

Revisiting the Board of Supervisors Travel Policy and Reimbursement Claims

April 17, 2008

Summary

The 2007-2008 (hereinafter 2007) Grand Jury chose to continue the investigation that was initiated by the 2006-2007 (hereinafter 2006) Grand Jury into the Board of Supervisors (BOS) Travel Policy and BOS reimbursement claims. The 2007 Grand Jury confirmed several key findings published in the 2006 Grand Jury Report¹ and continues to monitor progress toward a clear and equitable BOS Travel Policy. The 2007 Grand Jury also recommends continued movement toward appropriate procedures for policy implementation and administrative oversight.

The purpose of a travel reimbursement policy is to establish definitive rules and procedures whereby employees are repaid for costs incurred for specified “allowable” business-related expenses. The great variation in district size and in the amount of in-county travel required of different Supervisors has made it difficult to design and implement a travel policy that is equitable to the elected officials and acceptable to them and to the county’s taxpayers.

In-depth investigation by the 2006 and 2007 Grand Juries of the BOS Policies that were in place prior to January 2008 revealed shortcomings in:

- procedures for implementation of the policy; and in
- administrative oversight by the Clerk of the Board (COB), the Auditor’s Office and by the Supervisors, themselves.

Review of the Supervisors’ claims revealed:

- persistent abuse of the Travel Policy by the current Fourth District Supervisor from January 2005 through November 2006;
- questionable weekend travel reimbursement claims by the Fifth District Supervisor;
- policy misinterpretation and a paucity of claim documentation that was readily acknowledged by the (current) Third District Supervisor; and
- that the First and Second District Supervisors have routinely submitted clear and properly documented travel expense claims.

¹ Grand Jury reports are posted with responses on the Grand Jury website: www.co.mendocino.ca.us/grandjury

The 2007 Grand Jury also questions some aspects of the BOS Travel Policy that took effect in January 2008.

On December 11, 2007, the BOS on a 3-2 vote, with Districts One and Two dissenting, adopted a revised Travel Policy that took effect in January 2008.² The new policy:

- offers Supervisors the choice of taking a fixed dollar-amount travel stipend or of maintaining detailed records and claiming mileage actually traveled;
- separates mileage reimbursement from reimbursement for allowable hotel stays, imposes a cap of two overnights per week, and limits the stays to weeks in which there is a scheduled BOS meeting;
- identifies some types of legitimate county business and some expenses that will be reimbursed but notes that this list is not all-inclusive and fails to require Auditor approval of expenses not specifically covered;
- specifies the documentation required in order to secure reimbursement.

A significant increased cost of the new policy is that the optional stipend is taxable and may bring increased payroll taxes and retirement costs to both the County and the Supervisors. Supervisors electing the stipend might qualify for larger retirement and/or Social Security benefits, but might also end up with less in after-tax dollars for out-of-pocket travel expenses. The bottom line is that taxable stipends will increase the cost of travel to both the Supervisors and the taxpayers.

In regard to past travel expense claims, the Grand Jury asked that the Fourth District Supervisor fulfill her ethical obligation and repay Mendocino County and its taxpayers the sum of \$3087. This was determined by the Auditor to be the *minimum* amount of overpayments issued between January 2005 and November 2006 on the basis of this Supervisor's "*per diem*" interpretation of the former policy. The request for repayment was reiterated in a letter from the District Attorney to the Fourth District Supervisor dated March 24, 2008. No response was received by the specified April 7, 2008 deadline.

Also as an ethical matter, and one of transparency, the Grand Jury asked the Fifth District Supervisor to explain the purpose of his extensive claims for weekend travel. The response from the Fifth District Supervisor was to supply "At-A-Glance" calendars for the period of 2005 through 2006 that did not explain in any substantive degree the reasons for his travel.

Thus the 2007 Grand Jury has found that the Fourth and Fifth District Supervisors have remained, regrettably, non-responsive to the Jury's requests.

