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JUN 30 2014

Superior Court of California
County of Tuolumne

By: Ernestine Cabanag Clerk



TUOLUMNE COUNTY
2013-2014 Civil Grand Jury
FINAL REPORT

TUOLUMNE COUNTY GRAND JURY

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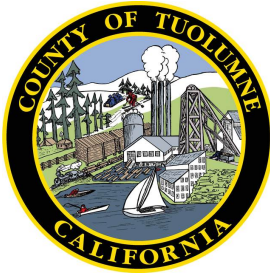
TUOLUMNE COUNTY CIVIL GRAND JURY 2013-2014

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Foreperson

Kristen Lopez, Columbia
Foreperson Pro Tempore

Lisa Cathcart-Randall, Sonora
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June 25, 2014

The Honorable Donald Segerstrom
Superior Court of Tuolumne County
60 North Washington Street
Sonora, CA 95370

Dear Judge Segerstrom,

The 2013 – 2014 Tuolumne County Civil Grand Jury is pleased to present to you its Final Report. This report represents the work of fifteen Grand Jury members who spent a year dedicated to fulfilling their mission of service to the Court and citizens of Tuolumne County.

I would like to sincerely thank each and every one of the Grand Jury members for their service, countless hours of dedication and perseverance, especially the core of fifteen members at the end of our term.

The entire Grand Jury would like to thank you for your support throughout this process. We would also like to thank District Attorney Michael Knowles and County Counsel Sarah Carrillo for their guidance and assistance. We recognize and thank the office of the County Administrator for providing us with a space to call our own, technology which greatly assisted us, and general support.

The Grand Jury interviewed over 60 individuals during our term. Those interviewed were insightful, accommodating, and cooperative. We would like to thank them for their time and information.

Serving on the Grand Jury has been a challenging yet rewarding experience. We have all gained a tremendous amount of knowledge regarding our county, and for that we are thankful. As with years past, we encourage County government to continue in their diligence for transparency, ethical conduct and honesty in all relations and dealings. We would also hope that each entity investigated and presented in this report would take the findings and recommendations to heart, as a guide for improvement.

Respectfully Submitted,

Heather Bolter
Foreperson, Tuolumne County Grand Jury 2013 – 2014

INTRODUCTION TO THE TUOLUMNE COUNTY GRAND JURY

The Tuolumne County Civil Grand Jury (Grand Jury) is a group of ordinary citizens who take an oath to serve as Grand Jurors for twelve months. Its function is to investigate the operations of various officers, departments and agencies of local government. The Grand Jury is not impaneled to investigate potential criminal behavior, which might lead to a criminal indictment. Each Grand Jury determines which officers, departments and agencies it will investigate during its term in office.

The Grand Jury is convened on an annual basis by the Superior Court to carry out the following functions:

- Investigate and report on the operations of local government (which is known as the *watchdog* function).
- Investigate allegations of a public official's corrupt or willful misconduct in office.
- Investigate and report on at least one county officer, department or function.
- When requested by the Board of Supervisors, investigate and report on the salaries of elected county officials.
- Pursuant to Penal Code 919(b), the Grand Jury will inquire into the condition and management of public prisons within the county.
- Write and present a final report, including findings and recommendations.

MISSION STATEMENT

The mission of the 2013 – 2014 Tuolumne County Grand Jury is to create positive change in our County by improving the efficiency, effectiveness and transparency of local government. We will accomplish this by reviewing various county departments, schools and special districts with an open mind to develop accurate, factual and helpful appraisals. Our report will offer reasonable findings and recommendations. We will do this as a group of nineteen civic minded members of our community.

RESPONSES TO RECOMMENDATIONS

When a Grand Jury issues its final report with findings and recommendations, each report defines who should respond to the recommendations. Some responses are required; others are invited. Pursuant to Penal Code 933, responding entities have no more than 90 days from the issuance of the report to respond to the findings and recommendations to the Superior Court. Entities responding to recommendations in the report must respond with one of the following statements:

- The respondent agrees with the finding.
- The respondent disagrees wholly with 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 therefore.

- The person or entity responding shall report one of the following actions:
 - The recommendation has been implemented, with a summary regarding the implementation action.
 - The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - The recommendation requires further analysis. This statement shall include: an explanation of the scope and parameters of an analysis or study, a timeframe for the matter to be prepared for discussion by the agency or department being investigated, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury Report.
 - If the recommendation will not be implemented, the entity responding must include an explanation of why it is not warranted or reasonable.

All responses must be sent to:
Honorable Judge Donald Segerstrom
Tuolumne County Superior Court
60 North Washington Street
Sonora, CA 95370

All responses for the 2013 – 2014 Tuolumne County Grand Jury Final Report's recommendations must be submitted to the above address on or before the end of business on October 1, 2014.

DISCLAIMER

This Grand Jury sought to preclude any conflict of interest in which a Grand Juror may have a personal involvement, a material, economic or financial interest, or could not be an impartial third party. Each Juror brought to the attention of the full Grand Jury any relationship with an agency that could be, or give the appearance of, a conflict of interest. The Juror also agreed not to participate in any investigation involving that agency, including interviews or acceptance of any report. The Grand Jury is usually composed of 19 Jurors and at least 12 Jurors must approve each individual report. The printed Grand Jury Final Report is composed of the approved individual reports, which are based on information obtained from outside sources with none of the information being obtained from any excluded Grand Juror.

CONFIDENTIALITY

All reports, working papers and notes of the Civil Grand Jury are considered **confidential**, and as such, are protected by law. As required by Penal Code Section 929, no names or facts that might lead to the identity of persons providing information to the Civil Grand Jury may be included in any report. The intent of Section 929 is to encourage all persons contacted to give the Jury a full and honest assessment of their agency without fear of recrimination.

CLOSING COMMENTS AND REMARKS

Grand Juries normally consist of 19 individuals who reside in the county. During the 2013 – 2014 year, we had an extraordinary amount of attrition due to a number of factors. While different in length of term, these individuals effectively contributed to our report in some fashion and we would like to thank them: Deborah Beyersdorf, Cori Frank, Annette Hall, Donald LaDue, Laurie Lida, Diana Mederios, Jim Mullally (Foreperson), Bob Perry (Foreperson Pro Tempore), and Doug West.

Other jurors who were sworn in but were unable to finish their term include: Louis Ainslie, Steve Belochi, Jennifer Bergthold, Hans Beyer, David Fitcher, Stephanie Niven, Carolyn Popke and Patricia Whitney.

We would also like to thank the California Grand Jurors Association for their helpful training, documents and manuals which we referenced throughout the year.

Our focus this year was to issue a quality report. We made a decision early in our term to conscientiously manage our time. Subsequently, we decided to thoroughly investigate a few agencies rather than many. We believe this has resulted in an accurate, factual and comprehensive report.

COMPLAINT PROCEDURE

It is the right of every citizen in Tuolumne County to bring attention to the Grand Jury matters pertaining to public agencies and officials that may concern them.

We recognize that many citizens are reluctant to put details of their concerns in writing. Names are not used by the Grand Jury. State law (Penal Code Section 929) mandates that Grand Jury proceedings be kept strictly confidential. Grand Jury members are sworn to secrecy for life. It is a misdemeanor offense for a member to disclose anything about the Jury's activities or deliberations.

Grand Jury documents (including complaints) are never available to anyone outside the Grand Jury and cannot be subpoenaed.

To file a complaint in writing, please submit a description of the complaint including: dates, names of officials, other persons and departments or agencies involved, as well as personal contact information for follow up.

A complaint form is available at: www.tuolumnecounty.ca.gov/DocumentCenter/View/768

Please send the complaint to:

Tuolumne County Civil Grand Jury
2 South Green Street
Sonora, California 95370

Or email: tcgjforeman@mlode.com

“HEROES OF AUGUST” COVER ARTWORK

In prior years, Tuolumne County Grand Juries selected photos or artwork depicting Tuolumne County. Since the Rim Fire occurred in the middle of our term, affected the citizens of Tuolumne County and devastated portions of our County, we felt that Patrick Karnahan's painting “Heroes of August” was a perfect fit for our cover.

From Patrick Karnahan’s biography: “Art is often associated with ethereal subjects, not with grim reality – and certainly not with the grimy drudgery firefighters often face on the fireline. For more than 20 years, Karnahan has used his unique artistic talents to commemorate the heroic efforts and sacrifices made by the wildland firefighters and to dramatize the ongoing need for sound wildland fire management. Karnahan’s paintings are full of history, functioning not only to aesthetically please, but also to commemorate the sacrifices wildland firefighters make to protect lives, property and wildland resources.”

In his downtime as a Forest Protection Officer for the United States Forestry Service (USFS), Patrick started painting “Heroes of August” during the Rim Fire. The idea of the painting is to showcase the first response and two major command crews. While it is not an historical scene, it is based on historical facts, including identifying two of the crews that helped battle the fire.

“Heroes of August” depicts the Big DC-10 air tanker providing support to the Buck Meadows USFS Hot Shots on the right side, and the CalFire Twain Harte wildland firefighters on the left. The viewer’s perspective is that of the fire, and the crews are sizing up the fire before they begin their attack.

Patrick has lived in Tuolumne County since the 1970’s.

The 2014 Tuolumne County Civil Grand Jury thanks Patrick for his contribution to our report.

IMPLEMENTATION REVIEW

DISCLAIMER

This report was issued by the Grand Jury with the exception of one member of the jury who identified a conflict of interest. This juror was excluded from all parts of the investigation, including interviews, deliberations, the writing and acceptance of the report.

SUMMARY

The Tuolumne County Civil Grand Jury, being mindful of continuity, decided to review in detail several of the responses from the 2012-2013 Grand Jury Final Report (hereafter referred to as the 2013 Final Report) to ensure they met all the legal requirements. This undertaking is called Implementation Review. Implementation Review goes beyond the mere tracking of filed responses. The Jury determined if the responses reflected that the entity understood the issues in the report, responded accordingly, and provided a response that was clear and not evasive. After reviewing all the responses received from various entities, we discovered minor issues relative to the format of the responses required by the penal code. We also followed up with responses that indicated the recommendations had been implemented or will be implemented.

The 2013 Final Report contained nine separate reports with sixty-three responses requested. Several of the responses were not received in a timely manner. We would like to give credit to Tuolumne County Board of Supervisors, Columbia Fire Protection District, Columbia Union School District, Belleview Elementary School District, Tuolumne County Behavioral Health, Tuolumne County Counsel, California Highway Patrol, Tuolumne County Administrator, Tuolumne County Health Officer, Tuolumne County Probation Department, Tuolumne County Community Resource Agency, Sierra Conservation Center and Tuolumne County Human Services for their timely responses.

GLOSSARY

BESD	Bellevue Elementary School District
BHD	Behavioral Health Department
BOS	Board of Supervisors
CFPD	Columbia Fire Protection District
CHP	California Highway Patrol
CRA	Community Resource Agency
CUSD	Columbia Union School District
DA	District Attorney
DOJ	Department of Justice
MOU	Memorandum of Understanding
SRMC	Sonora Regional Medical Center
TCSWD	Tuolumne County Social Welfare Department

BACKGROUND

Legally adequate responses are responses that are timely, in the correct response format, and have correct content as defined in Penal Code Sections 933 and 933.05.

Our purpose is to determine whether or not the Recommendations have been implemented. To this end, the Grand Jury reviewed all sixty-three responses to the 2013 Final Report. The Grand Jury appreciated receiving a formal Response from the California Highway Patrol (CHP). The CHP is not a county entity and is not required to respond to the Recommendations. Sonora Regional Medical Center responded to one Recommendation but failed to respond to two other recommendations. There would be a community benefit if Sonora Regional Medical Center would have responded to all of the Recommendations as requested.

Under California State law, local government entities and officials that are investigated by the Grand Jury must respond to any recommendations in the Grand Jury's final report. The allowable responses are that the entity or official:

- has taken the action recommended in the report;
- will take the action by a particular date;
- will study the recommendation within six months of the date the report was released, with a description of the study and a timeframe;
- disagrees with the recommendation and will not take the action, with an explanation. (Penal Code 933.05) Public accountability is found in the responses from the governing bodies, elected officers, or agency heads. This must be done within either 60 or 90 days according to PC§933(c).

