

FILED

MAY 25 1999

DR
SUPERIOR COURT OF CALIFORNIA
COUNTY OF TRINITY
BY: DONNA REGNANI, DEPUTY CLERK

TRINITY COUNTY GRAND JURY

1998-99

**AD HOC EDUCATION COMMITTEE
FINAL REPORT**

COMPLAINT AGAINST TRINITY COUNTY AIDS TASK FORCE

This report was approved
on May 13, 1999

1998-99 TRINITY COUNTY GRAND JURY

AD HOC EDUCATION COMMITTEE FINAL REPORT

COMPLAINT AGAINST TRINITY COUNTY AIDS TASK FORCE

PURPOSE:

The Grand Jury received two complaints from the same individual, containing allegations regarding the administration of the HIV/AIDS Education and Prevention Project in Trinity County. The first complaint contained allegations that included misuse of funds, refusal to disclose public records, violation of conflict of interest, failure to meet goals, obstruction of HIV/AIDS prevention, and numerous Brown Act violations. The second complaint alleged failure of a superior to intervene after an allegation of misuse of funds.

BACKGROUND:

In December of 1995, Trinity County received a renewable grant from the Department of Health Services, Office of AIDS, for \$56,000. \$50,000 was designated for the Trinity County Health Service's HIV Education and Prevention Project, \$2,800 was received for the HIV Testing Program and \$2,800 for surveillance. The allegations were only against the HIV/AIDS Education and Prevention Project. This grant has been renewed each year since 1995 and is currently funded through June 30, 1999.

In Trinity County the HIV/AIDS E&P Project money is used to educate targeted populations about AIDS and HIV and to teach how to prevent HIV. This is done through outreach efforts to schools, medical care providers, the jail, substance abusers and their partners and persons with HIV/AIDS and their partners. These outreach efforts are carried out by the Coordinator of the HIV/AIDS E&P Project, public health nurses, educators, sub-contractors and volunteers. Sub-contractors include Trinity County Life Support, Six Rivers Planned Parenthood (PPH), the Trinity County Sheriff's Department, Southern Trinity Health Services and individuals skilled in outreach to men having sex with men (MSM).

During the course of the investigation the Grand Jury learned that, immediately prior to submitting the complaint and backup material to the Grand Jury, the complainant sent a copy of the same information to the Administrator of the California State Department of AIDS, who then sent a copy to the Trinity County Superintendent of Schools. As a result the normal Grand Jury investigative process was seriously compromised. Almost everyone interviewed knew who had filed the complaint, and all of its allegations, thus altering confidentiality and raising questions about the possibility of advance preparations to possible Grand Jury questions.

METHOD OF INVESTIGATION:

A committee of Grand Jury members reviewed the allegations and interviewed the complainant, County Counsel, the Director of Health and Human Services (H&HS), the Trinity County Superintendent of Schools, the Coordinator of the HIV/AIDS E&P Project, the Public Health Nursing Supervisor and a Public Health Nurse. They attended one Local Implementation Group (LIG) meeting. And they examined budget information, supportive documentation of expenses, quarterly expense and progress reports submitted to the State, and LIG meeting minutes.

FINDING #1: Misuse of Funds

The Misuse of Funds complaint itemized four charges: failure to disclose budget records, an inappropriate Project Coordinator's salary, improper reimbursement for attending a conference and possible theft of a fax machine.

- The allegations of **failure to disclose** public records appear to be unfounded.

The Committee found the LIG budget/expenditures information to be readily available and accurately documented. Quarterly reports of expenditures are prepared by the Project Coordinator and approved by the Director of H&HS. They are then forwarded to the State Office of AIDS. The records in question are available through Trinity County Office of Education (TCOE) upon request. While the complainant stated 'obstruction of public information,' he did not approach the TCOE when he was not satisfied with the information from the Coordinator. Documentation exists of an attempt, by the Coordinator and the State Consultant, to explain the flow and disbursement of State grant money. The State Office of AIDS, the Superintendent of Schools and the Director of H&HS appear satisfied that the grant standards are being met. However, the State Office of AIDS is now exploring the allegations and recommends that the LIG members have more input into budget planning.

