



**MARIPOSA COUNTY CIVIL GRAND JURY FINAL REPORT 2020-2021**



# Superior Court of California County of Mariposa

Michael A. Fagalde  
Presiding Judge

5008 Bullion St.  
Post Office Box 28  
Mariposa, CA 95338  
(209) 966-2005


June 21, 2021

Karen Smith  
Grand Jury Foreperson

Ms. Smith:

I have read and reviewed the 2020-2021 Mariposa County Grand Jury Final Report.

At this time, I wish to personally thank you and the other grand jurors for your work on behalf of the citizens of Mariposa County. Without the dedication of those like you this vital part of our system would certainly fail.

Sincerely,  
  
Honorable Michael A. Fagalde  
Superior Court Judge

**TABLE of CONTENTS**

Letter to Judge Fagalde ..... 2

Civil Grand Jury Signature Page ..... 3

Members 2020-2021 Mariposa County Civil Grand Jury..... 4

History and Function..... 5

Challenges of COVID-19 ..... 6

Presentations..... 9

Merced Irrigation District Settlement ..... 17

Oversite Visits:

    Mariposa County Adult Detention Center ..... 19

    Mariposa County Juvenile Detention Center and Probation ..... 25

    Mt. Bullion Conservation Camp #39..... 26

Mariposa County 2020 Election’s Process ..... 30

Citizen Complaints:

    Civil Standby ..... 32

    Lake Don Pedro Community Services District ..... 36

    Mykleoaks Subdivision-Road Conditions (Public Works Department) ..... 40

Investigations:

    Public Works Department ..... 42

    Yosemite Alpine Community Services District ..... 46

Mariposa County 2020-2021 Grand Jury Report

June 17, 2021

Honorable Michael A. Fagalde, Presiding Judge  
Mariposa County Superior Court  
P.O. Box 28  
Mariposa, California 95338

Dear Judge Fagalde,

It has been an exceptional, and unprecedented experience to serve on the 2020-2021 Mariposa County Civil Grand Jury, particularly during the COVID-19 pandemic. We took this appointment seriously and as our term of service began significantly later than normal, it was essential to build relationships amongst the grand jury members, and the Mariposa County community leaders as quickly as possible. We have come to realize just how important, and valuable, the work of the Grand Jury is to the community.

The regular weekly meetings, guest speaker engagements, agency site visits and investigative interviews had to be managed within the confines of COVID-19 protocols. This proved difficult, at times, but everyone was flexible, and showed a willingness to provide the grand jury with information and assistance, as needed. Initially, by following distancing and masking guidelines, the grand jury was able to conduct in-person meetings. However, when the governor imposed a state-wide lockdown on December 3, 2020, we were forced to consider other means to continue our work. With assistance from the Mariposa County IT department and those of our jurors with technical expertise, we were able to upgrade, and add new technological equipment in order to resume meetings, albeit via a digital platform. The professionalism of the grand jury members, coupled with a sense of humor, created a collaborative and successful working environment, even if we could not identify each other behind the masks.

The Grand Jury inspected correctional facilities within the county, examined complaints received, conducted agency investigations, and performed oversight reviews. During the course of the year, one member resigned and a responsible replacement was found. Our final report reflects all of our activities over the past ten months including meeting with guest speakers and culminating with recommendations made in the best interests of the County of Mariposa.

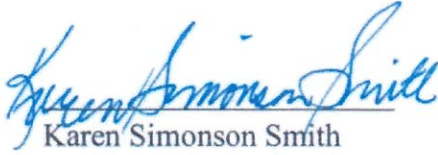
The Grand Jury thanks Judge Fagalde, and the recently retired Judge Walton, for the support and help we received during the 2020-2021 session. We would also like to express our appreciation to Mariposa County Superior Court Administrative Assistant, Dina Garrett, for her unwavering help and assistance.

Sincerely,

Karen Simonson Smith, Foreperson  
2020-2021 Mariposa County Grand Jury

Mariposa County 2020-2021 Grand Jury Report

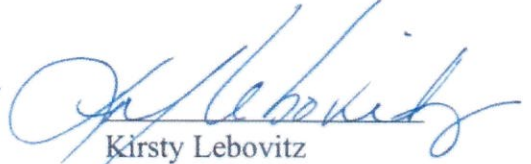
As members of the 2020-2021 Mariposa County Civil Grand Jury, we respectfully submit our final report, June 17, 2021.



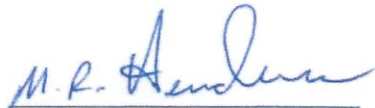
Karen Simonson Smith  
Foreperson



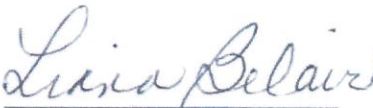
Adam Andersen



Kirsty Lebovitz  
Corresponding Secretary



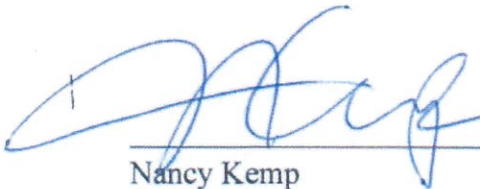
Mike Henderson



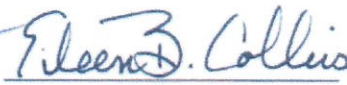
Liana Belair  
Reporting Secretary



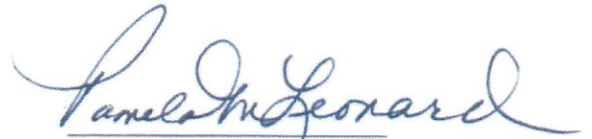
Tom Habeck



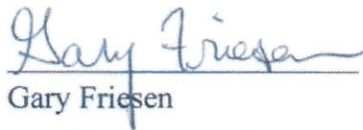
Nancy Kemp



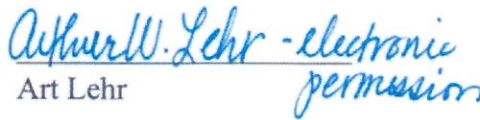
Eileen Collins  
Pro Tem



Pam Leonard



Gary Friesen



Art Lehr

Mariposa County 2020-2021 Grand Jury Report

**2020-2021 Mariposa County Civil Grand Jury Members**

Karen Simonson Smith – Foreperson

Eileen Collins – Pro Tem

Adam Andersen

Kirsty Lebovitz – Corresponding Secretary

Mike Henderson

Liana Belair – Reporting Secretary

Nancy Kemp

Pam Leonard

Gary Friesen

Tom Habeck

Sydney Clarke (September 2020-January 2021)

Art Lehr (January 2021-June 2021)

### **History and Function of the Grand Jury**

The Mariposa County Grand Jury is a judicial body of eleven citizens, all volunteers who are appointed by the Presiding Judge of the Superior Court. The jury is impaneled to act as an “arm of the court,” as authorized by the Fifth Amendment of the United States Constitution, and the Constitution of the State of California to be a voice of the people and conscience of the community. The Grand Jury submits meaningful solutions to a wide range of problems. It is a fact-finding body with the potential to create positive, and constructive changes. The Jury is impaneled for a period of one year, beginning on July 1 and ending the following year on June 30. Due to the circumstances surrounding the 2020 pandemic, the term for the 2019 - 2020 Grand Jury’s term was extended and the 2020 – 2021 Grand Jury was not empaneled until August 14, 2021.

The Grand Jury is an investigative body, created to examine the workings of county government, public officials, and special districts or joint powers agencies. The Grand Jury has no jurisdiction or authority to investigate Federal or State agencies. The Grand Jury also receives complaints from citizens alleging mistreatment, misconduct, or governmental inefficiencies. At the beginning of the term each member of the Grand Jury is sworn to uphold the confidentiality of its proceedings, both during, and after his or her service. The Presiding Judge appoints a jury foreman who conducts the meetings, and signs letters on behalf of the Grand Jury but has no more authority than any other juror. At times, in the past, it has been customary for a member of the preceding year’s Grand Jury to hold over and serve an additional term. This was the case for the 2020-2021 Grand Jury. Every decision the Grand Jury makes requires concurrence of at least eight of the eleven jurors. In the case of conflict of interest, jurors are asked to abstain from the discussions, and voting in regard to those matters. The Grand Jury issues a final report at the conclusion of its term. This report contains the findings and recommendations of its investigations.

The Mariposa County Board of Supervisors must comment on the Grand Jury’s recommendations within 90 days of the report being issued.

Each investigation in this final report received the statutory number of required votes.

### The COVID-19 Pandemic and Subsequent Challenges Faced

On December 13, 1919, while in the midst of the last pandemic, the Mariposa Gazette reported on the Grand Jury findings. Recommendations of the Grand Jury were “that the proper authorities see that a physical examination be given the pupils at least once a year.” Also, “that a 20% increase in the valuation be made on timber lands of Mariposa County, California.” Further, they found the conditions of the county hospital to be in deplorable, and recommended “in the interest of humanity,” the Board of Supervisors should make arrangements with an adjoining county for proper care of patients. They found the high school to be unfinished and not properly equipped, while the courthouse was in its usual condition.

The 1918 Flu Pandemic lasted from February 1918, until April 1920. The first Mariposa County death was recorded on April 6, 1918. By November 1918, the Board of Supervisors required masks to be worn. The county doctor subsequently resigned on December 9, 1918, and the new county doctor rescinded the mask requirements. Times have changed, our county has grown, our hospital is not in a deplorable state, but it needs to be retrofitted, or rebuilt to comply with current building standards. The high school is no longer unfinished and is currently undergoing expansion. Our County Health officer has provided fantastic leadership throughout the current pandemic, and we celebrate a future with smiles on our faces, not masks.

**Health Officer G. S. Scott has announced that the wearing of masks can be dispensed with. At present there are no sickness of any kind in Mariposa to indicate the presence of "Flu." The ordinance passed by the Board of Supervisors has not been vacated, and should the masks again be deemed necessary they will be so ordered by Dr. Scott.**

*Ordinance No 92 providing for the wearing of a mask or covering over the nose and mouth by every person throughout the County of Mariposa. Was passed by the following vote -*  
*Ayes: J. W. Collins, C. L. Brodie, H. W. Corbett, J. M. Farnsworth, and C. J. Metzger.*  
*Nays: none.*

Mariposa County has been extremely fortunate to have Dr. Eric Sergienko as its County Health Officer. In early February of 2020, Dr. Sergienko made a YouTube video, detailing the preparations he had begun in January to prepare Mariposa County for an uncertain, but inevitable occurrence of Corona Virus (COVID-19) in the county. He was already working in concert with the Sheriff’s department, fire department, the hospital, and many other agencies to develop “community mitigation strategies.” The Grand Jury commends his foresight, and calm, clear leadership. As the pandemic has evolved, the County Health Department has communicated new, and pertinent information to residents in a variety of ways, using many different platforms.

COVID-19 necessitated the closure of lobbies, and offices to the public. As county officials reflect and assess the policies and procedures that were put into place, the Grand Jury notes that it should be a high priority to ensure the public’s uninterrupted access to government while

## Mariposa County 2020-2021 Grand Jury Report

ensuring the health and safety of the staff and community. Many of the governmental offices were closed for an extended period, in the Grand Jury's opinion, far too long a time.

It is necessary for the public to have open, and ready access to local government to facilitate and maintain a healthy democracy. Emergency closures are not limited to pandemics. Catastrophic fires, earthquakes and weather emergencies are always looming on our horizon and the county should have a framework in place for the continuance of government offices, on behalf of its citizens.

The work of the 2020-2021 Grand Jury was heavily impacted by the COVID-19 pandemic in numerous ways, commencing with our swearing in ceremony with all participants, and witnesses wearing masks, and social distance as required. At the outset, the Jurors' office was large enough to safely allow in-person meetings. However, as cases of COVID-19 began to increase, meetings were moved to a live/videoconferencing format. When the regional lockdown was instituted by Governor Gavin Newsom on December 5, 2020, the meetings became primarily virtual, and onsite facility inspections were postponed until deemed safe enough for jurors, and personnel at the facilities.

Switching to a digital platform presented several obstacles for the Grand Jury. The sole computer was a laptop running Windows 7, an operating system no longer supported by Microsoft. When IT updated the laptop to the current Windows operating system, it was so slow that the booting process took nearly twenty minutes. While the Grand Jury was cognizant of the budgetary constraints the county was operating under due to the pandemic, the equipment was inefficient, and impractical. Fortunately, the computer was replaced with a state-of-the-art laptop. Two members of the grand jury were able to provide additional equipment and the expertise required, to set up an adequate videoconferencing system.

The Grand Jury tried several different videoconferencing platforms including Zoom, Google Meet, and MS Teams, with varying results. Through much trial and error, we determined that Zoom provided the best overall meeting quality, with the necessary security and privacy and was by far the easiest to use.

A licensed Zoom account for the Grand Jury has now been procured, and subsequent grand juries will benefit greatly from the videoconferencing equipment established by the 2020-2021 Grand Jury for regular meetings, interviews, and investigations. While this system was necessary to accommodate communications under COVID-19 restrictions, we found it also provided a more convenient means for members to attend, increasing the participation rate, and ensuring a quorum of eight.

Once the Grand Jury members started communicating, and executing their respective responsibilities, it was clear that some best practices needed to be developed, such as a standardized agenda, meeting minute templates, and guidelines to adapt to the virtual environment.

## Mariposa County 2020-2021 Grand Jury Report

Meeting and working remotely in these challenging times were often problematic. Internet connectivity in Mariposa County is often inconsistent, or erratic and not all members have the most up-to-date technology. Further, not all members had the skills necessary to utilize the modern computing tools, at the onset of our term. It is critical that the Court, in conjunction with the Board of Supervisors provide the necessary equipment, and initial training to future grand juries so they are able to achieve a measure of success.

This Grand Jury found it necessary to meet weekly, and occasionally two or three times weekly, to complete all necessary meetings with members of the board of supervisors, county department heads as well as conduct site visits, and investigations. Each of these meetings was followed-up with documentation in the form of minutes, and presentation or interview notes. Many hours are spent by members preparing write-ups on site visits and investigations which are then compiled in preparation for the final report. Countless hours are spent by each committee editing these materials in preparation for report publication, particularly by the Secretary in publication of minutes and agendas.

During the 2020-2021 term, this Grand Jury has far exceeded the voluntary time commitment that was estimated by the court. During the interview stage, it was estimated that the Grand Jury might meet one or two times per month, for a grand total of 100 hours.