The Grand Jury also wanted to evaluate the efficacy of the Grand Jury process as a vehicle for constructive problem solving in the County.

METHODOLOGY

The Jury began by comparing the responses that were submitted to the Tuolumne County Superior Court. The purpose was to make sure the responses addressed all the concerns posed in the Recommendations and were legally adequate. A list was compiled for the responses that required further investigation. Some of the responses indicated that they would be implemented within six months. The Jury further investigated the responses from seven of the nine agencies which stated that the recommendations have been or will be implemented.

Nine interviews were conducted and materials gathered to support the responses we received. One agency required additional interviews to complete our investigations.

Due to some ambiguities in the responses from the Columbia Fire Protection District (CFPD), the Grand Jury chose to review CFPD's implementation efforts in detail. The 2013 Grand Jury requested CFPD to respond to fourteen Recommendations. CFPD indicated many of the Recommendations had already been implemented or would be in the near future.

DISCUSSION

When we began our investigations, the Rim Fire was raging in Tuolumne County. We gave some agencies extra time to respond because of the Rim Fire, which efforts were consuming not only their time but also their resources. We did, however, further investigate the responses from seven agencies. They were: Columbia Fire Protection District, Tuolumne County Behavioral Health, Tuolumne County Building Code Compliance, Social Welfare Department, Tuolumne County Probation Department, Columbia Unified School District, Bellevue School District and the Board of Supervisors.

The responses listed below have been summarized. For a complete copy of each response you can find them at the Grand Jury's page on the Tuolumne County website:

<http://www.tuolumnecounty.ca.gov/index.aspx?nid=769>.

COLUMBIA FIRE PROTECTION DISTRICT

The Jury found the Columbia Fire Protection District's responses were not legally adequate as defined by the Penal Code. Due to this, the Jury requested Columbia Fire Protection District (CFPD) to file an amended Response, which was received by the Court on March 7, 2014.

2012-13 Recommendation #1:

Establish a formal procurement policy that includes dollar amount limits on purchases and designates employees within those limits. Establish a policy for emergency purchases. California Health and Safety Code Section 13905 allows for the use of a petty cash fund for minor purchases, should the District choose to utilize this provision.

***Response:** Columbia Fire in September 2011 established and adopted Standard operating procedures, these SOPs are an outline of day to day operations... the district will not be utilizing a petty cash fund as of this time it's not needed.*

2012-13 Recommendation #2:

Expand and maintain an Inventory Control System which, at a minimum, item description, fund source for the purchase, cost and assignment to individuals, buildings or rolling stock.

***Response:** Since June 2013 CFPD has a computer based inventory system where all items of issued equipment are numbered and checked at least monthly...*

2012-13 Recommendation #3:

At each Board meeting a financial balance sheet should be presented... Retain transaction details as required in California Health and Safety Code Section 13868. Require the District's Financial Officer to be bonded for loss.

***Response:** CFPD agrees that it erred in establishing a separate fund beyond normal county fiscal controls to administer a bequeath as was stipulated in the will of the*

decendent. All moneys of CFPD are now subject to detailed accounting and expenditure processes, including review and approval by the county auditor. This recommendation has already been implemented...

2012-13 Recommendation #4:

A procedural policy should be developed whereby incoming mail is directed in an efficient manner. Incoming business mail should be stamped with the date received, and routed to the required position. A designated Board member should be informed of mail requiring a more immediate response.

***Response:** CFPD partially disagrees with the finding in that there is a clear in-house procedure for dealing with time sensitive material... The chief reviews incoming mail daily. The chief will date stamp incoming mail that is not urgent but requires board action is directed to the board for its next monthly meeting...*

2012-13 Recommendation #5:

Develop an Outreach and Recruitment Policy which includes the objective of recruiting and retaining qualified administrative individuals (e.g. professional reference checks and background research at the level appropriate to the position being considered).

***Response:** CFPD disagrees with the findings to the extent that it seems to require written procedures as opposed to documentation on those who volunteer. CFPD uses standard county employment application and questionnaires. In addition to departmental questionnaires that are completed...*

2012-13 Recommendation #6:

Enroll the District in the California Department of Motor Vehicle Pull Notice Program to insure operators of District vehicles maintain satisfactory driving records at the required certificate level.

***Response:** CFPD agrees with this finding. CFPD is enrolled in the California department of motor vehicles pull notice programs mailed to DMV on 1/22/14...*

2012-13 Recommendation #7:

Management of investments (bank accounts) in financial institutions must be publicly disclosed. Government Accounting Standards Board (GASB), Statement No 3 is a reference for investment disclosures. Provide this information at a minimum of quarterly or at the next Board of Director's meeting if the manner or location of the investment or account is changed.

***Response:** CFPD disagrees with this finding. CFPD has no investments...*

2012-13 Recommendation #8:

In the case of a possible criminal matter, such as the alleged embezzlement of funds, the District should contact the Sheriff's Office or the District Attorney's office immediately.

Response: CFPD agrees with the findings.

2012-13 Recommendation #9:

The District should consider moving all cash accounts to the County Auditor's Office to ensure that a system of checks and balances is in place.

Response: CFPD partially disagrees with this finding in that all cash donations to CFPD are deposited with the county auditors and are subject to the same safeguards as other CFPD funds deposited with the auditor...

2012-13 Recommendation #10:

Develop a master filing system which can be used to locate public documents when requested. Public documents must be provided when requested in the California Public Records Act, Government Code Section 6253.

Response: CFPD filing system is organized and indexed from January 2013 forward as relates to personnel, correspondence, financials, board minutes and agendas and the standard operating procedure manual. Prior years are stored in labeled boxes that are not varmint proof due to financial constraints.

2012-13 Recommendation #11:

The Board should consider enlarging the number of members to add flexibility and diversity.

Response: CFPD would like nothing more than to enlarge its board. However, given that 65% of the district is public property, it can barely find three members who live in the district...

2012-13 Recommendation #12:

Consider additional means to communicate and give notice to the public on Board meeting agendas and activities. Although the Board is meeting the minimum requirements of the Brown Act, additional outreach and communication with the public could be enhanced through the use of additional methods such as a website, public service announcements and press releases.

Response: CFPD will look for other public places within the district to post its agendas...effective means of communication is posting agendas at the post office and fire station as well as word of mouth in its small community...

2012-13 Recommendation #13:

Consider membership in an organization such as California Special Districts Association which has many small district members.

Response: *CFPD is in close contact with the president of the fire district association (FDAC) and would like to join it in the next six months, budget permitting. CFPD participates in regular formal meetings with other local fire districts, departments, and Cal-Fire.*

The Jury conducted multiple interviews and site visits with the CFPD. Interviews were scheduled with the Fire Chief, a Board member and the Secretary. We found that CFPD is a conscientious fire department with limited funds and personnel. The correct format for responses was discussed as well as follow up to several responses. The District encompasses one square mile with the Post Office in the center. Columbia State Park and Columbia Unified School District represent a large portion of the district (60%). The State Park and School District are exempt from paying taxes. The department receives tax revenue from the Auditor's Office which equates to about \$40,000 annually; therefore, they are essentially sustained by grants. There is a need to expand the size of the district, which CFPD is currently pursuing.

With the District being so small, the pool of potential board members is limited. Currently, all three board members must agree on an issue before it can be passed. One of the benefits of a District expansion is that it could result in a larger board.

The interviews revealed that the DMV pull notice program had not been implemented. This is necessary to ensure that all drivers were adequately licensed. The application for enrolling in the pull notice program was filed on January 22, 2014, as a result of our interviews.

TUOLUMNE COUNTY SOCIAL WELFARE DEPARTMENT (TCSWD)

2012-13 Recommendation #7:

The Grand Jury recommends that the TCSWD immediately design and post evacuation plan for the lobby of the TCSWD. A building safety plan should be visible and posted for clients, staff and the public in the event of an emergency evacuation pursuant to the California Fire Code Sections 404.2 through 404.5.1. It is further recommended that the Grand Jury be provided documentation of such plan. In addition, it is recommended that the 2013/14 Grand Jury review the status of the safety plan.

Response: *The recommendation has been implemented.*

2012-13 Recommendation #8:

The Grand Jury recommends that the TCSWD continue with the progress to complete the internal upgrade of the appearance of the TCSWD lobby. It is further recommended that the 2013/14 Grand Jury follows this project to completion.

Response: *This recommendation has been implemented.*

On a tour of the Tuolumne County Department of Social Services (identified in the 2013 Final Report as the Tuolumne County Social Welfare Department), the Jury noted that evacuation plans were posted on the wall in the lobby. The plans were visible and clearly explained where the exits were in the event of an emergency. The lobby was clean, neatly arranged, and freshly painted. There was a privacy wall in place and a larger television available in the lobby. The Jury also noted that the vending machine in the lobby offered only water, eliminating soda.

TUOLUMNE COUNTY BUILDING CODE COMPLIANCE

2012-13 Recommendation #2:

As mass electronic storage costs decrease, the Grand Jury recommends that document retention should be increased to a 5 year minimum standard for all documents.

Response: Tuolumne County Board of Supervisors (BOS) and the Tuolumne County Administrator - *The recommendation requires further analysis but should be resolved with adoption of the updated County's document retention schedule before the end of the 2013 calendar year. The recommendation will be considered both in light of relevant laws and the costs of retaining records in an electronic form.*

Response: Office of the County Counsel (County Counsel) - *This recommendation requires further analysis.*

Response: Community Resources Agency (CRA) - *The CRA, like other county departments, is increasing its use of computer technology with a goal of having a "paperless" operation in the next few years unless paper documents are otherwise required by law. Beginning in January 2013, the Building and Safety Division of the CRA has implemented a paperless a case management system for code compliance cases under its jurisdiction. Through this system, all correspondence, notices, photographs and any other information related to construction and zoning violations are retained electronically. ...Under the paperless process, all data is retained in perpetuity in an electronic database...*

2012-13 Recommendation #3:

Time Tracking of Code Compliance issues during the Opportunity To Correct (OTC) phase should be eliminated.

Response: County Counsel - *The recommendation will not be implemented, because it is not warranted...*

Response: BOS and Tuolumne County Administrator – *The recommendation will not be implemented because it is not warranted or reasonable as the current code provides for the County to be reimbursed by property owners for staff time related to their code compliance cases...*

Response: CRA - *... the Ordinance Code provides for the County to be reimbursed by property owners for staff time related to their code compliance cases...*

2012-13 Recommendation #5:

A late penalty fee should be instituted at the OTC phase.

Response: BOS and Tuolumne County Administrator – *This recommendation requires further analysis in conjunction with an ongoing review of the County’s Code Compliance Regulations. This review with related recommended changes should be completed and presented to the Board for consideration before the end of calendar 2013.*

Response: County Counsel and CRA - *This recommendation requires further analysis but may be implemented in the near future. County Counsel is working with CRA staff to review and prepare recommended modification to the ordinance...*

2012-13 Recommendation #6:

Safeguards for employees, in conflicting situations arising from Code Compliance violations, should be clearly codified and posted for all employees and staff.

Response: BOS and Tuolumne County Administrator – *This recommendation requires further analysis in conjunction with an ongoing review of the County’s Code Compliance Regulations. This review with related recommended changes should be completed and presented to the Board for consideration before the end of calendar 2013... It is a fair observation that these safeguards are not currently available to employees in a centralized location.*

Response: County Counsel – *The recommendation requires further analysis, and will be incorporated into the review by my office and CRA regarding the Code Compliance Ordinances...*

Response: CRA – *There are many safeguards against retaliation in place for employees in various laws, policies, and procedures... The Code Compliance Manual, which includes procedures and policies, will be reviewed and update within the next six months...*

During our interview, the Jury was informed that the Code Compliance Regulation was before the BOS and County Counsel for approval. The Jury learned that Code Compliance fees are in existence. However due to low staffing, these fees are difficult to collect. With a staff of three, building inspections take precedence over collection of penalty fees.

COLUMBIA UNION SCHOOL DISTRICT (CUSD)

2012-13 Recommendation #1:

The Grand Jury recommends that the CUSD should ensure that proficiency testing requirements are fully met consistent with the California Education Code.