- The HIV/AIDS E&P **Project Coordinator's salary** was found to be appropriately determined using the TCOE salary schedule. Her salary also meets the guidelines set forth by the grant.
- The complainant alleged that the Coordinator **improperly charged attendance** at a conference. The Grand Jury investigated and found the allegation was without merit.
- The whereabouts of a **FAX machine**, reportedly purchased with \$900.00 allocated from the original grant money in 1995, was questioned by the complainant. After investigating, the Grand Jury was unable to locate this specific Fax machine. The machine was ordered and then no longer needed when the HIV/AIDS Project was moved from H&HS to TCOE. It is "reportedly" in the Hayfork Community Center.

RECOMMENDATION #1:

The Grand Jury encourages the County to continue to update its accounting and equipment tracking systems.

FINDING #2: Conflict of Interest

The Coordinator of the HIV/AIDS E&P Project has served as a member of the Board of Directors for Six Rivers Planned Parenthood for several years. Allegations of conflict of interest were raised because PPH is a subcontractor for the Project. No conflict of interest was found by the Grand Jury, nor by County Counsel. However, the State Office of AIDS saw a possible perception of conflict of interest by the general public. Because of the State's concerns, the Coordinator was requested to remove her name from the PPH letterhead. In order to preserve "appearances" the Coordinator has since resigned her position on the PPH board. The Grand Jury wishes to make it clear, that they found no conflict, either in fact or appearance.

RECOMMENDATION #2:

While it is important for all our public officials to be sensitive to the appearance of conflict of interest, the Grand Jury recommends that County officials not allow themselves to be coerced into taking unjustified actions.

FINDING #3: Failure To Meet The Goals Of HIV Prevention

The Grand Jury found that some of the goals of the program, as set forth in the HIV/AIDS Prevention plan, are so broad that a charge such as this could easily be made, i.e., "All people will...". However, the Grand Jury found the Coordinator kept acceptable records indicating that the goals were indeed being met. Quarterly reports submitted to the State show progress toward, or activities to support, stated goals. Activities supporting goals appear appropriate.

The Grand Jury found one exception to adequate progress toward goals. One Activity states "continue outreach to all geographic regions of the county through schools, medical care providers, associations, bars and stores by June 30, 1999." Visits to Partners in Prevention sites to replenish condoms and other supplies appear to be occurring only in Hayfork and Weaverville. Furthermore, the current Second Quarter Progress report states that condoms have been placed in most bars, but does not cite specific names, except in Hayfork and Weaverville.

RECOMMENDATION #3:

The Trinity County HIV/AIDS E&P Project Coordinator and the LIG should revisit their goals, and if they are written to include all of Trinity County, then steps to meet that requirement should be taken.

FINDING #4: Obstruction Of HIV/AIDS/STD Prevention

Blocking Access To Condoms: One of the allegations was that condom distribution was not adequate and that the volunteer distributor has been blocked from obtaining condoms purchased with grant money. The Coordinator agrees that condom distribution has not been adequate and is taking steps to remedy that situation. Because of liability concerns, County Counsel feels that until certain protocols are in place, volunteers should not be used to distribute condoms. The Grand Jury concurs with County Counsel.

RECOMMENDATION #4:

The Grand Jury believes that the use of volunteers in many capacities is both cost effective and often the source of valuable experience. Therefore, it is recommended that the HIV/AIDS E&P Project Coordinator, in conjunction with the County, develop volunteer protocols that protect both the volunteers and the county.

FINDING #5: Brown Act

An allegation that the LIG was violating the Brown Act was made. Upon consulting with County Counsel, it was found that the LIG does not fall under the Brown Act. The Grand Jury concurs and finds this allegation without merit.

RECOMMENDATION #5:

None.

FINDING #6: Failure To Intervene

A second complaint was filed against the Director of H&HS, alleging that the Director failed to intervene after an allegation of misuse of funds was made against the HIV Coordinator. Because TCOE and not H&HS is the HIV Coordinator's immediate superior, the Grand Jury finds that this complaint is without merit.

RECOMMENDATION #6:

None.

