

El Dorado County Board of Supervisors

Final Response to 2005-2006 Grand Jury GJ05-027 Mid-term Report

In reviewing the facts, findings and recommendations contained in the 2005-2006 Grand Jury GJ05-027 Mid-Term Report, we find that the report raises significant questions and concerns about the Grand Jury. We are deeply concerned about the validity and accuracy of the report, the manner in which its subject matter was investigated, and the manner in which the report was presented.

Responses follow to each fact, finding and recommendation contained in the report. However, before doing so, we wish to emphasize the following points which we believe demonstrate bias :

1. As a result of its investigation concerning the Brown Bag Program, the Grand Jury accuses the Director of Human Services of offenses that include not following protocol, misrepresenting facts, diverting funds, lying and political motivations. California Penal Code Section 933.05(e) states: "During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental." However, the Grand Jury never met with the Director of Human Services concerning this investigation. If it had, it might have avoided the errors in this report.
2. California Penal Code Section 911 requires that each Grand Jury member take an oath swearing that they: "...will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the grand jury." However, it has been brought to the attention of Human Services staff that members of the Grand Jury have publicly commented to private individuals concerning the investigation of the Human Services Department.
3. The Grand Jury accuses the Assistant Department Director of Human Services of making "misleading statements and lies" in his May 24, 2005 presentation before the Board of Supervisors. California Penal Code section 916 states: "Rules of procedure shall include guidelines for the grand jury to ensure that all findings included in its final reports are supported by documented evidence..." However, a careful review of the transcript of that meeting offers no evidence of misleading statements or lies but instead demonstrates that all relevant facts were accurately reported by County staff.
4. California Penal Code Section 911 requires that Grand Jury members "diligently inquire" and "true presentment make" of offenses. The Grand Jury report states that the report addendum includes a "...complete text of statements as transcribed from videotape of the Board of Supervisors meeting on May 24, 2005." However, the report addendum does not include a complete text of statements on this subject made at the Board of Supervisors meeting. Rather, it contains what appears to be a selectively edited version of what was said at the meeting, with entire portions of text omitted.

5. California Penal Code Section 924.1(a) states: “Every grand juror who, except when required by a court, willfully discloses any evidence adduced before the grand jury, or anything which he himself or any other member of the grand jury has said, or in what manner he or she or any other grand juror has voted on a matter before them, is guilty of a misdemeanor.” However, on May 9, 2006, a member of the Grand Jury made a public statement and presented a written document including, in part, information and allegations not included in its final Grand Jury report, while verbally confirming that the document was not part of the report. The Grand Jury acquiesced in this unlawful disclosure of evidence and unauthorized communication.
6. The Grand Jury was aware that, in addition to having followed proper protocol in the planning and redirection of funds, the Human Services Department had other compelling reasons for not recommending that the County continue to contract with the Food Bank of El Dorado County. The Grand Jury was aware that those reasons included the absence of an independent audit to document adequate fiscal controls, a history of seniors and volunteers being harassed and upset by Food Bank staff, a documented history of non-cooperation by Food Bank staff in complying with contractual requirements, and the problematic history of Food Bank staff. Combined, these factors would have made it both fiscally negligent and a violation of the public trust for the Department of Human Services to recommend that the Board of Supervisors continue to contract with the Food Bank of El Dorado County. However, despite all of the available evidence on this matter, the Grand Jury not only recommended a reinstatement of Brown Bag funding, but a reinstatement of the Food Bank of El Dorado County as administrator of the Brown Bag Program.

Upon careful review, we find Grand Jury Report GJ05-027 to be poorly presented, misleading, biased, and reflective of a Grand Jury process gone awry.

The following is a list of statements presented by the Grand Jury as “fact”, followed by responses:

Fact #1:

Community Based Services Programs Redirection Policy dated November 29, 2002

(which was not followed)

California State Department of Aging Program Memo- PM 02-26(P). (see Addendum for text)

AAAs (Area Agency on Aging) shall follow all requirements specified in Section 9535 of the Older Californian’s Act, if they propose to redirect programs in Chapter 7.5 [see PM 98-37(P)]. One specific requirement is the development of an Administrative Action Plan, which shall receive approval of the governing board after considering the input received from the local advisory council. In addition, the California Department on Aging (CDA) is requiring the AAA to describe in its Plan how clients participating in programs targeted for redirection will be transitioned into other community services.

Specific minimum standards must be met.

1. Develop Administrative Action Plan.
2. Governing Board Approves the Administrative Action Plan.

- a. Local Advisory Council (11 members) makes recommendations to Governing Board. [sic]

If any funds are proposed for redirection, the AAA shall submit the following with the original Community-Based Services Programs (CBSP) budget:

- An Administrative Action Plan (AAP) containing justification for each program selected by the AAA for redirection, and
- A transmittal letter signed by the Chairs of the Advisory Council and Governing Board.

Once California Department on Aging approves the Plan and the budget, AAA shall incorporate approved changes, along with goals and objectives, into their Area Plan update due to the CDA on May 1 of each fiscal year.

Response to Fact #1: Fact #1 is false. Redirection policy was followed where applicable.

All policies and procedures were followed when allocating funds to the various Community Based Services Programs. State law governing the funding for these services allows the County to allocate funds as determined by the County in its discretion. There is no requirement to accept these funds or to fund all of the services. If the County chooses to accept these funds, the allocation level for each program is determined through the planning process and then approved by the Board. All transfers of funds between these programs were approved by the Board of Supervisors and the State of California. During FY 04/05 the Governor's Budget proposed Block Granting of the CBSP services funds. The Contract and funding documents received from the State contained the following language:

Based on the Governor's Budget, all General Funds and program guidance for the CBSP are being merged into a new Area Plan (formerly Title III/VII) contract process. State General Funds for programs described in Chapter 7.5 of the Older Californians Act (OCA), except for the Health Insurance Counseling and Advocacy Program (HICAP), are being merged with other Title III General Funds into a consolidated Block Grant Program line item on your Area Plan (AP) Planning Estimate.

Based on the local needs assessment and public hearing process, each AAA should budget these Block Grant Program funds in the revised AP Budget (CDA 122) in either Title III-B Supportive Services, Title III-C Nutrition Services, or in a new program category entitled "Other State Funded Grants" (previously authorized CBSPs).

If a AAA decides to fund a program that is currently described in Chapter 7.5 of the Older Californian's Act (except HICAP), a AAA should indicate the budget amount on the appropriate line item on the "Other State Funded Grants" (OSFG) page. This page includes a place to budget costs, program income, non-match cash, non-match in-kind, State funds, match cash, and match in-kind. Federal funds cannot be budgeted for any OSFG. Authorized OSFG are Case Management (Linkages), Visiting Program (Senior Companion), Surplus & Donated Food (Brown Bag), Respite Purchase of Service (RPOS), and Specialized Day Care Service (ADCRC).