Response: Columbia Union School District - *This recommendation will be implemented immediately.*

2012-13 Recommendation #3:

The Grand Jury recommends that the CUSD should come into compliance with the 2011 custodian of records requirements.

***Response:** This is currently being implemented and will be completed before the start of the 2013-14 school year.*

2012-13 Recommendation #5:

The Grand Jury recommends that the CUSD Board should scrutinize at all hiring of related employees, regardless of position, to ensure supervision lines are clear and no conflicts exist. The mere perception of a conflict of interest should be scrupulously avoided, especially by upper level leadership positions.

***Response:** This will be implemented immediately. While it is our standard practice to scrutinize hiring of related employees, CUSD will continue to do so in the future with heightened sensitivity and evaluation.*

2012-13 Recommendation #6:

The Grand Jury recommends that BESD and CUSD policy should be developed to ensure that ongoing criminal investigations or pending criminal charges be resolved before a job offer is made or an individual is allowed to return to work.

***Response:** ...the recommendation will be implemented within six months of the date of the Grand Jury report ...*

***Response:** Belleview Elementary School District Board of Trustees - ...in consideration of the finding, the board will review its policies for hiring and assignment of employees within six months of this report.*

2012-13 Recommendation #12:

The Grand Jury recommends that the CUSD Board should establish policy and procedures requiring review and approval for employee participation in activities that have potential to negatively affect the District directly or indirectly. The Grand Jury further recommends that the CUSD Board consider establishing or assigning an Ethics Official or designee.

***Response:** This will be implemented within six months of the Grand Jury report.*

2012-13 Recommendation #13:

The Grand Jury recommends that the CUSD Superintendent should conduct appropriate checks and control measures to ensure compliance with local, state, and federal laws, policies and regulations. The Grand Jury further recommends that new personnel should be mentored and trained in legal procedures. Checklists and quick reference materials or sources could be developed to assist.

Response: *This has been implemented.*

The Jury conducted an interview with the Superintendent and his Administrative Assistant to discuss their responses. During this interview the Jury found that several of the Recommendations were already in place prior to the 2013 Grand Jury Report.

All of the After School Program employees were qualified for the *No Child Left Behind* proficiency testing. The school ensured that there was a qualified person in the classroom at all times in addition to an Aide.

The Administrative Assistant had the responsibility of checking fingerprint clearance of employees. The Jury was informed that, because of a misunderstanding, the paperwork was not filed with the Department of Justice (DOJ). Upon learning of this error, the paperwork was immediately filed with DOJ. Bellevue Elementary School District (BESD) and CUSD have a memorandum of understanding between the Boards regarding fingerprint clearance.

Bellevue and CUSD reviewed the policies regarding job offers to employees who are under criminal investigation and revised them as necessary.

The CUSD initially stated that the Ethics Official or designee would be implemented within six months. Upon further investigation CUSD was unable to determine what an Ethics Official does. The Superintendent brought this matter to the Board on several occasions. After the Superintendent inquired at other school districts and spoke with Counsel, the Board chose to close the matter.

In response to the 2013 Report, training of new personnel has been expanded. The Jury was shown several documents recording the extensive training provided to the staff. In addition to a counselor, CUSD hired a trainer from the Joint Powers Authority to conduct additional training on a yearly basis.

PUBLIC REALIGNMENT AB109

2012-13 Recommendation #6:

The Grand Jury recommends that a method to accept payments for probation fees or monitoring programs be installed within the Probation Department.

Response: BOS and Tuolumne County Administrator – *The recommendation will not be implemented as it is not warranted as the Office of Revenue Recovery (ORR) exists to serve this function and doing so would be duplicated and inefficient...*

2012-13 Recommendation #7:

The Grand Jury recommends that an electronic data management and record keeping system be implemented with the District Attorney's office.

Response: BOS and Tuolumne County Administrator – *The recommendation has not yet been implemented, but will be implemented in FY 2013-14 in conjunction with the Board approved Information Technology Project List and Budget.*

During the interview with the District Attorney (DA), the Jury was informed that the Probation Department is unable to receive payments because of privacy and staffing issues. The Jury further interviewed the Chief Probation Officer regarding AB109. These changes have put a greater strain on the Probation Department while the funding has been reduced. The ability to receive credit card payments for probation fees would be beneficial to the department.

The Jury learned from the DA that there are multiple computer programs currently being used throughout the County. The DA proposed a County wide *integrated case management system* by Karpel Solutions. The contract with Karpel Solutions was approved by the BOS on April 15, 2014. The Jury was informed that part of the contract would allow other County agencies to connect and share information. Child Welfare Services will not be included because of the uniqueness of their systems and/or State regulations. It is the Jury's understanding that the Courts will not be included in the new computer program.

TUOLUMNE COUNTY BEHAVIORAL HEALTH DEPARTMENT

2012-13 Recommendation #3:

It is suggested that all involved agencies and appropriate staff receive annual training relating to various aspects of "5150"

Response: Sonora Police Department, Chief of Police – *Agree. The need for interagency corroborative training regarding law enforcement response to calls for service involving potential mental incapacitated individuals is needed.*

Response: Tuolumne County Sheriff's Office, Sheriff – *The Sheriff has met with Behavioral Health, both parties have agreed that Behavioral Health will provide training to Sheriff's Office staff on "5150" evaluations. Curriculum, dates are being worked out so that this training may take place as soon possible.*

Response: Sonora Regional Medical Center (SRMC), Vice President of Nursing – *No response received.*

Response: Tuolumne County Behavioral Health Department (BHD) -*This recommendation has been implemented for the Behavioral Health Department... Staff received standard training prior to being authorized for performance of 5150 evaluation and application. Training is offered on an annual basis, with refresher training mandated every two years.*

Response: Department of California Highway Patrol – *Agree. The need for interagency corroborative training regarding law enforcement response to calls for service involving potential mental incapacitated individuals is needed.*

2012-13 Recommendation #5:

It is recognized that budget, staffing and licensing constraints are an issue, however it is recommended that all agencies involved work together in researching options for a "secured" room or area for the protection of staff and any potential "5150" person.

Response: BHD - *This recommendation has been implemented...*

Response: SRMC - Vice President of Nursing – *No response received.*

2012-13 Recommendation #6:

It is recommended that all local MOU's and protocols relating to "5150" occurrences be reviewed bi-annually and revised as appropriate. It is further recommended that the 2013-2014 Grand Jury follow the progress of the revisions to completion.

Response: BHD - *The recommendation has not yet been implemented, but the goal has been established to assure an updated MOU between law enforcement, the Sonora Regional Medical Center and the Behavioral Health Department is completed by the end of fiscal year 2013-14...*

The Jury interviewed the BHD Director and Assistant Director. The Director was very informative and wholeheartedly involved in developing programs for the benefit of the County's mental health community. The BHD training manual is extensive and refresher courses are required for all employees on an annual basis. New employees receive training in every aspect of the programs available through Behavioral Health. After they have completed the training, the employees become eligible to receive training in 5150 case evaluations. All agencies which might be involved in 5150 situations are trained by BHD using the training manual along with other programs.

While the agencies acknowledge a need for a secured room, this goal has not yet been achieved. Several positive changes at the hospital have been made to ensure that patients waiting for medical clearance and possible mental health evaluation are kept safe. It appears to the Jury that there is still more work to be done in this area.

The Public Health Officer was interviewed and provided the Jury with a greater understanding of the role of Public Health in our community. He expressed concern that Public Health staff has not been included in discussions regarding mental health issues. The Public Health Department operates a health van which provides health services to Tuolumne County schools. The van offers family planning options, suicide prevention, mental health, and substance abuse among other programs. This program appears to be making a positive impact on our children. A recent study has shown that the number of suicides in Tuolumne County has been reduced since the introduction of the suicide prevention task force.

The Director presented to the Jury the *2014 Tuolumne County 5150 Evaluation and Response Protocol Multiagency Agreement* or Memorandum of Understanding (MOU). This MOU is comprised of the following community partners: BOS, BHD, SRMC, Sheriff's Department, Sonora Police, CHP and Tuolumne County Correctional Facilities. The BOS approved this MOU on April 15, 2014.

FINDINGS

F1. The CFPD was diligent in its efforts to accommodate the Jury in its investigation.

F2. The responses from CFPD were not legally adequate as defined by the Penal Code.

- F3.** The public land that comprises a large portion of CFPD's district pays no taxes, therefore generating no revenue for CFPD.
- F4.** The size of the CFPD's district limits the pool of potential board members.
- F5.** The DMV pull notice program at CFPD was not implemented in a timely manner. This has since been resolved.
- F6.** Due to low staffing at the Building Code division, building inspections take precedence over collection of penalty fees.
- F7.** All the staff at CUSD are qualified for the positions they hold.
- F8.** The paperwork for the custodian of records for CUSD has been filed with DOJ.
- F9.** There is no official understanding of the position or responsibilities of an Ethics Official or designee for CSUD.
- F10.** Extensive training is being provided to the staff at CUSD by JPA and a counselor.
- F11.** The Probation Department continues to be unable to accept credit card payments.
- F12.** A new County wide integrated case management system, excluding Child Welfare Services and the Courts, has been adopted.
- F13.** All employees at BHD receive comprehensive training before they are eligible for 5150 evaluations.
- F14.** The Director of BHD was very knowledgeable and showed great concern for the mental health community.
- F15.** There is no secured room currently available for patients awaiting medical clearance and/or mental health evaluations.
- F16.** The Public Health Van provides a valuable service to the community.
- F17.** There is an updated MOU for the evaluation and response protocol regarding 5150s.

RECOMMENDATIONS

- R1.** No Recommendation.
- R2.** Ensure that any response submitted by CFPD to the Grand Jury's Report is legally adequate as per the requirements in the Penal Code.
- R3.** The Jury recommends that the County follow the recommendation from Local Agency Formation Commission (LAFCo) to expand the CFPD boundaries.
- R4.** No Recommendation.

- R5.** No Recommendation.
- R6.** The Jury recommends that the County increase the staffing at the Building Code Division to allow for the collection of penalty fees.
- R7.** No Recommendation.
- R8.** No Recommendation.
- R9.** No Recommendation.
- R10.** No Recommendation.
- R11.** The Jury recommends that the County make every effort to implement a system to accept credit card payments at the Probation Department.
- R12.** No Recommendation.
- R13.** No Recommendation.
- R14.** No Recommendation.
- R15.** The Jury recommends that SRMC and the community partners make every effort in FY 2014-15 to establish a secure room for potential 5150 patients.
- R16.** The Jury recommends that the Public Health Department pursue any and all grants available to continue funding the Public Health Van program.
- R17.** No Recommendation.

COMMENDATIONS

The Jury would like to acknowledge Columbia Fire Protection District for the efforts being made to protect our community while operating under a very limited budget. The work ethic and dedication of the Fire Chief was to be commended.

The Jury would also like to acknowledge Behavioral Health for the tremendous work being done to benefit our community. The Director of Behavioral Health has managed to secure many grants and pilot programs which will greatly benefit Tuolumne County. The Director's passion for mental health issues was impressive during our interview.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

Required Responses:

- Columbia Fire Protection District; Fire Chief: R2
- Board of Supervisors: R3, R6, R11, R15

- Behavioral Health Department, Director of Behavioral Health: R15
- Tuolumne Sheriff's Department & Tuolumne County Jail, Sheriff: R15
- Sonora Police Department, Police Chief: R15
- Department of Public Health, Director of Public Health: R16

Invited Responses:

- Sierra Conservation Center, Warden: R15
- Sonora Regional Medical Center, Director of Quality of Risk Management: R15
- California Highway Patrol, Lieutenant Commander: R15

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

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TUOLUMNE COUNTY JAIL

SUMMARY

The public has a responsibility to support funding for adequate custody staff and a new jail facility. Grand Jury reports have *repeatedly* addressed the need for a new jail and increased staffing. The present building is deteriorating, antiquated and obsolete. In the current jail, safety concerns continue to be a major issue for the staff and for inmates. The Sheriff and jail staff does their best to maintain high standards in spite of poor working conditions.

BACKGROUND

California Penal Code Section 919(b) requires the Civil Grand Jury in each county to *inquire into the condition and management of the public prisons within the county*. The Tuolumne County Jail is owned by the County of Tuolumne and is administered by the Tuolumne County Sheriff. This classifies it as a *public prison*, subject to the Tuolumne County Grand Jury's inspections and inquiries.



