

This document is an extract of a larger publication.

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2017-2018 GRAND JURY



June 20, 2018

Honorable Suzanne N. Kingsbury, Presiding Judge
California Superior Court, County of El Dorado

Dear Judge Kingsbury,

It is my honor and privilege to present the 2017-2018 Civil Grand Jury Final Report. It represents the yearlong collaborative effort of dedicated El Dorado County citizens with whom I am proud to have been associated.

The Grand Jury concept is alive and well. Nineteen individuals can come together, determine worthwhile topics, perform earnest investigations and write meaningful reports. The process coalesces successfully despite individual abilities, distinct personalities, and disparate backgrounds. I commend each juror for a job well done.

Thank you to Grand Jury Supervising Judge Honorable Warren Stracener for appointing me Foreperson. I especially want to thank Judge Stracener for realizing that the unusual requests I made on behalf of the entire Jury will benefit future grand juries.

I want to express my appreciation for the invaluable assistance of several individuals. Senior Deputy County Counsel Paula Frantz provided general guidance, invaluable legal assistance and helped make our reports logically and legally correct. Keely Cleland in the Auditor-Controller's Office guided me through the labyrinth of County financial requirements and answered every obscure question I had. Superior Court Administrative Analyst Suzanne Thurman combined with Judge Stracener to make the initial Jury available, trained and ready to go. Her indispensable knowledge provided an invaluable interface with Judge Stracener. She is, indeed, a guiding force of the Grand Jury.

They all made my service more successful than I imagined possible. Future Grand Juries will always have a head start to success with the assistance of these dedicated individuals.

Serving as Foreperson has been a personally rewarding experience — I look forward to serving again.

Respectfully,

Tom Simpson

Tom Simpson, Foreperson

cc: Honorable Warren C. Stracener

The Superior Court

STATE OF CALIFORNIA
COUNTY OF EL DORADO
1354 JOHNSON BOULEVARD, STE. 2
SOUTH LAKE TAHOE, CA 96150
(530) 573-3064 - FAX (530) 544-6532

SUZANNE N. KINGSBURY
PRESIDING JUDGE

June 19, 2018

To The Members of the 2017/2018 Grand Jury,

On behalf of the El Dorado County Superior Court, I would like to express my appreciation for your hard work and for your dedication. During the past year, in your role as members of our civil grand jury, you have provided independent oversight of the operation of city and county government and special districts and school districts. You have inspected adult and juvenile correctional facilities which operate within our county. You have reviewed processes and procedures and looked for ways in which government can operate more efficiently or transparently. You have received complaints from members of the public which have required investigation and fact finding.

The time and effort involved in order for you to serve as grand jurors is significant. Despite long hours and nominal remuneration, you have worked tirelessly to conduct thorough investigations and provide comprehensive reports and recommendations. Without your selfless commitment to public service, many important issues would not be brought to light. You, and your predecessors, have helped make El Dorado County a better place.

Thank you so much for your service,

Very truly yours,



Suzanne N. Kingsbury, Presiding Judge

EL DORADO COUNTY 2017-2018 GRAND JURY

CARRYING THE WORK OF THE GRAND JURY FORWARD

Case 17-10 • June 30, 2018

SUMMARY

The El Dorado County Grand Jury investigates county government during its one-year term. It also investigates city governments, agencies and districts within the county. Reports are published with findings of fact and recommendations to improve government services. Subject agencies are required by law to respond to those findings and recommendations when requested.

The current Grand Jury reviewed responses to reports from the 2016-17 and 2015-16 Grand Juries. This review is intended to ensure that the work of prior Grand Juries is not disregarded or ignored. In most cases responses were timely and complied with provisions of the California Penal Code. Further, most follow-up actions specified in responses had either been accomplished or were in the process of being done. Exceptions are noted in this report.

The Grand Jury commends those local agencies and districts that provided timely and compliant responses to the reports of the prior Grand Juries, as well as their evident commitment to implementing recommendations for improving programs and services.

BACKGROUND

The Grand Jury investigates local government operations and reports the results. State law requires that reports contain findings of fact which may include issues, inefficiencies and problems identified along with recommended ways to address those issues. Grand jury reports may be published and released at any time during the grand jury term. The time involved in conducting investigations, evaluating information gathered and writing reports dictates that they are most frequently published near the end of the grand jury term.

Responses to reports are typically received after a grand jury has completed its term, when jurors have been discharged and a subsequent jury is in place. The grand jury that issues a report cannot always review its responses nor even determine if the required responses have been made. A succeeding grand jury may choose to conduct an independent review to assess those responses, ensuring that required and appropriate actions have been taken.

METHODOLOGY

- Reviewed the California Penal Code sections relevant to report responses, findings and recommendations.
- Reviewed the 2016-17 and 2015-16 El Dorado County Grand Juries' reports and responses.
- Communicated with several responding agencies after reviewing their replies.
- Interviewed County officials.
- Reviewed responding agencies meeting agendas and minutes.

DISCUSSION

Responses to reports published by the 2016-17 and 2015-16 Grand Juries were reviewed to determine:

- Did they comply with provisions of the California Penal Code?

The Code requires that subject agencies or individuals respond to each finding when requested, and must agree, disagree or partially disagree with each. Reasons for disagreement must be stated.

The Code also requires a response to each recommendation when requested and must specify one of several actions. If the recommendation has been implemented, a summary of the implementation must be given. If the recommendation will be implemented in the future, a time frame must be specified for completion. Should an agency respond that further study is required to accomplish a recommendation, the study must be completed within six months. When a response claims the recommendation is not warranted or is not reasonable, an explanation must be provided.

- Have the actions promised in a response been completed?

2016-2017 REPORTS AND RESPONSES

Most of the 2016-17 responses reviewed were found to be satisfactory, though a few were not.

Georgetown Divide Public Utility District Case No. 2016-17-007

The Georgetown Divide Public Utility District (GDPUD) response did not comply with the Penal Code in two respects:

- Responses to several Findings in the Grand Jury's report were not in compliance with Penal Code Section § 933.05(a). If respondent does not totally agree with a finding the response must be *disagrees* either wholly or partially with an explanation.
- Responses to recommendations did not include time frames for implementation required by California Penal Code §933.05(b)(2). When additional analysis is required, Penal Code §933.05(b)(3) requires that it be done within six months.

This Grand Jury requested that GDPUD resubmit a response that would fully comply with the Penal Code. GDPUD subsequently submitted an amended response that satisfied the Penal Code requirements. The original response from GDPUD, the Grand Jury's request to GDPUD and its amended response are attached to this report.

Cameron Park Airport District Case No. 2016-011

The Cameron Park Airport District (CPAD) Board of Directors and the Airport Manager failed to submit responses. The Grand Jury wrote to CPAD (copy attached) about its failure and requesting an immediate response.

The Grand Jury received an email (copy attached) from the Airport Manager indicating CPAD was unaware of the time limits for responses, and that responses would be completed and delivered to the Superior Court, which oversees the Grand Jury.

Responses from the Airport Manager and the CPAD Board were received (copies attached), however, the Grand Jury determined that they did not comply with the Penal Code in two respects:

- Responses to certain Findings and Recommendations were combined. Also, responses did not contain specific wording set forth in the Penal Code.
- Some responses did not include required time frames.

A second letter was sent to CPAD requesting a fully compliant response. The Grand Jury has not received an amended response.

2015-2016 REPORTS AND RESPONSES

This Grand Jury was able to determine that responding agencies had, for the most part, accomplished their pledged actions, with several exceptions.

El Dorado County Compliance with Americans with Disabilities (ADA) Act Case No. 15-07

El Dorado County Findings and Recommendations response to the 2015-16 Grand Jury report about County ADA compliance was found to conform to the Penal Code.

The Grand Jury reviewed a number of actions promised in the response by the County, requesting and receiving confirmation that the actions had been accomplished.

El Dorado Hills Community Services District (EDHCSD) Landscape and Lighting Assessment Districts (LLAD) Case No. 15-03

The preceding Grand Jury found an initial response from EDHCSD was inadequate and requested an amended response. The amended response arrived after the preceding jury was disbanded and was reviewed by the current Grand Jury.

Although the amended response to Findings and Recommendations complied with the Penal Code, a number of actions promised were reviewed. All had been accomplished except the formation of a citizens' LLAD advisory group. EDHCSD reported that a community participant, who had volunteered to lead the effort to form an advisory group, had withdrawn. They have initiated efforts to form a citizens' advisory group with a public meeting on the matter held on February 27, 2018.

Mosquito Fire Protection District Dysfunction Case No. 15-01

The Mosquito Fire Protection District (MFPD) responded during the 2015-16 Grand Jury term. The current Grand Jury verified that the response complied with the Penal Code and confirmed that the actions detailed had been taken to the satisfaction of this Grand Jury.

FINDINGS

- F1. Most agencies responded properly and met their timelines.
- F2. A few agencies either did not understand or did not adhere to the Penal Code requirements for responding to Grand Jury reports.
- F3. The CPAD response for report 2017-011 was not timely nor was it fully compliant with the Penal Code.
- F4. CPAD has not submitted an amended response to the Grand Jury for report 2017-011.

RECOMMENDATIONS

- R1. CPAD should amend its response to the 2016-17 Grand Jury report to comply with Penal Code requirements.
- R2. Grand juries should make available resources for agencies to use in creating proper responses, such as templates or detailed instructions.

ATTACHMENTS

- A. GDPUD original response
- B. GJ letter to GDPUD requesting amended response
- C. GDPUD amended response
- D. GJ letter to CPAD requesting response after no response received within time requirement
- E. CPAD email response to GJ letter
- F. CPAD original response
- G. GJ letter to CPAD requesting amended response

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- Response to Findings F3 and F4 and Recommendation R1 from Cameron Park Airport District Manager.
- Response to Findings F3 and F4 and Recommendation R1 From Cameron Park Airport District Board of Directors.

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion or the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Response R# *[Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.]*

Response: *[Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted of reasonable, with an explanation.]*

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to courtadmin@eldoradocourt.org is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

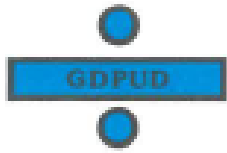
(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

EL DORADO COUNTY GRAND JURY 2017-2018

ATTACHMENTS



GEORGETOWN DIVIDE
Public Utility District
P.O. BOX 4240
GEORGETOWN, CALIFORNIA 95634-4240
PHONE (530) 333-4356
FAX (530) 333-9442
gd-pud.org

June 14, 2017

El Dorado County Grand Jury
PO Box 472
Placerville, California 95667

RE: 2016-2017 El Dorado County Grand Jury Case No. GJ 2016-17-007

Dear El Dorado County Grand Jury,

On May 17, 2017, the El Dorado County Grand Jury ("Grand Jury") released a report summarizing its review of actions by the Georgetown Divide Public Utility District ("GDPUD" or the "District") over the last six years. The report titled "Positive Changes and Continuing Challenges" listed eight (8) findings and provided five (5) recommendations on how GDPUD can conquer the challenges of aging infrastructure, inadequate revenues, over-worked staff, and a lack of leadership.

As required by California Penal Code Section 933, the GDPUD Board of Directors ("Board") hereby submits its response to the findings and recommendations of the Grand Jury Report.

Below are the eight (8) findings from the Grand Jury Report, along with the Board response to each in italics:

F1. The District water rates are insufficient to support current operations and infrastructure and maintenance.

The Board agrees with this finding.

F2. Total revenues are not adequate to support operations and fund needed capital improvement reserves.

The Board agrees with this finding.

F3. The District loses significant revenue due to outdated water meters.

The Board agrees that revenue is lost due to outdated water meters.

F4. The District also loses water and revenue due to leaks in the aging infrastructure.

The Board agrees with this finding.

F5. Employee compensation is too low for an agency this size, making recruitment and retention difficult.

The Board lacks sufficient information to form an opinion on this finding.

F6. The current staffing levels are insufficient, which impairs the District's ability to operate efficiently.

ATTACHMENT A

The Board agrees with this finding.

F7. The District cannot depend on new hookups and ratepayers to supplement revenues as population growth has slowed on the Divide, necessitating the need for the District to look internally for revenue.

The Board agrees that the District needs to thoroughly evaluate revenue sources, including those other than connection fees and rates. However, the rates are the primary mechanism by which the District funds operations and capital improvements.

F8. The Jury found no evidence that either the District Board or staff is “preparing the ground” with their customers for what may be steep increases in their bills.

The Board agrees that at the time the Grand Jury investigation was performed, minimal work had been done on a new rate study. Since that time, the District has accomplished the following related to a new rate study:

- *Retained Rural Community Assistance Corporation (“RCAC”) to perform a rate study.*
- *Held two public meetings of the District Finance Committee meeting to review the methodology and policy questions for the rate study.*
- *Held one public Board meeting to review the methodology and policy questions for the rate study.*
- *Additional public meetings will be held to educate the public before any Proposition 218 hearing.*

The five (5) recommendations from the Grand Jury Report are listed below with the Board responses in italics.

R1. Once the water rate study is submitted to the Board, the District must initiate a voter-approved rate increase process as soon as possible.

The Board is implementing this recommendation. A water rate study is underway, and the methodology has been presented in public meetings to the Finance Committee and the Board. Additional public meetings will be held to educate the public before any Proposition 218 hearing.

R2. Along with replacing the aging water meters, the District must upgrade their aging infrastructure and prioritize maintenance and capital improvement projects.

The Board is implementing this recommendation. The District has received construction bids to replace all water meters and upgrade from paper meter reading to electronic meter reading, however the District does not have sufficient reserves or revenue to be able to borrow funds to complete this project. Rates must be increased to fund or finance any infrastructure improvements.

R3. The District must offer competitive salaries to attract qualified professional staff.

This recommendation requires further analysis. The Board does not have enough information at this time to make a determination of the appropriateness of current salaries. The District has limited reserves and revenue to fund personnel costs. To ensure sustainability of the District, rates must be increased to fund any additional personnel costs, including costs associated with a determination of competitive salaries.

ATTACHMENT A

R4. The District must review staffing levels and fill key positions with permanent staff to ensure continuity of operations.

The Board agrees with this recommendation. However, the District has limited reserves and revenue to fund additional staff beyond the current level of staffing. To ensure sustainability of the District, rates must be increased to fund any additional personnel costs.

R5. The District must undertake a public information program to inform its customers of impending changes in their water rates and consumption recording.

The Board is implementing this recommendation. A water rate study is underway, and the methodology has been presented in public meetings to the Finance Committee and the Board. Additional public meetings will be held to educate the public before any Proposition 218 hearing.

The current Board has made long term sustainability a key goal for the District. The Board appreciates the findings and recommendations of the Grand Jury, and makes it a priority of the Board to address the findings and incorporate the recommendations into the current Board's goals.

Sincerely,

Londres Uso
President

EL DORADO COUNTY GRAND JURY 2017-2018

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ATTACHMENT A



GEORGETOWN DIVIDE
Public Utility District
P.O. BOX 4240
GEORGETOWN, CALIFORNIA 95634-4240
PHONE (530) 333-4355
FAX (530) 333-2442
gd-pud.org

June 14, 2017

El Dorado County Grand Jury
PO Box 472
Placerville, California 95667

RE: 2016-2017 El Dorado County Grand Jury Case No. GJ 2016-17-007

Dear El Dorado County Grand Jury,

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As required by California Penal Code Section 933, as the General Manager of the District, I hereby submit my response to the findings and recommendations of the Grand Jury Report.

Below are the eight (8) findings from the Grand Jury Report, along with my response to each in italics:

F1. The District water rates are insufficient to support current operations and infrastructure and maintenance.

I agree with this finding.

F2. Total revenues are not adequate to support operations and fund needed capital improvement reserves.

I agree with this finding.

F3. The District loses significant revenue due to outdated water meters.

I agree that revenue is lost due to outdated water meters.

F4. The District also loses water and revenue due to leaks in the aging infrastructure.

I agree with this finding.

