

This document is an extract of a larger publication.

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LETTER FROM THE FOREMAN



TULARE COUNTY GRAND JURY

5963 South Mooney Boulevard

Visalia, CA 93277

Phone: (559) 624-7295; Fax (559) 733-6078

The NOBLEST Motive is the Public Good

Honorable Judge Lloyd Hicks
Presiding Judge of the Superior Court
State of California
County of Tulare

Honorable Judge Gary Paden
Supervising Judge of the Grand Jury
State of California
County of Tulare

Dear Judge Hicks and Judge Paden,

As you realize, better than any of us, the Grand Jury is a very valuable accoutrement to the government of Tulare County, the governments within the County, and the numerous local agencies and Districts of Tulare County. Members of this 2013-2014 Tulare County Civil Grand Jury have striven, sometimes through tumultuous times, to serve the best interests of the citizens of Tulare. I am proud to have worked with many of the members of this Jury as they dedicated themselves to satisfying their solemn oath of service to the citizens of this County.

This Jury is indebted to a number of gracious supporters of its efforts among the administrators of Tulare County. Included in this number are the Board of Supervisors, Jean Rousseau, Kathleen Bales-Lange and her staff, Dr. Duerksen and the relevant Health & Human Services officers, Tim Ward and the District Attorney's office, especially Attorney Anthony Fultz, personnel from the Print Shop and Tulare County Information & Communications Technology and others in the Tulare County milieu.

Now in this paragraph, intended for a single purpose, I wish to communicate, on behalf of all of the members of the Grand Jury and exponentially on my own behalf, our profoundest gratitude to our Clerk, Mrs. Annette Jones, for her single-minded devotion to the welfare of the Grand Jury as an entity and to the welfare of the members of the Jury as individuals. She has been, and continues to be, a treasure trove of good advice, knowledge of best Grand Jury practices, and responsible management. Her organization and wise planning keeps the Grand Jury moving true.

Please know that I, personally, am indebted to Judge Paden for his support of my efforts to make some organizational and practical adjustments to Grand Jury practices. In the same breath, I must apologize for the time lost to acrimonious recriminations and power struggles ...among some Jury members and

TULARE COUNTY GRAND JURY REPORT 2013-2014

myself...during this term. In the final analysis, because of the judicious presence, clear direction, and understanding of Judge Paden, the well-intentioned, hardworking Jurors prevailed.

Please find, accompanying and containing this letter, this 2013-2014 Grand Jury's Final Report as required by California Penal Code §933. The individual reports contained in the Final Report document are the result of a number of Grand Jurors sustained campaign to evaluate local governmental agencies and to mitigate those citizens' complaints which fell within the Jury's purview. The prevailing Grand Jury sentiment has been to inform the citizens of Tulare County, which the Jury serves, about the working of their governments and agencies.

The members of the 2013-2014 Grand Jury are proud to have served the California Civil Grand Jury's grand tradition. At times this service required sacrifice imbued with demanding effort; frequently this demanding effort gave way to extreme satisfaction and gratification. On other occasions, the demanding effort led only to a fruitless, dead-end. This Jury adopted a motto early in its term: ***The NOBLEST Motive is the Public Good***. This motto, posted in our reception room and work areas and, as well, printed on our stationery, has guided our effort. We hope the motto will be taken to heart by successive Jurors and that the Jury will continue to serve the citizens of Tulare County as faithfully as it has in the past.

Looking forward,



Milton D. Morrison, Foreman

2013-2014 Tulare County Grand Jury

LETTER FROM THE JUDGES



Superior Court of the State of California

LaRayne Cleek
Court Executive Officer/
Jury Commissioner

Deanna A. Jasso
Court Administrative Manager

Sherry Pacillas
Court Operations Manager

COUNTY OF TULARE
ADMINISTRATION
221 S. Mooney Blvd., Room 303
Visalia, California 93291
Telephone: (559) 730-5000
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JUDGE'S COMMENTS

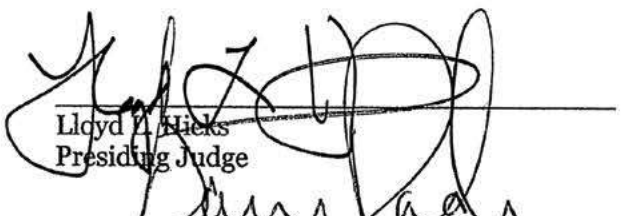
On behalf of the entire bench of the Tulare County Superior Court we want to sincerely thank the 2013-2014 Grand Jury for all the work they have performed on behalf of the citizens of Tulare County. Once again another Grand Jury's term has been completed.

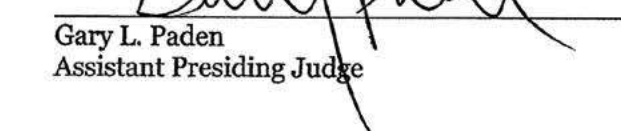
Grand Jurors always assume a great deal of responsibility whenever they agree to be a part of a year's panel. They willingly do this as volunteers without any purpose other than to insure that governmental agencies and individuals are properly performing their duties. The taxpayers of Tulare County were well served by all the time and effort put forth by this Grand Jury. We are especially grateful for the efficient manner in which this year's Grand Jury performed these tasks and the overall cooperation and respect they showed to each other.

Much is misunderstood by the general public as to the functions and purpose of the Grand Jury. It is empowered by statutory authority to investigate local governmental agencies and process citizen complaints involving local government issues. No other agency or group has mandate to be a "watch-dog" to insure that our local government works effectively, efficiently, and to the best interest of all citizens. We need responsible, dedicated people such as those on this year's Grand Jury to serve in the future. If you would like to volunteer to do meaningful work for our community we invite you to apply for service on Grand Jury by contacting the Superior Court at (559) 730-5000 x1359 and ask for an application.

In closing, we applaud each member of this Grand Jury for your dedication to service on behalf of all citizens who live in Tulare County.




Lloyd D. Hicks
Presiding Judge


Gary L. Paden
Assistant Presiding Judge

THE 2013-2014 TULARE COUNTY GRAND JURY: A SYNOPSIS

Worthy of note about the 2013-2014 Jury is the fact that all of the eleven (11) reports it published were generated through JIIs (Jury Initiated Investigations) as opposed to investigations initiated as responses to citizen complaints. An immediate reaction to that information might be that the Jury wasn't about the business of investigating citizens' complaints nearly as it was about the business of examining entities and situations of its own choosing. If such a conclusion were correct, it would not of necessity be a negative thing; nonetheless, for reasons of information and clarity, we wish to report a more definitive and clear representation of the Jury's activities for the 2013-2014 term.

During the term under discussion here, the Grand Jury, in one manner or another, processed thirty-six (36) citizen's complaints. At the time of this writing, late in May, all of these complaints have been closed without any one generating a Jury report, save for three (3) which remain open and probably will be presented to the Judge with a request to be carried over to the following 2014-2015 Jury. So, simple math shows that this Grand Jury considered and closed, in one way or another, thirty-three (33) citizen initiated complaints (three of these were carried over from the previous Jury)

Of the thirty-three cases (citizen complaints) noted above, twenty-six (26) generated contacts beyond the Jury: visits from one or more interviewees, numerous telephone calls and telephone interviews, letters, emails, and visits to board meetings, i.e. schools, special districts, councils, etc. Six (6) of the citizen complaints were from anonymous complainants; four (4) of those six were investigated by the Jury. These twenty-six worked cases took periods of Jury time from two or three weeks to eight or nine months, sometimes necessitating evening and weekend meetings, e.g., interviewees who couldn't get away from jobs, etc. during normal daytime hours.

Unfortunately, and curiously, none of the extensively investigated twenty-six citizen complaints generated the facts and related findings needed by the Grand Jury to develop traditional Jury reports with included recommendations. The subject twenty-six citizen complaints represent, it would appear, a great deal of work on the part of Jurors with no discernable return. However, that is surely not the case. One imagines that whenever the Grand Jury is involved with an individual, an agency, a board or any other entity, notice of the Jury's interest or concern creates an acute awareness on the part of the subject entity which then almost always, will cause remediation or reform where indicated.

In addition, your Grand Jury investigated fifteen (15) Jury Initiated cases (JIIs), eleven of which generated the reports found in this 2013-2014 Grand Jury Report. Like the citizen complaints, the JIIs demanded a great deal of investigatory effort on the part of the Jury members. Added to the efforts described here, the Jury maintained a roster for at least two members at a time to attend all Tulare County Board of Supervisors meetings and Planning Commission meetings.

I feel that this report would not be entirely honest if I do not admit to the loss of an appreciable amount of time early in the term when a select few Jurors refused to accept some reforms the Foreman attempted to implement. A considerable amount of time was wasted with continued attempts to circumvent protocols which were intended to bring order and direction to some Jury practices. Fortunately, the Judge stepped in and clarified his intentions and accepted some resignations. After the "power-grab" kerfuffle was resolved, the Jury seriously got to work and more than made up for lost time.

I am proud to have worked with this 2013-2014 Grand Jury. A number of improvements and "better practices" have occasioned during this term which, after a little time, will result in your Grand Jury serving you, the citizens of the Tulare County, even better.



Milton D. Morrison, Foreman

GRAND JURY RESPONSE REPORT 2012-2013 COMPLIANCE REVIEW

BACKGROUND

The Tulare County Jury (Grand Jury) is impaneled annually to act as the public's watchdog by investigating and reporting on the affairs of County and local governments. They look into complaints brought by citizens who are concerned about perceived government irregularities. As a fact finding body, the Grand Jury has the potential to make recommendations for constructive changes and possible solutions to a wide range of local governmental problems. This is done by reviewing and evaluating procedures, methods, and systems utilized by the County's and local governments' various entities to determine if more efficient and economical programs may be employed. The Grand Jury is authorized to and in some cases must do the following:

- Inspect and audit books, records, and financial expenditures to ensure that public funds are properly accounted for and legally spent
- Inspect financial records of Special Districts in Tulare County
- Examine the books and records of any nonprofit organization receiving County funds
- Inquire into the conditions and management of jails and detention facilities
- Inquire into any charges of willful misconduct in office by County and/or local officials or employees

The Grand Jury does not investigate private entities, nonprofits not connected to the government, states or federal agencies, courts, school curriculum, or other matters not connect with local governments.

The Grand Jury annually issues a final report which contains several reports addressing one or more issues. California Penal Code §933.05 requires responses from governing agencies, including the Board of Supervisors, city and County governments, schools, Special Districts and certain non-profit corporations. This ensures that their functions are performed in a lawful, economical and efficient manner. Each report contains information such as the background regarding the subject matter, reasons for the investigation, the procedures followed in obtaining information, findings, conclusions, and recommendations. All required responders must reply, in writing, to each finding and recommendation in the specific report within a given time period.

PROCEDURES FOLLOWED

1. Received and reviewed returned responses to the 2012-2013 Grand Jury Final Reports
2. Reviewed relevant California Government and Penal Codes
3. Compiled statistics regarding the responses

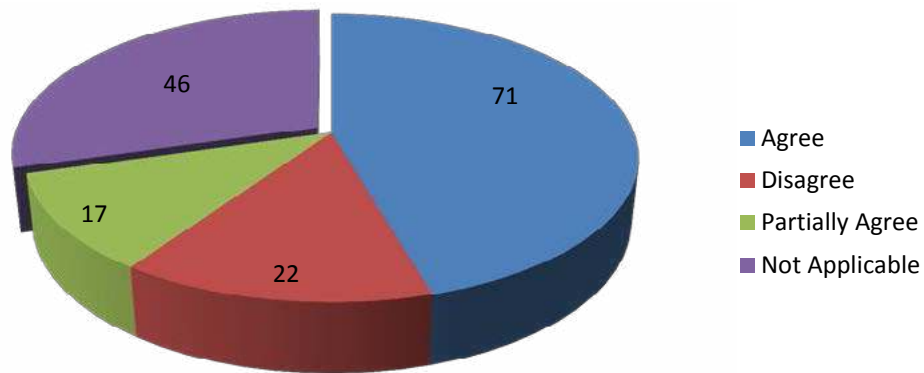
FACTS

1. There were nine Grand Jury reports published in the 2012-2013 Final Report.
2. There were 156 findings and 71 recommendations to the 2012-2013 Final Report.
3. The following diagrams indicate the numbers of concurrence with or disagreement to the findings, and implementations' or non-implementation of recommendations made to the responding entities.

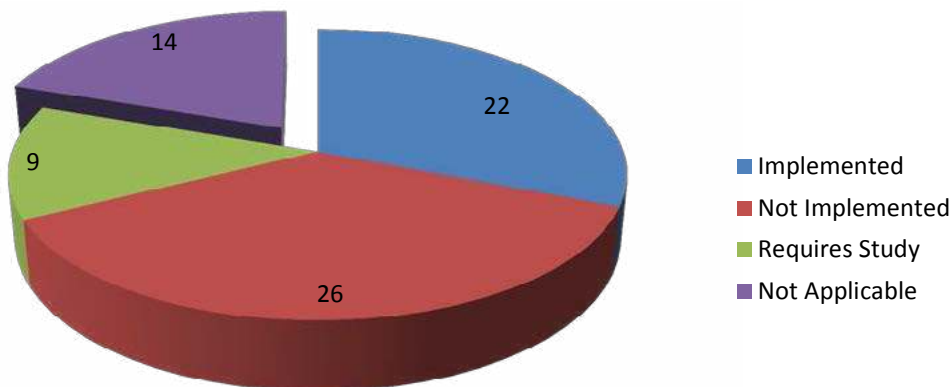
TULARE COUNTY GRAND JURY REPORT 2013-2014

4. Attached to this report are copies of the responses received as a result of the 2012-2013 Final Report.

2012-2013 Findings



2012-2013 Responses



FINDINGS

Instructions are provided to all entities from which responses are required. Not all entities responded by the response date, however with subsequent requests to do so all but one entity responded. All entities responding to a report must do so in accordance with California Penal Code §933.05.

RESPONSES

None

SCHOOL BOND MEASURES

BACKGROUND

The Tulare County Grand Jury (Grand Jury) of 2012-2013 investigated the manner in which School Bond Measures were presented to the voters prior to elections.

During past elections, Tulare County School Districts placed bond proposals on the ballot for voters to decide. The measures presented to the voters did not include interest, fees, or other costs associated with those bonds.

The Grand Jury investigated and found that the Tulare County Board of Education and the Tulare County Auditor-Controller failed to provide sufficient information to the public.

The attached responses explain their reasons for not implementing the recommendations.

**Tulare County
Office of Education**

Committed to Students, Support and Service

Jim Vidak
County
Superintendent
of Schools

2637 W. Burrel Ave.
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Special Services
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July 8, 2013

The Honorable Judge Gary Paden
County Civic Center, Room 303
221 South Mooney Boulevard
Visalia CA 93291

Tulare County Grand Jury
5963 South Mooney Boulevard
Visalia CA 93277

Tulare County Board of Supervisors
2800 W. Burrel Avenue
Visalia CA 93291

RESPONSE TO 2013 TULARE COUNTY GRAND JURY REPORTS

Enclosed are the following:

1. Response to School Bond Measures

We extend our gratitude to the Tulare County Grand Jury for their diligent efforts in compiling these reports. Our responses to your recommendations include detailed information gained through extensive research.

If I can be of further assistance, please feel free to contact me.

Sincerely,



Jim Vidak
Tulare County Superintendent of Schools

JV:mm

Enclosures

Tulare County Office of Education

Committed to Students, Support and Service

Jim Vidak
County
Superintendent
of Schools

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July 8, 2013

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JUL 23 2013

The Honorable Judge Gary Paden
County Civic Center, Room 303
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Visalia CA 93291

Tulare County Grand Jury
5963 S. Mooney Boulevard
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Tulare County Board of Supervisors
2800 W. Burrel Ave
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Subject: Written Response of the **Tulare County Office of Education**
pursuant to California Penal Code § 933(c)
Report Name: **School Bond Measures**

FINDINGS

1. Voters do not receive adequate information to make informed decisions when voting on schools bonds. Future generations of homeowners or property owners, will be required to pay these bonds and all associated costs derived from their issuance and sale.

