



Alpine County
Civil Grand Jury
2010-2011
Final Report



Red Cliffs at Kirkwood

Alpine County Grand Jury
P.O. Box 102
Markleeville, Ca. 96120
Web: www.alpine.courts.ca.gov

June 30, 2010

Alpine County Superior Court
The Honorable Judge David DeVore
Presiding Judge
Markleeville, CA 96120

Dear Judge Devore,

The 2010-2011 Alpine County Grand Jury presents its Final Report. It has been an honor & privilege to have served the interests of Alpine County's citizens. This year's Grand Jury had a shortened term but nevertheless worked tirelessly and as a cohesive body to ascertain report subject matter, perform in depth inquiries and investigations into the subjects, and report out forthrightly on each of the selected subjects.

This Grand Jury again was Co-Chaired by a man and a woman. We also had several returning/carryover Jurors from the 2009 Grand Jury which made the totality of the work flow easier. The makeup of this Grand Jury was from a diverse demographic of County residents representing business, working persons, retired persons, and varied other interests and abilities, age and geographic representation of the entire County.

In compliance with the Civil Grand Jury mandate to select, review and report on County Governmental Agencies or Departments, our focus in this term was on the Sheriff's Department, and County Schools. We believe the goal of the Grand Jury to present its findings in an objective fashion was thoroughly achieved. The Grand Jury received three citizen complaints during this term.

The over arching purpose and intent of these reports is to bring attention to needed improvements in the functions of the Departments, Commissions or Agencies investigated and taken as a whole to benefit the county.

The 'Room for Justice' Report focuses attention on the need for updated and improved Jails facilities in the County. The 'Bear Valley Schools' Report is a follow up on a Compliant received but is also a realistic view of the current situation of the school.

As Co-Forepersons we would like to express our profound thanks to all the Jury for their diligence, tenacity and cohesiveness to complete this report. This Final Report provides a compilation of the Grand Jury's investigations, including Findings and Recommendations.

We wish to acknowledge the cooperation and forthright responses of the County employees, and Department Managers involved in the numerous interviews, as their knowledge of the subject matter and willingness to disclose was integral for the Grand Jurors understanding of County's policies and procedures.

As a separate and most profound appreciation, the Grand Jury wishes to extended its thanks to the County District Attorney, Ms. Terese Drabec and her staff for the may hours of background investigative research provided to this Grand Jury.

Judge Devore, Ms. Fogarty & I wish to thank you for the privilege to have been selected to serve again as Co-Chair this term. We found it to be a rewarding experience, and greatly appreciate your confidence in our ability to carry out this most worthwhile charge.

Respectfully,

Co-Forepersons
Ernestine Fogarty
Kris Hartnett
2010/2011 Alpine County Grand Jury

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Summary

Background

Discussion

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2010-2011 ALPINE COUNTY CIVIL GRAND JURY

**ADVISORS &
BOARD OF SUPERVISORS**

Legal Advisors

Presiding Judge David L. DeVore

District Attorney Terese Drabec

Alpine County Board of Supervisors

District 1 Donald M. Jardine

District 2 Henry (Skip) Veatch

District 3 Phillip Bennett

District 4 Terry Woodrow

District 5 Tom Sweeney

Alpine County Civil Grand Jury

Jury Officers & Roster

Grand Jury Officers

Co-Foreperson	Ernestine Fogarty	District 1
Co-Foreperson	Kris Hartnett	District 1
Secretary	Lisa Walsh	District 5
Secretary Pro-Tem	Jeanette McPoil	District 2

Grand Jury Roster

Kate Harvey	District 1
Jim Gentling	District 4
Tony Tucher	District 4
Sandy Bryson	District 5
Yvonne Chen	District 5
Tom Kelly	District 5
Randi Makley	District 5

Grand Jury Meeting Attendance

		Month	Date		Attendance		
		September	*2-3		10 + 8		
			17		10		
		October	8		9		
		November	5		7		
		December	3		10		
		January	7		9		
		February	4		8		
		March	4		9		
		April	1		8		
		May	6		8		
		June	10		8		

* Training September 2 & 3

The 2010-11 Grand Jury completed and submitted its Final Report in June 2011.

