

**Keyes Fire Protection District
Grand Jury Case No. 02-02-C
July 17, 2002**

REASON FOR INVESTIGATION

The Civil Grand Jury received a citizen's complaint alleging the Keyes Fire Protection District (KFPD) has several major problems related to management which has reduced its effectiveness within the community it serves.

THE COMPLAINT:

1. Favoritism/nepotism within the Keyes Fire Department (KFD).
2. Lack of leadership on the part of the KFD Chief.
3. Misleading information on one (1) employee's employment application.
4. Misuse of KFD equipment.
5. KFD personnel records are not kept secure and confidential.

During the course of investigation, the Civil Grand Jury also obtained information alleging:

6. Improper use of finances.

BACKGROUND

KFPD was established July 5, 1960 and recognized under the provisions of the Fire District Law of 1961. It is a special district within Stanislaus County with the primary purpose of extinguishing fires and responding as a "first responder" to medical aid calls in and around Keyes. The exact boundaries of the KFPD were originally articulated in a Stanislaus County Board of Directors Resolution dated June 9, 1965. The KFPD is governed by a Board of Directors which consists of five (5) members referred to as Fire Commissioners.

KFD is a volunteer fire department consisting of a Chief, two (2) Assistant Chiefs, four (4) Captains, and thirteen (13) firefighters. All members of the KFD are also members of the Keyes Fire Association (Association). The Association has a board of directors and is a qualified non-profit organization. The Association has a checking account, which has a tax-

exempt identification number. KFPD also has an account, separate from the Association account, that is controlled by the Fire Commissioners.

KFPD compensates its volunteers by making payments to the Association. The Association, in turn, disburses funds according to arrangements agreed upon by the members. The Association is considered a separate organization by KFPD. Association members receive five dollars (\$5.00) for every call to which they respond. Of the five dollars (\$5.00), one dollar (\$1.00) stays in the Association account and the member keeps four dollars (\$4.00).

PROCEDURES FOLLOWED

1. The Civil Grand Jury interviewed:
 - a. The Complainant.
 - b. The Stanislaus County Fire Warden.
 - c. Three (3) KFD firefighters.
 - d. One (1) former KFD firefighter.
 - e. Three (3) KFD Captains.
 - f. One (1) KFD Assistant Chief.
 - g. The KFD Chief.

2. The Civil Grand Jury conducted a site visit of:

The Keyes Fire Department.

3. The Civil Grand Jury reviewed the following documents, records, and websites:
 - a. Letter from complainant to Grand Jury dated 9/28/01.
 - b. Letter from complainant to Grand Jury dated 10/04/01.
 - c. Organization Chart for KFD.
 - d. Copy of a letter of reprimand dated 2/8/00 from KFPD Commissioners to the KFD Assistant Chief regarding removal of a light bar from his personal vehicle.
 - e. Copy of 1999-2000 Civil Grand Jury Report of Keyes Community Services District dated 3/08/00, Case 00-10-C.
 - f. Copy of KFD Equipment Checkout Sheet and General Information.
 - g. *Turlock Journal* article/picture dated 5/23/01 showing fire response.
 - h. *Modesto Bee* article/picture dated 4/07/02 showing fire response.
 - i. Copy of KFD Employment Application.
 - j. Copy of Information and Basic Requirements for KFD firefighters.
 - k. Minutes of Keyes Fire Commissioners Meetings dated 5/16/01, 6/20/01,