Response: The County Board of Education respectfully disagrees with this finding as it is our understanding that voters receive adequate information to make informed decisions when voting on school bonds. The Election Code and Education Code set forth the applicable disclosure requirements for school bond elections. The law establishes the procedures to allow the public to receive adequate information regarding proposed school bonds. The County Board of Education is not aware of a finding that the Tulare County School Districts have failed to meet the disclosure requirements imposed by law or that they have followed the appropriate school bonds election procedures. Additionally, the County Counsel provides votes with an impartial analysis of the ballot measure thereby informing voters about the proposed school bonds. (Elec. Code § 9500.) The County Elections Official mails to registered voters certain election documents, including a sample ballot and tax rate statement. (Ed. Code, §§ 15122-15123; Elec. Code, §§ 9400-9405, 13303.) We believe, therefore, that voters are provided with adequate bond information and are able to make informed decision when voting on school bonds.

2. Failure to provide complete monetary information to the electorate of Tulare County prior to any bond election may demonstrate a lack of good financial stewardship.

Response: The County Board of Education respectfully disagrees with this finding. We understand that the legal standards have been met with regards to providing voters with monetary information relating to the proposed school bonds and, therefore, this does not demonstrate a lack of good financial stewardship. It appears that the Grand Jury wants a change in the law to increase the amount of information that is provided to the electorate. Neither the Tulare County Office of Education nor the Tulare County Superintendent of Schools currently has the legal authority to require school districts in Tulare County to provide more information than is legally required.

3. While current practices are not illegal, they may be potentially harmful monetarily to future generations of property owners.

Response: The County Board of Education agrees in part. We agree that the current practices are not illegal. We disagree, however, that the current practices are potentially harmful monetarily to future generations of property owners. It appears that this finding by the Grand Jury is speculative. It is our understanding that pursuant to the applicable law, property owners are provided with the necessary monetary information relating to proposed school bonds.

RECOMMENDATIONS

1. That the Tulare County Board of Education provide an estimate of the potential costs of proposed bonds to the Auditor-Controller prior to the publication of voter pamphlets.

Response: The County Board of Education does not have the authority or jurisdiction to implement this recommendation to provide an estimate of the potential costs of the proposed bonds to the Auditor-Controller prior to the publication of voter pamphlets. The Elections Code and Education Code provide the applicable requirements governing assessments and estimates of proposed school bonds. We understand that it is the County Counsel that is the responsibility party for preparing an impartial analysis of the measure, to be printed in the ballot pamphlet preceding ballot arguments. (Elec. Code, § 9500.) It is the responsibility of the County Elections Official to mail to each registered voter certain election documents, including a sample ballot and a tax rate statement from the financial advisor. (Ed. Code, §§ 15122-15123; Elec. Code, §§ 9400-9405, 13303.) the tax rate statement must include the best estimate of the following:

- (1) The tax rate (per \$100 of assessed valuation on all property to be taxed) required to fund the bonds for the fiscal year following the initial sale of bonds;*
- (2) The tax levy needed to fund the bonds for the fiscal following the final sale of bonds if the bonds are sold in series and an estimate of the year in which that rate will apply; and*
- (3) The highest tax rate needed to fund the bonds and the fiscal year(s) in which that rate is expected to occur.*

(Elec. Code, § 9401.)

We are aware of Assembly Bill (AB) 182, which is currently pending in the Legislature. However, AB 182 addresses capital appreciation bonds and regulates the sale of these bonds after they are authorized. AB 182 does not apply here as it does not address the authorization of school bonds. For the authorization of proposed school bonds, the current law requires that registered voters are provided with a tax rate statement.

Additionally, school districts are permitted under the law to issue Certificates of Participation for capital construction projects. However, if a school District has a qualified or negative certification in a fiscal year, the school district may only issue Certificates of Participation if the County Superintendent determines pursuant to a criteria established by the Superintendent of Public Instruction that the school district's repayment of the indebtedness is probable. (Ed. Code, §42133.) Certificates of Participation do not require voter approval. It is the school board of the school district that authorizes Certificates of Participation financing. (Ed. Code, §17150.1.) Once the school board has approved proceeding with Certificates of Participation financing, the school district must notify the County Superintendent and County Auditor, and provide them with evidence of the school district's ability to re-pay this amount. (Id.) While the County Superintendent may comment publically regarding the school district's re-payment ability, the County Superintendent does not have the legal authority to prohibit school districts from issuing Certificates of Participation. (Id.) As we understand the current state of the law, with the exception of school districts' with qualified or negative certification, the County Board of Education and County Superintendent have no jurisdiction to control school districts' issuance of Certificates of Participation.

2. That the Auditor-Controller publish information regarding the estimated total amounts of the projected bond indebtedness in the Voter Ballot Information Pamphlets and in the local media prior to any election.

Response: The County Board of Education cannot comply with the Grand Jury's directive because it has no authority under the law to provide cost estimates of proposed school bonds. The law provides that it is the responsibility of the County Counsel, the County Elections Official, and the financial advisor to provide voters

with the necessary monetary information relating to the proposed school bonds. We will; however, work with these organizations/agencies and provide any information they need to make available on Voter Ballot Information Pamphlets and for the media prior to any election.

We extend our gratitude to the Tulare County Grand Jury for their diligent efforts in compiling these findings and recommendations.

TULARE COUNTY GRAND JURY REPORT 2013-2014

AUDITOR-CONTROLLER/ TREASURER-TAX COLLECTOR



Rita A. Woodard
COUNTY OF TULARE

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RITA A. WOODARD
Auditor-Controller
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HILEY WALLIS
Chief Deputy Treasurer-Tax Collector
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June 21, 2013

The Honorable Judge Gary Paden
County Civic Center, Room 303
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Visalia, CA 93291

Tulare County Grand Jury
5963 S. Mooney Blvd.
Visalia, CA 93277

Tulare County Board of Supervisors
2800 S. Mooney Blvd.
Visalia, CA 93291

**Subject: Response to the 2012-2013 Tulare County Grand Jury Final
Report entitled, "School Bond Measures".**

Dear Sirs:

We are responding to the findings issued in your report dated April 24, 2013.

Finding 1:

The Grand Jury found that Voters do not receive adequate information to make informed decisions when voting on school bonds. Future generations of homeowners or property owners, will be required to pay these bonds and all associated costs derived from their issuance and sale.

Response:

It is not in the purview of the Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters to inform Voters on all aspects of a bond sale.

Finding 2:

The Grand Jury found that failure to provide complete monetary information to the electorate of Tulare County prior to any bond election may demonstrate a lack of good financial stewardship.

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6-25-2013

Response:

It is not in the purview of the Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters to inform Voters on all aspects of a bond sale.

Finding 3:

The Grand Jury found that while current practices are not illegal, they may be potentially harmful monetarily to future generations of property owners.

Response:

It is not in the purview of the Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters to inform Voters on all aspects of a bond sale.

Recommendation 1

That the Tulare County Board of Education provide an estimate of potential costs of proposed bonds to the Auditor-Controller prior to the publication of voter pamphlets.

Response:

This recommendation is for response by the Tulare County Board of Education.

Recommendation 2

That the Auditor-Controller publish information regarding the estimated total amounts of the projected bond indebtedness in the Voter Ballot Information Pamphlets and in the local media prior to any election.

Response:

This recommendation will not be implemented until it is made a legal requirement for the County Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters. Currently information in the Voter Ballot Information Pamphlets are written and paid by the entity for or against the ballot measure.

Sincerely,



Rita A. Woodard
Auditor-Controller/ Treasurer-Tax Collector/
Registrar of Voters

RAW:ns

cc: Tulare County Board of Education

INDIGENT BURIAL PROGRAM

BACKGROUND

On December 1, 2008, the Tulare County Board of Supervisors adopted a resolution regarding an Indigent Burial Policy. This adopted policy with the authority of the California Welfare and Institutions Code § 17009, stated that the County may provide for the cremation/burial of those persons lawfully residing within the County who die without funds, and may provide for maintenance of the graves.

The Tulare County Grand Jury investigated and reported on the operations, accounts and records of the offices, departments, and functions of the County related to indigent burials. The Grand Jury found that it was difficult for family and friends to visit their loved ones at the Traver Indigent Cemetery due to locked gates, no postings of visiting dates/hours and no contact phone number. The upkeep of the cemetery was questioned by the Tulare County Grand Jury.

The Tulare County Board of Supervisors responded to the Grand Jury's finding and recommendations with the following:



**BOARD OF
SUPERVISORS**

Allen R. Ishida
District One

Pete Vander Poel
District Two

Phillip A. Cox
District Three

J. Steven Worthley
District Four

Mike Ennis
District Five

✱

BOARD STAFF

Julieta Martinez

Allison Pierce

Tammie Weyker

✱

**CLERK OF
THE BOARD**

Nichelle Baldwin
Chief Clerk

✱

Administration Bldg.
900 West Burrel
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County of Tulare

August 13, 2013

The Honorable Judge Gary Paden
Tulare County Superior Court, Room 303
221 South Mooney Boulevard
Visalia, CA 93291

Dear Judge Paden:

On behalf of the Board of Supervisors, the following is the Board's responses to the findings and a recommendation included in the 2012/2013 Tulare County Grand Jury Report titled *Indigent Burial Program*.

Finding 1

Family and/or friends were unable to visit the grave-sites or their loved ones as the gates were locked and there was no posting of visiting hours/dates, and no contact telephone numbers(s). However, since the research and writing of this report, this condition has been corrected.

Response: The Board of Supervisors partially disagrees with the finding. County Administrative Office staff visited the cemetery and noticed locks on the gates, but did not see postings of hours/dates or telephone numbers.

Finding 2

The cemetery appears to be nothing more than an unkempt dirt lot with a damaged fence and dogs running loose. The lack of a maintained landscape implies the lack of caring and/or respect to family and friends who have lost a loved one.

Response: The Board of Supervisors partially disagrees with the finding. The Board disagrees that the cemetery appears to be nothing more than an unkempt dirt lot with a damaged fence and dogs running loose. In addition, the Board disagrees that the landscape implies a lack of caring and/or respect to family and friends who have lost a loved one.

Recommendation 1

That the County landscape and maintain the cemetery grounds.

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8-19-2013

Response: The recommendation has not yet been implemented, but will be implemented in the future. A variety of County departments have provided a form of maintenance in the past. In the next 60 days, the Board will facilitate a discussion with County departments to determine a long-term maintenance plan for the cemetery.

Recommendation 2

That the County repair and maintain the surround fence enclosure.

Response: The recommendation will not be implemented because it is not warranted. Upon a visit to the cemetery, the fence appeared to be in good condition. Should repairs be necessary, the County will address this issue.

Recommendation 3

That the County ensure visiting hours, dates, and contact information are always available to visitors, and to monitor and maintain the cemetery signage.

Response: The recommendation has not yet been implemented, but will be implemented in the future. When a long-term maintenance solution is identified, within the next 60 days, the County department in charge will be tasked with this recommendation.

Sincerely,



Pete Vander Poel, Chairman
Tulare County Board of Supervisors

CC: Tulare County Grand Jury

KAWEAH DELTA MENTAL HEALTH HOSPITAL

BACKGROUND

In December of 1999, Tulare County entered into an agreement with the Kaweah Delta Health Care District to provide mental health services to the residents of Tulare County.

The Tulare County Grand Jury of 2012-2013 investigated the operations and services of the Kaweah Delta Mental Health Hospital.

Kaweah Delta Mental Health Hospital appeared to be in compliance with the California Mental Health Services Act as the Tulare County Grand Jury found no serious issues to report on other than the need for psychologists and psychiatrists in Tulare County.

The following response will give key facts of the daily operations and activities of the Kaweah Delta Mental Health Hospital.

**TULARE COUNTY GRAND JURY RESPONSE FROM THE KAWEAH DELTA
HEALTH CARE DISTRICT RELATIVE TO ITS MAY 14, 2013 REPORT ON THE
“KAWEAH DELTA MENTAL HEALTH HOSPITAL”**

Findings

Finding 1: It appears that KDMH provides its patients adequate mental health services. There are additional mental health resources in Tulare County.

We agree with this finding. Kaweah Delta Mental Health Hospital has 63 licensed acute psychiatric beds and is currently staffed for 48 acute psychiatric beds. Kaweah Delta Mental Health Hospital has six full-time physicians, five in-patient physicians and one consultation liaison physician providing services. This number will soon grow to seven physicians with a full-time out-patient physician at the Exeter Rural Health Clinic.

Finding 2. KDMH provides psychiatric and counseling services, both individual and group sessions, for person 18 years of age and older.

We agree that Kaweah Delta Mental Health Hospital provides psychiatric and counseling services, both individual and group session, for persons 18 years of age and older.

Finding 3. The shortage of psychiatrists in Tulare County is a concern. Should KDMH become successful in implementing the training program as mentioned in fact number 9 above, the shortage of psychiatrists and psychologist should be alleviated.

We agree that the shortage of psychiatrists in Tulare County is a concern, however, the Kaweah Delta Graduate Medical Education Program (GME) will include a resident program for psychiatrists, not psychologists.

The Kaweah Delta Graduate Medical Education Psychiatric Residency Program received its accreditation from the Accreditation Council on Graduate Medical Education on April 17, 2013.

Barry Mills, MD is the Psychiatric GME Program Director. Dr. Mills noted that in July 2014 we will have a group of physicians coming to our community, who have recently graduated from medical school who have chosen to specialize in psychiatry. These physicians will complete their required four years residency at

the Kaweah Delta Mental Health Hospital.

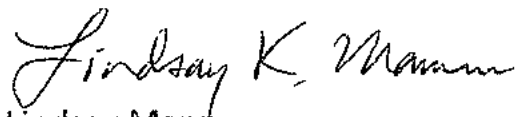
TULARE COUNTY GRAND JURY RESPONSE FROM THE KAWEAH DELTA
HEALTH CARE DISTRICT RELATIVE TO ITS MAY 14, 2013 REPORT ON THE
"KAWEAH DELTA MENTAL HEALTH HOSPITAL"

During their psychiatry residency these physician will have the ability to see patients under the supervision of current psychiatrists who serve at the Kaweah Delta Mental Health Hospital. The residency program will train and provide direct services to the patients. Dr. Mill has noted that studies have shown that physicians generally stay in the communities where they do their specialty training.

Recommendations:

1. Kaweah Delta Health Care District is actively moving forward in the implementation of the Graduate Medical Education Program for Psychiatry. At this time Kaweah Delta does not have any plans to become a training facility for psychologists.

If there is a desire for clarification relative to any of the points covered above or to discuss these issues further, Kaweah Delta Health Care District and its staff stand ready to respond to the Tulare County Grand Jury in this effort.


Lindsay Mann
Chief Executive Officer

RECEIVED
5-23-2013

HOLDING CELLS

BACKGROUND

Per Penal Code §919(b) the Grand Jury is mandated to inquire into to operations and management of all public prisons within the County. A report is not required.

The 2012-2013 Grand Jury reported on the County Sheriffs and incorporated cities' holding cells.

The Grand Jury found that six of the cities used city personnel to clean their holding cells. One city used a janitorial service, and one city used both city personnel and court ordered community service workers.

The Grand Jury also found most of the holding cells have an adequate number of security cameras installed for prisoner observation. There were three cities' facilities that either did not have security cameras or an insufficient number of cameras for adequate observation of prisoners.

The attached responses address the holding cell cleaning and security camera issues.

**CITY of WOODLAKE
POLICE DEPARTMENT**



MIKE MARQUEZ
CHIEF OF POLICE

March 11, 2013

Tulare County Grand Jury
5963 S. Mooney Blvd.
Visalia, CA 93277

Dear Tulare County Grand Jury,

The Woodlake Police Department is in receipt of the Tulare County Grand Jury report on Holding Cells. The Police Department acknowledges the findings made by the Tulare County Grand Jury, however, it should be noted that in section 10 d of the report where it states that once a week, city maintenance personnel will thoroughly clean the cell. It should be noted that this is indeed true. It should also be noted that although the cell is not used every day, when it is cleaned, maintenance personnel supervise court ordered community service citizens who perform the cleaning.