To ensure the successful recruitment and retention of potential Grand Jury members, it should be made abundantly clear to applicants that the responsibilities, and time commitment is significant, and should not be underestimated. Qualified candidates should certainly possess a basic level of technical savvy or be willing to learn.

In addition, we also determined that the Citizen Complaint form was entirely inadequate, and it has since been redesigned. The new form is fillable and can be easily downloaded from the Mariposa County website. It includes clear, step-by-step instructions on how to complete the form, and submit it to the Grand Jury.

## **Guest Speaker Presentations**

### **Mariposa County Board of Supervisors and Agency Department Heads**

At the commencement of the 2020-2021 Grand Jury term, our strategy was to become acquainted with each member of the Board of Supervisors, as well as numerous agency department heads.

Faced with COVID-19 restrictions, we developed a standardized, email invitation which expressed our interest in meeting and provided targeted, prepared questions in advance, allowing guest speakers ample time to prepare their presentations. Several speakers indicated that it was the first time they had been invited to meet with the grand jury in such a professional manner. The one-hour presentation format was well received and resulted in a much needed connection between county leadership, and Grand Jury members. We are hopeful that our communication templates will become a best practice method for future Grand Juries members to utilize.

### **Board of Supervisors**

#### **Rosemarie Smallcombe, District 1 Supervisor**

On October 7, 2020, District 1 Supervisor Rosemarie Smallcombe gave a presentation to the Grand Jury. Supervisor Smallcombe's district population is approximately 3600 with small business, and residential vacation homes being the bulk of the revenue stream. Supervisor Smallcombe's supervisory highlights include serving as a representative for the Forest Management Task Force to identify uses for small tree products, the Tree Mortality Task Force and bringing behavioral services into Yosemite. Ms. Smallcombe stated that her highest priorities were being true to the commitments made to her constituents, driving initiatives that increase economic diversity and development, fueling resource management and promoting community involvement. Supervisor Smallcombe serves on twenty-two agencies and committees.

#### **Merlin Jones, District 2 Supervisor (Term ended January 2021)**

On October 14, 2020, District 2 Supervisor Merlin Jones gave a presentation to the Grand Jury. Supervisor Jones' district covers the northernmost area of Mariposa County, from Coulterville to Greeley Hill with much of his constituency being in the below average income bracket. A large percentage of the District 2 population are heavily reliant on myriad social services. Major challenges currently facing his district are project funding, the significant budget shortfall, resulting from the COVID-19 pandemic, and the subsequent absence of typical TOT revenue has been problematic. Mr. Jones had two recommendations that he felt the Grand Jury could promote in their final report, (1) Implementation of an established oversight of Measure M which affects fire, roads, and safety, and (2) A full review of budgetary spending and allocation of various county funds. Prior to his retirement, Mr. Jones served on fifteen agency and committee assignments.

**Marshall Long, District 3 Supervisor**

On October 5, 2020, District 3 Supervisor Marshall Long gave a presentation to the Grand jury. District 3 covers Catheys Valley, Hornitos, Bear Valley, the Merced River area, and Mariposa West. Mr. Long is a lifelong resident of Mariposa and is especially familiar with the county. He feels strongly that his knowledge of the community is a significant benefit to his constituency. Supervisor Long stated that he felt transparency was a key factor in relating to the public. The county's economic development and a resolution to issues involving both Public Works, and road maintenance were key challenges. He also felt that the airport could be a driver of economic growth, particularly if the runways could accommodate larger aircraft. The current housing situation, fire safety, and ways to mitigate large scale fires with their accompanying property losses, were also of concern. Mr. Long is the liaison supervisor to the department heads of County Administration, County Counsel, Tax Collector, CAO, and Clerk of the Board, Airport, and Agriculture.

**Kevin Cann, District 4 Supervisor (Term ended January 2021)**

On October 7, 2020, Kevin Cann, Supervisor of District 4, gave a presentation to the Grand Jury. Mr. Cann is retired from the Park Service where he worked as Chief Maintenance Engineer, at the time of his presentation he was nearing the end of his twelve years as a supervisor. District 4 is largely dependent on business, and tourism. Supervisor Cann works with committees that utilize his expertise in building, and planning. He also works with Solid Waste (landfill), Fire, and the Sheriff's department. He is particularly concerned with COVID-19 recovery, tourism, opportunities for economic growth and attracting more visitors to Mariposa County. Challenges of concern were retention of highly qualified leaders and addressing underperforming departments. Staff shortages, and the hiring freeze due to COVID-19 have been exacerbated by these budget cuts. Housing is a top priority due to the paucity of affordable homes for working residents. Collaboration needs to continue with developers to ensure viable options to generate housing for population growth.

**Myles Menetrey, District 5 Supervisor**

On October 14, 2020, District 5 Supervisor Myles Menetrey gave a presentation to the Grand Jury. Supervisor Menetrey took office as District 5 Supervisor in 2017 and was the newest member of the board. District 5 covers the communities of Lushmeadows, Fish Camp, Wawona and Ponderosa Basin. The homes in Fish Camp are primarily vacation rentals and Wawona is home to many park service employees. The past year has been extremely difficult, due to the pandemic; the repeated closure of transient rentals has resulted in a significant revenue shortfall making decisions regarding budget, and critical services for these communities an unprecedented challenge. Supervisor Menetrey feels that overall, the board works well together and is focused on the betterment of the county, and its economic development. He listed the following as his top three challenges: (1) Infrastructure development for housing, and businesses to ensure county growth, and (2) Economic development to include the Merced Irrigation District Legacy Project,

and (3) Addressing the decrease in budget due to COVID19 and how best to build revenue to recoup those losses.

### **Agency Department Heads**

#### **Walter Wall, Mariposa County District Attorney**

On September 14, 2020, Mariposa County District Attorney Walter Wall, gave a presentation to the Grand Jury members. He is serving his first term as District Attorney (DA). Previously, he was a Deputy District Attorney in Merced County. Mr. Wall's main responsibility is as the public prosecutor, handling cases involving criminal actions and is the oversight of the Sheriff's Department, in certain circumstances.

DA Wall currently has three (3) deputies handling felony, and misdemeanor cases, and one (1) investigator who handles follow-up to obtain additional evidence pertaining to ongoing cases and serves subpoenas. A high percentage of the cases are received from the Sheriff's office, with the remaining cases routed from other entities such as the Department of Fish & Game. The District Attorney's geographical area of responsibility is the entirety of Mariposa County.

He advised the grand jury members that interim reports may be submitted for preliminary review and advice, from the DA. The final report is to be submitted at the end of the GJ term of service in June 2021.

#### **Keith Williams, Treasurer, Tax Collector and County Clerk**

On September 30, 2020, Keith Williams met with the Grand Jury and provided valuable information regarding all three of the significant roles he is responsible for within Mariposa County.

As the Treasurer, he oversees the banking and accounting functions. In addition, he is the investment officer, monitoring money through bond issuance to ensure county funds are not standing idle.

As the Tax Collector, Mr. Williams holds a key role in managing over 13,000 secured accounts, and the Transient Occupancy Tax (TOT), of which there are 700 certificates. Taxes earned through various tourism services generate a revenue of 12% TOT, and 1.5% for the tourism bureau. Work is being done to develop a general form to simplify receipt of, and the tracking of these taxes. Despite revenue being down, the Mariposa general fund is solvent, and the current budget is balanced.

As County Clerk, Mr. Williams's responsibilities include, but are not limited to, issuing, and recording marriage certificates, fictitious name statements, notary, process serving and an acceptance agent for passport applications.

Mr. Williams is also responsible for the elections process. Mariposa County was a leader in ensuring a secure vote in 2020 because it already had a high rate of registered mail-in voters.

## Mariposa County 2020-2021 Grand Jury Report

Members of the 2020/2021 Grand Jury visited the elections office during the 2020 Presidential election; a summary of that visit is included within this report.

### **Sarah Williams, Planning Director**

On October 21, 2020, Sarah Williams, Planning Director, gave a presentation to the Grand Jury. Ms. Williams began working for the county in 1989 as an assistant planner and worked her way up through the organization to Planning Director in July 2012. Prior to joining the county, she was employed by the National Park Service. She has a BS in Natural Resources and a master's in landscape architecture.

There is one part time and thirteen full time employees in the Planning Department. There are three open positions, which are currently frozen due to the drastic reduction of county income caused by COVID-19, and the subsequent budget adjustments.

The Planning Department is responsible for myriad functions. The present budget is \$1.7 million, based on revenues derived from current planning projects and the general fund. Grants received have funded various community design, and development projects such as the Mariposa Creek Parkway, Community Planning for Wildfire Assistance, Sustainable AG Lands Conservation Program and the Integrated Mobility and Housing Strategy.

### **Matthew Matthiesen, Chief Executive Officer – John C Fremont Hospital**

On October 26, 2020, Matthew Matthiesen gave a presentation to the Grand Jury, focusing on the state of the hospital and the care provided, specifically with regards to COVID-19 restrictions. The following are examples of significant changes and accommodations that were implemented:

- The Ewing wing of the hospital was converted to an isolation unit because it has its own HVAC system.
- Screening protocols were instated for employees and patients.
- Budget reallocations were made to accommodate the significant demand and cost for Person Protective Equipment (PPE).
- The purchase of pathogen testing machine at a cost of \$35,000 was expedited.

The pathogen testing machine enables the hospital to administer a COVID-19 test and get results within fifty minutes. This expensive test is used judiciously, primarily on patients prior to admission so that the hospital does not inadvertently expose others to COVID-19.

Recruiting qualified staff to a small community hospital that does not have surgery, ICU, or Labor & Delivery departments is difficult. The current hospital was built in 1951, and the cost to comply with state building regulations is comparable to a new construction. Measure N (which did not pass) on the November 2020 ballot was to cover the cost of constructing a new building, adjacent to the old hospital. Cost is estimated to be \$50 million. After analyzing the reasons Measure N failed, the hospital administration plans to resubmit their case to the voters.

## Mariposa County 2020-2021 Grand Jury Report

John C. Fremont is the only emergency care facility in the county, and it also serves Yosemite National Park. It is vital to the community and the millions of tourists visiting every year.

### **Dr. Eric Sergienko, Mariposa County Health Officer**

On October 28, 2020, Dr. Eric Sergienko met with the grand jury to provide an overview of the county's health services. At the time, he was preparing the community to navigate the yet unforeseen effects of the COVID-19 pandemic. With his military background and expertise Public Health and virus research, Dr. Sergienko built a team that provided vital information, protective materials, and a pipeline to health services.

The community was and continues to be grateful to Dr. Sergienko for keeping the county at the forefront of epidemic mitigation. He presented a serious, yet compassionate example to residents, and visitors about how to stay safe.

At the time of this report, Dr. Sergienko and his exceptional staff and volunteers have successfully administered the COVID-19 vaccine to nearly all residents who want it, within the county.

Dr. Sergienko also plans to devote additional time on two initiatives. First a System of Care which is a service model, effectively assisting clients with all the services necessary at a first touch point. Secondly improving the lines of communication between all agency departments, such as clinical, hospital, probation, sheriff and the court.

### **Doug Binnewies, Mariposa County Sheriff (now retired)**

On November 4, 2020, Mariposa County Sheriff, Doug Binnewies met with the Grand Jury to share details of the current state of his department. Sheriff Binnewies has been in law enforcement for thirty years. Sheriff Binnewies' philosophy is to support, and drive efforts to secure, a strong and healthy community with a focus on public safety. At the time of this report, Doug Binnewies has since retired, but vows to continue with community involvement and law enforcement. He wholeheartedly supported the appointment of Under-Sheriff Jeremy Briese to the position of Sheriff. The challenges the Sheriff's Office (SO) faces due to the pandemic continues to have negative effects on their ability to hire critical staff to manage the needs of the community at large. He strongly advocates for hiring a Mariposa County Public Information Officer (PIO) to ensure clear, accurate, and timely communications with the public.

### **Jeff Aranguena, Mariposa County Unified School District Superintendent**

On December 2, 2020, Mariposa County Unified School District Superintendent, Jeff Aranguena, gave a presentation to the Grand Jury members. Mr. Aranguena is a native of Mariposa County and graduated from the local high school in 2000. He graduated from Cal Poly with a BA and master's in history. He received his master's degree in Educational Leadership from San Luis Obispo College in 2014. Over the course of the last eight years, he has worked in the educational field as Director, Executive Director, Assistant Superintendent, Interim District

## Mariposa County 2020-2021 Grand Jury Report

Superintendent and currently as District Superintendent. As District and County Superintendent for Mariposa County, he is the chief executive overseeing business services, human resources, special education programs, the school's warehouse, all facilities, and maintenance. He has an excellent support staff who assist with addressing adjustments to accommodate COVID-19 protocols. His final words to the Grand Jury were that he was very proud of the parents in the community and their dedication to getting their sons and daughters to school and demonstrating how to adapt in these difficult times.

### **Pete Judy, Chief Probation Officer**

On December 7, 2020, Mariposa County's Chief Probation Officer, Pete Judy, gave a presentation to the Grand Jury. Mr. Judy moved to Mariposa in 2000 from Southern California. He is highly qualified in all aspects of probation services and utilizes a very forward-thinking, non-punitive approach in the implementation of his department's tasks, and obligations. The probation department supervises, and enforces orders of the court, provides case management and supervision for collaborative justice courts (a.k.a. problem-solving courts), which focus on *recovery* to reduce recidivism, and improve offender outcomes. The department is complex and oversees both adult, as well as juvenile probation. Officer Judy feels very strongly about community leaders being collaborative, while serving the needs of Mariposa County through educational opportunities and specialized programs. He is actively working toward developing a plan to receive \$250K from the Juvenile Justice Commission to provide housing for at risk youth. He is recommending that a trust be established to secure those funds, so they are available when needed.

### **Dallin Kimble, Chief Administration Officer**

On December 16, 2020, Chief Administration Officer (CAO), Dallin Kimble, gave a presentation to the Grand Jury. As CAO he is responsible for budgets, strategy, operations, legislation, some county policies, interdepartmental affairs, real estate, purchasing, public information, some emergency services, economic development, technical services, and housing.

As the county has been unable to fill a vacant Human Resources Director position, human resources have also recently been placed under his department's responsibility.

One of the challenges facing Dallin Kimble is that unlike many of the counties in California the Mariposa County CAO is not responsible for the oversight of other county departments; all department heads report directly to the BOS. This governing structure, where nineteen department heads report to five supervisors was popular in the 1850's but is now antiquated and should be updated to mimic a contemporary corporate structure.

