

# GRAND JURY 2015-2016



From left to right back row: Larry Fishel, Rita Estrada, Don Costa, Norma Beyerbach, David Escarsega, Deidra Vance, Myron Rounsfull, Bonnie Paulli, John Hobbs, Reba Grissom, David Rusnock, Nancy Souza, Ron White, Lori Combs, Gene Russ.

Kneeling: Chuck White (**Foreman**)



Lindell Yoshimura  
(Absent the day of the picture)



Lotie Chavez  
(Absent the day of the picture)

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## LETTER FROM THE FOREMAN



**TULARE COUNTY GRAND JURY**  
**5963 South Mooney Boulevard**  
**Visalia, CA 93277**  
**Phone: (559) 624-7295; Fax (559) 733-6078**

Honorable Judge Hillman  
Presiding Judge of the Superior Court  
State of California  
County of Tulare

Judge Hillman :

As you realize, better than any of us, the Tulare Grand Jury is a very valuable tool to the government of Tulare County and the governments within the County. Pursuant to Penal Code §933, the 2015-2016 the Tulare County Grand Jury present this final report of the Grand Jury to the Court and to the citizens of Tulare County. This report completes the work of the members who served on the Grand Jury for the past year.

These documents are a result from nineteen people from diverse backgrounds working together to achieve a common goal. On July 1, 2015, the jury was sworn in and immediately started working on complaints. They immediately accept their responsibilities as jurors and started their investigations.

I would like to thank Jean Rousseau for his contribution, to the Grand Jury, I will miss him, but I am sure the new Grand Jury is looking forward to working with the new County Administrative Officer, Michael Spata.

On behalf of the Grand Jury, I want to convey our gratitude to Annette Jones for without her we would be lost in some of the things we do, but she guides us in the right direction and keeps us all on track. She has no idea how much she helped me in my daily routines. Thanks Annette from me and the rest of the Grand Jury.

I would like to thank the Tulare Grand Jury that I worked with in 2015-2016. I have never seen 19 people with different views getting along as well as they did. They worked very professional together; you would think they have been working with each other for years, for without their hard work there would be no Grand Jury report. I would like to thank all of you from the bottom of my heart and I hope to work with you again in the future.

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I would like to give a special thanks to John Hobbs and Myron Rounsfull for all the extra time and commitment that they gave me on working on reports and early press releases.

I would also like to give my great appreciation to Nancy Souza, Chairperson of the Justice Committee and Sheriff Boudreaux for all the hard work done on the Justice Committee. Sheriff Boudreaux worked closely with us on many complaints that the Justice Committee received this year. Tulare County could not have a better Sheriff then Sheriff Boudreaux; he is one great guy and our citizens are lucky to have him.

There is one more person I would like to thank and that is Ellen Kennedy, Court Executive Secretary at the Tulare County Superior Court. For two years now I have called her the wrong name and I don't know why, but she would help me even when I called her Elaine and not say a word. I thank her for all the help she has always given me. (THANKS ELLEN) Wow, I got it right.

Respectfully,



Chuck White, Foreman  
2014-2016 Tulare County Grand Jury



# LETTER FROM THE JUDGES



## Superior Court of the State of California

LaRayne Cleek  
Court Executive Officer/  
Jury Commissioner

COUNTY OF TULARE  
ADMINISTRATION  
221 S. Mooney Blvd., Room 303  
Visalia, California 93291  
Telephone: (559) 730-5000  
Facsimile: (559) 737-4290

Michelle S. Martinez  
Assistant Court Executive Office

### JUDGE'S COMMENTS

On behalf of the entire bench of the Tulare County Superior Court we want to sincerely thank the 2015-2016 Grand Jury for all the work they have performed on behalf of the citizens of Tulare County. Once again another Grand Jury's term has been completed.

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

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

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



Gary L. Paden  
Presiding Judge

Bret D. Hillman  
Assistant Presiding Judge

## **GRAND JURY RESPONSE REPORT 2014-2015 COMPLIANCE REVIEW**

### **BACKGROUND**

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

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

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

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

### **METHODS OF INVESTIGATION**

1. Received and reviewed returned responses to the 2014-2015 Grand Jury Final Reports
2. Reviewed relevant California Government and Penal Codes
3. Compiled statistics regarding the responses

### **FACTS**

1. There were nineteen specific reports contained in the Grand Jury's 2014-2015 Final Report.

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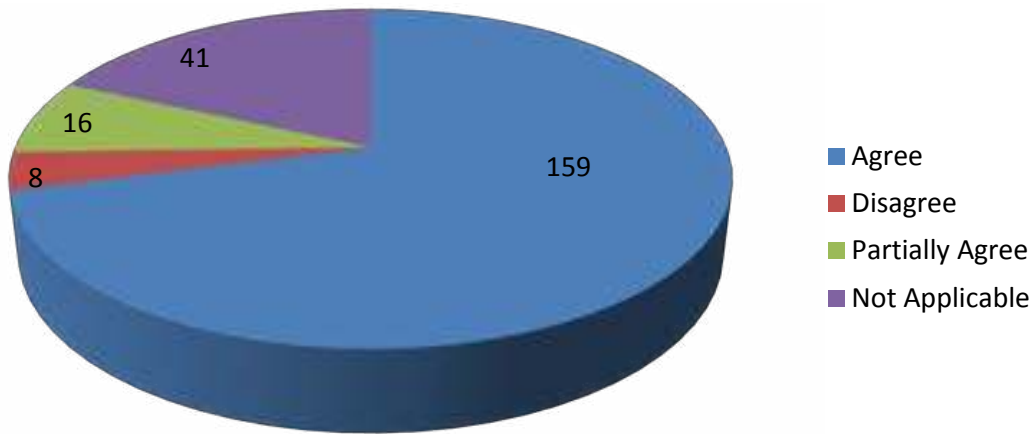
# TULARE COUNTY GRAND JURY REPORT 2015-2016

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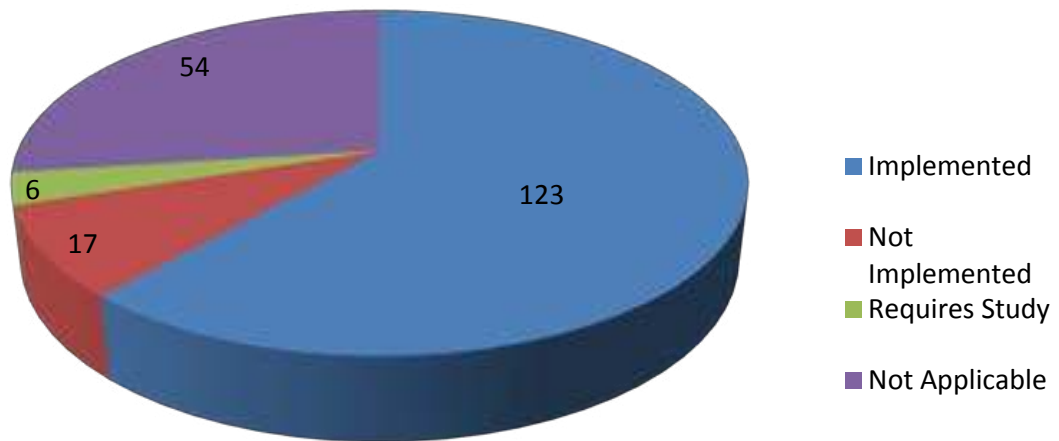
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2. There were 224 findings and 200 recommendations within the 2014-2015 Final Report.
3. The following diagrams indicate: a) the numbers of concurrence with or, disagreement to the findings; and, b) implementation or non-implementation of recommendations made to the responding entities.
4. The following graphs depict findings of the Grand Jury and responses received as a result of the 2014-2015 Final Report.

## 2014-2015 Findings



## 2014-2015 Responses



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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## **FINDINGS**

Instructions are provided to all entities to which responses are required. Not all entities responded by the specified due date. However, with subsequent requests to do so, all entities eventually responded. All entities responding to a report must do so in accordance with California Penal Code §933.05.

At the conclusion of each report compiled by the Grand Jury there is a section entitled “Required Responses.” In this section appear the names of the departments, agencies and/or elected officials whom the Grand Jury determines should address the issues detailed in the report. In many instances where the Board of Supervisors is named as a “Respondent,” the response will be that the matter or agency delineated in the report “is not within the purview of the Board of Supervisors” and, therefore, no response is forthcoming. Inasmuch as the Board of Supervisors ultimately holds the “power of the purse” (i.e. determines how much in the way of financial resources will be allocated to the agency, department or office) over all entities within the scope of county government, the “not within the purview of” seems to sidestep the Board of Supervisors’ inherent authority as well as avoid the assumption of responsibility.

## **RESPONSES**

2014-2015 Responses and the 2014-2015 Final Report may be found on the Tulare County Grand Jury Website: <http://tularecounty.ca.gov/grandjury>

2015-2016 Responses and the 2015-2016 Final Report may also be found on the Tulare County Grand Jury Website: <http://tularecounty.ca.gov/grandjury>

## **NIGHTMARE IN LINDSAY**

### **BACKGROUND:**

The City of Lindsay is located southeast of Visalia and north of Porterville within Tulare County and is considered part of both the Visalia-Porterville Metropolitan Area and the Porterville Urban Area by the United States Census Bureau. The population was reported at 11,768 in the 2010 census and was estimated in 2014 to be 13,192. Lindsay is a charter city with a council-manager form of government.

Before establishment of the community, the Yandanche tribe of Native Americans came to hunt and fish at the site for centuries. John C. Fremont, an American military officer, explorer, and politician, passed through the area on four of his exploration trips. Fremont would later become the Military Governor of California (1846).

Captain Arthur Hutchinson moved to California for health reasons in 1889 and purchased 2,000 acres of land in what would later be the Lindsay area. Shortly thereafter, the Southern Pacific Railroad established a route through the area. This spurred Hutchinson to lay out and develop the Lindsay townsite, named after his wife, Sadie Lindsay Patton Hutchinson. The community grew and was incorporated as a city on February 28, 1910.

### **REASON FOR INVESTIGATION:**

The 2015-2016 Tulare County Grand Jury received complaints alleging Open Meeting (Brown Act) violations and criminal wrongdoing involving quid-pro-quo dealings by the City of Lindsay. The Grand Jury found the Brown Act violations were difficult to substantiate. The Grand Jury was concerned, however, with the appearance of civil impropriety occurring within the Lindsay city government as these complaints were investigated. The Grand Jury elected to inquire further into the public affairs of the City.

### **METHOD OF INVESTIGATION:**

The Tulare County Grand Jury initially started the investigation by interviewing the complainants. Afterward, other witnesses familiar with different aspects of the issues were interviewed.

The Grand Jury obtained and reviewed written information from various sources, including but not limited to public media and applicable official city documents. Sworn statements and transcripts were also examined.

### **FACTS:**

1. After the resignation of Lindsay's city manager in November of 2010, the then current Police Chief was appointed as the city manager, thus combining the two positions.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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2. The District Attorney conducted an investigation of Open Meeting (Brown Act) violations by the Lindsay City Council.
3. On at least two (2) occasions, no more than two (2) council members met in unofficial meetings at private residences to discuss employee union matters. In no known cases, however, was a quorum present.
4. A court document and witness statements alleged there was a flagrant misallocation by a city official of directing their employees to perform personal services outside the city's jurisdiction on city time.
5. In the complaints, there were allegations of misconduct (e.g., collusion, cronyism, nepotism, harassment, etc.) by various city officials.
6. The city reached high-cost employment severance settlements (in excess of \$400,000) with a number of employees over the issue of termination.
7. The city council imposed employee furloughs, claiming financial constraints.

