superior Court Judge
201 Church Street
Nevada City, CA 95959

Dear Judge Bryan:

The California Penal Code requires that responses to Grand Jury issues raised on the subject of Public Health Protection in Nevada County be addressed to you. The report dated April 4, 2001, identifies seventeen findings and three recommendations. Each item is responded to in numerical order. For the purpose of continuity I have restated each finding or recommendation and responded subsequently.

FINDINGS:

1. Nevada County did not have a health plan at the time of the Grand Jury investigation. A health plan has been promised by June 2001.

Partially disagree. There is no health plan for Nevada County. It is my understanding that a community health assessment has been promised by June of 2001. Given our past staffing levels and our workload, I do not think the health assessment will be done by June of 2001.

2. According to the California Code of Regulations and the California Health and Safety Code, each county is required to have a County Health Officer.

Agree

3. The Nevada County Health Officer position was vacant for at least two years despite a California Department of Health Services letter (Appendix A) and a California Conference of Local Health Officers Letter (Appendix B) stating the requirement for a full time county health officer.

Agree. In Nevada County the Board of Supervisors decided to appoint a lay administrator to oversee the overall management of the Public Health Department. However, we recognize the need of the Health Officer to oversee services related to communicable disease control, maternal and child health as well as the others activities cited in Appendix B. The Health Officer functions as the consultant to these programs and coordinates issues with the Community Health Director.

It is not unusual in this time of shrinking budgets and expanding demands for State and Federal governments to mandate things to the counties and yet not provide for funding for the programs. Many if not most of the health officers in California do not meet the exact letter of the law. The State has allowed this, because it is not capable of enforcing the law. Thus it falls to the boards of supervisors to do more with less. Many of the boards of supervisors have adopted structures similar to Nevada County's.

As for the two period of vacancy, the County went through several failed recruitment efforts to hire a permanent half time Health Officer. As a result of these efforts they upgraded the compensation package and a Health Officer was eventually hired.

4. In the absence of a full time county health officer, the county contracted with a physician to provide four hours per week of health clinic coverage.

Agree. The county made efforts to hire a half-time Health Officer as stated above. However, during the interim period the Health Department did contract with a local physician to work at least 4 hours per week. The local physician provided clinic coverage, updated nursing protocols, consulted with practitioners on difficult cases or saw difficult cases himself. In addition, the local physician coordinated with the Health Officer from Placer County to provide backup coverage when he was not on his pager or on vacation.

5. The Grand Jury was told by a health official that during the absence of a full time county health officer, the professional staff and facilities such as schools were handicapped by lack of medical and professional guidance.

I am not able to agree or disagree with what was told to the Grand Jury, I have no knowledge thereof.

A competent and complete nursing staff with help form the State and other local Health Officers should be able to handle most situations.

6. The Nevada County Board of Supervisors appointed a qualified individual to fill the county health officer position on a part-time temporary basis effective November 9, 2000.

I started to work for Nevada County on the 1st of November of 2000. It really never occurred to me to ask when I was formally appointed. I was appointed on a temporary basis of 960 hours per year due to personal obligations. On May 9th, 2001 I was hired into a permanent position and which is budgeted to work .6FTE (1248 hours annually).

Currently, I am working 60% and I am reachable by pager when I am not available in the office. When I am on vacation or leave I make arrangement for back up coverage with other Health Officers in other counties to field medical questions.

When the need arose, as in the Truckee Meningitis outbreak, I was able to put in 3 15 hour days consecutively.

7. The current county health officer cannot work more than part-time for Nevada County due to personal obligations.

On November 1, 2000, when I was hired that was in fact the case. Since that time I have been hired into a .6FTE permanent position. I actually worked more than the original 46% budgeted because there was approximately 1200 workable hours remaining in the fiscal year (November through June). Therefore, my actual hours were closer to 60% time. If the need arose I could probably increase my time now to .9 FTE and by the end of the year to 1.0 FTE but neither the Director nor myself feel this is needed.

8. The Grand Jury learned that key public health positions are unfilled.

Disagree. All key management positions have been filled.

9. The total Nevada County Human Services Agency Budget is \$38 million; of this total, the public health budget is \$3.5 million of which \$61,000 (less than 2%) comes from the county general fund (county taxpayers). The remainder comes from federal and state grants.

Agree. The actual county contribution is \$62,000, which we receive from the county in county general fund. In addition to the state and federal grants we also receive Realignment funding. This funding is a combination of Sales Taxes and Vehicle license fees which is distributed statewide to the 58 counties. We also generate revenues through our clinics based on Medi-Cal, CMSP and third party payer sources.

10. The Grand Jury learned that money is available through Tobacco and Realignment Funds to employ a full-time county health officer and fill needed public health positions at competitive compensation.

Disagree. There are no pots of money out there that are capable of being used to finance the Health Officer position without impacting other needed programs. Regarding Realignment funding, these funds have been used to offset the cost of the Salary Compensation Study, which was implement over the last two years and will offset the upcoming fiscal year. Many of the positions have received salary upgrades in Community Health and made the public heath positions more competitive to recruit. In fact our Public Health Nurses class series was upgraded twice in the same year because of our difficulty to recruit. The Board has been very supportive in assisting us in upgrading salaries for difficult to recruit positions.