Another challenge is the County's computer system. It is in desperate need of an upgrade. Furthermore, Dallin is the acting county's Public Information Officer, however this is a position of such importance that it deserves a full-time employee. Finally, Dallin recommended the county's purchasing should be centralized to eliminate redundancies and minimize expenditures.

**Mike Healy, Director of Public Works**

On December 16, 2020, the Director of Public Works gave a presentation to the MCCGJ. His top priority is the safety of county residents traveling on approximately 564 miles of county roads (over 200 miles of which are unpaved), and over the 14 bridges which are in the process of being rebuilt or replaced. In addition, he is responsible for the maintenance of county buildings, parks, and over 400 county vehicles. Other responsibilities include handling permits and managing six wastewater treatment plants. Managing all of this is a constant challenge, given budget constraints, which were exacerbated due to loss of revenue from the COVID-19 crisis.

Considering the damage caused by recent fires, storms, and wind events, Mike said that he and his team have done a good job, despite the additional work created by the natural disasters.

**Michael Fagalde, Mariposa County Superior Court Judge**

Presiding Judge Dana Walton retired at the end of January 2021. On February 3, 2021, Mariposa County Superior Court Judge Michael Fagalde introduced himself to the MCCGJ. Judge Fagalde is originally from San Jose, CA, is a longtime resident of Catheys Valley and has been a state appointed judge for seven years. Following law school at Santa Clara University, he worked for Merced County in the public defender's office. He has extensive experience as a criminal defense attorney. As the county judge, he presides over adult, and juvenile criminal cases, as well as adoption proceedings. Since Judge Dana Walton's retirement, Judge Fagalde is the sole judge in Mariposa County.

Judge Fagalde has daily interactions with the BOS, county departments and external service providers. Having served as a grand juror himself, he understands and highly values the significant commitment made by grand jurors. He believes that the grand jury serves as the eyes and ears of the community. Judge Fagalde is an invaluable legal resource, advising the grand jury in areas such as obtaining information, records, agency responses, investigations and ultimately the final report.

**Shannon Gadd, Director of Health and Human Services**

On February 17, 2021, the Director of Health and Human Services, Shannon Gadd, met with the grand jury via ZOOM from her office in Mariposa. Ms. Gadd took charge of the Health and Human Services (HHS) department in October 2020 amidst the greatest health crisis the world has seen in over one hundred years. In advocating for a "culture of safety," Shannon looks to incorporate best practices from such diverse industries as the airlines, and nuclear power. Her goal is to build a system of care that starts with a focus on a specific individual, and his or her specific needs as opposed to the classic approach to managing HHS programs. This involves finding holistic solutions for at-risk children, homelessness, food insecurity and isolation intervention within our county's rural areas.

## Mariposa County 2020-2021 Grand Jury Report

The MCCGJ learned that there is a much larger homeless population than those we see on the street. At the time of the presentation, Ms. Gadd reported that there were 84 homeless children in the community. She is committed to tackling the root causes of homelessness such as the shortage of affordable housing, mental illness, trauma, and substance abuse. Her goal is to be proactive by building strong community foundations, which involves an employment skills program, and life planning, with families and the aging, *before* a crisis occurs. To better connect with those in need Ms. Gadd is collaborating with convenience stores, faith-based groups and both the Spanish-speaking, and indigenous communities.

The MCCGJ was asked to advocate for a Public Information Officer (PIO) for HHS who would greatly benefit our community by substantially improving communications between the public, and governmental agencies.

### **CONCLUSION:**

After all the leaders had an opportunity to share information on their respective district or agency the MCCGJ heard a common and resounding themes. There is a critical need for a Public Information Officer (PIO) for the County of Mariposa. The COVID-19 pandemic has adversely affected all aspects of life in our county.

COVID-19 necessitated the closure of lobbies, and offices to the public. It should be a high priority to ensure the public's uninterrupted access to government while ensuring the health and safety of the staff, and the community. It is necessary for the public to have open, and ready access to local government to facilitate, and maintain a healthy democracy.

### **FINDINGS:**

F1. There is critical need for a Public Information Officer (PIO) for the County of Mariposa. Too much conflicting and inaccurate information is being parceled out to the county residents.

F2. Public offices were closed, and community services were unavailable for an extended period.

### **RECOMMENDATIONS:**

R1. Although the current hiring budget has been negatively depleted due to the COVID-19 pandemic and loss of TOT revenue, it is our recommendation that this position be filled as soon as possible to ensure continuity of information is provided to the public.

R2. The BOS should ensure that the lessons learned in 2020 are applied, such that uninterrupted governmental functions, and services remain fully open and accessible during times of crisis.

### **REQUESTED RESPONSE:**

Mariposa County Board of Supervisors R1, R2

## **Merced Irrigation District Settlement**

### **SUMMARY:**

During its term, the Mariposa County Civil Grand Jury (MCCGJ) was made aware of the 2017 settlement with the Merced Irrigation District (MID). Mariposa County can utilize settlement funds to develop water projects, within a limited timeframe.

### **GLOSSARY:**

MCCGJ – Mariposa County Civil Grand Jury

MID – Merced Irrigation District

BOS – Board of Supervisors

PM – Project Manager

### **METHODOLOGY:**

The MCCGJ gathered information during interviews and researched the subject, using the internet.

### **BACKGROUND:**

During the MCCGJ's term, we were made aware of the settlement with the MID regarding Mariposa County's water rights. After some discussion we felt there was a need to inquire about how this agreement might help Mariposa County.

The initial agreement was signed in 1968 and expired in 2018. In that agreement, Mariposa County was to receive 100,000 dollars per year of the revenue generated electricity by the construction of a reservoir (Lake McClure), and a hydroelectric plant, built by the MID in northern Mariposa County.

Negotiations between the MID, and Mariposa County began in earnest in 2010. In order to preserve this revenue stream, Mariposa County had to either negotiate a new contract, or construct a separate reservoir on the south fork of the Merced River. Since that river has a federal "wild and scenic" declaration, it would not be an impossible task but would be a time consuming, and expensive endeavor.

After the MID filed suit in 2013, both sides continued to negotiate the current agreement which was eventually signed by Tulare County Superior Court Judge David C. Mathis on Oct 26, 2017.

### **DISCUSSION:**

As part of the settlement Mariposa County was to receive a one-time payment of \$1.5 million dollars to be used at the county's discretion. In addition, the county was to receive \$300,000 per year for 30 years; this amount could be variable since it is based on the MID's hydroelectric sales. In addition, a major facet of the settlement was that 6% of the MID's annual gross hydroelectric generation revenues would go into an escrow account for development of water

## Mariposa County 2020-2021 Grand Jury Report

projects, at Lake McClure. The maximum amount for this escrow account is \$18 million, and it is expected that this maximum amount would be accumulated much earlier than the 30-year period. If the county does not develop any water projects, then at the end of the 30-year period, the escrow account will be split evenly between the MID, and Mariposa County.

The agreement guarantees 30,000-acre feet per year of the county's water rights from the south fork of the Merced River and gives the county the right, for the same timeframe, to develop water projects on Maxwell Creek (4,000-acre feet per year) and Bean Creek (1,200-acre feet per year). It is the county's right to use the water from these two sources, in perpetuity.

The BOS allocated some money from the unrestricted fund in the MID settlement for the Lake McClure water project feasibility analysis, land acquisition and planning for the Mariposa Creek Parkway, acquiring parking easements for the downtown renovation project and a Parks and Resiliency master plan at Lake McClure.

In December 2019, the Board allocated funds from the initial one-time MID payment to support feasibility studies and work then began developing a request for proposal (RFP). Work on this project was paused due to the Covid-19 pandemic. These efforts will resume once the pandemic recedes.

### **FINDINGS:**

F1. The MID Settlement represents a significant opportunity for Mariposa County that should not be squandered.

F2. The county has a limited timeframe to utilize the MID settlement funds on water projects.

F3. A project of this magnitude will take considerable time to complete and yet to date, little has been done.

F4. This is particularly important opportunity as California is prone to frequent, and extensive periods of drought.

F5. Mariposa County needs to develop sustainable water supplies to maintain its current population and future growth.

### **RECOMMENDATIONS:**

R1. The Board, or lead agency should assign, or hire a professional project manager (PM) within 90 days of the publication of this report.

R2. The PM shall complete a feasibility study and present a preliminary plan to the Board within one year of the publication of this report.

R3. The Board should clearly document in current, and future budgets, how the unrestricted funds shall be spent, within 90 days of the publication of this report.

### **REQUIRED RESPONSE:**

Mariposa County Board of Supervisors      R1, R2, R3

**CORRECTIONAL FACILITY SITE VISITS**

**SUMMARY:**

During the 2020-2021 fiscal year due to the pandemic, Grand Juries in California were not mandated to perform physical site visits that are normally required by law. In addition, there is no reporting requirement for site visits unless there was a complaint, or the Grand Jury determined a report was necessary based on an investigation which they initiated. The Mariposa County Civil Grand Jury of 2020-2021 decided to perform all relevant site visits and publish reports, for good cause. There were multiple complaints from inmates at the Adult Detention center. The Juvenile detention center, and Mt. Bullion Camp are both in danger of closure, so it is important to ensure the public is informed of these concerns. Closure of either of these facilities would be a great loss for our community, as well as the people of California.

**Mariposa County Adult Detention Center**

The Grand jury is required to “inquire into the condition and management of the public jail, prison and detention facilities in the county”. Section 921 of the California Penal Code allows access by the Grand Jury.

Adult Detention Facility  
5379 Hwy 49N, Mariposa, CA

Facility administrator: Lt. Sean Land  
Inspection date: 1/29/2021  
Jail facility capacity: 58 beds – currently at 27  
Previously inspected: October 2019

Grand Jury Inspection Team Members: 2020-2021 Law Enforcement & Probation Committee members, and other grand jurors.

**SUMMARY:**

The 2020-2021 Grand Jury inspected the jail facilities and investigated complaints received from inmates. We reviewed all inmate complaints, and the individuals who made the complaints had since been released so were not available to be interviewed. We found the county detention facility to be well managed, clean, and operating within California Penal Code requirements. After a review of complaints and discussions with the staff, we found no reason for concern. The challenges faced by management and staff, and our observations during the 4-hour visit are summarized in this report. Documentation was provided and reviewed by the Grand Jury, and no irregularities were noted.

**OVERVIEW:**

The facility is monitored 24 hours a day, 365 days of the year, with a minimum of two staff members required inside the jail, at all times. The staff work rotating 12-hour shifts, three days a week and perform an additional eight hours of mandated training, monthly. The staff is very limited due to funding so when custodial staff perform inmate transfers to the courthouse, a sergeant, or lieutenant must assume their responsibilities while they are offsite. Staffing is further complicated by the fact that there must always be one male, and one female officer on site at all times.

Medical staff includes one Licensed Vocational Nurse (LVN) present for eleven hours, two days per week, two full-time RNs, and one Nurse Practitioner working 20 hours per week. The medical staff perform many duties including administering Medical Assisted Treatment (MAT) to help people manage mental illness or drug and alcohol addiction, so the inmates have a chance of recovery. In addition, there is a licensed social worker available to assist inmates, 15 hours per week.

Custodial officers are trained to state standards & training for correctional officers (STC). Sheriff's Deputies must complete 1000-hour peace officer standard training (POST) to become a patrol officer.

**Facility Inspection:**

Areas Inspected: kitchen, medical services, visitation, cell blocks, booking, central control, staff/office area, library, and main storage unit.

The administrative office space is very cramped and lacks adequate storage space. IT work is being done by a savvy staff member who has experience with computer systems. He is in the process of replacing all the analog cameras with new digital cameras which will provide an improved field of view, and audio monitoring.

There are both male, and female locker rooms for custody staff however locker capacity is wholly inadequate personnel working twelve and more-hour shifts. Due to a lack of adequate space, the break room is being used as a meeting room.

The control room is centrally located and elevated in the center of the cell block area. There is clear line of sight to all cell blocks, all the way to inmate population. The control center is the heart of the facility, with one guard present there at all times. Regardless of the gender population, the state mandates that there always be at least one male, and one female guard on duty.

The heart of the control room is automated system that enables the officers to easily monitor and control all doors and locks throughout the entire facility.

## Mariposa County 2020-2021 Grand Jury Report

The visitor center has the capability for both remote, and in-person visits. During the COVID-19 pandemic attorneys regularly made use of the visitor room to speak with clients. Defense attorneys always verify that video, and audio recording equipment are turned off.

The kitchen was clean and efficient. A private company prepares meals onsite, that staff then deliver to the inmates. No contact between kitchen staff, and inmates is allowed.

The laundry room is small, but efficient, and if cleared to do so, an inmate may be allowed to process the laundry. However due to its close proximity to the kitchen, no inmates are allowed there during meal preparation.

The medical office is well equipped and facilitates rapid COVID-19 testing for incoming prisoners. Quarantine protocol is adhered to if a test result is positive. The medical office is in operation ten hours every day. Persons infected with COVID-19 have been detected and no cases have occurred amongst the jail population.

The layout of the intake and booking area is appropriate for processing both male, and female inmates. The area includes a holding cell, sobering cell, and a safety cell. Searches are performed by officers of the same gender as the prisoner. Appropriate accommodations are available for any gender situation. Inmates are provided jail apparel and their personal belongings are kept in the storage room.

Storage room is clean, and well organized. Inmate belongings are now kept in plastic tubs, as opposed to hanging cloth bags for health and sanitary reasons. Future improvements will include a vacuum packing system to reduce the amount of space required for storage of inmate belongings.

The library contains books, a GED laptop and video conferencing systems that allow for virtual court hearings. Prisoners have the option to request in person video conferencing.

There is a virtual, attorney/client room used for communication that is not monitored by jail staff.

### **Layout of the Secure Areas:**

Cells are designated for inmates according to gender, offense, mental stability and level of violence. Inmate placement is designed to mitigate personality clashes and ensure social distancing. There are six cell blocks in the facility. Cells are searched by each shift of guards, twice monthly.

A-block is “protected custody” with a current population of 12, and a total capacity of 16, having open bunks and stainless-steel dining tables.

## Mariposa County 2020-2021 Grand Jury Report

B-block is for medical security with a current population of 12, and total capacity of 16, having open bunks and stainless-steel dining tables.

C-block has two-person cells within the locked area with a capacity of 16. The dining tables are stainless-steel. Inmates are allowed into an open area within block C for meals, recreation, and entertainment.

D-block is for Women only and has locked cells within a secure area, and a total capacity of eight.

E-block is for the mentally ill (Modified Mental Health) and has a total capacity of five.

F-block is for those who will not integrate into normal populations, such as troublemakers, and has a total capacity of five.