The Public and Visitors entrance to the Jail

METHODOLOGY



The Jail and Sheriff's Office at Yaney & Lower Sunset

In October 2013, the Grand Jury inspected parts of the jail scheduled for immediate repair through the proposed *Jail Repair Project*. Interviews with the Sheriff and the Jail Commander took place in November 2013. An inspection of the entire jail building, including observation of jail operations, staff and inmates took place in February 2014. The Jury utilized California's Board of State and Community Corrections (BSCC) rules and guidelines to develop its study.

DISCUSSION

The Tuolumne County Jail is located at 175 Yaney Street in Sonora. The jail is a multi-story, steel reinforced concrete building built in the 1950's. Expansion and renovation projects from the late 1960's through 1993 had minimal effect on the life of the building. The jail has been outdated and obsolete for over a decade.

The Sheriff and staff expressed concerns with the archaic conditions of the jail. The Jury found the same concerns during the two inspections. Several previous Grand Juries pointed out similar findings and recommended the immediate replacement of this facility. In the past, lack of funding blocked efforts to construct a new facility. The Sheriff's Department and County Administrator's Office (CAO) have been successful in obtaining a majority of the funding for the new jail. The Jury believes the County should use available Federal and State design standards during the construction of the new jail.

The Tuolumne County Board of Supervisors approved the recent *Jail Repair Project* on September 3, 2013. This repair project included:

- Removal and replacement of existing waste lines and floor drains in affected areas.
- Sealing of new concrete around replaced floor drains.
- Installation of new exhaust fans and rooftop HVAC units.
- Replacement of existing roofing and flashing as required where the new HVAC units have been installed.
- Replacement of existing showers with new fiberglass showers.
- Removal and replacement of existing wall tiles where needed.
- Cleaning, patching, painting and repairing of wall and ceiling surfaces, floor tiles and baseboards in affected areas.



Some of the Deteriorated Waste Lines and Pipes

The contracted costs of the project totaled \$600,000. These costs included \$200,000 set aside for the rehousing of inmates at Sierra Conservation Center (SCC) during repairs. The Jury verified the completion of work during its February 2014 inspection. The jail staff expressed concerns about the general contractor's failure to follow the jail security standards. Many extra trips out to trucks to get tools and materials were needed because they were not brought in at the start of the day. Each trip requires a guard or deputy to escort the worker into and out of the secured area. These extra trips resulted in lost time by the Jail staff and extended the length of the contract work.

The Public Safety Realignment Bill is a major concern of the Sheriff, jail staff and previous Grand Juries. Assembly Bill 109 (AB109) relieved state prison overcrowding by overcrowding jails at the county level. The bill allows non-violent, non-serious, and non-sex offenders to serve their sentence in county jails instead of state prisons. This realignment resulted in additional

strains on the already over-burdened Tuolumne County Jail. Ironically, several re-offending inmates released from SCC due to AB109 were temporarily re-housed there during the repairs. The existing jail facility is intended for short term, less violent offenders. Current inmates include violent felons with up to three or more years left on their sentences. These inmates often have chronic health and behavioral issues resulting in increased medical costs to the county. Prior to AB109, these inmates would have been remanded to state prisons and those costs would have been absorbed by the state.

Attacks against jail staff and other inmates by AB109 inmates are increasing in number and severity. One recent example includes a slashing attack on a correctional officer in a congested hallway. A re-offending AB109 releasee awaiting trial on new charges initiated this violent attack. The escalation in attacks has increased the need for the use of non-lethal methods such as *pepperball* to subdue inmates. *Pepperball* is a projectile weapon made up of a powdered chemical that irritates the eyes and nose thus stopping the individuals continued aggression. Due to prison realignment, the jail staff continues to look for a balance between the old jail culture and the new prison culture.

The Jury's tour of the entire jail facility included the inmate visiting booths, communication and control booth, intake and booking area, dormitories and cellblocks, recreation area, laundry room, medical areas, rehabilitative and counseling service rooms and food areas. The building is crowded and many spaces are not being used for their intended purposes. One example is a small utility closet now being used as a non-ergonomically compliant workstation under applicable US Department of Labor Occupational Safety and Health Administration (OSHA) regulations. Some staff offices are so small that workers need to get up from their desks to allow others to enter or exit, violating OSHA minimum aisle width regulations of 24 inches. In one case, two employees occupy a space of less than 100 square feet.

Visiting facilities consist of four inmate booths. Our escort explained that, barring unusual circumstances, each inmate could have two hours of visiting per week. However, visiting times are often reduced because staff is unavailable. This does not meet the BSCC standards of two hours per week. The visiting area is video monitored from the control room, adding more tasks to the overburdened staff.

The booking area is very cramped. It is essentially a five-foot-wide hallway with equipment stored along the wall that is opposite the booking cell. Federal OSHA and California Safety and Health Administration (CAL/OSHA) require a minimum 44 inches free passage around equipment in hallways. The deputy posted in this area handles bookings and monitors incoming detainees. It is in direct view of the control room windows. The cramped control room houses the watch commander and two multi-tasking clerical employees. These two or three employees must also monitor the many video cameras scattered throughout the jail.

Guards observe the main cellblock through windows on the first and second floors. Each cell has two to four bunks, a toilet and a shelf. The cells have design flaws allowing for 'blind spots' from the in-door window. This requires extra precaution by the guard when entering the cell. The Jury observed deputies having difficulty unlocking and opening some of the cells due to the aging door locks. They are only replaced as needed. The *Jail Repair Project* included re-sealing the skylight in the main cellblock and recoating the showers with mold resistant epoxy. The jail space is clean and safe. However, the building itself has now deteriorated beyond repair.



The small and sparse recreation area is located on the roof of the building. The entire space, caged with cyclone fencing, contains few options other than walking. Inmate arguments and confrontations led to the elimination of organized sports. Further, noise complaints from the surrounding residential neighborhood have led to the removal of basketball hoops and handball courts. Exercise time is limited to daylight hours.

Several inmates were observed performing work operations in the laundry, kitchen and common areas within the jail structure. Laundry facilities contain outdated, inefficient equipment. Excess water usage concerns the jail staff due to drought conditions. The kitchen area was clean but was cramped and cluttered. Limited janitorial services are only provided twice weekly by county building staff. The jail staff does daily cleaning. Inmates care for their own areas.

There is a small medical office with one desk, several file cabinets and bookshelves. This cramped area is manned for two shifts, starting at 6:30 a.m. and ending at 11 p.m. The county's vendor, California Forensic Medical Group, provides the contract medical staff. Medicine is dispensed throughout the day and in accordance with BSCC standards.

Counseling and rehabilitative services are located adjacent to the cellblocks. Consultants provide anger management, life style coaching and other counseling services to inmates in two rooms set aside for this purpose. The court assigns inmates to these programs or they may volunteer to participate. The rooms displayed positive statements including: "Life is good. Strong and positive," "I am better than the alcohol," and "I am not a victim; I am a victor." Jail staff indicated that the forms of counseling provided have proven to be successful and they are shifting their emphasis from inmate supervision to inmate support. Jail Education Employment Program (JEEP) grants and other outside sources provide funding for these behavior modification programs.

FINDINGS

F1. The jail is dilapidated and needs immediate replacement.

F2. The Jail Repair Project was a temporary fix.

- F3.** The booking and intake area and other hallways are too congested.
- F4.** The control room has too many operations for the small staff.
- F5.** The lack of personnel to monitor the visiting space influences the available visiting time.
- F6.** The recreation area is on the roof and noise impacts nearby residents resulting in restrictions on inmates.
- F7.** Space in many of the work areas fails to meet Federal (OSHA) and State (CAL/OSHA) egress safety standards.
- F8.** The required multitasking of jail employees translates into overburdened staff.
- F9.** The current counseling programs have a positive effect on inmates.

RECOMMENDATIONS

- R1.** Continue to seek additional funding to complete the Jail Project.
- R2.** No recommendation.
- R3.** Avoid crowded spaces by ensuring that the new facility follows the established planning and design methods outlined in the US Department of Justice, Jail Design Guide.
- R4.** Provide dedicated spaces for various operational functions by ensuring that the new facility follows the established planning and design methods outlined in the US Department of Justice, Jail Design Guide.
- R5.** Providing a modern visiting facility in the new jail will allow more visit time for the inmates and reduce strain on the jail staff. Using a video system can provide visiting from remote locations and may be funded through the Inmate Welfare Fund.
- R6.** Provide adequate space for inmate recreational activities by ensuring that the new facility follows the established planning and design methods outlined in the US Department of Justice, "Jail Design Guide."
- R7.** The Sheriff and Jail management must provide safe egress paths for all office spaces in the existing Jail. Regarding the proposed new Jail, adequate office spaces and safe egress routes must be ensured. The new facility shall follow the established planning and design methods outlined in the US Department of Justice *Jail Design Guide*. Reference shall also be made to OSHA and CAL/OSHA's *New Construction Regulations and Standards*.
- R8.** No recommendation.
- R9.** Continue pursuing JEEP Grants for the counseling programs.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

Required Responses:

- Response from Sheriff and County Administrator: R1, R3, R4, R5, R6, R7. These items are the Joint responsibility of The County as owner and the Sheriff as custodian of the existing and the proposed (new) Jail.
- Sheriff Response: R9.

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

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SIERRA CONSERVATION CENTER AND BASELINE CONSERVATION CAMP

SUMMARY

The Grand Jury investigated Sierra Conservation Center (SCC) and Baseline Conservation Camp. The California Department of Corrections and Rehabilitation (CDCR) operates both facilities. Together they comprise one of the largest employers in Tuolumne County. The Jury reviewed many different areas within SCC. While some of the buildings are more than fifty years old, they are still serviceable. The upkeep and appearance of the facilities exceeded our expectations. Administrative and custody staff exhibit intense pride, dedication and professionalism. In spite of the effects of Assembly Bill 109 (the Public Safety Realignment act of 2011) and severe fiscal restraints over the last several years, the prison continues to maintain a high level of safety and security for both inmates and staff.

BACKGROUND

California Penal Code Section 919(b) requires the Grand Jury in each county to *inquire into the condition and management of the public prisons within the county*. The Sierra Conservation Center prison facilities and the nearby Baseline Conservation Camp are owned and administered by the California Department of Corrections and Rehabilitation, and therefore, are *public prisons* subject to the Tuolumne County Grand Jury's inspections and inquiries.

METHODOLOGY

In October 2013, the Grand Jury conducted a three-hour interview with the SCC Warden and management staff of the prison. The Jury utilized California's Board of State and Community Corrections (BSCC) rules and guidelines to develop our study. Following the interview, the Jury requested several examples of administration and operational documents, which the SCC staff quickly provided.

During two tours, Jurors studied the condition of the inmates and the prison. The Jury found both to be within acceptable parameters as set forth by the BSCC regulatory agency. The first inspection held in December 2013 included the Level I, Level II yards and housing facilities. Jurors gave special attention to the medical facility, educational facility and programs, recreational areas, food services, religious accommodations, and the vocational education facility. The second inspection tour focused on the Level III yard, four housing units and the Administrative Segregation Unit. Administrative Segregation is the placement of prisoners in an isolated environment for the safety and security of the prison. Additionally, the tour included the Prison Industries Authority training and manufacturing facilities. The final part of the inspection included the nearby Baseline Conservation Camp facility on Peoria Flat Road.

DISCUSSION

SIERRA CONSERVATION CENTER

Located west of Jamestown at 5100 O'Byrnes Ferry Road, SCC was established in 1963 as a fire and conservation training prison. The original facility consisted of two main yards built in an enclosed dormitory configuration with common dining and recreational buildings in the middle. The primary mission of that facility was to train and provide inmate personnel to assist the California Department of Forestry with firefighting and reforestation. The prison was expanded in the 1980s and the mission was modified to include incarceration of more violent inmates while still supporting the California Department of Forestry, now known as CalFire, in its mission of wild-land fire suppression. After selection and preparation at SCC, inmates receive advanced training at the nearby Baseline Conservation Camp. While it is one of the major employers in Tuolumne and Calaveras counties, the SCC administration and custody staff has decreased by 20% due to AB109 changes.