² The BOS Travel Policies may be viewed with this report at www.co.mendocino.ca.us/grandjury

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Methods

The Grand Jury reviewed travel claims submitted by the five current Supervisors and conducted interviews with them and with two former Supervisors. With the exception of a telephone conference call with the former Fourth District Supervisor, the Supervisors testified in person and under oath. Jurors also interviewed current and former County Auditors and Clerks of the Board, County Counsel, the District Attorney (DA), and representatives of the Chief Executive Office. Additional counsel has been received from the State Attorney General's Office. Selected interviews were taped, transcribed and reviewed.

Background

Mendocino County Supervisors are required to live in the districts they represent. They travel regularly to their chambers in Ukiah and to other meetings throughout the county. Depending on their district, some Supervisors travel fewer than 10 miles from their homes to their chambers on Low Gap Road; for others, a round-trip is more than 100 miles. This disparity has made it difficult to arrive at a travel policy that is equitable and fair to all five Supervisors.

The BOS Travel Policies in place prior to January 2008 fell short in that they:

- failed adequately to address legitimate differences in travel costs including mileage and necessary in-county lodging and meals for Supervisors from the more remote Districts;
- left significant gray areas as to what activities qualified for reimbursement;
- did not specify, in writing, exactly what documentation was required to justify expense claims.

The BOS Travel Policies that were in place during 2005-07 allowed Supervisors who had back-to-back meetings on consecutive days to claim reimbursement *either* for driving their round-trip miles each day *or* for driving a single round-trip and applying the auditor-approved value of the second trip to that of overnight lodging. When lodging was chosen, reimbursement was for *either* the cost of the room *or* the value of the round-trip miles, whichever was less.

The option of applying round-trip mileage to the cost of a room resulted from discussion between a former Fourth District Supervisor and former County Auditor. The agreement was intended to apply exclusively to an *occasional* trade-off of the *value of round-trip mileage for lodging*. It did not permit reimbursement for meals or any other expense. While a receipt was required to document the lodging cost, claims were submitted for the auditor-approved value of the round-trip mileage because this was typically the lesser amount. The former Fourth District Supervisor exercised the hotel option approximately twice a month.

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When the current Fourth District Supervisor took office in January 2005, she interpreted the Travel Policy as a “*per diem*” and began to claim reimbursement for round-trip mileage for each day spent in Ukiah whether or not she either drove the miles or paid for lodging. Full round-trip mileage was claimed on numerous occasions when she stayed at a friend’s home or in a room that she rented in a private home for \$100 per month. These claims were defended by the Supervisor as “common practice” and as the only way to pay for expenses related to her job including meals, tires and pet care.

Historically, the COB has managed implementation of the BOS Travel Policy. This is the only instance in the County in which a subordinate is expected to review and sign off on a superior’s expense claims, authorizing them for payment by the Auditor/Controller.

A document submitted by the current COB defends the questionable travel expense claims as having been processed in the same manner as others over a nine year period. (The COB’s memorandum did not define “others.”) The document states that the COB never required receipts for in-county lodging and that she could not have discerned whether or not the claimed mileage had actually been traveled. Since concerns were raised by the 2006 Grand Jury about falsified expense claims that had been processed and signed by the COB, it has been contended by some that the COB only *processed* the claims and was not responsible for *authorizing* them for payment by the Auditor/Controller. The claim form still in use lists the COB as the authorizing party.

Administrative oversight of the BOS Travel Policy also fell short of acceptable standards. The agreement regarding substitution of an established mileage credit for in-county hotel costs was verbally communicated to the former COB. It was not immediately incorporated into the BOS Travel Policy though it does appear in a Policy document dated October 8, 2002. Whereas the Grand Jury determined that the Auditor’s Office required receipts to document lodging costs, this was apparently unknown to the current COB, who has not required receipts since assuming the position in 1999. Despite rapidly escalating BOS travel claims, the Grand Jury found no evidence that, prior to its own show of interest in the matter, inquires had been made by the Auditor, CEO or BOS to establish *either* the validity of the claims *or* the adequacy of the policy governing them.

The 2007 Grand Jury interviewed and reviewed the expense claims of five current Supervisors and two former Supervisors. The amounts claimed and the quality of documentation varied greatly. Jurors confirmed the 2006 finding that the Fourth District Supervisor misinterpreted the Travel Policy as a “*per diem*” and received at least \$3,087 in over payments based on numerous claims for mileage reimbursement when no miles were traveled and little or no lodging cost had been incurred.