The exercise yard is small, and miserable. No equipment is available due to safety regulations except for a small, rubber handball. During inclement weather inmates tend to stay indoors at their allotted exercise times. On average, prisoners are allowed six to eight hours in the recreation yard, daily.

### **Inmates:**

The total capacity of the jail is 58. There were 27 inmates incarcerated at the time of our tour, the majority of whom were men. The inmates appeared fairly well-kept, definitely well fed and generally calm.

Incarcerations previously averaged 21 days however, since the enactment of AB109 it has increased to 34 days. The jail receives additional funding to account for long-term prisoners who have committed more serious crimes.

The detention center faced many challenges in recent years due to the passing of AB109 which required county detention centers to take on prisoners serving longer terms, to reduce overcrowding in the state prison system. This puts a tremendous strain on county jails, and on society as many lower-level offenders are released to make room for the transferees, coming from state prisons. This results in a situation of catch-and-release for lower-level offenders. Therefore, local law enforcement is extremely frustrated as they are unable to keep criminals off the street, and our communities safe.

Costs and complexity to manage county facilities have increased as they must now provide services, previously funded by the state.

Frequently, sixty to seventy percent of the inmate population have a mixture of mental health problems and drug addiction. People with untreated mental health issues frequently self-medicate with illegal substances and are incarcerated.

## Mariposa County 2020-2021 Grand Jury Report

There has been only one death by suicide in the jail's history. In the past three years, there were two legitimate suicide attempts and 20-30 individuals who threatened suicide.

Population within the jail fluctuates throughout the year because Mariposa County's overall population is cyclical, with visitors typically in numbers ranging from half a million per month in winter to over one million per month, in summer. Thirty percent of the serious offenders are people who reside outside of Mariposa County.

Law enforcement detains many people who have been recruited by drug cartels to work illegal marijuana operations. Senior cartel members are rarely apprehended.

Gang activity is not generally a problem in a small county jail, and single inmates from rival gangs usually mix without conflict.

Contraband continues to be a problem. Prisoners can smuggle items in via body cavities, and ballooning because law enforcement can only perform body searches on people who have committed serious crimes, and past criminal history may not be taken into consideration. People sometimes intentionally get arrested, just to smuggle in contraband.

Officers use a Verovision scanner to search all incoming, and outgoing mail for contraband. The scanner reads 3 layers of paper simultaneously. People have been known to soak stamps or paper with liquefied drugs which inmates will then chew, to get high. Jail staff would like to get a higher quality scanner to mitigate these issues.

They now have a LCSW (Licensed Clinical Social Worker) who provides treatment, and a Medical Health provider who will prescribe based on LCSW recommendations and treatment. Since the advent of the LCSW the costs for medicine have decreased significantly (\$10,000 to \$2,500 per month).

Individuals placed on a 5150 psychiatric hold are sent to a mental health facility for 72 hours, sometimes longer to stabilize them, if necessary. All persons brought in on a 5250 are held within the detention facility.

Medical procedures are managed similarly. When detainees require dental, or surgical procedures, the jail is required to send a staff member along with the prisoner, further exacerbating ongoing staffing challenges.

### **Challenges:**

- Staffing is a major issue, exacerbated by non-competitive salaries.
- Budget cuts due to loss of Transient Occupancy Tax (TOT).
- COVID-19 restrictions affecting staff and prisoner morale.

## Mariposa County 2020-2021 Grand Jury Report

- Administrative office space is inadequate.
- COVID-19 has further complicated management of the jail.
- The HVAC systems remain inadequate. \*
- There is a need for translators (Hmong, Laotian, Farsi, etc.).

\* The previous grand jury suggested extensive inspection of plumbing / electrical / HVAC due to age of building and need for the building operate 24 / 7. Those systems are regularly inspected by maintenance staff.

### **Potential remedies:**

The county has been in line to receive state funding for an addition to the jail. Architectural plans were drawn up three years ago however the funds were redirected to another county. That county has since withdrawn from the grant, so Mariposa is optimistic about securing the funding.

Officers use Google Translate to communicate with non-English speakers. The County has a service and if a person is needed, they can contact county and get a contract translator.

### **CONCLUSION:**

Mariposa County has an excellent team of professionals who work well together for the good of the community, and more importantly for the good of detainees. These community leaders are all aligned in helping detainees return to productive life.

### **FINDINGS:**

F1. Staffing is a major issue, exacerbated by:

- The county salary structure which is non-competitive.
- The inability to hire new staff because of budget cuts.

F2. The facility is outdated and in need of renovation.

- Administrative office space is inadequate.
- Staff locker, and equipment storage space are insufficient.
- Inmate exercise areas are dismal, outdoor stone enclosures.

### **RECOMMENDATIONS:**

R1. The Board of Supervisors (BOS) should allocate sufficient funds for the sheriff's office to implement retention plans for high value personnel and increase salaries to competitive levels within 90 days of the publication of this report.

R2. The BOS should increase their focus on securing available state grants to expeditiously fund the construction of additional jail facilities within 90 days of the publication of this report.

R3. The Sheriff's office should incorporate significant improvements to the outdoor exercise areas into jail renovation plans within 90 days of the publication of this report.

**REQUESTED RESPONSES:**

Board of Supervisors: R1 and R2

Sheriff's office: R3

**Mariposa County Juvenile Hall/Probation Center Tour**

5091 Bullion Street, Mariposa, California

Facility Administrator: Pete Judy, Chief Probation Officer

Inspection Date: 2/5/2021

Facility Capacity: 4 beds

Previously inspected: October 2019 by the Civil Grand Jury

**Attendees:** The 2020- 2021 Mariposa County Civil Grand Jury (MCCGJ) Law Enforcement Committee and other Grand Jurors.

**Areas Inspected:** Administrative offices and juvenile hall center.

The Mariposa County Juvenile Hall is a special purpose, 96-hour detention facility for youth who have committed offenses prior to their eighteenth birthday. The detention facility is part of the Probation Department and operates under the authority and regulations of the Welfare and Institution departments.

**SUMMARY:**

There are very few juveniles in the county who warrant extended stays in the facility. More often it is used as a place to counsel youth, and their parents about available resources and programs to assist with behavioral problems. The probation department, along with supporting community resources work with families to reach positive, constructive outcomes.

Two residential homes were transformed into administrative and counseling offices for the Probation department. A separate building located on the property serves as the detention center which has a dayroom, kitchen, bathroom and two detention cells. Recent improvements include new flooring and décor which provide a more secure and comfortable setting. All areas were clean and well maintained. A COVID-19 thermal scanner was installed at the main entrance and all other virus mitigation protocols are adhered to.

## Mariposa County 2020-2021 Grand Jury Report

The facility was not built to house serious offenders who require a high level of security. Security protocols require two staff members, every 24 hours, at an approximate cost of \$1,000 per day, while occupied. Limited funds are currently available to support these staffing requirements.

Lack of funding is further exacerbated by the impacts of COVID-19 on the state, and county budgets. Mr. Judy is looking into potential grants to help sustain the department and to provide an improved facility on the same property. This would allow a relocation, and reorganization of the administrative offices as well as generate rental income from the contracted counseling professionals.

Fortunately, Mariposa has not had a juvenile in detention for more than two years, primarily because the probation department works so well with other county departments. The combined focus is on avoiding detention by utilizing alternative solutions when working with at risk adolescents.

There is, however, the possibility of the juvenile facility being closed due to budgetary constraints. If closed, this facility would not be allowed to reopen.

### **Mt. Bullion Conservation Camp #39 Inspection**

The Grand jury is required to “inquire into the condition and management of the public jail, prison and detention facilities in the county”. Section 921 of the California Penal Code allows access by the Grand Jury.

California State Department of Corrections and Rehabilitation  
5730 Mount Bullion Road Access Road, Mariposa, CA  
Inspection Date: March 4, 2021  
Fire Camp, 11:50 a.m. – 2:00 p.m.

**Attendees:** The 2020- 2021 Mariposa County Civil Grand Jury (MCCGJ) Law Enforcement Committee and other Grand Jurors.

**Areas Inspected:** kitchen, visitation, dorms, office area, TV rooms, storage facilities, recreation/hobby areas, strike force staging areas, dining areas.

### **GLOSSARY**

MCCGJ – Mariposa County Civil Grand Jury

CDCR – California State Department of Corrections and Rehabilitations

CCV – Crew Carrying Vehicle

ECT – Emergency Crew Transport. The new replacement for the CCV.

CAP – Corrective Action Plans

SCC – Sierra Conservation Center, "in Jamestown serves as the primary hub for Central and Southern California conservation camps."

MKU — Mobile Kitchen Unit

**SUMMARY:**

The Conservation Camp at Mt. Bullion was built in the 1950's as a facility for the California Youth Authority. The camp is located adjacent to a Cal Fire station and is on 239 acres of state property. The camp's maximum capacity is 110 male inmates with a current population of 57.

The California State Department of Corrections and Rehabilitation (CDCR) Lieutenant in command of the conservation camp provided the tour. His assignment at Mt. Bullion began on December 28, 2020. His previous, nine-year assignment was at Baseline, before that camp was closed. There are nine CDCR officers at Mt. Bullion including one lieutenant, one sergeant and seven officers. There are usually two staff members on duty, per shift but only one from 11 p.m. to 7 a.m. In the event of an emergency, officers are backed up by local law enforcement.

None of the inmates have contracted COVID-19. While some staff and family contracted COVID-19, none of the inmates were affected. About half the staff, and a third of the inmates were voluntarily vaccinated. At the time of the visit, no negative reactions had been reported, increasing confidence in the vaccine.

There is a visitor center where family can meet with prisoners in a park-like, outdoor setting with BBQ's and picnic tables. Under normal conditions, as many as five guests are allowed to visit an inmate. In-person visitation was suspended during COVID-19 so a computer, equipped with Zoom is provided on Saturdays, and Sundays for a 45-minute session per prisoner, once every 30 days. Computer access is strictly limited to these Zoom sessions which are monitored, but not recorded. Two pay phones are available to the prisoners to make voice calls, at will.

Prior to the pandemic, Alcoholics Anonymous and Narcotics Anonymous programs were provided by volunteer religious organizations however at this time, no outsiders are allowed on site.

**FACILITY TOUR:**

At the beginning of the site tour, the MCCGJ was provided a very enjoyable lunch which was prepared, and served by inmates highlighting their teamwork, and cooking skills. The programs at the Mt. Bullion Fire Camp provide inmates with many opportunities to build life employment skills such as culinary, mechanical, welding, and fire science as well as continuing education.

The camp was very neat and well kept. The kitchen and mess hall have a large dining area. Inmates prepare three meals per day and have a Mobile Kitchen Unit (MKU) that can be deployed while fighting fires. Meals must have at least 6,000 calories per day to maintain the

## Mariposa County 2020-2021 Grand Jury Report

proper health of firefighters. There is a storage facility with supplies, and a large freezer where all food and consumables are securely stored.

The dormitories were spacious and under renovation to correct non-conformances, found during a recent safety inspection. The dropped ceilings in the dormitory are being removed as it was an area often used to conceal contraband. The bathrooms are also being remodeled to bring them into compliance with state and federal law. Facility improvements will include modern LED lighting.

There is a sizable laundry room which has the capacity to serve the compound's entire population when it is fully occupied by fire crews. One inmate takes care of machines, vents and filters in addition to doing the laundry. During fire season, the washers and dryers run 24 hours a day. There is a bed available in the laundry room as the person doing laundry must maximize the utilization of the machines, including clearing lint traps to reduce fire hazard.

There are additional areas of the camp that can facilitate up to 30 strike teams during a fire event. These areas are equipped with sinks, showers, two large barns outfitted as dormitories, and flat areas for tent camping. The 30 strike teams (15 in camp and 15 out on fire) are usually out on fires for 24 hours at a time. Inmates are treated the same as Cal Fire employees. Each team is comprised of two trucks with 10-15 inmates, a Cal Fire captain and two firefighters and are supervised on scene by three CDCR officers.

Cal Fire has a large maintenance facility, adjacent to the camp where inmates assist as needed.

In the event of a power outage, the entire facility can be powered by a back-up generator. The generator's diesel fuel tank is old, and corroding and there is no secondary containment to prevent the need for an environmental clean-up in the event of a fuel spill.

Depending upon the crime committed and if their time at camp is disciplinary free, records can sometimes be expunged. Inmates earn two days' sentence reduction for every day spent at fire camp. Disciplinary actions can add 30 days to their sentence. If a prisoner is released but reoffends, they may apply to return to the fire camp. If an inmate leaves camp without authorization, they will be sent back to prison and will permanently lose their eligibility for fire camp. All must remain non-violent to stay in the program.

The screening process to be in fire camp requires successful completion of a Physical Fitness Test (PFT), and Fire Fighting Training (FFT). Inmates at fire camps can apply to the Ventura Training Camp to be eligible for future employment with Federal or Cal Fire Departments.

It takes roughly 18 personnel to maintain camp function including cooking, clerical, maintenance, and laundry so the program is not exclusive to those who can fight fires.

When not fighting fires, crews work on fire prevention and suppression activities such as clearing brush and reducing fuel loads. For example, a crew was sent to Lushmeadows to help in

the aftermath of the January 2021 Mono Wind event. Inmates also respond to floods, earthquake disasters and over-bank recoveries.

Unlike other prisons and jails in California, there are many recreational opportunities at CC39, including a gym, athletic areas such as a ball field, volleyball area, handball wall and hiking trails.

Inmates have access to a hobby shop with woodworking and metalworking equipment. Supplies such as special-order wood is charged to their trust accounts. Many inmates make gifts for their friends and family and are allowed to ship them, via mail. The ornate dining table and oversized, custom BBQ were made by prior inmates.

Indoor facilities include two TV rooms, with books in each area and a pool table. Educational opportunities include a GED course and they hope to offer college courses, in the future. Two computers with no online capability are coming to the camp so inmates will be able to prepare for the GED.

The overall number of inmates at fire camps is down, due to a combination of the early release of prisoners during the current pandemic and the impact of Prop 57 and AB109. Consolidation of fire camps is in progress throughout the state, primarily for budget reasons. There is an informative overview at <https://www.cdcr.ca.gov/facility-locator/conservation-camps/>.

The MCCGJ strongly believes that this is a great program and concerted effort must be made by our elected officials to ensure it remains in operation. These camps serve our communities year-round performing fire suppression, and prevention. Inmates learn skills that they can use to find gainful employment, upon their release. The inmates are compensated for their work, while at the camp. In one instance, a prisoner earned over \$5,000 while serving on two deployments during his time at CC39. It would truly be a shame to lose such an invaluable program.