Note: The minimum number of Grand Jurors present to achieve a quorum is 8. No official action is taken without a quorum.

OVERVIEW OF THE ALPINE COUNTY CIVIL GRAND JURY

The 2010/2011 Alpine County Civil Grand Jury, hereinafter referred to as GJ, is authorized by, and their oversight functions, responsibilities, operations, and processes are provided by the California Penal Code Sections 888 to 939. The usual term of a Grand Jury is July 1st through June 30th of the immediately following year. Under special circumstances the supervising judge may extend the term of selected Jurors as “holdovers” in order to provide continuity and orientation to the succeeding GJ.

The California Constitution, Article I Section 23 provides that “One or more grand juries shall be drawn and summoned at least once a year in each county”. The law governing GJ formation, authority, powers, and proceedings, is found in Part 2, Title 4 of the California Penal Code, Sections 888-945.

The GJ was an independent and confidential body and may not except for legal cause, be prevented from acting within its jurisdiction. The GJ functioned as one body, with all proceedings held in strict confidence. Witnesses were admonished not to disclose any proceedings of the GJ. It is a misdemeanor to violate this secrecy.

The GJ was comprised of eleven qualified citizens of the County who volunteered or were selected at random and who were nominated by Alpine County Superior Court Presiding Judge David Devore. The GJ was sworn to investigate or inquire into “Alpine County matters of civil concern”. Its civil authority extended to reviews of the functions and operations of the County and all other local government agencies subject to Section 914.1

The California Penal Code Section 925 specifically directed the GJ to select for an overall review of the operations of a Specific County office, County department, joint powers authority, special district, school district, County officer, or any other legislative body that was within the jurisdiction of the County. Although the GJ as part of its Civil function may review, inquire into, and or choose to investigate any civil complaint received pertinent to mistreatment and/or misconduct by elected officials and government employees, governmental inefficiencies, and/or any issues with services of public funded nonprofit organizations, this GJ received no such complaints.

The Presiding Judge designated Co-Forepersons over all proceedings of the GJ. The Presiding Judge as well as the District Attorney as legal advisors, were called on numerous times to assist the GJ with legal questions and issues.

The GJ divided into several committees to review the process and functions of County Departments, agencies and Commissions. The entire GJ conducted an interview of the County Chief Administrative Officer to ascertain a better understanding of the overall functions of the County. Members of the GJ visited County facilities, attended meetings, met with County officials to develop Findings and Recommendations for suggested improvement.

Every member of this GJ was directly involved in the formulation of all reports. Every report is considered a product of the entity as a whole. The GJ represents that the reports contained in this Final Report are qualified for publication.

This Final report has been sent to the affected Government Agencies, the Presiding Judge, and the County Board of Supervisors.

Written copies of the Final Report are also distributed to other public agencies.

Responses to the Findings and Recommendations are required in accordance with Penal Code Section 933.05.

Note to the residents of Alpine County: The Grand Jury encourages you to seriously consider volunteering to serve on the Grand Jury when called, it can be an enlightening and fulfilling experience interacting with fellow residents, finding out how our County functions and bringing about change in the County for the benefit of everyone.

Reports

ROOM FOR JUSTICE

BEAR VALLEY SCHOOL

Investigative Report

ROOM FOR JUSTICE



Alpine County Sheriffs Office

ROOM FOR JUSTICE: Interview and Holding Facilities in Alpine County

SUMMARY

Alpine County has no jail and no secure temporary holding facilities (lockups) or interview/interrogation rooms within its borders. As a result law enforcement officers face obstacles to performing public safety services.

From the preliminary investigation through court proceedings, the goal of a criminal investigation is to verify the occurrence of a crime and identify, apprehend and charge the suspects. When an officer makes an arrest, he or she may need a place within the county to safely detain the person while conducting records checks, checking intelligence files, or obtaining criminal history information. Secure holding facilities are typically necessary to free officers for interviewing victims, witnesses, informants or other persons of interest while they are still in the area and their recall is fresh.