The Area Plan for Senior Services for fiscal year 2004-05 was developed in accordance with State policy and was approved by the Board of Supervisors and the State. The original budget did not include funding for the Brown Bag Program, and the Human Services Department verified with the State that the redirection process was not required. On December 31, 2004 the California Department of Aging mailed the notification of approval of the Area Plan Budget Original for FY 04-05. It stated:

The Department of Aging is pleased to inform you that your Area Plan Budget Original for Fiscal Year 2004/05, received on June 1, 2004, has been approved.

This Budget included the following funding levels:

<i>Programs</i>	<i>State Funds</i>
▪ <i>Case Management (Linkages)</i>	<i>\$ 241,333</i>
▪ <i>Visiting Program (Senior Companion)</i>	<i>0</i>
▪ <i>Surplus and Donated Food (Brown Bag) Program</i>	<i>0</i>
▪ <i>Respite Purchase of Service (RPOS)</i>	<i>0</i>
▪ <i>Specialized Day Care Service (ADCRC)</i>	<i><u>86,000</u></i>
<i>Total Direct and Contracted Other State Funded Grants</i>	<i>\$ 327,333</i>

A budget revision including \$9,699 in funding for the Brown Bag program was approved by the State in March, 2005.

The State's approval of the Area Plan budget and subsequent revisions for Fiscal year 2004-05 demonstrates that proper procedure was followed, and all applicable documentation is available for public viewing in the Human Services Department.

The Grand Jury report suggests a lack of understanding of the roles and responsibilities of the Commission on Aging, the Advisory Committee for Community Based Services Program Redirection and the Board of Supervisors in the budget and redirection processes. The Advisory Committee's role is to provide advice and input into the allocation and redirection of Community Based Services Program resources. Their advice is then integrated into the Plan for Senior Services. The Plan for Senior Services is developed with the participation, review and comment of the Commission on Aging. The Plan is then presented to the Board of Supervisors, who are the Governing Board of the Area Agency on Aging. Once approved by the Board, the Plan is submitted to the California Department of Aging for their review and approval.

In the 2005-2009 Area Plan for Senior Services, the procedures redirection of funding pursuant to PM 02-26 (P) were followed, even though it was not clear whether they actually applied. An administrative plan was developed that decreased funding for Respite Purchase of Service (RPOS) and redirected funds formerly allocated to the Brown Bag program. This Administrative Plan was incorporated into the 2005-2009 Area Plan approved by the Board of Supervisors on May 24, 2005 and approved by the California Department of Aging on August 29, 2005. All supporting documentation is available for public viewing in the Human Services Department.

Fact #2:

CHRONOLOGICAL LIST OF EVENTS

(Taken from documents provided)

DATE	DESCRIPTION
December 11, 2003	Food Bank of El Dorado County Board of Directors met. During this meeting the Director of the Community Services (now Department of Human Services) presented a draft of a recommendation (non agenda item) regarding the integration of the Food Bank of El Dorado County into the County service system.
January 8, 2004	At the Food Bank Board of Directors meeting there was unanimous agreement that negotiations with the County should be the Food Bank Executive Director's responsibility.
February 11, 2004	A letter from the Director of Human Services to the County Board of Supervisors recommended the integration of the Food Bank of El Dorado County into the County service system.
February 24, 2004	Board of Supervisors Agenda Transmittal sheet. Dept. summary and requested Board action: "Human Services recommends approval of measures reflecting County cooperation with and support of the Food Bank of El Dorado County in its efforts to address hunger and nutrition needs." Signed by John Litwinovitch.
July 2004	No contract was signed with the Food Bank due to State budget constraints. (Brown Bag Program was suspended by the State in the proposed budget.)
August 2004	State reinstated Brown Bag Funding in the signed budget.
July 2004 through January 2005	For 6 months, the Food Bank struggled to provide food to the elderly of El Dorado County, but in a reduced capacity.
January 11, 2005	A letter to the El Dorado County Board of Supervisors from the Executive Director of the Food Bank requested reinstatement of the Brown Bag Program contract and full funding retroactive to July 1, 2004.
Between January and March, 2005	The County was in receipt of full funding from the State for senior services. \$23,277.00 was designated for the Brown Bag Program retroactive from July 2004
January 31, 2005	Assistant Director Department of Human Services requested an audit from the Food Bank.
February 2005	A contract with the Food Bank was signed to provide the Brown Bag Program from February, 2005 through June, 2005 in the amount of \$9,700 from the total \$23,277 leaving a balance of \$13,577.

February 2005	The Food Bank was not reimbursed for services provided from July 1, 2004 to January 31, 2005. The County redirected the Brown Bag funds of \$13,577 to other senior programs.
April 18, 2005	Public hearing at Placerville concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.
April 21, 2005	Commission on Aging passes new 2005-2009 Area Plan that redirects Brown Bag funds to other senior programs.
April 22, 2005	The Food Bank Board of Directors Chairperson's letter to the County Board of Supervisors requested a delay of final approval of the Area Plan for 2005-2009.
April 28, 2005	Public hearing at South Lake Tahoe concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.
May 19, 2005	A letter from the Director of the Department of Human Services stated that the County had requested the Food Bank to provide copies of external audit reports for fiscal years 2002/03 and 2003/04. It also indicated that review of these reports would be necessary to enter into a new contract for services. The letter did not indicate who would pay for the audits.
May 24, 2005	Assistant Director of the Department of Human Services made a presentation before the County Board of Supervisors regarding the new 2005-2009 Area Plan for senior services. The Brown Bag Program was not included in this 4 year plan.

Response to Fact #2: Fact #2 is partially false and/or misleading. In July 2004, no contract was offered to the Food Bank, and there was absolutely no requirement that one be offered. In August 2004, the Governor signed the State budget without a veto of funding for the CBSP that was included in the budget by the legislature. Between January and March, 2005, the County received notification that the revised Area Plan budget, which increased the County's allocation to the Brown Bag program from \$0 to \$9,699, was approved. The County did not actually receive the funding of \$9,699 used to fund the 5-month Brown Bag contract until November 2005 (Warrant #04-336823 – dated 11/22/05). Therefore, in February 2005, the County was under no obligation nor did it have a contract with the Food Bank to provide services for the period July 1, 2004 to January 31, 2005. Since there was no funding budgeted for the Brown Bag program for this period, providing funds to the Food Bank for the program for this period would have been an unauthorized and inappropriate act.

Regarding April 21, 2005, the Commission on Aging role is to provide advice, support, review and input into the Area Plan planning process. Their “approval” simply allowed the Commission Chair to sign the Area Plan Transmittal letter. The Board of Supervisors is the Governing Board and it alone has the authority to “pass” the plan, which it did on May 24, 2005.