The Police Department agrees with using court ordered community service citizens for the daily cleaning of holding cells. The Police Department also agrees that it is financially beneficial to the local governments. The Police Department and the City of Woodlake will continue to implement the use of their services when the cell is in need of cleaning.

The Woodlake Police Department would like to thank you for taking time to inspect our site.

If you have any questions, please feel free to contact me at any time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Marquez'.

Mike Marquez, Chief of Police
Woodlake Police Department



Cc: Ramon Lara, City Administrator

TULARE COUNTY GRAND JURY REPORT 2013-2014

THE CITY OF

WOODLAKE

350 NORTH VALENCIA BOULEVARD • WOODLAKE, CA 93286-1244

PHONE (559) 564-8055 • FAX (559) 564-8776

www.cityofwoodlake.com

March 8, 2013

Tulare County Grand Jury
5963 S Mooney Blvd.
Visalia, Ca. 93277

Dear Grand Jury:

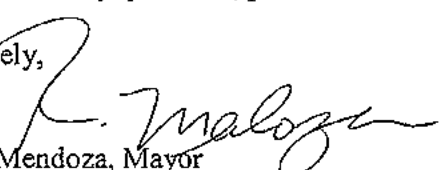
The City of Woodlake is in receipt of the Tulare County Grand Jury report on Holding Cells. The City partially disagrees with the findings made by the Tulare County Grand Jury. Section 10. d states: once a week, city maintenance personnel will thoroughly clean the cell. The finding omits mentioning that City personnel are always accompanied by court ordered community service citizens, who need to be supervised at all times. Those citizens help with the maintenance of all City facilities.

There are three recommendations made on the report. Only recommendation number one applies to the City of Woodlake. The recommendation states: that all law enforcement facilities use court ordered community service citizens for daily cleaning of the holding cell areas and that not using city personnel as a janitorial service is financially beneficial to the local governments. The City agrees that using court ordered community service citizens to clean the holding cell areas is financially beneficial to the City and will continue to implement the use of their services.

The City of Woodlake, would like to thank you for taking the time to review this matter.

If you have any questions, please feel free to contact me at any time.

Sincerely,


Rudy Mendoza, Mayor
City of Woodlake

RECEIVED
3/14/13

Cc: Frances Ortiz, Vice Mayor
Jose Martinez, Council Member
Greg Gonzalez, Council Member
Raul Gonzales, Council Member



Exeter Police Department

100 N. C Street
Exeter, CA 93221
(559) 592-3103
Fax: (559) 592-3346

March 12, 2013

RECEIVED
3/20/13

TULARE COUNTY GRAND JURY
5963 S. Mooney Blvd.
Visalia, California 93277

Re: Response to Grand Jury Report dated 03/13/2013

This document represents the official response of Clifton Bush, Chief of Police for the City of Exeter, to the Grand Jury Report entitled "HOLDING CELLS" in the 2012-2013 Grand Jury Final report.

This response will be limited to following recommendation which was the only recommendation that pertains to the Exeter police department.

Recommendation:

"That all law enforcement facilities use court ordered community service citizens for daily cleaning of the holding cell areas. Not using city personnel as a janitorial service is financially beneficial to the local governments. However, the Grand Jury is aware that implementation of this recommendation may require meeting and conferring with the affected bargaining units."

Response:

With all due respect to the Foreman and to the members of the Grand Jury I disagree with the recommendation and will not be implementing such.

The Exeter police department has two small pre-booking cells which are used to detain arrested persons for short periods, while an officer completes any interview and the booking forms needed for booking an arrestee into the Tulare County Jail facility. Average time for a person sitting in the pre-booking area is less than 45 minutes.

The Exeter Police department contracts for building maintenance with a private janitorial service. The owner/employee of this service provides regular cleaning for the entire building, which includes the pre-booking room and cells. The department pays a flat contracted monthly rate for that service. The owner of the service is the only employee. The owner has passed a background check for criminal history. The pre-



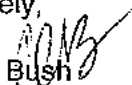
Exeter Police Department

100 N. C Street
Exeter, CA 93221
(559) 592-3103
Fax: (559) 592-3346

booking cells as well as the restroom and surrounding areas are cleaned three times per week. If additional cleaning is required the area is cleaned by the arresting officer. Eliminating the cleaning of this room from the janitorial service would not result in a reduction in our monthly rate.

Following the recommendation to utilize court ordered community service workers would require the assignment of a paid staff member to supervise the worker cleaning the cells. The cleaning of the cells, booking room and associated bathroom takes less than one hour. There would be no further janitorial or other work available for the court assigned worker to perform. A court assigned worker could not be allowed free access to the police building and thus would need to be supervised by a paid staff member. Due to the size and make up of our department, supervision would likely come from an on duty police officer or first line supervisor. This would remove the officer from his/her law enforcement duties during the period of time it took to clean the pre-booking facilities. This is would not be an acceptable use of that officers time and counterproductive to the intent of the recommendation made.

Sincerely,


Clifton Bush
Chief of Police

cc.
The Honorable Judge Gary Paden
Tulare County Board of Supervisors
Exeter City Council

Office of the Mayor

137 North F Street – PO Box 237 Exeter, CA 93221
Ph. #559-592-3710 Fax # 559-592-3556



City of Exeter



March 27, 2013

Tulare County Grand Jury
5963 S. Mooney Blvd.
Visalia, California 93277

Re: Response to Grand Jury Report dated 03/13/2013

This document represents the official response of the Exeter City Council, presented by Mayor Robyn Stearns on behalf of the Council, in regard to the Tulare County Grand Jury Report entitled "HOLDING CELLS" in the 2012-2013 Grand Jury Final report.

Clifton Bush, Exeter Chief of Police, has already provided the required response from the Exeter Police Department. The Exeter City Council has discussed the matter, and concurs with Chief Bush's response in its entirety. This response from the Exeter City Council will be limited to the single Grand Jury recommendation (noted below) that involves the Exeter Police Department.

Grand Jury Recommendation:

"That all law enforcement facilities use court ordered community service citizens for daily cleaning of the holding cell areas. Not using city personnel as a janitorial service is financially beneficial to the local governments. However, the Grand Jury is aware that implementation of this recommendation may require meeting and conferring with the affected bargaining units."

Exeter City Council Response:

Based upon the findings of the Exeter Police Chief, and following discussion at the Exeter City Council, the City of Exeter respectfully disagrees with the recommendation and will not be implementing the recommendation, as we believe it is neither warranted nor operationally feasible.

The City Council agrees with the conclusion reached by Chief Bush, wherein he noted that the current arrangement for cleaning of the two Exeter police department pre-bookings cells is efficient, effective, and secure. The introduction of a court-

RECEIVED
4-5-2013

appointed worker to the process would both compromise the security of the holding cell area (which in our police department is adjacent to the patrol officer daily work room as well as the property and evidence area) and create an unnecessary and costly burden for supervision of the employee. A court-appointed worker would have to be supervised during cleaning, and with our very small staff that would likely require a sworn officer to be pulled off of other work to monitor the employee. The current service provider has been screened through a background check, and has responsibility for cleaning of the entire building (in addition to City Hall.) This current process has been very satisfactory, and provides for regular cleaning and a safe and secure process.

We appreciate the concern expressed by the Grand Jury and recognize that every law enforcement agency has different resources and constraints, as well as different circumstances that must be addressed. In the case of the Exeter Police Department, we believe that the current process is sound and cost-effective, and that the holding cells are in fact maintained in a safe, secure, and sanitary manner.

Thank you for your communication on this matter.

Sincerely,



Robyn Stearns
Mayor

cc.
The Honorable Judge Gary Paden
Tulare County Board of Supervisors

TULARE COUNTY GRAND JURY REPORT 2013-2014

Police Department

350 North "D" Street
Porterville, CA 93257
(559) 782-7400/FAX (559) 784-1070
www.PortervillePolice.com

Chuck McMillan

Chief of Police



April 8, 2013

Mr. David Serpa, Foreman
2012-2013 Tulare County Grand Jury
5963 South Mooney Boulevard
Visalia, CA 93277

Dear Mr. Serpa:

The Porterville Police Department is in receipt of the Grand Jury Report related to your investigation and review of local law enforcement holding cells. The notice we received is labeled *Holding Cells*.

In review of the report, it is our belief that utilizing city personnel to clean the custody area is one aspect of the person's duties. Our maintenance person is responsible for the entire facility, encompassing the inside and outside of our department, which requires a full-time person's attention. If the issue was strictly the holding facility, there may be merit to the recommendation, but maintenance and repair of daily issues far exceed the expectations of the court ordered community service offered.

Again, thank you for inspecting our facility we appreciate the service of the Tulare County Grand Jury, and the input and feedback that you provide. Please be assured of our continued cooperation on all matters of mutual interests and concerns.

Sincerely,

Chuck McMillan
Chief of Police

CM/kc

cc: Honorable Judge Gary Paden
Tulare County Board of Supervisors

RECEIVED
APR 11 2013

Porterville Police Department Mission Statement

The members of the Porterville Police Department are committed to the safety and security of the community while providing quality service with excellence, honesty and integrity.

TULARE COUNTY GRAND JURY REPORT 2013-2014

City of Visalia

425 E. Oak Ave., Ste. 301, Visalia, CA 93291



City Manager's Office

Tel: (559) 713-4312 Fax: (559) 713-4800

April 24, 2013

Tulare County Grand Jury
5963 South Mooney Blvd
Visalia, CA 93277

RECEIVED
5-1-2013

To Whom It May Concern,

The City of Visalia hereby presents its response, consistent with California Penal Code section 933.05, to the recommendation contained in the 2012-2013 Tulare County Grand Jury Final Report on the topic of "Holding Cells".

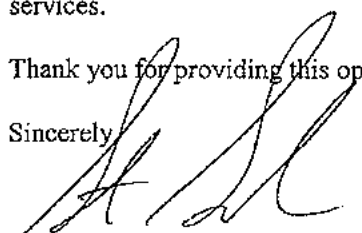
The City of Visalia agrees with the findings in the report to the extent they pertain to the City of Visalia. However, the City disagrees with the recommendation pertaining to it (Recommendation 1) and will not be implementing it, for the following reasons:

Recommendation 1 recommends that all law enforcement facilities use court ordered community service citizens for daily cleaning of the holding cell areas, and suggests that doing so will provide a financial benefit to the local governments. While the City of Visalia welcomes any idea that would result in cost savings, the Police Department projects that the use of individuals serving community service sentences would actually cost the City additional money, and would not result in a cost savings.

Holding cells must be secured according to strict protocol. Individuals cleaning the cells must either be fully cleared for security purposes or monitored directly by sworn police personnel. The City of Visalia currently has these services performed by cost-effective janitorial personnel, not sworn officers. Having these services performed instead by individuals sentenced to community service presents particular security concerns, which would require the presence of at least one sworn officer for the entire time that the cells are being cleaned. The costs to the city of a sworn officer are considerably more than the janitorial personnel currently performing the services.

Thank you for providing this opportunity to review the Grand Jury's report on this matter.

Sincerely,


Steve Salomon
City Manager

SS/kr

CC: The Honorable Judge Gary Paden
Tulare County Board of Supervisors
Visalia City Council
Chief Mestas, Visalia Chief of Police



City of Lindsay



P.O. Box 369 — Lindsay, California 93247 — 251 Honolulu Street
559-562-7103
559-562-7100 (fax)

April 29, 2013

**Tulare County
Grand Jury**
5963 South Mooney Blvd.
Visalia, CA 93277

The Honorable Gary Paden
County Civic Center, Room 303
221 South Mooney Blvd.
Visalia, CA 93291

**Tulare County
Board of Supervisors**
2404 W. Burrel Ave.
Visalia, CA 93291

Re: Lindsay Holding Cells

To the Honorable Gary Paden, Grand Jury Members and Board of Supervisors:

The following are submitted on behalf of the Lindsay City Council and the Lindsay Public Safety Director in response to inquiries received from the Tulare County Grand Jury relating to Holding Cells:

The Lindsay Department of Public Safety is in receipt of the 2012-2013 Report and Finding regarding the investigation conducted concerning the "Holding Cells" at the Lindsay Department of Public Safety. The Lindsay Department of Public Safety does not completely agree with the recommendations or findings released in this report, but will address and clarify those that were ambiguous or inaccurate.

FINDINGS 1: The Lindsay Department of Public Safety agrees. City personnel are utilized to keep the holding cell clean of trash and unsatisfactory conditions.

FINDING 3: The Lindsay Department of Public Safety agrees. Court ordered community service workers are utilized to clean the holding cells when they are available to City personnel. However, court ordered community service workers are not always available to provide this service every hour of every day. Therefore City personnel are required to keep the holding cells clean and free of debris.

LINDSAY...
THE FRIENDLY CITY



RECEIVED
MAY 6 2013

HEART OF CENTRAL
CALIFORNIA ORANGE AREA

TULARE COUNTY GRAND JURY REPORT 2013-2014

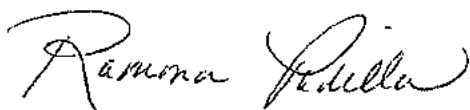
FINDINGS 4&5: The Lindsay Department of Public Safety agrees. The department has no security cameras in place to monitor the holding cell from inside the room.

RECOMMENDATIONS:

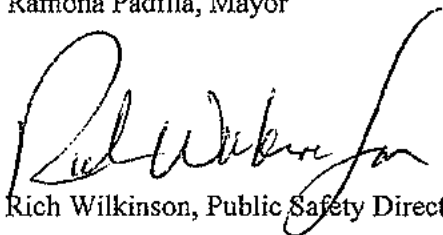
1. The Lindsay Department of Public Safety will continue to use court ordered community service workers to clean the holding cells when they are available to do so. However, City personnel will continue to be utilized to clean the holding cells as needed also. Court ordered community service workers are not available every hour of every day. It is unreasonable for City personnel to leave a dirty holding cell over night until a court ordered community service worker arrives the next day.
2. The Lindsay Department of Public Safety will not be installing security cameras in the holding cell. The installation of security cameras in the holding cell is an unnecessary cost and is not in the department's current budget. The department has only one holding cell. It is an 8' x 7' room with a door, which contains a window. Suspects are placed in the room and the arresting officer sits at a desk less than 10' away while the officer completes the booking or interview process prior to transporting the suspect to the Tulare County Jail. The officer monitors the suspect while they are in his/her custody.

Please do not hesitate to contact the City of Lindsay should you have any further questions regarding these matters.

Sincerely,



Ramona Padilla, Mayor



Rich Wilkinson, Public Safety Director

TUTTLE & McCLOSKEY

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

ERNEST H. TUTTLE, III
JANIEL T. McCLOSKEY
KAY M. TUTTLE
JAMES F. McBREARTY
JOSHUA F. RICHTEL

750 EAST BULLARD, SUITE 101
FRESNO, CALIFORNIA 93710

FAX: (559) 437-0150

Of Counsel
ERNEST H. TUTTLE, IV

TELEPHONE: (559) 437-1770

PLEASANT HILL OFFICE:
2255 CONTRA COSTA BLVD., SUITE 202A
PLEASANT HILL, CALIFORNIA 94523
(925) 676-7663

TOLL FREE: (866) 888-8533

May 2, 2013

David Serpa, Foreman
Tulare County Grand Jury
5963 S. Mooney Boulevard
Visalia, California 93277

**Re: City of Dinuba / Dinuba Police Department
Response to 2012-2013 Tulare County Grand Jury Final Report**

Dear Mr. Serpa:

Please be advised that Tuttle & McCloskey, a professional corporation, serves as the City Attorney for the City of Dinuba. In this respect, I have received a copy of your correspondence to the attention of Police Chief Devon Popovich regarding the City of Dinuba Police Department's response to the Grand Jury Report entitled "Holding Cells." Please accept this correspondence as the City of Dinuba Police Department's response under California Penal Code Section 933(c).