By contract with El Dorado County, Alpine Officers book prisoners into jail at South Lake Tahoe. Subsequently, Alpine County Deputies transport inmates from the jail to the Courthouse in Markleeville. Since there are no holding cells or lockups in the courthouse, officers must constantly accompany persons in custody and deal with significant scheduling and security challenges.

Interview rooms are commonly used in the investigative process. In order to ensure the protection of County personnel and the safety of the arrestee, victim, or witness, the County should follow established guidelines for the design and use of interview rooms. Rooms designated for conducting custodial interviews of arrestees or inmates (also called *hard* rooms) have different features from those appropriate for non-custodial interviews of witnesses or victims (*soft* rooms). Victims of sexual violence and juveniles require specialized settings for questioning. None of these rooms should be used as prisoner holding cells.

For years members of the criminal justice system in Alpine County have been coping with the lack of lockups and interview/interrogation rooms. At risk is public and officer safety. Criminal cases are jeopardized. The system is costly and inefficient.

The Grand Jury recommends that the County of Alpine provide secure temporary holding facilities and interview/interrogation rooms within this jurisdiction.

BACKGROUND

California Constitution Article XIII. Section 35 (2): “The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.”

Penal Code §919(b) gives California counties: “Authorization to inquire about prisoners not indicted and duty to inquire as to county prisons...b. The grand jury shall inquire into the condition and management of the public prisons within the county.”

Alpine is the only county in the state that has no jail within its boundaries. Based on a contract with El Dorado County (“Agreement for Booking and Jail Services Between El Dorado County and Alpine County”), Alpine jails all prisoners in South Lake Tahoe and Placerville.

The El Dorado County Grand Jury fulfills the mandate of PC §919(b) in lieu of investigation by the Alpine County Grand Jury (ACGJ). Current El Dorado Grand Jury reports are available on line.

Alpine County—specifically the Sheriff, and at times the District Attorney and Probation —bears responsibility for interviewing and holding criminal suspects and inmates as well as for interviewing crime victims, witnesses and minors. However, neither the east slope (Kirkwood, Markleeville, Woodfords) nor the west slope (Bear Valley) has secure interview rooms or holding cells (lockups). Over five years ago the only two lockups in the county, located in the basement of the courthouse in Markleeville, did not meet Building and Safety codes and so became the armory and evidence storage unit. For fresh arrests, the County has used surrounding agency facilities (e.g. Bear Valley uses Calaveras County facilities) for interviewing and temporary holding. Arresting officers have also used the rear seating of their patrol cars and other locations.

Statements by suspects, victims and witnesses can make or break criminal cases. Criminals present high risk to public safety when they are first arrested and when in custody for questioning or court. Witnesses, victims and minors have special interview requirements. This report focuses on the need for secure interview rooms and holding facilities within Alpine County.

The Grand Jury recognizes that the following topics are closely related to the subject material in this report but determined them to be outside the scope of this investigation:

- Interview or interrogation *techniques*
- Prisoner or high-risk transport
- Evidence collection, processing and storage

Also outside the scope of this investigation are the field interview (FI) and photography of field detainees (Alpine County Sheriff’s Office Policy 440): “An FI is the brief detainment of an individual, whether on foot or in a vehicle, based on reasonable

suspicion for the purposes of determining the individual’s identity and resolving the deputy’s suspicions. Due to a variety of situations confronting the deputy, the decision to FI or photograph a field detainee shall be left to the discretion of the involved deputy based on the totality of the circumstances available to them at the time of the detention.”

METHOD

The Alpine County Grand Jury gathered information from multiple resources. The Grand Jury interviewed members of Alpine County Sheriff’s Office, the District Attorney’s Office, and Probation. The California Corrections Standards Authority provided information. We surveyed members of agencies in counties surrounding Alpine County to obtain specific facts presented in the report.