F5. Employee compensation is too low for an agency this size, making recruitment and retention difficult.

The District has not reviewed or evaluated sufficient information to form an opinion on this finding.

F6. The current staffing levels are insufficient, which impairs the District's ability to operate efficiently.

I agree with this finding.

ATTACHMENT A

F7. The District cannot depend on new hookups and ratepayers to supplement revenues as population growth has slowed on the Divide, necessitating the need for the District to look internally for revenue.

I agree that the District needs to thoroughly evaluate revenue sources, including those other than connection fees and rates. However, the rates are the primary mechanism by which the District funds operations and capital improvements.

F8. The Jury found no evidence that either the District Board or staff is “preparing the ground” with their customers for what may be steep increases in their bills.

I agree that at the time the Grand Jury investigation was performed, minimal work had been done on a new rate study. Since that time, the District has accomplished the following related to a new rate study:

- *Retained Rural Community Assistance Corporation (“RCAC”) to perform a rate study.*
- *Held two public meetings of the District Finance Committee meeting to review the methodology and policy questions for the rate study.*
- *Held one public Board meeting to review the methodology and policy questions for the rate study.*

The five (5) recommendations from the Grand Jury Report are listed below with my responses in italics.

R1. Once the water rate study is submitted to the Board, the District must initiate a voter-approved rate increase process as soon as possible.

The District is implementing this recommendation. A water rate study is underway, and the methodology has been presented in public meetings to the Finance Committee and the Board. Additional public meetings will be held to educate the public before any Proposition 218 hearing.

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The District is implementing this recommendation. The District has received construction bids to replace all water meters and upgrade from paper meter reading to electronic meter reading, however the District does not have sufficient reserves or revenue to be able to borrow funds to complete this project. Rates must be increased to fund or finance any infrastructure improvements.

R3. The District must offer competitive salaries to attract qualified professional staff.

This recommendation requires further analysis. The District does not have enough information at this time to make a determination of the appropriateness of current salaries. The District has limited reserves and revenue to fund personnel costs. To ensure sustainability of the District, rates must be increased to fund any additional personnel costs, including costs associated with a determination of competitive salaries.

R4. The District must review staffing levels and fill key positions with permanent staff to ensure continuity of operations.

ATTACHMENT A

I agree with this recommendation. However, the District has limited reserves and revenue to fund additional staff beyond the current level of staffing. To ensure sustainability of the District, rates must be increased to fund any additional personnel costs.

R5. The District must undertake a public information program to inform its customers of impending changes in their water rates and consumption recording.
The District is implementing this recommendation. A water rate study is underway, and the methodology has been presented in public meetings to the Finance Committee and the Board. Additional public meetings will be held to educate the public before any Proposition 218 hearing.

Long term sustainability is a key goal for the District. I appreciate the findings and recommendations of the Grand Jury, and it is a priority of the District to address the findings and incorporate the recommendations into the District's goals.

Sincerely,



Steven Palmer, PE
General Manager

EL DORADO COUNTY GRAND JURY 2017-2018

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ATTACHMENT B

STATE OF CALIFORNIA

GRAND JURY El Dorado County

P.O. Box 472
Placerville, California 95667
(530) 621-7477 Fax: (530) 295-0763
Grand.jury@edcgov.us

2017-2018



September 14, 2017

Steven Palmer P.E, General Manager
Londres Uso, President, Board of Directors
Georgetown Divide Public Utility District
P.O. Box 4240
Georgetown, CA 95634

RE: 2016-2017 Grand Jury Case no. GJ 2016-17-007 Responses

Gentlemen:

We received your responses to the Grand Jury report GJ-2016-17-007. The responses are not in compliance with California Penal Code Section 933.05 et seq. Specifically:

- 1) Your responses to findings F3, F5, F7, and F8 are not in compliance with Penal Code Section 933.05 § (a) in that they qualify the responses. If the respondents do not totally agree with the finding the responding agency or individual should respond with disagrees wholly or partially, and provide an explanation.
- 2) Your responses to our report's recommendations do not include timeframes. California Penal Code § 933.05(b)(2) requires that you provide a timeframe for implementation. California Penal Code § 933.05(b)(3) necessitates your inclusion of you analysis to be prepared, not to exceed six months.

Attached is an excerpt of the Code section for your reference with the specific sections highlighted with emphasis added as underlined.

Please provide your response within 60 days for the individual and 90 days for the governing board to:

Honorable Suzanne N. Kingsbury
El Dorado County Superior Court
1354 Johnson Blvd
South Lake Tahoe, CA 96150

Regards,

Tom Simpson, Foreman
El Dorado County 2017-2018 Grand Jury

cc: Judge. Kingsbury
Attachment (1)

ATTACHMENT B

Attachment:

933.05.

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

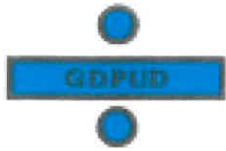
(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report. (CAL PENAL CODE § 933.05 et seq)



GEORGETOWN DIVIDE
Public Utility District
 P.O. BOX 4240 PHONE (530) 333-4350
 GEORGETOWN, CALIFORNIA 95634-4240 FAX (530) 333-9442
gd.pud.org

October 3, 2017

El Dorado County Grand Jury
 PO Box 472
 Placerville, California 95667

RE: 2016-2017 El Dorado County Grand Jury Case No. GJ 2016-17-007

Dear El Dorado County Grand Jury,

On May 17, 2017, the El Dorado County Grand Jury ("Grand Jury") released a report summarizing its review of actions by the Georgetown Divide Public Utility District ("GDPUD" or the "District") over the last six years. The report titled "Positive Changes and Continuing Challenges" listed eight (8) findings and provided five (5) recommendations on how GDPUD can conquer the challenges of aging infrastructure, inadequate revenues, over-worked staff, and a lack of leadership.

As required by California Penal Code Section 933, the GDPUD Board of Directors ("Board") submitted its response to the findings and recommendations of the Grand Jury Report in a letter dated June 14, 2017. The District recently received a letter dated September 14, 2017 from the Grand Jury, stating that the District's response was not in compliance with California Penal Code Section 933.05 et seq. The District is submitting this revised letter to more clearly demonstrate compliance with California Penal Code Section 933.05 et seq.

Below are the eight (8) findings from the Grand Jury Report, along with the Board's revised responses to each in italics:

F1. The District water rates are insufficient to support current operations and infrastructure and maintenance.

The Board agrees with this finding.

F2. Total revenues are not adequate to support operations and fund needed capital improvement reserves.

The Board agrees with this finding.

F3. The District loses significant revenue due to outdated water meters.

The Board partially disagrees with this finding that "significant" revenue is lost due to outdated water meters. The Board agrees that revenue is lost due to outdated water meters. The exact amount of revenue lost is difficult to estimate. A July 2014 report prepared by MC Engineering, Inc. estimated that the lost revenue associated with residential meters is about \$31,500 and will increase by 0.25% per year. This is 1.7% of the District's estimated Fiscal Year 2017/2018 annual revenue from water sales of \$1,839,000. However, the value of this study is limited as it relied on data from available

ATTACHMENT C

literature and the age of the residential water meters. The study did not test any residential meters.

F4. The District also loses water and revenue due to leaks in the aging infrastructure.
The Board agrees with this finding.

F5. Employee compensation is too low for an agency this size, making recruitment and retention difficult.
The Board partially disagrees with this finding. A salary and compensation survey has not been completed recently. The District has recently had success recruiting and retaining employees, though it has struggled with recruitment and retention in the past.

F6. The current staffing levels are insufficient, which impairs the District's ability to operate efficiently.

The Board agrees with this finding.

F7. The District cannot depend on new hookups and ratepayers to supplement revenues as population growth has slowed on the Divide, necessitating the need for the District to look internally for revenue.

The Board partially disagrees with this finding. The Board acknowledges that the District needs to thoroughly evaluate revenue sources, including those other than connection fees and rates. However, the rates are the primary mechanism by which the District funds operations and capital improvements.

F8. The Jury found no evidence that either the District Board or staff is "preparing the ground" with their customers for what may be steep increases in their bills.

The Board partially disagrees with this finding that the District Board or staff is not "preparing the ground" for potential rate increases. The Board acknowledges that at the time the Grand Jury investigation was performed, minimal work had been done on a new rate study. Since that time, the District has accomplished the following related to a new rate study:

- Retained Rural Community Assistance Corporation ("RCAC") to perform a rate study.*
- Held two public meetings of the District Finance Committee meeting to review the methodology and policy questions for the rate study.*
- Held one public Board meeting to review the methodology and policy questions for the rate study*
- The General Manager and one Board member attended and made presentations regarding the water rate update at the September 5, 2017 meeting of the Georgetown Chamber of Commerce, and at the September 12, 2017 meeting of the Georgetown Rotary.*
- The Operations Manager and one Board member attended and made a presentation regarding the water rate update at the September 5, 2017 meeting of the El Dorado County Rural Community Coalition.*
- Held the first of two public workshops regarding updating the water rates on September 18, 2017 at the Georgetown Elementary School. This workshop focused on educating and informing customers on the state of District facilities and financial needs; and gathering meaningful input that will shape rate calculation. The meeting*

ATTACHMENT C

was advertised via billing inserts, customer email database, Facebook, and District website.

- The second public workshop will be held on October 12, 2017 at the Cool Community Hall. The second workshop will involve a discussion of the feedback from the last meeting, and presentation of rate calculations for a few different scenarios.*
- Two more Board meetings are planned before the Proposition 218 hearing.*

The five (5) recommendations from the Grand Jury Report are listed below with the Board responses in italics.

R1. Once the water rate study is submitted to the Board, the District must initiate a voter-approved rate increase process as soon as possible.

The Board is implementing this recommendation. A water rate study is underway, and the methodology has been presented in public meetings to the Finance Committee and the Board. Informational meetings have been held with the Georgetown Chamber of Commerce, El Dorado County Rural Community Coalition, and Georgetown Rotary. The first of two public workshops was held on September 18, 2017, and additional public meetings will be held to educate the public before any Proposition 218 hearing. The tentative timeline for the water rate study adoption and Proposition 218 process is:

- September and October 2017: Engage in public outreach and hold informational meetings regarding the rate study.*
- October 2017: Rate study issued and 45-day public notice issued for Proposition 218 Public Hearing*
- December 2017: Public Hearing for Proposition 218 held and Board action on new rates*

R2. Along with replacing the aging water meters, the District must upgrade their aging infrastructure and prioritize maintenance and capital improvement projects.

The Board is implementing this recommendation. The District has received construction bids to replace all water meters and upgrade from paper meter reading to electronic meter reading, however the District does not have sufficient reserves or revenue to be able to borrow funds to complete this project. Rates must be increased to fund or finance any infrastructure improvements. This infrastructure improvement is currently planned for fiscal year 2018-2019, provided rates are increased to cover the cost of such improvements.

R3. The District must offer competitive salaries to attract qualified professional staff.

This recommendation has not yet been implemented, but will be implemented in the future. The District has limited reserves and revenue to fund personnel costs, including costs related to determining appropriate salaries to attract qualified professional staff. Following the proposed Proposition 218 process currently scheduled to be completed in December 2018, the District will turn to the process of determining the appropriateness of current salaries for several positions at the District as part of its budgeting process for fiscal year 2018-2019.

R4. The District must review staffing levels and fill key positions with permanent staff to ensure continuity of operations.

The Board has implemented a portion of this recommendation but it will not be fully implemented at this time because the cost of this recommendation is currently unreasonable. The General Manager reviewed the staffing levels and presented the

ATTACHMENT C

Board with a recommended organizational chart with the Draft Fiscal Year 2017/2018 budget. Due to limited reserves and revenue, that organizational chart was not adopted and an organizational chart with reduced staffing levels and reduced budget was adopted instead. The Approved Fiscal Year 2017/2018 Budget includes one new professional position, Water Resources Manager, and one reclassified position, Management Analyst. The recruitment to fill these positions is currently underway. The District does not have sufficient reserves and revenue to fund additional staff beyond that newly approved level of staffing. Should the District be able to increase rates, staffing levels may be increased in the future.

R5. The District must undertake a public information program to inform its customers of impending changes in their water rates and consumption recording.

The Board is implementing this recommendation. A water rate study is underway, and the methodology has been presented in public meetings to the Finance Committee and the Board. Additional public meetings will be held to educate the public before any Proposition 218 hearing. As discussed above, public outreach activities began in September 2017 and will continue to take place through December 2017. If the rates are successfully adopted, public outreach will continue through the implementation of the new rates in 2018.

The current Board has made long term sustainability a key goal for the District. The Board appreciates the findings and recommendations of the Grand Jury, and makes it a priority of the Board to address the findings and incorporate the recommendations into the current Board's goals.

Sincerely,

Londres Uso
President

STATE OF CALIFORNIA

GRAND JURY
El Dorado County

P.O. Box 472
Placerville, California 95667
(530) 621-7477 Fax: (530) 295-0763
Grand.jury@edcgov.us

2017-2018



November 30, 2017

Cameron Park Airport District
Board of Directors
Mr. Gary Millsaps, Airport Manager
3374 Mira Loma Drive
Cameron Park, CA 95682

Gentlemen:

A 2016-2017 El Dorado County Grand Jury report, case number GJ 2016-011, Cameron Park Airport District, Ceiling and Visibility Limited, released on May 16, 2017, was delivered to you before that date. That report requested responses to the report's findings and recommendations from both the District Board of Directors the Airport Manager, as provided in California Penal Code section 933 et seq.

Neither of those responses have been received by either the Superior Court or the Grand Jury. The statutory time allotted for responding elapsed in August.

Please provide your immediate reply to this letter denoting when the Court will receive those responses. Email is acceptable. Provide your written report responses to:

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe, CA 96150

Sincerely,

Tom Simpson, Foreperson
El Dorado County 2017-2018 Grand Jury
tom.simpson@edcgov.us

cc: El Dorado County Superior Court (CourtAdmin@eldoradocourt.org)

Enclosure

ATTACHMENT D

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

ATTACHMENT E



Tom Simpson <tom.simpson@edcgov.us>

EDC Grand Jury Report GJ2016-011

1 message

Airport Manager <manager@cameronparkairport.com>
To: tom.simpson@edcgov.us

Mon, Dec 11, 2017 at 10:57 AM

Good morning Mr. Simpson,

I sincerely apologize for the delay in providing my response to the Grand Jury Report GJ2016-011..I frankly was unaware of the 90 day time limit for response.

My response document has been completed for some weeks now but I am awaiting the response document from the Cameron Park Board to mail all to the Court in one package. I will mail my response pronto.

I will re-emphasize to the Board members that their response needs to be completed ASAP and get it to the Court no later than the end of this week.

Regards,

Gary Millsaps, Airport Manager

Cameron Park Airport District

530-676-8316 - manager@cameronparkairport.com

EL DORADO COUNTY GRAND JURY 2017-2018

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ATTACHMENT F



3374 Mira Loma Drive, Cameron Park, CA 95682 — 530-676-8316 — manager@cameronparkairport.com

DATE: December 15, 2017

TO: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court

FROM: Guy R. Hooper, President, Cameron Park Airport District Board of Directors

This report is submitted as the Cameron Park Airport District Board of Directors' response to the Findings and Recommendations reported by the El Dorado County Grand Jury's Report on the Cameron Park Airport District, Case No. GJ 2016-011.

Each Finding and related Recommendations are addressed in a single paragraph where possible.

Finding 1: We have no disagreement with the basic finding, but the term "highly susceptible" is probably overdone. The district is "susceptible" to outside economic trends, but it should be noted that the district was able to rebuild its finances in the aftermath of the economic recession that began in 2007 and continued for some years. Cameron Park Airport District (CPAD) is currently solvent and has a consistent budget surplus that is used to defray not only operating expenses but to fund capital improvement projects such as street and airport maintenance. However, external events or changed circumstances that impact general aviation operational tempo could impact CPAD's financial situation negatively. CPAD has options to increase taxes and has certain assets that could forestall insolvency.