## **FINDINGS:**

- F1. The Grand Jury determined the combining of the office of city manager and police chief positions critically weakened the checks-and-balances with regards to personnel issues. This eliminated the division of authority to more than one person and position.
- F2. A number of costly employee settlements resulted from the aforementioned combination of these two positions.
- F3. The Grand Jury determined that the lack of meaningful evidence made allegations of Brown Act violations difficult to substantiate.
- F4. Some City council members were involved in discussions over union issues at private residences and outside the parameters of established procedures.
- F5. The cost of the employee settlements contributed to the city's poor financial condition and the necessity to impose employee furloughs.

## **RECOMMENDATIONS:**

- R1. Lindsay City Council members should thoroughly familiarize themselves with open meeting laws (Brown Act) and generally acceptable procedures for conducting municipal business.
- R2. The Lindsay City Council should be more deliberative when considering the combining of key managerial positions.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## REQUIRED RESPONSES:

Lindsay City Council

### **Disclaimer**

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

## **SMOKE BUT NO FIRE TULARE COUNTY FIRE DEPARTMENT**

### **BACKGROUND:**

Prior to 2007, county fire protection was provided by CALFire via contract with the County. However, due to CALFire's proposed increase in firehouse staffing as well as significant State negotiated salary increases, the County chose to discontinue a partnership with CALFire and instead establish a county fire department to better control costs and services. The Tulare County Fire Department has been operational for ten years and has received an annual budget through the County budget process which is approved by the Board of Supervisors.

### **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury received a citizen's complaint on October 17, 2015. The complaint alleged unwarranted increased operational costs for fire protection as well as ineffective management of the Tulare County Fire Department, resulting in low volunteer morale and decreased volunteerism.

### **METHOD OF INVESTIGATION:**

The complainant and Tulare County Fire Department staff members were interviewed. Pertinent contracts and documents were reviewed. The Grand Jury conducted a ten-year operational and fiscal analysis. A comparison of available Extra Help Firefighters by fiscal year was reviewed.

### **FACTS:**

1. Operational costs for the Tulare County Fire Department have increased an average of 3.25% per year over the last ten years.
2. In the nine (9) year period reviewed (2007 through 2015), the number of Extra Help (volunteer) enrolled ranged from high of 425 to the current low of 328.
3. Overall, the number of active Extra Help (volunteer) firefighters making themselves available to the Tulare County Fire Department has decreased.
4. Overall, the number of Extra Help (volunteer) firefighters responding to emergency calls has decreased.
5. Training requirements for new Extra Help (volunteer) firefighters has increased from 84 hours in 2004 to 140 hours in 2015. This is due to new regulations and developmental training.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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6. Specific management decisions identified by the complainant were investigated by the Grand Jury.
7. It was reported to the Grand Jury that the Insurance Service Office (ISO) upgraded Tulare County Fire Department from an overall rating of 8/8Y to 4/4Y in its most recent fire department ratings.

## **FINDINGS:**

- F1. A ten year increase of approximately 3.25% annually in operational costs is well within reasonable expectation.
- F2. Increased training requirements for current Extra Help (volunteer) firefighters have served to discourage volunteerism.
- F3. The Tulare County Fire Department has demonstrated concern for the decrease in volunteerism by implementing a pilot program to increase regular staffing at specific stations.
- F4. The decrease in the number of Extra Help (volunteer) firefighters responding to incidents has not had an appreciable effect on services rendered.

## **RECOMMENDATIONS:**

- R1. Aggressive efforts be implemented and monitored to recruit Extra Help (volunteer) Firefighters.
- R2. Continue and increase efforts with respect to staffing the fire stations.

## **REQUIRED RESPONSES:**

1. Tulare County Fire Chief
2. Tulare County Board of Supervisors

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## SYNOPSIS

### **Complaint 15/16 #2**

On July 6, 2015, the Tulare County Grand Jury received a complaint stating that Family Health Care Network was referring poor needy dental patients to other non-profit agencies causing the patient higher costs and higher profits for Family Health Care Network.

After inquires with various county agencies, a determination was made that County dental contracts with Family Health Care Network were on a very restricted basis and were controlled by the Federal Government and overseen by the State.

The Tulare County Grand Jury invited the complainant to testify. Subsequently, information which confirmed the aforementioned restrictions and oversight were received. The Grand Jury contacted the complainant by telephone and e-mail on September 18, 2015 informing him the complaint was to be closed. The complaint was officially closed on September 25, 2015.

### **Complaint 15/16 #6**

The Tulare County Grand Jury received a complaint on July 6, 2015, from a citizen alleging wrong doing by three city council members, including violations of the Brown Act and moral turpitude. After interviewing the complainant, it was determined that the elements of the complaint were also included in another complaint. The committee decided to combine the two complaints.

### **Complaint 15/16 #25**

The Tulare County Grand Jury received a complaint on November 20, 2015, from an employee in a Tulare County Department requesting that the Grand Jury look into the hours of operation. After an interview with the complainant, the Grand Jury determined it had no jurisdiction in this matter. The complaint was officially closed on December 4, 2015.

### **Complaint 15/16 #30**

The Tulare County Grand Jury received a citizen's complaint on January 22, 2016, alleging a local fire department failed to properly investigate a structural fire. Following multiple interviews and review of requested departmental documents, the Grand Jury determined appropriate actions to have taken place and no further investigation was warranted. The complaint was officially closed on March 18, 2016.

### **Complaint 15/16 #33**

The Tulare County Grand Jury received a citizen's complaint on March 22, 2016. The complaint made reference to the fact that several County officials recorded "promotional spots" for a local radio station. The complainant was interviewed and research was conducted as to the legality of such activity. In light of the fact that the County officials were not compensated for the activity, the Grand Jury determined that it was neither illegal nor improper for County officials to engage in such activity. The complaint was closed on May 20, 2016.

## **FARMERSVILLE SCHOOL ISSUES**

### **BACKGROUND:**

The Tulare County Grand Jury is tasked with oversight of public agencies, including schools. This oversight includes monitoring compliance with laws such as California's Ralph M. Brown Act, Government Code section §54950 et. seq. (Brown Act), which requires meetings and actions of governing bodies of local government agencies and subsidiary bodies created to be open and public. It was intended that the Brown Act implement a strong public policy. This policy ensures the public's right to attend and participate in the meetings of local governmental agencies.

In addition to compliance with laws, the Grand Jury monitors the efficiency and appropriate management of public entities which include the manner in which they respond to their client base and fiscal decisions enacted by elected bodies.

Each school district is governed by an elected Board of Trustees (Board). The Board for each district contracts with a superintendent to execute all Board policies and to manage the academic and administrative staffs. The superintendent interviews potential employees and presents recommendations for hiring to the Board. Each superintendent periodically evaluates employees of the district and serves as the district's representative to all collective bargaining matters. The district superintendent typically acts as Secretary of the Board and represents the district to the community and various agencies. School superintendents are evaluated periodically by the district's Board.

The Farmersville School District (District) has six (6) schools, utilizing 119 certified and 89 classified personnel serving a 2,578 student population in Grades K-12. The revenue limit per Average Daily Attendance (ADA) is approximately \$6,000 per year for each student. The District board meetings are conducted the second and fourth Tuesday of each month.

### **REASON FOR INVESTIGATION:**

The 2015-2016 Tulare County Grand Jury received a complaint from a citizen alleging excessive and/or improper spending on the part of the Farmersville Unified School District Board, as well as illegal hiring and inappropriate conduct during board meetings. The complainant further alleged that the bond oversight committee had not been conducting meetings.

### **METHOD OF INVESTIGATION:**

The Grand Jury attended District Board meetings and interviewed witnesses. Requested District documents were also reviewed. This report is not intended to represent an in-depth analysis of the school district but a review of the manner in which the board is functioning.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## **FACTS:**

1. Numerous credit cards were issued to employees and Board Members of the District.
2. The previous superintendent recalled a majority of the credit cards.
3. District policy for mode of travel states, "The most expedient and cost effective manner of traveling should be used."
4. District policy for food purchased must be outside of the 50 mile radius of the District.
5. The current Superintendent has been placed on paid administrative leave pending investigation. A previous Superintendent has been hired as an interim consultant/Superintendent.
6. A longstanding board member resigned during their term.
7. A staff development meeting was held off site.
8. The Bond/Citizen's Oversight Committee meets to oversee the expenditures of the \$4.8 Million General Obligation bond.

## **FINDINGS:**

- F1. The number of credit cards has been significantly reduced.
- F2. Credit cards have been used without an approved purchase order.
- F3. Staff and board conferences were frequent and expensive. Their preferred method of travel included numerous commercial airline flights.
- F4. Contrary to established policy, food was purchased for local meetings.
- F5. Two Superintendents are being paid at the same time.
- F6. A resigned board member had not been replaced at time of this report.
- F7. An off-site staff development meeting cost in excess of \$4,000.
- F8. The Bond/Citizen's Oversight Committee meets approximately every other month.

## **RECOMMENDATIONS:**

- R1. That the District follow the Tulare County Office of Education purchase order process.
- R2. District Policies regarding travel expenses should be followed.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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R3. Teleconferences and/or webinars should be utilized whenever available.

## **REQUIRED RESPONSES:**

1. Farmersville Unified School District
2. Tulare County Office of Education

### **Disclaimer**

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## SYNOPSIS

### **Complaint 15/16 #11& 15/16 #12**

The Tulare County Grand Jury received two complaints on August 7, 2015, alleging a Brown Act violation by a local school district board of trustees. Specifically, the complaints alleged the board conducted an illegal secret ballot. The Grand Jury interviewed the complainants, thereby securing additional information. During the Grand Jury investigation, the subject school district publicly announced plans to rescind their action. The district held a publicly announced meeting at which previously questioned votes were rescinded and a new public vote was taken. The complaints were officially closed September 19, 2015.

### **Complaint 15/16 #18**

The Tulare County Grand Jury received a citizen's complaint on September 14, 2015, alleging a Brown Act violation by a school district board. As part of the investigation, members of the Grand Jury went to board meetings and found no agendas posted. Inquiries were made regarding the location and time of the meetings. At this point the Grand Jury determined the Brown Act appears to have been violated. After further investigation and interviews, it was found the complainant's issue had been resolved. The complaint was officially closed January 8, 2016.

### **Complaint 15-16 #27**

The Tulare County Grand Jury received a complaint on December 29, 2015, authored by a complainant who alleged work practices by non US citizens, abuse of county government funds, and Veterans Board of Directors did not include enough veterans on the board of a Veterans Memorial District. The complaint further alleged that government funds were not being used properly and the manager was not a veteran. The Grand Jury conducted interviews, attended a meeting, and reviewed documentation. During the investigation no violations were found. The complaint was officially closed February 19, 2016.

### **Complaint 15/16 #31**

The Tulare County Grand Jury received a citizen's complaint on February 26, 2016, alleging a Brown Act violation by a school district sub-committee board. As part of the investigation, the Grand Jury found online agendas posted only. Inquiries were made regarding the location and time of the meetings. At this point the Grand Jury determined the Brown Act appears to have been violated. After further interviews, it was found the complainant's issue had been resolved. The complaint was officially closed March 18, 2016.

### **Complaint 15/16 #37**

The Tulare County Grand Jury received a citizen's complaint on April 21, 2016, alleging a Brown Act violation by a school district board. The Grand Jury interviewed the complainant and a board member and determined there was no Brown Act violation. The complaint was officially closed May 13, 2016.

## **HOMELESS, HOPELESS AND HELPED LESS**

### **BACKGROUND:**

The Tulare County Grand Jury initiated an investigation into the services available to the homeless in Tulare County. The goal of the Grand Jury was to determine what services are available to those individuals meeting specific criteria (i.e., dependent families with children, those suffering from chemical dependency, mental illness and single individuals).

### **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury set out to determine what resources are offered to the homeless; and if the resources are readily available.

### **METHOD OF INVESTIGATION:**

The Tulare County Grand Jury visited and interviewed employees of five different Tulare County Health and Human Services, Cal-Works offices. Information was requested and received regarding the guidelines to meet specific criteria to establish levels of services available to the homeless.