Inmates come from one of the five statewide processing centers and undergo a 14-day orientation period after arrival. The intake process includes a new picture ID card, assignment to a counselor, a medical evaluation, and an inmate file review. They also receive clothing, bedding and a dormitory assignment. Each inmate receives a copy of *The Rules and Regulations of the Director of Corrections*. This is a State adopted handbook of rules and procedures regarding inmate behavior and interaction with prison staff. Each inmate is required to sign a receipt for his handbook. Most non-English speaking inmates have access to translation services through personnel at the facility. Other language translation services are available through the Sacramento headquarters.

The CDCR implemented the Strategic Offender Management System (SOMS) in October 2012. The SCC staff completed SOMS training by March 2013. This new system provides a single integrated solution to the many previous manual record systems. The SOMS allows the staff to have the most current inmate information. The system searches the inmate's history for gang affiliations or known enemies at SCC during the intake screening. If problems are uncovered, the inmate is placed in the Level III unit. Additionally, an inmate may self-nominate for the Level III facility. This facility has a higher level of inmate security and less inmate contact.

The Department Operations Manual and California Code of Regulations require security clearance prior to entering the facility. Every person entering or exiting any part of the facility is required to produce approved identification. Prison personnel escorted the Jury members into the prison through a double-gated entrance known as a *sally-port*, then into an area called *The Plaza*, a common area that inmates can access with permission. The Plaza also contains religious centers.

The education area is also available to inmates through The Plaza. The Jury observed inmates interacting in their learning environment. Teachers possess appropriate credentials through the State of California. Rewards and incentives are in place to encourage inmates to further their academic achievement. Proctors are provided for inmates prepared to take their General Education Development (GED) exam. A new computer lab is coming online to help inmates in GED test preparation. The inmate library is in the education building and is similar to a typical public library. It contains a recreational reading section as well as a law library. The prison also provides independent study and night classes for inmates working during the day.

The Vocational Training facility helps prepare inmates for outside employment. Some of the skills taught are:

- fiber optics installation
- masonry
- woodworking
- carpentry
- building maintenance
- automotive body work
- automotive mechanics
- garment and other fabric goods production

Many of the construction industry teachers receive certification through The National Center for Construction Education and Research (NCCER). Automotive training conforms to National Institute for Automotive Service Excellence (ASE) standards. The automotive program was recently cited in the statewide prison newsletter outlining its success. The California Prison Industry Authority administers 23 training factories and farms throughout the State prisons. The 152 inmates at the SCC factory provide uniforms and other garments for state departments such as CalFire, CalTrans and State Parks System. Inmates are certified to meet national industry standards upon successful completion of their chosen training program.

Medical, dental and psychiatric services are available to all inmates. Following BSCC guidelines, medical drugs and supplies are controlled. Inmates cannot go inside the dispensing facility. Spit shields and separate cells are provided for inmate safety in the hospital facility. Inmates requiring higher levels of care are transferred to the new California Health Care Facility in Stockton. Those requiring urgent or critical care are transported to local hospitals under guard. All medical personnel are employees of CDCR.

Several staff members mentioned reinstatement of the Substance Abuse Program (SAP) this year. This program attempts to educate and reform inmates using a therapeutic community model. It focuses on thinking, values and positive behavior while stressing that it is up to the individual inmate to make changes. The SAP directs its attention towards inmates with six

months remaining on their sentence and who have a history of drug, alcohol and/or anger management issues.

The food service facilities within the prison contain food storage, preparation, and dining areas. The CDCR prepares the menu that meets applicable state requirements for set portions of 2,800 calories per day. Inmates perform various storage preparation and culinary duties under the supervision of the culinary manager. The facility averages 2,400 breakfasts and dinners per day. The kitchen prepares bagged lunches for all inmates, field crews and as other situations require. This prison accommodates special medical or religious dietary requirements. Inmates in the Administration Segregation Unit receive meals in their cells, while the rest of the Level III population eats in common areas.

Level I and II yard inmates are housed in dormitory rooms. These rooms were originally built to house 16 inmates but are currently ‘double bunked’ to hold 32. Each dormitory has a common day room, common shower and toilet facilities. Level III facility inmates are housed in five *270 Units* with a total capacity of 200 per building. The *270 Unit* control booth guard has a 270 degree field of vision. This officer can observe all interior parts of the building. One of the *270 Unit* buildings is dedicated to inmates on Administrative Segregation requiring removal from the general prison population. Each cell contains a toilet and sink. Common shower stalls are on each floor. Throughout the facility, the walls in the *270 Units* contained positive messages. The sayings include, “Take charge of your life or someone else will,” “If it is to be, it’s up to me,” and “There are no mistakes, only lessons.” The various housing units toured met the BSCC standards.

BASELINE CONSERVATION CAMP

Baseline Conservation Camp (Baseline) staff describe their facility as a “prison without walls.” Inmates need to meet several requirements in order to qualify for the program. They must have less than five years remaining on their sentence; and their conviction must not include crimes of arson, sexual offenses or violence. They must meet health and fitness requirements prior to acceptance for forestry training. Qualified inmates are then assigned to Baseline to complete their training.

Baseline Conservation Camp is owned by SCC, while other fire training camps are owned by CalFire. Baseline currently houses 134 inmates but can hold up to 150. The grounds maintained by the inmates displayed great care.



Inmates are housed in four dormitory buildings. The front of each unit has two individual bedrooms reserved for the team leaders. Each inmate has his own area within the dormitory surrounded by a half wall. The area contains a bed and a locker-type storage device. Inmates are allowed one family photo. The back of the building contains sinks, showers and toilets. All the areas were neat and clean.

The inmates participating in the fire program must maintain a higher level of physical fitness. A hiking trail is available at the rear of the dormitory compound which inmates are encouraged to utilize. Inmates must check in with staff and complete their exercise within a half hour. There is also a weight training area available.

Baseline Conservation Camp is completely self-contained. It has its own kitchen and dining facilities that serve the camp population. One inmate maintains the laundry room. He provides clean uniforms and bedding for the entire camp. The Baseline library contains donated books and provides inmates a quiet area for study. Three television and lounge rooms are available. Privileged inmates can access the hobby room. The hobby room has art and craft supplies available. The Baseline canteen is similar to a mini market. Inmates may request and purchase listed products monthly. The visiting area is under a covered wooden structure and it contains several picnic tables and a barbeque. Visitors can only bring in pre-packaged food for lunch. They may not bring in cameras or cell phones. The only physical contact allowed is handholding.

Violation of any Baseline rules may result in the inmate returning to the main prison facility for the remainder of his sentence. Lesser punishments may include restricting TV, revised room assignment, or confinement to quarters. All behavior violations must be documented and are subject to review.

During the Grand Jury inspection, most inmates were out performing work within the community. The crews have worked on several different projects in addition to fire suppression, including brush removal, area cleanup, watercourse cleanup, and fuel reduction. They are currently working with the United States Forest Service on Rim Fire rehabilitation. Inmates typically work a 24-hour shift on-duty followed by a 24-hour off period during the fire season. The 24 hour off period is taken up by eating, showering, laundry and travel to and from the fire.

A sergeant determines what type of custody personnel need to be present to provide security, protect the public and initially assess each community improvement job. The job or project is assigned to a team once these needs are determined. A typical team consists of 16 inmates. Baseline Conservation Camp staff and CalFire personnel provide team supervision.

FINDINGS

- F1.** Non-English language speaking staff is available.
- F2.** SOMS provides real-time accurate data on each inmate. All custody staff has access to system data at all times.
- F3.** Security level is consistent with the Department Operations Manual and the California Code of Regulations.

- F4.** Religious facilities are consistent with the Department Operations Manual and the California Code of Regulations.
- F5.** The SAP program will be reinstated in 2014.
- F6.** The doctors and nurses are CDCR employees.
- F7.** Independent study is available, including night classes for inmates that have other duties or assignments during regular class time.
- F8.** The goal of the educational staff is to have 200 inmates earn their GED each year.
- F9.** Vocational skill training is current with today's industrial standards and prepares graduates to meet current industry needs. Qualified staff provides training to assist inmates in transitioning back to society.
- F10.** The inmates are issued bedding, linens and mattresses in compliance with Article 14 of the Title 15 Regulations.
- F11.** The inspirational sayings painted on walls provide positive messages of encouragement for inmates.
- F12.** Team leaders at Baseline Conservation Camp can have the privacy of their own room.

RECOMMENDATIONS

- R1.** No Recommendation.
- R2.** Continue to train staff and implement SOMS system updates.
- R3.** No Recommendation.
- R4.** No Recommendation.
- R5.** Continue with implementation of the SAP program as funds become available.
- R6.** No Recommendation.
- R7.** Continue to offer independent study for inmates with conflicting work assignments.
- R8.** Continue to encourage the GED program.
- R9.** No Recommendation.
- R10.** Continue to comply with Article 14 of the Title 15 Regulations.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

Required Responses:

- Sierra Conservation Center, Warden: R2, R5, R7, R8, R10.

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

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TUOLUMNE COUNTY OFFICE OF EMERGENCY SERVICES

SUMMARY

The Grand Jury investigated the Office of Emergency Services (OES) and the current Emergency Operations Plan (Plan). We examined the general duties and responsibilities of OES in addition to how the Plan was implemented in an emergency situation, specifically the Rim Fire. Tuolumne County OES was there to provide coordination between County entities, and to support local law and fire departments. Additionally, they assisted and supported the United States Forest Service (USFS) and the California Department of Forestry and Fire Protection (CalFire). The cause of the Rim Fire is still under criminal investigation by the United States Attorney's Office in Fresno. The Jury does not have the authority to investigate how it started. The firefighting process is not under the jurisdiction of the Jury. Overall, the Jury found that the OES is an efficient operation and, in our opinion, the Plan was followed before, during and after the Rim Fire.

GLOSSARY

BOS	Board of Supervisors
CalFire	California Department of Forestry and Fire Protection
CAO	County Administrative Office
EOC	Emergency Operations Center
OES	Office of Emergency Services
Plan	Emergency Operations Plan
USFS	United States Forest Service

BACKGROUND

The Jury reviewed the overall operations of the Office of Emergency Services. The 2005-2006 Jury report found OES "well organized but underfunded and understaffed." Two past Grand Jury reports recommended a complete revision of the Plan. The OES Coordinator supervised the creation of the current Plan, which was approved by the Board of Supervisors (BOS) in June of 2012. The Jury reviewed this Plan to determine if and how it was implemented regarding the Rim Fire. This investigation was not complaint driven.

METHODOLOGY

In October 2013, the Jury contacted the OES Coordinator to request copies of pertinent documents. The Jury interviewed the OES Coordinator, the Director of the Tuolumne County Community Resources Agency (Department of Public Works), Sheriff's Department personnel, Sierra Conservation Center personnel, County Administration and CalFire personnel. The Jury was given a tour of the Emergency Operation Center (EOC) on March 6, 2014. The Jury was provided additional documents outlining their actions regarding the fire. The Jury was provided a copy of the After Action Report promptly after it was completed. The After Action Report documents emergency activities and identifies strengths and weaknesses. The key participants from county, state, federal and private organizations all contribute to this OES coordinated

forum. Together they draft this document of the concerns and successes of the team involved in the emergency.

DISCUSSION

Tuolumne County Ordinance Code, Chapter 2.40 identifies the need, structure and responsibilities of the Office of Emergency Services (OES). This ordinance also defines the functions and roles of personnel. The code defines OES as, *an organization within a local government that performs essential services for the public's benefit prior to, during or following an emergency*. It is the lead agency fulfilling the County's responsibility under California Government Code Sections 8550-8551.