Mariposa County 2020-2021 Grand Jury Report

Here are some current stats at the camps that Sierra Conservation Center (SCC) oversee.

	13	1	2	3	4	5	6	7	Crew Total	Max Capacity	Reported Count
01 Vallecito									0	110	0
04 Francisquito (LACO)	13	14	10						37	92	53
05 Miramonte	9	12							21	89	33
10 Mountain Home			9	14	14				37	110	59
11 Acton (LACO)			14	12					26	90	54
16 Holton (LACO)			14	14					28	105	60
19 Julius Klien (LACO)	14	14			6				34	125	56
26 Owens Valley	16	16							16	132	20
28 Prado	13			12					25	91	38
33 Growlersburg	12	15			12				39	132	75
35 Oak Glen		12				13		9	34	160	55
36 Bautista		11	14	13					37	120	55
38 Gabilan	12	11	11						34	132	53
39 Mt. Bullion		17	17						34	110	57
41 Fenner Canyon	15	15							30	136	50
42 La Cima	11		13	14					38	90	64
<b>Totals</b>	<b>86</b>	<b>177</b>	<b>100</b>	<b>71</b>	<b>27</b>	<b>0</b>	<b>9</b>	<b>470</b>	<b>1824</b>	<b>782</b>	

**FINDINGS:**

F1. The Mt. Bullion Fire Camp is more than sixty years old and appears to be well-maintained, and well run.

F2. COVID-19 protocols at the camp resulted in limited exposure to the virus and the inmate population was not affected.

While the MCCGJ cannot make formal recommendations for this state facility, we strongly urge that our local, and state representatives lobby for the continuance of this vital program.

**Oversight of Mariposa County 2020 Elections Process**

During the November 2020 elections, two members of the MCCGJ visited the Mariposa County elections office while employees were performing their duties; they observed the process and asked clarifying questions. The Chief Deputy County Clerk and her team worked exceptionally well together.

Pursuant to state law, one person prepared the ballots for insertion in the counting machine while another person was responsible for the proper documentation, and placing ballots into the appropriate box, for example “tallied ballots for District 3”.

## Mariposa County 2020-2021 Grand Jury Report

A three-person team was required to process both mailed in and faxed-in ballots: one to read aloud to a second person, who marked the ballot while the third person observed to ensure accuracy. The election team felt the formal training they had received was critical to ballot certification, and smooth execution.

A technician was onsite to address potential technical issues with the vote counting machine.

The team felt the vote-by-mail system was secure since they were able to verify signatures, and confirm identities, prior to having the ballots counted. Overall, the Grand Jury was impressed with the operation, and satisfied with the overall security.

## **CITIZEN COMPLAINTS**

### **Civil Standby Report**

#### **SUMMARY:**

The 2020/2021 Mariposa County Civil Grand Jury (MCCGJ) investigated a citizen's complaint and found significant room for improvement in the Mariposa County Sheriff's Office (MCSO) policies and procedures. This report outlines these findings and recommendations and proposes new technology, and service providers be used to bring all policies and procedures up to date, and in compliance with state laws. These recommendations include actions to be taken by the MCSO with the support of the Board of Supervisors.

#### **GLOSSARY:**

**MCCGJ – Mariposa County Civil Grand Jury**

**MCSO – Mariposa County Sheriff's Office**

**CS – Civil Standby**

#### **BACKGROUND:**

The 2020/2021 MCCGJ received a complaint regarding several matters related to the Mariposa County Sheriff's Office Civil Standby (CS) policy and procedure.

A Civil Standby occurred at the home of the complainant and this individual was concerned about several issues related as to how the CS had been initiated, how it unfolded and how repeated requests later for MCSO to provide written policy, procedure and purpose for CS were ignored.

The MCCGJ decided to investigate the general policy, procedure and purpose for CS that exists in Mariposa County. Among other things, the MCCGJ wanted to know how civil standbys are initiated within the MCSO. For example: are there forms to complete, is there paperwork involved or can one simply wave down an officer and request an immediate CS? Given that Mariposa is a small town, we were curious to know if there were specific rules, or protocol concerning officers overseeing the CS, who might have a personal relationship with either of the parties. Furthermore, we were curious to understand the standard practice for civil standbys. Who is allowed in the home, and when? Does the officer enter the premises, or only stand at the door? Can, or should the officer remove any property? Are officers specifically trained for this procedure and finally, are there policies and procedures in writing and available to the public?

## Mariposa County 2020-2021 Grand Jury Report

The MCCGJ believes this is a very relevant topic in Mariposa County, given the recent statistics regarding domestic violence.

### **METHODOLOGY:**

Civil Standby is a process whereby police officers are requested by a citizen, to assist them in recovering personal property from a location where there is a potential for conflict. The MCCGJ began by looking to see if, per the complainant, there had been a breach in established standards regarding how a CS should be handled in Mariposa County.

In addition to investigating MCSO policies and procedures for CS, the MCCGJ began to explore what policies and procedures for CS are in place in other jurisdictions, within the State of California.

The Grand Jury reviewed the following documents:

- CA Penal Code related to law enforcement response to domestic violence, specifically, Civil Standby (13701c(7))
- MCSO General Order 85-4, Section IV related to Domestic Violence
- Copies of emails between MCSO, and complainant related to the complaint

In order to better understand the policies and procedures related to domestic violence, and civil procedures in Mariposa County, an interview was conducted with a representative of the MCSO.

### **DISCUSSION:**

In response to a citizen's complaint, we reviewed the MCSO policies and procedures as well as the practices set forth by the State of California. One aspect of the complaint was that repeated requests for a written copy of MCSO policy and procedure for CS went unanswered.

The MCCGJ reviewed MCSO General Order 85-4 related to domestic violence which is available on the Mariposa County website, under "documents." In Section IV, this document states that "Officers assigned to domestic violence calls shall or through the assistance of the Family Violence Advocate, when appropriate..." Stand-by for a reasonable amount of time when complainant requests police assistance while removing essential items of personal property." It should be noted, this document was created on December 31, 1985 and revised once, on August 6, 2007.

In reviewing the California Penal Code regarding CS, the MCCGJ learned that California Penal Code 13701 states that local policies and procedures related to law enforcement response to

## Mariposa County 2020-2021 Grand Jury Report

domestic violence, specifically to CS (13701c(7)) shall be in writing, and shall be made available to the public upon request.

While executing our mandatory inspections of detention centers in Mariposa County, the MCCGJ discovered that the Adult Detention Center has a contract with Lexapol Corporation; Lexapol LLC is a private company based in Frisco, Texas that provides policy manuals, training bulletins and consulting services to law enforcement agencies, fire departments and other public safety departments. During our interview with the MCSO representative, we learned that their current policies and procedures are being migrated to Lexapol and are currently in the implementation phase. Once completed, this will ensure that state-of-the-art policies, procedures and training are maintained.

### **CONCLUSION:**

MCSO procedures related to CS may not be in compliance with California Penal Code (13701c(7)) which states, specifically that law enforcement response to CS must be in writing, and available to public upon request. Furthermore, the written MCSO policies and procedures that are related to domestic violence were created nearly four decades ago. Additionally, it is not clear what the protocol is for initiating a CS. This also needs to be part of the policies and procedures and clearly outlined in writing.

Other law enforcement agencies in California have more thoroughly documented procedures for CS. For example, the San Jose Police Department Duty Manual, as well as the Elk Grove Police Department Duty Manual have detailed written policies and procedures that are readily available to the public, upon request. We also noted that Elk Grove Police Department is using Lexapol. Reference: <https://www.sjpd.org/home/showdocument?id=314>, [http://www.elkgrovepd.org/UserFiles/Servers/Server\\_118017/File/Dept.%20Policy/Policy%20468%20-%20Civil%20Disputes.pdf](http://www.elkgrovepd.org/UserFiles/Servers/Server_118017/File/Dept.%20Policy/Policy%20468%20-%20Civil%20Disputes.pdf)

Given the small-town nature throughout Mariposa County, efforts should be made to prevent deputies from overseeing civil standbys of any close acquaintances, or relatives.

### **FINDINGS:**

F1. MCSO does not have written policies and procedures related to CS that can be provided to the public, upon request.

F2. MCSO Domestic Violence published policies and procedures were created in 1985 and revised only once, in 2007.

Mariposa County 2020-2021 Grand Jury Report

F3. MCSO is not in compliance with California Penal Code 13701c(7) which states law enforcement response to CS must be in writing, and available to the public upon request.

F4. Based on MCCGJ review of formal procedures published by other California law enforcement agencies and a review of California Penal Codes, the MCSO policies and procedures related to CS and domestic violence need to be updated, and improved.

F5. Special effort should be made to ensure, that whenever feasible, deputies involved in CS are not close acquaintances or relatives of the parties involved.

F6. MCSO currently uses Lexapol LLC to manage policy and procedures within the adult, and juvenile detention facilities.

**RECOMMENDATIONS:**

R1. The MCSO should update its current policies and procedures to include a process for initiating CS in Mariposa County.

R2. The MSCO should review and revise its domestic violence policies and procedures to comply with the California Penal Code. The policies and procedures shall be in writing and be available to the public upon request. *\*After the completion of the investigation, the MCCGJ learned that new policies and procedures have been drafted and will be released with the Lexipol roll-out.*

R3. In order to avoid future potential conflicts, whenever feasible, the MCSO should not assign civil standbys to officers who are acquainted with, or related to, any of the parties involved.

R4. The MCSO should implement a process to continually update all policies and procedures to keep them in compliance with state, and federal law within 90 days of the publication of this report.

**REQUIRED RESPONSES:**

Pursuant to Penal Code sections §933, and §933.05, the Grand Jury requires a response from the following governing bodies within 90 days of the publication of this report:

Mariposa County Sheriff's Office: R1, R2, R3, R4

*Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.*

**Lake Don Pedro Community Services District**

**SUMMARY:**

The Lake Don Pedro Community Services District (LDPCSD) has a long history of turmoil. There have been a number of issues raised to prior grand juries about the district, including a history of dysfunctional, and contentious proceedings amongst members of its Board of Directors (BOD).

In December of 2020, the Mariposa County Civil Grand Jury (MCCGJ) received a complaint alleging the owner of a lot, located within the district boundaries, was doubled charged the Capital Improvement Plan (CIP) fee. After reading the complaint, reviewing past complaints, researching via the internet and having a group discussion, the MCCGJ decided to investigate said complaint by performing a site inspection and interviewing the district General Manager (GM).

The MCCGJ concluded there was no solid evidence to support the claim that a CIP fee had been previously been charged. Furthermore, the grand jury concluded that under the leadership of the new GM, appropriate, corrective actions were underway.

**BACKGROUND:**

LDPCSD was established in 1966 and serves the water needs of 1495 metered residences, located between Lake Don Pedro, and Lake McClure in La Grange, CA. Water is drawn from Lake McClure under an agreement with the Merced Irrigation District (MID).

A description from the LDPCSD website states, “The Lake Don Pedro Community Services District (LDPCSD) is a special district and local form of government, created by vote, to provide up to 32 public services to the community. The district is currently approved to provide water services which took over the water system previously owned by the Sierra Highlands Water Company. LDPCSD provides safe drinking water to the residents of the community as well as monitor (sic) water quality, supply, and reliability.”

Over the past ten years, there have been numerous complaints submitted to Mariposa County grand juries regarding the overall operations, and continuous online drama involving the Board of Directors (BOD).

In order to correct the situation and provide a higher level of focus on improving operations, the BOD hired a new full-time GM two years ago. The GM brings ten years of operational experience working for the City of Modesto. He has certifications specific to water distribution systems, i.e. Certified Water Distribution, Cross Connect and Backflow certifications. He is on the California Water Board (CWB) list of Certified Treatment Operators, as well as the Certified Distribution Operators and holds a general contractor’s license.

## Mariposa County 2020-2021 Grand Jury Report

The GM inherited a water system that was neglected, and improperly maintained. Some of the issues inherited were no backup pumps, a lack of maintenance on the filtration system, inadequate spare parts and tools, vehicles which were non-operational and no maintenance logs were being kept. The entire operations team has been working together over the past two years to overcome these, and other deficiencies.

The water system is presently operating within EPA and State guidelines with less than 15% water loss. Potability tests on water drawn from residents' taps are regularly performed by Aqua Labs.

### **GLOSSARY:**

AC – Asbestos Concrete (material used to make pipes in most older water systems)

BOD – Board of Directors

CIP – Capital Improvement Plan

CWB – California Water Board

GM – General Manager

LDPCSD – Lake Don Pedro Community Services District

MID – Merced Irrigation District

MCCGJ – Mariposa County Civil Grand Jury

YTD – Year to Date

PRA – Public Records Act

### **METHODOLGY:**

The MCCGJ used emails to gather pertinent documents related to this investigation.

Members of the MCCGJ met at the LDPCSD office, interviewed the GM, and toured the facility.

The interview included a specific focus on the policies, procedures, and records regarding how fees and capital improvement charges were assessed.

One MCCGJ member inspected the lot owned by complaint, and other members of the MCCGJ inspected the water intake site and as well as the pump barge, located at Lake McClure.

### **DISCUSSION:**

In preparation for the interview with the GM, the MCCGJ prepared detailed questions based on the complaint received in December, 2020.

## Mariposa County 2020-2021 Grand Jury Report

The MCCGJ requested, and received copies of the LDPCSD employee handbook, the directors handbook, and the organizational chart. In addition, LDPCSD provided their projected budget, approved budget and the year-to-date totals through 5/31/2020 for the 2019-2020 year. They also provided the LDPCSD 2020-2021 proposed budget.

Four members of the Grand Jury met the new GM at the LDPCSD facility, located at 9751 Merced Falls Road in La Grange, CA. Questions were prepared based on extensive research. We learned that the new GM was hired by the BOD approximately two years ago to provide a higher level of focus on improving operations. His predecessor was responsible for managing multiple water districts in California and worked for the LDPCSD on a part time basis, only. The former GM's efforts in raising money via grants was deemed successful, however the operational infrastructure suffered due to a lack of attention, resulting in loss of redundancy in the system, and ultimately, total failure of the intake pipes from Lake McClure. Under the new leadership, the team was able to ensure continuity of service to residents with an improved barge that fed the system, while major repairs were made to the intake pipes and pumps. The team now focusses on preventive maintenance of pumps, valves, treatment systems and delivery. The system is old and utilizes Asbestos Concrete (AC) pipes throughout. Two plus miles of pipe that deliver water from the lake to the main storage tank are made of steel and have inherent issues, due to improper welding when they were installed and often require costly repairs. Pipes located at residents' point-of-use are more easily repaired.