Finding 2 and Recommendation 1: CPAD is pursuing completion of its Airport Master Plan (AMP) in order to compete for federal level capital improvement grants. The AMP is a complex engineering document that ordinarily costs over \$100,000 to properly complete. CPAD's Airport Manager, however, has extensive planning experience having been part of the Denver International AMP project. Consequently, CPAD is doing most of the AMP writing in-house. Due to the detailed nature of creating the AMP, it is not possible to complete the AMP within 6 months. The process is likely to take in excess of a year.

Finding 3 and Recommendations 2 & 3: CPAD has considerable community expertise in operating the airport during periods when the Airport Manager position is unfilled. The typical hiring cycle to bring a new manager on board is on the order of one month. If such a situation were to occur where the airport was left without an Airport Manager, CPAD would solicit temporary contractor support from agencies that have qualified personnel for hire. Additionally, there are people within the district who have volunteered in the past and would volunteer again in the future to serve as a temporary fill-in for the position. The District has directed the current Airport Manager to find an "Assistant" who would gain experience during those periods where the Airport Manager is absent for leave, vacation, illness or other circumstances. Once this position is filled, our first option (if the Airport Manager position were to be unfilled) would be to bring in the Assistant Airport Manager until a new hire could be found.

Finding 4: The Board concurs that the current Airport Manager is superbly qualified and has brought a level of professionalism to the airport operations that has not previously existed.

ATTACHMENT F

Finding 5 and Recommendation 8: The Board concurs with the recommendation to enhance its website and has done so with the new website going "live" in December 2017.

Finding 6 & Recommendation 7: This finding is cured with the new website which publishes board agendas. Previously, the district posted Agendas in two places with the appropriate lead time required by the Brown Act. The Board of Directors have all received Brown Act training as provided by the County of El Dorado Hills in the past 6 months and this training is documented at the county.

Finding 7: This finding is cured with the new website which has links to agenda documents.

Finding 8: The district is composed of 125 "parcels" with approximately 100 residences and 25 undeveloped parcels. In an unknown number of cases, the residences are owned by out-of-state residents who are not eligible to serve on the CPAD Board of Directors. The current board has had no trouble filling 2 recent vacancies and there has been no period in the past 10 years where there were not a full board of 5 elected members. Notwithstanding the small number of potential and interested candidates, CPAD remains strongly connected with the community and does not anticipate a problem recruiting future board members. However, this does not distract from the finding which emphasizes that new ideas come from new board members, and that the community at large needs to remain engaged with its local government. The Board of Directors does not concur that perceived community lack of interest reaches a level where the future of the district is uncertain.

Recommendation 4: The board consistently reaches out to new residents to make them aware of how the board operates and make it clear that new members on the board are welcome. In the past 6 months, 3 new families have moved into the district and each family has attended the regular and/or special meetings of the district.

Recommendation 5 & 6: We want to evaluate the effectiveness of the website before tasking our Airport Manager to create a social media presence or write a newsletter.

We believe that this document responds fully to the Grand Jury request for responses. We are available for follow-up if required through the District Office at 530-676-8316.

Sincerely,



Guy R. Hooper
President, Board of Directors
Cameron Park Airport District
3374 Mira Loma Drive
Cameron Park, CA 95682

ATTACHMENT F



3374 Mira Loma Drive, Cameron Park, CA 95682 — 530-676-8316 — manager@cameronparkairport.com

December 12, 2017

Honorable Suzanne N Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd
Suite 2
South Lake Tahoe, CA 96150

Judge Kingsbury,

Enclosed please find the Airport Manager's response to the findings and recommendations contained in the El Dorado County Grand Jury's report, GJ 2016-011.

It is hoped the responses are thorough and address the findings and recommendations and satisfies the Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary Millsaps', is written over the word 'Sincerely,'.

Gary Millsaps, Airport Manager
Cameron Park Airport District

ATTACHMENT F



3374 Mira Loma Drive, Cameron Park, CA 95682 — 530-676-8316 — manager@cameronparkairport.com

This report is submitted as the Cameron Park Airport Manager's response to the Findings and Recommendations reported by the El Dorado County Grand Jury's Report on the Cameron Park Airport District, Case No. GJ 2016-011.

Each Finding and Recommendation addressing like information will be co-jointly addressed.

As to Finding F1:

The Cameron Park Airport District continues to remain solvent—not due to Federal monies—but due to ongoing efforts to reduce costs of operations, efficient use of enterprise-driven revenues and careful budget management. To date, the District has decreased its basic services costs (electrical service, phone service, etc.) by approximately one-third. This has been accomplished by replacing outdated equipment with more energy efficient devices; taking advantage of pricing programs offered by the service companies; ensuring the services meet the needs of the operation with no un-needed services added on; and continually evaluating alternative programs offered by service vendors that could prove more cost-effective to the District. The District is also planning to increase the current Special Tax levied on each parcel within the District soon. The District is also carefully increasing the Hangar and Tie-down rental rates as they had gone unchanged for too many years.

Federal grant monies, known as the Airport Improvement Program (AIP), are derived from the Federal Aviation Fuel Tax dollars paid on every gallon of avgas and jet fuel sold in the US. These grant funds are made available via a competitive process and are mandated for major capital improvements, not day-to-day operations funding.

As to Finding F2 & Recommendation R1:

While it is true the lack of a current Airport Master Plan does hinder the District's ability to obtain Federal grant monies, developing such a plan is a complex task. In general, it is accomplished through several task blocks including: developing an FAA approved Airport Layout Plan (in progress); an inventory of the current facility; a full financial accounting of its current state; analysis of the land space and its potential for future use; an analysis of the current value the facility has for the community it serves; regional socioeconomic characteristics; forecasts of aeronautical activities; etc.

Once the data gathering and analysis is complete, several community outreach meetings are scheduled to take the case to the people and obtain feedback from not only the District residents but the regional population as a whole.

ATTACHMENT F

Draft copies of the plan are then generated and circulated for comment; after which the finalized report is submitted to the FAA Regional office for acceptance.

As shown, this task cannot be completed within a six-month time frame and the District begs the Court's indulgence that it be given more time to complete the Airport Master Plan.

As to Finding F3 and Recommendations R2 & R3:

The District will indeed need to find a replacement for the current Manager sometime in the future. As with most airports, this is usually accomplished through a job advertising and recruitment process followed by careful vetting of the candidates. This is an accepted practice nationwide and serves the industry well. One of the focuses of the current Manager is thoroughly documenting a comprehensive set of policies and procedures so whenever a new manager is brought on-board, there is continuity of processes in place.

If the Cameron Park Airport was a larger facility, adding an Assistant Manager would be prudent; however, the day-to-day workload does not warrant such action and would prove to be a further burden on the budget of the District. Using intern help is also questionable as the periods and times the intern would be available might be limited, rendering them unable to respond to significant events, be responsive to the user-base and able to answer the hard questions. Managing even a small GA airport involves many disciplines, which could be taught, by the time such intern training was completed, the interns term-of-service will likely have expired.

As to Finding F5, F6 & F7 and Recommendations R5, R6 & R8:

The District is developing a website which will be online in December 2017. It has taken some time to ensure the site meets all the requirements of statutory code for such websites. With the completion of this task, the Board Meeting Agendas, Minutes, Resolutions and other governance documents will be available online. All this information is currently available by request via email, phone or written request and is maintained in the Airport Manager's office. Currently, the Board Meeting Agendas and Minutes are emailed to the residents more than 72 hours prior to any meetings scheduled and the agendas are posted on three publicly accessible bulletin boards posted around the District. The District is still evaluating the need and effort to maintain a "social media" presence as it has an active email list that reaches 98% of the District's residents and is used very frequently by the management, Board members and the residents themselves.

As to Finding F8 and Recommendation R4:

In meeting and communicating with the residents, the Airport Manager regularly encourages them to attend the Board Meetings and get involved with the governance of their District and regularly shares the email information received from the El Dorado County Elections Office.

ATTACHMENT F

As to Recommendation R7:

The Airport Manager has studied several of the excellent online resources for governing bodies to remain compliant with the Brown Act. The Manager has also taken an online four-part examination produced by California Special Districts Association, scoring a 98% on the examination.

I sincerely hope these responses prove useful and fulfill the expectations of the El Dorado County Grand Jury and Superior Court members.

ATTACHMENT G

STATE OF CALIFORNIA

GRAND JURY El Dorado County

P.O. Box 472
Placerville, California 95667
(530) 621-7477 Fax: (530) 295-0763
grand.jury@edcgov.us

2017-2018



January 16, 2018

Guy R. Hooper, President, Board of Directors
Gary Millsaps, Airport Manager
Cameron Park Airport District
3374 Mira Loma Drive
Cameron Park, CA 95682

Gentlemen:

Thank you for your recent responses to Grand Jury Report *Cameron Park Airport District, Ceiling and Visibility Limited*, case number 2016-011. The Grand Jury has reviewed them. While they appear to address the issues presented in the report, you have combined responses to both findings and recommendations. We cannot determine with certainty what text applies to which finding or recommendation.

Responses to findings and recommendations cannot be combined. California Penal Code section 933.05 et seq. specifies that each report finding, and each report recommendation be responded to individually. Moreover, each one must include one of several specific wordings, that are different for findings and recommendations. Additionally, the Penal Code requires inclusion of an implementation timeframe for recommendations that have not yet been implemented.

Please correct your responses and send them via email to the El Dorado County Superior Court at courtadmin@eldoradocourt.org.

You may find this response to previous Grand Jury report useful:

[https://www.edcgov.us/government/grandjury/report 2015-2016/documents/Mosquito Fire Protection District Response to El Dorado Grand Jury.pdf](https://www.edcgov.us/government/grandjury/report%202015-2016/documents/Mosquito%20Fire%20Protection%20District%20Response%20to%20El%20Dorado%20Grand%20Jury.pdf)

California Penal Code section 933.05 et seq. is enclosed for your reference, with highlighting added to relevant portions. Please contact me with any questions or concerns.

Sincerely,

Tom Simpson, Foreperson
El Dorado County 2017-2018 Grand Jury
grand.jury@edcgov.us

cc: El Dorado Superior Court (courtadmin@eldoradocourt.org)

Enclosure

ATTACHMENT G

933.05.

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report. (CAL PENAL CODE § 933.05 et seq)

EL DORADO COUNTY GRAND JURY 2017-2018

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EL DORADO COUNTY 2017-2018 GRAND JURY

CAMERON PARK COMMUNITY SERVICES DISTRICT

Case 17-01 • June 30, 2018

The Grand Jury investigated multiple claims of employee harassment, disruptive behavior at board meetings, a U.S. Department of Labor investigation and fiscal concerns at the Cameron Park Community Services District.

BACKGROUND

Cameron Park is an unincorporated community in El Dorado County, California, about 30 miles east of Sacramento and 70 miles west of South Lake Tahoe. Located along the US Highway 50 corridor on the western slope of the Sierra Nevada, it covers about nine square miles and has approximately 19,000 residents.

A Community Services District is a form of independent local government providing various services in unincorporated areas of a county. The Cameron Park Community Services District (CPCSD or District) was formed in 1961. It is led by a five-member elected Board of Directors and an appointed general manager. Today, the CPCSD administers fire and emergency services, parks and recreation, lighting and landscaping, solid waste disposal and recycling for residents and enforces covenants, conditions and restrictions (CC&R's) of various homeowners associations.

The CPCSD came to the attention of the Grand Jury when citizens claimed the Board failed to act upon complaints of bullying and harassment of District employees by the General Manager. In March 2017, the District was investigated by the U.S. Department of Labor for failing to properly pay overtime to employees. The Grand Jury looked for significant systemic issues that might continue to hamper the District's ability to govern and provide services to its residents.

METHODOLOGY

- Reviewed prior grand jury reports about this, and other, special districts.
- Interviewed District officials, employees, Cameron Park residents and El Dorado County officials.
- Attended Board meetings and a workshop.
- Examined District facilities.
- Reviewed reports from El Dorado County agencies on specific aspects of CPCSD.
- Reviewed District policies and procedures.
- Reviewed the District Five-year Strategic Plan.
- Reviewed District annual budgets.
- Reviewed District Board of Directors meeting agendas and minutes.
- Reviewed the District website as well as other websites pertinent to the operation of special districts in California.
- Reviewed the U.S. Department of Labor document, *Back Wage Compliance and Payment Agreement*, regarding non-payment of District employees for overtime worked.

DISCUSSION

Overall, the Grand Jury found the district is making progress towards correcting the issues investigated.

Board Meetings

The Grand Jury learned of disrespectful and disruptive behavior by members of the public at Board of Directors meetings. Grand Jurors who attended meetings observed directors maintaining a professional and respectful demeanor despite occasional citizen discord and outbursts.

Board meetings observed by the Grand Jury met California public meeting requirements, including advance posting of board meeting agendas on the District website and allowing public input at meetings. Adopted minutes of prior board meetings are posted on the website. Board meetings were conducted in a professional and organized manner by District directors and staff.

Reports of Sheriff Deputies at board meetings were investigated. An incident where a County Deputy Sheriff was called in response to public disruption at a board meeting in November 2015 was documented. The Deputy removed a disruptive member of the audience. On at least one other occasion Sheriff Deputies were preemptively stationed at a board meeting in anticipation of potential disturbances.

The District recently implemented videotaping of board meetings. Video recordings are available via the District website.

Directors

Some observers maintain that the timing of past director resignations were orchestrated by the Board of Directors to facilitate the appointment of selected individuals to positions on the Board rather than open elections. A review of the election and appointment of District directors since 2000 did not find any unusual patterns of resignations and appointments. Though there were a few appointments, a far greater number of directors were selected through the normal election process, some serving two or more four-year terms.

Two board members resigned in 2017 at about the same time the General Manager resigned. The Grand Jury determined that both resignations were for personal reasons and unrelated to any issues on the board. Two new directors were sought. A public process to solicit and interview applicants was conducted by the District. New directors were appointed in September 2017.

Training

The Grand Jury found formal training or orientation is not provided to new directors upon assuming office. New directors are provided binders containing the District's policies, procedures and information on the District's programs. Although District policy 4090 defines training for elected directors, it is general in nature and only encourages training for directors. It does not require training, nor does it address mandatory ethics and sexual harassment training required under California law.

District staff advised the Grand Jury that training on public meeting laws, requirements for elected public officials, good governance and other related topics would be useful to both new and existing directors.

The District has access to a variety of training opportunities. Membership in the California Special Districts Association (CSDA) includes a Special District Leadership Academy session on essential governance responsibilities. The District scheduled a series of public workshops on special district governance and operations starting in early February 2018. They will be attended by District board members and staff and are open to the public. The initial workshop was conducted with the assistance and support of CSDA staff.

Public Outreach/Community Involvement

The General Manager resigned in April 2017 amid citizen claims that the board failed to act upon complaints of bullying and harassment of district employees by the General Manager.

The District conducted a public workshop in Fall 2017 to obtain community input regarding the selection of a new general manager. Input from this meeting was used to help determine the desirable qualifications and characteristics used in the recruitment. Recruitment was conducted with the assistance of a professional executive recruitment firm. A new General Manager was found and subsequently hired in November 2017.

Employee Morale

The Grand Jury investigated poor employee morale and loss of long term employees in key positions. Employee morale clearly declined under the previous general manager. A U.S. Department of Labor investigation initiated by a CPCSD employee, found that District employees were due significant back pay for overtime worked. Employee complaints prompted the District to hire a firm specializing in employment law to investigate the complaints. While the nature of those complaints are confidential personnel matters and not subject to grand jury investigation, it appears that employee turnover seems to have been a symptom of a greater organizational morale problem. Recent indications show that employee morale is improving under new management.

Recordkeeping

District finances are somewhat in disarray. More than two years elapsed without an audit by an independent certified public accountant as required by district policy. An audit was underway at the time that this investigation was conducted by the Grand Jury.