- 8/15/01 and 12/19/01.
- l. Copy of CHP Collision Report #2001-08-0280 dated 8/23/01.
 - m. Stanislaus Superior Court case #29507 - Income and Expense Declaration dated 7/03/01.
 - n. Stanislaus Superior Court case #29507 - Responsive Declaration to Order to Show Cause dated 6/26/01.
 - o. Stanislaus Superior Court case #29507 - Order to Show Cause dated 7/16/01.
 - p. Copy of Social Security Administration Disability Letter dated 5/19/01.
 - q. Letter of resignation from a KFD firefighter dated 11/09/01.
 - r. Copy of letter from KFD Chief to all members regarding work schedules and lack of responses (undated).
 - s. Copy of a letter from an officer to the Keyes Fire Commissioners dated 1/04/02 regarding problems in KFD.
 - t. Copy of letter to Keyes Fire Commissioners dated 12/19/01 - vote of no confidence.
 - u. Signature log of Keyes firefighters signing vote of no confidence against the Chief.
 - v. Twelve (12) page document of information from Keyes firefighters in support of the No Confidence Vote.
 - w. Copy of by-laws issued to KFD members with missing pages.
 - x. Copy of original set of by-laws for KFD.
 - y. Copy of KFD Standard Operating Procedures 00-01 through 00-13.
 - z. Copy of KFPD Annual Financial Report completed by Clendenin Bird and Company for years ended 6/30/00 and 6/30/99.
 - aa. Copy of Call Participation Detail from 11/01/00 to 7/11/01 for an individual firefighter.
 - bb. Copy of employment application rejected due to applicant residing "out of district," dated 9/08/00.
 - cc. Hand-written note regarding three (3) additional applicants who were rejected due to living "out of district."
 - dd. Log used to calculate firefighter's pay and participation for July, August and September 2001.
 - ee. Check stub numbers 3312 through 3317 from KFD checking account indicating personal loans as well as payment for minor departmental equipment repairs.
 - ff. A hand-written notebook copy of a record of partial loan repayments.
 - gg. KFD check numbers 3391 through 3395 pre-signed by Assistant Chief.
 - hh. Request for medical leave of absence by Assistant Chief dated 11/18/97.
 - ii. Authorization for Assistant Chief to return to work dated 7/06/98.
 - jj. Physician's follow-up note dated 7/06/98.
 - kk. Copy of California Driver License for Assistant Chief (front and back).
 - ll. California Department of Motor Vehicles chart describing driver license classifications and requirements.
 - mm. Insurance proposal for KFPD from Capax Insurance dated 7/01/95.

- nn. Internet Web Site - Bad Apple Productions.
- oo. Various sample policies of Stanislaus Consolidated Fire District.
- pp. Fire District Administration Handbook compiled by The Fire District Association of California, September 1997 edition.

**COMPLAINT #1 - FAVORITISM/NEPOTISM WITHIN THE KEYES
FIREDEPARTMENT:**

FINDINGS

1. It is common that family members will choose the same career interests and will often work in the same public safety department.
2. The KFD by-laws state, "Any person who resides within a ten (10) minute response time of the Keyes Fire Station may obtain a membership application from the Chief..." (Section B, Page 32, Recruitment of Members).
3. At least one application, dated 6/23/00, was rejected due to the applicant living "out of district." Testimony revealed three (3) other applicants also were denied a position because they resided "out of district."
4. The Chief's son, who is a member of KFD, resided at an address approximately two (2) blocks south of Tuolumne Boulevard in the City of Modesto from 1997 through March 2001.
5. Testimony indicated that it took between thirteen (13) and twenty-five (25) minutes to drive from the Tuolumne Boulevard address to KFD. The driving distance is eight and one-half (8-1/2) miles. Members of the Civil Grand Jury made this drive on four (4) separate occasions with travel times between eleven (11) and fifteen (15) minutes. This was performed under normal driving conditions while obeying posted speed limits.
6. The Chief's son filed a written request for leave of absence on 11/18/97 and filed a doctor's release to return to work on 7/07/98.
7. According to court documents filed with the Stanislaus County Superior Court (case #29507 - Income and Expense Declaration) dated 7/03/01, the Chief's son indicated that he was receiving disability payments and had not worked since 6/17/99.
8. In a letter dated 5/19/01, the Social Security Administration advised the Chief's son

that, according to their records, he became disabled on 2/11/00 and was entitled to receive benefits as of August 2000. As of 2/27/02, the Chief's son was still receiving disability payments.

9. A review of the **KFD Participation Detail by Staff Report** indicates the Chief's son participated in 156 calls from November 2000 through March 2001.
10. For at least five (5) years prior to January 2001, **KFD** had a vacancy in the position of Second Assistant Chief. When the Chief's son returned to work from a leave of absence, he was promoted to fill this position.
11. Although the Chief has the final authority for promotions, it was usual for him to request input from the Assistant Chief and Captains. Two (2) of the four (4) Captains stated they were never consulted about the promotion and, if they had been, they would not have recommended the Chief's son for the position.
12. There is no formal testing process for promotions.
13. Five (5) of the seven (7) volunteers interviewed believed that the Chief's daughter-in-law received preferential treatment.
 - a. The volunteers detailed an instance where the Chief's daughter-in-law did not want to participate in a training scenario. When the training officer told her she had to participate, the Chief overruled him and threatened to cancel training if the matter was pursued.
 - b. Other instances were detailed where the Chief's daughter-in-law did not take an active role at the scene of emergencies.
14. The Chief admitted he gives women firefighters preferential treatment.
15. The Chief's son (Assistant Chief) stated that he responds to emergency calls but, due to physical limitations, selects which duties he can and cannot perform.
16. There have been several times when the Chief, his son and one (1) firefighter have been the only persons from **KFD** to respond to emergency calls.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. Pursuing similar career interests and being employed by the same department is

only a problem when family members are receiving preferential treatment.