The annual cost of offsetting the salary compensation study for Community Health equates to \$294,294 dollars. In addition, the department has had to absorb additional costs for doing business. Specifically, the department had to absorb another \$254,776 in operating expenses which the department had no control over. Also, with the January 10th incident, Community Health has had to transfer funds to the Behavioral Health department to offset their costs, and which were not anticipated. These expenses have resulted in having little flexibility to increase the Health Officer time above the .6FTE, which was recently approved by the Board.

The department is currently considering options on expanding clinics so that on a long-term basis we could offset a full time Health Officer position. We are several years from that goal. I do not feel the need for this goal and I am not really interested in full time work at the moment.

11. As classified by the California Government Code, the county health officer is an officer of the county, on a level with elected positions of sheriff, district attorney, tax collector and assessor, which have full authority over their departments.

Disagree. I am appointed by the Board, and serve at the pleasure of the Board. As stated above the Board has decided to utilize a different organizational structure.

12. Although he is an officer of the County, the current Nevada County Health Officer, a medical doctor with an additional degree in public health, reports to the Director of Community Health, a non-medical administrator who is not an officer of the county.

Agree. I am not as good an administrator as Mr. Montoya and I do not feel that this structure with Mr. Montoya in charge, in any way hinders my job as Health Officer. Also, the current Community Health Director has over 17 years of experience of overseeing health-related programs.

13. An admission was made to the Grand Jury that public health decisions might be dependent on upon political decisions.

Agree. The Health and Safety Code 101025 states "The Board of Supervisors of each county shall take measures as may be necessary to preserve and protect the public health in the unincorporated territory of the county." The Health Officer is responsible for advising the board in matters of public health but the board has ultimate authority.

On a day to day basis the Board of Supervisors do not get involved in the running of the Community Health Department. Even on major issues, I have taken appropriate public health action and advised the Board on what I was doing, but in fact the Board is the ultimate authority.

14. Under state law, the county health officer holds authority for preventive medicine, substance abuse programs, disease control, food safety, and environmental health and safety to ensure the public health.

Disagree. As in 13, the board holds ultimate authority. I am their designee. Again, based on Board discretion they have opted to assign the oversight of substance abuse to the Behavioral Health Department and environmental health responsibilities to the Community Development Agency. Statewide there are a number of configurations in how these responsibilities can be organizationally structured. The board has opted for the current configuration.

15. Under current county organization, many of the above programs have been fragmented and parceled out to other departments. For example, the Environmental Health Department is responsible for food establishment inspections. Currently such inspections are carried out once a year. As another example, the Behavioral Health Department carries out mental health medical functions under the supervision of a non-medical administrator.

Agree. As stated in item 14, the board has discretion to organize departments to the unique needs of county residents. It should be noted that there is a great deal of collaboration, which occurs between the Community Health Department, Environmental Health Department and Behavioral Health Departments.

There are situations which have arisen where a project team for the three departments responded to an issue and make joint recommendations to mitigate the issue. There is also collaboration, which occurs when the Health Officer provides medical consultation on Environmental Health and Behavioral Health issues.

16. The California Code of Regulations and the California Health and Safety Code specify 10 county duties and responsibilities (Appendix C) and 38 county health officer duties and responsibilities (Appendix D).

Agreed

17. Title 17, Chapter 3, California Code of Regulations states that the county health officer should devote "full time to official duties and these duties shall constitute his primary responsibility and no other activities shall interfere with performance of his official duties".

Agree. The issue of full time has been extensively addressed in the various findings of this report. The Health Officer under the current organizational structure has the ability to carry his responsibilities under the California Code of Regulations and Health and Safety Code. Activities, which are not addressed under our current configuration such as Detention facilities and Environmental Health, continue to include Health Officer's input and consultation. There is no reason for management to interfere with performance of his official duties because of the benefit to the community.

Recommendations

1. The Grand Jury recommends that the county prepare a comprehensive health plan that includes specific duties, responsibilities, goals, and activities of the county health officer and the county health department.

As stated in Finding #1, the goal of the Community Health Director and County Health Officer is to complete a Community Status report in 2001/02. The report will be broad in nature and will look at the health status of our residents. The document will also be used as a strategic planning document for short, medium and long range planning in pursuing new health programs.

This document will not be a detailed work plan of the Health Officer since the broad parameters and work activities are governed under California Code of Regulation and Health and Safety Code. Any document developed would be a duplication of effort, redundant and not flexible to issues as they arise.

2. The Grand Jury recommends that the county use available funds to hire a full time county health officer to establish and direct priorities in public health.

For fiscal reasons we do not want to increase the Health Officer's time at present. We do not want to increase the FTE at this point at the expense of other public health programs. For personal reasons I do not want to increase my time now. From the department's view point I think we need time for our new management group to gel, before increasing my time would be more beneficial than what exists at present.

3. The Grand Jury recommends that the county assure that no administrator or officer is allowed to interfere with the county health officer's public health decisions for any political or other consideration.

My decisions are not influenced by political or other considerations, but the Board of Supervisors is ultimately responsible. I think the present organization gives me more time to focus on public health, as I do not need to go to the Board for routine matters. If it were necessary I do not think my access to the Board would be hindered in any way.

Sincerely,



Dr. Charles Johnson, MD, MPH
Nevada County Public Health Officer

CJ/dw