Separate from the regular financial audit process, the District hired a certified public accounting firm to perform forensic accounting to determine and correct problems and uncertainties with past financial records. While the Grand Jury did not delve into the details of this process, the accounting firm has been working on financial records since July 2017 and continues as of the writing of this report. The Board took a major step toward improving financial record-keeping when they approved hiring a Finance Director / Human Resources Manager at the January 17, 2018 board meeting. The position was subsequently filled in March.

Revenue

Revenue is a continuing challenge as it is with many government agencies. Most revenue comes from sources beyond the District's control such as property taxes. One source that can be influenced is rental of District facilities for public use. The District website has a facilities rental page identifying the many facilities available for rent along with complete rental information and an application.

Additional revenue comes from district programs and activities fees. The District publishes a brochure of programs and activities that is delivered to residents, as well as publicizing the programs and activities via its website, social media and local print media. The calendar shows the programs and activities offered are robust and varied.

Strategic Plan

The District adopted a five-year Strategic Plan in February 2016. It provides a roadmap for policy and decision making over a five-year period. It identified nine strategic elements where the District would focus time and resources over the next five years and to provide a roadmap for decision making.

- A. Optimize Reserve Programs
- B. Increase Revenues
- C. Increase Participation in Programs and Facilities Usage
- D. Continue to Follow Existing Top-Level Plans
- E. Maintain and Improve Fire Service
- F. Enhance Our Relations with the County and the Community
- G. Strengthen Community Partnerships
- H. Address Deferred Maintenance Needs
- I. Stay Ahead of Best Practices for Administration of the District

The Grand Jury determined that the plan might provide a reasonable guide for good governance, administration, policy and decision making. However, there is little evidence that it has been widely followed, considered or referenced by the board and staff since it was adopted.

Website

Review of the Strategic Plan led the Grand Jury on a partially successful journey through the District website, www.cameronpark.org, to find reports and documents referenced in the Strategic Plan. While the website was updated with professional contract assistance in the recent past, it is still missing links to important documents. The website is current on things like board meeting agendas and minutes, district budgets, financial audit information and other matters of public interest. The District does not have an employee with training and skills in website design and administration to keep the website up to date.

FINDINGS

- F1. District Board meetings were conducted in a professional manner, even when confronted with disruptive and disrespectful behavior from members of the community.
- F2. The Grand Jury determined that there were no unusual patterns in the resignations and appointments of directors.
- F3. District Policy 4090 about training is inadequate in that it does not require training for directors, even for topics where California State law requires training.
- F4. The California Special Districts Association Leadership Academy is a valuable training opportunity for newly-appointed or elected district officers and newly-appointed general managers.
- F5. The District has taken a number of positive steps to enhance public outreach and encourage community involvement.
- F6. Employee morale is improving under the new leadership in District staff and the Board.
- F7. There are significant deficiencies with the District's financial record keeping.
- F8. There may be opportunities to increase revenue-generating use of District facilities.
- F9. The District Strategic Plan is not being used to guide policy decisions.
- F10. The District website is missing links to important district documents.

RECOMMENDATIONS

- R1. The District should amend Policy 4090 no later than October 31, 2018 to mandate training for directors and managers. Mandatory training should, at a minimum, include the topics on ethics and harassment required by State law.
- R2. Newly-appointed directors and the general manager should attend the California Special Districts Association Leadership Academy no later than December 31, 2018.
- R3. District staff should develop a written plan by October 31, 2018, designed to increase rental revenue from district facilities.
- R4. The Board should review and update the Strategic Plan as needed by October 31, 2018.
- R5. No later than October 31, 2018, the District should provide resources and training for staff to update and maintain the district website.

ATTACHMENTS

- A. CPCSD Policy 4090 – *Training, Education and Conferences.*
- B. U.S. Department of Labor *Back Wage Compliance and Payment Agreement.*

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

In accordance with California Penal Code §933 and §933.05 responses to Findings F3, F7, F8, F9 and F10 and all Recommendations are requested from The Cameron Park Community Services District Board of Directors.

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Response R# *[Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.]*

Response: *[Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation.]*

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to courtadmin@eldoradocourt.org is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report

Cameron Park Community Services District

POLICY HANDBOOK

POLICY TITLE: Training, Education, and Conferences

POLICY NUMBER: 4090

4090.1 Members of the Board of Directors are encouraged to attend educational conferences and professional meetings when the purposes of such activities are to improve District operation. Hence, there is no limit as to the number of Directors attending a particular conference or seminar when it is apparent that their attendance is beneficial to the District.

4090.1.1 "Junkets" (a tour or journey for pleasure at public expense), however, will not be permitted.

4090.2 It is the policy of the District to encourage Board development and excellence of performance by reimbursing expenses incurred for tuition, travel, lodging and meals as a result of training, educational courses, participation with professional organizations, and attendance at local, state and national conferences associated with the interests of the District. Cash advances or use of District credit cards for these purposes is not permitted.

4090.2.1 The Business Manager is responsible for making arrangements for Directors for conference and registration expenses, and for per diem. Per diem, when appropriate, shall include reimbursement of expenses for meals, lodging, and travel. All expenses for which reimbursement is requested by Directors, or which are billed to the District by Directors, shall be submitted to the Finance Division Manager, together with validated receipts.

4090.2.2 Attendance by Directors of seminars, workshops, courses, professional organization meetings, and conferences shall be approved by the President of the Board of Directors prior to incurring any reimbursable costs.

4090.2.3 Expenses to the District for Board of Directors' training, education and conferences should be kept to a minimum by utilizing recommendations for transportation and housing accommodations put forth by the General Manager and by:

4090.2.3.1 Utilizing hotel(s) recommended by the event sponsor in order to obtain discounted rates.

4090.2.3.2 Directors traveling together whenever feasible and economically beneficial.

4090.2.3.3 Requesting reservations sufficiently in advance, when possible, to obtain discounted air fares and hotel rates.

ATTACHMENT A

4090.3 A Director shall not attend a conference or training event for which there is an expense to the District if it occurs after they have announced their pending resignation, or if it occurs after an election in which it has been determined that they will not retain their seat on the Board. A Director shall not attend a conference or training event when it is apparent that there is no significant benefit to the District.

4090.4 Upon returning from seminars, workshops, conferences, etc., where expenses are reimbursed by the District, Directors will either prepare a written report for distribution to the Board, or make a verbal report during the next regular meeting of the Board. Said report shall detail what was learned at the session(s) that will be of benefit to the District. Materials from the session(s) may be delivered to the District office to be included in the District library for the future use of other Directors and staff.

Wage and Hour Division
Federal Building
2800 Cottage Way
Room W-1836
Sacramento, CA 95825-1886
916-978-6123
916-978-6125

IN THE MATTER OF: _____ :
Cameron Park Community Services District
Case ID 1804805

This agreement is entered into March 08, 2017 by and between the Secretary of Labor, United States Department of Labor, (hereinafter referred to as "the Secretary"), and Cameron Park Community Services District dba Cameron Park Community Services District (hereinafter referred to as "the employer").

The Secretary, through Investigator De La Torre of the Wage and Hour Division, United States Department of Labor, conducted an investigation of the employer's business under FLSA. The investigation covered the employer's operations from 01/20/2015 to 01/19/2017.

As a result of that investigation monetary violations were found resulting in 5 due back wages in the amount of \$15,372.12.

In order to resolve this matter, the parties to this Agreement stipulate and agree to the following:

1. The employer represents that it is presently in full compliance with all applicable provisions of the FLSA, and will continue to comply therewith in the future.
2. The employer agrees to pay the back wages due the employees in question in the amounts shown for the periods indicated on the Summary of Unpaid Wages attached hereto and made a part hereof.
3. Cameron Park Community Services District agrees to pay directly to the employees the amounts due (less legal payroll deductions) on or before 03/24/2017 and to deliver to the Secretary's representative by 03/31/2017 evidence of payment including any signed WH-58 receipt forms the Employer has received at that time.
4. The Employer agrees to provide the Secretary's representative with a listing of all unlocated employees, their last known address, social security number (if possible), and their gross and net amounts due no later than 04/23/2017. The District Office will notify the Employer when a person has been located to issue a check.
5. In the event that any employees cannot be located, or refuse to accept the back wages, the employer agrees to deliver to the Secretary's representative a cashier's or certified check, payable to "Wage and Hour Division - Labor" to cover the total net due all such employees on or before 06/22/2017. After three years, any monies which have not been distributed because of inability to locate the proper persons or because of their refusal to accept payment shall be covered into the Treasury of the United States as miscellaneous receipts.
6. The employer agrees to provide the Secretary's representative no later than 06/22/2017 any

ATTACHMENT B

- remaining signed WH-58 receipt forms not yet provided to Wage and Hour or a cancelled check (or some reasonable facsimile) for every person the employer has paid per this agreement.
7. The employer hereby waives all rights and defenses which may be available by virtue of statute of limitations, including but not limited to section 6 of the Portal-to-Portal Act (29 U.S.C. 255).
 8. Any defaulted balance shall be subject to the assessment of interest and penalty interest at rates determined by the U. S. Treasury as required by the Debt Collection Improvement Act of 1996 (Public Law 104-134) published by the Secretary of the Treasury in the Federal Register and other delinquent charges and administrative costs shall also be assessed.
 9. In the event of default, the Department intends to pursue additional collection action that may include, but is not limited to, administrative offset, referral of the account to credit reporting agencies, private collection agencies, and/or the Department of Justice.
 10. Any rights to challenge or contest the validity of this Agreement are hereby waived.
 11. By entering into this agreement, the Wage Hour Division does not waive its right to conduct future investigations under the Fair Labor Standards Act and to take appropriate enforcement action, including assessment of civil money penalties, with respect to any violations disclosed by such investigations.

Approved by the following parties

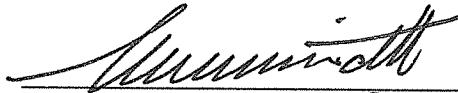
Cameron Park Community Services District
BY ITS OFFICER

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION

Name: Don Cahill

Title: General Manager

Dated: 3/8/17



Richard E. Newton

District Director

Dated: 3/8/2017

for:

EL DORADO COUNTY GRAND JURY 2017-2018

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EL DORADO COUNTY 2017-2018 GRAND JURY

EL DORADO IRRIGATION DISTRICT *CALIFORNIA PUBLIC RECORDS ACT COMPLIANCE*

Case 17-09 • June 30, 2018

The El Dorado Irrigation District (EID) Board of Directors requested that the Grand Jury investigate possible violations of the California Public Records Act by one of its members.

Note

The Grand Jury is keenly aware of political and personality disputes, both real and perceived, related to this issue. Our investigation and this report focused solely on legalities and good governance.

BACKGROUND

In 1968 California enacted the Public Records Act (CPRA), Government Code §§6250 through 6276.48¹, which requires that governmental records be made accessible to the public upon request. It is incumbent upon the governmental agency having custody of requested records to make reasonable attempts to locate them, and if they exist, supply them to the requester.

Though the fundamental precept of the CPRA is access to records, it exempts certain records from disclosure² such as criminal investigative reports, most personnel records and privileged documents. If an agency improperly withholds records, a member of the public may seek a court order to enforce the right to inspect or copy the records sought³. An agency may adopt regulations establishing procedures for requesting public records that allow for faster, more efficient access to records⁴.

On March 2, 2017, the California Supreme Court in *City of San Jose v. Superior Court of Santa Clara County (San Jose)*⁵ held that “*when a city employee uses a personal account to communicate about the conduct of public business, the writings may be subject to disclosure under the California Public Records Act (CPRA or Act)*”. Although the legality of a specific kind of search was not before the Court, it did provide guidance about how to strike the balance between privacy and disclosure.

In September 2017, the El Dorado Irrigation District (EID) adopted Board Policy 3075 (BP3075) *Public Records Act Requests* (Attachment A), which established that the district shall respond to public records requests in accordance with the CPRA and case law interpreting the CPRA. The policy specifically states that ‘written records sent, received, or stored in a personal electronic account or on a personal device of a District employee or officer may be considered “public records” subject to disclosure under the CPRA’.

¹ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6250.&lawCode=GOV

² Gov. Code §6254

³ Gov. Code §§6258 and 6259

⁴ Gov. Code §§6253(e), 6253.4

⁵ <http://www.courts.ca.gov/opinions/archive/S218066.PDF>

One month later, in October, EID approved Administrative Regulation 3075 (AR3075), *Responding to Public Records Act Requests* (Attachment B). It established uniform procedures for responding to requests for public records. It includes employee and officer training, procedures for responding to all CPRA requests and additional procedures for responding to CPRA requests regarding personal accounts or devices.

In January 2018, the Grand Jury received a complaint from EID alleging a Director of their Board was wrongfully failing to follow Board policy and regulations and was violating the law.

METHODOLOGY

- Interviewed past and present El Dorado Irrigation District (EID) officers
- Reviewed the following documents:
 - California Public Records Act
 - City of San Jose v. Superior Court of Santa Clara County (*San Jose*)
 - California Public Records Act Compliance Manual for Special Districts⁶
 - EID policies and supporting regulations
 - EID public records requests, responses and related correspondence
- Listened to recordings of relevant EID board meetings
- Conferred with legal counsel

DISCUSSION

El Dorado Irrigation District (EID) responds to public records requests on a regular basis. Most are for specific District business documents such as board minutes and contracts. Since March of 2017, in the aftermath of the *San Jose* case, EID received several public records requests seeking records sent from or received on the private electronic devices used by EID officers. One of those requests has come under scrutiny, both in EID public board meetings and local media.

On March 9, 2017, EID received a public records request seeking records including internet postings, text messages, emails and attachments sent from or received on private electronic devices used by Director Greg Prada. The timeframe identified in this request was from December 2013 to the date the District provided the public records.

EID forwarded a copy of the request to Director Prada requesting he search his own personal files, accounts and devices for public records. The Director responded that he had searched his personal computer and found no communications involving the conduct of EID official public business that would be disclosable under his interpretation of the *San Jose* case. On March 31st, EID notified the requester of the availability of the records from their email server and Director Prada's response.

⁶ www.bwslaw.com/tasks/sites/bwslaw/assets/.../2015-Public-Records-Act-Guide.pdf

After reviewing that information, the requester contested Director Prada's compliance with the Public Records Act. He requested that EID require the Director to submit an affidavit describing the scope and methodology of his search.

In response, EID noted that the CPRA does not require an affidavit. They further explained that while the *San Jose* case noted approval of a procedure adopted in Washington State requiring an employee to submit an affidavit, the California Supreme Court had not interpreted the CPRA to require such an affidavit. EID went on to say that the District had not yet formally adopted internal policies for records retained on private accounts and devices, but such policies were currently being developed.

In September 2017, EID adopted Board Policy 3075, *Public Records Act Requests*. Supporting Administrative Regulation 3075, *Responding to Public Records Act Requests*, was approved in October 2017. AR3075 includes specific procedures for responding to CPRA requests regarding personal accounts or devices. Those procedures require that the subject of the request "perform a reasonable search of his/her personal accounts and/or personal devices", "document their search methodologies, criteria, and terms", and "complete and sign a declaration" (Attachment C).

Early in November, EID received a request to *renew* the March CPRA request. This request was forwarded to Director Prada. The Director responded that he would not reply to this request, unless and until EID provided him with outside counsel. He also contended that AR3075 only applies to requests prospectively⁷.

EID responded to Director Prada that the recently-adopted policy and procedures did apply prospectively from the time of their adoption. But in accordance with the CPRA, EID must produce all responsive records in existence at the time of the request, even if such records were created prior to adoption of AR3075. EID also asked the Director to notify them if he would like to schedule an open-session agenda item asking the District Board of Directors to approve hiring and funding outside counsel to represent him.

On November 17, 2017, EID notified the requester of the availability of records from their email server, noting that the search had been limited to records created after March 9, 2017, since the District already provided all responsive records before that date. They also informed him that the request had been forwarded to Director Prada but, to date, the District had received no records from the Director.