Pursuant to Penal Code Section 933.05, please accept the following responses:

PC §933.05(a)(1) -- The City agrees with the finding that City personnel are used for cleaning the holding cell facilities at the Dinuba Police Station.

PC §933(b) -- The City has the following response:

1. The City agrees substantially with the findings concerning the City's holding cells. The City would state that the cells are cleaned on daily basis, at least six days per week.

2. Use of court ordered community service citizens to clean the three holding cells would not be reasonable, nor is it warranted, in the City of Dinuba. The recommendation is not warranted because the cells are cleaned by City personnel as a normal function of their duties. If the City were to eliminate that duty, it does not allow the City then to eliminate the position. City personnel have already gone through the appropriate background checks and clearances in order to perform these functions. If the City personnel fail to perform their jobs appropriately, they can be

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5-7-2013

TULARE COUNTY GRAND JURY REPORT 2013-2014

David Serpa, Foreman
Tulare County Grand Jury
May 2, 2013
Page 2

rehabilitated through the personnel process. Using court ordered community "citizens" does not guarantee that it will be done appropriately or properly.

3. The City does not agree with the premise that "not using city personnel as a janitorial service is financially beneficial to the local governments." Furthermore, the holding cells are kept clean through this process so it is not warranted to implement that recommendation.

Thank you for your interest in the City and the holding cells. If you should have any questions, please feel free to contact my office.

Very truly yours,

TUTTLE & McCLOSKEY
A PROFESSIONAL CORPORATION



DANIEL T. McCLOSKEY

DTM/sc

cc; Honorable Gary Paden
Tulare County Board of Supervisors
J. Edward Todd
Chief Devon Popvich



**BOARD OF
SUPERVISORS**

Allen R. Ishida
District One

Pete Vander Poel
District Two

Phillip A. Cox
District Three

J. Steven Worthley
District Four

Mike Ennis
District Five

✱

BOARD STAFF

Julietta Martinez

Allison Pierce

Tammie Weyker

✱

**CLERK OF
THE BOARD**

Michelle Baldwin
Chief Clerk

✱

Administration Bldg.
2800 West Burrel
Visalia, CA 93291

TEL: (559) 636-5000
FAX: (559) 722-6800

County of Tulare

June 4, 2013

The Honorable Judge Gary Paden
Tulare County Superior Court, Room 303
221 South Mooney Boulevard
Visalia, CA 93291

Dear Judge Paden:

On behalf of the Board of Supervisors, the following is the Board's responses to the findings and recommendations included in the 2012/2013 Tulare County Grand Jury Report titled *Holding Cells*. The Board of Supervisors has no independent basis by which to respond to the specific findings and recommendations therein. Therefore, we have consulted with the Sheriff's Department to assist with these responses.

Finding 1

City Personnel are used for cleaning six of the holding cell facilities; they are as follows. Dinuba, Lindsay, Porterville, Tulare, Visalia, Woodlake.

Response: This finding is not in the purview of the Tulare County Board of Supervisors.

Finding 2

Exeter uses a private janitorial service to clean on Monday, Wednesday, and Friday.

Response: This finding is not in the purview of the Tulare County Board of Supervisors.

Finding 3

In addition to using city personnel, Lindsay uses court ordered community service workers.

Response: This finding is not in the purview of the Tulare County Board of Supervisors.

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6-10-2013

Finding 4

Those facilities having security cameras are able to monitor detainees as needed.

Response: The Board of Supervisors partially agrees with this finding. At the Main Jail, the Sheriff's Department is able to monitor detainees. Facilities operated by other law enforcement jurisdictions are not in the purview of the Tulare County Board of Supervisors.

Finding 5

Three facilities, the Lindsay Police Department, Porterville Sheriff's Substation, and Pixley Sheriff's Substation do not have security cameras.

Response: The Board of Supervisors partially agrees with this finding. The Sheriff's Substations in Porterville and Pixley do not have security cameras in the holding cells. The Lindsay Police Department is not in the purview of the Tulare County Board of Supervisors.

Recommendation 1

That all law enforcement facilities use court ordered community service citizens for daily cleaning of the holding cell areas. Not using city personnel as a janitorial service is financially beneficial to the local governments. However, the Grand Jury is aware that the implementation of this recommendation may require meeting and conferring with the affected bargaining units.

Response: The recommendation has been implemented. The Sheriff's Department utilizes an inmate workforce within the jail facilities to clean jail facilities and utilizes Sheriff's Work Alternative Program (S.W.A.P.) participants to clean holding cell areas in substations.

Recommendation 2

That the Porterville Sheriff's Substation, Lindsay Police Department and Pixley Sheriff's Substation install security cameras.

Porterville Sheriff's Substation Response: The recommendation will not be implemented because it is not warranted. Detainees are held for a minimal amount of time. During their length of stay, there is a Duty Officer (Deputy/Correctional Deputy) that conducts regular and random checks on incarcerated persons.

Pixley Sheriff's Substation Response: The recommendation will not be implemented because it is not warranted. Detainees are kept for a minimal amount of time.

Recommendation 3

That to adequately view all of its detainees, the Tulare County Sheriff's Headquarters (Main Jail) should install additional security cameras.

TULARE COUNTY GRAND JURY REPORT 2013-2014

The recommendation requires further analysis. The Sheriff's Department is researching the possibility of adding additional cameras within the holding cells at the Main Jail. The Sheriff's Department is currently evaluating its operational needs and may propose a Digital Video Recording System for the Main Jail in its Fiscal Year 2013/14 Recommended Budget depending on overall operational priorities. The Sheriff's analysis will be conducted within the next six months.

Sincerely,



Pete Vander Poel, Chairman
Tulare County Board of Supervisors

CC: Tulare County Grand Jury

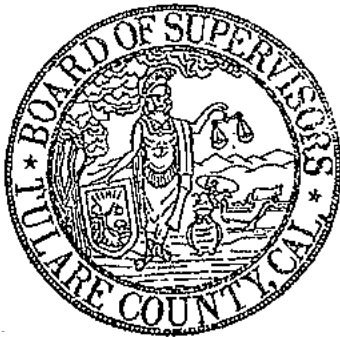
**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF GRAND JURY
RESPONSE

)
) Resolution No. 2013-0346

UPON MOTION OF SUPERVISOR COX, SECONDED BY SUPERVISOR ENNIS, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JUNE 4, 2013, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS ISHIDA, VANDER POEL, COX, WORTHLEY AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY:

A handwritten signature in cursive script, reading "Doreen A. Ybarra".
Deputy Clerk

* * * * *

1. Considered, modified as needed, and approved the response to the Tulare County Grand Jury 2012/13 Final Report regarding the report entitled, "Holding Cells," and
2. Authorized the Chairman to sign the response letter.

CAO
Grand Jury

DAY
6/4/13



County of Tulare

Office of
Bill Wittman
Sheriff-Coroner
2404 W. Burrel
Visalia, CA 93291-4580
(559) 636-4716

Administration
(559) 636-4690

Detentions
(559) 735-1700

Investigations
(559) 735-1898

Operations
(559) 636-4625

March 25, 2013
The Honorable Gary Paden
Tulare County Superior Court Magistrate
County Civic Center, Room 303
221 S. Mooney Boulevard
Visalia, CA 93291

RECEIVED
MAR 26 - 18 - 2013

Re: Holding Cells

Honorable Judge Paden,

The following is my response concerning the findings and recommendations of the Grand Jury Report regarding the Tulare County Holding Cells.

Fact 4: Pixley Sheriff's Substation:

- a. *There is one holding cell.*
- b. *Detainees are normally transported within 30 minutes of arrival to the Porterville Sheriff's Substation, the Visalia Main Jail, or the BWDF.*
- c. *There is no security camera in the holding cell area.*

Fact 6: Porterville Sheriff's Substation:

- a. *There are six holding cells, and each cell has a three-person capacity.*
- b. *Detainees are responsible for cleaning the holding cells.*
- c. *The cells are used for detainees pending transport and court appearances.*
- d. *Detainees held for court appearances are provided a sack lunch.*
- e. *There are no security cameras in the cell area.*

Fact 8: Tulare County Sheriff's Headquarters (Main Jail)

- a. *There are seven holding cells: a three-in-one booking cage, a safe room (used to safeguard a detainee who may injure himself), a large cell*

- and two small cells.*
- b. The two small cells are used for detainees pending release or being held for pending court appearances.*
 - c. When booking cages are at capacity, the large cell and two smaller cells are used for these detainee awaiting the booking process.*
 - d. There are two security cameras: one is outside of and the facing the booking cage; the other is inside the large cell.*
 - e. The safety room has a thick rubber-like covering on the walls and a similar yet thinner covering on the floor.*
 - f. Detainees are responsible for daily cleaning of the cells.*
 - g. BWDF provides detainees breakfast and sack lunches every day.*

Findings/Recommendations:

- 2. That the Porterville Sheriff's Substation, Lindsay Police Department and Pixley Sheriff's Substation install security cameras.*

Pixley Sheriff's Substation: I agree with the finding. The recommendation will not be implemented because it is not warranted. Detainees are kept for a minimal amount of time. During that stay of duration there would not be any personnel in the station to watch or view a camera.

Porterville Sheriff's Substation: I agree with the finding. The recommendation will not be implemented because it is not warranted. Detainees are kept for a minimal amount of time. During their length of stay, there is a Duty Officer (Deputy / Correctional Deputy) that conducts regular and random checks on persons incarcerated.

- 3. That to adequately view all of its detainees, the Tulare County Sheriff's Headquarters (Main Jail) should install additional security cameras.*

Tulare County Sheriff's Headquarters (Main Jail): I agree with the finding. With the Main Jail building being built in 1963, technology upgrades can be challenging. Solid concrete walls and floors along with asbestos concerns are always present. I will have staff research the possibility of adding additional cameras within the cells at the Main Jail. We have proposed an updated Digital Video Recording System for the Main Jail in the Fiscal Year 2013/14 budget proposal.

TULARE COUNTY GRAND JURY REPORT 2013-2014

Sincerely,

Bill Wittman

BILL WITTMAN
Sheriff-Coroner

cc County Administrator, Jean Rousseau
Tulare County Board of Supervisors
Tulare County Grand Jury
Tulare County Council
Tulare County Public Defender



May 7, 2013

Mr. David Serpa, Foreman
Tulare County Grand Jury
5963 South Mooney Boulevard
Visalia, California 93277

Dear Foreman Serpa:

The City Council for the City of Porterville is in receipt of the Tulare County Grand Jury Report related to your review of holding cells in Tulare County, including the holding cells in the City of Porterville Police Department. As part of the Grand Jury's mandated inquiry into the conditions and management of the public prisons within the county, it is our understanding that the Grand Jury did not personally inspect the City facility. Please accept this correspondence as the required response on behalf of the City Council.

In response to the report, particularly to Recommendation #1, "that all law enforcement use court ordered community service citizens for daily cleaning of the holding cell areas," the City employs a building custodian whose responsibility it is to ensure the cleanliness and proper maintenance of both the interior and exterior of the Police Department facility, including the four holding cells. The City (and Police Department) do utilize court ordered community service citizens to augment the responsibility of its personnel, especially in the performance of building landscape maintenance and the washing of vehicles.

Thank you for your time and consideration in the inquiry into the conditions and management of holding cells in Tulare County, and the acceptance of this letter of response.

Sincerely,

Virginia R. Gurrola
Mayor

Cc: Honorable Judge Gary L. Paden
Tulare County Board of Supervisors

RECEIVED
5-14-2013

City Manager's Office
291 North Main Street, Porterville, California 93257
(559) 782-7466 Fax (559) 715-4013 Email: mgr-Office@ci.porterville.ca.us

TULARE COUNTY PROBATION JUVENILE DETENTION FACILITY

Per Penal Code §919(b) the Grand Jury is mandated to inquire into the operation and management of all public prisons within the County. A report is not required. Several past Grand Juries received numerous complaints from Bob Wiley inmates. Those complaints resulted in yearly reports and major improvements to the facility. The 2012-2013 Grand Jury turned its attention to the Juvenile Facility.

The Grand Jury found that the staff was adequate and that the needs of the juveniles were met.

Following an inspection of the kitchen area, the Grand Jury found that foods prepared in advance of a meal were not covered before placing them into the walk-in refrigerator. It was recommended that foods be covered to avoid contamination.

The attached response addresses what the Grand Jury found during its inspection and recommendation.

County of Tulare

221 S. MOONEY BLVD., RM. 206
VISALIA, CA 93291-4593
PHONE: (559) 713-2750
FAX: (559) 730-2626

CHIEF PROBATION OFFICER
CHRISTIE MYER



PROBATION DEPARTMENT

July 2, 2013

Tulare County Grand Jury
5693 South Mooney Boulevard
Visalia, CA 93277

The Honorable Lloyd Hicks
Presiding Judge of the Superior Court
County Civic Center, Room 303
221 S. Mooney Boulevard
Visalia, CA 93291

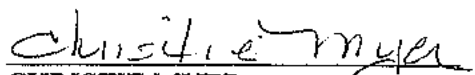
Tulare County Board of Supervisors
2404 West Burrell Avenue
Visalia, CA 93277

Dear Members of the Grand Jury,

The attached is my response concerning the findings and recommendations of the 2012/2013 Tulare County Grand Jury Final Report concerning the Tulare County Juvenile Detention Facility.

The Tulare County Probation Department appreciates the diligence of the Grand Jury in reviewing programs and providing findings and recommendations.

Sincerely,



CHRISTIE MYER
CHIEF PROBATION OFFICER

CM/cm

RECEIVED
7-8-2013

Responses to the 2012-2013 Tulare County Grand Jury Final Report

Findings:

1. **The Juvenile Detention Facility appears to be well staffed and the needs of the juveniles are addressed adequately.**

Response: We agree with the finding.

2. **Foods prepared in advance of a meal are at risk of contamination from dust, vermin, or other forms of contamination when that food is not properly stored. California Health & Safety Code 114047 (d) states food shall be protected from contamination by storing the food in a clean, dry location. Opening the cooler door may give the wayward fly an opportunity to land on the uncovered foods.**

Response: We agree with the finding on the date of issue.

Recommendation:

1. **Prepare and store food in a manner that is compliant with state standards.**

In-service training is currently provided on a monthly basis to all food service staff by the Food and Laundry Service Manager who trains from a Hazard Analysis and Critical Control Points (HACCP) curriculum, established in cooperation with the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA). The Preventing Cross-Contamination during Storage and Preparation procedure was given on May 12, 2012. It was given again, as scheduled, on May 9, 2013, following the Grand Jury inspection.

We believe this to be an isolated incident. However, in an effort to ensure compliance with the highest of standards at all times, effective July 1, 2013, an assigned Supervising Probation Officer will complete monthly inspections, on random dates and times. The results of these inspections will be available upon request.



**BOARD OF
SUPERVISORS**

Allen R. Ishida
District One

Pete Vander Poel
District Two

Phillip A. Cox
District Three

J. Steven Worthley
District Four

Mike Ennis
District Five

✱

BOARD STAFF

Iulietta Martinez

Wilson Pierce

Tammie Weyker

✱

**CLERK OF
THE BOARD**

Nichelle Baldwin
Chief Clerk

✱

Administration Bldg.
300 West Burrel
Visalia, CA 93291

TEL: (559) 636-5000
FAX: (559) 733-6898

County of Tulare

July 23, 2013

The Honorable Judge Gary Paden
Tulare County Superior Court, Room 303
221 South Mooney Boulevard
Visalia, CA 93291

Dear Judge Paden:

On behalf of the Board of Supervisors, the following is the Board's responses to the findings and a recommendation included in the 2012/2013 Tulare County Grand Jury Report titled *Tulare County Juvenile Detention Facility*. The Board of Supervisors has no independent basis by which to respond to the specific findings and recommendations therein. Therefore, we have consulted with the Tulare County Probation Department to assist with these responses.