The Grand Jury interviewed numerous witnesses and attended a Tulare County Mental Health Services Board Meeting.

Members of the Grand Jury reviewed the application process for the services available to the needy and homeless.

### **FACTS:**

1. There are programs available to immediately house homeless families with children for up to sixteen days.
2. Assistance may be available to move homeless families with children into permanent housing.
3. There are temporary beds and shelters for the mentally ill who are homeless.
4. There are resources available for chemically dependent individuals.
5. There are programs available to provide permanent housing for the mentally ill who are homeless.
6. When employment has been verified, assistance may be available for a family to relocate.
7. A single homeless person may qualify to receive food and medical assistance.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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8. There are no programs available to provide housing of any kind to a childless, mentally competent and non-chemically dependent individual.
9. Most of the applications are lengthy and somewhat complicated, but county employees assist with completing the forms, if necessary.

## **FINDINGS:**

- F1. The Tulare County Grand Jury found Cal-Works employees to be helpful and knowledgeable about the resources that are available to homeless individuals in Tulare County.
- F2. Individuals who are not mentally ill or chemically dependent, and without children, are not eligible for any available housing programs.

## **RECOMMENDATIONS:**

- R1. Tulare County needs to establish programs to assist all homeless citizens including those who are childless, mentally competent and non-chemically dependent.

## **REQUIRED RESPONSES:**

1. Tulare County Board of Supervisors
2. Tulare County Chief Administrative Officer
3. Tulare County Health and Human Services

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## **THE AGING WAIT FOR ELDERLY HOUSING**

### **BACKGROUND:**

The 2010 United States Census documented a population of 442,179 in Tulare County. The census also reported that 9.4% of the population in the county were 65 years of age and older. In addition, the 2014 Small Area Income and Poverty Estimates were that 28.1 % of the population was living in poverty. Available housing was estimated to increase in 2014 by 0.9%; however, the population was estimated to increase by 3.6%. The lack of available housing is an increasing issue within Tulare County. Currently there are more than 14,000 applications for low cost housing according to the Housing Authority of the County of Tulare. With only 6,980 low cost housing units available, this puts the impoverished, disabled and elderly on a waiting list that moves very slowly.

### **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury initiated an investigation on October 17, 2015, into the availability of low cost housing for the elderly in Tulare County. The goal was to identify what housing programs were available; the process for applying; and, how long it takes an elderly individual to be housed.

### **METHOD OF INVESTIGATION:**

The Tulare County Grand Jury reviewed documents relative to available low-cost housing in Tulare County. Staff from the Housing Authority of the County of Tulare (HACT) was interviewed. Statistical information was provided by the HACT regarding available housing; the number of individuals on the waiting list; and, future plans for additional housing units.

### **FACTS:**

1. Immediate housing through Tulare County services for the elderly does not exist.
2. The elderly are included in the 14,000 pending applications for housing with the Housing Authority of the County of Tulare.
3. No special consideration is given to the homeless elderly individuals on the wait list.
4. The elderly have the longest wait time as they seldom vacate their assigned housing.
5. The income for the elderly generally doesn't fluctuate; therefore, they remain in their housing long term.
6. The Housing Authority of the County of Tulare routinely updates the housing wait list.

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# **TULARE COUNTY GRAND JURY REPORT 2015-2016**

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7. A five-year plan for housing availability has been developed by the Housing Authority of the County of Tulare.

## **FINDINGS:**

- F1. Due to increased longevity of the elderly, the chronic lack of housing for the elderly is only expected to rise.
- F2. The current policy for the wait list does not prioritize the need of housing for the elderly.
- F3. As life spans continue to increase, there will be a greater need for additional housing for the elderly.

## **RECOMMENDATIONS:**

- R1. Reconsider current policy criteria to give priority to meeting the needs of elderly in crisis.
- R2. The HACT advise the public of the current housing shortage and lack of availability for the elderly.
- R3. The HACT develop a recruitment process with property owners to secure additional elderly housing.

## **REQUIRED RESPONSES:**

1. Housing Authority of the County of Tulare

### **Disclaimer**

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## SYNOPSIS

### **Complaint 15/16 #22**

The Tulare County Grand Jury received a complaint on October 7, 2015, authored by an anonymous complainant who alleged nepotism and inappropriate hiring practices within the Tulare County Child Welfare Services Department. As part of the investigation, the hiring procedures for Child Welfare Services were reviewed. Additionally, management was interviewed regarding the department's hiring processes, how certification lists were developed, who set up the hiring panels and how candidates were selected. The Grand Jury determined that Human Services is responsible for the hiring process from start to finish and a single individual cannot hire anyone into a county job. The complaint was officially closed on November 13, 2015 as there was no evidence to substantiate the allegation.

### **Complaint 15/16 #26**

The Tulare County Grand Jury received a complaint on December 16, 2015, from a private citizen alleging a conspiracy plot by the Tulare County Sheriff's Department and the Resource Management Agency. The complaint alleged lack of due process of law via manipulation and an illegal abatement process in order to deprive the complainant of private property. The Grand Jury investigated the allegations through interviews and review of documents. The Grand Jury determined there was no conspiracy by either agency. The complaint was closed on February 26, 2016.

### **Complaint 15-16# 35**

The Tulare County Grand Jury received a complaint on April 6, 2016, authored by a complainant who stated he didn't want to go through a body scanner for fear of radiation. The complainant also alleges that that he was not informed of disciplinary action for refusing to go through the body scanner. Tulare County Grand Jury inspected the body scanner, interviewed the complainant and Tulare County Sheriff's Office staff and reviewed documentation. Recommendations regarding advisements were provided to the Sheriff's Office, who agreed to comply. The complaint was officially closed on May 20, 2016.

**TULARE COUNTY GRAND JURY REPORT 2015-2016**

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## **CAUGHT IN JAIL!**

### **BACKGROUND:**

The Tulare County Main Jail was built in the 1960's in a linear style with all cells in a row. It is a four story building with a fenced exercise yard on the fourth floor. The cell doors are mechanical and operated by an officer at a central location on each floor. Escorting of inmates requires the officers to continuously open and close the doors.

### **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury received a citizen's complaint on September 18, 2015, alleging an injury by a moving cell door and the lack of medical treatment provided within a timely manner at the Tulare County Main Jail.

### **METHOD OF INVESTIGATION:**

All correspondence received by the complainant was reviewed. Members of the Grand Jury visited the Main Jail on two separate occasions to observe the site where the injury was sustained. Complainant and Main Jail staff was interviewed. The complainant's requests for medical treatment were reviewed. The Inmate Orientation Handbook and inmate grievance processes were reviewed.

### **FACTS:**

1. Staff operating the cell doors cannot see the cell doors opening and closing from their central location.
2. The Tulare County Sheriff's Office has a procedure for medical requests.
3. The Tulare County Sheriff's Office has an inmate grievance process.
4. When booked into custody, inmates receive an Inmate Orientation Handbook describing processes and procedures.

### **FINDINGS:**

- F1. Cell doors are not visible to the staff operating the cell doors during operation.
- F2. The grievance process was followed as required.
- F3. Complainant was seen by medical staff in a timely manner.

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# **TULARE COUNTY GRAND JURY REPORT 2015-2016**

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F4. An Inmate Orientation Handbook is issued to each inmate at booking and additional copies may be requested as needed.

## **CONCLUSION:**

The Tulare County Grand Jury has investigated this complaint and finds safety measures should be initiated to warn the inmate population of possible injury from the cell door operation.

## **RECOMMENDATIONS:**

- R1. On duty custody staff to announce the closing and opening of cell doors prior to activation.
- R2. Safety mirrors be placed in each cell block corridor to improve visualization of the cell doors.
- R3. Warning signs regarding cell door operations to be posted in clear view of all inmates.
- R4. Warnings of cell door operations to be printed in the Inmate Orientation Handbook.

## **REQUIRED RESPONSES:**

- 1. The Tulare County Sheriff

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## **CAUSE AND EFFECT**

### **BACKGROUND:**

The Tulare County Grand Jury received a complaint on July 6, 2015, from a citizen alleging that he had been unlawfully tased and that his family had been harassed by the Tulare Police Department. He also alleged that he was falsely jailed and as a result, missed a civil court date.

Assembly Bill (AB) 109, Public Safety Realignment, was implemented in 2011 and shifted the supervision of non-violent, non-serious, non-sexual inmates on probation from the State to the various counties. As part of AB 109 and pursuant to Penal Code §3450, individuals on Post-Release Community Supervision (PRCS) are supervised by county probation officers. Individuals on PRCS are required to comply with all release conditions mandated by the court and are subject to revocation if not in compliance. At the time of the incident, it was determined the complainant was on probation. This knowledge gives law enforcement the legal right to detain and search.

### **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury investigates all citizen complaints which involve city and county agencies. The review of all police departments in Tulare County fall under the jurisdiction of the Grand Jury.

### **METHOD OF INVESTIGATION:**

The Tulare County Grand Jury reviewed all documentation. Interviews were conducted with the complainant, staff of the Tulare Police Department and Tulare County Probation Office.

### **FACTS:**

1. Any individual on PRCS, early release per AB-109, can be detained and searched by law enforcement.
2. Per PRCS, court mandated random drug testing is at the Probation Officer's discretion. However, the Tulare County Probation Office requires that high risk drug offenders be tested a minimum of every thirty (30) days.
3. Individuals on PRCS are responsible for notifying their Probation Officer of any address changes.
4. The complainant was homeless at the time of the incident.
5. Tulare Police Department has a written policy regarding the use of TASERS.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## **FINDINGS:**

- F1. The complainant was on PRCS at the time of the incident.
- F2. The complainant was classified as a high-risk, chronic drug user and was not drug tested when taken into custody.
- F3. Reasonable cause was present when complainant was stopped, searched and detained by law enforcement.
- F4. For individuals on PRCS and homeless, a new policy was implemented by the Tulare County Probation Office requiring GPS monitoring.
- F5. The Officer used the TASER within the guidelines of the Tulare Police Department policy.
- F6. The complainant's allegations against the Tulare Police Department were not substantiated.

## **RECOMMENDATIONS:**

- R1. The Tulare County Probation Office complies with the court mandated order for drug testing and the use of drugs.
- R2. The Tulare County Probation Office not deviate from its drug testing policy.

## **REQUIRED RESPONSES:**

- 1. Tulare County Probation Office

### **Disclaimer**

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## JUSTICE FOR ALL?

### **BACKGROUND:**

The Tulare County Grand Jury is a part of the California Superior Court and has the legal authority to conduct investigations into the affairs of County, City, and Special Districts under Penal Code (PC) §925 et seq. This authority is found primarily in statutes: PC §888-§940 and Government Code §3060 - §3075. Per PC §919(a): the grand jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted. Per PC §919(b): the grand jury shall inquire into the condition and management of the public prisons within the county. Per PC §919(c): the grand jury is authorized to inquire into the willful or corrupt misconduct in office of public officers of every description within the county.

### **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury received a complaint on July 6, 2015, from an inmate in a Tulare County Jail. The complaint alleged physical abuse by jail staff. The complaint involved several staff members employed by the Tulare County Sheriff's Department on duty at the time of this incident.

### **METHOD OF INVESTIGATION:**

The Tulare County Grand Jury began an investigation into this complaint by interviewing the complainant on two separate occasions. The Grand Jury reviewed numerous documents, videos and photographs. The Tulare County Sheriff's Department staff and Office of the Tulare County District Attorney staff were also interviewed.

### **FACTS:**

1. The evidence substantiated that the complainant was involved in an incident occurring in the Tulare County Jail.
2. The Sheriff's Department has video cameras in place in the jails for purposes of safety and documentation.
3. Sheriff's Department staff is routinely provided training in the appropriate use of force.
4. On December 16, 2014, (seven months prior to the grand jury receipt of the complaint), the Internal Affairs Division of the Sheriff's Department began an investigation of this incident.
5. On January 13, 2015, the Internal Affairs Division report on the incident was completed and forwarded to the Office of the District Attorney for review and possible criminal prosecution.