The District received no further communication from Director Prada related to the November CPRA request. Specifically, the Director did not pursue approval for outside counsel, did not search his personal devices, and did not submit a declaration related to the search.

⁷ Relating to or effective in the future

The Grand Jury determined that Director Prada's action had placed EID at risk of potential litigation by the requester for failure to fully comply with the CPRA as interpreted in *San Jose*, and did not comply with EID Board Policy 3075 and Administrative Regulation 3075. While the act of an individual Director can place an agency at legal risk, there is little an agency can do to limit this risk. If an individual Director knowingly violates the law or has a different view of his/her legal duty, there is no direct remedy to bring a recalcitrant Director to compliance. EID initiated one of the few alternatives available – It asked the Grand Jury to investigate.

After conducting this investigation, the Grand Jury carefully examined the various actions it might take. One is the issuance of this report. Another is provided in California Penal Code §919 and Government Code §3060 - §3075, whereby the Grand Jury can prepare an accusation of willful misconduct in office against the noncompliant Director and submit it to the County District Attorney, who could then take potential criminal or civil action.

The Grand Jury thoroughly considered preparing and delivering such an accusation and consulted with the County District Attorney. The Grand Jury concluded that, while the conduct in question did constitute nonfeasance, we were not going to file an accusation at this time based on this single violation of the EID newly adopted policy. However, repeated flagrant disregard of California Public Records Act or other laws and regulations could result in an accusation being filed in the future.

FINDINGS

- F1. Director Prada did not comply with EID Board Policy 3075 and Administrative Regulation 3075.
- F2. Director Prada inappropriately followed his own interpretation of the proper application of the Supreme Court's decision in *San Jose* rather than the official interpretation by the EID Board.

RECOMMENDATIONS

- R1. The EID Board of Directors should consider censure of Director Prada advising him that future violations of BP3075 or AR3075 would be considered willful misconduct in office.
- R2. The EID Board of Directors should consider formally requesting Director Prada to fully comply with Board Policy 3075 and Administrative Regulation 3075 by supplying a properly executed declaration in response to the November 2017 Public Records Act request.

ATTACHMENTS

- A. El Dorado Irrigation District Board Policy BP3075
- B. El Dorado Irrigation District Administrative Regulation AR3075
- C. El Dorado Irrigation District California Public Records Act Form - Declaration Regarding Search of Personal Accounts or Devices

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- **Response to all findings and recommendations from The El Dorado Irrigation District Board of Directors.**

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Response R# *[Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.]*

Response: *[Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation.]*

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to courtadmin@eldoradocourt.org is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

BP 3075 Public Records Act Requests

Adopted: September 11, 2017

The District shall respond to requests for public records in accordance with the California Public Records Act (CPRA), Government Code section 6250 et seq, and the case law interpreting the CPRA. The Office of General Counsel shall be responsible for overseeing and responding to such requests pursuant to the CPRA.

By law, written records sent, received, or stored in a personal electronic account (such as a personal e-mail account) or on a personal device (such as a personal computer, smartphone, or tablet) of a District employee or officer may be considered “public records” subject to disclosure under the CPRA, if, at a minimum, they relate in some substantive way to the conduct of the District’s business. Communications that are primarily personal and contain no more than incidental mentions of District business, generally will not be considered public records.

District employees and officers shall use their District accounts for communications that relate to District business. District employees and officers shall avoid using private electronic accounts when conducting such communications. The General Manager and General Counsel shall adopt and oversee administrative regulations to carry out the purposes of this Policy.

District employees and officers shall forward emails that relate to the District’s business received on private accounts to their respective eid.org accounts for appropriate District retention. Employees and officers that communicate on social media about District business shall adhere to the administrative regulation adopted hereunder when responding to public record requests.

AR 3075 Responding to Public Records Act Requests

Approved: October 24, 2017

AR 3075.1 Purpose

This administrative regulation seeks to establish uniform procedures for responding to requests for public records made pursuant to the California Public Records Act (CPRA), Government Code section 6250 et seq.

AR 3075.2 Employee and Officer Training

To ensure that District employees and officers have a sufficient understanding of what constitutes a “public record” under the CPRA, the District will arrange for each District employee and officer to receive training regarding responding to requests for public records under the CPRA. Within sixty (60) days of employment or swearing in as a District officer, all officers and employees will receive training regarding the CPRA and this training shall include training regarding the standards for distinguishing between “public” records and “private” records. (*See City of San Jose v. Superior Court* (2017) 2 Cal.5th 608).

AR 3075.3 Procedures For Responding To All CPRA Requests

The District’s Office of the General Counsel shall be responsible for responding to CPRA requests. The General Counsel shall designate a person in charge of receiving requests, conducting searches for public records, and responding to such requests. In performing these duties, the District shall adhere to the following procedural steps:

1. The General Counsel, or his/her designee, shall assign a unique tracking number to the request, based on the year received and in a sequential format for each request (e.g. “2017-001 CPRA”).
2. The General Counsel, or his/her designee, shall identify custodians of the records that respond, or potentially respond, to the relevant request and provide a copy of the request to the identified custodians.
3. The custodians shall conduct a reasonable search for records that respond, or potentially respond, to the request.

4. The General Counsel, or his/her designee, shall determine, generally within 10 days from receipt of the request, whether the request seeks disclosable public records in the District's possession and promptly notify the person making the request of the determination. In "unusual circumstances," as defined under Government Code section 6253, the General Counsel, or his/her designee, may extend the time limit for such a determination by up to 14 days, by providing written notice to the person making the request of the extension and the reasons for the extension.
5. When dispatching the determination described in AR 3075.3(4) above, and if it is determined that the request seeks disclosable records, the General Counsel, or his/her designee, shall either provide the records that respond to the request if available at that time, or state the estimated date and time when the records will be made available.
6. The General Counsel, or his/her designee, shall compile potentially responsive records and determine whether such records, or portions of records, should be withheld or redacted consistent with the CPRA.
7. The General Counsel, or his/her designee, shall promptly provide all responsive public records, not otherwise exempt from disclosure, to the requester, in accordance with the CPRA.
8. The District shall retain a copy of records produced in response to the request, either in hard-copy or electronic form, consistent with the District's records retention policy.
9. The General Counsel, or his/her designee, shall maintain an index of CPRA requests, identifying tracking number, requester name, date request received, and date responsive records were provided.

AR 3075.4 Additional Procedures for Responding To CPRA Requests Regarding Personal Accounts or Devices

If a Public Records Act request seeks records sent or received on an electronic personal account or personal electronic device of a District employee or officer (*see City of San Jose v. Superior Court* (2017) 2 Cal.5th 608), the District shall adhere to the following additional procedural steps:

1. The General Counsel, or his/her designee, shall provide a copy of the request to the District employee(s) or officer(s) described in the request.
2. The General Counsel, or his/her designee, shall advise the District employee(s) or officer(s) who is the subject of the request, as necessary or appropriate, regarding exemptions under the CPRA and what constitutes a "public record" subject to disclosure under the CPRA. Because the General Counsel is the attorney for the District and not any individual officer or employee, the General Counsel, at his/her discretion, may hire a special outside counsel to advise any individual officer or employee who is the subject of the request. Alternatively, an officer or employee that is a member of the District's Board of Directors, may seek the advice of independent counsel, and seek reimbursement for the costs associated there with, subject to approval of the Board.

3. The District employee(s) or officer(s) who is the subject of the request shall, within ten (10) calendar days of the District's receipt of the request, perform a reasonable search of his/her personal accounts (such as a personal e-mail account or social media account) and/or personal devices (such as a personal computer or phone) for any written records, including e-mail communications or text messages, that substantively relate to District business and are responsive to the CPRA request.
4. To protect the privacy of its officers and employees, the District shall not search the private accounts or devices of any District employee or officer, unless requested in writing by that employee or officer.
5. District employee(s) or officer(s) shall document their search methodologies, criteria, and terms, when conducting searches on their own private accounts and devices.
6. District employees and officers shall provide all potentially responsive records (written records that relate in some substantive way to District business and are not primarily personal) to the Office of General Counsel, and shall complete and sign a declaration, on a standard declaration form that is prepared by the Office of the General Counsel, attesting that the employee or officer completed a reasonable search of his/her accounts and devices and provided all potentially responsive records to the District. The declaration shall be a public record. Whenever an employee or officer withholds a potentially responsive record based on a determination that it is either not a public record, or not responsive to the request, the employee or officer shall describe, in the declaration required herein, additional facts sufficient to show that the withheld records are not public records, and are instead, personal materials.
7. Once the Office of the General Counsel has received public records from an employee or officer, the General Counsel, or his/her designee, shall determine whether any of the records, or portions thereof, should be withheld or redacted consistent with the CPRA.
8. Complete any remaining procedural steps for CPRA requests, as listed above in AR 3075.3.



**CALIFORNIA PUBLIC RECORDS ACT FORM – DECLARATION REGARDING SEARCH OF
PERSONAL ACCOUNTS OR DEVICES**

Use of Form: This form will be used by an El Dorado Irrigation District (District) employee or officer to document any search they conduct of their personal electronic account(s) or personal electronic device(s) in response to a request received by the District pursuant to the California Public Records Act (CPRA), Government Code section 6250 et seq., for public records contained on personal accounts or devices.

“Public Record” vs. Personal Communication: A District employee or officer should consider a communication contained on a personal electronic account or personal electronic device to be a “public record” that may be subject to disclosure under the CPRA if the communication substantively relates to the District’s business. In contrast, a communication that is primarily personal and contains no more than incidental mention of District business should be considered a private communication that is not subject to disclosure under the CPRA. (*See City of San Jose v. Superior Court* (2017) 2 Cal.5th 608.)

FORM – TO BE COMPLETED BY DISTRICT EMPLOYEE OR OFFICER
WHOM CONDUCTED THE SEARCH

I, _____ (name), declare that the following facts are within my personal knowledge:

1. I am _____ (position/title) for the El Dorado Irrigation District (District).
2. On _____ (date), _____ (name) of the District’s Office of General Counsel contacted me regarding a request received by the District for public records contained on personal electronic accounts or personal electronic devices, and provided me with a copy of the request.
3. A copy of the request is attached to this form.
4. I have reviewed the request for public records, attached hereto.
5. I have reviewed this form, including the paragraph explaining the difference between “public records” and personal communications.

ATTACHMENT C



6. I have received training regarding what constitutes a “public record” under the CPRA and that training included training regarding the standard for distinguishing between a “private” record and a “public” record.
7. After reviewing the attached public records request, as well as this form, and as informed by my training regarding the CPRA, on _____(date), I conducted a search of my personal e-mail accounts and personal electronic devices for any records substantively related to the District’s business that may be responsive to the public records act request.
8. The search I conducted of my personal e-mail accounts and personal electronic devices consisted of the following steps: (describe search conducted)

9. On _____(date), I provided copies of any potentially responsive records that I determined were substantively related to the District’s business to _____ (name) in the District’s Office of General Counsel.
10. Any potentially responsive records that I did not produce to the Office of General Counsel from my personal e-mail accounts or personal electronic devices were withheld by me based on my determination that those communications were primarily personal in nature. The following describes facts sufficient to show that the withheld records are not public records, and are instead, personal materials:

11.

12. (Reserved for additional facts, as applicable):

ATTACHMENT C



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this ____ day of _____, 20__, at _____ (location), California.

(Signature)

EL DORADO COUNTY GRAND JURY 2017-2018

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EL DORADO COUNTY 2017-2018 GRAND JURY

EL DORADO COUNTY FIRE PROTECTION CONSOLIDATION

Case 17-04 • June 30, 2018

SUMMARY

Proposition 13 significantly reduced revenues for local governments including fire protection districts. Many El Dorado County (EDC) fire protection districts have struggled to survive while continuing to provide service to their districts. Compelling reasons to consolidate fire agencies in El Dorado County exist, from cost savings to operational efficiency. Yet, the fear of losing local control might cause some districts to be reluctant. The El Dorado County Board of Supervisors should take the lead to move toward consolidation of all county fire agencies. Total or partial consolidation of fire protection agencies will take time. But, more importantly, it will first take the will to start.

BACKGROUND

In the late 1970's Californians were frustrated with increasing property tax assessments, especially when the State general fund had a surplus of approximately \$5 billion. In June 1978, California voters approved Proposition 13 limiting the real estate tax rate to one percent of assessed valuation. The resulting 53 percent reduction in tax revenues in 1978-1979 significantly affected local governments.

The California Legislature passed implementing legislation providing block grants to local agencies. Apportionment schedules for the distribution of those funds were based on the current budget of each agency. They can only be changed by a County Board of Supervisors when a consolidation of local agencies happens. The legislature then passed AB8 in 1979, permanently allocating a portion of these funds as block grants.

Facing serious financial difficulties in 1992, the Legislature created the Educational Revenue Augmentation Fund (ERAF), shifting ten percent of county, city and special district AB8 funds to local schools. However, any special district providing service across two or more counties was exempt from the 10 percent shift. The El Dorado Hills County Water District (El Dorado Hills Fire Department) provides service to a portion of Sacramento County and is therefore exempt. Similarly, the Lake Valley Fire Protection District serves a part of Alpine County and is also exempt. Any district that dissolves and the territory is annexed by either the El Dorado Hills County Water District or the Lake Valley Fire Protection District would most likely be exempt. The State Controller's Office has historically viewed that the statutes for this type of expansion of territory by a multi-county agency do not provide for a recalculation of the base ERAF calculations. That has been exemplified with the expansion of the Sacramento Metropolitan Fire District in Sacramento County.

Some El Dorado County fire protection districts felt the impact of Proposition 13 more than others. Over the years, the Board of Supervisors provided supplemental funding to fire protection districts. However, that funding has diminished in recent years, and remains uncertain as the county faces budget issues of its own. Budgetary issues, including the impact of Proposition 13

revenue limitations and ERAF revenue shifts have caused small districts across the state to consider cost-saving measures, including consolidation. Consolidation can achieve economies of scale, including the elimination of high paid executive positions. There are several types of consolidation. A *merger* occurs when a district consolidates with a city. Some consolidations are partial. In an *administrative consolidation*, departments remain legally separate but consolidate administrative or staff functions like sharing a fire chief. In a *functional consolidation*, a department performs special functions, like training, for others. An *operational consolidation* happens when departments join both administrative and functional operations. Lastly, *full consolidation*, or *reorganization*, is where one agency dissolves and is then annexed by another becoming one agency.

Some El Dorado County fire protection districts with existing funding constraints have successfully reorganized to maintain or improve service levels. Other fire protection districts are sharing administrative and/or functional operations without a full consolidation. The voters of some districts have passed special taxes to increase revenues for fire protection. Some districts have reduced service.

The El Dorado Local Agency Formation Commission (LAFCO) is the local agency charged with reviewing and approving boundary service areas for county agencies including fire protection districts. In 2010, LAFCO retained Citygate Associates, LLC, to conduct a fire and emergency services planning study. In part, this study made an in-depth examination of a possible countywide fire system.

Prior El Dorado County Grand Juries have recommended consolidation to save money. The 2007-2008 Grand Jury found that consolidation could provide an annual cost saving of more than \$1.2 million. In a separate report, the same Grand Jury recommended the Garden Valley Fire Protection District consider consolidation. The 2015-2016 Grand Jury recommended that the Mosquito Fire Protection District pursue consolidation of services with other fire protection districts.

This investigation tried to determine the pros and cons of consolidating fire protection services, why agencies may be reluctant to consolidate and how the county might motivate consolidation.

METHODOLOGY

- Reviewed prior El Dorado County Grand Jury reports about fire protection districts.
- Reviewed special district budgets relating to fire protection.
- Reviewed the Citygate Associates, LLC, May 13, 2010 *Fire and Emergency Service Study* for the El Dorado LAFCO.
- Interviewed elected El Dorado County officials.
- Interviewed El Dorado County career firefighters.
- Interviewed a representative from the El Dorado County Fire Chiefs Association.
- Interviewed past and current El Dorado County fire protection district board members.
- Interviewed experts on successful consolidations in El Dorado and other counties.
- Interviewed a representative from the El Dorado Local Agency Formation Commission (LAFCO).
- Interviewed a representative from the Fire Districts Association of California.
- Obtained legal guidance from the Office of County Counsel.