The OES is made up of the Director, Assistant Director, Coordinator, and a back-up Coordinator. The current back-up Coordinator previously served as the OES Coordinator. The members have dual job responsibilities being fulltime county administration staff performing their regularly assigned duties in addition to meeting OES' needs during times of emergency. The Jury decided to look at the roles of these three members:

- The Chairman of the Board of Supervisors is designated Director of Emergency Services.
 - Provides policy guidance and long range planning.
 - Empowered to make emergency declarations.
 - Communicates to the community.
- County Administrator assumes the role of Assistant Director, Emergency Services.
 - Serves as the liaison between the BOS and emergency teams.
 - Directs command and general staff.
 - Develops/implements strategic decisions.
 - Approves the order and release of resources.
 - Insures planning meetings are conducted.
 - Reviews and authorizes press releases.
 - Shares the position of Emergency Operations Center Director with the OES Coordinator.
 - Approves demobilization and recovery plans.
- The Deputy County Administrator was appointed and approved as the OES Coordinator.
 - Maintains and updates the Emergency Operations Plan.
 - Administers day-to-day activities of OES.
 - Seeks and secures grants from governmental organizations.
 - Facilitates interdepartmental communications.
 - Plans, designs, and executes all OES training of various groups.
 - Directs county departments to inventory and maintain emergency equipment.

Funding for OES is secured from several federal, state and local sources. Grants from the Office of Homeland Security are instrumental in training and equipping various county emergency organizations. A committee comprised of the County Public Health Officer, County Fire Chief, Sheriff, plus the Sonora Fire and Police Chiefs approve the allocations of grant funding. Emergency Management Performance Grants (EMPG) provides the majority of funding for the

staff, EOC operations and equipment. The EMPG is a federal grant program designed to enhance and sustain local emergency management capabilities.

The Plan for Tuolumne County was approved by the Board of Supervisors in June of 2012. This 400 page plan is made up of three parts. The first part of the Plan contains an overall policy and responsibility guidelines. The second portion contains several stand-alone annexes, clearly defining response to specific disasters. Lastly, it includes reference material and follow-up procedures. The Plan unifies the response of all agencies and minimizes damage to life, property and the environment. It was intended to provide flexibility, thus allowing OES personnel the ability to react to various situations. The basic elements of emergency response common to all types of emergencies are:

- *Event recognition.*
- *Notification of response personnel.*
- *Mobilization of response personnel.*
- *Activation of emergency response facilities and resources.*
- *Situation reporting and assessment.*
- *Public alerting and information.*
- *Protective action determination and implementation.*
- *Re-entry and recovery.*

Major hazards are each addressed in stand-alone annexes. These individual annexes define the response and roles of county departments in emergency situations:

- *Extreme Weather Plan – Annex A*
- *Flood Plan – Annex B*
- *Geological Event (Earthquake and Volcanic Disruption) – Annex C*
- *Hazardous Materials Plan – Annex D*
- *Terrorism/Civil Disturbance – Annex E*
- *Transportation Accident/Multi Casualty Plan – Annex F*
- *Wildland Fire Plan – Annex G*



The annexes describe the roles before, during and after specific disasters. Annex G of the Plan states: *Outbreaks of wildfire occur routinely during Tuolumne's [County] dry season threatening human life, wildlife and property.* Annex G allows for unified fire command. The Wildland Fire Plan places more authority on fire agencies in comparison to other annexes, where authority may lie with the Sheriff's or other departments.

In the summer of 2013, Tuolumne County experienced the third largest fire in California's recorded history. The Rim Fire affected everyone in our community and several surrounding communities. It began on Saturday, August 17, 2013, in the Tuolumne River canyon within the Stanislaus National Forest. All people interviewed by the Jury expressed awareness of the fire before they received official notification. Most had heard radio chatter on their scanners, saw increased fire activity or caught sight of the rising smoke. The United States Forest Service (USFS) formally notified Tuolumne County about the fire on August 17, 2013. When discovered, it affected only 40 acres but grew to 10,000 acres within 36 hours. It continued to rapidly spread to over 100,000 acres within four days and also affected nearby Mariposa County. County OES personnel drove to the Incident Command Center near Groveland to meet with officials and to assess the situation. Some people interviewed by the Jury expressed that they had prior knowledge of handling this type of emergency. They had worked within the County during prior fire disasters. They relied on these experiences and made a decision to establish early relationships with responding agencies. In the past, these relationships proved to be invaluable. Several interviewees commented on the cooperative atmosphere and symbiotic relationships among the multiple agencies involved.

The EOC was activated at the County Administration offices on August 19, 2013. A Local State of Emergency Resolution seeking state and federal assistance was drafted that same day and was adopted by the BOS on

August 20, 2013. When an event escalates to disaster proportions, OES operations move to the EOC located on Striker Court. The center is a specifically designed venue for countywide disaster communications and coordination. It also serves as a link to nearby counties, state and federal disaster response services.



Until its implementation with the Rim Fire, Annex G of the Plan had only been used as a functional exercise. The fire, at this point, was subject to erratic winds and was burning through inaccessible terrain. On August 21, 2013, a CalFire official announced that the Rim Fire was the highest priority fire in the State. Firefighting and law enforcement support was beginning to pour in from many agencies throughout the nation.



The OES Coordinator organized and facilitated daily briefings. These briefings were held to disseminate information and provide a forum for dialog between the various parties involved. Many members applauded the benefits of meeting twice daily, as once daily would have been insufficient. The fire updates given in the morning had changed by the end of the day. These meetings also helped provide accurate information and dispel rumors about the fire. There was a concern that the evening briefings sometimes conflicted with public forum meetings. The After Action Report addressed this issue. Video Teleconference communication was not utilized at the EOC. This would have allowed other agencies to participate in the meetings without their physical presence; for instance, officials from Mariposa County. Additionally, many of the people, essential to the briefings, complained that cell phone service at the EOC was limited or intermittent. Dropped calls and poor transmission were typical complaints. The After Action Report verified concerns regarding cell phone coverage and Video Teleconference which Jury

members had found through the investigation. There were also concerns that the EOC allowed too many non-essential visitors to be present. Agencies that the Jury spoke with expressed a need to restrict access to essential personnel. Local law enforcement and fire officials made evacuation decisions based on the information made available at the EOC.

The Plan explains that *the County uses the City Watch service a County-to-resident notification system*. Many refer to this service as *Reverse 911*, which notifies affected parties to evacuate their homes in the event of an emergency. The OES Coordinator oversees the *City Watch* service, however, the notifications may come from authorized personnel. During the Rim Fire, the *City Watch* service only contacted landline phones attached to the physical property address. Consequently people who only use cell phones or who had second homes in the affected area were not notified. County personnel has expressed difficulty in obtaining up-to-date subscriber phone lists. The After Action Report notes this as an area of concern. Since the fire, the County has updated its website and now supplies a venue for registering cell phones.

Most people interviewed by the Jury expressed dismay at erroneous information spread through social media such as Facebook and Twitter. We confirmed through the After Action Report that many felt this was the single largest public information problem. The County recently updated their website to be much more user friendly and the BOS adopted a policy on using Facebook and Twitter. The BOS approved the *County of Tuolumne Social Media Policy* on February 18, 2014. Facebook and Twitter accounts are accessed through the Tuolumne County website. The BOS approved access to the social media account that will be managed by two or three individuals. These individuals will make posts and edit page information. When news or alerts are sent out from OES, it is automatically pushed to both sites.



Most individuals interviewed by the Jury expressed gratitude towards OES personnel. The level of cooperation within the EOC and the way multiple departments worked together during the Rim Fire was impressive. The Jury found one theme that was consistent throughout the fire; the outpouring of generosity from the community and surrounding areas. Fire and law enforcement services from all over the State provided much needed help during the first weeks of the fire.

Stanislaus County lent one of their Mobile Command Centers to provide on-site communication links to other entities. This Command Center connected all parties involved with decision making via internet, cell and satellite phones. Local businesses, big and small, gave discounts and oftentimes free food and beverages to firefighters. The Me-Wuk Tribal Council was at the forefront of support to fire and law enforcement teams in the Tuolumne City area and along the north front of the fire. The Black Oak Resort, though closed by evacuation order, made its hotel rooms and restaurants available to off duty firefighting teams. Landowners offered their property as refuge for the pets and livestock of evacuees. Homeowners provided spare rooms and bathrooms to visiting firefighting teams after many hours providing structure protection around the fire perimeter. There were “Thank You Firefighters” signs hung throughout the county, showing gratitude for all of the help provided by these heroes.

The Rim Fire was declared contained on October 24, 2013. The fire in total burned over 257,314 acres or 402 square miles of Tuolumne County forest and grasslands. This comprises nearly eighteen percent of our county’s land or 2,274 square miles total land area.



Courtesy: www.timesfreepress.com

In the weeks following the fire, many meetings were held to review the actions taken by the involved entities. Each entity was invited to report on and share their findings. These reports complimented the Tuolumne County OES team for their quick and ongoing operational support and the professionalism displayed throughout this staggering event. The OES supports Rim Fire recovery by continuing to coordinate information gathering and distribution among various agencies.

AFTERMATH

Forest devastation near Yosemite



Baseline Fire Camp crew from the California Department of Corrections & Rehabilitation assisting cleanup near Evergreen Camp

Courtesy: Patrick Karnahan

FINDINGS

- F1.** The OES department was well prepared for an emergency prior to the disaster.
- F2.** The County Administrator and Deputy County Administrator have detailed roles and responsibilities during an emergency.
- F3.** Having the Office of Emergency Services staffed by county personnel during times of emergency, proved an efficient and effective use of their backgrounds and regular job responsibilities.
- F4.** Funding secured through grants has helped with training and equipment.
- F5.** The committee formed to approve grant monies is an appropriate representation of County hired and elected officials that respond to emergency situations.
- F6.** The flexibility of the overall Emergency Operations Plan and Annex G proved to be beneficial. The annexes can be used independently.
- F7.** OES personnel acted quickly after being notified about the fire.
- F8.** Non-essential people attended some of the briefings.
- F9.** Evening briefings at EOC were, at times, held at the same time as the public dialog briefings.
- F10.** Video Teleconference communication was not used at the EOC.
- F11.** Cell phone services were not consistent at the EOC.
- F12.** The *City Watch* service or *Reverse 911* system had flaws.
- F13.** Social media, such as Facebook and Twitter, created a problem.
- F14.** Outpouring of support from the community was impressive and worthy of commendation.
- F15.** A Mobile command vehicle was borrowed from Stanislaus County.
- F16.** The OES staff supported first responders to protect people, property and the environment.
- F17.** Defined roles, cooperation and the collaborative environment established by OES personnel and other agencies assured the success of this application of the Plan.

RECOMMENDATIONS

- R1.** No recommendation.
- R2.** No recommendation.

- R3.** No recommendation.
- R4.** The OES Coordinator shall continue to seek funding through grants.
- R5.** No recommendation.
- R6.** Ensure that flexibility is allowed in future applications of the Plan. The OES Coordinator shall review and revise the Plan as necessary.
- R7.** No recommendation.
- R8.** The EOC shall have a closed door policy during times of emergency because the information exchanged should be restricted to only essential personnel.
- R9.** Briefings and public forum meetings shall be scheduled so they do not conflict with each other, whenever possible.
- R10.** The County Administrator and OES Coordinator shall implement the use of Video Teleconference to allow a larger area of communication.
- R11.** The County Administrator and OES Coordinator shall add a cell booster at the EOC to improve the ability to communicate via cell phone.
- R12.** The County Administrator and OES Coordinator shall research other programs and pursue a replacement program that is more effective than the current City Watch system.
- R13.** Tuolumne County is addressing social media through its new website. The BOS has approved a Social Media Policy. The Jury encourages people to register on the county website to receive push notifications and texts. The County shall have a person or group dedicated to providing accurate information during times of emergency on social media sites. The OES Coordinator shall inform the Jury that responsible individuals are designated through their departments to communicate with the County's social media.
- R14.** No recommendation.
- R15.** If the Sheriff deems it necessary, he should seek funding for a mobile command vehicle.
- R16.** No recommendation.
- R17.** No recommendation.

COMMENDATIONS

The Jury feels privileged to live in a county that was so helpful and giving during such a trying time. We are proud to be members of this community.