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# **TULARE COUNTY GRAND JURY REPORT 2015-2016**

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6. On January 20, 2015, the Internal Affairs Division was advised by the Office of the District Attorney that criminal charges would not be pursued against Tulare County Sheriff's staff.
7. Administrative action was taken against Tulare County Sheriff's staff involved in this incident.
8. The Office of the District Attorney has the prosecutorial discretion to determine which cases will be prosecuted and those which will not.

## **FINDINGS:**

- F1. The Tulare County Sheriff's staff did not follow established use of force policies and procedures.
- F2. The Tulare County Grand Jury found inconsistencies between written reports and video footage.
- F3. Evidence reviewed by the Grand Jury did not indicate if additional training and/or discipline had been administered to all participants in the incident.
- F4. Subsequent to the Grand Jury's receipt of this complaint, the Tulare County Sheriff's Department has instituted: a) comprehensive correctional officer training; b) reforms in hiring practices; c) review of disciplinary processes; and, d) upgraded technology.
- F5. The Tulare County Grand Jury found misconceptions to exist on the part of the staff of the Office of the District Attorney with respect to the investigative role, jurisdiction, and responsibilities of the Grand Jury.
- F6. After review of all evidence presented, the Grand Jury determined that physical abuse occurred and unwarranted force was used.
- F7. The Grand Jury was not advised by the Office of the District Attorney as to the rationale for declining prosecution of this case.

## **RECOMMENDATIONS:**

- R1. Consider the expansion of sensitivity and stress reduction training.
- R2. Expand the implementation of body cameras for custody personnel.
- R3. Include audio as part of video footage monitoring system.

## **REQUIRED RESPONSES:**

1. Tulare County Sheriff's Department

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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2. Office of the Tulare County District Attorney

## **Disclaimer**

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**TULARE COUNTY JAIL TOUR  
“WE WILL BE THE DIFFERENCE”**

**BACKGROUND:**

The Tulare County Sheriff’s Office (TCSO) currently operates four (4) detention facilities for confinement of individuals awaiting trial, being held for another agency, or incarcerated for conviction of a criminal offence. A fifth location planned to be built on a portion of a 60-acre parcel southwest of the City of Porterville is projected to begin construction this year.

There are many facets to the administration of detention facilities within the county. Logistics, facility maintenance, managing bed space, inmate supervision, recidivism reduction, and financial constraints are important issues administered by TCSO staff. The current and proposed programs within the County are the key to a successful operation of the correctional system now and in the future.

**REASON FOR INVESTIGATION:**

California Penal Code §919(b) mandates the Grand Jury to inquire into the condition and management of the public prisons within their respective counties. The Tulare County Grand Jury annually reviews the facilities within the County to comply with this requirement. This constitutes a report on the 2015-2016 Tulare County Grand Jury annual jail inspection.

**METHOD OF INVESTIGATION:**

The Tulare County Grand Jury toured the four existing facilities. Additional visits and inquiries were made in regard to various detention facilities, operations and programs. Staff was interviewed and documents were reviewed.

**FACTS:**

Initial Grand Jury Review

1. The Grand Jury noted the Main Jail is dated, but adequately maintained. Paint, flooring and fixtures were reasonably clean and in good working condition.
2. Air quality at the main jail is adequate. There were no offensive odors detected.
3. Bob Wiley Detention Center, Men’s Correctional Facility and Pre-trial Facility appeared adequately maintained. Paint, flooring and fixtures were clean and in good working condition.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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4. No lighting or plumbing maintenance issues were observed in any of the facilities.
5. A sample check of fire extinguishers was noted to be within expiration date.
6. Kitchen and laundry facilities at Bob Wiley were clean, organized and well-maintained.

## Investigation of TCSO Inmate and Farming Programs

7. The TCSO operates a farming program within the County. This program provides a significant portion of the food consumed by the inmates within the County's detention system.
8. The TCSO served approximately two million meals annually at the County's detention facilities from Fiscal Year (FY) 2012-2013 to FY 2014-2015.
9. The cost per inmate, per meal dropped from \$1.48 in FY 2007-2008, to \$1.36 in FY 2014-2015.
10. Two mobile chicken coops were designed and built for the TCSO. They provide approximately one thousand eggs per day. This accounts for half of the eggs consumed by the inmates.
11. The initial savings in the cost of eggs was \$1,530 per week. Annual savings is estimated at \$53,000.
12. The TCSO is in the process of acquiring two additional mobile chicken coops.
13. All beef and pork consumed by the inmates is completely produced by the TCSO farming program. About 4,000 lbs. of hanging meat (beef and/or pork) is provided weekly.
14. By not purchasing outside-sourced beef and pork, there is an approximate \$320,000 annual savings.
15. Approximately 120,000 pounds per year of tomatoes, bell peppers, squash, eggplant, okra, sweet corn, potatoes, broccoli, cauliflower, lettuce, onions, cabbage, Fresno chilies, Jalapenos, watermelon, and cantaloupe are grown by the farming program. This results in significant annual cost savings.
16. Excess fruits and vegetables are traded to packing houses and gleaning organizations for other produce not grown by the TCSO farming program.
17. The farming program also has benefits by teaching agricultural and pastoral trades to inmates. Some of the County's programs provide competency certificates to participating inmates.
18. The TCSO operates six (6) inmate work crews. There are two (2) litter removal crews, one (1) tire abatement crew, one (1) gleaning crew, one (1) garden and farming crew and one (1) beef and hog crew.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## **FINDINGS:**

- F1. The detention facilities within Tulare County appear to be adequately maintained.
- F2. The farming program is innovative and is a significant cost-savings measure.
- F3. To realize greater self-sufficiency and provide greater cost savings, the TCSO is proposing to acquire two more mobile chicken coops. This would essentially double the savings in egg supply costs.
- F4. The detention facility beef and pork production has multiple advantages, especially in cost savings and providing work experience for inmates.
- F5. The farming program training for agricultural and pastoral trades to inmates provide valuable skills and, in some cases, certificates to increase the chance of employment of inmates after release. Stable jobs aide in decreasing recidivism.

## **RECOMMENDATIONS:**

R1. None

## **REQUIRED RESPONSES:**

None

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## SYNOPSIS

### **Complaint 15/16 #4**

The Tulare County Grand Jury received a complaint on July 6, 2015, authored by an anonymous complainant who alleged numerous misdeeds against a Tulare County resident. The Grand Jury's investigation eventually disclosed the person against whom allegations were being made was a private attorney. Additional information precipitated a visit from the Grand Jury to the Tulare County Public Defender's Office. There it was learned that the subject was not an employee of Tulare County. Due to the fact that the Grand Jury is prohibited from investigating private entities and businesses, this complaint was closed on July 24, 2015.

### **Complaint 15/16 #7**

The Tulare County Grand Jury received this complaint on July 7, 2015. This complaint reported that the complainant had been refused assistance by a local law enforcement agency. Following a review, the Grand Jury attempted to begin an investigation by contacting the complainant for an interview. After numerous fruitless attempts at contact, including voicemails and a letter with specific instructions about replying, the Grand Jury closed this complaint on July 31, 2015.

### **Complaint 15/16 #8**

The Tulare County Grand Jury received this complaint on July 24, 2015. The complainants alleged local law enforcement failed to enforce city ordinances pertaining to the neighbors creating a nuisance by their conduct and lifestyle. Members of the Grand Jury interviewed the complainants and neighbors. Information disclosed that the complaint did not have sufficient validity to merit further investigation or action by the Grand Jury. The Grand Jury closed this complaint on August 21, 2015.

### **Complaint 15/16 #14**

The Tulare County Grand Jury received a complaint on August 19, 2015. The complainant charged a local law enforcement officer with breaking the law by fabricating evidence. This complaint was involved in litigation; therefore, the Grand Jury was unable, by statute, to investigate it. This complaint was closed on September 11, 2015.

### **Complaint 15/16 #16**

The Tulare County Grand Jury received a complaint on September 18, 2015, from an inmate in the Tulare County Jail. The complainant alleged his pain was not being managed by the medical staff employed by the jail system. An investigation was attempted by the Grand Jury; however, the complainant had been released from jail with no forwarding contact information. This complaint was closed October 23, 2015.

### **Complaint 15/16 #19**

The Tulare County Grand Jury received a complaint on September 19, 2015, alleging a police department wrongfully handled a police investigation of a prowler. After interviewing the complainant and reviewing documents, the Grand Jury determined that no further action was warranted. Based on this, the complaint was officially closed on November 18, 2015.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## **Complaint 15/16 #20**

The Tulare County Grand Jury received a complaint on October 7, 2015, from an inmate alleging mail tampering within the jail and an officer failing to restrain a police dog. The Tulare County Grand Jury interviewed the complainant and reviewed all documentation that was provided. The complainant was informed the Grand Jury does not have jurisdiction over matters which are currently pending in court. The complaint was closed on November 18, 2015.

## **Complaint 15/16 #24**

The Tulare County Grand Jury received a complaint on November 29, 2015 from the legal guardian of a minor on probation. The complainant requested the Grand Jury investigate the possible illegal search of his residence and questioning of the minor without the guardian present.

The Grand Jury interviewed the complainant, two of the police officers involved in the search and interview of the minor, and the minor's probation officer. County Counsel was consulted as part of the investigation. The Tulare County Grand Jury thoroughly investigated this complaint and determined that law enforcement operated within the law in searching the residence and questioning the minor. The complaint was officially closed on January 22, 2016.

## **Complaint 15/16 #28**

The Tulare County Grand Jury received a citizen complaint on December 29, 2015, alleging a local police department used deadly force in an attempt to apprehend the complainant. The Grand Jury reviewed the documentation and determined there was no wrong doing by the Department. The Grand Jury closed the complaint on February 5, 2016.

## **Complaint 15/16 #29**

The Tulare County Grand Jury received a citizen's complaint on January 4, 2016, alleging illegal incarceration by a local police department, causing the complainant to miss a civil court date. The Grand Jury reviewed the documentation and determined there was no wrong doing by the Department. The Grand Jury closed the complaint on April 8, 2016.

## **Complaint 15/16 #32**

The Tulare County Grand Jury received a citizen's complaint on March 21, 2016, alleging that policy and procedures were not being followed in regard to the opening of legal mail by Tulare County Jail staff. The Grand Jury conducted interviews and reviewed documentation. Due to an absence of sufficient specific information, the Grand Jury closed the complaint on May 20, 2016.

## **Complaint 15/16 #34**

The Tulare County Grand Jury received a citizen's complaint on March 22, 2016. The complainant was concerned that all in-person visits at all Tulare County jail facilities would be switched exclusively to electronic visits via the internet. The Grand Jury conducted interviews and reviewed documentation. Tulare County Sheriff's Office staff assured the Grand Jury a revised visitation policy would be forthcoming. The Grand Jury closed the complaint on May 20, 2016.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## **Complaint 15/16 #36**

The Tulare County Grand Jury received multiple citizen complaints on April 12, 2016. The complainants were concerned that all in-person visits at all Tulare County jail facilities would be switched exclusively to electronic visits via the internet. The Grand Jury conducted interviews and reviewed documentation. The Tulare County Sheriff's Office staff assured the Grand Jury a revised visitation policy would be forthcoming. The Grand Jury closed the complaint on May 20, 2016.

## **Complaint 15/16 #38**

The Tulare County Grand Jury received a citizen's complaint on April 21, 2016, expressing concerns regarding the policy and procedures for housing at the Tulare County Jail. Interviews were conducted and it was determined that the complaint was outside the purview of the Grand Jury. The Grand Jury closed the complaint on May 20, 2016.