DISCUSSION

Unlike many other counties, El Dorado County does not have direct responsibility for fire service. That responsibility resides with 10 separate fire protection districts, the City of South Lake Tahoe Fire Department, and two community services districts. In addition, the California Department of Forestry and Fire Protection (CALFIRE), provides fire protection service throughout El Dorado County. Historically, the Board of Supervisors has taken a keen interest in fire service in the County. The Fire Advisory Board provided advice on fire-related issues to the Board of Supervisors; that Board is now inactive.

The El Dorado County Fire Chiefs Association of fire chiefs across the County coordinates fire service and advises the Board of Supervisors. The County has a centralized dispatch system for fire response and a robust mutual aid agreement among all County fire agencies. Two or more different agencies often respond to the same fire emergency.

In the 2010 Citygate Associates study, six fire agencies were identified as being in *Best Condition* meaning "...they had a suitable and stable revenue base..." to provide adequate fire services. Two were listed as being in *Modest Condition with Stretched Services* meaning while they have a larger revenue base, "...they are stretched quite thin across a large geographical area and so are not able to provide equity of coverage throughout their District". Since the Citygate report, one of these agencies has operationally merged with a *Best Condition* agency. Six agencies were listed as being in *Unstable Condition*, meaning they "...are small and providing very modest service on an unstable revenue base...". Again, since the Citygate report, one Fire Protection agency in the *Modest Condition* has dissolved and been annexed by a *Best Condition* agency. The financial status of the agencies identified in the 2010 study remains substantially the same today.

In 2002, the Legislature passed SB1207 requiring volunteer firefighters to meet the same California Occupational Safety and Health Administration (OSHA) training and safety standards as career firefighters. That legislation has added additional financial burdens to small rural fire protection districts that rely on volunteer firefighters.

The Fire District Association of California is a non-profit, statewide organization whose primary function is to help fire districts become more successful and effective. A representative from that association advised the Grand Jury that the condition of fire protection agencies in El Dorado County is similar to many other rural counties in the state. Fire protection districts originated as principally volunteer organizations with low budgets. Proposition 13 and subsequent legislation set low appropriation schedules for these districts based on these budgets as they existed in 1978. Increasing populations with a corresponding increase in homes and other structures and new state mandates requiring higher training standards for volunteer firefighters have made it increasingly difficult to operate a volunteer organization.

Individuals interviewed by the Grand Jury were nearly unanimous in support of consolidating fire protection agencies in El Dorado County. Some argued for a complete consolidation of all county fire agencies while others proposed an east slope and west slope two-district consolidation. A few proposed a three-district solution; east, west and the southern portion of the county. There was a consensus that any consolidation effort will be difficult and will take years to accomplish.

Many reasons support consolidation. The primary reason noted was cost saving. Consolidation would eliminate some redundant operations and personnel. There would also be cost savings when ordering supplies and equipment in larger quantities.

Another often cited benefit is standardization of training, equipment and practices, increasing operational efficiency and firefighter safety. As noted previously, it is typical for multiple agencies to respond to a single incident. In many cases, the firefighters responding do not know each other, have not worked together as a team and have trained to operate differently. This lack of coordination results in less efficiency and could reduce safety of firefighters and the public. In addition, consolidation has the potential to provide better service to certain areas by staffing stations on a 24-hour basis. Lastly, the Grand Jury was advised that consolidation would increase firefighter opportunities for advancement within a larger organization.

Conversely, there are many reasons fire protection agencies would be reluctant to consolidate. One is fear of losing local control. For the most part, fire agencies are proud of their organizations and may resist change even when it could have benefits to the community. Communities are also proud of their local fire services. Differences in training, staffing and even the markings on firefighting apparatus as well as patches on firefighter's shoulders, could deter consolidation efforts. Community support is necessary to achieve any consolidation. Under LAFCO rules a simple majority of voters can stop the consolidation process.

Another potential obstacle to consolidation is labor union resistance. Labor unions might oppose consolidation because of possible position reductions, staffing levels at different districts and firefighter station assignment. SB 239 took effect in 2016 impacting functional, administrative or operational consolidations when a labor contract is initiated to consummate a consolidation. In these instances, SB 239 allows labor unions to effectively veto consolidation efforts. However, there are specific situations where labor unions would support a consolidation if it benefited rank and file firefighters.

Disparity in tax revenue is the most significant obstacle to consolidation. Local agency share of tax revenue is based on revenues in 1978. Fire agency boards are reluctant to consolidate unless the consolidation is at least revenue neutral. The disparity among AB8 funding in County fire agencies means it is extremely difficult, if not impossible, for all consolidations to be revenue neutral. While the Board of Supervisors can adjust AB8 rates upon consolidation, there are limits on how this can be accomplished, and many factors must be considered.

The Grand Jury examined several successful consolidations in and outside El Dorado County. All had one commonality; one person, usually a fire chief, developed a plan to unify the boards, the public, firefighters, and unions while working through the LAFCO consolidation process. Without a plan and a driving force, no consolidations would have taken place.

The key to successful consolidation is achieving consensus. While the Board of Supervisors can initiate consolidation through LAFCO, they cannot mandate consolidations. Yet, the Board of Supervisors is uniquely positioned to set the vision for fire protection organizations, activate the Fire Advisory Board and staff it with individuals knowledgeable about county fire protection and how successful consolidations have taken place. The Board of Supervisors could charge the Fire Advisory Board to develop a long-term consolidation plan, encourage fire agencies to consolidate and support consolidation efforts as needed through the adjustment of AB8 allocations.

One possible outcome is to consolidate all county fire protection agencies over time, under the El Dorado Hills County Water District. This would potentially avoid an ERAF shift of up to \$1.6 million annually from individual fire agencies. However, it would obviously affect local schools' funding. It could also result in additional costs since El Dorado Hills County Water District is more expensive to operate than other fire protection districts. A cost analysis study comparing consolidating under El Dorado Hills Water District versus other county fire agencies would be prudent before a final decision can be made.

The County may never achieve meaningful consolidation. Nevertheless, that should not deter the County from trying. Neither should the complexity of consolidation efforts. The road forward will take leadership, planning, persistence and time. It will first take the will to start.

FINDINGS

- F1. Many fire protection districts in El Dorado County provide modest service with an unstable revenue base.
- F2. Consolidating fire protection agencies could provide safer, more efficient and more comprehensive fire service.
- F3. The Board of Supervisors, in conjunction with LAFCO, is best positioned to champion fire agency consolidation.
- F4. The Fire Advisory Board, if reactivated, could help the Board of Supervisors with consolidation.
- F5. Consolidation needs to be a well-planned effort and will take many years to accomplish.
- F6. Consolidation is unlikely without adjustment of AB8 allocations.
- F7. Firefighter professionals in the County favor consolidation.

RECOMMENDATIONS

- R1. The Board of Supervisors should take the lead to consolidate County fire protection agencies.
- R2. The Board of Supervisors should reactivate the Fire Advisory board.
- R3. The Board of Supervisors should direct the Fire Advisory Board to develop a plan for consolidation of fire protection agencies.
- R4. The Board of Supervisors should resolutely work to persuade agencies to implement the plan.
- R5. The Board of Supervisors should be open to reasonable AB8 allocation adjustments to support consolidation.

WEB ATTACHMENT

2010 Citygate Fire and Emergency Service Study for the El Dorado LAFCO
<https://www.edlafco.us/citygate-fire-study>

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- Response to findings F3, F4, F5, F6, and all recommendations from El Dorado County Board of Supervisors.
- Response to finding F3 from El Dorado County Local Agency Formation Commission.

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

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Response to Recommendations

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Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to [**courtadmin@eldoradocourt.org**](mailto:courtadmin@eldoradocourt.org) is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

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EL DORADO COUNTY 2017-2018 GRAND JURY

HOW EL DORADO COUNTY CAN NAVIGATE THE CALPERS CRISIS

Case 17-06 • June 30, 2018

California's giant pension agency, California Public Employees Retirement System (CalPERS), finds itself in the headlines, and that is not necessarily a good thing for El Dorado County, since its employees are covered by the CalPERS retirement system. Reports of underperforming investments and increased costs passed along to member employers are common. City and county governments face budget shortfalls, or in some cases, bankruptcy. While El Dorado County does not appear to be in imminent danger, addressing CalPERS issues will be an increasing challenge for the County's executive management and elected leaders.

CalPERS increases mandatory contribution levels to make its trust fund healthy enough to cover pension obligations to millions of state and local government workers. City and county governments, school districts, special districts and other public agencies in the CalPERS family struggle to find a balance between rising CalPERS expenses and ongoing government program costs.

Balancing a budget is difficult, and El Dorado County's (EDC) budget is no exception. When operating costs outpace revenues, the outcome is predictable, even during a predominately healthy economy. The County's obligation to pay pension costs is growing over time, redirecting resources from ongoing County service needs including public safety, road maintenance, and human services. Without change, the ability to provide for the health, safety, and welfare of citizens may be compromised.

The Grand Jury seeks to bring the challenge of balancing rising pension expenses and ongoing County program costs into focus, using layman's terminology to better understand the CalPERS process, and provide suggestions to address a growing fiscal concern. Of course, El Dorado County is not alone, but is the situation actually that bad? Is our County at risk? The Grand Jury believes that without quickly and intelligently implementing steps to slow the growth of the County's CalPERS debt, the problem will get much worse. Of course, there is not much this County can do to address the Statewide issues, but EDC needs to take steps that are within its control.

METHODOLOGY

The Grand Jury Reviewed:

- "Understanding CalPERS", an overview document published by CalPERS
- CalPERS Website
- Federal and State laws related to CalPERS
- Annual CalPERS Actuarial Valuation Reports for El Dorado County
- News articles related to CalPERS
- Grand jury reports about CalPERS from other California cities and counties
- El Dorado County 2002-2003 Grand Jury Report
- El Dorado County budget and financial documents

In preparing this report, the Grand Jury had difficulty locating information pertinent to making its recommendations. Although the flow of information regarding the pension status has improved between County staff and the Board of Supervisors (BOS), the Grand Jury feels the County could improve the communication flow with the public. It is particularly important to provide complete and accurate information to the public when an issue involves huge numbers like a "\$346 million unfunded liability". Without complete information to put that number into context, it is easy for the public to react with a sense of doom.

The Grand Jury Interviewed:

- Representatives of the County Chief Administrative Office
- Representatives of County Human Resources
- Representatives of the County Auditor's Office
- County Board of Supervisors
- CalPERS management staff

The Grand Jury Attended:

- County Board of Supervisors Meetings
- El Dorado County Audit Committee Meetings

NOTE: Unless otherwise specified, references to statistical data in this report are contained in the 2015-16 actuarial report provided by CalPERS. The most recent data available is current through June 30, 2016 and is available at these internet links:

<https://www.calpers.ca.gov/docs/actuarial-reports/2016/el-dorado-county-miscellaneous-2016.pdf>
<https://www.calpers.ca.gov/docs/actuarial-reports/2016/el-dorado-county-safety-2016.pdf>

BACKGROUND

CalPERS is the largest public pension fund in the nation with approximately 3,000 employers representing more than 1.9 million members. The system administers pension benefits for all state employees and employees of other governmental agencies such as counties, cities, special districts, and school districts. Thirty-nine of 58 California counties are CalPERS members, including El Dorado County.

CalPERS is an independent agency with sole authority to administer retirement funds of contracting agencies. It is a significant component of public employee compensation intended to guarantee employees a predictable income in retirement that is protected by California Law¹. The cost of benefits is tied to date of hire, salary, and negotiated cost-sharing between the employee and the employer. CalPERS is responsible for collecting both employee and employer contributions, placing them in a pension trust, managing the investment of those funds and distributing them to employees after retirement. The objective is to accumulate sufficient assets to pay benefits over the remainder of employees' lifetimes.

¹ California Public Employee Retirement Law (PERL) January 1, 2016

Employer contributions to CalPERS are determined by actuaries utilizing complex financial models to estimate the amount of contributions needed to fund each employer's future pension plan obligations. CalPERS has sole authority to determine assumptions used in the financial models, including lifespan estimates and projected return on investments. CalPERS provides annual actuarial reports to member employers.

Failure to collect and set aside adequate funds, or investing in underperforming assets, causes a gap between funds available and funds needed for retiree benefits, referred to as Unfunded Accrued Liability (UAL). It is the responsibility of employers to compensate CalPERS for pension under-funding. Recent calculations place the UAL for EDC at approximately \$346 million.

HISTORY OF CALPERS

CalPERS was created in 1932 as a public-sector pension system. CalPERS acts as a common investment and administrative agent for public entities within the State of California that provide retirement and disability benefits with annual cost of living adjustments and death benefits to plan members and beneficiaries. Retirement benefits are based upon a defined benefit pension plan where an employer promises future benefit payments based on an agreed-upon formula.

In 1932, the usual retirement age was 65 years with a life expectancy of 66. After 40 years of work, the qualifying pension was about 57% of ending salary. Pensions were funded by contributions from employers, contributions from employees, and money gained from investing those contributions. Over the years, the CalPERS retirement benefit increased when cost of living adjustments were added, life expectancy improved, retirement age lowered, and pension formulae changed. Current life expectancy is 87 years for women and 85 years for men. CalPERS continues to update baseline data used in formulas that impacts established pension contracts, adjusting projected return rates on investments.

In 1992, California voters approved Proposition 162, the Pension Protection Act. It gave CalPERS authority to administer the system to assure prompt delivery of benefits to participants. CalPERS also retained the exclusive authority to determine the amount of an agency's contributions needed to fund its obligations.

In the late 1990s, CalPERS held assets well in excess of its future pension obligations, largely because of a healthy economy and strong stock market. Investment gains typically account for 60% of CalPERS pension funding. Changes in the economic environment have a significant impact on the pension fund. CalPERS analyzes changes over a broad timeframe to determine trends, then adjusts employer contributions accordingly.

The robust market in the 1990s provided impetus for several changes to CalPERS' methodology that would prove damaging in the long term. In 2001, the Governor signed SB400 into law, reducing the age at which many State employees were eligible to retire. More significantly, the legislation provided retroactive increases in the formula used to calculate retirement benefits, and authorized retirement eligibility at earlier ages for many State employees. SB400 also authorized local agencies, including cities and counties, to amend their retirement ages and their benefit formulae. These enhancements were embraced by governmental agencies to attract, reward and retain employees. Many employers, including EDC, took the opportunity to provide enhanced retirement benefits to employees.

Retroactive benefits triggered an immediate increase in funds needed from employers. Previously-calculated contributions were no longer able to balance member accounts that were now underfunded. A higher salary base compounded the immediate impact on debt or liability. This single decision resulted in a debt threshold that continues to grow unabated, despite best intentions.

In 2012, the Legislature took its first significant step to remedy the funding problem. It adopted AB340, the California Public Employees' Pension Reform Act (PEPRA), which took effect in January 2013. The law limited future pension manipulation, such as golden handshakes and retroactive raises, which reined in some excesses but didn't address pension contracts before January 2013. This is due, in part, to the "California Rule" which guarantees government workers the pension formula that was in place the day they were hired, unless the employees have bargained to change their formula in exchange for something of equal value. The current interpretation of the California Rule is facing legal challenges, with a ruling pending from California's Supreme Court.

CALPERS TODAY

The value of CalPERS assets was hurt by the dot.com bubble bursting in the early 2000s, followed by the recession in 2008. CalPERS suffered a 24% decline in the value of its holdings in 2009 alone. As a result, the robust health of member accounts dwindled and crossed the threshold into indebtedness. The larger the increases various agencies had granted employees, the larger their UAL. EDC had not offered its employees as generous a pension formula as many other counties, so its unfunded liability is not as great.