Source documents:

- Alpine County Code
- Alpine County Grand Jury Reports 2000/01—2009/10 (no related ACGJ investigations)
- Alpine County Sheriff’s Office Policy and Procedures
- California Civil Code §2778 (Agreement for Booking and Jail Services)
- California Code of Regulations (CCR) Title 15: Crime Prevention & Corrections
- California Code of Regulations (CCR) Title 24: Building Standards
- California Penal Code §853.6 (release provisions); §888 (Grand Jury); §919 (Subjects of Inquiry); §4000—4030 (County Jails)
- International Association of Chiefs of Police (IACP) Model Policies

DISCUSSION

Just as crimes vary, criminal investigations and prosecutions differ in details. While in some cases the offender may be identified and taken into custody quickly, in others investigators must interview many people before making any arrests. Consequently, the use of lockups and interview rooms varies from case to case. The need for both types of facilities becomes clear when we examine how they are typically used in other jurisdictions and how Alpine officers have to compensate in order to do their jobs.

TEMPORARY HOLDING CELLS (LOCKUPS)

For this Grand Jury report:

- *Jail* is defined as a locked adult detention facility that holds both non-sentenced and convicted adult criminal offenders;
- *Lockup* is any locked room or secure enclosure under the control of a peace officer that is primarily for the temporary confinement of adults upon arrest; and
- *Court holding facility* is a secure detention facility located within a court building, used for the confinement of persons solely for the purpose of a court appearance for a period not exceeding 12 hours.

Generally speaking, a jail is a Type II, III or IV local detention facility, while a lockup is

a Type I or Temporary Holding facility as defined in CCR Title 15, Section 1006. The circumstances where a minor may be legally detained in a jail are entirely different from those for minors temporarily detained in a law enforcement facility that contains a lockup. Consequently, the regulations governing these two circumstances are also very different. CCR Title 15, Section 1010, designates the standards that are applicable to each of the three different facility types. Corrections Standards Authority (CSA) provides interpretation and assistance when questions arise about the regulations or guidelines.

Alpine County Sheriff's Department is responsible for providing secure temporary holding for prisoners awaiting interrogation, arrest processing, transfer to jail, court appearances, and other administrative procedures. Deputies must be alert to any problems or conditions that may compromise security, safety, or the wellbeing of detained prisoners. Issues include weapons or contraband, physical restraints, medical conditions (particularly if the person is combative or under the influence of drugs or alcohol), emergency evacuation, attempted escape or suicide, and environmental conditions (temperature, access to water, food, restrooms).

Security in Alpine County comes at a high price—the officer(s) must be with the person(s) in custody at all times. That means the officer(s) involved cannot perform many important collateral duties (e.g. confer with investigators or others, use the telephone or computer, get necessary case information). Experts agree that, absent a secure holding facility, arrestees are often looking for the opportunity to get a weapon and escape.

When court is in session, the arrival of defendants at the courthouse must be timed as precisely as possible to match their scheduled appearance. In-custodies cannot be left in patrol cars unattended. The courthouse-sheriff's office building has no sally port (secure, gated vehicle parking and entrance facility). Deputies escort prisoners through the public entryway to the sheriff's office, up the back stairwell, directly into the courtroom. There are no holding cells and no secure interview rooms for attorneys to confer with clients. Keeping prisoners separate from victims, witnesses, and other prisoners can be difficult. There are no secure restroom facilities.

INTERVIEW/INTERROGATION ROOMS

Why do some people admit to committing crimes while others will not give up their name? Rapport is key. The skilled investigator generates rapport partly by using the interview room features to his advantage. Subjects start trusting the officer and taking him into their confidence. The purpose of conducting any type of interview is to elicit information. Sometimes a witness becomes a suspect. Beyond asking the right questions, reading behavior is important. Seeing the subject's behavior helps the investigator control the interview dynamics.

Seeing the subjects' body language as well as hearing their statements helps the jury too. Videotaping interviews has become standard law enforcement practice. If a suspect wants to talk, he should be taken to an appropriate interview location. Past recollections should be recorded as soon as possible. Statements may be critical if the suspect changes his

story later. The jury witnessing the defendant confessing to a crime without being coerced contradicts any defense that the defendant was tricked into giving a false confession. Interrogation practices that are now more transparent, reliable and less impeachable are good for the criminal justice system.