Finding 1

The Juvenile Detention Facility appears to be well staffed and the needs of the juveniles are addressed adequately.

Response: The Board of Supervisors agrees with the finding.

Finding 2

Foods prepared in advance of a meal are at risk of contamination from dust, vermin or other forms of contamination when that food is not properly stored. California Health & Safety Code 114047 (d) states food shall be protected from contamination by storing the food in a clean, dry location. Opening the cooler door may give the wayward fly an opportunity to land on the uncovered foods.

Response: The Board of Supervisors agrees with the finding.

Recommendation 1

Prepare and store food in a manner that is compliant with state standards.

Response: The recommendation has been implemented. The Tulare County Probation Department's Food and Laundry Services Manager provides in-service training on a monthly basis to all food service staff. The Food and Laundry

TULARE COUNTY GRAND JURY REPORT 2013-2014

Services Manager provides training based on curriculum from Hazard Analysis and Critical Control Points (HACCP), which is established in cooperation with the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA).

In addition, effective July 1, 2013, the Probation Department has assigned a Supervising Probation Officer to complete monthly inspections, at random dates and times, to ensure compliance with the highest of food safety and other standards. The results of these inspections will be made available upon request.

Sincerely,



Pete Vander Poel, Chairman
Tulare County Board of Supervisors

CC: Tulare County Grand Jury

WAR OF THE HORSES

BACKGROUND

The Justice Committee of the 2012-2013 Grand Jury received several citizen complaints concerning neglected horses located within the boundaries of Porterville. These citizens' had contacted Tulare County Animal Control and Porterville Animal Control several times. The County and Porterville were both investigating the allegations of animal neglect; however, the citizens believed their concerns were being ignored.

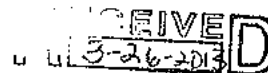
The Grand Jury investigated and concluded that Porterville lacked jurisdiction in this Tulare County issue.

The attached response explains the unique circumstances surrounding the horses; they were on property located within the boundaries of both the County and Porterville.



March 13, 2013

David Serpa, Grand Jury Foreman
Tulare County Grand Jury
5963 South Mooney Boulevard
Visalia, California 93277



Dear Mr. Serpa

The City of Porterville and Porterville Police Department are in receipt of the Grand Jury Report related to your investigation and review of a citizen's complaint regarding concerns of horse neglect in the 700 block of East Worth in Porterville. Our notice from the Tulare County Grand Jury is labeled as ***War of the Horses*** for your reference.

Response:

In review of the report and its findings, the Police Department, which oversees the function of Animal Control, reviewed all calls for service related to this incident. The circumstances of this incident were unique in that the area which surrounded the fenced area where the horses were kept is *within* the incorporated area of the City of Porterville. The immediate area where the horses were located was determined to be within the jurisdiction of Tulare County. The address given in all complaints received was 720 East Worth, which is a city address. Our Police Department began receiving numerous complaints regarding the condition of the horses during the time of February 13, 2012, to April 10, 2012. The direction given to our personnel was to effect a resolution to the incident; receiving complaints for nearly two months with no closure was unacceptable and having a negative impact on our calls for service.

In every call received by our Police Department, the Tulare County Sheriff's Department was notified of the incident, along with the Tulare County Animal Control. Our personnel documented an incident report 12-3076 on April 10, 2012, and requested the Tulare County Sheriff's Department and Tulare County Animal Control to meet at the East Worth location. It was on this date that the owner of the horses was located and the incident resolved.

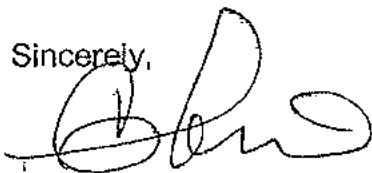
It is not, nor has it ever been, the position of the City of Porterville or its Police Department to provide our services outside our jurisdiction, but we do pride ourselves on responding to the needs of our community and providing quality service to our customers.

TULARE COUNTY GRAND JURY REPORT 2013-2014

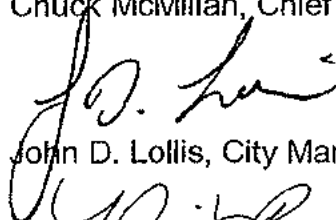
Mr. David Serpa
Page 2
March 13, 2013

We appreciate the service of the Tulare County Grand Jury, and the input and feedback that you provide. Please be assured of our continued cooperation on all matters of mutual interest and concern.

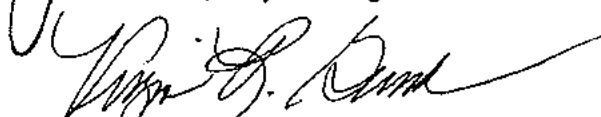
Sincerely,



Chuck McMillan, Chief of Police



John D. Lollis, City Manager



Virginia R. Gurrola, Mayor

Attachment: Map

Cc: Honorable Judge Gary Paden
Tulare County Board of Supervisors

MEDICAL MARIJUANA CITY ORDINANCES

BACKGROUND

California Health and Safety Code §11362.5, also known as the California Compassionate Use Act allows a patient suffering from certain conditions, such as cancer, and his/her primary caregiver, the right to lawfully possess and grow marijuana if approved by a physician.

REASON FOR INVESTIGATION

Due to controversies between Federal Regulations and California Health and Safety Code § 1137.5, the 2012/2013 Grand Jury investigated and reported on Medical Marijuana Cultivation(farming) within the following incorporated cities:

Dinuba	Porterville
Exeter	Tulare
Farmersville	Visalia
Lindsay	Woodlake

FINDINGS

1. The Grand Jury found that Farmersville and Woodlake are the only two cities that have a Medical Marijuana Ordinance and permit requirement.
2. The Grand Jury also found that without a Medical Marijuana Ordinance and permit requirement, it was impossible for the cities to keep track of legal Medical Marijuana cultivation within their boundaries.

RECOMMENDATIONS

The Grand Jury recommended that all of the incorporated cities establish a uniform permit requirement and an ordinance for Medical Marijuana cultivation.

Attached to this report are the required responses to the Grand Jury's Findings and Recommendations

TULARE COUNTY GRAND JURY REPORT 2013-2014

THE CITY OF

WOODLAKE

350 NORTH VALENCIA BOULEVARD • WOODLAKE, CA 93286-1244

PHONE (559) 564-8055 • FAX (559) 564-8776

www.cityofwoodlake.com

March 8, 2013

Tulare County Grand Jury
5963 S Mooney Blvd.
Visalia, Ca. 93277

RECEIVED
3-14-13

Dear Grand Jury:

The City of Woodlake is in receipt of the Tulare County Grand Jury report on Medical Marijuana City Ordinances. The City concurs with the findings made by the Tulare County Grand Jury.

There are two recommendations made on the report. The first one states: that all incorporated cities within the County need a permit requirement and an ordinance covering medical marijuana cultivation. The City currently implements a permit requirement and an ordinance for medical marijuana cultivation. Both tools have proven to be vital in the City's ability to keep track of and abate legal and illegal medical marijuana cultivation.

The second recommendation states: that all of the cities need to establish a uniform medical marijuana cultivation ordinance. The City is willing to work with other cities in the County to look at the possibility of establishing a uniform ordinance. This recommendation will require further analysis and all the cities in the County working together. The goal of establishing a uniform ordinance will be difficult due to varied demands faced by the cities.

The City of Woodlake would like to thank you for taking the time to review this critical matter affecting Tulare County.

If you have any questions, please feel free to contact me at any time.

Sincerely,



Rudy Mendoza, Mayor
City of Woodlake

Cc: Frances Ortiz, Vice Mayor
Jose Martinez, Council Member
Greg Gonzalez, Council Member
Raul Gonzales, Council Member

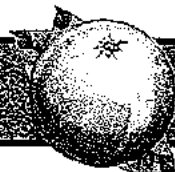
Office of the Mayor

137 North T Street – PO Box 237 Exeter, CA 93221

Ph. #559-592-3710 Fax # 559-592-3556



City of Exeter



March 28, 2013

Tulare County Grand Jury
5963 S. Mooney Blvd.
Visalia, California 93277

Re: Response to Grand Jury Report dated 03/13/2013

This document represents the official response of the Exeter City Council, presented by Mayor Robyn Stearns on behalf of the Council, in regard to the Tulare County Grand Jury Report entitled "MEDICAL MARIJUANA CITY ORDINANCES" in the 2012-2013 Grand Jury Final report.

As noted in your facts and findings, the City of Exeter does not have a standalone ordinance pertaining to medical marijuana. In regard to how we approach the cultivation of marijuana, we have relied upon federal law, which continues to classify marijuana as an illegal substance. The City of Exeter Zoning Ordinance contains a provision which, in essence, states that no land use shall be permitted which is in violation of state or federal law. The cultivation of marijuana on any land is therefore prohibited. This approach is somewhat generic – and focused on code enforcement, rather than law enforcement. We have dealt with instances of marijuana cultivation within the city limits, and we certainly believe that more exist that have not yet been identified or dealt with.

The City of Exeter continues to monitor the significant amount of litigation and evolving approaches and strategies in regard to the cultivation of medical marijuana and related issues. We do not necessarily feel that our current approach is the best answer, but there is such a volume of pending litigation and legislative work on the topic that it has not seemed prudent to pioneer a new effort when so many other jurisdictions are much farther along in their development, testing, and evaluation of other approaches.

Grand Jury Recommendation:

Your recommendation is for all cities to establish a uniform medical marijuana cultivation ordinance, and to have a permit requirement.

RECEIVED
4-5-2013

Exeter City Council Response:

We believe that this recommendation requires further analysis. More specifically, we believe that much work is being done across the state on this very topic, and that effective, sustainable, and defensible strategies are in fact being developed. We are willing to contemplate the use of a specific ordinance, but we feel that our best approach is to work collaboratively with our neighboring cities and the County as some of the emerging strategies become more solid. It is difficult to place a timeframe on this process, as so much hinges on the timing of the courts, the legislature, and other factors beyond our control.

While this response may not be as specific as was requested, we hope that by expressing our interest and willingness to work with other agencies as these matters become more clear, the intent of your request may be satisfied. We would note that it may not be feasible to establish a uniform ordinance that is appropriate for all jurisdictions. Every city has unique circumstances and environments that make a one-size-fits-all approach problematic, or perhaps impossible. But we agree that consistency – to the greatest degree possible – is an appropriate goal.

We appreciate the interest expressed by the Grand Jury and recognize that consistent and collaborative approaches are needed.

Thank you for your communication on this matter.

Sincerely,



Robyn Stearns
Mayor

cc.
The Honorable Judge Gary Paden
Tulare County Board of Supervisors



City of Farmersville

March 11, 2013

Tulare County Grand Jury
5963 S. Mooney Blvd.
Visalia, CA 93277

Dear Tulare County Grand Jury,

In response the Grand Jury report titled Medical Marijuana City Ordinances and its recommendations, I have the following comments:

1. The City of Farmersville does have an active ordinance regarding Medical Marijuana cultivation. The ordinance prohibits, via zoning, the cultivation of any marijuana whether, outdoor or indoor, in a residential or commercial zoned property. Limited cultivation under specific guidelines is not prohibited and does have a registration process that is required prior to any cultivation. Violations are handled via a civil process through the City's Code Enforcement Office unless it is determined to be a criminal violation. In such cases, the police department takes over the investigation to pursue criminal prosecution.
2. I would agree that having a uniform process in all jurisdictions would make compliance and enforcement easier however, it is important to note that the issue is ever evolving. Case law related to medical marijuana dispensaries and medical marijuana cultivation changes frequently and seven years later, there is still no clear interpretation as to the uniform application of the law. In addition, the fact remains that marijuana, cultivated, sold, or used for any purpose is illegal under Federal Law. Federal Law trumps state law. States and local governments are prohibited from passing any laws that are in conflict with federal law. Until the Federal Government takes definitive action regarding existing state laws on marijuana, having consistent application and enforcement of local ordinances related to marijuana, whether medicinal or otherwise, will remain elusive.

Sincerely,

Mayor Leonel Benavides

Cc: Mike Farley, City Attorney

RECEIVED
4-9-2013

City of Tulare City Council

411 East Kern Avenue, Tulare, California 93274 AGRI-CENTER OF THE WORLD Tel: (559) 684-4200 Fax: (559) 685-2398



David Macedo
Mayor

Craig Vejvoda
Vice Mayor

Skip Barwick
Councilmember

Shea Convin
Councilmember

Carlton Jones
Councilmember

April 16, 2013

The Honorable Judge Gary Paden
Superior Court of California
County of Tulare
221 S. Mooney Blvd.
Visalia, CA 93291

RECEIVED
4-19-2013

SUBJECT: RESPONSE TO GRAND JURY REPORT – OUT OF SIGHT, OUT OF MIND: MEDICAL MARIJUANA

Dear Judge Paden:

The City Council has reviewed the June 5, 2012 Grand Jury report entitled "Medical Marijuana City ordinances" and have prepared the following responses to the *findings and recommendations*:

Response to Findings

Finding 1. Farmersville and Woodlake are the only cities to have both an ordinance for MM cultivation and a permit requirement.

Respondent agrees with the finding. *The City of Tulare agrees, based on the facts provided in the report, that Farmersville and Woodlake are the only cities to have both an ordinance for MM cultivation and a permit requirement and that the City of Tulare does not have both an ordinance for MM cultivation and permit requirement.*

Finding 2: Dinuba and Visalia are the only cities to have an ordinance only for MM cultivation

Respondent agrees with the finding. *The City of Tulare agrees, based on the facts provided in the report, that Dinuba and Visalia are the only cities to specifically have an ordinance only for MM cultivation. The City of Tulare does reference MM cultivation in municipal Code Section 5.96.140(G), Operating Requirements [for medical marijuana dispensaries] where it states that "Any cultivation of medical marijuana or processing of medical marijuana conducted by the business shall at all times occur in a secure, locked and fully enclosed structure. No medical marijuana business may cultivate or process more than 99 marijuana plants, whether mature or immature". Additionally, the City of Tulare municipal code Section 7.48.040, Regulations Applicable to Individual Cultivation, states "In addition to any other applicable regulation under the Municipal Code, all cultivation of medical marijuana in the City of Tulare shall occur at all times in a secure, locked and fully enclosed structure".*

Finding 3: The cities of Exeter, Lindsay and Portersville do not have a MM ordinance.

Respondent agrees in part with the finding. *The City of Tulare agrees, based on the facts provided in the report, that the cities of Exeter, Lindsay and Portersville do not have a MM ordinance. However, the City of Tulare also does not have a **specific** MM ordinance.*

Finding 4: The cities of Dinuba, Exeter, Portersville and Visalia do not have a MM permit requirement

Respondent agrees in part with the finding. *The City of Tulare agrees, based on the facts provided in the report, that the cities of Dinuba, Exeter, Portersville and Visalia do not have a MM permit requirement. However, the City of Tulare also does not have an MM permit requirement.*

Finding 5: Dinuba is unaware of the number of MM cultivations within its city. Without this knowledge, it is impossible to track those who are cultivating marijuana legally from those who are not.

Respondent disagrees with the finding. *The City of Tulare disagrees with the inferred conclusion that by knowing the number of MM cultivations within its city, it could track those who are cultivating marijuana legally from those who are not.*

Finding 6: Regardless of whether a city has an ordinance for MM cultivations, California Health and Safety Code §11362.5, allows patients and their caregivers to possess and grow Medical Marijuana.

Respondent agrees with the finding. *The City of Tulare agrees with this finding.*

Finding 7: Without a MM permit requirement and an MM cultivation ordinance, it is impossible for the cities to keep track of legal MM cultivations.

Respondent agrees in part with the finding. *The City of Tulare agrees that without a MM permit requirement and an MM cultivation ordinance, it is impossible to keep track of legal (emphasis added) MM cultivations.*

Response to Recommendations

Recommendation 1: All of the incorporated cities within the county need a permit requirement and an ordinance covering MM cultivation.