Pursuant to the most recent complaint, the LDPCSD researched the matter and was unable to locate any records supporting the complainant's assertion that a water meter had previously been installed at the lot in question. The GM told us unequivocally that there was never a meter installed on that lot and whatever remnants of piping that exist, were not installed by LDPCSD. There is the possibility that the pipes are a result of someone in the past, attempting to gain access to water. Furthermore, we learned that only developed lots have water meters installed. There are 3197 lots in the district with only 1495 meters installed.

The MCCGJ tour of the facility was highly informative; the facility was very well kept and appears to be in good working order. The LDPCSD water system is presently operating within the EPA, and state guidelines regarding water quality. Water loss averages 14.2 %, with the accepted standard at 15%. The water tests are within acceptable standards. The MCCGJ investigated the billing and service charges to residents and concluded LDPCSD is operating within the framework of the law.

### **FINDINGS:**

F1. The MCCGJ could find no hard evidence to support the assertion that a meter had been installed by LDPCSD on the lot. The circumstantial evidence provided by the complainant was inadequate to prove the claim.

## Mariposa County 2020-2021 Grand Jury Report

F2. LDPCSD staff reviewed the records and confirmed that a water meter was never installed on the lot.

F3. Prior to the arrival of the current GM, the water system was in poor operational condition.

F4. The GM inherited a system with limited spare parts, inadequate tools and vehicles which were not in working order.

F5. The LDPCSD board, the GM and the operations team have worked hard to rectify the deficiencies and bring the service up to a level that the customers of the district deserve.

F6. The district has been responsive to all Public Records Act (PRA) requests as well as complaints from district customers.

F7. Some information on the LDPCSD website is out-of-date and inaccurate and unfavorably represents the present status of the district.

F8. Prior civil grand juries were inundated with complaints regarding the operation, management and oversight of the LDPCSD. It has been more than two years since a Mariposa County civil grand jury has received a complaint, regarding the district.

### **RECOMMENDATIONS:**

R1. Current, and future BODs should support the GM's efforts to upgrade the system.

R2. The GM should develop a formal complaint log to assist the district staff in tracking, and responding to customer complaints within 90 days of the publication of this report.

R3. LDPCSD staff should update the website to accurately reflect the status of key facts, such as certification status, within 90 days of publication of this report.

Pursuant to Penal Code sections §933, and §933.05, the Grand Jury invites a response from the following governing bodies within 90 days of the publication of this report:

### **INVITED RESPONSE:**

Lake Don Pedro Community Special District: R1, R2, R3

**Mykleoaks Subdivision – Road Conditions**

**SUMMARY:**

In July of 2020, the Mariposa County Civil Grand Jury (MCCGJ) received a formal complaint alleging poor road conditions in the Mykleoaks subdivision. The road’s condition, and width were considered to be substandard, according to the complaint. Previous attempts to rectify the situation have been unsuccessful.

**GLOSSARY:**

MCCGJ – Mariposa County Civil Grand Jury

PWD – Public Works Director

PW – Public Works

BOS – Board of Supervisors

**METHODOLOGY:**

The MCCGJ used email to gather pertinent documents related to this investigation.

Members of the grand jury drove all the roads within the subdivision.

The MCCGJ interviewed the complainant.

The MCCGJ interviewed the Public Works Director (PWD) to determine how the county prioritizes road maintenance, and citizens’ requests for repair. The PWD was forthcoming, and most of the responses were helpful.

**DISCUSSION:**

Substantial investigative efforts were made by the MCCGJ, utilizing site visits, reviewing documents, and conducting in-person interviews with both the complainant, and the PWD. It was determined that the roads width, and condition within the Mykleoaks subdivision were acceptable, with the exception of Bear Trap Lane, nearly all of which is in need of repair. It is evident that this section of the roadway within the subdivision is consistently plagued with potholes; the underlying cause has not yet been determined, or therefore corrected.

Despite numerous requests, the PW department did not supply the grand jury with any records of complaints regarding the roadways in the Mykleoaks subdivision. It appeared that no system for the tracking of complaints was in place.

The PW department has a method of prioritizing the scheduling of road repairs based on available resources, high traffic volume and public safety. There is no system in place within the PW department to ensure that lesser traveled roads will eventually receive the necessary repairs.

**FINDINGS:**

F1. It was determined that the roads within the Mykleoaks subdivision were of acceptable width and condition, with the exception of Bear Trap Lane.

F2. Bear Trap Lane is in need of repair. It is evident that this section of roadway within the subdivision is consistently plagued with potholes; the underlying cause has not yet been determined, or therefore corrected.

F3. The PW department did not supply any records of complaints regarding the roadways in the Mykleoaks subdivision.

F4. The PW department has a method of prioritizing the scheduling of road repairs based on available resources, high traffic volume and public safety.

F5. There is no system in place within the PW department to ensure that lesser traveled roads will eventually receive the necessary repairs.

**RECOMMENDATIONS:**

R1. The PW department should review the Bear Trap Lane road conditions, develop a plan to repair the roadway and inform residents of the estimated date of completion within 90 days of the publication of this report.

R2. The Board of Supervisors (BOS) should establish a requirement for the PW department to develop, and maintain a complaint log within 90 days of the publication of this report. This complaint log should also contain the final disposition of each complaint.

Pursuant to Penal Code sections §933, and §933.05, the Grand Jury requires a response from the following governing bodies within 90 days of the publication of this report:

**REQUIRED REPOSE:**

Board of Supervisors: R2

**INVITED RESPONSE:**

Public Works Director: R1

## Public Works Department

### SUMMARY:

The 2020-2021 Mariposa County Civil Grand Jury (MCCGJ) investigated the Public Works Department (PWD) Road Crews and found five major areas of concern that must be addressed: A hostile working environment, questionable Human Resources structure and behavior, inefficient operational performance, potential fiscal malfeasance and safety violations. The following report outlines the details of our investigation.

### BACKGROUND:

The MCCGJ received information regarding a possible hostile working environment within our county's Public Works Department, specifically amongst the road crews. This issue initially came to the attention of the MCCGJ when, during introductory meetings with county officials, no fewer than three spoke of ongoing concerns regarding the road crews. This matter arose again during inquiries made by the MCCGJ in response to citizens' complaints.

### GLOSSARY:

BOS – Board of Supervisors

HR – Human Resources

MCCGJ – Mariposa County Civil Grand Jury

OSHA – Occupational Safety & Health Administration

PWD – Public Works Department

PWC – Public Works Committee

SO – Sheriff's Office

Hostile Work Environment – per the US Equal Opportunity Commission: “To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.”

### METHODOLOGY:

Based on the initial information mentioned in the background section, the MCCGJ voted to investigate the Public Works' Department (PWD) road crews and assigned the Public Works Committee (PWC) with the task. The PWC then scheduled interviews with complainants, and the head of the PWD. In addition, the MCCGJ requested contact information from the PWD to schedule interviews with crew supervisors, however, after several weeks the requested information had still not been provided. As a result, alternative means were required to schedule the necessary meetings.

Initially, all active employees either declined to meet with us, or failed to respond, some telling the MCCGJ, “off the record” that they were afraid of jeopardizing their careers, were they to speak with the grand jury. We then reached out to former employees, many of whom agreed to be interviewed. What they told us raised great concerns of favoritism, a hostile workplace, potential financial malfeasance and a cavalier attitude toward safety.

**DISCUSSION:**

The evidence we collected from the interviews created considerable concern, as follows:

1. The county could incur financial, and/or legal liability from current, or former employees resulting from a hostile work environment. Former employees indicated they had retired early, due to the hostile working conditions. These individuals claimed, and provided supporting documentation of being treated differently, and unfavorably when compared to other employees within the road crews. They were chastised for insignificant matters, unrelated to their assigned duties. Interviewees stated “some of the best and hardest working employees were treated particularly poorly.” This information was consistent with what the MCCGJ heard from a number of sources, throughout our investigation.
2. Mariposa County Human Resources (HR) did not provide an adequate forum for county employees to express their concerns and allowed the alleged hostile work environment to persist, for many years. Consequently, there was no function to protect the county from potential liability due to breach of employment laws. The MCCGJ asked interviewees about the role HR played in the concerns raised by the employees. Each interviewee told us the same story: no corrective action was evident with the exception of the supervisor involved being notified of the complaints, potentially making working conditions even worse. Finally, we asked the former employees whether or not HR had performed an exit interview which is a standard practice, used to understand why employees are leaving. Exit interviews were not performed. These included employees with years, sometimes decades of service to the county who loved their jobs and who left before their full retirement age.
3. MCCGJ heard repeated stories of significant loss of operational efficiency, and performance within the road crews. Actions such as sending road crews a significant distance to work on a project that a crew in the target area was already working on, reduced the efficiency of both teams. This hostile environment, along with poor communication, naturally led to a lack of motivation among the employees.
4. The PWD purportedly has a serious problem with timecard falsification. Allegations were made by former employees that one crew, considered to be “a favorite” of one supervisor, submitted timecards indicating they were working, when in fact, they were out of the office or on leave. Another interviewee provided documentation that his timecard had been altered following submission, resulting in a reduction of pay. This employee was able to provide evidence that the timecard had, in fact, been altered.
5. All interviewees relayed instances of Occupational Safety and Health Administration (OSHA) safety violations including not providing water, ice, shade or required safety and work equipment. For example, one crew ran out of water and was told by firefighters that

## Mariposa County 2020-2021 Grand Jury Report

cases of water were available for them at the fire camp. When they went to the camp to get water, they were told by a supervisor to return to the job and were not allowed to take the water with them. Another crew working on a bridge was forced to share one safety harness. The length of the tether on the harness was longer than the height of the bridge, rendering it useless as fall protection. On this same bridge project, the crew requested scaffolding and was told to “make do” without it. As a result, the crew was forced to use an improvised scaffolding system, made from wooden planks.

### **REFERENCES:**

Six interviewees: former and current county employees and a union representative.  
Documentation including written grievances, contemporaneous notes, timecards, citizen complaints, interviews and an organizational chart.

### **FINDINGS:**

- F1. Historically, the county Human Resources department has not been regarded as a safe, unbiased or effective resource for employees.
- F2. Employees of the Public Works Department have resigned, or retired due to an unchanging hostile work environment.
- F3. Many employees are unwilling to speak to the Grand Jury for fear of retaliation.
- F4. Multiple allegations of timecard falsification were made.
- F5. Multiple allegations of OSHA, and safety protocol violations were alleged.
- F6. After repeated requests for PWD policies and procedures, the PWD director indicated there were none.

### **RECOMMENDATIONS:**

- R1. The Board of Supervisors should ensure that the HR department be restructured, and effectively empowered to protect the best interests of the county, and its employees within 90 days of the publication of this report.  
[The MCCGJ learned in May, 2021 that corrective actions are underway]
- R2. The Board of Supervisors should investigate the allegations of favoritism, and a hostile work environment in the PWD within 90 days of this report.

Mariposa County 2020-2021 Grand Jury Report

R3. The Sheriff's Office should audit, and investigate specific allegations of the falsification of timecards and if verified, the BOS should take corrective actions up to, and including termination and prosecution, within 90 days of the publication of this report.

R4. The Board of Supervisors should make changes in the PWD management structure and establish a work environment improvement plan to increase unity, and effectiveness of the Public Works teams within 90 days of the publication of this report.

R5. The PWD should establish a policy and procedures manual, specific to the PWD within 90 days of the publication of this report. The manual should be made available upon request.

**REQUIRED RESPONSE:**

Pursuant to Penal Code sections §933, and §933.05, the Grand Jury requires a response from the following governing bodies within 90 days of the publication of this report:

Board of Supervisors: R1, R2, R3, R4, R5  
Sheriff's Office: R3

**INVITED RESPONSE:**

From the following within 90 days of the publication of this report:

County Administrator: R1, R2, R4  
Public Works Department: R1, R2, R3, R4, R5  
Human Resources: R2, R4, R5

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

**YOSEMITE ALPINE COMMUNITY SERVICES DISTRICT**

**TROUBLED WATERS**

**A Review of Yosemite Alpine Community Services District  
Reveals a Turbulent Past and a Turbid Future**

**SUMMARY:**

Yosemite Alpine Community Service District (YACSD) is located within the greater Fish Camp, California. It is an independent district that was organized in 1969 by the Mariposa County Board of Supervisors by Resolution No. 69-45. This District currently provides water, snow removal, and road repair services for the roughly 37 customers of Yosemite Alpine Village.

In May, 1999, the SilverTip Resort submitted their application to build a 137 room hotel and conference center in Fish Camp, California. An Environmental Impact Report (EIR) was completed and concluded that the resort plans would not affect the water quantity, or quality of the Yosemite Alpine Community Services District's (YACSD) water. Despite the EIR, the YACSD Board of Directors (BOD) were determined to stop the SilverTip development project. Litigation between the owners of SilverTip, and YACSD began in 2003 and continued well into 2019.<sup>1</sup> In addition, YACSD filed suit against Mariposa County. The YACSD's reserves, which were designated for water system maintenance were depleted by legal costs resulting from the ongoing and protracted litigation. In 2018, the BOD sold their entire water system to Umpqua Bank, in order to pay legal bills incurred in their ongoing litigation. The cost of buying back the water system, more than \$514,000, will be borne by the property owners of YACSD.<sup>2</sup>

During our investigation, the MCCGJ found numerous areas of concern regarding the management of YACSD. There are difficult decisions that will need to be made to ensure a viable future for the Yosemite Alpine Village community.