2. From 1997 through March 2001, the Chief's son was allowed to live outside the KFPD in violation of the "ten (10) minute response time" provision of the by-laws. Records indicate the Chief's son was an active member of the department from November 2000 through March 2001. During this same time, other interested persons were not allowed to submit employment applications due to their status of living "out of district."
3. The Chief promoted his son to Assistant Chief without consulting or seeking input from his command staff.
4. The Chief gives preferential treatment to women firefighters and his daughter-in-law was no exception.
5. The public expects fire department personnel dispatched to the scene of an emergency to perform all required firefighting and lifesaving functions. Responding to an emergency with the inability to perform these required tasks is unacceptable.

RECOMMENDATIONS

The Civil Grand Jury recommends that:

1. The Chief apply the by-laws equally among all members of KFD.
2. The Chief consult with his command staff and seek their input prior to making promotions.
3. The Chief and all members of KFD review and understand Federal law regarding equal employment opportunities.
4. Fire department personnel dispatched to the scene of an emergency have the ability to perform all required firefighting and lifesaving functions.

COMPLAINT #2 - LACK OF LEADERSHIP ON THE PART OF THE KFD CHIEF:

FINDINGS

1. On 12/19/01, nine (9) out of fourteen (14) firefighters and one (1) Captain signed a

vote of no confidence against the **KFD** Chief. Attached to the vote of no confidence was a twelve (12) page document listing specific complaints in support of the no-confidence vote. The complaints were:

- a. The Chief acted in an unsafe manner while working with a live electrical line.
 - b. The Chief shows very little respect for the men.
 - c. The Chief is not responsive when asked direct questions or when offered suggestions by the men, unless those suggestions are from a family member.
 - d. The Chief dominates the Association.
 - e. The Chief has had four (4) traffic accidents in recent years.
 - f. The Chief does not display leadership qualities at the scene of an emergency.
 - g. The Chief has allowed firefighters to drive emergency vehicles with the wrong classification on their driver's license.
 - h. The Chief placed the crew of an engine in an unsafe situation.
 - i. The Chief gives preferential treatment to his son.
 - j. The Chief refused to enforce the removal of a yellow light bar until ordered to do so by the commissioners.
 - k. The Chief gives preferential treatment to his daughter-in-law.
 - l. Equipment needs are ignored.
2. Firefighters, who signed the petition on the vote of no confidence, believed there was a lack of leadership on the part of the **KFD** Chief.
 3. Only the Chief and the Assistant Chief are authorized to sign checks for the Association account. The Chief, although not a member of the Association Board of Directors, has final say on all purchases.
 4. Records and testimony show that the Chief was involved in four (4) separate vehicular accidents. The last two (2) accidents occurred within two (2) days of each other.
 5. **KFD** is governed by a set of By-laws. Some members of the department received incomplete copies of the By-laws. Missing sections dealt with age requirements, physical or mental disability, incompetency and causes for dismissal.
 6. The Chief did not understand the by-laws that governed his own department. Firefighters interviewed also demonstrated a lack of clear understanding of these by-laws.
 7. The Chief admitted to being "lax" in his enforcement of driver license requirements. He allowed employees to drive department vehicles, including fire engines and water tankers, without the proper license classification.
 8. The by-laws and the application process state that firefighters shall obtain a Class B

Firefighter License, as well as a First Responder or Emergency Medical Technician Certificate within one (1) year of appointment to KFD. Many of the firefighters, and the majority of the command staff, do not meet this criteria. The Chief admitted to being "lax" in the enforcement of these requirements also.

9. The majority of the firefighters feel the Chief is unable to take proper command at the scene of an emergency.
10. Testimony revealed specific instances of equipment being in poor repair over an extended period of time. Items in question were boots, helmets and wildland gear. In one instance, it was reported that a firefighter's helmet was held together by superglue. A review of the financial audits for fiscal year 2000 indicate KFD spent only 43% of their approved budget for repairs and maintenance and only 17% of their clothing budget.
11. The overall morale is low within the department. Several firefighters are contemplating resignation if morale problems continue.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. The Chief and all persons interviewed cooperated fully with this investigation.
2. The Chief is dedicated to KFD and has spent the majority of his life serving the Keyes community. Many of the procedures now in place reflect his past leadership.
3. The majority of KFD employees do not have confidence in the current leadership abilities of the Chief.
4. The Chief does not follow the by-laws on a consistent basis.
5. The KFD Chief should understand and be able to articulate the rules governing his departmental operations.
6. The Civil Grand Jury agrees with the following statement found in the Fire District Administration Handbook, page 3.2:

As the fire service mission continues to evolve into the 21st Century and the expectations of the customers it serves change, so must the organization evolve and change. To be successful, the organization's mission must be in synch with the expectations of its customers and the organization must be able to evolve in order

to continue serving the changing mission. To survive in today's political and economic environment and to be successful over time, the organization needs three things:

- C Unified Mission and Vision*
- C Shared Values*
- C Effective Leadership.*

RECOMMENDATIONS

The Civil Grand Jury recommends that:

1. KFD update their by-laws and take measures to ensure they are clearly understood and consistently enforced.
2. KFD establish and implement a procedure for the reporting of lost or damaged equipment, including personal protective gear. Damaged safety and firefighting equipment be replaced or repaired in a timely manner.
3. Command staff of KFD attend training sessions on proper command and leadership techniques to be employed during emergency situations. Documentation of training should be provided to the Fire Commissioners.
4. A copy of the Fire Districts Association of California Fire Administration Handbook be obtained by KFD and command staff become familiar with its contents.
5. Commissioners of KFPD evaluate the needs of the community and determine if KFD meets those needs.

COMPLAINT #3 - MISLEADING INFORMATION ON ONE (1) EMPLOYEE'S EMPLOYMENT APPLICATION:

FINDINGS

The employee application in question was reviewed and the portion dealing with "prior employment" is subjective and open to interpretation.

CONCLUSIONS

The Civil Grand Jury concluded that this allegation could not be substantiated.

RECOMMENDATIONS

None.

COMPLAINT #4 - MISUSE OF KFD EQUIPMENT:

FINDINGS

Members of KFD and their family members were observed driving department vehicles for personal use.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. The use of department vehicles and equipment for personal business leads to the perception that KFD property is being misused.
2. KFD is unnecessarily subjected to civil liability lawsuits when department vehicles and equipment are being used for personal business.
3. The accusation that the department computer was used for personal business was not substantiated.

RECOMMENDATIONS

The Civil Grand Jury recommends that the KFD Chief and the KFPD Board of Directors establish and implement a district-wide policy regarding the personal use of department vehicles and property.

COMPLAINT #5 - KFD PERSONNEL RECORDS ARE NOT KEPT SECURE AND CONFIDENTIAL:

FINDINGS

1. Personnel records are kept in an unsecured cabinet in the office.
2. The office is locked when no one is present.
3. All Captains, Assistant Chiefs and one (1) firefighter were issued keys to the office.

CONCLUSIONS

The Civil Grand Jury concluded that because the file cabinet containing the personnel records is not locked, anyone with a key to the office can access and compromise confidential records.

RECOMMENDATIONS

The Civil Grand Jury recommends that:

1. Records be kept in a locked cabinet.
2. Keys to the cabinet be limited to the Chief and a designated officer in charge of personnel.

COMPLAINT #6 - IMPROPER USE OF FINANCES:

FINDINGS

1. This complaint deals with the checking account for KFD as it relates to the Association. This is a distinctly different account than the account controlled by KFPD Commissioners.
2. The KFD checking account has checks that read "Keyes Fire Department." The Association uses the same checking account as KFD and uses the same checks.

3. While the KFD account is used to pay the firefighters, it is also being used for minor repairs and operating expenses of the department.
4. The Association has a Board of Directors, but no Association by-laws.
5. Loans are made from the KFD account to members of the department. No formal criteria have been established for repayment.
6. Checks require two (2) signatures. The two (2) authorized signatures are those of Chief and the Assistant Chief. The Assistant Chief is also the Treasurer of the Association.
7. The Chief is not a member of the Association Board of Directors.
8. Five (5) blank checks were pre-signed by the Assistant Chief.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. The Civil Grand Jury has no jurisdiction over the actions of the Association except as it relates to KFPD, which is a public agency.
2. By using checks entitled "Keyes Fire Department", there is an implication the account from which the checks are drawn is not controlled solely by the Association.
3. Pre-signed checks negate the very reason for having a two-signature requirement on the account.

RECOMMENDATIONS

The Civil Grand Jury recommends that:

1. If KFD needs a checking account to pay for minor repairs and operating expenses, it should be completely separate from any accounts that contain Association funds.
2. KFPD funds should not be commingled with Association funds.

3. The Association establish its own checking account with checks that clearly state the account belongs to the Association.
4. No checks for KFD be pre-signed.
5. The Association have their own set of by-laws and adhere to them.

RESPONSE REQUIRED

per Section 933 [c] and 933.05 of the California Penal Code:

Keyes Fire Protection District Board of Directors.

This Final Report will be available for public review on the Civil Grand Jury website located at: <http://www.co.stanislaus.ca.us/COURTS/courts/grandjury/index.html> and at the Stanislaus County Main Library 1500 I Street, Modesto, California 95354.