Respondent disagree with this recommendation. *The recommendation will not be implemented because it is not warranted. There has been no study demonstrating that requiring patients and their caregivers to obtain a permit to grow MM will enable the City of Tulare to keep track of those cultivating marijuana illegally. The City of Tulare finds no justification in mandating the adoption of an ordinance and subsequent enforcement of such an ordinance. Furthermore, without an identified source of funding for such a study or enforcement actions, the City has no plans to undertake such actions.*

Recommendation 2: All of the cities need to establish a uniform MM cultivation ordinance.

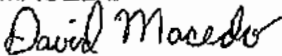
Respondent disagrees with this recommendation. *The recommendation will not be implemented because it is not warranted.*

Please feel free to contact me should you have any questions or concerns regarding the responses contained herein.

Respectfully submitted,

DAVID MACEDO

Mayor



cc: Tulare County Grand Jury
5963 S. Mooney Blvd.
Visalia, CA 93277

Tulare County Board of Supervisors
2800 W. Burrel Ave.
Visalia, CA 93291

City of Visalia

425 E. Oak Ave., Ste. 301, Visalia, CA 93291



City Manager's Office

Tel: (559) 713-4312 Fax: (559) 713-4800

April 24, 2013

RECEIVED
5-1-2013

Tulare County Grand Jury
5963 South Mooney Blvd
Visalia, CA 93277

To Whom It May Concern,

The City of Visalia hereby presents its response, consistent with California Penal Code section 933.05, to the recommendation contained in the 2012-2013 Tulare County Grand Jury Final Report on the topic of "Medical Marijuana City Ordinances".

The City of Visalia agrees with the findings in the report. However, the City disagrees with the recommendations, and will not be implementing them for the following reasons:

Recommendation 1 recommends that all of the cities within Tulare County adopt a permit requirement as part of an ordinance covering Medical Marijuana ("MM") cultivation. The City of Visalia, as noted in the report, has adopted an ordinance covering MM cultivation. The City expressly decided to not have a permit requirement as part of this ordinance for a number of reasons. First, a permit requirement would apply a level of government sanctioning to an activity that is still expressly illegal under federal law. It has been suggested that having a permit system that serves in some way to legalize marijuana cultivation may put the City in the position of being out of compliance with federal law. The City's cultivation ordinance avoids this by making certain activity in excess of defined limits unlawful within the City of Visalia, but does not declare the activity below such limits as "legal". If the ordinance featured a permit requirement, this approach would not be possible. Second, a permit system would be appropriate where complex or sophisticated growing operations are permitted under the ordinance. However, all such growing operations are simply illegal under the City of Visalia's ordinance. Instead, the ordinance allows only smaller scale growing activities (12 plants or fewer or 12 square feet or less), that must be conducted indoors and in an unobtrusive manner. A permit system is not warranted for such smaller scale activities. As long as these activities are kept within the stated maximums, there should be no need to track these activities.

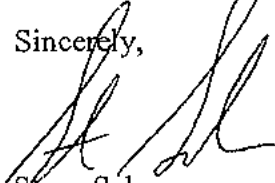
Recommendation 2 recommends that all cities need to establish a uniform MM cultivation ordinance. While a uniform cultivation ordinance may be desirable, it may also not be. The State Legislature in enacting the follow-up legislation to the Compassionate Use Act specifically reserved to the local governments the freedom to adopt tailored land use regulations. The limitations adopted by the City of Visalia may or may not be appropriate for other cities, particularly those much smaller than Visalia. Further, Visalia has had experience in enforcing its ordinances, and through this experience has made various modifications to its ordinance. Not all of the other cities have had the same experiences.

TULARE COUNTY GRAND JURY REPORT 2013-2014

At the same time, the City of Visalia's ordinance and the lessons learned by the code enforcement staff over the years, are available as a resource to any of the other cities within Tulare County. We believe the City has played a leading role in developing its ordinances in all areas of medical marijuana enforcement - not just cultivation - and the current ordinances may serve as a template for other cities, should they find a need for them.

Thank you for providing this opportunity to review the Grand Juries report on this matter.

Sincerely,



Steve Salomon
City Manager

SS/kr

CC: The Honorable Judge Gary Paden
Tulare County Board of Supervisors
Visalia City Council
Chief Mestas, Visalia Chief of Police



City of Lindsay



P.O. Box 369 — Lindsay, California 93247 — 251 Honolulu Street
559-562-7103
559-562-7100 (fax)

May 3, 2013

**Tulare County
Grand Jury**
5963 South Mooney Blvd.
Visalia, CA 93277

The Honorable Gary Paden
County Civic Center, Room 303
221 South Mooney Blvd.
Visalia, CA 93291

**Tulare County
Board of Supervisors**
2404 W. Burrel Ave.
Visalia, CA 93291

Re: City of Lindsay Medical Marijuana City Ordinances

To the Honorable Gary Paden, Grand Jury Members and Board of Supervisors:

The following are submitted on behalf of the Lindsay City Council and the Lindsay Public Safety Director in response to inquiries received from the Tulare County Grand Jury relating to Medical Marijuana City Ordinances:

FINDINGS

Respondents agree with the findings as stated, although it should be noted that per Lindsay Municipal Code Section 18.01.090, "No use of land, under this title, shall be permitted within the city limits if such use shall be in violation of any local, state, or federal laws."

RECOMMENDATIONS

1. *All of the incorporated cities within the county need a permit requirement and an ordinance covering medical marijuana cultivation.*

LINDSAY...
THE FRIENDLY CITY



RECEIVED
5-6-2013

HEART OF CENTRAL
CALIFORNIA ORANGE AREA

As noted above the City does have a regulation that indirectly affects certain activities related to the cultivation, processing and distribution of medical marijuana. The Court of Appeals for the 2nd District, in *Pack v. Superior Court* (2011) 199 Cal.App.4th 1070, found that Long Beach's medical marijuana ordinance, which authorized (via a permit system) collective

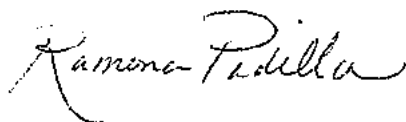
cultivation/processing and distribution, was preempted by federal law. Although this case seemed to be helpful for cities that wished to ban collectives altogether, it muddled the waters as to whether cities could legally implement a permitting system for various types of medical marijuana activities, including cultivation. There are other cases on file with inconsistent rulings, and there are at least three California State Supreme Court cases pending with decisions due soon that will affect the extent to which cities may regulate various medical marijuana uses. The City is hoping that these decisions will provide greater clarity and guidance to an appropriate regulatory scheme. The City of Lindsay Planning Department, along with the City Council and the City Attorney will continue to explore available legal options with respect to adopting and implementing a regulatory process to track and gain compliance with cultivators of medical marijuana within our City limits.

2. *All of the cities need to establish a uniform medical marijuana ordinance.*

This recommendation has not been implemented but will be considered. First, the City believes it is premature to establish regulations given the status of the applicable law (as described above). Furthermore, individual cities may have concerns specific to the varying characteristics of their respective communities. That stated, the City welcomes collaboration between the other cities in the region, and it may be possible to develop certain standard regulations or criteria that could be appropriate County-wide.

Please do not hesitate to contact the City of Lindsay should you have any further questions regarding these matters.

Sincerely,



Ramona Padilla, Mayor



Rich Wilkinson, Public Safety Director

TUTTLE & McCLOSKEY

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

ERNEST H. TUTTLE, III
DANIEL T. McCLOSKEY
KAY M. TUTTLE
HILL OFFICE:
JAMES F. McBREARTY
COSTA BLVD., SUITE 202A
JOSHUA F. RICHTEL
HILL, CALIFORNIA 94523

750 EAST BULLARD, SUITE 101

FRESNO, CALIFORNIA 93710

FAX: (559) 437-0150

PLEASANT

2255 CONTRA

PLEASANT

(925) 676-

7663

Of Counsel
ERNEST H. TUTTLE, IV
(866) 888-8533

TELEPHONE: (559) 437-1770

TOLL FREE:

May 6, 2013

David Serpa, Foreman
Tulare County Grand Jury
5963 S. Mooney Boulevard
Visalia, California 93277

**Re: City of Dinuba/Medical Marijuana City Ordinance
Response to 2012-2013 Tulare County Grand Jury Final Report**

Dear Mr. Serpa:

Please be advised that I serve as the City Attorney for the City of Dinuba ("City"). I have been asked by the City Council of the City of Dinuba to respond to the Grand Jury report concerning the City of Dinuba Municipal Code ("DMC"), Chapter 5.80, regarding the cultivation of medical marijuana ("MM") and the Grand Jury request for a response. In response to the Grand Jury inquiry and pursuant to California Penal Code Section 933.05, the City responds as follows:

It is not reasonable, nor warranted, that the City embark on a permit-type system, requiring all medical marijuana qualified patients and caregivers, under the local ordinance, to have a permit to engage in the cultivation of MM.

Registration of MM cultivation sites within the City would not be warranted because the City has not allowed dispensaries and/or collectives (See DMC 5.70) and therefore, has no congregation of MM in a fixed location. Dinuba also provides for an ordinance regulating the cultivation of MM. The Grand Jury correctly notes the restrictions and requirements of the cultivation ordinance. The City forbids outdoor cultivation. (See DMC 5.80) The enforcement of these two chapters of the DMC has been successful to date, through a complaint basis enforcement type system. City has not seen any significant increase in complaints, and, after passage of the ordinance, complaints have not increased either.

Furthermore, in light of the pending California State Supreme Court decision in three MM cases, it would premature to amend the ordinance, because, there may be other issues that would have to be addressed after the Supreme Court rules on the pending matters involving MM and local regulations, which may require council to consider further amendments or undo what was done.

TULARE COUNTY GRAND JURY REPORT 2013-2014

Practically, the City, like other local entities, school districts, counties and special districts, has no new revenue to implement another system of registration and the revenue that had been there has shrunk to the bare minimum. It is questionable whether or not the City could even charge the costs of implement the permit system to the MM users and caregivers.

The City has not seen any specific increase in crime or crime-related activity because of MM. The City has enforced its ordinance regarding MM on a complaint basis, and, has been successful in bringing residents into compliance with the zoning laws, building codes and the City's own ordinance.

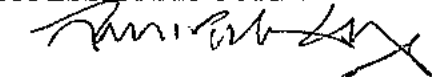
It is not reasonable for the City to put a permit type system in place at this time because, at best, the state of the law of MM in California is in fluctuation, and, no matter where one stands on the issue of MM, most everyone can agree that California's MM laws are uncertain. One of the purposes of the Compassionate Use Act was to "encourage the state and federal government to implement a plan to provide for the safe and affordable distribution of medical marijuana." That has not yet happened. While the California Supreme Court can provide needed guidance in the cases the Court will soon decide, the federal government has increased the enforcement of the federal prohibition against marijuana under the Controlled Substance Act (federal law) putting the future of California's existing marijuana law into question.

Until California and the federal government come to an understanding on MM, all California cities will continue to be caught in the middle of the conflicting federal and state law and policies. It is prudent for the City to wait to see what the Supreme Court rules prior to any future amendments. In the event the City experiences greater number of MM related events requiring police and City intervention then it would prudent to consider a permit type system to help with the regulation, currently, it does not present a problem that has not been adequately addressed by the City's staff. The council is prepared to revisit its policy on MM at its May 14, 2013 meeting. Members of the Grand Jury are invited to the meeting to discuss the proposed recommendation.

Thank you for your interest in the City, and, if you have any questions, please feel free to contact my office.

Very truly yours,

TUTTLE & McCLOSKEY
A PROFESSIONAL CORPORATION



DANIEL T. McCLOSKEY

DTM/sc

DINUBA/ORDINANCES/MEDICAL MARIJUANA/Grand Jury Response 5/3/13

cc: Mayor Janet Hinesly
J. Edward Todd, City Manager
Honorable Gary Paden
Tulare Board of Supervisors



June 4, 2013

**Tulare County
Grand Jury**
5963 South Mooney Blvd.
Visalia, CA 93277

The Honorable Gary Paden
County Civic Center, Room 303
221 South Mooney Blvd.
Visalia, CA 93291

**Tulare County
Board of Supervisors**
2404 W. Burrel Ave.
Visalia, CA 93291

Re: City of Porterville Medical Marijuana City Ordinances

To the Honorable Gary Paden, Grand Jury Members and Board of Supervisors:

The following are submitted on behalf of the Porterville City Council in response to inquiries received from the Tulare County Grand Jury relating to Medical Marijuana City Ordinances:

FINDINGS

Respondents agree in part with the findings as stated, as the City does not specifically address medical marijuana cultivation in its local regulations. It should be noted, however that pursuant to Porterville Municipal Code Sections 100.04.C.1, 614.03.A and 614.03.C, land uses that are not consistent with local, state, and federal laws are not permitted. Additionally, land uses are prohibited unless specifically permitted under the City's Development Code. Finally, in 2007 the City adopted an ordinance addressing regulation medical marijuana dispensaries (Municipal Code Chapter 15, Article VII), which would go into effect only upon a change in federal law that would expressly permit the legal operation of such facilities. These regulations address cultivation as part of the facilities' activities.

RECOMMENDATIONS

1. *All of the incorporated cities within the county need a permit requirement and an ordinance covering medical marijuana cultivation.*

As noted above the City does have a regulation that indirectly affects certain activities related to the cultivation, processing and distribution of medical marijuana. That stated, over the past several years the City Council has from time to time revisited whether to revise its current regulations to more specifically address the proliferation of marijuana

cultivation activities occurring within its boundaries. The numerous and varied appellate court opinions in this area have made the legal navigation of this area difficult, however. For example, the Court of Appeals for the 2nd District, in *Pack v. Superior Court* (2011) 199 Cal.App.4th 1070, found that Long Beach's medical marijuana ordinance, which authorized (via a permit system) collective cultivation/processing and distribution, was preempted by federal law. Although this case seemed to be helpful for cities that wished to ban collectives altogether, it muddied the waters as to whether cities could legally implement a permitting system for various types of medical marijuana activities, including cultivation. There are other cases on file with inconsistent rulings, and there are at least three California State Supreme Court cases pending with decisions due soon that will affect the extent to which cities may regulate various medical marijuana uses. An opinion has just been filed in one of those cases, *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) S198638.

In the *Riverside* case, the Court, in a unanimous opinion filed May 6, has just held that cities may regulate or even completely ban collective/cooperative cultivation and/or distribution activities. The Court found that cities have broad authority under the local police powers provisions of Article XI, Sec. 7 of the California Constitution to determine the appropriate uses of land within its jurisdictional borders, and that this power to restrict, or even prohibit, these activities is not preempted by the Compassionate Use Act or the Medical Marijuana Program act. The opinion is so broad that it could be interpreted to allow restrictions or prohibitions on individual cultivation of medical marijuana as well, though individual cultivation was not at issue in the case.

This decision provides greater clarity and guidance to an appropriate regulatory scheme. The City Council had already directed that the City's Community Development and Public Safety Departments, along with the City Attorney bring forward options, in light of the decisions in these pending actions, concerning a comprehensive regulatory process addressing medical marijuana activities within the City limits.

2. *All of the cities need to establish a uniform medical marijuana ordinance.*

This recommendation has not been implemented but can be considered. However, individual cities may have concerns specific to the characteristics of their respective communities. This is expressly underscored in the *Riverside* decision. The Court noted (at page 27), "The presumption against preemption is additionally supported by the existence of significant local interests that may vary from jurisdiction to jurisdiction." That noted the City welcomes collaboration between the other cities in the region. It may be possible to develop certain standard regulations or criteria, if the cities were to determine that those regulations/criteria serve the common interests of their communities.

Please do not hesitate to contact the City of Porterville should you have any further questions regarding these matters.



Virginia R. Gurrola, Mayor



POTHoles

BACKGROUND

On November 7, 2006, Measure “R” was approved by the voters of Tulare County. The main impetus of the vote was the repair of potholes which many voters considered a necessity. This money, approximately \$652 million over thirty years, was to be divided by the Tulare County Association of Governments (TCAG) among various agencies in Tulare County involved in public transportation.