**TULARE COUNTY GRAND JURY REPORT 2015-2016**

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## **RICHGROVE COMMUNITY SERVICE DISTRICT: “WHO’S ON FIRST?”**

### **BACKGROUND:**

Richgrove is an unincorporated farming community in the southern part of Tulare County, California. Classified by the U.S. Census Bureau as a Census Designated Place, the community had a population of 2,882 in 2010. Census Designated Places are defined to provide data for settled concentrations of population that are identifiable by name but are not legally incorporated under the laws of the state in which they are located.

Special Districts in the State of California first began as a means to meet the water needs of farmers in the San Joaquin Valley. Hampered by an inconsistent water supply, plus largely varying prices, farmers in Stanislaus County organized the Turlock Irrigation District under the Wright Act of 1887. The Wright Act allowed a majority of residents in an area to form a public entity for water delivery and to finance its operation through the sale of bonds. The Turlock Irrigation District originated California’s Special District Concept and made it possible for San Joaquin Valley farmers and others, such as Tulare County’s Richgrove Community Services District (RCSD), to intensify and diversify their domestic and agricultural activities.

The RCSD, founded in 1977, supplies the domestic water, sanitary sewage and other services to the homes and businesses within the community. In 2011 the RCSD was awarded a grant from the California Department of Parks and Recreation to construct a community park. The park is designed to provide recreational activities for youth, families and senior citizens. The plan includes walking trails, community gardens, a skate park, picnic arbors, a tot-lot and fields for sports such as soccer, baseball, volleyball and exercise features<sup>1</sup>.

### **REASON FOR INVESTIGATION:**

The 2015-2016 Tulare County Grand Jury received a response to the 2014-2015 Grand Jury “Confusion and Chaos in Richgrove” report from the RCSD Board of Directors. The 2015-2016 Grand Jury determined that the responses were woefully inadequate and unacceptable. A Grand Jury investigation was undertaken to further research the RCSD’s financial situation, Board of Directors’ procedures, and RCSD policies.

Additionally, the 2015-2016 Tulare County Grand Jury decided to investigate the administration of the Richgrove Community Park’s \$2.81 Million State Grant, received by the RCSD. The Grand Jury investigation reflected possible impropriety with respect to the administration of the grant.

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<sup>1</sup> Under the California Statewide Park Development and Community Revitalization Act of 2008 (AB 31) with funds authorized under the State Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84), the State can award grants to eligible entities for the purposes of Division 43 of the Public Resources Code.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## METHOD OF INVESTIGATION:

The Tulare County Grand Jury attended both RCSD Board of Directors and RCSD Park Board meetings. The Grand Jury also conducted numerous interviews of witnesses from various agencies. Other independent witnesses were also interviewed. Documents related to the administrative policies, procedures and practices of the RCSD, as well as development of the park, were reviewed. The Grand Jury visited the future park site at various intervals.

## FACTS:

### RCSD Administration Facts:

1. Penal Code §933.5 allows the Grand Jury to investigate a “special purpose assessing or taxing district”, commonly referred to as a “Special District.”
2. The RCSD has not filed their audits with the county for multiple years (2007-2015), as required by California Government Code (CGC) §26909.
3. The Grand Jury attended a meeting of the RCSD Board of Directors, as a result of which it was discovered that the Board was unable to produce an operating budget, by-laws, monthly financial statements or other documents requested.
4. Subsequent to the Grand Jury’s attendance at the RCSD Board of Directors meeting, the RCSD engaged the services of a volunteer with expertise in organizational management.
5. The CGC §61053 (3) stipulates that a Special District’s Board of Directors adopt a system of accounting and auditing that shall completely and at all times show the district’s financial condition and that the system of accounting and auditing shall adhere to generally accepted accounting principles.

### RCSD Administration Facts:

1. In 2011, the RCSD was awarded a grant from the California Department of Parks and Recreation to construct a community park. The total amount of the grant was \$2.81 Million for planning, design, purchase of park site, construction, initial maintenance, and administration .
2. The RCSD is defined as a “Public Entity” as per Public Contract Code (PCC) Section 1100, and therefore must follow applicable contract statutes. (see Attachment “A”).
3. The community park project funded to be built in Richgrove is defined as a “Public Works Contract” project as per PCC Section 1101. (see also Attachment “A”).

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2 An agreement was entered into between the California Department of Parks and Recreation (hereinafter referred to as “GRANTOR,” or “STATE”) and Richgrove Community Services District (hereinafter referred to as “GRANTEE”) for a granted amount of \$2.81 Million.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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4. A consultant was hired by RCSD to perform grant administrative functions allocated to the District by statute, including meeting legal and regulatory obligations.
5. There was an independent architect hired by the consultant to produce plans and specifications for the park.
6. A principal with the consulting firm was hired to serve as general contractor and construction manager to construct the park.
7. The RCSD Board of Directors failed to provide the Grand Jury with subpoenaed documents relating to Request for Proposals (RFP) and Request for Bids (RFB) for park construction.
8. The RCSD Board of Directors was unable to provide viable evidence of publicly advertised requests for bidding.
9. The RCSD has not maintained separate accounts for State grant funds and regular business funds.

## **FINDINGS:**

### ADMINISTRATIVE FINDINGS:

- F1. As a result of the volunteer organizational expert's guidance, attention was focused on preparing an audit for RCSD's 2014-2015 Fiscal Year. Records for previous years were found to be inadequate and incomplete in terms of completion of an audit.
- F2. As of the date of this report, comprehensive practices and procedures encompassing all aspects of RCSD operations have been implemented, with formal adoption pending.
- F3. The services of a Public Accountant were secured and a new accounting system has been implemented by RCSD to assist in reporting the district's financial condition.

### PARK FINDINGS:

- F4. The RCSD Board has the ultimate responsibility for financial and construction administration of the \$2.81 Million grant.
- F5. Documents provided by the RCSD Board were inadequate and failed to fully comply with the subpoena. Many of the documents received by the Grand Jury appear incomplete, unclear and contradictory in explanation of financial and contractual administration for the Park.
- F6. The RCSD Board failed to exercise due diligence with respect to executing its oversight responsibilities.
- F7. The RCSD Board failed to exercise due diligence with respect to executing fiduciary responsibilities.
- F8. The RCSD failed to adhere to appropriate public codes in requiring the necessary bids for construction (PCC Section 20680-20683). (see Attachment "B")

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## RECOMMENDATIONS:

- R1. That the RCSD Board educate themselves to all public codes applicable to the operation, administration and oversight responsibility of a special district.
- R2. That the RCSD Board give serious consideration to hiring a professional administrator.
- R3. That the RCSD maintain its recent commitment to adhere to generally accepted accounting principles and transparency.

## REQUIRED RESPONSES:

1. Richgrove Community Service District Board of Directors.

### Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## Attachment "A"

### PUBLIC CONTRACT CODE

#### Division 2, Part 1, Chapter 1, "Definitions," portions of Section 1100-1104

1100. "Public entity," as used in this part, means the state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state.
1101. "Public works contract," as used in this part, means an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.
1103. "Responsible bidder," as used in this part, means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract. The Legislature finds and declares that this section is declaratory of existing law.
1104. No local public entity, charter city, or charter county shall require a bidder to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works projects, except on clearly designated design build projects. Nothing in this section shall be construed to prohibit a local public entity, charter city, or charter county from requiring a bidder to review architectural or engineering plans and specifications prior to submission of a bid, and report any errors and omissions noted by the contractor to the architect or owner. The review by the contractor shall be confined to the contractor's capacity as a contractor, and not as a licensed design professional.

## Attachment "B"

### PUBLIC CONTRACT CODE

#### Division 2, Part 3, Chapter 1, Article 43, "Community Service Districts", portions of Section 20680-20683

20680. The provisions of this article shall apply to contracts by community services districts as provided for in the Community Services District Law pursuant to Division 3 (commencing with Section 61000) of the Government Code.
- 20682.5. (a) A district may construct or complete any building, structure, or improvement with its own forces or by contract without bidding when the cost does not exceed twenty-five thousand dollars (\$25,000).
- (b) All contracts for the construction or completion of any building, structure, or improvement, when the cost exceeds twenty-five thousand dollars (\$25,000), shall be contracted for and let to the lowest responsible bidder after notice. If two or more bids are the same and the lowest, the district board may accept the one it chooses.
- (c) The district shall publish a notice inviting bids for any contract for which competitive bidding is

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required at least one time in a newspaper of general circulation in the district at least 10 days before the time specified for receiving bids. The notice inviting bids shall set a date for opening the bids and distinctly state the work to be done.

- (d) If the general manager recommends and the board of directors determines that the publication of advertisements of the notice in trade journals and papers in lieu of publication pursuant to subdivision (c) will increase the number of business enterprises receiving that notice, the board of directors may by resolution declare that those notices shall be published in trade journals and papers at least 10 days prior to the time specified for receiving bids.
- (e) If plans and specifications are prepared describing the work, all bidders shall be afforded an opportunity to examine the plans and specifications, and the plans and specifications shall be attached to and become part of the contract, if one is awarded.
- (f) At its discretion, the board of directors may reject any bids presented and readvertise.
- (g) In the case of an emergency, the board of directors may act pursuant to Chapter 2.5 (commencing with Section 22050).
- (h) The board of directors may, subject to Chapter 5 (commencing with Section 9550) of Title 3 of Part 6 of Division 4 of the Civil Code, require the posting of those bonds it deems desirable as a condition to the filing of a bid or the letting of a contract.
- (i) The district shall keep cost records of the work in the manner provided in Chapter 1 (commencing with Section 4000) of Division 5 of Title 1 of the Government Code.
- (j) As an alternate to the procedures required by this section, a district may rely on the Uniform Public Construction Cost Accounting Act, Chapter 2 (commencing with Section 22000) of Part 3 of Division 2.

20683. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

- (a) Cash.
- (b) A cashier's check made payable to the district.
- (c) A certified check made payable to the district.
- (d) A bidder's bond executed by an admitted surety insurer, made payable to the district.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.

## **TULARE COUNTY, ARE WE READY FOR EL NINO?**

### **BACKGROUND:**

Located within the State of California, Tulare County is situated in a geographically diverse region. The County includes an area of 4,863 square miles. Mountain peaks of the Sierra Nevada range rise to more than 14,000 feet in its Eastern half. Meanwhile, the extensively cultivated and very fertile valley floor in the Western half, has allowed Tulare County to become the second-leading producer of agricultural commodities in the United States.

The Topography of Tulare County can be generally divided into three regions. The Eastern region consists of High Sierra Mountains, substantially covered in forest with minimal development and improved structures. Drainage basins are typically natural and uncontrolled. Flooding is not typically an issue here, as precipitation generally falls in the form of snow during the winter months. Flows from drainage areas with origins in the Eastern region are generally controlled through either of the two major dams in Tulare County operated by the U.S. Army Corps of Engineers.

The Central region runs along the foothill area of the County at elevations from approximately 500 feet to 2,000 feet. This region includes a few smaller communities and dispersed residential and ranching operations. The majority of precipitation with potential to cause flooding falls within the Central region during storm events. Drainage basins with origins in the foothills are typically uncontrolled and subject to high intensity rain events.

The Western region of Tulare County is generally flat with substantial urban and rural development. The terrain is predominantly covered in agricultural and industrial uses. Natural water flows have been dramatically altered through the development of irrigation channels, grading operations, privately owned flood control ditches and berms, and roadway networks. Many of these facilities have been developed on a private, individual or ad-hoc basis, or without consideration for potential flood control ramifications.

The southern portion of the Western region of Tulare County forms a part of the Tulare Lake Basin. The Tulare Lake Basin does not outflow to other bodies of water. During normal rain events, storm water is typically dispersed within the drainage areas through percolation to groundwater, discharge to natural riverine systems, collection and conveyance through irrigation ditches, retention in flood control basins and evaporation. During abnormal, high intensity rain events, these storm water dispersal methods are overcome and there is a potential for flooding events.