The Jury would like to acknowledge OES personnel for understanding their role in this emergency and providing excellent support to the first responders.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

Required Responses:

- County OES coordinator: R4, R6, R8, R9, R10, R11, R12, R13
- Assistant Director, Emergency Services: R8, R10, R12
- County Administrator: R13
- Tuolumne County Sheriff: R15

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



TUOLUMNE COUNTY ANIMAL CONTROL

SUMMARY

The Grand Jury investigated the Animal Control division of the Tuolumne County Agricultural Commission. Jurors completed a comprehensive review with special emphasis on staffing issues. The Jury found that Animal Control is understaffed because of budget constraints felt by our government at large. We delved into how understaffing has impacted animals and people in our community, the division itself, and other agencies. Despite understaffing, the Jury found that the staff goes to great lengths to ensure the Animal Shelter is well maintained and the animals housed there receive the best possible care. Animal Control personnel must have flexibility, as their duties continually shift as a result of the calls they receive. During interviews, the staff conveyed their devotion to animals, and dedication to their work and to serving the public.



ANIMAL CONTROL JOB DESCRIPTIONS

The following definitions are from the Tuolumne County Animal Control Job Descriptions document:

ANIMAL CONTROL MANAGER: Under the general direction of the Agriculture Commissioner, to plan, direct and supervise the activities of the Animal Control Division; to provide assistance to County staff in areas of responsibility; to provide limited health care for animals at the County shelter; and to perform related duties as assigned.

SUPERVISING ANIMAL CONTROL OFFICER: Under direction of the Animal Control Manager, provides daily supervision of the Animal Control staff in the enforcement of state and local laws regarding stray, dangerous, nuisance and improperly kept domestic, wild, livestock and exotic animals; investigation of complaints; patrolling of assigned areas; capturing of animals; and the performance of related work as assigned.

ANIMAL CONTROL OFFICER I/II: Under general supervision, to enforce state and local laws regarding stray, dangerous, nuisance and improperly kept domestic, wild, livestock and exotic animals; to investigate complaints and patrol assigned areas; to capture animals as required; and to perform related duties as assigned.

ANIMAL SHELTER ATTENDANT: Under supervision, to clean and maintain County Animal Shelter facilities; to feed, monitor and handle domestic and wild animals held at the shelter; to assist the public in locating and handling animals; to assist Animal Control Officers in the field as necessary; to perform general clerical functions as needed; and to perform related duties as assigned.

BACKGROUND

Tuolumne County Animal Control (Animal Control) is a division of the Agricultural Commission subject to review by the Grand Jury. The last time an investigation was completed of this agency was in 2009 – 2010. Although no findings were given as part of that report, it was clear that Animal Control suffered as a result of budgeting and staffing constraints. The current Jury initiated an inquiry of the division, and found that budgeting and staffing limitations still exist. Therefore, the Jury decided to pursue further investigation of the division and determine what aid could be recommended. The Jury's decision to involve itself was not complaint driven, but rather a result of interest generated through discussion and review.

METHODOLOGY

To assist in the investigation of Animal Control, the Jury reviewed the Animal Control *Policy Manual*, *2013 Annual Report*, and *Mission Statement*. In addition, Jurors read descriptions of staff positions, daily logs for the summer and winter of 2013, budget reports, and journals addressing animal related matters from law enforcement agencies in the County.

The Jury also completed two tours of the Animal Control shelter facility.

During its investigation, Jurors interviewed an Administrator with the Agricultural Commission, a number of Animal Control personnel, including management, Animal Control Officers (Officers) and Shelter Attendants. Jurors also interviewed Humane Society and Friends of the Animal Community (FOAC) members. Because of their involvement with animal related issues, the Jury also spoke with personnel from the Tuolumne County Sheriff's Department, the California Highway Patrol and the Sonora Police Department.

DISCUSSION

RESPONSIBILITIES

The Mission Statement of Tuolumne County Animal Control is:

“To provide for public safety and animal welfare through the enforcement of local and state animal control and humane laws; to provide a rabies control program; to provide for the proper care and housing of impounded animals; and to provide education, enforcement and resources to promote spay/neuter.”

Toward fulfilling this Mission, Animal Control has many responsibilities. In the field, Animal Control Officers enforce State animal laws and local ordinances, handle bite incidents and quarantines, and follow up on animal neglect complaints.

During tours of the shelter, Jurors found its location and structure adequate to serve the public. Highlighted in the tour was the need for cleanliness and disease control. Therefore, the animals are maintained in separate areas based on their individual needs. The Jury found the tours to be informative and enlightening.



Maintaining its shelter and the animals housed therein is the primary function of Animal Control. It is responsible to the community and the animals to provide a safe, clean and healthy environment to house stray, unwanted and adoptable pets. Animal Control maintains its shelter in a clean and sanitary condition, and takes disease control seriously. Therefore, the areas in which animals are housed are cleaned and sanitized daily. Jurors found the shelter to be very clean. Employees of Animal Control strictly supervise the dietary and medical needs of impounded animals. If an animal's medical needs are beyond the scope of Animal Control personnel, a private practice Veterinarian is called upon to provide treatment.

Animal Control staff has many duties to attend to on a daily basis. The Officers are dispatched into the field in response to a multitude of animal related matters such as injured or at-large animals and complaints from the general public. They must be prepared to respond to a wide scope of emergency situations. For example, Animal Control responded to the needs of animals displaced by the recent Rim Fire. Animal Control staff informed jurors that during this incident they learned a lot about "best practices" (the most effective procedures for responding to the emergency). While focusing on the issues presented by this disaster, they also managed to complete their regular duties. In order to do so, staff worked overtime and disaster workers (who register with the Tuolumne County Administration office) provided assistance. This allowed Animal Control to temporarily increase their hours of operation. As members of the community called to offer assistance, Animal Control formed a list of volunteers and their contact information was given to people requiring help with their animals. Animal Control also received supplies and equipment such as food and additional kennels from other community organizations in order to care for many of the animals displaced by the fire.

Animal Control Officers and Shelter Attendants answer questions asked by the public in person and by telephone. Animal Control also licenses dogs, for which a proof of rabies vaccination is required. In order for a pet to be adopted, the pet must be in compliance with licensing requirements. Animal Control also does a thorough background check of anyone wishing to adopt a pet through the shelter.

The profiles of animals housed at the shelter are entered into the database: *PetHarbor.com*. This website allows the public an avenue to search for their lost pets and provides information on adoptable pets. The Humane Society and FOAC also utilize this website during their search for adoptable pets. Shelter staff completes paperwork as animals are adopted by the public or are transferred from the shelter's responsibility to that of the Humane Society or FOAC.

Officers investigate and respond to potential animal law violations, including animal neglect and cruelty, for which they can issue citations. These citations are often addressed by filing a complaint with the District Attorney's office. Officers are subsequently required to complete reports and appear in court regarding these cases.

During interviews, Animal Control staff demonstrated positive attitudes and expressed an immeasurable love of animals and dedication to providing animals with the best care possible.

BUDGET AND STAFFING

Funding for Animal Control is provided primarily through Tuolumne County's General Fund. However, a portion of their funding is generated through sales tax revenues from Proposition 172 (Proposition for Safety), licensing fees, payment through the Public Works Department for the removal of dead animals, donations, impound and adoption fees and occasional grants. Some citizens donate money to Hurst Ranch, from which Animal Control accesses food for the animals at the shelter.

During meetings with Animal Control administration and management personnel, the Jury was informed that, as a result of countywide budget cuts, reductions to Animal Control's staff began in 2009. It lost an Officer, its only Office Assistant, and a reduction in hours for the equivalent of one fulltime relief Shelter Attendant, leaving existing staff, including management, to absorb additional responsibilities. The Animal Control Manager is also performing the functions of two positions: Animal Control Manager and that of a Registered Veterinary Technician (Veterinary Technician). A Veterinary Technician plays a vital role in the efficient operation of the shelter. Their responsibilities encompass initial diagnosis and follow-up treatment, including dispensing medication for animals housed at the facility. Additional duties are disease prevention and quarantine to prevent contamination within the facility. A Veterinary Technician is the only staff person qualified to euthanize animals.

Animal Control not only lost personnel, but they also lost the ability to pay overtime for after hours, on-call emergency services. Further, their staff training budget was eliminated, which forced the division to be creative in providing training.

Jurors were further advised that Workers Compensation premiums increased, as documented by budget reports. These premiums went up more than \$60,000 between 2012 and 2014. Animal Control pays an increased portion of the County's Workers Compensation premiums since they have had a higher proportion of claims filed than other county departments. Management personnel reported that, while their staff is capable and dedicated, they are tired and stressed, which lead to more incidents of sickness and injury. Animal Control staff indicated during interviews that, even though they love the work, it is a stressful job, both at the shelter and in the field. The current state of understaffing has exacerbated this situation.

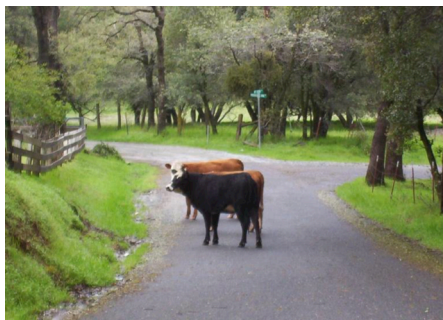
According to the National Animal Control Association website guideline, *Determining Kennel Staffing Needs*, there should be 6.4 Animal Control Officers to provide service to the public 24 hours a day in an area the size and population of Tuolumne County. Our Animal Control division has only three Officers. Since coverage is needed seven days a week, Animal Control should have a minimum of five Officers. However, six to seven Officers would allow Animal Control to better serve the County. Having adequate personnel would also lessen the burden on employees who are being stretched to cover for others absent due to vacations, sickness or injuries. Additionally, it would decrease the need for management to work extensive overtime hours in an effort to keep up. There is no budget currently allotted for staff to work overtime.

Although staff is present every day to care for the animals, Animal Control has reduced the hours it is open to the public because of understaffing issues. Currently, Animal Control is only open to the public from 9:00 a.m. – 1:00 p.m. Monday through Friday, and 10:00 a.m. – 1:00 p.m. on Saturdays. Jurors were informed that Animal Control used to be open additional hours in the afternoons and one evening each week, which was more convenient for the public. Decreased hours have resulted in fewer impounds. If more animals were detained, more animals would be available for adoption through Animal Control, the Humane Society and FOAC. There would also be fewer animals left at-large and in harm's way.

As a result of their limited staff and hours, Officers do not have enough time for routine patrols, which would increase the presence of Animal Control in the community. This could act as a deterrent to animal law violations and help create good public relations. Much of the Officers' time is spent in court, maintaining the kennel and on office responsibilities. Therefore, in the field, they are limited to handling emergencies and critical incidents that threaten the safety of people and animals. They also have difficulty keeping up with required paperwork such as filing complaints regarding animal abuse and neglect with the District Attorney and completing related reports to the Court.

Staff is concerned that the drought will create further demands on their time, as the reduced water and feed in pastures could increase animal neglect cases, particularly regarding livestock.

In July of 2011, Animal Control was forced to eliminate its after hours, on-call emergency services. Since then, the Tuolumne County Sheriff's Department responds to animal related issues when Animal Control staff is not available to handle them. Additionally, Animal Control personnel are no longer available to the California Highway Patrol to assist with or to take over calls concerning livestock and other animals. Some of these agencies have also suffered budget and staffing reductions, which makes their ability to take on animal related issues more difficult. The reduction in Animal Control staff and available hours has affected Animal Control's ability to serve animals and the public. It has also impacted the abilities of our local law enforcement agencies to meet law enforcement needs in our community. Law enforcement personnel reported this has affected dispatch and officer workloads, as they cannot handle all the animal related calls. Oftentimes, they have to prioritize calls using public safety as a guide. Further impact is caused by the fact that handling animals is not law enforcement's area of expertise.



Animal Control has little money to maintain or replace their vehicles and equipment. Their vehicles are aging and replacing them is expensive because they need to be specially equipped to accommodate animals. Animal Control management indicated they need at least one truck replaced and will need an additional truck when they are able to hire more Officers.

Jurors were informed that Animal Control is in need of a generator to provide back-up power in the event of an outage. The wellbeing of the animals is dependent on climate control and the overall operation of the facility.

Management shared with the Jury their hopes for the future of Tuolumne County Animal Control. As mentioned above, the Manager is fulfilling the responsibilities of two positions: managing the division and performing the duties of a Veterinary Technician. Management would like to hire a separate Veterinary Technician to assume the responsibilities of euthanizing animals and meeting the medical needs of the shelter animals. Management would also like to hire a minimum of two more Officers, additional relief Shelter Attendants, and to reinstate the Office Assistant position. This would allow management to dispatch two Officers rather than one to handle calls in the field, thus reducing injuries that result in Workers Compensation claims.