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The Jury also confirmed that the Fifth District Supervisor regularly claims extensive weekend travel without documenting the county business being conducted. Most of the notations in his original documentation do not show what business was discussed. Where there is a notation of why the Supervisor was traveling, the notation shows attendance at social events, concerts, county fairs and political gatherings that are not covered under any travel policy.

In fact, the Fifth District Supervisor traveled 41 weekend days out of a possible 105 in 2005. For the 2006 year, the Fifth District Supervisor traveled 36 weekend days out of a possible 105. None of the other Supervisors has claimed an amount of weekend travel even remotely in this range. The Fifth District Supervisor's travel on weekends was in excess of the total weekend travel by all other Supervisors combined for the same period.

While these behaviors are inconsistent with the BOS Travel Policy and fall far short of established ethical standards, the DA has opined to the Grand Jury that its extensive evidence of false claims does not *prove intent* and, hence, may be insufficient for successful legal action.³ Other reasons that were offered by the DA for failure to investigate were *the cost and lack of staff to pursue recovery of these funds*. The Jury respectfully disagrees with this analysis, but acknowledges that the disruption and financial costs that would result from legal action would further penalize Mendocino County taxpayers.

Findings

1. Mendocino County Supervisors must reside and be present for constituents in their districts as part of their job. They must also travel regularly to scheduled meetings in Ukiah. They are reimbursed for travel to the BOS chambers in Ukiah and for other mileage traveled on county business.
2. Supervisors have very different levels of travel expense largely depending on the district each one represents and where they live. Round-trip home-to-Ukiah travel requires fewer than 10 miles for some supervisors and more than 100 miles for others. Travel in some districts is on major highways; in other areas, it can require the use of a 4-wheel-drive vehicle. Given these variations, establishing an equitable reimbursement policy has been difficult.
3. Several key findings of the 2006 Grand Jury were confirmed by the 2007 Grand Jury in an independent inquiry into the BOS Travel and Meal Policy and reimbursement claims:
 - the Fourth and Fifth District Supervisors failed to adhere to the BOS Travel Policy governing reimbursement for in-county travel;

³ The text of Penal Code 932 may be viewed with this report on the Grand Jury website www.co.mendocino.ca.us/grandjury

- the COB was responsible for processing and authorizing all BOS reimbursement claims before forwarding them to the Auditor's Office for payment;
 - the COB is directly subordinate to the BOS and is an at-will employee. This is the only case in the County where a subordinate has been vested with the power to authorize reimbursement of personal expenses submitted by a superior;
 - the BOS travel claim form (Form No. A/C-06) states clearly that signing it certifies "*under penalty of perjury that the within claim and the items therein set out are true and correct.*" Both the COB and the claimant Supervisor are currently required to sign a completed form before it is forwarded to the Auditor's Office for payment.
4. The 2007 Grand Jury received and reviewed the required responses from the BOS and the CEO to Findings and Recommendations included in the 2006 Grand Jury BOS Travel Policy Report.⁴ There were material discrepancies between the BOS and CEO responses to Findings 18 and 19, which relate to the COB's responsibility for authorizing the Supervisor's expense claims.
- **Regarding Finding 18:** The CEO's Office agreed that "*...The Clerk of the Board processes and authorizes all BOS reimbursement claims and forwards them to the Auditor's Office for payment.*" The BOS agreed that "*...the COB processes claims for reimbursement and forwards them to the Auditor's Office,*" but noted that "*...The Auditor however, exercises authority for final approval of all reimbursement claims pursuant to adopted policies.*"
 - **Regarding Finding 19:** The CEO's Office agreed that "*...The Clerk of the Board is directly subordinate to the BOS and is an at-will employee. This is the only case in the County where a subordinate is vested with the power to authorize personal expenses submitted by a superior.*" The BOS response "*...agrees with this Finding to the extent that the Clerk is directly subordinate to the BOS and is an at-will employee.*" However, the BOS response states that "*...the Clerk does not have the vested authority to authorize personal expenses of individual board members. The authority to authorize expenses is the responsibility of the Auditor.*"
5. The BOS and (former) CEO both agreed to implement 2006 Recommendation 3, that "*...Supervisors submit all BOS authorized travel and other reimbursement claims directly to the County Auditor, rather than the Clerk of the Board Office for final approval. The COB will continue to serve an administrative function in preparing the documents.*"
6. As of March 2008, the COB continues to act as approving manager for the BOS Travel expense reimbursement claims. She is still the only employee in the County who approves her managers' reimbursement claims. The current

⁴ The report and responses are published on the Grand Jury website www.co.mendocino.ca.us/grandjury

CEO is not moving forward to transfer authorization of BOS Travel reimbursement claims from the COB to the Auditor's Office.