Average annual rainfall in the lower elevations of Tulare County ranges from around 7-inches in the extreme southwest to around 15-inches in the northern Central region. Rain events typically occur between mid-October and April, with limited rainfall during the remaining portion of the year. Storm events are frequently moderate in intensity with over 1-inch of rain per hour. Less frequent storm events – 100 year storms – can be as high as 3-inches of rainfall per hour. Storm cells are generally localized and focused over unique drainage areas, and flooding has historically occurred in limited regions of the County during a particular storm event.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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The highest potential for flooding issues in the Western region of Tulare County occur when a storm cycle has produced multiple storm events aimed at the same drainage basin. These multiple storm events will saturate topsoil and reduce the effects of percolation. As small drainage basins merge, and waters move westerly, the flows increase. Due to the vast size of the county, high water levels may not be seen in particular western streams, rivers, and channels until 12 to 36 hours after a rain event in the foothills.

Storm water runoff from high intensity rain events in the foothills flows down gradient and collects in streams, rivers, and ditches that cannot fully accommodate the quantity of water when the terrain flattens out as the waters move west. The reduction in slope of the terrain was historically accommodated by the rivers and streams carrying the storm waters naturally fanning out and creating multiple channels in which the floodwaters could flow. The development of agricultural activities, irrigation facilities, and urban growth has disturbed these natural, multi-branched flows of waters. Due to the high cost, both in terms of dollars and in reductions to useable land, development has historically occurred in a manner that accommodates normal precipitation, but does not allow for unusually high intensity rain events.

The Tulare Lake Basin hasn't experienced any 50-year or 100-year flood events in more than 40 years. The Kaweah and Tule Rivers haven't even seen a 20-year flood or larger since 1969. In the event of 1861 or 1867, most of Visalia and northwest Tulare County experienced flooding. During the 1867-1868 Flood there was 5-6 feet of flood water on Main Street in Visalia.

## **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury was interested in ascertaining the preparedness of the responsible jurisdictions within the county in anticipation of the 2015 – 2016 El Nino rainfall event.

## **METHOD OF INVESTIGATION:**

The Tulare County Grand Jury conducted a Jury Initiated Investigation on preparedness in Tulare County for flooding in 2015-2016 fiscal year. Presentations were made to the Board of Supervisors and the Grand Jury by the Tulare County Resource Management Agency (RMA) regarding the status of their flood control action plan. The Grand Jury inquired of the cities within Tulare County on their ongoing Flood Control activities. Public documents were reviewed by the Grand Jury. Site visits were conducted by Grand Jury members to review flood control projects. One site visit was in the vicinity of the County's correctional facilities to see the Cottonwood Creek Berm project. Other site visits were in the Visalia area reviewing various projects including a retention basin expansion north of the downtown area.

## **FACTS:**

### Tulare County RMA Flood Control preparedness measures:

1. The RMA performed a "Hot Spot" Risk Assessment:
  - a) identified known and potential new areas of flooding concerns
  - b) created computer-based mapping (GIS) database and maps of these locations

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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- c) staff met with local water conveyors (e.g. irrigation districts, water conservation districts) and experts
- 2. Tulare County RMA Flood Control Activities consists of:
  - a) channel clearing
  - b) basin and stationary pump maintenance
  - c) purchase and rental of additional portable pumps if needed
- 3. Tulare County reported it has established a flooding response protocol. A contact list for fire, police, and other related agencies was also prepared.
- 4. The County has inspected the tributaries and, if necessary, will clear the brush and debris in the foothill areas.
- 5. During storm events, Tulare County crews will monitor and inspect conditions in foothill areas for storm related damages and flooding. Tulare County crews will actively monitor snowfall and, when necessary, provide road plowing services in various parts of the foothill and mountain areas.
- 6. Tulare County has an action flood control plan for the valley area.

Of the eight (8) cities within Tulare County, four (4) responded to the request from the Grand Jury on their Flood Control preparedness measures:

- 7. City of Woodlake flood control action plan –
  - a) drainage ditch running along Naranjo Blvd next to Bravo Lake was maintained for handling storm water
  - b) maintenance performed on permanent lift pumps and arrange to have chainsaws and portable trash pumps available
- 8. City of Tulare flood control action plan –
  - a) repair and/or clean storm drain inlets and storm drain lines
  - b) perform maintenance on drain pump stations
  - c) clean leaves out of gutters and storm drains
  - d) place portable emergency generators at pump stations
  - e) clean bottom of ponding basins to improve percolation and groundwater recharge
  - f) cleaned debris out of the Kaweah crosstown culvert
- 9. City of Porterville flood control action plan –
  - a) clean dirt, leaves and debris from drain inlets
  - b) identify and allocate funds for problematic areas
  - c) general drainage infrastructure improvements to handle potential emergencies
  - d) training of personnel to handle storm weather emergencies
  - e) mobilize portable pumps in preparation for flooding
  - f) provide sandbags in corporation yards for citizen's use
  - g) broadcast public preparedness information on a local radio station and the city's website

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10. City of Visalia flood control action plan –
  - a) Downtown Stormwater Flood Control - Expand the existing basin near Douglas Ave east of Santa Fe St and install a new pipeline flowing into the basin. Construction started November 2015 with completion slated for April 2016
  - b) East Side Regional Park - Combination regional park and groundwater recharge facility on a 248 acre site in eastern Visalia. Not in construction yet
  - c) Lower Kaweah River Flood Control Basins - Flood control project to construct three (3) basins in the Visalia area. Two of the basins to function as relief for flows from Terminus Dam. Construction is anticipated to start in the fall of 2016.

## **FINDINGS:**

- F1. Various county and city agencies have been proactive in anticipation of an El Nino event.
- F2. RMA “Hot Spot” (historically flood prone areas) identification will aid in:
  - a) timely, adequate placement of personnel and equipment
  - b) identify which water conveyors will be impacted by flood waters and to use their system as pressure relief valves
- F3. Tulare County has placed emphasis on the valley floor (Western region), but did not have any major flood control projects or management plan in the foothill area (Central region).
- F4. Clearing of bridges and channels will help the movement of water, in turn reducing flooding events.
- F5. Preplanning of flood protection of county facilities has the potential to reduce flood damage and increase cost savings for taxpayers.
- F6. Goal statements from various agencies show a greater emphasis on capturing and percolating rainfall and runoff into groundwater than in previous years.

## **RECOMMENDATIONS:**

- R1. Applicable agencies should increase emphasis in water storage projects when the opportunities for water retention are higher.
- R2. Applicable agencies should not ignore the importance of flood control projects due to drought conditions.
- R3. Applicable agencies continue their progress on existing flood control projects.
- R4. Tulare County adopt a foothill region flood management plan.
- R5. When rehabilitating public parks, adding water retention and percolation capabilities should be considered.

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## REQUIRED RESPONSES:

1. Tulare County Resource Management Agency
2. City of Woodlake
3. City of Porterville
4. City of Tulare
5. City of Visalia
6. City of Lindsay
7. City of Exeter
8. City of Dinuba
9. City of Farmersville
10. Tulare County Board of Supervisors

### **Disclaimer**

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**TULARE COUNTY GRAND JURY REPORT 2015-2016**

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## **AUDITOR'S AUDIT FAILURES**

### **BACKGROUND:**

The Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters Office is one of five county-wide elected officials for Tulare County. The Auditor-Controller was assigned the duties of the Registrar of Voters in 1997 and the Treasurer/Tax-Collector duties in 2006.

The Auditor-Controller is the principal financial and accounting officer for the County and performs their duties under the legal authority provided within the California Government Code (CGC), Revenue and Taxation Codes, Health and Safety Codes, and Street and Highways Codes. The Auditor-Controller maintains the accounting records of the County government and most special districts. The Auditor-Controller maintains cash balances for all school districts, compiles tax rates and the tax roll. The Auditor-Controller apportions taxes to the various governmental entities and audits County departments. Special audits are performed upon request and revenue estimates are calculated for the County budget.

Duties under this Office as posted under the Auditor-Controller's website include:

1. Provide accurate financial information to the Board of Supervisors (BOS) and the County Administrative Officer so informed decisions can be made.
2. Process payroll and related reports for all county employees and certain contracted special districts.
3. General supervision of the financial information and accounts of all departments, districts, and agencies under the control of the BOS.
4. Establishes accounting policies and maintains the County general ledger.
5. Monitor budgetary and fiscal activities of County funds.
6. Prepare the Countywide Cost Allocation Plan (COWCAP) for the distribution of overhead expenses in accordance with State and Federal guidelines.
7. Distribute cash-aid payments to Social Services recipients.
8. Monitor debt service accounting for all existing County long-term debt and provide required financial data during application for new debt.
9. Audit and pay claims from County vendors.
10. Prepare the annual State Controller's Report for the County.
11. Perform audits, internal control reviews, and special projects as requested by County management and the Audit Committee.

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12. Calculate and publish annual property tax rates and prepare special accounting and reporting of the County's valuations and tax distributions to State and other local agencies.
13. Act as Plan Administrator for the Tulare County Defined Contribution Plan.

The Treasurer provides banking services and treasury management for the County and other jurisdictions located or operating within Tulare County, per CGC, Section 27000 et. seq. The other jurisdiction can be banking services and treasury management to Special Districts within Tulare County.

The Tax Collector is to provide efficient collection of property tax revenues as mandated by State, County, and local jurisdictions; to provide services to the residents of Tulare County per CGC, Section 51500 et. seq. and Revenue and Taxation Code, Section 2602.

The Registrar of Voters is charged with conducting fair and impartial federal, State, local, and school elections as mandated by the State of California Election Code, CGC, Section 26802.5, Education Code, Health and Safety Code, Water Code, and the Constitution of the United States.

## **REASON FOR INVESTIGATION:**

California Government Code Section 26909 requires County Auditors annually (in some cases, semi-annually) to audit, or cause to be audited, those special districts within the County over which they have jurisdiction. Previous Tulare County Grand Juries had requested documentation of the County Auditor's receipt of said audits. The net of said requests resulted in the discovery of numerous special districts having failed to submit the required audits over periods spanning several consecutive years. The Grand Jury also discovered multiple instances of required documentation relating to Special Districts' certified resolutions pertaining to the repository of district funds (as specified in section 53952 of the CGC) to be absent from the files of the County Auditor. These discoveries resulted in a Jury Initiated Investigation into the operation of the Office of the Tulare County Auditor/ Controller/Treasurer/Registrar of Voters.

## **METHOD OF INVESTIGATION:**

Staff from the Office of the Tulare County Auditor and a former member of the County's administrative staff were interviewed. Members of the Boards of Directors of various special districts were also interviewed. Documentation was requested and reviewed. The Grand Jury then developed a method by which the Grand Jury could track and log special districts' audit submissions to the County Auditor.

## **FACTS:**

1. At the end of 2015, the Tulare County Auditor reported eleven (11) Special Districts had not filed their audit report with the County by the required due date.
2. Section 26909(a) of the CGC states: "The County Auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records

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of every special purpose district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided.”

3. Section 26909(a)(3) of the CGC also explains that the County Auditor is to ensure that the district bears the costs of required audits by stating: “Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special purpose district pursuant to this section shall be borne by the district and shall be a charge against any unencumbered funds of the district available for the purpose.”
4. At the end of 2015 a report cites eleven (11) additional special districts in which the audits they submitted led to the finding that the “District(s) was/were not in compliance with various sections of the CGC (sections 53952, 53961 and 61052) or the California Health and Safety Code (section 9077).”
5. As has been noted in previous reports of the Tulare County Grand Jury (2012-2013), section 53952 of the CGC provides that “The governing board of a special district may, by resolution, provide for the establishment of a revolving fund **in an amount not to exceed one thousand dollars (\$1,000)** to be used to make change and pay small bills directly. The resolution which establishes the district revolving fund shall designate all of the following:
  - a) The purpose for which the fund may be expended.
  - b) The officer of the district who shall have authority to make disbursements from the fund and be responsible for keeping account of all receipts and disbursements from the fund.
  - c) The necessity for the fund.
  - d) The maximum amount of the fund.”