Alpine County Deputies have used the video camera mounted on the interior of their patrol vehicle to record suspects' statements. The camera normally points toward the front of the vehicle, for example recording traffic stops. But the deputy can rotate the camera lens to view the rear seat area. Conducting a safe, productive interview with the subject inside the police vehicle is difficult at best and not advisable for investigations.

Deputies have to make-do with locations to conduct interviews. They have used sheriff's offices in Markleeville and Bear Valley—deputies' offices and the Sheriff's office. Offices are not appropriate interview rooms. They are not secure. They contain many objects that can be used as weapons. They contain sensitive information and valuable equipment. Doing interviews or interrogations in offices can disrupt normal work. And offices are not soundproof or equipped for video recording.

Current design considerations for custodial (*hard*) interview rooms:

- Size: Typically 8' x 10'
- Security at facility entrance and access to interview room
- Location for officers to check weapons outside the room
- Room clearance (search for weapons or contraband) before and after interview
- Door locks
- Solid, soundproof walls, ceiling, door
- Monitoring room viewing the interview room(s) for security and verification
- Video recording equipment: Covert with clear, full-body view of subject
- Communications with dispatch, with monitors
- Environmental control: Temperature, ventilation, lighting, emergency power
- Furniture and wall hangings: Markedly simple with no windows and little on the walls in order to minimize distractions for both subject (who needs to *focus*) and interviewer (who needs to *think*), two or three armless chairs without wheels, small table (nothing between subject and interviewer), clock visible to camera but not to seated subject
- Suicide prevention
- Prisoner access to bathrooms
- Availability of water and food

Non-custodial interviews of victims and witnesses should be conducted in a clean, controlled environment that is safe, comfortable and non-threatening. These *soft* rooms should feature secure access, comfortable furniture, monitoring, video recording capability, and privacy. Officers and administrators interviewed by the Grand Jury underscored the importance of avoiding *re-victimizing* the victim.

Children are especially vulnerable. When a child has witnessed a traumatic event or has been a victim, police and social workers need information to help the child and to

investigate the event. Conducting *one* interview for all the professionals helps reduce the stress of re-living the trauma. If the agency does not have a dedicated child interview room, investigators can use part of an adult soft interview room with toys and furniture that appeals to kids. Alpine County children have been interviewed in El Dorado County.

Alpine County Sheriff's Office handles juveniles according to Policy 324: "Temporary Custody of Juveniles." The Welfare and Institutions Code provides the legal authority for taking custody of juvenile offenders. The sheriff's policy contains the guidelines and requirements for the detention and disposition of juveniles under and over the age of 14 taken into temporary custody by members of the sheriff's office. Temporary custody requirements are different for juveniles versus adults, including timelines, non-contact requirements with adults, and non-secure versus secure detention. Typically, officers have to transport juveniles to the proper facilities out of the county.

Sexual assault victims also need a safe, comforting environment for interviews. Victims of sexual assault in Alpine County have been transported to El Dorado County for a controlled interview by a trained interviewer.

Law enforcement officers and district attorneys who teach best practices in investigations agree that the agency typically gets just one chance to do an interview. The setting for that interview of a suspect, a witness or a victim can be critical to the case.

Sergeant Carl Stincelli, Retired, Sacramento County Sheriff's Department, an expert in interview and interrogation, is a certified instructor for Peace Officer Standards and Training in California and 10 other western states. Stincelli wrote, "Police Interview/Interrogation rooms vary greatly from agency to agency and jurisdiction to jurisdiction. The type and design of the room can have a significant impact on the outcome of the contact and ultimately, the final disposition of the case. One legally obtained, video recorded admission or confession could be worth thousands of dollars of prosecution/appeal costs."