After investigation the Tulare County Grand Jury concluded that very little of the funds allocated to the program for maintenance of roads, which includes pothole repair, has been spent for that purpose. Potholes seem to have been given the lowest priority by local governments.

The attached responses explain the various agencies explanation for their use of Measure “R” money.



RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA. 93277
PHONE (559) 624-7000
FAX (559) 730-2653

Michael C. Spata Planning
Britt L. Fussel Public Works
Roger Hunt Administration

JAKE RAFFER JR., AICP, DIRECTOR

July 18, 2013

The Honorable Lloyd Hicks
The Honorable Gary Paden
Tulare County Superior Court, Room 303
221 South Mooney Boulevard
Visalia, CA 93291

RECEIVED
7-29-13

Subject: Grand Jury Report titled *Potholes*

Dear Judge Hicks and Judge Paden:

This is in response to the 2012/2013 Tulare County Grand Jury Report titled *Potholes*.

Finding 1

Tulare County and the City of Visalia receive a small percentage of Measure "R" funds.

Response: The Tulare County Resource Management Agency disagrees with this finding.

Measure R was approved by the Tulare County electorate on November 7, 2006. The Measure, as approved by the voters of Tulare County, identified four major categories of spending:

Regional Transportation Program	50%
Local Transportation Program	35%
Transit/Bikes/Environmental Mitigation Program	14%
Administration and Planning Program	1%

The Local Transportation Program is further distributed by formula to the eight incorporated cities and Tulare County:

Population	50%
Maintained Miles	25%
Vehicle Miles Traveled	25%

Based on this distribution, and utilizing fiscal year 2014 factors, the eight incorporated cities and the County receives the following percentage allocation of the Local Transportation Programs funding:

TULARE COUNTY GRAND JURY REPORT 2013-2014

Dinuba	3.59%	Tulare	9.92%
Exeter	1.74%	Visalia	22.98%
Farmersville	1.67%	Woodlake	1.04%
Lindsay	1.85%	Tulare County	48.22%
Porterville	8.98%		

As can be seen from the above table, Tulare County receives almost half (48.22%) and the city of Visalia receives almost one-quarter (22.98%) of the Local Transportation Program funding. Combined, the city of Visalia and Tulare County receive 71.20% of the available funding.

Finding 2

Apparently all monies received for the LTP are allocated to road lane construction, safety improvements, traffic lights, etc. Maintenance, which includes pothole repair of currently built infrastructures, has the lowest priority and continue to deteriorate.

Response: The Tulare County Resource Management Agency partially disagrees with this finding.

The Measure R Expenditure Plan identifies that the Local Transportation Program funds may be used for: Pothole repair; repave streets; bridge repair or replacement; traffic signals; add additional lanes to existing streets and roads; improve sidewalks; and separate street traffic from rail traffic. This use of this funding for road maintenance activities is discretionary to the local agencies i.e. local agencies know what their needs are and how best to address those needs. Therefore, Measure R does not direct the agencies as to what they shall do with Local Transportation Program funds.

Tulare County utilizes the Local Transportation Programs funds exclusively for road maintenance activities to include pothole repair and to repave streets. Tulare County has been very successful in securing federal funding for bridge repair and replacement and traffic signal construction. While Measure R Local Transportation Program funds may be used to match the federal funding received, the source of the match funds, for Tulare County projects, has been from the Regional Projects category and not from Tulare County's Local Transportation Program allocation.

Finding 3

Potholes appear to be of little import to local governments. Some of the potholes are deep enough to pose a safety hazard.

Response: The Tulare County Resource Management Agency disagrees with this finding.

Tulare County has a comprehensive road maintenance program which includes pothole patching. Approximately eight years ago, the Resource Management Agency purchased its first pothole patching truck. This truck is specifically designed to repair potholes and

allows them to be repaired effectively and efficiently. The Resource Management Agency found the pothole patching truck to be so effective and efficient that it purchased two additional trucks and now has three pothole patching trucks in its fleet. Potholes in need of repair are identified by field staff and are reported by the public. The public may report potholes by phoning the Resource Management Agency at (559) 624-7000 or by contacting the nearest County road yard. This information is available on the Resource Management Agency's web site at <http://www.tularecounty.ca.gov/rma/> under the "Report a Problem" tab. A report of a pothole may also be made to rmapublicrequest@co.tulare.ca.us

In addition to direct pothole patching, the Resource Management Agency Transportation Branch has undertaken an aggressive blade patching program for fiscal years 2013 and 2014. By redirecting road maintenance funding that would have gone to pavement overlays, the blade patching program is able to maintain more miles of roadway throughout the County. The blade patching program effectively deals with potholes by either dealing with them directly or by maintaining the roadway so that they don't develop.

Finding 4

Due to the severe state of Rd 40, driving the 15 mile per hour speed limit is dangerous. The potholes are bad enough that there is a high probability of severely damaging vehicles and could cause personal injury.

Response: The Tulare County Resource Management Agency partially disagrees with this finding. The posted speed limit of 15 mph was placed to insure that motorist travels at a safe speed, thus avoiding the potential for severely damaging their vehicle and to avoid personal injury. The potholes on Road 40 have been repaired.

Recommendation 1

While it is important to improve transportation and safety needs within the County and cities, of equal importance is rehabilitation and maintenance, which includes pothole repair, of aging infrastructure. Some monies should be allocated specifically for pothole repair.

Response: This recommendation has already been implemented. Please see the discussion for Finding 3 above.

Recommendation 2

Citizens of the County are urged to report potholes to their local road maintenance department.

Response: This recommendation has already been implemented. The citizens of Tulare County can report potholes in the unincorporated county in numerous ways: By

contacting the Resource Management Agency at (559) 624-7000; By contacting the nearest road yard (a list of the road yards, their location and phone numbers is available from the Resource Management Agency's website at <http://www.tularecounty.ca.gov/rma/index.cfm/public-works/transportation/road-yard-locations/>); or by sending an email to rmapublicrequest@co.tulare.ca.us .

Recommendation 3

Rehabilitation and/or repairing the potholes to Rd 40 may not be feasible, as this appears to be a road rarely traveled. At the very least Rd 40 should be graded and topped with gravel.

Response: This recommendation has already been implemented. Road 40 has been repaired.



Jake Raper Jr., AICP
Director

cc: Tulare County Grand Jury
Tulare County Board of Supervisors
Jean Rousseau, CAO

TULARE COUNTY GRAND JURY REPORT 2013-2014



210 North Church St. Suite B.
Visalia, California 93291
Phone (559)623-0450
Fax (559)733-6720
www.tularecog.org

August 8, 2013

The Honorable Judge Gary Paden
County Civic Center, Room 303
221 S. Mooney Boulevard
Visalia, CA 93291

RECEIVED
AUG 13 2013

On behalf of the Tulare County Association of Governments, the following is the Association's response to the 2012/13 Grand Jury findings and recommendations regarding "Potholes."

Finding 1

Tulare County and the City of Visalia received a small percentage of Measure "R" funds.

Response: TCAG disagrees with this finding. The County of Tulare receives approximately 51% of the Measure R local Program funds, and the City of Visalia receives over 21% of Measure R local Program funds. The combined total of the two agencies is over 70% of all Measure R local funds.

Finding 2

Apparently all monies received for the LTP are allocated to road lane construction, safety improvements, traffic lights, etc. Maintenance, which includes pothole repair of currently built infrastructures, has the lowest priority and continue deteriorate.

Response: TCAG partially agrees with this finding. Based on quarterly reports submitted by the member agencies most LTP funding is used for road maintenance. For the County of Tulare most if not all LTP funding is used for maintenance. Each agency determines how to best use the funding it receives for maintenance.

Finding 3

Potholes appear to be of little import to local governments. Some of the potholes are deep enough to pose a safety hazard.

Response: TCAG partially agrees with this finding. Potholes pose a hazard. Based on quarterly reports submitted by the member agencies most LTP funding is used for road maintenance which includes pothole repair. For the County of Tulare most if not all LTP funding is used for maintenance which includes pothole repair. Each agency determines how to best use the funding it receives for maintenance.

Finding 4

Due to the severe state of Rd 40, driving the 15 mile per hour speed limit is dangerous. The potholes are bad enough that there is a high probability of severely damaging vehicles and could cause personal injury.

Response:

TCAG neither agrees nor disagrees to the findings. These findings are not in the purview of TCAG.

TULARE COUNTY GRAND JURY REPORT 2013-2014

Recommendations 1

While it is important to improve transportation and safety needs within the County and cities, of equal importance is rehabilitation and maintenance, which includes pothole repair, of aging infrastructure. Some monies should be allocated specifically for pothole repair.

Response: TCAG partially agrees with this recommendation. Member agencies should determine the cost effectiveness of pot-hole repair as compared to full road rehabilitation.

Recommendations 2

Citizens of the County are urged to report potholes to their local road maintenance department.

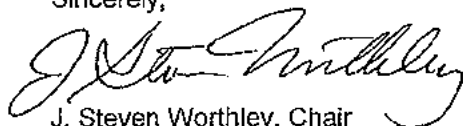
Response: TCAG agrees with this recommendation.

Recommendations 3

Rehabilitation and/or repairing the potholes to Rd 40 may not be feasible, as this appears to be a road rarely traveled. At the very least Rd 40 should be graded and topped with gravel.

Response: TCAG neither agrees nor disagrees with this recommendation. This recommendation is not in the purview of TCAG.

Sincerely,



J. Steven Worthley, Chair

Tulare County Association of Governments/Tulare County Transportation Authority

Cc: Tulare County Grand Jury ✓
Tulare County Board of Supervisors
City of Visalia



**BOARD OF
SUPERVISORS**

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✱

**CLERK OF
THE BOARD**

Nichelle Baldwin
Chief Clerk

✱

Administration Bldg.
500 West Burr
Visalia, CA 93291

TEL: (559) 636-5000
FAX: (559) 733-6888

County of Tulare

August 13, 2013

The Honorable Judge Gary Paden
Tulare County Superior Court, Room 303
221 South Mooney Boulevard
Visalia, CA 93291

Dear Judge Paden:

On behalf of the Board of Supervisors, the following is the Board's responses to the findings and recommendations included in the 2012/2013 Tulare County Grand Jury Report titled *Potholes*. The Board of Supervisors has no independent basis by which to respond to the specific findings and recommendations therein. Therefore, we have consulted with the Tulare County Resource Management Agency to assist with these responses.

Finding 1

Tulare County and the City of Visalia receive a small percentage of Measure "R" funds.

Response: The Board of Supervisors disagrees with this finding.

Measure R was approved by the Tulare County electorate on November 7, 2006. The Measure, as approved by the voters of Tulare County, identified four major categories of spending:

Regional Transportation Program	50%
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RECEIVED
8-19-2013

TULARE COUNTY GRAND JURY REPORT 2013-2014

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Lindsay	1.85%	Tulare County	48.22%
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As can be seen from the above table, Tulare County receives almost half (48.22%) and the City of Visalia receives almost one-quarter (22.98%) of the Local Transportation Program funding. Combined, the City of Visalia and Tulare County receive 71.20% of the available funding.

Finding 2

Apparently all monies received for the LTP are allocated to road lane construction, safety improvements, traffic lights, etc. Maintenance, which includes pothole repair of currently built infrastructures, has the lowest priority and continue to deteriorate.

Response: The Board of Supervisors partially disagrees with this finding.

The Measure R Expenditure Plan identifies that the Local Transportation Program funds may be used for: pothole repair; repave streets; bridge repair or replacement; traffic signals; add additional lanes to existing streets and roads; improve sidewalks; and separate street traffic from rail traffic. This use of this funding for road maintenance activities is discretionary to the local agencies i.e. local agencies know what their needs are and how best to address those needs. Therefore, Measure R does not direct the agencies as to what they shall do with Local Transportation Program funds.

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Finding 3

Potholes appear to be of little import to local governments. Some of the potholes are deep enough to pose a safety hazard.

Response: The Board of Supervisors disagrees with this finding.

Tulare County has a comprehensive road maintenance program which includes pothole patching. Approximately eight years ago, the Resource Management Agency purchased its first pothole patching truck. This truck is specifically designed to repair potholes and allows them to be repaired effectively and efficiently. The Resource Management Agency found the pothole patching truck to be so effective and efficient that it purchased two additional trucks and now has three pothole patching trucks in its fleet. Potholes in need of repair are identified by field staff and are reported by the public. The public may report potholes by phoning the Resource Management Agency at (559) 624-7000 or by contacting the nearest County road yard. This information is available on the Resource Management Agency's web site at <http://www.tularecounty.ca.gov/rma/> under the "Report a Problem" tab. A report of a pothole may also be made to rmapublicrequest@co.tulare.ca.us

In addition to direct pothole patching, the Resource Management Agency Transportation Branch has undertaken an aggressive blade patching program for fiscal years 2013 and 2014. By redirecting road maintenance funding that would have gone to pavement overlays, the blade patching program is able to maintain more miles of roadway throughout the County. The blade patching program effectively deals with potholes by either dealing with them directly or by maintaining the roadway so that they don't develop.

Finding 4

Due to the severe state of Rd 40, driving the 15 mile per hour speed limit is dangerous. The potholes are bad enough that there is a high probability of severely damaging vehicles and could cause personal injury.

Response: The Board of Supervisors partially disagrees with this finding.

The posted speed limit of 15 m.p.h. was placed to insure that motorists travel at safe speeds, thus avoiding the potential for severely damaging their vehicle and to avoid personal injury. The potholes on Road 40 have been repaired.

Recommendation 1

While it is important to improve transportation and safety needs within the County and cities, of equal importance is rehabilitation and maintenance, which includes pothole repair, of aging infrastructure. Some monies should be allocated specifically for pothole repair.

Response: This recommendation has already been implemented.

Tulare County has a comprehensive road maintenance program which includes pothole patching. Approximately eight years ago, the Resource Management Agency purchased its first pothole patching truck. This truck is specifically designed to repair potholes and allows them to be repaired effectively and efficiently. The Resource Management Agency found the pothole patching truck to be so effective and efficient that it purchased two additional trucks and now has three pothole patching trucks in its fleet. Potholes in need of repair are identified by field staff and are reported by the public. The public may report potholes by phoning the

TULARE COUNTY GRAND JURY REPORT 2013-2014

Resource Management Agency at 559/624-7000 or by contacting the nearest County road yard. This information is available on the Resource Management Agency's web site at <http://www.tularecounty.ca.gov/rma/> under the "Report a Problem" tab. A report of a pothole may also be made to rmapublicrequest@co.tulare.ca.us

In addition to direct pothole patching, the Resource Management Agency Transportation Branch has undertaken an aggressive blade patching program for fiscal years 2013 and 2014. By redirecting road maintenance funding that would have gone to pavement overlays, the blade patching program is able to maintain more miles of roadway throughout the County. The blade patching program effectively deals with potholes by either dealing with them directly or by maintaining the roadway so that they don't develop.

Recommendation 2

Citizens of the County are urged to report potholes to their local road maintenance department.

Response: This recommendation has already been implemented.

Tulare County residents can report potholes in the unincorporated areas in several ways. First, residents can contact the Tulare County Resource Management Agency via phone at 559/624-700. Second, residents can send an email to the Resource Management Agency at: rmapublicrequest@co.tulare.ca.us. Last, residents can contact the nearest Resource Management Agency road yard. A list of road yards, along with contact information, is viewable at:

<http://www.tularecounty.ca.gov/rma/index.cfm/public-works/transportation/road-yard-locations/>

)

Recommendation 3

Rehabilitation and/or repairing the potholes to Rd 40 may not be feasible, as this appears to be a road rarely traveled. At the very least Rd 40 should be graded and topped with gravel.

Response: This recommendation has already been implemented. Road 40 has been repaired.