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<sup>1</sup> Summary History: SilverTip Resort Project, Fish Camp. Prepared for Mariposa County Grand Jury Meeting of May 5, 2021. By the Planning Department

<sup>2</sup> Installment Payment Schedule found in Installment Purchase Contract between the Yosemite Alpine Community Services District and Umpqua Bank dated September 1, 2018

## Mariposa County 2020-2021 Grand Jury Report

### **GLOSSARY:**

EIR – Environmental Impact Report

YACSD – Yosemite Alpine Community Services District

YAV – Yosemite Alpine Village

BOD – Board of Directors

MCCGJ – Mariposa County Civil Grand Jury

CSD – Community Services District

AC – Asbestos-Cement

CEQA – California Environmental Quality Act

PSV – Palm Springs Village

FTR – Financial Transactions Report

CDIAC – California Debt and Investment Advisory Commission

Additional information is located in the Appendix and Definitions Sections

**BACKGROUND:**

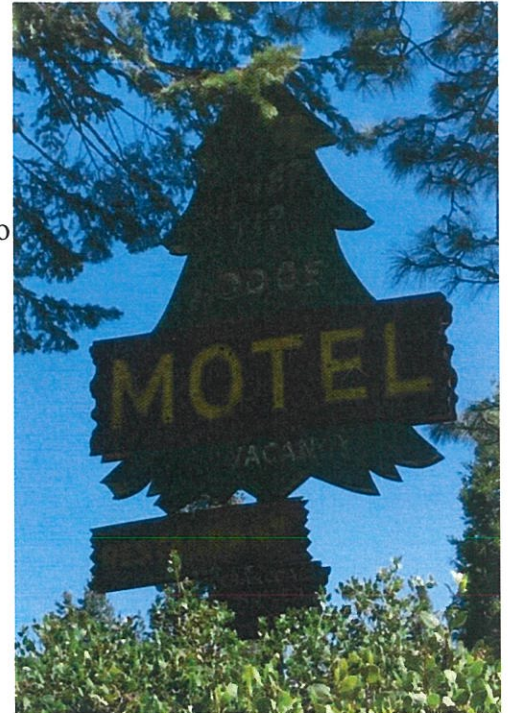
The MCCGJ selected the YACSD as one of two Mariposa County community service districts to audit. The initial impetus was based solely on the fact that special districts had not been the subject of a grand jury audit in many years. While searching the State Controller’s website, we found that YACSD was on the list of Special Districts who had failed to file their Financial Transactions Reports (FTRs) with the State Controller's Office for Fiscal Year 2018-19 reporting year.

While reviewing the district’s failure to file, the MCCGJ discovered evidence of ongoing conflict between some property owners within YAV, and the developers of the proposed SilverTip development.

A majority of YACSD’s water infrastructure is located on property owned by SilverTip resort. The original SilverTip property, owned by Robert Keller, burned down in 1981.<sup>3</sup> In 1969, an easement was granted YACSD “to drill two wells and install water conveying pipes in the meadow area of SilverTip for the purpose of providing water to YACSD”.<sup>4</sup>

What followed was two decades of legal wrangling over easements, and water rights. YACSD property owners are now saddled with a debt of \$514,000, in the form of a 15-year loan as well as an incalculable loss of TOT revenue for Mariposa County. Furthermore, Fire danger, while always a threat to California mountain communities, is of great concern for the area in which YAV is located – a tier-3 fire threat zone. YACSD is now without a neighbor who would have over 500,000 gallons of water available, to help fight the next wildfire in their community. A recent article in [SFGate](#) highlights the precarious, unburned “gap” between the Ferguson and Railroad fire.<sup>5</sup>

Built 50 years ago, the old water system, with its obsolete Asbestos-Cement (AC) Transite pipes, and aging pumps are in need of replacement. During the twenty years of litigation, 24% of the developed parcels within Yosemite Alpine Village (YAV) have become short-term rentals. There are now only two houses with permanent owner/full-time residents, the



Steam-bed erosion jeopardizes pump # 2

<sup>3</sup> Fish Camp Town Planning Area Specific Plan, Mariposa County Planning Dept. Appendix 1, pg. 8

<sup>4</sup> Sept. 12, 2007 letter from SilverTip developer to YACSD Chairman.

<sup>5</sup> Wildfire Concerns Near Yosemite Grow as Controlled Burns Nixed, Ashley Harrell, SFGate, May 25, 2021

remaining 28 houses are second homes for owners living as far away as San Francisco, and Los Angeles.

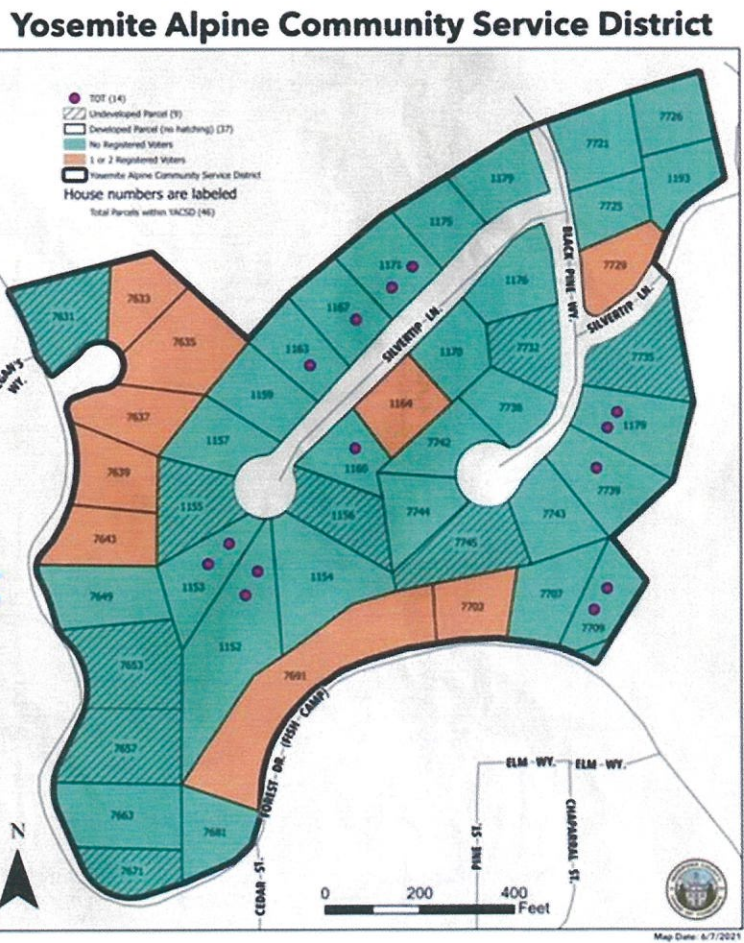
**METHODOLOGY:**

The Grand Jury interviewed current, and former directors of YACSD as well as other YAV homeowners. We had telephone conversations with the State Controller’s Local Government Programs and Services Division which deals with Special Districts. Statistics, and data were gathered from the Treasure/Tax Collector’s office and the County Recorder’s office. The MCGJ met with the leadership of the Mariposa County Planning Department. Conversations were also held with personnel at Aqualabs, the company that conducts water testing for YACSD. Questions about drinking water quality, and testing were also answered by a manager responsible for state water testing. We also researched state law regarding special districts, the Brown Act, Proposition 218 and the California Environmental Quality Act (CEQA). Finally, an onsite visit was conducted at YAV, including an inspection of the wells.

**DISCUSSION:**

Yosemite Alpine Village is a 46-lot subdivision within the greater Fish Camp area. It was formed in 1969. These lots have traditionally been developed with second homes used by residents to enjoy the scenic beauty and recreational opportunities in the area. The community values emphasize the importance of maintaining the natural aesthetic qualities of the area. The residents recognize the potential for growth, but only in a framework that maintains the natural qualities of the area.<sup>6</sup> YAV currently has homes on 37 of the 46 lots.

Given that mindset, it’s understandable that residents might have been concerned when they first heard of plans for a 137-room hotel and conference center to be located just across the meadow from Yosemite Alpine Village, where YACSD has its two wells. The



<sup>6</sup> Pg. 3 Fish Camp Town Planning Area Specific Plan. Mariposa County Planning Department.

## Mariposa County 2020-2021 Grand Jury Report

land where the wells and associated piping are located was never owned by YACSD. Rather, it is owned by the developers of SilverTip Resort.

Between 2001 and 2017 there were six proposals by Palm Springs Village (PSV), rejected by YACSD. YACSD steadfastly maintains that they were fighting for the right to plentiful, high quality water, rather than keeping the resort development out of their backyards. The facts, however, seem to suggest otherwise.

The Grand Jury was impressed by the amount of scientific research, and hydrological testing that went into the EIR for the SilverTip Resort Village Project. The EIR finds that SilverTip's wells are approximately 1000' below the surface and are tapping into a different water source than YACSD's relatively shallow 300' wells. The deeper wells do not affect the quantity of water at the shallower depth as these water sources are not connected.

Because of the limited number service outlets and few permanent residents, YACSD's water system requires the least rigorous testing by the State Water Board. YACSD's water is checked monthly for bacteriological contamination, annually for nitrate contamination and triennially for nitrite contamination. The California Water Board requires only larger water systems be tested for such arcane poisons as Hexachlorobutadiene. YACSD had these comprehensive tests done every two years between 1989 and 1995, they were not done again until 2002, seven years later. In the intervening **nineteen years**, the district has chosen to not have comprehensive water testing done, at all. The taste of YACSD's water is said to be excellent yet many of these dangerous chemicals, some found naturally in the rock, are tasteless. In addition, the District has pipes made from asbestos and concrete which is no longer used in water system installations.

During our investigation of the offers made by SilverTip to YACSD, we found that one offer went so far as to provide the district with a new well, guarantees on production and quality, two storage tanks, new easements and pipelines as well a bond to cover all improvements. This appeared to be a very advantageous offer for YACSD but was subsequently characterized by a director as "completely inadequate," and "atrocious – a rehash of terrible proposals rejected by YACSD over the past years." By 2014, developers were no longer offering infrastructure and proposed only easements, and the right to drill a third well. In July 2016, an "Irrevocable Offer of Dedication" was recorded by the developer, thereby guaranteeing the YACSD easements on the meadow for their wells. In February of 2017, YACSD filed suit against the County of Mariposa, challenging the Planning Department's issuance of grading permits to SilverTip. In May of 2018, Merced County Superior Court Judge Brian McCabe ruled against YACSD, leaving the district financially strapped, due to the cost of the litigation and now without the ability to improve the district's infrastructure.

Following this ruling, the YACSD BOD tried to obtain a loan to cover the cost of litigation however after numerous unsuccessful attempts, the BOD contacted the California Special Districts Association (CSDA), a non-profit created to assist California special districts, for

advice on how to obtain financing. The funds were eventually secured through Umpqua Bank in the form of a Conveyance Agreement and Installment Purchase contract. Essentially, YACSD sold the entire “Enterprise,” aka their water system, to Umpqua Bank and is now repaying the loan by imposing a “water assurance fee,” on property owners. Following its passage, the “water assurance fee,” was renamed, “legal expenses.” The complicated dual structure of the loan was necessary because of limitations imposed by state law on how local governmental agencies may borrow. In the Conveyance Agreement, the District sold the water enterprise to Umpqua Bank for the amount of the loan and simultaneously, in the Installment Purchase Contract, bought back the water enterprise and agreed to pay for the system in a series of installments, equal to the amount of the loan, plus interest.<sup>7</sup> There appears to be a long history of intransparent behavior.

### BOARD OF DIRECTORS TRANSPARENCY

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”  
CGC Section 11120

The MCCGJ found several examples of a lack of transparency in the actions of the BOD.

Openness and transparency in government are at the core of the Ralph M. Brown Act. A former director of YACSD said, in sworn testimony, that the board has always abided by the Brown Act. The YACSD bylaws, however, state not that they will comply with the Brown Act, but rather, that “the district will at all times endeavor to comply with the spirit if not the letter of these items”. Could this be a tacit acknowledgement that they have no intention of following the letter of the law when it comes to the Brown Act?

In February of 2018, YACSD BOD writes:

*“The board has started preliminary budgets set for FY 2018-2019 & 2019-2020. (There are many unknowns at this time, so various options are being prepared for board consideration). Then, at the April 15<sup>th</sup> meeting, protest letters will be received and read. If less than 50% of property owners protest the water rates, then the water budget will be set. Property owners are currently paying \$7.00/1000 gallons and will be billed at that rate on the bills coming out in July 2018.”*

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<sup>7</sup> YACSD letter to property owners, undated but in Minutes of Special Board Meeting of November 2, 2019 YACSD Secretary wrote “After it (our written response) is reviewed by the district’s attorney, the response will be mailed to each property owner in YACSD.”

Mariposa County 2020-2021 Grand Jury Report

This last sentence gives the impression that the water budget will remain unchanged however the BOD was well aware that there would be increases, in the form of additional fees imposed, in order to repay the conveyance. The following is a quote from a property owner:

*“We and our neighbors just learned that the Board of Directors of the YACSD, without any notice to its customers that I know of (property owners) under Proposition 218 or other similar Constitutional or statutory requirements to raise taxes or make assessments "sold" the entire water system owned by the YACSD to the Umpqua Bank for \$355,280 in July of 2018; and, then apparently entered into an installment repurchase agreement to purchase back the water system for \$500,000, under an arrangement it characterized as both a "loan" and an installment sale (purchase?). The impact on each lot owner in the District is that we are now charged a "Water Assurance Fee" of \$750/year for the next 15 years, for a total of \$11,250/lot so that the YACSD could buy back the water system that it sold to the Bank to raise \$ for litigation that was neither voted on nor approved by the property owners.”*

It was announced by the YACSD BOD:

*“Proposition 218 protocol requires a Protest Hearing for water rate modifications and a Ballot Election for other rate modifications. You are being sent a Notice of Protest Hearing and a Notice of Election with this Communication. You will be mailed the ballot for the Election after the April 15, 2018, board meeting. Each property will receive one ballot which will need to be returned in the envelope provided by June 22, 2018 or handed in at the YACSD board meeting on Saturday, June 23, 2018 at 10:00 am in the Tenaya Lodge of Fish Camp.”<sup>8</sup>*

One would expect to see a Proposition 218 Protest Form with this mailing. It was not included with the mailing, and only one homeowner protested. A homeowner described the protest vote as follows:

*“but let me be very clear, there has never been a letter put out by the board in regards to taking out a loan, selling the Enterprise, or homeowners input towards the conveyance.... There was absolutely no discussion even in their proposed budget about taking out such a loan or even a conveyance in mind in that letter. It simply does not exist.”*

This deception is seen when a board member claims, in a letter to YACSD members that what YACSD is conveying is not their water system, and assets but rather their “net water revenues.”<sup>9</sup> The same board member said “is it (sic) easier to get funding for infrastructure than for legal

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<sup>8</sup> Late February 2018 Communication from YACSD

<sup>9</sup> 7/12/18 Email to YACSD members.

bills.”<sup>10</sup> This may be the reason legal expenses are referred to as “the project” in the conveyance agreement; they are being disguised as infrastructure.

“A conveyance must be acknowledged before a notary and recorded with the county recorder, or Recorder of Deeds.”<sup>11</sup> The Grand Jury found no evidence of a deed between Umpqua Bank and YACSD at the Mariposa County Recorder’s Office.