Regarding May 19, 2005, the Department had requested a copy of an audit from the Food Bank. The Executive Director had previously agreed to provide an audit, but later reneged. As a matter

of course, the County does not offer to pay for audits of organizations that choose not to pay for one themselves.

Fact #3:

County Board of Supervisor’s Meeting on May 24, 2005

The following information was provided to the County Board of Supervisors on May 24, 2005. The Assistant Director of Human Services presented the new Area Plan 2005-2009 for seniors and commented about the Food Bank and its administration of the Brown Bag Program. Public input at this meeting is also included below. (See Addendum for complete text of statements as transcribed from videotape of the Board of Supervisors meeting on May 24, 2005.)

As stated before the BOS on 5-24-05	Grand Jury Investigation Reveals
Food Bank external audit requirement not received.	No audit requirement in County contract.
The Food Bank had revenues of over \$2 million in tax year 2003. Audit required to the State Attorney General – revenue over \$2 million	The Food Bank revenues amounted to \$316,477 in cash, 2003 IRS tax return #990 Not required. State Attorney General requires audits for non-profits (the Food Bank) only if gross revenues are over \$2 million, exclusive of grants
The Food Bank had a responsibility to submit an audit and had not done so.	Fax Transmission Cover Sheet from State of California Department of Justice from Staff Services Analyst, Registry of Charitable Trusts, dated May 25, 2005, states “This email is to confirm that Food Bank of El Dorado County is in good standing with the Registry of Charitable Trusts.”
Money from the Brown Bag Program was cancelled by the State of California.	The Brown Bag Program was never cancelled. It had been suspended in a proposed budget but was fully funded in the signed budget.
El Dorado County has funded the Brown Bag Program	The State funds the Brown Bag Program. The County disperses the funds
We have a huge waiting list with our day care program	The waiting list for day care is fluid and there fore openings at the Day Care frequently occur.

To date there is no contract by the County with any entity to provide services for the Brown Bag Program.

Response to Fact #3: Fact #3 is false and/or misleading. Statements are listed in one column with apparent rebuttals by the Grand Jury in the other column. The rebuttals are either misleading or false.

An audit was requested of the Food Bank as a result of the confrontational and evasive tactics used by the Executive Director of the Food Bank. No statement was made by anyone with the County that there was an audit requirement in a County contract. However, the contract required that the Food Bank demonstrate fiscal responsibility and proper financial practices, and County

staff requested an audit because that is a common method for a contractor to demonstrate fiscal responsibility, and the Executive Director of the food Bank had previously agreed to provide one. The reasons why external audit reports had been requested were explained to the Grand Jury. Requests from the County to perform program monitoring were repeatedly declined by the Executive Director of the Food Bank. Monitoring visits are required by State policy and the contract with the Food Bank, and serve a useful purpose in confirming program compliance during the period of a contract. The Food Bank repeatedly sought to avoid a timely monitoring visit by requesting delays due to what it claimed was "overwhelming staff scheduling." Food Bank staff continued to delay the required monitoring visits until near the end of the contract period, when it would serve little, if any, purpose. The absence of evidence of adequate fiscal controls and active attempts to avoid monitoring visits would each be a significant factor in determining whether the County should continue to contract with any organization. The presence of both of these factors puts the County in danger of allowing wasteful if not illegal expenditures of taxpayer funds.

The Food Bank has attempted to justify its refusal to demonstrate fiscal responsibility by providing an independent audit by claiming that it did not have to provide an audit under State law. The Food Bank's position was that an audit is only required by State law if a non-profit's cash income exceeds \$2 million. This position is incorrect. The Grand Jury apparently accepted the Food Bank's erroneous position and made no effort to substantiate the claim.

According to the 2003 IRS Return #990, the Food Bank revenues amounted to \$2,322,513 of which \$316,477 was in cash and included \$85,112 in Government contributions (grants). The Grand Jury accuses Mr. Nowka of misleading the Board but fails to mention that Mr. Nowka told the Board twice of the amount of total revenue and cash revenue. This statement by the Grand Jury seems to imply that the Food Bank only had revenues of \$316,477. This is a false and misleading impression.

The Grand Jury apparently has accepted the Food Bank's erroneous position and asserts that an audit is not required of the Food Bank based on the \$2 million gross revenues requirement, implying that Food Bank gross revenues under State law did not reach that level. Had the Grand Jury simply reviewed the Attorney General's website (<http://www.ag.ca.gov/charities/faq.htm>) they would have easily found the answer to this question under their FAQ section:

QUESTION: What is included in "gross revenue" for the purpose of determining whether a charity must prepare audited financial statements under Government Code section 12586(e)? ANSWER: "Gross revenue" under that section is the same as "total revenue," which currently appears on Line 12 of IRS Form 990 for public charities and Line 12, column (a) for private foundations.

For the Food Bank of El Dorado County, Line 12 of the 2003 IRS form 990 exceeded \$2 million. County staff accurately reported the amount of total revenue and cash revenue to the Board of Supervisors. The Food Bank's total revenue exceeded \$2 million, and therefore triggered the audit requirement under State law. The fact that the Attorney General reported that the Food Bank is "in good standing" as of May 2005 has nothing to do with the audit requirement. The Grand Jury missed the important point that, audit or not, the Food Bank failed to demonstrate

fiscal responsibility as required by the contract, and actively avoided the State-mandated monitoring visits which caused great concern among County staff. Most importantly, the Grand Jury falsely accused County staff of lying when in fact, all pertinent facts were revealed.

The Grand Jury again makes the statement that “money from the Brown Bag Program was cancelled by the State of California” and remarks that the “Brown Bag Program was never cancelled.” The County has the authority and responsibility to fund appropriate services for senior citizens. The County chose not to fund the Brown Bag Program with General Fund revenues in the absence of funding available from the State. When the Director of the Food Bank led the County to believe he would have an audit performed during a meeting with a Supervisor and the Assistant Director of Human Services, and when the State notified the County that some of the State funds were being restored, the County decided to offer a contract to the Food Bank for the remaining five months of the fiscal year. The Grand Jury has no legal authority to question discretionary decisions made by the County such as which programs to fund and which contractor demonstrates fiscal responsibility.

The Grand Jury provides a misleading oversimplification when it says: “The State funds the Brown Bag Program. The County disperses the funds.” El Dorado County is not simply a pass-through agent. The contract for Brown Bag Services is between the Food Bank and the County, not the State. The County has discretion on what senior programs to fund using money received from the State.

In regard to the Day Care Program, it has historically had a large waiting list. Openings do frequently occur, but that does not mean that there was not a lengthy waiting list, as there was.