CONCLUSION:

While the complainant obviously felt that he had legitimate concerns, he had not done his homework well. For example, the complaint against the superior who failed to intervene was filed against the wrong agency. County and State procedures for complaints against personnel were not followed and a general "shotgun" approach was utilized. With the exception of the condom distribution goal not being met, the Grand

Jury has concluded that overall, the HIV/AIDS E&P Program Coordinator is administering the program well and is meeting grant standards.

30-DAY RESPONSES REQUESTED FROM: TCOE Superintendent of Schools, Project Coordinator and County Counsel.

In addition, copies of this report should be sent to the Director of Health and Human Services.

Grand Jury Response
Sally Aldinger
June 21, 1999

RECEIVED
JUN 28 1999
SUPERIOR COURT
JUDGES CHAMBERS

DATE: June 21, 1999
TO: John K. Letton, Presiding Judge, Superior Court
FROM: Sally Aldinger, HIV Education Coordinator

RE: Response to 1998-1999 Trinity County Grand Jury
Ad Hoc Committee on Education Final Report
Complaint Against Trinity County AIDS Task Force

My response to the findings and recommendations of the Grand Jury's Report is as follows:

Finding #1:

I agree.

Recommendation #1:

I agree.

Finding #2:

I agree.

Recommendation #2:

I agree.

Finding #3:

I agree, with the addition of the following clarification:

Free condoms are currently available through the Partners in Prevention Program (started as a part of the HIV Education and Prevention Program in 1996) in the following communities: Zenia, Mad River, Hayfork, Weaverville, Lewiston, Junction City, and Burnt Ranch.

Recommendation #3:

I agree. I believe that the objective should be written more specifically to reflect what is actually possible. It is not possible to distribute condoms to every bar in Trinity County because not all owners have responded or reacted favorably to requests.

Grand Jury Response

Sally Aldinger

June 21, 1999

Finding #4:

I agree, with the following clarification: The HIV Education Coordinator (myself) and Public Health nurses have distributed approximately 6000 condoms throughout Trinity County during FY98-99, which I believe to be adequate. Condoms for personal use are available to any Trinity County citizen upon request. The complainant resigned from a subcontract to do HIV outreach on September 23, 1998.

Recommendation #4:

I agree. The Volunteer Protocol was developed by County Counsel and approved by the Board of Supervisors Resolution No. 29-99 on April 20, 1999. I believe that this case is an excellent example of the reason such a protocol is now necessary.

Finding #5:

I agree.

Recommendation #5:

I agree.

Finding #6:

I agree.

Recommendation #6:

I agree.

Conclusion:

I agree.

Thank you for the opportunity to provide a response.

Sally L. Aldinger



TRINITY COUNTY

OFFICE OF THE COUNTY COUNSEL
Post Office Box 1428 Weaverville, California 96093
Phone: (530) 623-1382 FAX (530) 623-4222

DAVID R. HAMMER
County Counsel

RECEIVED
JUN 14 1999

SUPERIOR COURT
JUDGE'S CHAMBERS

DATE: June 10, 1999
TO: John K. Letton, Presiding Judge, Superior Court
FROM: David R. Hammer, Trinity County Counsel *DRH*
RE: Response to 1998/99 Trinity County Grand Jury Ad Hoc
Committee on Education Final Report - Complaint Against Trinity
County AIDS Task Force

My response to the findings and recommendations of the Grand Jury's Report is as follows:

Finding #1:

I agree.

Recommendation #1:

I agree.

Finding #2:

I agree.

Recommendation #2:

I agree.

Finding #3:

I agree with the first paragraph. I do not know the extent to which all of the goals have been met.

John K. Letton
June 10, 1999
Page 2

Recommendation #3:

I agree.

Finding #4:

I agree. A protocol has been developed for all County volunteers.

Recommendation #4:

I agree. A countywide volunteer protocol has been developed. There was an allegation that the protocol was intended to permit discrimination against volunteers based on their sexual orientation. The omission of the sexual orientation classification from the nondiscrimination clause was inadvertent by me. I have submitted to the Supervisors, and they have introduced, an ordinance to amend the Trinity County Code to comply with Labor Code Section 1102.1, which prohibits discrimination based on sexual orientation. The protocol will also be amended accordingly.