CGC Section 53953 likewise requires that “Certified copies of the resolution establishing the revolving fund shall be transmitted to the County Auditor and County Treasurer.”

6. Section 61052 of the CGC specifies in pertinent part:
  - “(a) Except as provided by Section 61053, the county treasurer of the principal county shall be treasurer of the district and shall be the depository and have the custody of all of the district’s money.
  - (b) All claims against a district shall be audited, allowed, and paid by the board of directors by warrants drawn on the county treasurer.
  - (c) As an alternative to subdivision (b), the board of directors may instruct the county treasurer to audit, allow, and draw his or her warrant on the county treasury for all legal claims presented to him or her and authorized by the board of directors.
  - (d) The county treasurer shall pay the warrants in the order in which they are presented.”
7. In its research the Grand Jury a number of instances in which those district complying with the audit requirement were nonetheless non-compliant with other code requirements.

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## **FINDINGS:**

- F1. While the County Auditor/Treasurer maintains records pertaining to which special districts are in compliance with the provisions of CGC section 26909 and those which are not, the County Auditor has not made a practice of publicizing noncompliance issues.
- F2. Failure to strictly adhere to the provisions of CGC Section 53952 have created a situation wherein the County Auditor lacks the financial leverage which would otherwise be provided to enter into contracts with independent certified public accountants or public accountants to conduct the audits necessary to bring non-compliant special districts into compliance.
- F3. It appears that there has been no appreciable effort on the part of the Office of the County Auditor with respect to bringing the districts into compliance.
- F4. In many cases, the certified resolutions required by CGC Section 53952 are not on file with the Office of the County Auditor and, again, it is not apparent that effort has been expended on the part of the Office of the County Auditor to remedy this situation.

## **RECOMMENDATIONS:**

The Office of the County Auditor exercise due diligence in the execution of duties and responsibilities of the office particularly as it pertains to adherence to CGC sections 27000, 26909, 53952, 53953, 53961, 61052 and 61053.

## **REQUIRED RESPONSES:**

1. Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters Office
2. Tulare County Board of Supervisors

### **Disclaimer**

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## **TOWER OF SHAME**

### **BACKGROUND:**

At the close of World War II, the citizens of Tulare began working to raise the funds to build their own hospital.

The hospital had been a topic of discussion throughout the community since 1937. Several attempts to pass bond measures failed. Then in January 1946, two consecutive bonds were passed and, with Federal government aid, the Tulare Local Healthcare District was formed. The first hospital board was appointed by the County Board of Supervisors.

The construction of the new \$1.1 Million, 86-bed hospital began on May 23, 1949 with a groundbreaking ceremony. Less than two years later, on February 18, 1951, the dedication ceremony for the much-anticipated Tulare District Hospital (TDH) took place.

In December 1989, the hospital broke ground on a \$21 Million expansion and renovation project. This project was completed in 1993, which included remodeled patient rooms, lobby, and an expanded ICU and a new pediatric unit.

In 2009, what had been known as TDH changed its name to Tulare Regional Medical Center (TRMC). While remaining a General Acute Care Facility licensed for 112 inpatient beds, services are designed to meet the continuum of healthcare needs. Tulare Local Healthcare District, DBA TRMC is accredited by the Joint Commission on Accreditation of Healthcare Organizations and DNV Healthcare, Inc. Mineral King Toxicology Laboratory, a division of TRMC, is one of only four Toxicology laboratories in California, accredited by the College of American Pathologists.

The issuance of general obligation bonds in an aggregate amount not to exceed \$85 Million by the Tulare Local Health Care District (TLHCD) was authorized at an election of the registered voters of the TLHCD held on September 13, 2005. This election garnered approximately 83% of the persons voting on the measure. Pursuant to the laws of the State of California and a resolution of the TLHCD, the TLHCD issued an initial series of such bonds in the amount of \$15 Million on August 21, 2007. The TLHCD issued general obligation bonds in two final series authorized in the aggregate amount of \$70 Million. Proceeds of the Bonds have been used to pay costs related to the construction and equipping of an expansion and renovation of the District's Hospital located on the southwest corner of Cherry Street and Merritt Avenue in the City of Tulare.

The Bonds represent the general obligation of the TLHCD. The TLHCD is empowered and obligated to cause to be levied ad valorem (property) taxes, without limitation of rate or amount, upon all property within the TLHCD subject to taxation by the TLHCD (except certain personal property which is taxable at limited rates), for the payment of interest on and principal of the Bonds when due. Tulare County will collect all ad valorem taxes due to the TLHCD, and pursuant to agreement will disburse them to the Paying Agent to be applied to the payment of principal of and interest on the Bonds.

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# **TULARE COUNTY GRAND JURY REPORT 2015-2016**

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Following the issuance of the initial series of bonds in 2007, TLHCD embarked upon Phase I of a facility Master Plan. Phase I includes the construction of a 107,000 square foot tower connecting to the southern wall of the existing hospital building. This tower was designed to include a full basement and house an 11,000 square foot, 24-bed emergency department; a diagnostic department and associated equipment; a 16-bed obstetrics unit; 4 surgery suites; and 27 new private patient rooms.

Subsequent phases of the Master Plan are still conceptual. Phase II of the Master Plan involves the construction of a second tower located to the west of the Phase I tower. Phase II would include a new Central Plant. Completion of Phase II would allow demolition of most of the existing hospital facility. The main Hospital entrance would be reoriented at that time. As this report is written, the design, budget, funding plans and construction time lines for Phase II have not been completed.

## **REASON FOR INVESTIGATION:**

The Tulare County Grand Jury received a citizen complaint alleging willful failure on the part of the TLHCD Board of Directors to disclose details surrounding the expenditure of proceeds from the bonds. Additionally, it alleged gross malfeasance in the management of the construction of Phase 1 and gave impetus to this investigation.

## **METHOD OF INVESTIGATION:**

In response to the concerned citizen's complaint about the TLHCD's issuance and expenditure of \$85 Million dollars in tower construction bonds, the Grand Jury investigated expenses related to the Bond Funds. The Grand Jury reviewed numerous documents; including financial statements, District Board Minutes, construction and expense data. The Grand Jury interviewed hospital representatives and district residents.

## **FACTS:**

1. Prior to the initial (2005) bond election, a Bond Oversight Committee was appointed, ostensibly to provide independent oversight of the expenditure of bond funds as well as the management of projects to which bond funds were to be allocated.
2. The Bond Oversight Committee repeatedly requested detailed financial information which was never provided.
3. As of February 1, 2016, the Phase I project, which began with the issuance of bonds in August 2007, has not been completed and its corresponding structures are vacant.
4. Prior to the initiation of Phase I, members of the TLHCD Board of Directors were made aware of the fact that estimates of the total cost of the project exceeded \$120 Million and that proceeds from an \$85 Million bond issue would be insufficient to complete the project.

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5. During the period of time from January of 2010 through December of 2015, there is an absence of detailed disclosure of financial aspects of the Tower I project in TLHCD board minutes. Moreover, the minimal amount that was disclosed was found to be inaccurate.
6. TLHCD often times failed to disclose pertinent information (to which taxpayers are entitled) related to the financial aspects of the Phase I Project.
7. During the period of time from 2008 to 2014, TLHCD Directors hired; fired; hired again and fired again the same individual to serve in the capacity of Chief Executive Officer of TRMC with attendant severance packages ultimately costing in the hundreds of thousands of dollars.
8. A significant delay in construction of Phase I occurred due to the delamination of the concrete poured by the contractor on the upper floors of Tower I. This in turn, led to litigation which resulted in TLHCD being directed by the court to settle with the original contractor at an expense of \$7.9 Million to TLHCD taxpayers.
9. TLHCD did not engage the services of an **independent** construction manager until February 26, 2013, well over four years after construction on the Phase I project began.
10. As of November 13, 2013, the Phase I Project had in excess of seven hundred (700) change orders and over five thousand (5000) "RFI's" (requests for information) recorded, each of which constitutes an expense over and above the contractor's original estimate of total cost of construction. In this case, the additional costs totaled \$17,511,869.

## FINDINGS:

- F1. The TLHCD routinely withheld pertinent information and financial data from the Bond Oversight Committee, thus rendering the Committee incapable of performing its oversight function.
- F2. The Bond Oversight Committee failed to exercise due diligence in following up on requests for detailed financial information which was necessary for the independent oversight of the expenditure of bond funds.
- F3. The 2005 voter authorized \$85 Million in bonds has been completely expended. At the time this report was drafted, TLHCD had only an uncompleted and non-functional structure to show for it.
- F4. It appears that TLHCD either intentionally or unintentionally failed to comprehend the issue of the cost differential between the \$85 Million in bond authorization and the total project cost estimated to be well in excess of \$100 Million. It further appears that TLHCD attempted to justify their position by unsupported estimates of reserves and projection of future revenues.
- F5. Strict and complex statutes regarding public disclosure of information pertaining to the expenditure of funds proceeding from the issuance of bonds, appear to have been routinely circumvented by the TLHCD Board of Directors.
- F6. Minutes of TLHCD meetings from January 2010 through December of 2015 fail to disclose the

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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dire situation into which the Phase I project had devolved, thus leaving TLHCD taxpayers without direct access to information to which they were entitled.

- F7. The turmoil surrounding the personnel turnover at the top of the TLHCD management structure served to distract Board Members' attention from the Phase I Project, thus leading to additional delays and severance agreements in the hundreds of thousands of dollars.
- F8. The court ordered settlement represents 9.29 percent of the \$85 Million in proceeds from the sale of bonds and required funds needed to complete Phase I to be allocated to a purpose other than construction.

## **CONCLUSION:**

The Tulare County Grand Jury undertook investigation of this complaint with the goal of uncovering truths and answering questions which had been withheld from the public for nearly a decade (from commencement of construction of the Phase I Tower in 2005, through the end of 2015). Seven months of intense investigation has brought the Grand Jury to the conclusion that millions of dollars in public funds have not been accounted for by the TLHCD. Moreover, the preponderance of evidence presented to the Grand Jury indicates that over the same period of time, the TLHCD withheld information pertaining to the expenditure of public funds to which the District's constituents were entitled.

## **RECOMMENDATIONS:**

- R1. That the TLHCD Board of Directors, without delay, undergo training in aspects of governmental transparency and disclosure requirements pertaining to the expenditure of public funds.
- R2. That the TLHCD Board of Directors, without delay, release to the general public a full disclosure of the manner in which proceeds from the sale of \$85 Million in bonds were expended from September of 2007 through December of 2015.
- R3. That the current Bond Oversight Committee be disbanded and a new Committee seated, fully enabled to disclose the actual/present financial circumstances surrounding the Phase I Project.

## **REQUIRED RESPONSES:**

- 1. Tulare Local Health Care District Board of Directors

### **Disclaimer**

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

## SYNOPSIS

### **Complaint 15/16 #1**

The Tulare County Grand Jury received a citizen's complaint on July 6, 2015 alleging a local public utility district had board members living within close proximity to one another and restrictive business hours. Following a review of requested District documents, the Grand Jury found the business practices of the District warranted no further investigation. The complaint was officially closed on September 11, 2015.

**TULARE COUNTY GRAND JURY REPORT 2015-2016**

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## **Citizen Complaints**

The Grand Jury receives complaints from Tulare County citizens concerning a variety of grievances. These complaints are assigned to one of the standing committees for action.

The Grand Jury may refuse to act on a complaint, particularly if the matter is under judicial review, appears to be more appropriate for action by another agency, or it is out of the Jury's purview. Grand Jury investigation reports (regarding complaints) are submitted to the entire jury with recommendation for action. A quorum of 12 jury members must approve the report. Some complaints may remain open for action by the following Grand Jury as deemed appropriate.