7. The 2006 Grand Jury documented violations to the following sections of the BOS Travel Policy that was effective through June 2007:
 - **Section A (2) (d):** *"Supervisors with meetings "back-to-back" may elect to stay overnight rather than drive back and forth and will be reimbursed not to exceed the mileage rate that would have been charged for travel."*
 - **Section A (3):** *"Attendance at social and other meetings, which the member would attend regardless of his/her Supervisory position are not reimbursable. Attendance at retirement or similar functions will not be reimbursed unless the Board has requested a member to attend as their representative."*
 - **Section B (5):** *"Board members will be reimbursed for official travel to functions or organizations of which the County or an individual Supervisor is an official member. If a Board member wishes reimbursement for meetings for which he or the County is not a member, said reimbursement would have to be determined by a majority vote of the Board of Supervisors."*
8. The 2007 Grand Jury confirmed the 2006 finding that in the case of the Fourth District Supervisor, an incorrect interpretation of the travel policy as a *"per diem"* resulted in claims for reimbursement when no miles were actually traveled and no cost was incurred for overnight lodging.
9. When requested by the 2006 Grand Jury to present travel diaries, journals, receipts, or other original evidence of meetings and travel, the Fourth District Supervisor first stated that she had forgotten to bring them and then said that she did not maintain such records. She informed the 2007 Grand Jury that she did not and does not maintain an engagement calendar to record travel and business-related appointments.
10. The County Auditor could only estimate the amount of overpayments to the Fourth District Supervisor through November 2006 because the Fourth District Supervisor did not support her travel claims with lodging receipts and documentation of dates, destinations and County business purpose of her travel expenditures.
11. In lieu of accurate records, the Fourth District Supervisor proposed, to the 2006 Grand Jury and to the Auditor, a formula to estimate what percentage of her mileage claims had actually been driven. Applying this formula, 27% of the mileage for which the Supervisor had been reimbursed was not actually traveled.
12. The formula was based on travel records submitted to the Auditor in 2007 in response to the 2006 Grand Jury travel investigation. The formula was rejected by the Grand Jury as an inaccurate representation of the undocumented travel that was claimed between January 2005 and November 2006 when the Supervisor was claiming a *"per diem"* for each day spent in Ukiah.
13. The Auditor was not made aware of the Grand Jury's rejection of the formula or of the reason for this rejection. Lacking any substantive documentation of

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the expense claims, she estimated that the Fourth District Supervisor owed the County at least \$3,676.

14. The Fourth District Supervisor then submitted newly found expense documentation to the Auditor, including copies of 15 monthly rent checks of \$100 each to rent a room in a private home for use when County business required her to stay in Ukiah.
15. The rental period was from June 2005 through August 2006. The Auditor noted that overnight stays during this time should be reimbursed at the rate of \$3.33/day (the pro-rated daily lodging cost at \$100/30) rather than on the basis of round-trip mileage.
16. On the basis of the additional documentation submitted by the Fourth District Supervisor, the Auditor reduced the amount owed from \$3676 to \$3087.
17. The Fourth District Supervisor acknowledged having received the overpayment. In a memo to the Auditor, dated June 20, 2007, she stated:

“...The Mendocino County Grand Jury has asked that I pay to the County of Mendocino an amount you determine to be appropriate under your interpretation of the Board of Supervisors Travel and Meal Policy.”

“...While I do not feel your initial methodology included all pertinent factors, I am committed to concluding this matter by June 28, 2007, in a manner satisfactory to you and to the Grand Jury.”