Importantly, the Grand Jury report Fact #3 states, in reference to the Board of Supervisors May 24, 2005 meeting: “See Addendum for complete text of statements as transcribed from videotape of the Board of Supervisors meeting on May 24, 2005.” However, the Addendum does not include a complete text of statements made at the Board of Supervisors meeting on this item. Rather, it contains what appears to be a selectively edited version of what was said at the meeting, with entire portions of relevant text omitted. The omitted sections provide important information concerning the County’s good faith and diligent efforts. The Addendum ends with “End of presentation” at a point prior to the actual end of the discussion. The selective elimination of portions of the full text does not indicate that the Grand Jury was attempting to provide a full and complete picture of what happened, but rather had simply adopted the biased and erroneous position of the Food Bank.

Fact #4:

The Adult Day Care Center/Senior Day Care Center in Placerville can serve a maximum of seventy-two clients per week. From this total of seventy-two, only twenty clients currently come from the Cameron Park/El Dorado Hills area. Only three or four clients are waiting for the El Dorado Hills Day Care Center to open. (Information obtained from the Adult Day Care/Senior Care Center in Placerville.)

Response to Fact #4: Fact #4 is misleading. The Grand Jury did not speak with the Senior Day Care Supervisor. At the point in time referred to in the report (May, 2005) the waiting list

included 70 individuals. The opening of the El Dorado Hills Center will allow those twenty currently traveling to Placerville to receive services closer to home, and free up openings in the Placerville area.

Fact #5:

The Department of Human Services stated in writing and also before the Board of Supervisors presentation of May 24, 2005 that the Food Bank of El Dorado County was not cooperative in allowing the County to monitor the Food Bank’s operations. The requested monitoring dates conflicted with on-site monitoring of the Food Bank that the State of California had previously scheduled.

Response to Fact #5: Fact #5 is false. Monitoring is required by State rules and by the contract the Food Bank signed. The State of California has confirmed that it would not have scheduled monitoring for the number of days that Food Bank staff claimed they were unavailable. Furthermore, the State has noted that County monitoring at the same time would not have been a problem. County staff tried six times to set up a monitoring visit. Food Bank staff refused to speak with County staff in person or on the telephone and hung up on County staff several times. Food Bank staff “instructed” the County that all correspondence had to be in writing. Food Bank staff refused to allow any monitoring visits until the last eight days of the contract. It was this active obstruction to monitoring visits that caused the County to ask for an audit in the first place, as a method for the Food Bank to demonstrate fiscal responsibility. The Executive Director has previously assured the County that he would provide an audit. The refusal to allow monitoring visits until the last days of the contract period and the refusal to provide an audit led County staff to question the operations of the Food Bank.

Fact #6:

Two public hearings are required before any action can be taken. Action was taken by the Area Agency on Aging a week before the second public hearing.

April 18, 2005	Public hearing at Placerville concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.
April 21, 2005	Commission on Aging passes area plan that redirects Brown Bag Program funds. An out of sequence action.
April 28, 2005	Public hearing at South Lake Tahoe concerning 2005-2009 Area Plan. Major concern of seniors was termination of the Brown Bag Program.

Response to Fact #6: Fact #6 is false. We are unaware of any requirement that two hearings are required and believe that only one public hearing is required to approve an Area Plan. Fact #6 is also misleading in that the Commission on Aging serves in an advisory capacity; the Board of Supervisors is the governing body and has the authority to “pass” or adopt the area plan. The process was conducted in the proper sequence because the Board of Supervisors approved the plan in May of 2005.

Fact #7:

There is no evidence that the requirements for “redirection” of Community Based Service Programs (CBSP, Brown Bag Program in this case) funds as defined in paragraphs (c), (d) and (e) of Section 9535 as quoted in Program Memo PM98-37 (P) from the State Department of Aging have been followed. Investigation has indicated that there has been an express lack of adherence to said requirements.

Response to Fact #7: Fact #7 is false. There is abundant documentation and evidence that the requirements for “redirection” of Community Based Service Programs (CBSP, Brown Bag Program in this case) funds as defined in paragraphs (c), (d) and (e) of Section 9535 as quoted in Program Memo PM98-37 (P) from the State Department of Aging have been followed where applicable. Again, this evidence is presented in response to Recommendation 3R below.

Fact #8:

There is no evidence of a redirection process having been followed to authorize the diversion of \$13,577 of Brown Bag Program funds for the period of July 2004 through February 2005.

Response to Fact #8: Fact #8 is false. As detailed in the response to Recommendation 3R below, the redirection process was not required for the Fiscal Year 2004-05 budget. The Food Bank incorrectly claims that the State gave funds to the County in the amount of approximately \$23,000 that were “designated” for the Brown Bag program, of which \$9,699 was paid to the Food Bank for services, leaving a balance of \$13,577, which was “diverted” to other programs. This is completely incorrect. The State gave the County a block grant of approximately \$380,000, which the County could use to fund programs at its discretion as determined through the local planning process. The County chose to fund the Brown Bag program for the period of February 2005 through June 2005 in the amount of \$9,699. There was never any money from the State that was “designated” for the Brown Bag program that was “diverted”. The Grand Jury has simply repeated the erroneous claim of the Food Bank and has failed to understand the true situation.

Fact #9:

The redirection process required for the diversion of Brown Bag funds under the 2005-2009 Area Plan was flawed because there is no evidence of the processes and personnel required to effect the redirection process as covered in Department of Aging Program Memos PM 98-37 (P) January 10, 1999 and PM 02-26(P) November 19, 2002.

Response to Fact #9: Fact #9 is false. Again, there is abundant evidence that the redirection process was followed where applicable, and no evidence has been presented that it was not followed where applicable.

Responses to Findings and Recommendations

1F. Finding: Audits of the Food Bank were requested by senior department heads of the Human Services Department but had not been included in their service contracts.

Response to Finding 1F: *The respondent disagrees partially with the finding.* The Department of Human Services does not have multiple department heads. Audits were not specifically required in the contracts with the Food Bank. However, the contract did require the Food Bank to demonstrate that it is operating in a fiscally responsible manner, and an audit is a standard way to demonstrate that. The Executive Director of the Food Bank had previously agreed to provide an audit. Copies of external audit reports were requested from the Food Bank when the Food Bank became uncooperative and confrontational in its contractual relationship with County, leaving the County unable to confirm that the Food Bank was operating in a “fiscally responsible manner and demonstrating the fiscal capacity to maintain records of accountability for all personnel costs, operating expenses, and indirect costs in an orderly manner conducive to clear audit trails,” as was required by the contract. The Grand Jury is aware of the extensive efforts by the Department of Human Services to provide the Food Bank with opportunities to comply with the contractual requirements, many of which are documented in a May 19, 2005 letter from the Director of Human Services to the Executive Director of the Food Bank. The Grand Jury was provided additional information indicating that it would have been seriously negligent and irresponsible for the County to continue to contract with the Food Bank without solid evidence of adequate accounting controls.