A gap happens when funds needed to pay benefits exceed the funds available. It is also referred to as an unfunded liability. Simply, it is that part of benefits, a liability, without sufficient funds to pay it. It applies not only to current funding but more importantly, to projected funds and benefits in the future. Projections are made for distinct points in the future. Liabilities are recalculated into a single value called an Unfunded Accrued Liability (UAL), representing the total dollar amount that is due to CalPERS, based on assumptions made at the time of its calculation. Of course, projections can, and do, change, and so does the UAL. It is important to know that it is the responsibility of member agencies to fund those gaps in funding (UALs), not CalPERS.

CalPERS obligations and Unfunded Accrued Liability (UAL) should be of significant concern to all member agencies, including El Dorado County. As of June 30, 2016, 1,295 of the 1,511 public agencies participating in CalPERS had pension plans funded at less than 80% of full funding. EDC's pension plan is currently funded at 64%. Fortunately, the UAL debt is not due immediately and is incorporated into annual payments calculated by CalPERS. The problem is exacerbated by accumulating interest, adding to the continued UAL growth.

CalPERS is required to review and update its actuarial assumptions at least every four years. The actuarial review includes a *look back* period commencing in 1997 to track data and identify trends. The results provide a basis for future projections. In addition to updating the mortality tables and cost of living adjustments, CalPERS actuaries analyze the rate of return on the investment portfolio. CalPERS may employ the best and brightest staff to create and implement an investment strategy to make money for their clients, but they cannot control the outcome. The rate of return on investments from year to year is not immune to a volatile stock market or broader changes in the economy that affect investment growth. The rate of return on investments has a significant impact on the calculation of employer contributions.

On the surface, adjusting assumptions to determine current life expectancy, modifying retirement eligibility factors, incorporating cost of living adjustments, and accounting for the rate of return on investments does not seem significant, much less catastrophic. It is important to understand that every adjustment affects employers since they retain final responsibility for funding the pension plan.

The effects for EDC extend beyond County employees because every dollar EDC must pay to fund retirement is a dollar that otherwise could be spent on County services. In 2016, CalPERS reduced its projected earnings from 7.5% to 7% because of underperforming investments. The staggering effect of this single adjustment resulted in increases passed on to CalPERS employers. For El Dorado County, the increase is millions of dollars over the next few years.

CalPERS notifies member agencies in writing of annual employer contributions for a 3-year period. This allows long-term budget planning and establishes the minimum amount of an employer contribution. The notification includes options for agencies to make accelerated payments to reduce the UAL.

The required employer contribution or payment to CalPERS has two components: normal cost and UAL. Normal cost represents the annual cost of service accrual for active employees during the upcoming fiscal year. It is shown as a percentage of payroll and paid as part of the payroll reporting process. The UAL is the amortized dollar amount needed to fund past service credit earned for members currently receiving benefits, active members, and for members entitled to deferred benefits, as of the valuation date. The UAL portion is calculated into a monthly minimum payment but can be paid in a lump sum at the beginning of the fiscal year, eliminating the ongoing accrual of interest on this segment of the UAL.

EL DORADO COUNTY

CalPERS data through June 2016 reveals that El Dorado County contracts with CalPERS to provide benefits for approximately 4,000 County employees, distributed between 1,900 active personnel and 2,100 retirees.

The EDC Auditor-Controller has frequently shared his concerns with both the Board of Supervisors (BOS) and local media, about the alarming growth rate of the County's unfunded pension obligation. He has cited CalPERS data that indicates that EDC's unfunded liability is \$346 million. Discussions with several County Administrators and Supervisors revealed the unanimous opinion that the County CalPERS contribution is one of the most important fiscal issues facing El Dorado County.

As early as 2002, the County was aware of the need to increase contributions to compensate for CalPERS liabilities. A 2002-03 Grand Jury report outlined several shortcomings in El Dorado County's budget for fiscal year 2002-03. Contributions to CalPERS had not been adjusted to reduce the rising pension liabilities. The Grand Jury feels it is important to better understand what, if anything, has changed since the earlier Grand Jury Report.

In 1999 and 2000, like many other California agencies, EDC opted to grant retroactive raises and benefits to a number of their personnel. This decision resulted in EDC having unfunded liability for pensions. CalPERS calculates a percentage of the UAL to be paid annually. As noted above, this amount is added to the normal cost of pension payments and billed to the County as a mandatory minimum payment.

In Fiscal Year 2002-2003, El Dorado County's required contribution to CalPERS was \$7,732,954. In 15 years, the contribution has reached over \$30 million. The table below shows annual CalPERS payments and a corresponding increase of employer contributions.

Annual EDC CalPERS payments

<u>FISCAL YEAR</u>	<u>REQUIRED EMPLOYER CONTRIBUTION</u>	<u>INCREASE FROM PREVIOUS YEAR</u>	<u>UAL PORTION</u>
2015-16	\$25,809,088	N/A	\$12,916,158
2016-17	\$27,784,630	\$1,975,542	\$14,607,206
2017-18	\$30,533,664	\$2,749,034	\$17,112,172
2018-19	\$35,110,135	\$4,576,471	\$20,516,816
2019-20*	\$40,092,998	\$4,982,863	N/A

*Projected

It is important to note that El Dorado County has never defaulted on a CalPERS payment. Historically, EDC has paid the employer contribution monthly. However, because the County is paying only the minimum required UAL payment, the UAL continues to grow, largely due to interest. The pension funding level now stands at 64%, and the UAL has mushroomed to \$346 million. The County may no longer be able to absorb the increased costs without impacting the level of services to all residents.

In 2016, CalPERS notified EDC about payment requirements for 2016-17, 2017-18, and 2018-19. In the 2017-18 County budget, funds were set aside to meet this obligation. The UAL portion of EDC's contribution went up significantly during that period, increasing by \$1.7 million (13%) in 2016-17, \$2.5 million (17%) in 2017-18, and \$3.4 million (20%) in 2018-19.

There is a potential to save interest by prepaying the UAL mandatory payment. EDC has not yet taken the pre-payment option.

In February 2018, CalPERS announced a policy change realigning the UAL debt payment schedule from 30 to 20 years. Taking effect in 2019, it revises rates to speed up the rate of debt (UAL) payment. This policy means substantially higher annual payments will start in 2021. It will save EDC money over time, but payment increases will squeeze budgets over the next few years, possibly resulting in draconian reductions in services.

DISCUSSION

To deal with what the Grand Jury sees as a growing sense of concern over the County's pension debt, various strategies might be considered, from those that do nothing beyond meeting CalPERS requirements, to leveraging the UAL and cutting the debt. EDC could reevaluate the method in which payments are made, and either continue making the minimum monthly payments for the employer contribution or pay the UAL at the beginning of the billing cycle, potentially saving hundreds of thousands of dollars in interest annually and paying off the UAL sooner.

EDC could continue to earmark funds in the budget to offset increases in upcoming fiscal years. The County could commit some of any year-end budget surpluses for CalPERS. The funds could be deposited into a pension trust for use restricted to pension-related costs including, but not limited to, paying annual pension increases or paying down the UAL. The County could evaluate the benefits and risks of trust funds managed and invested by a pension investment firm. These ideas are not new, and some have been implemented by EDC on a limited basis.

While, in theory, EDC could buy out of the CalPERS system and establish its own pension plan, the current cost provided by CalPERS would be \$1 billion, making this option untenable.

It is evident to the Grand Jury that EDC has no viable option to fix the problem without significant impact to the County's budget, at least in the short-term. However, in our view, El Dorado County should implement and commit to a strategy as soon as possible to maximize its reductions to the UAL, so that the UAL shrinks instead of continuing to grow to the point there is no way to repay it.

The CAO has been active in restoring County fiscal health. We observed that he was abreast of the current CalPERS status and actively involved in the California State Association of Counties (CSAC) and other organizations that share information and strategies. In addition, he is collaborating with departmental heads to identify funds necessary for mandatory pension payments for 2017-18 and 2018-19 and has also supported redirecting the current year-end budget surplus to address CalPERS UAL reduction and consideration of alternate investment strategies.

The Grand Jury is satisfied that the County has implemented several operational changes since the 2002-03 Grand Jury report, including the recent establishment of a Budget Policy that includes direction to set aside additional funding for pension-related costs. The CAO expressed concern regarding the escalating UAL and had clearly devoted significant time and effort to address spiraling costs.

Discussions with Supervisors confirmed their awareness of this issue's importance, and they were unified in implementing solutions. The Grand Jury is concerned that the driving force is the vision and goals of an individual, primarily the CAO. Although the current Board supports the direction recommended by the CAO, the Board is subject to periodic changes due to elections and term limits. It is imperative that goals be formalized to provide a framework for continued restoration of the County's fiscal health.

FINDINGS

- F1. The unfunded CalPERS liability for El Dorado County is \$346 million as of July 2016.
- F2. El Dorado County pays annual CalPERS payments monthly, resulting in interest charges payable to CalPERS.
- F3. El Dorado County pays only the minimum amount due to CalPERS; it does not make additional payments to reduce the UAL.
- F4. El Dorado County has an established policy to set aside additional funding for post-employment benefits, but not specifically for CalPERS obligations.
- F5. Historically, El Dorado County has not provided information to the public about its CalPERS obligation in a way that clearly illuminates the scope of the pension obligation.

RECOMMENDATIONS

- R1. El Dorado County should establish a policy to escalate contributions to reduce the UAL.
- R2. El Dorado County should evaluate pre-paying the annual CalPERS contribution by paying the UAL portion annually rather than monthly to lessen interest charged by CalPERS.
- R3. El Dorado County should create a dedicated trust to assure that funds set aside in the budget for CalPERS costs are used for that purpose.
- R4. El Dorado County should fund the CalPERS trust account to the maximum extent possible.
- R5. As part of the yearly budget process, El Dorado County should report the details of its CalPERS obligation in simple and understandable terms prominently on the County's website and in a press release, so that citizens can understand the extent of future CalPERS obligations.

ATTACHMENT

- Glossary

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- Response to all recommendations from El Dorado County Chief Administrative Officer.
- Response to all recommendations from El Dorado County Board of Supervisors.

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Response R# *[Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.]*

Response: *[Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation.]*

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to courtadmin@eldoradocourt.org is preferred.

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(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

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GLOSSARY

Actuary: A person professionally trained in the technical and mathematical aspects of insurance, pensions, and related fields. An actuary estimates how much money must be contributed to a pension fund each year in order to support the benefits that will become payable in the future.

Actuarial Assumptions: Assumptions made about certain events that will affect pension costs. Assumptions generally can be broken down into two categories: demographic and economic. Demographic assumptions include such things as mortality, disability, and retirement rates. Economic assumptions include: investment return, salary growth, payroll growth, inflation rates, and health care inflation rates.

Actuarial Valuation: A mathematical analysis of the financial condition of a pension plan which requires making economic and demographic assumptions in order to estimate future liabilities. The assumptions are typically based on a mix of statistical studies and experienced judgment.

Amortization: An accounting term that refers to the process of allocating the cost of an intangible asset over a period of time. It also refers to the repayment of loan principal over time.

Assets: Employer contributions and accumulated earnings on the investment of these contributions to be used to pay retirement benefits to retired employees.

Benefit Formula: The formula used to determine the amount of a benefit that an eligible participant receives upon retirement. Each formula specifies a percentage rate based on the member's age at retirement, and either statute or a collective bargaining agreement specifies which formula will be applicable to an individual member. The retirement benefit calculation typically includes three factors: a percentage rate based on the age at retirement and benefit formula applicable to the member, the member's length of credited service, and the member's highest average compensation for a one-year or three-year period. Typically, retirement formulas are titled in such a way as to describe how a retirement benefit would be calculated, such as "2% at age 55." In this case, the retirement benefit for a member retiring at age 55 would be: 2% (the formula percentage) X years of service X average monthly pay rate for either one or three years.

Defined Benefit (DB) Plan: A traditional pension. A plan designed to provide eligible participants with a specified lifetime benefit at retirement. The benefit is based upon the following three factors: a percentage rate based on the member's age at retirement and benefit formula applicable to the member, the member's length of credited service, and the member's final compensation. Defined benefit plans also typically provide disability and death benefits. The plans are funded by member contributions, employer contributions, and income earned from the investment of accumulated contributions.

Fiscal Year (FY): A term of one year, typically beginning on the 1st day of July extending through the last day of June.

Fully Funded: A specific element of pension cost (for example, past service cost) is said to have been fully funded if the amount of the cost has been paid in full. A retirement plan is fully funded when the funded ratio equals 100% or greater.

Funding Level: The relationship, usually expressed as a percentage, between the actuarial value of a plan's assets and its actuarial liability. The amount of funds in the account.

Liabilities: The obligations of a plan to pay amounts of money either immediately or in the future.

Normal Cost: The present value of future pension benefits earned during the current accounting period.

Unfunded accrued liability (UAL): The amortized dollar amount needed to fund past service credit earned for members currently receiving benefits, active members, and for members entitled to deferred benefits, as of the valuation date.

Valuation Date: The effective date for an actuarial valuation of a pension plan.

EL DORADO COUNTY 2017-2018 GRAND JURY

OVERSIGHT OF SPECIAL DISTRICT MITIGATION FEES

Case 17-12 • June 30, 2018

SUMMARY

A lawsuit against El Dorado County and special districts in El Dorado Hills raised concerns over how fees developers pay for roads, parks and fire services are being managed, administered and spent. The County has responsibility to collect, administer and manage many fees. This report focuses on County oversight and administration of its Traffic Impact Mitigation (TIM) fees and its involvement with special district fees, which were the subject of the lawsuit.

The California Mitigation Fee Act (MFA) governs the establishment and accountability of impact fees such as TIM and special districts fees. The Fees offset the impacts of new development on public facilities such as roads, parks, and fire. Strict reporting requirements are required to demonstrate the need and continuation of the fees. The lawsuit alleges that the reporting requirements were not followed. Thus, the fees are no longer needed and the fees should be returned to the property owners from whom the fees were collected.

The County is currently doing a good job handling TIM fees. However, the County's past record from past administrations show that it did not comply with its own ordinance regarding the administration of the special district fees. The County has since adopted a revised version of its mitigation fee ordinance to reflect the State MFA.

The County Administrative Office (CAO) oversees the administration of the Special District Fees. Unlike the TIM Fees, there are no policies or procedures specific to County's administration of Special District Mitigation Fees. Policies and procedures need to be formalized.

BACKGROUND

A civil lawsuit, in December 2015, against El Dorado County was filed by El Dorado Hills residents alleging that the County, El Dorado Hills Community Services District, and El Dorado Hills Water/Fire District failed to comply with the MFA. Specifically, the County failed to file a series of five-year nexus reports as mandated by the MFA and, therefore, is mandated to return the unexpended fees to the property owners. It was alleged that approximately \$30 million in unexpended funds remain in various *special districts* accounts collected from property owners during the building permit process. With its mandate to promote government accountability, the Grand Jury reviewed the County's administration and management practices regarding the reporting requirements of these fees under the Mitigation Fee Act.

METHODOLOGY

- Reviewed the Mitigation Fee Act.
- Interviewed County personnel and reviewed policies and practices.
- Reviewed El Dorado Superior Court Case #PC-20150633, Austin vs. County of El Dorado.

DISCUSSION

Mitigation Fee Act

Prior to 2017 the County collected and administered mitigation fees on behalf of the special districts in accordance with County Code Chapter 13. In 2017, the County Code was amended to incorporate the Mitigation Fee Act (MFA) to ensure compliance, avoid duplication, and limit the liability of the County when collecting the fees on behalf of the special districts.

The California Mitigation Fee Act (MFA), Government Code 66000, allows fees to be collected by a local agency to pay for public facilities and services needed for new development. In El Dorado County, the mitigation fees are collected at the time when the building permit is issued, and are generally listed as a Traffic Impact Mitigation (TIM), special district, fire district, public safety facilities (sheriff substation), or ecological preserve fees.