18. Based on this commitment, the 2006-07 Grand Jury Report states that it *“...anticipated that the funds would be recovered.”*
19. When the funds had not been repaid by the June 28, 2007 deadline, the 2006 Grand Jury instituted legal action under the provisions of Penal Code Section (PC) 932 ordering the DA to recover \$3,087 in overpayments made by the County to the Fourth District Supervisor.
20. PC 932 is the only remedy available to a Grand Jury that establishes cause to seek repayment of public funds.⁵
21. The District Attorney declined to investigate the matter and suggested that the Grand Jury seek action in Small Claims Court.⁶
22. A Grand Jury has no statutory or other authority to seek action in Small Claims Court.
23. The funds due to Mendocino County remained unpaid when the 2007 Grand Jury was seated in July 2007. The new Panel elected to continue the BOS Travel Policy investigation due to the outstanding funds and the fact that inadequacies in the policies and procedures had not been addressed.
24. The written BOS Travel Policy that was already in place in 2005 and remained in place through June 2007, and the current policy that took effect

⁵ Penal Code 932 may be reviewed with the electronic version of this report at www.co.mendocino.ca.us/grandjury

⁶ The District Attorney's response to the Grand Jury's 932 Order may be reviewed with the electronic version of this report at www.co.mendocino.ca.us/grandjury

in January 2008, cover all reimbursable in-county travel. This includes in-county mileage and overnight stays when there are back-to-back meetings. Meals associated with in-county over-night stays are not covered under any of the BOS Travel Policies.

25. The Fourth District Supervisor stated that the Travel Policy in effect from 2005 through June 2007 was confusing and that she did not completely understand it. She further stated that she had interpreted the Travel Policy as a “*per diem*”, i.e., a fixed amount to which she was entitled whether or not she had *either* mileage *or* lodging expenses.
26. The Fourth District Supervisor persisted in submitting travel claims according to her “*per diem*” interpretation even after discussing the Travel Policy with the former Auditor late in 2005 (her first year in office) and being told that it was incorrect.
27. The 2007 Grand Jury confirmed that the Fourth District Supervisor claimed 22 round-trips in June of 2006 including 17 round-trips in 18 consecutive days. For the same month, she had paid monthly rent of \$100 for a room in Ukiah for use as a bedroom “...as needed to do her job.”
28. The Fourth District Supervisor discussed her “*per diem*” interpretation with the former Auditor again in December 2006 and received the same answer.
29. Under Section (A) (2) (d) of the Travel Policy (prior to June, 2007), if no miles are traveled and no cost is incurred for lodging, no reimbursement is permitted.
30. *Reimbursement* is defined as repayment of funds actually spent.
31. The 2007 Grand Jury observed no “confusion” as to this interpretation except on the part of the Fourth District Supervisor. When interviewed, all Supervisors acknowledged that *reimbursement* means being repaid money for funds actually expended in accordance with the Travel Policy.
32. Ethics training provided to the Supervisors by County Counsel includes the admonition that elected officials are required to know and abide by applicable reimbursement policies.
33. Supervisors of the First, Second, Third and Fifth Districts and the former Fourth District Supervisor each indicated that they understood the meaning of the Travel Policies in effect for the period of 2005-2007. Each of them rejected the interpretation of the mileage allowance as a “*per diem*.” Each of them rejected the argument that mileage could be claimed when there had been no expense either for driving or for lodging.
34. Review of the expense claims of all current Supervisors and two retired Supervisors revealed great variation both in the amount of travel expense claimed and in the level of documentation provided.
35. Only the District One and District Two Supervisors routinely support their claims with receipts and by indicating the destination and business purpose of their travel. While most claims appear reasonable, other Supervisors provide little or no backup documentation.
36. Supervisors for the First, Second and Third Districts did not claim any substantial weekend travel; the Fourth District Supervisor had some weekend