On April 20, 1999, the Board of Supervisors adopted Resolution No. 29-99, which recognizes that volunteers provide needed assistance to the County, schools, special districts, and other local agencies in a wide variety of activities and that the County and other local agencies encourage volunteerism to provide programs and services to the public. The protocol that was developed and approved by the Board of Supervisors recognizes that volunteers are not employees and serve at the pleasure of the agency that accepts their services. Some volunteer positions, such as firefighters, require a minimum standard for physical strength and agility. Most volunteer positions require the applicants to work under the supervision and direction of the agency that accepts their services. Because they are volunteers, the laws and regulations regarding the employer-employee relationship do not apply. As an example, if the volunteer does not perform the task for which he or she volunteered, the only recourse of the agency is to terminate the services of the volunteer. The County has no right to compel a volunteer to continue services, and the volunteer likewise has no right to compel the County to retain the services of the volunteer. This does not mean that the services of the volunteer are not highly regarded, but merely recognizes the legal relationship between the parties.

There are many reason why it may not be appropriate to use volunteers for certain positions, and that some individuals may not be appropriate for certain

John K. Letton
June 10, 1999
Page 3

volunteer positions. Each County agency must evaluate the benefits and risks to the taxpayers and public in using volunteers to perform certain tasks and evaluate whether a specific individual is appropriate to provide volunteer services for a particular task.

Volunteerism is extremely strong in Trinity County, as it is in most rural areas. As County Counsel during the past 14 months and as a citizen and volunteer in Trinity County since 1974, it has been my observation that the County and its agencies encourage, utilize, and give due recognition to volunteers.

Finding #5:

I agree.

Recommendation #5:

I agree.

Finding #6:

I agree.

Recommendation #6:

I agree.

Conclusion:

I agree.

Thank you for the opportunity to provide a response. I request that this response be published with the Final Report.



Trinity County OFFICE OF EDUCATION

<http://www.tcoe.trinity.k12.ca.us>

RECEIVED

JUN 14 1999

SUPERIOR COURT
JUDGE'S CHAMBERS

**RESPONSE TO TRINITY COUNTY GRAND JURY REPORT
COMPLAINT AGAINST TRINITY COUNTY AIDS TASK FORCE
AS REQUIRED BY PENAL CODE 933**

6-2-1999

I would like to commend the Grand Jury for their thorough and professional investigation of these allegations.

I concur with all of the Grand Jury findings. In regards to finding #3, our co-ordinator will make every effort to distribute condoms to all areas of the county for the duration of our contract as recommended. There is some consolation in your conclusion that states and I quote “..overall the HIV/AIDS E&P Co-ordinator is administering the program well and is meeting grant standards.”

My office remains committed to the prevention of HIV among our young people and protecting the rights of afflicted youth.

Respectfully submitted,

James B. French
Trinity County Supt. Of Schools



TRINITY COUNTY

BOARD OF SUPERVISORS
P.O. Drawer 1613 (530) 623-1217
WEAVERVILLE, CALIFORNIA 96093

Dero B. Forslund, Clerk
Jeannie Nix-Temple, County Administrative Officer

August 17, 1999

FILED

AUG 19 1999

SUPERIOR COURT OF CALIFORNIA *DR*
COUNTY OF TRINITY
BY: DONNA REGNANI, DEPUTY CLERK

Jerry Boosinger
Trinity County Grand Jury
P.O. Box 1258
Weaverville, CA 96093

RE: Ad Hoc Education Committee Final Report
Complaint Against Trinity County Aids Task Force

Dear Foreperson:

In its final 1998-99 report, the Trinity County Grand Jury's Ad Hoc Education Committee reviewed a complaint against the Trinity County Aids Task Force.

The Board of Supervisors concurs with both the findings and recommendations of the committee review.

The Trinity County Board of Supervisors thanks the Grand Jury for its work.

Sincerely,

TRINITY COUNTY BOARD OF SUPERVISORS


ROBERT REISS, Chairman