### **Submission of Complaint**

Complaints should be in writing and legible. All normal attempts to resolve the problem should have been taken prior to the submission of the complaint. When these efforts have been proven unsuccessful, a complaint form should be prepared and submitted. These complaint forms may be requested and obtained from the Grand Jury office and this Web Site.

### **Content of Complaint**

The complaint form available from the Grand Jury is designed to help an individual supply pertinent data regarding the reason for the complaint. It is easy to fill out and asks for information that is vital in helping the Grand Jury resolve the problem.

1. Identify yourself with your full name, correct mailing address and a phone number where you can be contacted during office hours.
2. Identify the nature of your complaint.
3. Identify all the people involved and how they might be contacted.
4. If needed, the location of the occurrence that precipitated your complaint.
5. Furnish originals or copies of documents and / or recordings that may support your allegation. *(according to Ca. Evidence Code 140 all submitted documents & recordings are evidence and will not be returned)*
6. Be specific in reporting the reasons for you claim. Avoid making broad statements.

### **Confidentiality**

The *complainant's identity is rigorously guarded* and the Grand Jury is forbidden, by law, to release any information about investigations.

**You will receive written acknowledgment of this complaint after it is received and reviewed by the Grand Jury. This acknowledgment will be mailed to the address on the form.**

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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## Citizen Complaint Form

All complaints submitted to the Grand Jury are held in the strictest confidence

## Tulare County Grand Jury

5963 So. Mooney Blvd.  
Visalia, CA 93277  
Phone: (559) 624-7295  
Fax: (559) 733-6078

Date: \_\_\_\_\_

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1. **YOUR PERSONAL INFORMATION:**

Name: \_\_\_\_\_ Res. Phone \_\_\_\_\_

Res. Address (City/Zip) \_\_\_\_\_

Work Location \_\_\_\_\_ Bus. Phone \_\_\_\_\_

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2. **PERSON OR AGENCY ABOUT WHICH THE COMPLAINT IS MADE:**

Name/Agency: \_\_\_\_\_

Location or Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Person in Charge (if agency): \_\_\_\_\_

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3. **OTHER PERSONS OR AGENCIES YOU HAVE CONTACTED ABOUT THIS PROBLEM:**

<u>Agency and Location</u>	<u>Approximate Date of Contact</u>
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_____	_____
_____	_____
_____	_____

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4. **BRIEF SUMMARY OF PROBLEM (Include names and dates of events, and agencies involved)**

(Attach Additional Sheets if Necessary)

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5. **PLEASE SUBMIT COPIES OF CORRESPONDENCE AND / OR DOCUMENTS REGARDING YOUR COMPLAINT AND THE NUMBER OF PAGES SUBMITTED WITH YOUR COMPLAINT. (PAGES \ ATTACHMENTS )**

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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6. PERSONS YOU THINK SHOULD BE CONTACTED:

Name and Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

Reason to Contact: \_\_\_\_\_

\_\_\_\_\_

Name and Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

Reason to Contact: \_\_\_\_\_

\_\_\_\_\_

Name and Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

Reason to Contact: \_\_\_\_\_

\_\_\_\_\_

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7. ACTION WHICH YOU BELIEVE WE SHOULD TAKE:

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**Excerpt from the Grand Juror's Oath:**"...I will keep my counsel, and that of my fellow Grand Jurors and of the government, and will not, except when required in the due course of judicial proceedings or authorized by statute, disclose the testimony of any witness examined before the Grand Jury, nor anything which I or any other Grand Juror my have said, nor the manner in which I or any other Grand Juror may have voted on any matter before the Grand Jury..."

## DUTIES OF THE CIVIL GRAND JURY

The Civil Grand Jury consists of a panel of nineteen jurors plus three or more alternates. Jurors serve a one-year term from July 1 through June 30. The Presiding Judge may continue up to ten jurors into a second one-year term.

The selection process of a prospective Grand Juror begins with the submission of a completed nomination questionnaire to the Courts by *mid April*. Between May and June, Tulare County Grand Jury Association and Presiding Judge of the Tulare County Superior Courts, reviews the questionnaires and evaluates a prospective juror's qualifications as required by California Penal Code §893. Prospective jurors are then interviewed and their names are placed in a pool to be drawn by lot.

The California Supreme Court described the duties of the grand jury in a 1988 case called *McClatchy Newspapers v Superior Court*, 44 Cal 3d 1162:

“The California grand jury has 3 basic functions: to weigh criminal charges and determine whether indictments should be returned (Penal Code §917); to weigh allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office (Penal Code §922; and Government Code §3060 et seq.) and to act as the public's “watchdog” by investigation and reporting upon the affairs of local government (e.g. §§919, 925 et seq.) Of these functions, the watchdog role is by far the one most often played by the modern grand jury in California.”

California Penal Code §919(b)(c) states, “The Grand Jury shall inquire into the condition and management of the public prisons within the county.” It also states, “The Grand Jury shall inquire into the willful misconduct in office of public officers of every description within the county.”

California Penal Code §925 states “The Grand Jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex-officio capacity as officers of the districts.” It also states, “Investigations may be conducted on some selective basis each year.”

*For more information visit the Tulare County Grand Jury's website at:  
[www.tularecounty.ca.gov/grandjury/](http://www.tularecounty.ca.gov/grandjury/)*

**TULARE COUNTY GRAND JURY REPORT 2015-2016**

*2017 – 2018*

**TULARE COUNTY CIVIL GRAND JURY QUESTIONNAIRE**

***Pursuant to California Penal Code §893, the following questions must be answered:***

**STATUTORY QUALIFICATIONS:** (Place a check in the appropriate box)

- No    Yes    Are you a citizen of the United States?
- No    Yes    Are you eighteen years of age or older?
- No    Yes    Have you been a resident of Tulare County for at least one year prior to the date of this application?
- No    Yes    Are you in possession of your natural faculties? Are you of ordinary intelligence and of sound judgment and fair character?

**STATUTORY DISQUALIFICATIONS:** (Place a check in the appropriate box):

- No    Yes    Are you serving as a trial juror in any court of this State? If Yes, County \_\_\_\_\_
- No    Yes    Have you been discharged as a grand juror in any court of this State within one year prior to the date of this application? If Yes, County \_\_\_\_\_
- No    Yes    Have you ever been convicted of malfeasance in office or any felony or other high crime?
- No    Yes    Are you currently serving as an elected public official?

- Check one:    (    )    I am interested in serving on the Tulare County Civil Grand Jury for the fiscal year **2016-2017** and I understand the time commitment required.
- (    )    I am unable to serve on the Grand Jury in **2016-2017**.
- (    )    I am unavailable at this time, but would like to be considered for term **2016~2017**.

If you answered **NO** to any **STATUTORY QUALIFICATIONS** or you answered **YES** to any **STATUTORY DISQUALIFICATIONS**, you do not qualify. There is no need to continue or to return the questionnaire.

**IF QUALIFIED**, please continue and complete the questionnaire, returning it to the address listed on Page 4.

**CALIFORNIA RULES OF COURT**, Rule 10.625, regarding certain demographic data relating to regular grand jurors. {Please check the appropriate box to the following}

- (A) Age range, please check the appropriate box:     18-25     26-34     35-44     45-54     55-64     65-74  
 75 and over    (B) Gender:             Male     Female
- (C) Please indicate your ethnic origin by circling one of the following (may select more than one):  
   American Indian or Alaska Native    Asian    Black or African American    Hispanic/Latino  
Native Hawaiian or other Pacific Islander    White    Other (please specify) \_\_\_\_\_

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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THIS QUESTIONNAIRE IS TO ASSIST THE JUDGES OF THE SUPERIOR COURT IN COMPLETING A LIST OF NOMINEES WHICH FAIRLY REPRESENTS A CROSS-SECTION OF OUR COMMUNITY. SOME OF THE QUESTIONS THAT MAY SEEM PERSONAL ARE NECESSARY IN ORDER TO ASSURE THE JUDGES THAT THE GROUP THEY NOMINATE, FROM WHICH THE FINAL NAMES WILL BE DRAWN, REPRESENTS VARIOUS AGE GROUPS, ECONOMIC, SOCIAL AND ETHNIC BACKGROUNDS.

**PLEASE PRINT LEGIBLY**

1. Full Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
(First) (Middle) (Last)
2. Address (Phys.): \_\_\_\_\_ City: \_\_\_\_\_ Zip +4: \_\_\_\_\_  
Address (Mail): \_\_\_\_\_ City: \_\_\_\_\_ Zip +4: \_\_\_\_\_  
Residence Phone: ( ) \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_  
Cell Phone: ( ) \_\_\_\_\_ Fax Number: ( ) \_\_\_\_\_  
Email Address: \_\_\_\_\_
3. Occupation: \_\_\_\_\_  
Employer: \_\_\_\_\_  
If retired, previous occupation \_\_\_\_\_
4. Can you afford the time required to be a Civil Grand Juror (approximately 20 hours per week)? \_\_\_\_\_  
If not, briefly state why not: \_\_\_\_\_
5. Do you have any physical or mental condition which would interfere with your ability to function as a Civil Grand Juror? \_\_\_\_\_ If yes, explain briefly \_\_\_\_\_  
What accommodations would the Court need to provide to accommodate your physical or mental impairment?  
\_\_\_\_\_
6. Education (Circle highest grade completed):  
6 (or less)    7    8    9    10    11    12    College:    1    2    3    4    5    6    7  
Name of schools attended and degrees or certification attained: \_\_\_\_\_  
\_\_\_\_\_
7. Clubs or organizations: List any civic, service organizations or any volunteer work to which you belong.  
\_\_\_\_\_  
\_\_\_\_\_
8. Spouse / Domestic Partner Name: \_\_\_\_\_  
Occupation: \_\_\_\_\_  
If retired, list previous occupation you retired from: \_\_\_\_\_  
Employer: \_\_\_\_\_
9. Are you or any immediate family member an appointed or elected public officer of any public agency? \_\_\_\_\_  
If yes, explain: \_\_\_\_\_
10. Are you currently involved in any litigation (law suits) in this county? \_\_\_\_\_

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# TULARE COUNTY GRAND JURY REPORT 2015-2016

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11. Are you or any of your immediate family members employed by the County of Tulare?  
or any school district within the county? \_\_\_\_\_  
If yes, where? \_\_\_\_\_
12. Do you have any significant problems reading or understanding the English Language? \_\_\_\_\_
13. Do you have any suggestions, comments or other matters you would like to bring to the judges attention in  
connection with your application? \_\_\_\_\_
14. Please tell us about any special skills or abilities that you have which the judges should know about in considering  
your application? \_\_\_\_\_  
\_\_\_\_\_
15. Please tell us why you are interested in serving on the Tulare County Civil Grand Jury. (Please attach additional  
pages as needed) \_\_\_\_\_  
\_\_\_\_\_
16. Describe any background experience or skills you have which would be helpful to grand jury service (i.e., computer  
skills, leadership skills, or experience writing/editing reports, working in groups, or conducting investigations  
or interviews.) \_\_\_\_\_  
\_\_\_\_\_

Would you be willing to serve in any of the following capacities?

FOREPERSON	Yes <input type="checkbox"/>	No <input type="checkbox"/>
SECRETARY	Yes <input type="checkbox"/>	No <input type="checkbox"/>
COMMITTEE CHAIRPERSON	Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Mail in or deliver questionnaire to:** **Civil Grand Jury**  
**Tulare County Superior Court**  
**221 S. Mooney Blvd., Room 303**  
**Visalia, CA 93291**

**Or Fax to: (559) 737-4290**

**NOTE:** Applicants for nomination as a member of the Tulare County Civil Grand Jury are subject to investigation by an appropriate law enforcement agency as to the statutory qualifications for service and the applicant's ability and suitability for service.

In support of my application for selection as a member of the Tulare County Civil Grand Jury, I declare under penalty of perjury that the foregoing information is true and correct.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

***PLEASE RETURN THIS QUESTIONNAIRE NO LATER THAN: April 21, 2017***