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- travel and was unable to describe for the Grand Jury the county-related business purpose of the travel.
37. The Fifth District Supervisor claimed extensive weekend travel compared with the other Supervisors. He declined to explain the purpose of this travel and refused to provide backup documentation until a subpoena was issued for his records. The subpoenaed documents did not support his travel claims.
 38. Most of the notations provided by the Fifth District Supervisor in his original documentation do not show what business was discussed and where there is a notation of why the Supervisor was traveling, the notation typically shows attendance at social events, concerts, county fairs or political gatherings.
 39. The Fifth District Supervisor traveled on 41 weekend days out of a possible 105 in 2005 and 36 weekend days out of a possible 105 in 2006. None of the other Supervisors claimed an amount of weekend travel even remotely in this range.
 40. The Fifth District Supervisor's travel on weekends was in excess of the total weekend travel by all other Supervisors combined for the same period.
 41. The 2007 Grand Jury further determined that neither the Auditor's Office, the CEO's Office, nor the COB's Office concurred with a "*per diem*" interpretation of Section (A)(2)(d) of the BOS Travel Policy. According to all of these respondents, when no miles were driven and no cost incurred for lodging, no reimbursement was due.
 42. Current and past auditors have always required receipts to document in-county lodging expenses; the COB's Office collected lodging receipts prior to 1999 but has not done so on a regular basis since 1999.
 43. The BOS Travel Policy that took effect in January 2008 requires receipts for reimbursement of all lodging costs and clearly specifies the documentation required for this and other expenses.⁷
 44. During 2007, the newly elected Third District Supervisor, who resides outside Laytonville, also claimed commute mileage reimbursement in order to offset the cost of a modest secondary residence in Willits.
 45. The Travel Policies specify reimbursement for "overnight stays for back-to-back meetings." No allowance is provided for the cost of maintaining a second residence. When the 2007 Grand Jury asked the Third District Supervisor whether he was prepared to repay the excess mileage reimbursement to the County, he readily agreed to do so.
 46. When asked once again, by the 2007 Grand Jury to compensate the County for excessive reimbursement claims, the Fourth District Supervisor declined to make the repayment, as she had previously agreed to do. She stated that the policy was "*confusing*," the practice was "*common procedure*," and that she had many expenses as a result of her job including "*tires, pet care and meals away from home*."

⁷ The 2008 BOS Travel Policy may be viewed with the electronic version of this report at www.co.mendocino.ca.us/grandjury

47. Tires are among the car costs covered by the allowed government mileage rate for reimbursement for miles actually driven. Pet care, in-county meals and other incidentals are not reimbursable under any county travel policy.
48. On December 12, 2007, the BOS approved a revised travel policy, effective in January 2008. The revised document stipulates that the Board of Supervisors shall review this policy in January of each year commencing January 2009. Under this policy, reimbursement for travel within Mendocino County is subject to the following terms:

A. Mileage

1. For travel necessary for official business within the county, each member of the Board of Supervisors may elect before January 1 or before July 1 of each year to:
 - a. To receive a vehicle allowance in the following amount for his/her district:

(Taxable) Vehicle Allowance proportionate to geographic areas and distances:

First District	\$500 per month
Second District	\$250 per month
Third District	\$1,000 per month
Fourth District	\$900 per month
Fifth District	\$800 per month

OR

- b. To itemize and claim actual mileage for utilization of his/her own vehicle for official County business within the County borders, including travel to and from home office to official business.
2. Mileage will be reimbursed at the same rate as set for County personnel.⁸

C. Lodging

1. Supervisors conducting official business in the County seat may elect to stay overnight rather than drive back and forth to their residences and will be reimbursed for actual lodging costs incurred, not to exceed the established local government hotel rate, for up to two (2) nights during a week with a regularly scheduled Board of Supervisors' meeting.

49. Only the Second District Supervisor has elected to itemize his mileage costs. Reimbursement for itemized mileage under II (A) (1) (b) is not taxable income. The mileage allowance (stipend) described under (A) (1) (a) is fully taxable and may bring increased payroll taxes and retirement costs to both the County and the Supervisors.⁹ In return, Supervisors electing the stipend might qualify for larger retirement and/or Social Security payments.

⁸ Current mileage rate is \$.505/mile).

⁹ For 2008, increased County costs might include up to 11% pension, 4% COLA, 4% deferred compensation and Medicare/Social Security in excess of 7%. Supervisor costs will vary.