1R. Recommendation: If the County requires audits of its contractors this requirement must be in all contracts, along with funds to cover the cost of the audit and defining who is to perform the audit.

Response to Recommendation 1R: *The recommendation will not be implemented because it is not warranted.* The intent of this finding is not clear. Currently, the County has the ability to contractually require audits from contractors, to not require audits, or to request audits as one means of confirming an organization’s fiscal stability. In the latter case, a contractor may not be contractually required to provide audits, but the absence of evidence of adequate fiscal controls may be a factor in whether the County continues to contract with that organization. To state: “If the County requires audits of its contractors this requirement must be in all contracts, along with funds to cover the cost of the audit and defining who is to perform the audit” is to suggest that if the County requires an audit from one contractor, audits must be required from all contractors and the County must pay for and define who will perform those audits. This sweeping recommendation could lead to a new and unnecessary layer of government requirements at a significant cost to taxpayers, as the County works with many hundreds of contractors. This recommendation is neither reasonable nor warranted.

2F. Finding: At the May 24, 2005 meeting of the Board of Supervisors a comment was made by Joe Harn, County Auditor/Controller, that Human Services staff may be “**wrong**” in reporting the Food Bank was not fully complying with the requirements of the State for non-profits of their size.

Response to Finding 2F: *The respondent agrees with the finding.* The finding is accurate, but is also taken out of context, and as such is misleading and may be misunderstood. The Grand Jury does not say that at the same hearing the Auditor also noted that he did not “have any reason to believe” that staff was wrong. It is important that the full text of the dialogue be considered.

2R. Recommendation: The Board of Supervisors should require further investigation when an issue is raised by the County Auditor/Controller regarding actions taken by County departments.

Response to Recommendation 2R: *The recommendation will not be implemented because it is not warranted.* The Board of Supervisors currently has full authority and ability to require further investigations when the County Auditor/Controller raises issues regarding actions taken by County departments, and does so as is deemed appropriate. No evidence has been provided that the County Auditor/Controller was requesting an investigation of the Human Services Department on this matter. The Auditor stated at the hearing that he had no reason to believe that County staff was wrong, and in fact, the Attorney General's website indicates that the County was correct. \$2 million in gross revenues triggers the need for an audit under State law, regardless of the amount of cash income. The Food Bank's and the Grand Jury's focus on the amount of cash income is erroneous and irrelevant.

3F. Finding: During testimony before the Grand Jury, the Assistant Director of Human Services stated that redirection of funds was not needed for a new area plan.

Response to Finding 3F: *The respondent agrees with the finding.* This finding is technically correct. Area Plans may be updated in the absence of funds being "redirected". As portions of testimony have been taken out of context and misinterpreted, the Grand Jury is encouraged to release the full transcripts of its discussions with the Assistant Director of Human Services to ensure a clear public understanding of this and other matters.

3R Recommendation: State policy for the redirection of funds is required and proper procedure must be followed in all cases. (See addendum, PM 98-27(P).)

Response to Recommendation 3R: *The recommendation has been implemented. (The recommendation is unnecessary; proper procedures were followed.)*

Redirection policy was followed where applicable. The Grand Jury is wrong if it assumes that every decision concerning Brown Bag program funds was a "redirection".

All applicable policies and procedures were followed when allocating funds to the various Community Based Services Programs. Funding for these services allows the County to allocate funds as determined by the County. There is no requirement to accept these funds or to fund all of the services. If the County chooses to accept these funds, the allocation level for each program is determined through the planning process and then approved by the Board. All transfers of funds between these programs were approved by the Board of Supervisors and the State of California. During FY 04/05 the Governor's Budget proposed Block Granting of the CBSP services funds. The Contract and funding documents received from the State contained the following language:

Based on the Governor's Budget, all General Funds and program guidance for the CBSP are being merged into a new Area Plan (formerly Title III/VII) contract process. State General Funds for programs described in Chapter 7.5 of the Older Californians Act (OCA), except for the Health Insurance Counseling and

Advocacy Program (HICAP), are being merged with other Title III State General Funds into a consolidated Block Grant Program line item on your Area Plan (AP) Planning Estimate.

Based on the local needs assessment and public hearing process, each AAA should budget these Block Grant Program funds in the revised AP Budget (CDA 122) in either Title III-B Supportive Services, Title III-C Nutrition Services, or in a new program category entitled “Other State Funded Grants” (previously authorized CBSPs).

If a AAA decides to fund a program that is currently described in Chapter 7.5 of the Older Californian’s Act (except HICAP), a AAA should indicate the budget amount on the appropriate line item on the “Other State Funded Grants” (OSFG) page. This page includes a place to budget costs, program income, non-match cash, non-match in-kind, State funds, match cash, and match in-kind. Federal funds cannot be budgeted for any OSFG. Authorized OSFG are Case Management (Linkages), Visiting Program (Senior Companion), Surplus & Donated Food (Brown Bag), Respite Purchase of Service (RPOS), and Specialized Day Care Service (ADCRC).

The Area Plan for Senior Services for fiscal year 2004-05 was developed in accordance with State policy and was approved by the Board of Supervisors and the State. The original budget did not include funding for the Brown Bag Program, and the Human Services Department verified with the State that the redirection process was not required. On December 31, 2004 the California Department of Aging mailed the notification of approval of the Area Plan Budget Original for FY 04-05. It stated:

The Department of Aging is pleased to inform you that your Area Plan Budget Original for Fiscal Year 2004/05, received on June 1, 2004, has been approved.

This Budget included the following funding levels:

<i>Programs</i>	<i>State Funds</i>
▪ <i>Case Management (Linkages)</i>	<i>\$ 241,333</i>
▪ <i>Visiting Program (Senior Companion)</i>	<i>0</i>
▪ <i>Surplus and Donated Food (Brown Bag) Program</i>	<i>0</i>
▪ <i>Respite Purchase of Service (RPOS)</i>	<i>0</i>
▪ <i>Specialized Day Care Service (ADCRC)</i>	<i><u>86,000</u></i>
<i>Total Direct and Contracted Other State Funded Grants</i>	<i>\$ 327,333</i>

A budget revision including \$9,699 in funding for the Brown Bag program was approved by the State in March, 2005.

The State’s approval of the Area Plan budget and subsequent revisions for Fiscal year 2004-05 demonstrates that proper procedure was followed, and all applicable documentation is available for public viewing in the Human Services Department.