Mitigation fees must be deposited in a separate capital facility account for each facility and may only be expended for the purposes for which they were collected. The Act requires that County/Special Districts account for every fee collected and that an annual report be presented to the governing board showing revenues and expenditures of each fee account. In addition to the annual report, a nexus report of all unexpended fees is to be generated every five years with findings that

- 1) Identify the purpose to which the fee is to be expended,
- 2) Explain unexpended monies and justify the purpose for having a balance in the account,
- 3) Identify the sources and funding for any as-yet uncompleted improvements, and
- 4) Designate the approximate date the agency expects the funding for uncompleted improvements will be needed.

If the local agency fails to make the findings or properly account fees, the Act provides that the agency shall refund the monies to the property owners of record.

Interviews and Policies

The Grand Jury interviewed County staff responsible for the fees including staff at the County Auditor, Planning and Building Department, and Chief Administrative Office. TIM fees have been managed via the Capital Improvement Program (CIP). The County's administration of Special District Fees was not effectively administered during previous years.

Mitigation fees are calculated and collected by the Planning and Building Department then administered and distributed by the Auditor and Chief Administrative Officer.

TIM Fees are based on funding needed for transportation projects that will accommodate growth. Transportation projects are identified from the County's General Plan and proposed developments. Once identified, the projects are included in the Capital Improvement Program (CIP) with estimated time frames for completion. The CIP is a 20-year plan periodically updated with new major projects. TIM fees, in combination with other revenue sources, fund these transportation projects. The County has adopted a TIM Fee Administrative Manual containing policies that govern the use of and reporting of the TIM Fees. Community Development Services, including the Planning and Building Department, administers and manages the CIP and are responsible for submitting updates for approval by the Board of Supervisors (BOS).

In addition to TIM Fees, the County collects other mitigation fees on behalf of special districts. In 1995, the County passed Ordinance 4404 authorizing the County to adopt and collect mitigation fees on behalf of community services districts, as permitted by the MFA. Special district fees, unlike Countywide TIM fees, are specific to particular service districts. These fees fund new or expanded fire protection facilities or equipment and new or expanded park and recreational improvements within those districts.

Current special districts are:

- Georgetown Divide Recreation District
- El Dorado Hills Community Services District
- El Dorado Hills County Water/Fire District
- Cameron Park Community Service District (Fire, Parks & Recreation)
- Rescue Fire Protection District
- Pioneer Fire Protection District
- Mosquito Fire Protection District
- Lake Valley Fire Protection District
- Georgetown Fire Protection District
- Garden Valley Fire Protection District
- El Dorado County Fire Protection District
- Diamond Springs/ El Dorado Fire Protection District

The special districts listed above determine their capital improvement needs and must comply with the reporting requirements of the Mitigation Fee Act. However, these districts typically do not have the expertise or staff to generate those reports. The County assists special district compliance on a voluntary basis and provides the facility fee accounts. Witnesses acknowledged that personnel and administrative changes over the years contributed to inconsistent County assistance with reporting requirements.

In March 2013, the County Auditor advised the Board of Supervisors (BOS), the then Chief Administrative Officer (CAO) and County Counsel, that the County was not, and has not been, in compliance with the MFA regarding special districts. Specifically, the special districts failed to submit the required five-year nexus studies and findings to the County demonstrating the need and expenditures of mitigation fees. This same admonition was repeated for several years. The failure to submit five-year nexus reports was the basis of the Austin lawsuit.

The County recently assigned staff to oversee Special District Mitigation Fee compliance. However, there are no formal County procedures or policies giving guidance for the administration and management of Special District Fees.

MFA reporting requirements have not been strictly adhered to by the County and Special Districts. There must be an annual report accounting for all MFA fees and five-year findings. Both reports are to be presented to and approved by the BOS as having complied with the MFA.

Court Case #PC-20150633, Austin Vs County of El Dorado

The Grand Jury reviewed this petition which seeks to compel the County to refund all unexpended mitigation fees, as required by the Act, because the required five-year studies were not submitted. Hearings on the petition are ongoing and there has not been a final determination in the case at the time of this report.

The California Fourth Appellate District court recently ordered the City of San Clemente to refund impact fees to current owners of affected properties that had been assessed a "Beach Parking Impact Fee" to defray the cost of new beach parking. The City collected almost ten million dollars, yet less than \$350,000 was spent to purchase property without constructing parking facilities. The court found that the City's five-year report failed to make specific findings required by the MFA and ordered the City to refund approximately \$10.5 million.

The El Dorado County Austin case is based on the same concept.

FINDINGS

- F1. The Chief Administrative Office (CAO) has designated staff with responsibility for assisting special district compliance with the MFA.
- F2. There are no County internal policies and procedures governing the County's assistance in the administration of special district mitigation fees.
- F3. All County mitigation fees accounting is up to date and in full compliance with the MFA.

RECOMMENDATION

- R1. The County should formalize policies and procedures with regard to the County's role in assisting special districts to comply with the Mitigation Fee Act.

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- **Response to all findings and recommendations from the El Dorado County Board of Supervisors.**

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Recommendation R# *[Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.]*

Response: *[Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation.]*

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to [**courtadmin@eldoradocourt.org**](mailto:courtadmin@eldoradocourt.org) is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

EL DORADO COUNTY 2017-2018 GRAND JURY

EL DORADO COUNTY JAILS INSPECTIONS

Case 17-03 • June 30, 2018

SUMMARY

The 2017-2018 Grand Jury conducted its annual inspection of El Dorado County jails in both South Lake Tahoe and Placerville in November 2017.

The tours were conducted by correctional staff who explained the overall operation of the jails during a comprehensive viewing and inspection of numerous areas of the facilities including: Receiving, Release, Sally Ports, Booking, Culinary, Visiting and Recreational areas, as well as Inmate Housing Units and Staff Control Booths. Correctional Staff reviewed documents with jury members covering the classification of inmates in the jail, receiving, booking and release.

Jurors were troubled by the purportedly high rate of inmate attempted suicides shown in a 2011-2017 report. In addition, the general maintenance condition of both jails did not meet expectations.

Vocational training programs are nearly nonexistent and there are no life skills training programs to help inmates re-enter society upon release. Exercise and recreation activity space was limited to 10 inmates at a time. We observed a high degree of inmate inactivity in the housing units.

The Grand Jury commends the staff and administrators in both jails for up-to-date computer database systems that track and provide statistics on each inmate during their confinement.

BACKGROUND

California Penal Code Section 919 subsection (b) requires the Grand Jury to annually inspect all County jail facilities. Sections 925 and 925(a) authorize the Grand Jury to investigate county and city jails and other detention facilities. Although a report is optional, the Grand Jury felt a report was necessary based on observations and documentation gathered during the inspections. The Grand Jury has combined both jails in this comprehensive report.

METHODOLOGY

- The Grand Jury reviewed the Board of State and Community Corrections (BSCC) Jails Inspection Handbook.
- The Grand Jury utilized the *Inspection Handbook for Grand Jurors and Detention Facility Inspection Form* for both County jails provided by the California Board of State and Community Corrections (BSCC).
- Grand Jury members toured both jail facilities interviewing staff and inmates.
- The Grand Jury reviewed the statistical accountings of the Inmate Classification System, the Disciplinary System, Special Needs Inmates, Civil Detainees, Special Management Inmates, Health Screening, and Attempted Suicides/Suicides.
- The Grand Jury reviewed the 2017 *Jail Needs Assessment for the El Dorado County Jails*, prepared for both jails by Vanir Consulting, a well-known correctional consultant.
- Grand Jury members conducted exit interviews with correctional staff about the Vanir Report statistics related to attempted and actual suicides.

DISCUSSION

The Placerville Jail is a 303-bed facility constructed in 1988. Within the jail are single occupancy cells, double occupancy cells and dormitory housing units. The South Lake Tahoe Jail is a 158-bed facility initially built in 1973 with an addition in 1992. It too has single and double occupancy cells and dormitory housing. Both facilities house male and female inmates. The number of inmates fluctuates daily.

There are four classifications for housing both male and female inmates: *General Population*, *Protective Housing*, *Maximum Security* and *Administrative Segregation*. Inmates identified as *Gang Members* may require special housing.

Inmates are carefully screened on arrival and classified to determine how and where each inmate should be housed. High risk inmates are identified based on their potential for violence, need for heightened security during pretrial, escape history, gang affiliation and mental health status. High risk inmates are often placed in Administrative Segregation, Protective Custody or a Medical Unit. A registered nurse and a licensed vocational nurse staff the medical unit. Both jails contract with California Forensic Medical Group (CFMG) for mental health issues on an on-call basis, with an option to video conference with mental health professionals.

AB109, enacted in 2011, requires the transfer of some prisoners from State facilities to county jails to reduce overpopulation. Inmates from State prisons are often more knowledgeable than first time inmates, understanding the prison system and ways it can be manipulated. Not all jail staff had been trained to handle these individuals, including gang members. In addition, some of the transferred state prisoners were in the Mental Health Services Delivery System (MHSDS) while in prison. County jails are not equipped to deal with inmates needing on-going mental care. Transferred State prisoners can pose a threat to the security and safety of both jail staff and other inmates.

Vocational Training Programs – Life Skills Programs – Educational Programs

The only vocational program in both jails is the certified culinary program. The South Lake Tahoe Jail Culinary Program has received numerous awards, winning recognition for service to the jail and the community. These culinary programs help inmates become employable upon release. Inmates must complete a food safety certification program and obtain a medical clearance before acceptance into the Culinary Program. Currently, only male inmates work in the Culinary Program while female inmates are limited to laundry services. Jail policy does not allow male and female inmates to commingle.

In the past, the El Dorado County Office of Education and the El Dorado Adult School had provided Adult Basic Education, English as a Second Language (ESL) and General Education Diploma (GED) programs at both jails. Currently, only the GED program is available. It was apparent during our tour of both jails that the educational GED/High School Diploma Program, restarted in 2017, has little inmate participation.

In addition, certain inmates must complete courses such as Anger Management, Narcotics Anonymous and Alcoholics Anonymous as part of mandated court sentencing.

There are currently no life skills training programs in either jail. Life skills training on topics such as filling out a job application, interviewing for jobs, budgeting and using public transportation could provide inmates with skills to more easily succeed in society after release. Life skills could be taught by vetted volunteer instructors from the community.

There are no programs for higher education. The county recently approved use of tablet computers on which on-line courses, books and recreational content can be accessed for self-paced study.

Lack of staff supervision and security concerns limits opportunities for work programs in the community that could keep inmates occupied and could benefit the community.

Receiving and Release

While inspecting the Receiving and Release area at the Placerville Jail, Jurors noticed that the full-body metal detector was not in use. Correctional staff uses hand-held wand metal detectors to search incoming inmates. The more sophisticated and costly full-body detector would be more effective and provide a greater level of safety for the staff and inmates.

Interviews with Inmates

Jurors met with an ethnically diverse group of male and female inmates at both jails. A common subject was the culinary programs. Inmates thought the food was extremely good, although several complained that starchy food was served too often.

Inmates considered the correctional staff professional in their interactions. Inmates overwhelmingly criticized the lack of viable vocational and job skills programs. Female inmates felt that they should be allowed to work in the Culinary Program.

Jail Maintenance

Grand Jury members noted the poor maintenance of ceiling tiles, which were sagging, stained and in need of replacement at both jails. There was graffiti on the walls of the Placerville jail housing units and visiting alcoves, showing possible street gang affiliation. Graffiti often denotes gang territorial sections within the jail. The wall paint throughout both jails was chipped.

The South Lake Tahoe jail could have been cleaner, and the sally ports in both jails were used for storage, causing potential safety hazards.

Suicides and Attempted Suicides

The South Lake Tahoe jail had only one actual suicide between 2011 and 2017. There were two suicides at the Placerville jail in that time, one in 2015 and one in 2016.

The number of attempted suicides during the same period is more difficult to determine. Accurate record keeping is important, so that corrective actions can be taken when problems are identified. The El Dorado County Sheriff's Office contracted with Vanir, Inc. & Criminal Justice Research Foundation of Sacramento, California to prepare a Jail Needs Assessment, for both the Placerville and South Lake Tahoe jails.

Page 95 of the Vanir report showed 2014 suicide attempts as an alarming fivefold increase from 4 attempts in 2011 and 2013. It reports 4 attempts in 2011, none in 2012, four in 2013 and 21 in 2014. The report did not cover 2015 or 2016. It is impossible to determine if the 2014 increase represents a trend or is just an aberration.

Attempted suicide numbers supplied by the County compared with Vanir are shown below. The County was unable to explain the numbers provided by Vanir. Requests to Vanir for an explanation received no response.

<u>Year</u>	<u>Vanir</u>	<u>Jails</u>
2011	4	9
2012	0	8
2013	4	12
2014	21	10
2015	NR	9
2016	NR	7

Comparison of the attempted suicide numbers between the Vanir report and the County are irreconcilable. The year 2014 is possibly overinflated in the Vanir report, and does not reflect statistics reported by the County. Follow-up interviews with correctional staff showed that lack of training in the interpretation of what constitutes an attempted suicide and a deficiency in the software used to document attempted suicides was a possible reason for the variance.

FINDINGS

- F1. Stained ceiling tiles were observed in both County Jails.
- F2. Graffiti and chipped paint was observed on interior County Jail walls, in visiting booths and other surfaces.
- F3. The full body metal detector in Placerville Receiving and Release was not working.
- F4. The culinary program is the only vocational program available in either jail.
- F5. Female inmates cannot participate in the culinary programs at both jails.
- F6. The Vanir Report has inconsistent numbers for attempted suicides in both jails from 2011 to 2016. They are inaccurate and do not correlate with County numbers.
- F7. Assembly Bill AB 109 has created a hardship to County Jails.

RECOMMENDATIONS

- R1. Stained ceiling tiles should be replaced immediately after leak repairs are accomplished.
- R2. Graffiti removal and repainting of chipped paint should occur on a continuous basis.
- R3. In the Placerville Jail Receiving and Release, the full body scanner should be operational and used during inmate intake.
- R4. The jails should institute life skills and vocational programs.
- R5. The culinary program should allow both male and female inmates to participate.
- R6. Jail staff should be trained to better classify and document attempted suicide for more accurate record keeping.

REQUEST FOR RESPONSES

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Responses are requested in accordance with California Penal Code §933 and §933.05.

Responses to all findings and recommendations are requested from the El Dorado County Sheriff.

The written response of each named respondent will be reprinted in a publication to the citizens of El Dorado County. Each must include the name of the Grand Jury report along with the name and official title of the respondent.

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to review the Penal Code sections and carefully read the pertinent provisions included below before preparing your official response. Each respondent must use the formats below for each separate finding and recommendation identified above.

Please pay attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

Response to Findings

Finding F# *[Retype the text of the finding as written in the Grand Jury report, # is the finding number in the report.]*

Response: *[Review California Penal Code section 933.05 (a) (1) and (2). Respondents must specify one of three options – a) Respondent agrees with finding, b) Respondent disagrees wholly with finding or c) Respondent disagrees partially with finding. If respondent uses option b or c then the response shall specify the portion of the finding that is disputed and shall include an explanation.]*

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to maintain it. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

Response to Recommendations

Response R# *[Retype the text of the recommendation as written in the Grand Jury report, # is the recommendation number in the report.]*

Response: *[Review California Penal Code section 933.05 (b) (1) - (4). Respondents must specify one of four options – a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, or c) recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued or d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation.]*

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public.

ELECTIVE OFFICERS OR AGENCY HEADS

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public.

Failure to Respond

Failure to respond as required to a grand jury report is a violation of California Penal Code Section 933.05 and is subject to further action that may include further investigation on the subject matter of the report by the grand jury.

Where to Respond

All responses must be addressed to the Presiding Judge of the El Dorado County Superior Court.

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

Response via Email to courtadmin@eldoradocourt.org is preferred.

The Court requests that you respond electronically with a Word or PDF document file to facilitate economical and timely distribution.

California Penal Code Section 933

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

California Penal Code Section 933.05

933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

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