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50. The revised policy makes no allowance for reimbursement of more than two overnight stays in a week and limits hotel reimbursement to weeks with a regularly scheduled Board of Supervisors' meeting. Lodging receipts are required. Meals associated with overnight stays are not reimbursed.
51. Regarding reimbursement for travel expenses related to official county business, the 2008 Travel Policy defines *County Business* in Section I General Policy, (A) (B) and (C):

A. Official Business

Official business of the Board of Supervisors includes but is not limited to attendance at regular Board meetings, special Board meetings, Board standing committee meetings, Board special assignment committee meetings, Board of Equalization meetings, and other County business.

B. Reimbursable Expenditures

The types of occurrences that qualify a member of the Board of Supervisors to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses include the following:

1. *Communicating with representatives of regional, state and national governments on County adopted policy positions;*
2. *Attending educational seminars designed to improve officials' skill and information levels;*
3. *Participating in regional, state and national organizations whose activities affect the County's interests;*
4. *Attending County events;*
5. *Implementing a County-approved strategy for attracting or retaining businesses to the County, which will typically involve at least one staff member;*
6. *Meeting with and addressing concerns of constituents.*

C. Non-Reimbursable Expenditures

The types of occurrences that do not qualify for reimbursement of expenses include:

1. *Attendance at social and other meetings, which the member would attend regardless of his/her supervisor position. Attendance at retirement or similar functions will not be reimbursed unless the Board has requested a member to attend as their representative.*
2. *Any expenditure related to political campaigning for themselves or others.*
3. *Expenses of family members accompanying Board members on official business.*

52. The Grand Jury notes that the clause in Section I (A) that defines types of allowable county business concludes with the statement "...but not limited to..." and is, in fact, open-ended.

Recommendations

The Grand Jury recommends that:

1. As a matter of accountability and transparency, the Fifth District Supervisor make public a full and clear disclosure of the purpose of his extensive weekend travel (Findings 3, 32, 33, 37-40).
2. The Fourth District Supervisor repay to the County of Mendocino the amount of \$3,087 that was established by the Auditor to represent travel reimbursement overpayments (Findings 3, 8-17, 19, 24-30, 32, 33, 36, 46, 47, 50).
3. The Third District Supervisor review with the Auditor his mileage reimbursement claims filed during 2007, and that he repay, as he has agreed to do, any excess reimbursement, as determined by the Auditor (Finding 32, 33, 36, 44, 45).
4. Responsibility for review of the Supervisors' travel reimbursement claims be formally transferred from the Clerk of the Board to the Auditor's Office, and that:
 - a. reimbursement claim forms be revised to indicate this change in oversight responsibility, and
 - b. that the Auditor be diligent in enforcing the 2008 BOS Travel Policy including expense documentation. (Findings 3-6, 34, 35, 42, 43).
5. When the 2008 BOS Travel Policy is reviewed, in January 2009, the Supervisors:
 - a. eliminate the taxable stipend and establish the option of being assigned an appropriate County vehicle (Findings 48-52);
 - b. require Auditor approval for reimbursement of any expense related to business that is not explicitly defined in county policy as allowable county business (Finding 52);
 - c. approve a meal allowance, at the approved county rate, (only) for dinners on nights when a Supervisor claims a reimbursable in-county hotel stay (Findings 24 and 50).

Comments

The 2007 Grand Jury is indebted to the numerous current and former Mendocino County officials, and to both seated and former Supervisors who contributed to this report with their candid responses during lengthy interviews.

Testimony overwhelmingly rejects the contention that it has been common practice to claim commute mileage as a "*per diem*" when miles are not driven and no lodging expense is incurred. While it has been the auditor-approved practice of some Supervisors to claim commute miles in lieu of occasional lodging for back-to-back meetings, lodging receipts have always been required

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by the Auditor's Office and were routinely collected by the COB's Office until 1999.

With two notable exceptions, in-depth review of the expense claims of all current Supervisors raised questions. Most of these were quickly resolved by referencing calendars or other backup documents. The purpose of extensive weekend travel by the Fifth District Supervisor remains essentially unsubstantiated; the Third District Supervisor promptly acknowledged that he might have misinterpreted the Travel Policies in place in 2007 as allowing him to collect mileage to offset the cost of his second residence in Willits where he spends some work nights. Only the Fourth District Supervisor persists in defending mileage reimbursement she claimed as a "*per diem*", when no miles were driven and no lodging cost was incurred.