A former Director wrote,

*“The district’s legal counsel has advised the Board that California law does not require the initiation or settlement of litigation to be submitted to a vote of registered voters or property owners. That power is vested in the District’s Board.”*

In sworn testimony before the Grand Jury, a director claimed the loan officer from Umpqua Bank said they were not selling their assets. Two knowledgeable YACSD property-owners spoke with an Umpqua Bank representative and were told that the bank owns the "enterprise" until the repurchase contract is fulfilled. YACSD’s independent auditor agrees that Umpqua Bank does, in fact, own the water system. They describe the conveyance and repurchase as follows:

*“The district entered into a conveyance agreement with Umpqua Bank where the district sold the Enterprise to the bank. At the same time the district entered into a capital lease whereby the district would lease back said enterprise from Umpqua Bank over 15 years after which the District would regain ownership to said enterprise.”<sup>12</sup>*

We find further evidence of concealment in YACSD’s finances. The State of California requires openness, and transparency by requiring special districts to submit Financial Transaction Reports (FTR).<sup>13</sup> YACSD has posted on their website an independent audit through 2018-2019.

Required financial reports have not been filed with the State Controller since 2017.<sup>14</sup> The CPA who conducted the 2018-2019 audit for YACSD writes:

*“The District has not presented Management’s Discussion and Analysis or budgetary comparison information that accounting principles generally accepted in the United States of America require be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of*

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<sup>10</sup> Board Minutes August 11, 2018

<sup>11</sup> <https://legal-dictionary.thefreedictionary.com/Conveyance>

<sup>12</sup> <https://yosemitealpinecsd.specialdistrict.org/files/53d6d1ef0/2018-2019+Audit+Report.pdf>

<sup>13</sup> Government Code §53890, §61118(b)

<sup>14</sup> <https://bythenumbers.sco.ca.gov/Special-Districts/Special-Districts-Who-Failed-to-File-FTRs-for-FY-2/rbwh-942r/data>

## Mariposa County 2020-2021 Grand Jury Report

*financial reporting for placing the financial statements in an appropriate operational, economic, or historical context.”<sup>15</sup>*

In a letter to a YACSD property owner, the Executive Director of the California Debt and Investment Advisory Commission (CDIAC) wrote,

*“As of January 23, 2019, we have not received a Report of Proposed Debt Issuance or a Report of Final Sale from YACSD as required under California Government Code Section 8855.”<sup>16</sup>*

### **YACSD BYLAWS:**

Interviews with BOD members revealed a few concerns.

YACSD was only able to fill four of the required five board positions due to qualification requirements, and lack of interest. Staffing of key positions, such as general manager and treasurer does not adhere to the legal requirement that they be independent from the BOD (CA Government code 61040, and SB35).

Because of the small size of their district, the BOD has chosen to either modify, or ignore various California laws regarding special districts.

The Bylaws state that candidates for the office of Director shall reside within the boundaries of YACSD. Board members choose to define “reside” very loosely. Only one of the four directors is currently domiciled in YAV. California election code §2020-2035 sets rules for the determination of residence and domicile. Section 2031 states, “...there shall be a rebuttable presumption that the residence subject to the homeowner’s property tax exemption is that person’s domicile.” There are only thirteen Mariposa County registered voters in YACSD. Of these, only two couples are full-time residents. One of these couples has their house for sale and the other couple has one spouse already serving as a director. Another director has stated they will not be running for re-election in 2023.

YACSD’s bylaws, and state law require that a candidate for Director be a registered voter in the county, in order to serve on the board.” At least one director, who lives in another county but registers to vote in Mariposa County, stated that their sole purpose of doing so was to meet the qualifying requirements to serve as a director.

Due to potential conflicts of interest, state law requires that the general manager be independent from the BOD. The district is so small, it is unable to fill all five director seats, or the positions of general manager, district treasurer and secretary and with a budget of under \$50,000, YACSD

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<sup>15</sup> Yosemite Alpine Community Services District Financial Statements Audit Report June 30, 2018 and June 30, 2019.

<sup>16</sup> Letter from California Debt and Investment Advisory Commission Executive Director, Jan 23, 2019.

<sup>17</sup> Code 61040 (b)

finds it impossible to comply with state requirements, because they cannot afford to pay an employee.

Finally, board members failed to complete the mandatory biannual ethics training.

**FINDINGS:**

- F1. YACSD infrastructure is 50 years old and needs to be replaced. The quantity of water the wells were producing was far less than what the district claimed.
- F2. Offers from SilverTip developers that included installing new wells, and infrastructure to provide high quality water were rejected by YACSD BOD.
- F3. The YASCD BOD is understaffed.
- F4. There is a lack of transparency between the board of directors and homeowners, specifically regarding the litigation and proposed settlements with SilverTip developers.
- F5. YACSD Directors have left the district saddled with a \$514,000 obligation to repurchase their aging water system from Umpqua Bank.
- F6. There have been numerous allegations of California Proposition 26, California Proposition 218, Government Code §1090, and Brown Act violations by YACSD Directors, especially in relation to the Conveyance Agreement and Installment Purchase Contract.
- F7. Ethics training is required every two years in accordance with AB1234. According to the YACSD website, all board members are overdue in attending this mandatory training.
- F8. For fiscal years 2018-2019 and 2019-2020, YACSD is the only entity within Mariposa County on the State Controller’s “Failure to File” list for Financial Transactions Report (FTR).<sup>18</sup>

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<sup>18</sup> <https://bythenumbers.sco.ca.gov/Special-Districts/Special-Districts-Who-Failed-to-File-FTRs-for-FY-2/rbwh-942r/data>

## Mariposa County 2020-2021 Grand Jury Report

- F9. If built as planned, the SilverTip resort would have increased the number of overnight lodging units and therefore, the county's TOT.<sup>19</sup>
- F10. The EIR reports regarding water quality, and quantity found SilverTip wells would be drawing water from a source isolated from YACSD wells. Likewise, according to analysis, treated effluent from SilverTip would not contaminate YACSD wells.
- F11. MCCGJ believes there have been Brown Act violations by the YACSD BOD.
- F12. Comprehensive water testing has not been done since 2002.
- F13. YACSD bylaws state that they do not follow the letter of the law.<sup>20</sup>
- F14. YACSD is so small that they are unable to staff all positions, as required by state law.<sup>21</sup>
- F15. The district's bookkeeping, and confidential records are kept on a personal computer belonging to a board member and there was no evidence of any back-up.
- F16. The current District 5 Board Supervisor has never been invited to, nor attended a YACSD meeting.

### RECOMMENDATIONS:

- R1. The MCCGJ recommends the State Auditor establish a high-risk local government agency audit in accordance with [Government Code §8546.10](#).<sup>22</sup> County Auditor should determine the need for a state audit within 90 days of the publication of this report.
- R2. The MCCGJ recommends the District Attorney investigate allegations of Proposition 218 violations by YACSD Board members with regard to the conveyance agreement, and installment purchase contract within 90 days of the publication of this report.
- R3. The MCCGJ recommends the District Attorney investigate allegations of Proposition 26 violations by YACSD Board members involved in the Conveyance Agreement and Installment Purchase Contract, within 90 days of the publication of this report.

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<sup>19</sup> California Regional Water Quality Control Board Central Valley Region Order No. R5-2007-0140 Waste Discharge Requirements for PacificUS Real Estate Group SilverTip Resort Village Wastewater Treatment Facility Mariposa County pg. 3-4.

<sup>20</sup> Bylaws, Appendix B,

<https://yosemitealpinecsd.specialdistrict.org/files/afe25b3b5/YACSD+BYLAWS+Accepted+Rev07Sep2015.pdf>

<sup>21</sup> Government Code 61043 and 61040 (e)

<sup>22</sup> <https://codes.findlaw.com/ca/government-code/gov-sect-8546-10.html>

## Mariposa County 2020-2021 Grand Jury Report

- R4. The MCCGJ recommends the District Attorney investigate allegations of Brown Act violations by YACSD Directors serving between July 2001, and 2018 within 90 days of the publication of this report.
- R5. The MCCGJ recommends [AB1234 mandatory ethics training](#) be completed by all YACSD board members within 90 days of the publication of this report.<sup>23</sup>
- R6. The MCCGJ recommends that the YACSD review, and revise the district's bylaws to improve the management actions and allow for more property owners to participate in the district's functions within 90 days of the publication of this report.
- R7. The MCCGJ recommends that the county controller determine if the state controller should appoint a qualified accountant to make an investigation and to obtain the information required in accordance with [Government Code § 12464 \(a\)](#), within 90 days of the publication of this report.
- R8. The MCCGJ recommends that all YACSD board members obtain the [Certificate in Special District Governance](#) within 180 days of the publication of this report.<sup>24</sup>
- R9. The MCCGJ recommends district records be backed up digitally on an appropriate device, or in the cloud within 90 days of the publication of this report.
- R10. The MCCGJ recommends that YACSD invite the District 5 Supervisor to their board meetings.

***The current Mariposa County Civil Grand Jury respectfully requests that the 2021-2022 Grand Jury follow up on the Yosemite Alpine Community Special District investigation by completing a continuity report.***

Pursuant to Penal Code sections §933, and §933.05, the Grand Jury requires a response from the following governing bodies within 90 days of the publication of this report:

### **REQUESTED RESPONSES:**

Mariposa County District Attorney: R2, R3, R4

### **INVITED RESPONSES:**

YASCD Board of Directors: R5, R6, R8, R9, R10

Mariposa County Auditor / Controller: R1, R7

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<sup>23</sup> <https://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html>

<sup>24</sup> <https://www.sdlf.org/programs/governance>

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[Yosemite Alpine Community Services District Bylaws](#)

**APPENDIX:**

**YACSD BYLAWS:**

<https://yosemitealpinecsd.specialdistrict.org/files/afe25b3b5/YACSD+BYLAWS+Accepted+Rev07Sep2015.pdf>

**DEFINITIONS:**

**The Brown Act:** California state legislation which requires local government business to be conducted at open and public meetings, except in certain limited situations.

**CEQA:** The California Environmental Quality Act (CEQA) requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects. Agencies must determine if these impacts will be significant, and identify alternatives and mitigation measures that will substantially reduce or eliminate significant impacts on the environment<sup>25</sup>

**Conveyance:** A generic term for any written document which transfers (conveys) real estate property or real property interests from one part to another. A conveyance must be acknowledged before a notary (or if a court judgement be certified as the same as the document on file) and recorded with the County Recorder or Recorder of Deeds.<sup>26</sup>

**CSD:** A Community Services District (CSD) is a special district that provides multiple services.<sup>27</sup>

**Easement:** A right to cross or otherwise use someone else's land for a specified purpose.

**EIR:** An Environmental Impact Report (EIR) is the highest level of environmental review document pursuant to California Environmental Quality Act (CEQA). This is required if the project may cause adverse environmental impacts. "An EIR contains in-depth studies of potential impacts, measures to reduce or avoid those impacts, and an analysis of alternatives to the project."<sup>28</sup>

**Enterprise:** "Enterprise means the District's water system, including all facilities, works, properties and structures of the District for the treatment, transmission and distribution of potable and non-potable water, including all contractual rights to water supplies, transmission capacity

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<sup>25</sup> <https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA>

<sup>26</sup> <https://legal-dictionary.thefreedictionary.com/Conveyance>

<sup>27</sup> Community Needs, Community Services: A Legislative History of SB 135 (Kehoe) and the "Community Services District Law" found at <https://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/CNCSReport.pdf>

See also: Government Code §61000

<sup>28</sup> <https://opr.ca.gov/ceqa/>

supply, easements, rights-of-way and other works, property or structures necessary or convenient for such facilities, together with all additions, betterments, extension and improvements to such facilities or any part thereof hereafter acquired or constructed (but for purposes of this Agreement only to the extent the components of the Enterprise may be legally transferred by the District).”<sup>29</sup>

**LaFCo:** “The Local Agency Formation Commission, also known as ‘LAFCo,’ is a regulatory agency with county-wide jurisdiction, established by state law to discourage urban sprawl and encourage orderly and efficient provision of services, such as water, sewer, and fire protection. ... Mariposa County LAFCo is an independent, state-mandated agency and is not a County department.”<sup>30</sup>

**Latent Power:** “Latent power” means those services and facilities authorized by Part 3 (commencing

with Section 61100) that the local agency formation commission has determined, pursuant to subdivision (h) of Section 56425, that a district did not provide prior to January 1, 2006.

The powers which a district is authorized to use but does not currently employ are called latent powers. Special districts can usually enact latent powers by vote of the district board. In some cases, however, district voters must approve new powers.

**Negative Declaration:** “A written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report.”<sup>31</sup>

**The Project:** This was found to be a rather amorphous term. It is used twice in the Conveyance Agreement between Umpqua Bank and YACSD:

“WHEREAS, the District and the Lender desire to provide funds to certain legal costs and expenses of the District for the benefit of the District (**the “Project”**), to be repaid by installment purchase payments to be made by the District, as purchaser of the Enterprise (as defined in the Installment Purchase Contract), ... .” “The District hereby agrees to cooperate and provide further assurances to the Lender in order to accomplish the purposes of this Conveyance Agreement. The District hereby agrees to indemnify and hold the Lender harmless against any and all claims, losses, costs or damages as a result of the District’s conveyance of the Enterprise to the Lender as provided herein, or the financing of **the Project**.”<sup>32</sup>

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<sup>29</sup> Installment Purchase Contract between the Yosemite Alpine Community Services District and Umpqua Bank. September 1, 2018, pg. 3

<sup>30</sup> <https://www.mariposacounty.org/121/Local-Agency-Formation-Commission-LAFCo>

<sup>31</sup> <https://www.lawinsider.com/dictionary/negative-declaration>

<sup>32</sup> The Conveyance Agreement between Yosemite Alpine Community Service District and Umpqua Bank, Section 2.

**Proposition 218:** “Proposition 218 requires voter or property-owner approval for local taxes, assessments and fees, except for property-related water, sewer and waste management fees, and sets up procedures to carry out these elections. Prop 218 was in response to local governments’ reliance on fees and assessments as a result of Proposition 13.”<sup>33</sup>

**Special District:** “A Special District is a separate local government that delivers public services to a particular area.”<sup>34</sup>

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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<sup>33</sup> Understanding Proposition 218 (December 1996), Legislative Analyst’s Office. [CSDA Guide to Special District’s Laws and Related Codes](#)

<sup>34</sup> [What’s so Special About Special Districts?](#) Mimia Mizany and April Manatt, pg. 4.  
<https://www.napa.lafco.ca.gov/uploads/documents/specdist.pdf>