DESIGN CONCEPT OF CUSTODIAL INTERVIEW ROOM



INTERVIEW ROOMS AND HOLDING CELLS IN ALPINE & OTHER COUNTIES

Counties	Custodial interview rooms	Non-custodial interview rooms	Temporary holding cells or county jail
Alpine Co. CA	No	No	No
Amador Co. CA	Yes	Yes	Yes
Calaveras Co. CA	No	Yes	Yes
Douglas Co. NV	Yes	Yes	Yes
El Dorado Co. CA	Yes	Yes	Yes
Mono Co. CA	Yes	Yes	Yes
Nevada Co. CA	Yes	No	Yes
Placer Co. CA	Yes	Yes	Yes
Sierra Co. CA	Yes	No	Yes
Tuolumne Co. CA	Yes	Yes	Yes

All counties surveyed except Alpine have jails within their boundaries. Some counties use facilities for multiple purposes.

PHOTOGRAPHS OF ALPINE COUNTY SHERIFF'S OFFICE



Photo 1: Alpine County Sheriff's Office entrance for both the public and officers escorting prisoners to interviews or court.



Photo 2: Access to the Sheriff's office (glass door) for interviews/interrogations passes through deputies' office area.



Photo 3: The Sheriff's office is not designed for interviews/interrogations. Note window, wall hangings, video screen, papers and other objects.

In June, near the end of our 2010/11 term, the Grand Jury learned that Alpine County received a complaint from the California Division of Occupational Safety and Health (better known as Cal-OSHA) regarding health and safety issues at the Alpine County Courthouse. The County has begun taking action to comply with the law on these issues, including temporarily locating deputies' offices at Turtle Rock Park. The public will continue to access the Sheriff's Office at the Courthouse. The County and State are collaborating to convert one of the offices in the Courthouse basement to a secure interview room. As this report goes to publication, target dates for the conversion are not yet available.

FINDINGS

- F1: Alpine County does not provide secure interview/interrogation rooms within the county, thereby risking safety and the integrity of investigations.
- F2: Alpine County does not provide temporary holding facilities within the county, thereby risking safety and costing manpower during the criminal justice process.

RECOMMENDATIONS

- R1: The County of Alpine should provide custodial and non-custodial interview/interrogation rooms within the county that meet California Code and best practices for law enforcement investigations.

R2: The County of Alpine should provide temporary holding cells within the county that meet California Code.

REQUEST FOR RESPONSES

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

From the following governing body:

- Board of Supervisors: F1-F2, R1-R2

The governing body indicated should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

From the following individuals:

- The Sheriff: F1-F2, R1-R2
- The District Attorney: F1-F2, R1-R2

The Grand Jury invites the following individual to respond:

- The Chief of Probation: F1-F2, R1-R2

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.
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Investigative Report

BEAR VALLEY
SCHOOL



HISTORIC ALPINE COUNTY SCHOOL HOUSE

BEAR VALLEY SCHOOL

SUMMARY

The school enrollment in Bear Valley and in the Alpine County School District (the District) as a whole has been shrinking. Both Bear Valley and Diamond Valley High Schools have recently closed as has the school in Kirkwood. The question of interest to the Grand Jury was whether Bear Valley Elementary School has become so small that it becomes appropriate to close the school and bus the remaining children to Calaveras County.

The investigation revealed that the per-pupil cost to the District at the Bear Valley School was substantially identical to the average for the District, albeit higher than the statewide average. The Superintendent believes that operating the school with the current number of students represents the most effective alternative for educating the students and she reports strong parent support for that position.

The decision regarding operating or closing a school is made by the Superintendent and the School Board with apparent care, thoughtfulness, and in close consultation with the parents. The decisions are made primarily on the basis of the individual educational, social and special needs of the affected students, rather than on the basis of financial criteria.

Clearly, if elementary school enrollment in Bear Valley continues to decrease, the District will face the same painful decision to close the Bear Valley school that it faced with Kirkwood and the other schools.

BACKGROUND

Through its investigation, the Grand Jury learned that school enrollment at Bear Valley has been shrinking and was interested in determining whether the situation merited an inquiry, that is, whether the present arrangements were the appropriate way to provide the children with the education called for under the Williams Act or whether alternative arrangements to bus the children to a larger school would be preferable, while still meeting state requirements.