The revised BOS Travel Policy took effect in January 2008. The document discusses, though not conclusively, what constitutes "county business" and what does not. It specifies what documentation is required for reimbursement of actual expenses. It provides Supervisors with the option of *either* documenting their actual in-county mileage (including commute miles) *or* receiving a taxable stipend in an amount calculated to reflect the size of each district and its distance from Ukiah. Only the Second District Supervisor has elected to itemize mileage.

The new policy addresses several important issues. It offers Supervisors a way to avoid the need for detailed record keeping, if they wish to do so. It cleanly separates mileage reimbursement from reimbursement for allowable hotel stays, imposes a cap of two overnights per week, and limits the stays to weeks in which there is a scheduled BOS meeting.

A potential added cost of the new policy is that whereas mileage reimbursement is not taxed, the optional stipend is fully taxable and might bring increased payroll taxes and retirement costs to both the County and the Supervisors. Supervisors electing the stipend might qualify for a larger retirement benefit and/or a larger Social Security payment.

A perfect, one-size-fits-all BOS Travel Policy is likely to remain elusive. The stress and hazards of long-distance travel are inescapable.

The fact that parity was not achievable under the old travel policy is regrettable; however, it in no way justifies the documented falsification of expense reports by the Fourth District Supervisor to claim mileage reimbursement when she stayed in Ukiah and incurred little or no expense either for travel or for lodging. The request for repayment was reiterated in a letter from the District Attorney to the Fourth District Supervisor dated March 24, 2008. No response was received by the specified April 7, 2008 deadline.

1st District: Michael Delbar; 2nd District: Jim Wattenburger; 3rd District: John Pinches (previously Hal Wagenet); 4th District: Kendall Smith (previously Patti Campbell); 5th District: David Colfax.

Questions remain as to whether the new stipend option will level the economic playing field for Supervisors in the different Districts. Ultimately, the only way to accomplish that elusive goal may be to require travel logs and receipts, as is common practice in government and most private business settings. While this alternative continues to draw resistance from a few Supervisors, the Grand Jury strongly concurs with those who support it as the only fair and accurate way to document legitimate business expenses for reimbursement at taxpayer expense. Another possibility is to offer the option of a county car in place of the current travel stipends.

Required Responses

County Executive Officer (Findings 1-7, 24, 29, 30, 32, 41-43, 45, 47- 52 and Recommendations 4 and 5).

Auditor-Controller (Findings 3, 4, 10-17, 24, 27, 41-43, 45, 47-52 and Recommendations 4 and 5).

District Attorney (Findings 19-22).

Clerk of the Board (Findings 3-6, 41-43 and Recommendation 4).

Board of Supervisors (collective response) (Findings 1-7, 24, 29-32, 43, 45, 47-52 and Recommendations 4 and 5).

Current First District Supervisor (Findings 32-33, 35-36 and Recommendation 5).

Current Second District Supervisor (Findings 32, 33, 35, 36, and Recommendation 5).

Current Third District Supervisor (Findings 32, 33, 36, 44, 45 and Recommendations 3 and 5).

Current Fourth District Supervisor (Findings 3, 8-17, 19, 24-30, 32, 33, 36, 46, 47, 50, and Recommendations 2 and 5).

Current Fifth District Supervisor (Findings 3, 32, 33, 37-40 and Recommendations 1 and 5).

The following documents are available with the electronic version of report on the Grand Jury website: www.co.mendocino.ca.us/grandjury

1st District: Michael Delbar; 2nd District: Jim Wattenburger; 3rd District: John Pinches (previously Hal Wagenet); 4th District: Kendall Smith (previously Patti Campbell); 5th District: David Colfax.

2006-07 Grand Jury report: Are You Getting What You Pay For? A Report on the Board of Supervisors Travel Policy (June 7, 2007)—Published with responses

Travel Policy in effect prior to June 2007

2008 Travel Policy

Text of Penal Code Section 932

Mendocino County District Attorney's response to PC 932 Order filed by the 2006-07 Grand Jury

1st District: Michael Delbar; 2nd District: Jim Wattenburger; 3rd District: John Pinches (previously Hal Wagenet); 4th District: Kendall Smith (previously Patti Campbell); 5th District: David Colfax.