Sincerely,



Pete Vander Poel, Chairman
Tulare County Board of Supervisors

CC: Tulare County Grand Jury

City of Visalia

425 East Oak Avenue, Ste. 301, Visalia, CA 93291



City Manager's Office

Tel: (559) 713-4312 Fax: (559) 713-4800

August 20, 2013

RECEIVED
8/26/2013

Amy Shuklian
Mayor

The Honorable Judge Gary Paden
County Civic Center, Room 303
221 S. Mooney Boulevard
Visalia, CA 93291

Steven A. Nelsen
Vice Mayor

On behalf of the City of Visalia, the following is the City's response to the 2012/2013 Grand Jury facts, findings and recommendations regarding "Potholes".

Gregory F. Collins
Councilmember

Response to Facts #1 through #5 – The City of Visalia agrees with these facts.

E. Warren Gubler
Councilmember

Response to Fact #6 – The City of Visalia disagrees with this stated fact. The City of Visalia receives about \$1.9 million per year in LTP Measure R Funds, not \$3 million.

Bob Link
Councilmember

Response to Fact #7 – The City of Visalia disagrees with this stated fact. Although not Measure R funding, the City of Visalia has approximately \$65,000 per year specifically for pothole repair from Gas Tax funding. In addition, another \$500,000 of Gas Tax funding is designated for Dig Outs and Hot Patching. Both of these repairs include overall pavement failures which typically include potholes in the failed area. The City also spends approximately \$2.4M in Gas Tax funding on preventative and reconstructive pavement maintenance, including: 1) minor overlays, 2) major overlays, 3) cape seals, 4) chip seals, 5) thin skin patches, 6) slurry seals, 7) crack seals and 8) reclamite. All of these pavement maintenance methods are intended to prevent or repair potholes.

Response to Fact #8 – The City of Visalia disagrees with this stated fact. In regards to the City road repair crew, the City of Visalia currently has a seven-man street maintenance crew with one crew lead. The City also contracts out to private contractors over half of the annual street maintenance work.

Response to Fact #9 – The City of Visalia disagrees with this stated fact. The City of Visalia schedules the street maintenance crew for pothole repairs on a regular basis. These repairs include City staff identified repairs along with responding to customer service requests from the public.

Response to Fact #10 – The City of Visalia neither agrees nor disagrees with this stated fact. Road 40 does not fall within the jurisdiction of the City of Visalia.

Finding #1 – *Tulare County and the City of Visalia received a small percentage of Measure "R" funds.*

The City of Visalia disagrees with this finding. The City of Visalia receives approximately 21% of Measure R Local Program Funds and the County receives approximately 51%. This is over 70% of all of the Measure R Local Program Funds.

The City of Visalia agrees and already practices this recommendation. This is why the City budgets to provide a balance between maintenance, construction, widening and traffic safety issues as stated in the responses to Fact #7 and Finding #2 above. All of these items play an important role in balancing the needs of traffic within the City. However, the fact remains that there is not enough local funding to totally provide for the entire street infrastructure needs, which is another reason for having a portion of local funding available to attract outside grant funding. This issue is not limited to the local municipalities within the County of Tulare or San Joaquin Valley; it is becoming a growing concern across the entire nation. The condition of the country's infrastructure is deteriorating at an alarming rate and is anticipated to be a major problem in the future if changes are not implemented soon.

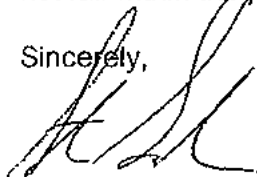
Recommendation #2 – *Citizens of the County are urged to report potholes to their local road maintenance department.*

The City of Visalia agrees with this recommendation. The City has a Pothole Hotline number for citizens to call, (559) 713-4428.

Recommendation #3 – *Rehabilitation and/or repairing the potholes to Rd 40 may not be feasible, as this appears to be a road rarely traveled. At the very least Rd 40 should be graded and topped with gravel.*

The City of Visalia neither agrees nor disagrees with this recommendation. Road 40 does not fall within the jurisdiction of the City of Visalia.

Sincerely,



Steve Salomon
City Manager

Cc: Tulare County Grand Jury
Tulare County Board of Supervisors
Tulare County Association of Governments
City Council
Mike Olmos, Assistant City Manager
Adam Ennis, Public Works Director

Attachment: Tulare County Grand Jury Final Report titled "POTHOLES"

FISCAL CONTROL OF REVOLVING ACCOUNTS

BACKGROUND

California Government Code §933.5 allows the 2012-2013 Tulare County Grand Jury (Grand Jury) to examine and report on the books and records of any special purpose or taxing district. Of particular concern to the Grand Jury is the possible misuse of public funds due to the lack of compliance with state law.

Past Grand Juries have published reports concerning financial aspects of some Tulare County Special Districts. This report discusses the existence of bank accounts held by some Special Districts in the County, which are in excess of statutory limits and are in apparent violation of state law.

The following responses are those received from five of the six agencies required to report.

TULARE COUNTY GRAND JURY REPORT 2013-2014

AUDITOR-CONTROLLER/ TREASURER-TAX COLLECTOR



Rita A. Woodard
COUNTY OF TULARE

221 South Mooney Blvd., Room 101-E Visalia, CA 93291-4593

DEBORAH PAOLINELLI, CPA
Assistant Auditor-Controller
(559) 636-5200
FAX (559) 730-2547

RITA A. WOODARD
Auditor-Controller
Treasurer-Tax Collector/
Registrar of Voters
(559) 636-5200
FAX (559) 730-2547

HILEY WALLIS
Chief Deputy Treasurer-Tax Collector
(559) 636-5250
FAX (559) 730-2532

June 21, 2013

The Honorable Judge Gary Paden
County Civic Center, Room 303
221 S. Mooney Blvd
Visalia, CA 93291

Tulare County Grand Jury
5963 S. Mooney Blvd.
Visalia, CA 93277

Tulare County Board of Supervisors
2800 S. Mooney Blvd.
Visalia, CA 93291

**Subject: Response to the 2012-2013 Tulare County Grand Jury Final
Report entitled, "Fiscal Control of Revolving Accounts".**

Dear Sirs:

We are responding to the findings issued in your report dated May 28, 2013.

Finding 1:

It cannot be said why those special districts subject to this report maintained separate and independent accounts in excess of statutory limits. Nonetheless, the County Treasurer is and remains the sole legal repository of special district funds with the exceptions of the small revolving accounts provided for under state law.

Response:

Partially agree. Some special districts may have been given permission to have monies outside the Treasury many years ago; however, neither the District nor the County have those records on file.

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JUN 25 2013

Finding 2:

Under California Law, special district funds are held in separate accounts on behalf of each district by the County Treasurer. Special district funds are easily transferable to the special districts from the County Treasurer through the process of regular warrants (paper) or by electronic funds transfers (EFT or "Electronic Warrants"). This process may also further assist special districts in internal control procedures due to two separate accountings of district funds at county and district level, as well as significantly lessen the opportunity for fraud, misappropriation or embezzlement at the district level.

Response:

Agree.

Recommendation 1

That the Tulare County Board of Supervisors direct County Counsel to send an advisory statement of behalf the of the Tulare County Auditor/Treasurer to all special districts established within Tulare County requesting their compliance with state law regarding any independent and unauthorized banking. If necessary, appropriate measures should be taken to bring said special districts into compliance

Response:

This recommendation is for response by the Tulare County Board of Supervisors.

Recommendation 2

That the Tulare County Auditor/Treasurer establish training policies and procedures which facilitate the needs of the special districts and lessen problem's with day-to-day business expenses of the special districts.

Response:

Partially agree. Special Districts should hire personnel that have basic business knowledge and experience. It is not in the purview of the Auditor /Controller to train District staff in basic accounting and bookkeeping. Upon request we have given special districts one-on-one training on completing forms and reports necessary to process claims, deposits and budgets, and on Tulare County policies and procedures. With this training we offer suggestions that may or may not be implemented by the special districts. We have and will continue to participate in the Special District Training sessions held by County Counsel.

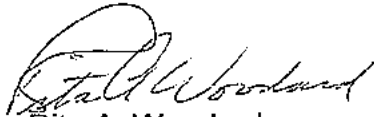
Recommendation 3

That members of the various governing boards of all special districts within Tulare County seek and receive additional instruction and training so as to avoid recurring violations of state law such as those described in this report.

Response:

Agree.

Sincerely,



Rita A. Woodard
Auditor-Controller/ Treasurer-Tax Collector/
Registrar of Voters

RAW:ns

cc: Dinuba Memorial District
South Tulare County Memorial District
Sultana Community Service District
Terra Bella Memorial District



**BOARD OF
SUPERVISORS**

Allen R. Ishida
District One

Pete Vander Poel
District Two

Phillip A. Cox
District Three

J. Steven Worthley
District Four

Mike Ennis
District Five

✱

BOARD STAFF

Julietta Martinez

Allison Pierce

Tammie Weyker

✱

**CLERK OF
THE BOARD**

Michelle Baldwin
Chief Clerk

✱

Administration Bldg.
800 West Burrel
Visalia, CA 93291

EL: (559) 636-5000
AX: (559) 733-6898

County of Tulare

August 13, 2013

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8-19-2013

The Honorable Judge Gary Paden
Tulare County Superior Court, Room 303
221 South Mooney Boulevard
Visalia, CA 93291

Dear Judge Paden:

On behalf of the Board of Supervisors, the following is the Board's responses to the findings and recommendations included in the 2012/2013 Tulare County Grand Jury Report titled *Fiscal Control of Revolving Accounts*. The Board of Supervisors has no independent basis by which to respond to the specific findings and recommendations therein. Therefore, we have consulted with the Tulare County Auditor-Controller/Treasurer-Tax Collector to assist with these responses.

Finding 1

It cannot be said why those special districts subject to this report maintained separate and independent accounts in excess of statutory limits. Nonetheless, the County Treasurer is and remains the sole legal repository of special district funds with the exceptions of the small revolving accounts provided for under state law.

Response: The Board of Supervisors agrees with the finding.

Finding 2

Under California Law, special district funds are held in separate accounts on behalf of each district by the County Treasurer. Special district funds are easily transferrable to the special districts from the County Treasurer through the process of regular warrants (paper) or by electronic funds transfers (EFT or "Electronic Warrants"). This process may also further assist special districts in internal control procedures due to two separate accountings of district funds at county and district level, as well as significantly lessen the opportunity for fraud, misappropriation or embezzlement at the district level.

Response: The Board of Supervisors agrees with the finding.

Recommendation 1

That the Tulare County Board of Supervisors direct County Council to send an advisory statement on behalf of the Tulare County Auditor/Treasurer to all special districts established with Tulare County requesting their compliance with state law regarding any independent and unauthorized banking. If necessary, appropriate measures should be taken to bring said special districts into compliance.

Response: The recommendation will not be implemented because the Board of Supervisors does not have authority or jurisdiction over special districts.

Recommendation 2

That the Tulare County Auditor/Treasurer establish training policies and procedures which facilitate the needs of the special districts and lessen problems with day-to-day business expenses of the special districts.

Response: This recommendation will not be implemented because the Board of Supervisors does not have authority or jurisdiction over special districts. However, staff from Tulare County Counsel and the Auditor-Controller's offices does provide training to special districts upon request.

Recommendation 3

That members of the various governing boards of all special districts within Tulare County seek and receive additional instruction and training as to avoid recurring violations of state law such as those described in this report.

Response: This recommendation will not be implemented because the Board of Supervisors does not have authority or jurisdiction over special districts. However, the Board of Supervisors has provided an annual training session, free of charge, for any interested special district board member in order to improve special district functioning throughout Tulare County.

Sincerely,



Pete Vander Poel, Chairman
Tulare County Board of Supervisors

CC: Tulare County Grand Jury

South Tulare County Memorial District

P.O. Box 10148 • Earlimart, CA 93219-0148

Phone# (661) 849-2663 • Fax (661) 849-2690

DISTRICT BUILDINGS AT:

Alpaugh
Earlimart
Pixley
Richgrove
Tipton

Mail All
Correspondence and Invoices To:
P.O. Box 10148
Earlimart, CA 93219-0148

August 26, 2013

TULARE COUNTY GRAND JURY
5963 S. MOONEY BOULEVARD
VISALIA, CA 93291

RE: 2013 RESPONSE TO THE GRAND JURY OF TULARE COUNTY
FISCAL CONTROL FOR REVOLVING FUNDS:

THE SOUTH TULARE COUNTY MEMORIAL DISTRICT IS COMPRISED OF FIVE (5) DIFFERENT BUILDINGS. THE TIPTON MEMORIAL BUILDING, PIXLEY MEMORIAL BUILDING, EARLIMART MEMORIAL BUILDING, RICHGROVE MEMORIAL BUILDING, AND ALPAUGH MEMORIAL BUILDING. IN ANY GIVEN MONTH THE UTILITIES ON ONLY ONE BUILDING WOULD BE OVER THE ONE THOUSAND DOLLAR (\$1,000.00) LIMIT COMPRISED IN THE CA. GOV. CODE 53952(A). IN ADDITION IT WOULD BE NICE IF AT ANY TIME THE COUNTY COULD INFORM THE DISTRICT OF A VIOLATION AND THEN GIVE A TIME FRAME FOR INFORMATION GATHERING AND CORRECTING OF IMPROPER PROCEDURES. THE COPY OF MILITARY CODE FOR THE MEMORIAL DISTRICTS THAT HAS BEEN GIVEN OUT IN THE PAST IS SO CONFUSING WITH ALL OF THE MARKED OUT AND CHANGED BY LAWS AS TO BE INCOMPREHENSIBLE. AS TO THE CHARGE THAT THE DISTRICT HAD OVERDRAWN IT'S ACCOUNT AND BORROWED FROM THE COUNTY, THE COUNTY CHANGED THEIR SYSTEM OVER TO A NEW PROGRAM THAT WAS CONFUSING NOT ONLY TO THE DISTRICT BUT TO THE COUNTY, WHO HAD NO IDEA HOW MUCH MONEY WAS EVEN IN OUR ACCOUNT, AFTER NUMEROUS INQUIRIES TO STRAIGHTEN OUT THIS PROBLEM THE DISTRICT BORROWED ENOUGH TO KEEP GOING FOR TWO OR THREE MONTHS AND THEN WHEN OUR FUNDS BECAME AVAILABLE WE PAID IT BACK AND TOOK MEASURES TO INSURE THAT OUR BILLS WOULD ALWAYS BE PAID ON TIME WHETHER OR NOT THE COUNTY HAD ACCURATE RECORDS. IT HAS BEEN OUR EXPERIENCE THAT THE COUNTY IN PROCESSING WARRANTS HAS ALLOWED THAT CERTAIN BILLS DO NOT GET PAID ON TIME AND THOSE UTILITIES HAVE INDEED BEEN SHUT OFF. IF WE WERE IN THE WRONG IT HAS BEEN UNDER THE GUIDANCE OF A REPUTABLE ACCOUNTING FIRM AND WITH YEARLY AUDITS OF OUR RECORDS, WE HAVE NEVER KEPT ANY RECORDS FROM PUBLIC ACCESS. THE FIRM WE HAVE USED FOR THE SEVERAL YEARS IS M. GREEN AND COMPANY.

TULARE COUNTY GRAND JURY REPORT 2013-2014

WE HAVE CURRENTLY BROUGHT OUR REVOLVING FUND UNDER COMPLIANCE AND IT IS UNDER AN APPROVED RESOLUTION. WE DO HOWEVER STILL QUESTION HOW THIS WAS ALL BROUGHT TO OUR

ATTENTION, AS WHEN WE WERE INFORMED THE PERSON AT THE COUNTY COULD NOT OR WOULD NOT OR EVEN WAS UNABLE TO ANSWER OUR QUESTIONS AS TO WHAT TO DO TO CORRECT THE SITUATION. IT APPEARS, THE COUNTY COULD ALSO USE TRAINING AND PROTOCOL FOR THESE VARIOUS SITUATIONS. THERE IS NO DISRESPECT INTENDED BUT, IN CENSORSHIP THERE SHOULD BE EQUALITY.

SINCERELY,



FLOYD A. FIELDS, PRESIDENT TO THE
BOARD OF DIRECTORS

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9-16-2013