APPROACH

The Grand Jury conducted two interviews with the Superintendent of Schools, one in person on January 5, 2011 and a follow-up telephone interview on January 10, 2011. She was totally cooperative and forthcoming. It became clear to the Grand Jury through its interviews, that given the small number of children not only in Bear Valley, but in the whole Alpine County School District, the Superintendent thinks of each student individually, not as a number. The District's budget was reviewed, specifically as it relates to the per pupil cost at the Bear Valley School. That information provides the economic context in which decisions are made about whether to operate the Bear Valley School (See Table 3). Yet the superintendent stated that economic considerations are only one part of that decision. She told us that she has her Board's full support in making decisions about closing or keeping open a particular school based primarily on the needs of the specific children involved, rather than primarily on the basis of costs.

DISCUSSION

Enrollment in the Bear Valley Elementary and High School has been fluctuating but declining. Historically there have been up to 35 students in Bear Valley. Tables 1 and 2 show the enrollment figures for the past four years.

Table 1
Bear Valley Elementary School
Enrollment By Grade

	2006-07	2007-08	2008-09	2009-2010
K'garten	1	3	6.	
1st Grade	4	1	3	
2nd Grade	2	1	3	
3rd Grade	1	-	4	
4th Grade	1	2	-	
5th Grade	1	1	2	
6th Grade	1	-	1	
7th Grade	1	1		
8th Grade	-	-	1	
Total	12	11	16	7

Source: for school years 06/07, 07/08 and 08/09 Alpine County Unified School District, Bear Valley Elementary School, School Accountability Reports; for School year 09/10. The Superintendent stated that due to the small size of enrollment, no breakdown is published for the 2009-2010 year.

The Superintendent reported that for the current school year, twelve students were originally expected. The number subsequently dropped to nine, then fluctuated and ultimately settled at seven. The long term decline in the school enrollment is due in large part to a decline of the school age population in Bear Valley. She stated that there was also a vicious circle in effect: as enrollment dropped more parents decided that they wanted their children to attend a larger school and withdrew their children from the Bear Valley School.

The Diamond Valley School is experiencing similar trends for similar reasons. Enrollment is down from 120 to 80 students. Kirkwood School had up to 10 children and has recently been down to one student who is now being bussed to Diamond Valley School.

Table 2
**Bear Valley High School
 Enrollment By Grade**

	2006-07	2007-08	2008-09
9 th Grade	1	1	-
10 th Grade	2	1	1
11 th Grade	-	2	1
12 th Grade	3	1	1
Total	6	5	3

Source: Alpine County Unified School District, Bear Valley High School, School Accountability Reports

Bear Valley High School was closed in June 2009, and the students transferred to a high school in neighboring Calaveras County. Of the three students attending Bear Valley School, two were in fact from Calaveras County, but living very close to Bear Valley High School. Similarly, Diamond Valley High School was also closed in 2009 and the remaining three students transferred to a high school in Douglas County, Nevada.

The per pupil cost for students at Bear Valley and for the District as whole is shown in the following table:

Table 3
Expenditures per Pupil 2008/09
 Bear Valley School

Total Expenditures Per Pupil	\$23,192
<u>From Restricted Sources</u>	<u>\$4,448</u>
From Unrestricted Sources	\$18,744

Alpine County School District

From Unrestricted Sources	\$18,712
Percentage of Variation between School & District	0.17%

State

From Unrestricted Sources	\$5,512
Percentage of Variation between School & State	339%

Source: Alpine County Unified School District, Bear Valley Elementary School, School Accountability Report, January 2011

The School District currently operates as a “basic aid” district, which means that the property taxes collected and allocated to the School District under a formula provided by state law exceed the amount the state would otherwise remit to the School District for basic educational programs on a per pupil basis. The state does, however, provide some financial support because Bear Valley is considered a “necessary small” school. This state support is shown as “From Restricted Sources”.

Table 3 shows that the per pupil costs throughout the District are a multiple of the statewide average, but that the cost to the District of maintaining the Bear Valley Elementary School is almost identical to the average per pupil in the District as a whole.