The Grand Jury recommendation suggests a lack of understanding of the roles and responsibilities of the Commission on Aging, the Advisory Committee for Community Based Services Program Redirection and the Board of Supervisors in the redirection process. The Advisory Committee's role is to provide advice and input into the redirection of Community Based Services Program resources. Their advice is then integrated into the Plan for Senior Services. The Plan for Senior Services is developed with the participation, review and comment of the Commission on Aging. The Plan is then presented to the Board of Supervisors, who are the Governing Board of the Area Agency on Aging. Once approved by the Board, the Plan is submitted to the California Department of Aging for their review and approval.

In the 2005-2009 Area Plan for Senior Services, the redirection procedures pursuant to PM 02-26 (P) was followed. An administrative plan was developed that decreased funding for Respite Purchase of Service (RPOS) and redirected funds formerly allocated to the Brown Bag program. This Administrative Plan was incorporated into the 2005-2009 Area Plan approved by the Board of Supervisors on May 24, 2005 and approved by the California Department of Aging on August 29, 2005. All supporting documentation is available for public viewing in the Human Services Department.

4F. Finding: The El Dorado County Department of Human Services did not follow California State mandated procedures and protocol when funds were redirected from the Brown Bag Program in their 2005-2009 Area Plan. Brown Bag Program monies provided by the State have been incorrectly redirected to other County senior programs.

Response to Finding 4F: *The respondent disagrees wholly with the finding.* See responses to Fact #6 and Recommendation 3R above. The El Dorado County Department of Human Services followed California State mandated procedures and protocol when funds were redirected in the 2005-2009 Area Plan. All pertinent documentation to support this fact is available for public viewing in the Human Services Department.

The statement: "Brown Bag Program monies provided by the State have been incorrectly redirected to other County senior programs" implies that monies allocated to the County for Brown Bag purposes were spent on other programs. This is untrue. No funds are allocated to the Brown Bag program or any other program unless and until the County makes that allocation and the State approves it.

The Grand Jury report contains numerous misleading statements and misrepresentations that blur the fact that policies and procedures were followed. Some examples:

- The report states that a contract was renewed in a meeting with the District I Supervisor. This is not true. A contract cannot be renewed by a single Supervisor. However, during the referenced meeting the Executive Director of the Food Bank indicated that, while he was concerned about the cost of an audit and was unsure who he might find to complete an audit, he would be complying with the request for an independent audit. He later reneged on his commitment to perform an audit, at the same time that he was resisting monitoring visits.
- The report states that the State "reinstated Brown Bag Funding in the signed budget" in August 2004. This is misleading. What occurred was the Governor signed the budget

without a veto of funding for the Community Based Services Program that was included in the budget by the Legislature.

- The report states between January and March, 2005, “the County was in receipt of full funding from the State for senior services. \$23,277.00 was designated for the Brown Bag Program retroactive from July 2004.” This is not true. The State gave the County a block grant of approximately \$380,000, which the County could use to fund programs at its discretion as determined through the local planning process. The County chose to fund the Brown Bag program for the period of February 2005 through June 2005 in the amount of \$9,699. The County received notification that the budget was approved. The County did not actually receive the funding of \$9,699 used to fund the 5-month Brown Bag contract until November 2005 (Warrant #04-336823 – dated November 22, 2005).
- The report states that in February 2005, a “contract with the Food Bank was signed to provide the Brown Bag Program from February, 2005 through June, 2005 in the amount of \$9,700 from the total \$23,277 leaving a balance of \$13,577. This is misleading. A contract was offered by the County covering the period of February 1, 2005 to June 30, 2005 in the amount of \$9,699. There was no “balance” of Brown Bag funding.
- The report states that in February 2005, the “Food Bank was not reimbursed for services provided from July 1, 2004 to January 31, 2005. The County redirected the Brown Bag funds of \$13,577 to other senior programs.” This is misleading. Only \$9,699 was ever designated for the Brown Bag program in the fiscal year 2004-05 budget. The County was under no obligation nor did it have a contract with the Food Bank to provide services for the period July 1, 2004 to January 31, 2005. Under these circumstances, “reimbursing” funds to the Food Bank for past services would have been unauthorized and an illegal gift of taxpayer funds.
- The report states that on April 21, 2005, the “Commission on Aging passes new 2005-2009 Area Plan that redirects Brown Bag funds to other senior programs.” This is misleading. The Commission on Aging’s role is to provide advice, support, review and input into the Area Plan planning process. Their “approval” simply allowed the Commission on Aging Chair to sign the Area Plan Transmittal letter indicating that the Commission on Aging “had the opportunity to participate in the planning process and to review and comment on the Area Plan... actively support the planning and development of community-based systems of care and will assure compliance with the assurances set forth in this 2005-2009 Area Plan.... recognize the responsibility within each community to establish systems in order to address the care needs of older individuals and their families and caregivers in this planning and service area.” The full text of the Transmittal letter is: *This Area Plan is hereby submitted to the California Department of Aging for approval. The Governing Board and the Advisory Council have each had the opportunity to participate in the planning process and to review and comment on the Area Plan. The Governing Board, Advisory Council, and Area Agency Director actively support the planning and development of community-based systems of care and will assure compliance with the assurances set forth in this 2005-2009 Area Plan. The undersigned recognize the responsibility within each community to establish systems in order to address the care needs of older individuals and their families and caregivers in this planning and service area.* The Board of Supervisors is the Governing Board of the Area Agency on Aging and it alone has the authority to pass or adopt a plan resulting in the actual allocation or redirection of funds.

- The report states: "Two public hearings are required before any action can be taken." Only one public hearing is required.

4R. Recommendation: State funds allocated for the Brown Bag Program should be returned to the program.

Response to Recommendation 4R: *The recommendation will not be implemented because it is not warranted.* This recommendation is based on the false premise that there exists an allocation of funding approved, intended and allocated for the Brown Bag Program. There is nothing to "return."

5F. Finding: In the 2004/2005 budget, the County dispersed \$9,700 to the Food Bank of El Dorado County for February through June of that year. The County redirected \$13,577 to other senior programs without implementing the redirection process. Redirection policy as specified by the State of California was not followed.

Response to Finding 5F: *The respondent disagrees wholly with the finding.* As detailed in the response to Recommendation 3R above, the redirection process was not required for the Fiscal Year 2004-05 budget. The Food Bank incorrectly claims that the State gave funds to the County in the amount of approximately \$23,000 that were "designated" for the Brown Bag program, of which \$9,699 was paid to the Food Bank for services, leaving a balance of \$13,577, which was "diverted" to other programs. This is completely incorrect. The State gave the County a block grant of approximately \$380,000, which the County could use to fund programs at its discretion as determined through the local planning process. The County chose to fund the Brown Bag program for the period of February 2005 through June 2005 in the amount of \$9,699. There was never any money from the State that was "designated" for the Brown Bag program that was "diverted".

5R. Recommendation: Redirection of funds provided by the State for specific programs must follow State protocol.

Response to Recommendation 5R: *The recommendation has been implemented. (The recommendation is unnecessary; State protocol was followed.)*

6F. Finding: The Food Bank of El Dorado County lost its support from the County through a presentation of incorrect information by the Assistant Director of Human Services at a Board of Supervisors meeting May 24, 2005.

Response to Finding 6F: *The respondent disagrees wholly with the finding.* The Grand Jury report weaves a web of misinformation on the subject of why funding for the Food Bank was not continued, beginning with the Executive Summary statement: "In December of 2003, the Department of Community Services (now Department of Human Services) approached the Food Bank Board regarding the County assuming the Food Bank's operation." This was followed by accusations of failing to follow required protocol and misleading the Board of Supervisors and finally, in a public Grand Jury statement (not part of the Grand Jury report), accusations of "political motivations" and "lies."

The Department never approached the Food Bank regarding the County assuming the Food Bank operations. A September 3, 2003 letter to Supervisor Charlie Paine from the Executive Director of the Food Bank stated: "Unless we get the financial support we need we will not be able to continue to provide the level of service expected of us." At one point the letter states: "We need an additional \$88,000 annually and \$45,000 for a delivery truck." A form attached to the letter, entitled "Profit & Loss Budget Overview", showed a net income of minus \$39,580.

A September 8, 2003 letter to Chief Administrative Officer Laura Gill from the Executive Director of the Food Bank included the September 3 letter as an attachment and indicated that it was a "proposal."

In October, 2003 Supervisors Dupray and Sweeney placed an item on the Board of Supervisors agenda recommending "integration of the Food Bank of El Dorado County into the County services system" and requesting that "Community Services and Social Services bring back to the Board of Supervisors their recommendations regarding the proposed integration." Integration into the County's system is not the same as the County assuming the Food Bank's operation. The item received unanimous Board approval on October 14, 2003.

Many non-profit agencies receive a significant portion of their funding by accessing federal and State funding through contracts with the County, or through funding sources accessed with County support. While not being part of County government, they are fully integrated into a broader cooperative "services system" that allows them to access resources as they become available. The Executive Director of the Food Bank was asking for help, and the Board of Supervisors was requesting that County staff assist in integrating the Food Bank into the broader cooperative "services system" by which the County helps non-County entities.

On January 24, 2004, the Departments of Social Services and Community Service were merged into the Department of Human Services. The Director of Human Services, after having considered options and discussed them with the Executive Director of the Food Bank, prepared a response back to the Board of Supervisors on this matter. On February 5, 2004 the Executive Director of the Food Bank sent a letter to the Director of Human Services stating: "I again appreciate your willingness to allow the Food Bank to have input on this important matter..." and "...Again I thank you for the time you have spent on this matter." On February 10, 2004 the Executive Director of the Food Bank stated to the Director of Human Services that he found the draft response recommendations acceptable. The response was placed on the Board of Supervisors agenda for February 24, 2004 and received Board approval.

The February 24 agenda transmittal clearly summarized the intent of the Director of Human Services: "Human Services recommends approval of measures reflecting County cooperation with and support for the Food Bank of El Dorado County in its efforts to address hunger and nutrition needs." None of the five recommendations contained in the response suggest in any way a County interest in "assuming the Food Bank's operation", nor did the Director of Human Services propose, suggest or give any indication that the County might be interested in "assuming the Food Bank's operation" at any point in the process.

In its May 9, 2006 public statement, given beyond the scope of the final Grand Jury report, the Grand Jury claimed that the Director of Human Services on December 11, 2003 “presented his recommendations that he had made to this Board of Supervisors, regarding the integration of El Dorado County into the County service delivery system....” The Director did not present his recommendations to the Board of Supervisors until the following February. In its public statement the Grand Jury went on to state that: “It implied that the El Dorado Food Bank should come under his leadership and control.” This allegation has no basis in fact; at no point in time was such a recommendation made or considered by the County.

The issue of appropriately following protocol is addressed elsewhere in this response. At the May 24, 2005 meeting of the Board of Supervisors the Assistant Director of Human Services presented the Board of Supervisors with accurate information. The Grand Jury report includes a “Grand Jury Investigation Reveals” section concerning what was said at this meeting, implying that Grand Jury revelations somehow contradict the information presented to the Board. The following is a summary response to the comments contained in the “Grand Jury Investigation Reveals” section of the report.

1. **Comment** - No audit requirement in County contract.

Response - No statement was made that there was an audit requirement in a County contract. External audit reports had been requested based on circumstances explained to the Grand Jury. The Food Bank Executive Director agreed to provide an audit but later reneged. The County’s contract required the Food Bank to demonstrate fiscal responsibility, which it failed to do.

2. **Comment** - The Food Bank revenues amounted to \$316,477 in cash, 2003 IRS tax return #990.

Response - The Assistant Director told the Board that, of the Food Bank revenues, \$316,000 “was in cash.” In fact, he shared this with the Board of Supervisors twice.

However, there is substantially more to this issue. The Food Bank attempted to justify failing to provide an audit that its Executive Director agreed to provide by claiming that an audit was not required under State law if cash income did not exceed \$2 million. This is an incorrect statement of State law and a red herring. To the question: “Are non-cash contributions included in “gross revenue” for the purpose of determining whether a charity must prepare audited financial statements under Government Code section 12586(e)?”, the California State Attorney General answers: “Yes.” (See <http://www.ag.ca.gov/charities/faq.htm>) And to the question: “What is included in “gross revenue” for the purpose of determining whether a charity must prepare audited financial statements under Government Code section 12586(e)?”, the Attorney General answers: ““Gross revenue” under that section is the same as “total revenue,” which currently appears on Line 12 of IRS Form 990 for public charities and Line 12, column (a) for private foundations. Follow instructions for IRS Form 990 and 990PF, Part I, Line 12.”

For the Food Bank of El Dorado County Line 12 – Total Revenue - on 2003 IRS Form 990 was \$2,322,513. However, despite this critical evidence relative to revenues and audit requirements, the Grand Jury states: “The Food Bank revenues amounted to \$316,477 in cash, 2003 IRS tax return #990.” and then asserts that the Board of Supervisors was misinformed by the Assistant Director of Human Services!