The Superintendent noted that Bear Valley School, though very small, fulfills an important function as a center for the community. She visits the school monthly, attending school and community events. She is intimately familiar with all of the children and their families and the vital role the school plays in the community.

The only practical alternative to operating the school in Bear Valley would be to bus the children about 45 miles to the nearest elementary and middle schools in the Vallecito School district in Calaveras County, an alternative the superintendent considers very unattractive for the students. The bus trip is long, tiring and hazardous in the winter. After-school activities are difficult to accommodate for individual older children, given the bus schedule.

When asked whether there were financial criteria for deciding at what point a school should be closed and the remaining children bussed to the nearest school in a neighboring county, the superintendent responded that one advantage of the very small schools we have in the county is that decisions on school closings can be made on the basis of evaluating the educational, social and special needs of each of the few children affected by the decision.. Monetary considerations in fact played a very secondary role because, by the time a school became so small as to make operating it prohibitively expensive on a per pupil basis, educational considerations for the students would suggest closing the school.

In closing both Bear Valley and Diamond Valley High Schools, the Superintendent has demonstrated that she is prepared to recommend closing schools when she feels they no longer serve the student needs and that the School Board is prepared to make those decisions.

FINDINGS

- F1. At present operating Bear Elementary Valley School appears to be the most effective way of meeting the students educational needs.
- F2. The decision to operate or close the school will be made primarily on the Superintendent's assessment of the educational, social and special needs of the children affected by the decision and in close consultation with their parents. The issue appears to be competently handled by the Superintendent.
- F3. We found nothing to suggest that any further investigation of this matter was warranted.

RECOMMENDATIONS

Given our findings, we have no recommendation – only a commendation to the Superintendent for a job apparently being very well done.

NOTE

The preceding report was completed earlier this year. On May 10, 2011, the Alpine County School Board approved the Superintendent's recommendation to close the Bear Valley School for one year, starting next August. The decision is to be reviewed in March 2012 with a view to seeing whether circumstances at that time have changed sufficiently to warrant re-opening the school.

Upon receiving this news, the Grand Jury re-interviewed the Superintendent and was informed that she made the difficult decision to recommend the closure of the school, initially for the next school year, when it became apparent that there would only be one child enrolled. The Superintendent told us that she interviewed the parents of all the children enrolled this year in an effort to insure that the school arrangements for the students were in fact appropriate for the students' individual needs and satisfactory to the parents. She told us that keeping the school open for one student would have cost about \$180,000 and would, in her opinion, not have been the most appropriate means of meeting that student's educational needs.

Our follow-up interview with the Superintendent confirmed the opinion expressed in our report that the decision to keep open or close Bear Valley School was being made with great care, weighing both the students' educational needs and the financial costs. Nothing we have learned about the decision to close the school causes us to alter our Findings and Recommendations above.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 292 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

"A pure democracy is a society consisting of a small number of citizens, who assemble and administer the government in person." **James Madison**

"The stakes are much too high for government to be a spectator sport." **Barbara Jordan**

I want to express my gratitude to the members of the 2010-2011 Alpine County Grand Jury for their service to this important cause. Established by the California Constitution, and implemented by provisions of the Penal Code, the civil Grand Jury serves the critical function of inquiring or investigating into and reporting on the functioning of Alpine County government, including elected officials and their departments, subsidiary departments and special districts. All of Alpine County's residents have been well served by the efforts of this body to contribute to greater efficiency and effectiveness in local government. The jurors were not spectators, but active participants in the democratic process.

A special thanks is due to Kris Hartnett and Ernestine Fogarty who have given of their time and talents for the past two terms as co-chairpersons of Alpine County's Grand Jury.

As this is written Judge Thomas D. Kolpacoff is seeking to empanel next year's Grand Jury, and interest in participation is low. The quality of government is directly related to the extent to which citizens are engaged, and service on the Grand Jury is a means of ensuring that the residents of Alpine County have an efficient and effective local government to serve their needs. I encourage all to consider, or reconsider, participating in this valuable endeavor.

David L. DeVore
Presiding Judge
Alpine County Superior Court