3. **Comment** - Not Required. State Attorney General requires audits for non-profits (the Food Bank) only if gross revenues are over \$2 million, exclusive of grants.
Response - The Assistant Director accurately conveyed to the Board of Supervisors what he had learned from the Attorney General's Office. It is not clear if the State Attorney General actually provided a formal opinion to the Grand Jury regarding the status of the Food Bank relative to audit requirements, contradicting its own website, or if "Not Required" is a Grand Jury opinion conveyed as fact.
4. **Comment** - Fax Transmission Cover Sheet from State of California Department of Justice from Staff Services Analyst, Registry of Charitable Trusts, dated May 25, 2005, states "This email is to confirm that Food Bank of El Dorado County is in good standing with the Registry of Charitable Trusts."
Response - The Assistant Director of Human Services did not speak to the issue of the standing of the Food Bank of El Dorado County with the Registry of Charitable Trusts, but rather conveyed significant information from the Attorney General's Office relative to the issue of audit requirements. (See #2 above.)
5. **Comment** - The Brown Bag Program was never cancelled. It had been suspended in a proposed budget but was fully funded in the signed budget.
Response - Setting aside the semantic debate as to whether a program that is not continued by the State Legislature should retrospectively be referred to as "cancelled" or "suspended" if it is later reinstated, it should be noted that the phrase "was cancelled by the State of California" was not used by the Assistant Director of Human Services at the May 24 Board of Supervisors meeting, but rather by a respected member of the senior community.
6. **Comment** - The State funds the Brown Bag Program. The county disperses the funds.
Response - It is not clear if the capital "S" for the State of California and the small "c" for the County of El Dorado are intentional, but this brief two sentence statement suggests a clear lack of understanding of the County's role and responsibilities in planning and administering Aging Program funding. The State funds Community Based Services Programs and provides parameters for planning, allocation and use of those funds. The County is not simply a dispersal agent, but rather has significant obligations in planning, prioritizing, administering and ensuring accountable use of funds.

The Grand Jury states in its report: "the State has continuously supplied the County with funds to support the Brown Bag Program." This indicates a misunderstanding of the extent to which funding for each Community Based Services Program is based upon local planning and decision making processes. It may accurately be said that the State supplies the County with funds to support its Community Based Services Programs, which the County may allocate to a Food Bank program if it decides, in its discretion, to do so.

7. **Comment** - The waiting list for day care is fluid and therefore openings at the Day Care frequently occur.

Response - The waiting list is fluid and openings do occur. This does not contradict the fact that in May, 2005 the waiting list was lengthy.

The statements made by the Assistant Director of Human Services at the May 24, 2005 Board of Supervisors meeting were clear, straightforward and well-presented. No evidence of the Board being misled, intentionally or otherwise, has been presented.

6Ra. Recommendation: Reinstate the Brown Bag Program to provide aid to the county elderly in need.

Response to Recommendation 6Ra: *The recommendation will not be implemented because it is not warranted.* El Dorado County, through its Area Agency on Aging, provides extensive services to meet the needs of our senior population. Currently, no resources are allocated for a Brown Bag Program. The possibility of a future contract for Brown Bag services will depend upon multiple factors, including but not limited to funding availability, service priorities and the availability of vendors willing to comply with program requirements by, among other things, demonstrating fiscal responsibility.

It should also be noted that discretionary contractual decisions fall within the purview of the Board of Supervisors. The Grand Jury has no jurisdiction in this area and should not be engaging in second-guessing Board decisions.

6Rb. Recommendation: Reinstate the Food Bank of El Dorado County as administrator of the Brown Bag Program. This will allow the most expeditious re-implementation of the Brown Bag Program.

Response to Recommendation 6Rb: *The recommendation will not be implemented because it is not warranted.* The Grand Jury uses its report to commend and praise the Food Bank of El Dorado County. Dispensing with any semblance of impartiality or objectivity that might normally be expected of an investigative body, the Grand Jury not only recommends that the Brown Bag Program be reinstated, but that it be reinstated with this particular organization. This recommendation is particularly troublesome in that the Grand Jury was provided with considerable evidence, only a portion of which it chose to include in the report, confirming that for the County of El Dorado to continue to contract with the Food Bank of El Dorado County on its terms would have been a negligent and irresponsible act, placing taxpayer resources at risk and subjecting County staff and senior program participants to continued harassment and discourteous behavior. As such, this recommendation is both unwarranted and irresponsible.

7F. Finding: According to California Codes, Welfare and Institutions Code Section 9535 cites in subdivision (c) "Where the area on aging proposes to redirect funding under this chapter, the area agency shall ensure that it has submitted its recommendations to a locally formed advisory committee that shall include

- consumers of long-term care services
- representatives of local organizations of seniors
- functionally impaired adults
- representatives of employees who deliver direct long-term care services, and

representatives of organizations that provide long-term services

- at least one-half of the members of the advisory committee shall be consumers of services provided under this chapter or their representatives.

“and in subdivision (d) “In addition, where the Area Agency on Aging proposes to redirect funding under this chapter, an administrative action plan shall be developed and shall receive the approval of the area agency’s governing board, which shall consider the input received pursuant to subdivision (c). The administrative action plan shall receive the governing board’s approval prior to submission to the department for final State approval. The administrative action plan shall be an update to the area plan.”

Records do not show that “at least one-half” of the members of the **advisory committee** are consumers of services provided under this program.

Response to Finding 7F: *The respondent disagrees wholly with the finding.* Records show that at least one-half of the Community Based Services Program advisory committee members are consumers or represent people who are consumers of Department services. The Grand Jury begins by referencing a law and ends with a significant omission from the reference. As noted, the law states: “at least one-half of the members of the advisory committee shall be consumers of services provided under this chapter or their representatives.” However, the Grand Jury then states that: “Records do not show that “at least one-half” of the members of the **advisory committee** are consumers of services provided under this program”, omitting “or their representatives”, and thus altering the text and intent of State Law.

7Ra. Recommendation: There must be oversight of all commissions within the County to ensure compliance with California State policies, and are followed to the letter and spirit of the programs.

Response to Recommendation 7Ra: *The recommendation will not be implemented because it is not warranted.* It is not known if the Grand Jury investigated “all commissions” in El Dorado County in order to reach the conclusion that all commissions in the County are in need of additional oversight. If implemented, this all-encompassing recommendation could result in an additional layer of bureaucracy, costly to the taxpayers, and drawing limited resources away from important services as public safety, roads and services to seniors. No evidence is provided indicating that such oversight is needed for any El Dorado County commissions; therefore, the recommendation is considered unwarranted.

7Rb. Recommendation: Provide verification that current members of the Advisory Council comprise all entities listed in Section 9535 and publicize it.

Response to Recommendation 7Rb: *The recommendation will not be implemented because it is not warranted.* The Department of Human Services is operating in compliance with State and federal requirements. The Department does not believe that additionally publicizing which Advisory Committee program participants may be functionally impaired or more dependent on certain services is a necessary or appropriate measure.