They would also like to reinstate the training budget for ongoing professional staff development.

Animal Control personnel want to bolster programs to ensure animals are vaccinated for rabies through community clinics. Whereas currently they only issue citations when animals are found loose, they would like to have the capability to carry out a focused licensing enforcement program. They also want to provide more outreach and education to the public regarding issues such as spay/neuter.

Further, staff stated they are anxious to extend Animal Control office hours and to reinstate after hours, on-call emergency services. These actions would allow Animal Control to better serve the community and lessen the need for law enforcement personnel to handle animal related calls without the assistance of Animal Control.

All entities interviewed agreed that Animal Control is understaffed and this has impacted animals, citizens and other agencies in the County. Furthermore, everyone agreed that, while the existing staff has positive attitudes and are dedicated and hardworking in their mission to serve the community, they need additional resources.

FINDINGS

- F1.** Animal Control staff and administration demonstrate a high degree of dedication in fulfilling their duties despite the challenges posed by understaffing.
- F2.** Animal Control maintains its shelter in a clean and sanitary condition; and the animals housed there are well cared for on a daily basis.
- F3.** Animal Control staff responds to emergencies and disasters affecting animals, such as the Rim Fire.
- F4.** An Animal Control Officer position was cut in 2009.
- F5.** Animal Control needs a generator to provide back-up power in the event of an outage.
- F6.** The Animal Control Manager is performing the duties of two positions: managing the division and performing the duties of a Registered Veterinary Technician.
- F7.** In recent years another Animal Control position cut was that of an Office Assistant. There was also a reduction in hours for the equivalent of one fulltime relief Animal

Shelter Attendant. Animal Control staff is overburdened and tired. This resulted in Workers Compensation premiums increasing.

- F8.** Due to budget cuts, the Animal Control staff-training budget was eliminated.
- F9.** Budget constraints negatively impact Animal Control's ability to replace equipment and aging vehicles.
- F10.** Because of understaffing, Animal Control reduced its hours of operation and eliminated its after hours, on-call emergency services, impacting animals, citizens and other agencies in the County.
- F11.** Due to understaffing, Animal Control does not have time to carry out a focused licensing enforcement program, is only able to provide limited outreach and education to the public, and is unable to conduct routine patrols.

RECOMMENDATIONS

- R1.** No recommendation.
- R2.** No recommendation.
- R3.** No recommendation.
- R4.** The Agricultural Commissioner shall request that the County Administrative Officer immediately reinstate the Animal Control Officer position which was cut in 2009. The County Administrative Officer should allocate funding to do so, and this should be approved by the Board of Supervisors.
- R5.** The Agricultural Commissioner shall request that the County Administrative Officer allocate funding to purchase a generator in 2014. The County Administrative Officer should allocate funding for the generator, and the purchase should be approved by the Board of Supervisors.
- R6.** The Agricultural Commissioner shall request that the County Administrative Officer create and fill the position of Registered Veterinary Technician in 2014. The County Administrative Officer should allocate funding for the position, and this should be approved by the Board of Supervisors.
- R7.** The Agricultural Commissioner shall request that the County Administrative Officer allocate funding in fiscal year 2015 – 2016 to hire additional Animal Control Officers, reinstate the Animal Control Office Assistant position and hire additional relief Shelter Attendants. The County Administrative Officer should allocate funding in the 2015 – 2016 budget for these positions, and this should be approved by the Board of Supervisors.
- R8.** The Agricultural Commissioner shall request that the County Administrative Officer allocate funding in fiscal year 2015 – 2016 to reinstate a staff training program. The

County Administrative Officer should allocate funding in the 2015 – 2016 budget to do so, and this should be approved by the Board of Supervisors.

- R9.** The Agricultural Commissioner shall request that the County Administrative Officer allocate funding in fiscal year 2015 – 2016 to acquire an additional truck, and replace vehicles and equipment as needed. The County Administrative Officer should allocate funding in the 2015 – 2016 budget for the vehicles and equipment, and this should be approved by the Board of Supervisors.
- R10.** Animal Control should extend its hours of operation and resume after hours, on-call emergency services when Animal Control has adequate staff to do so.
- R11.** Animal Control should carry out a focused licensing enforcement program, provide additional outreach and education to the public, and conduct routine patrols when Animal Control has adequate staff to do so.

COMMENDATIONS

The Grand Jury commends Animal Control staff and administration for their positive attitudes and dedication to animals and people in our community. We also commend Animal Control staff for maintaining the shelter in a very clean and sanitary condition and providing outstanding care on a daily basis for the animals housed there. Likewise, Animal Control management and staff are commended for their sensitive and effective response to the needs of animals whose owners were evacuated from their homes during the Rim Fire.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests the responses as follows:

Required Responses:

- The Agricultural Commissioner: R4, R5, R6, R7, R8, R9, R10, R11
- The County Administrative Officer: R4, R5, R6, R7, R8, R9
- The Tuolumne County Board of Supervisors: R4, R5, R6, R7, R8, R9

Invited Responses:

- The Animal Control Manager: R10, R11

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

BIBLIOGRAPHY

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2. *Mission Statement*, Tuolumne County, CA – Official Website – Animal Control - <http://www.co.tuolumne.ca.us>
3. *Pet Harbor* – <http://www.petharbor.com>

TUOLUMNE UTILITIES DISTRICT

DISCLAIMER

This report was issued by the Grand Jury with the exception of one member of the Jury who identified a conflict of interest. This Juror was excluded from all parts of the investigation, including interviews, deliberations, the writing and acceptance of the report.

SUMMARY

The Grand Jury received two complaints regarding the Board of Directors (Directors) of Tuolumne Utilities District (TUD). Over the course of a lengthy investigation, the Jury found that TUD is staffed by knowledgeable, experienced people who are passionate about their work.



These employees take their responsibilities very seriously in providing excellent water for the community. The Jury discovered that the staff has many obstacles to overcome including the community's perception that TUD employees are overcompensated and lazy. TUD has been short-handed, has an antiquated infrastructure and a historically limited water supply. The Jury also found that the Directors violated the Brown Act; there is little or no succession planning, and tensions between the Directors, staff and public are high. Additionally, the termination of the previous General Manager and its aftermath was poorly handled.

GLOSSARY

Directors	Tuolumne Utilities District Board of Directors
CEQA	California Environmental Quality Act
OCC	Office of County Counsel
RFD	Request for Documents
TUD	Tuolumne Utilities District
TWSOP	Treated Water System Optimization Plan
PAC	Public Advisory Committee

BACKGROUND

The Jury is authorized to look at any Special District that operates within its County. Given the importance of water to all human life, the Jury conducted a review of TUD, a Special District, in order to understand its function within Tuolumne County. We wanted to be assured that the stewards of water for most of Tuolumne County were acting in the best, long-term interest of our community.

Early in its term, the Jury became aware of an apparent disregard of the public's right to be informed of the decision-making processes of TUD's Board of Directors. We received several written complaints about the Board's failure to comply with the Ralph M. Brown Act (*Brown Act; Government Code Sections 54950-54963*). Originally passed in 1953, the Brown Act mandates that a public agency's "actions be taken openly and that their deliberations be conducted openly." The Act further declares that,

"(t)he people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." California Government Code Section 54951.

The Brown Act requires that legislative bodies such as TUD's Board of Directors conduct their business at announced, open, public meetings and that the public be allowed to comment on all aspects of the Board's business. It prohibits a quorum, in TUD's case three Directors, from discussing the public's business in private. This prohibition applies to what is known as "Serial Meetings."

The Brown Act is intended as the bare minimum requirement for conducting public business. Tuolumne Utilities District's Directors "*may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards.*" Brown Act, Government Code Section 54953.7.

Our original intent was to examine past Board actions to determine if complaints about the Board's violations of the Brown Act were founded. If any violations were found, we would offer guidance and solutions to overcome any deficiencies we discovered. At the start of our inquiry, the Jury received documents from various sources as well as two written complaints from citizens of Tuolumne County. Jury Members attended several TUD board meetings and reviewed over 48 hours of videotaped board meetings (hosted on the cloud service, "Granicus," on www.tudwater.com). We also reviewed agendas and minutes from previous meetings and committee meetings as well as hundreds of emails from Board Directors and TUD staff.

The Jury noted several occasions where the Board failed to comply with the Brown Act. We also observed general discord amongst the Directors and various TUD staff, including the General Manager. Having received multiple complaints in regards to the Board of Directors, the Jury decided to expand its investigation of the Board. As our investigation progressed, we realized its scope had grown and we noted serious underlying problems with the TUD Board.

METHODOLOGY

The Jury began its inquiry at the Office of the County Counsel (OCC). Our goal was to learn how the Brown Act applies to public entities such as TUD.

In addition to our training with the California Grand Juror's Association, we studied the Brown Act in great detail. The Jury researched various Government Code Sections and treatises. We reviewed various California Water Code sections relating to TUD operations. The Jury developed an extensive list of documents to acquire, people to interview, questions to ask them and sites to visit. We examined various policy and procedure manuals used by TUD. The Jury

also reviewed a variety of reports issued by TUD, some of which were prepared by outside consultants at TUD's request. We studied the orientation binder given to each new Director.

During our investigation, we interviewed 30 individuals, including all levels of TUD staff, all the Directors, members of the community, county executives and members of the County Board of Supervisors. The Jury inspected TUD's ditches, canals and reservoirs, as well as its drinking water and wastewater treatment plants and facilities. We also reviewed newspaper articles and financial statements.

In all, the Jury spent over 3,500 hours focused on this investigation.

DISCUSSION

Because this investigation is large and complex, we chose to divide our Discussion into separate topics. Each topic has its own heading for ease of reading:

INTRODUCTION

THE BROWN ACT

TUOLUMNE UTILITIES DISTRICT'S BOARD OF DIRECTORS

TUOLUMNE UTILITIES DISTRICT PERSONNEL

TUOLUMNE UTILITIES DISTRICT RESOLUTIONS, TRAININGS & POLICIES

THE GENERAL MANAGER

SUCCESSION PLANNING

2014 WATER ISSUES AND INFRASTRUCTURE

RATES

THE DROUGHT

CONCLUSION

INTRODUCTION

Tuolumne Utilities District is a County Water District under the California Water Code. Among other things, the Water Code dictates fee structures, rates, treatment standards and testing. It also includes employee qualifications and certifications. The District serves nearly 14,000 treated water customers, 600 ditch (raw) water customers, of which 130 are "ditch domestic" customers (their sole source of all water is the ditch). The District also supplies treated wastewater to customers for agricultural use. Sewer service is provided to approximately 12,000 single-family connections. In addition, TUD delivers treated water at wholesale cost to nine small water companies that distribute it in their own distribution systems. Twain Harte Community Services District buys treated water from TUD for distribution. In 2011, TUD delivered 1.3 billion gallons of treated water from 14 water treatment plants using 81 treated water storage tanks flowing through 330 miles of treated water pipeline.

THE BROWN ACT

Since TUD is a County Water District, it is not required to have by-laws governing its affairs. The Tuolumne Utilities District Board of Directors conducts its business through resolutions, motions and ordinances that it votes on at public meetings. As the legislative body of a local agency, the Board's meetings and deliberations are subject to the Brown Act, which guarantees

the public's right to attend and participate at meetings of the local legislative bodies, boards and commissions. The Brown Act regulates types of meetings, how meetings are posted, agendas and adjournments.

The Brown Act allows agencies the right to impose requirements upon themselves, which allow greater access than the Brown Act, as noted in Government Code Section 54953.7.

The Brown Act further allows for a designated clerk or officer *who shall attend to take minutes of topics discussed and decisions that may consist of a recording of the closed session*, as noted in Government Code Section 54957.2.

The Board meetings are video recorded by a service called Granicus. The Board Secretary attaches the meeting's agenda and minutes. Committee meeting minutes and agendas posted on Granicus are not video recorded.

During the December 18, 2012 Board meeting, TUD's attorney presented many Brown Act requirements to the Directors.

On January 18, 2013, the new Directors attended Brown Act Training presented by OCC. One Board Member who attended OCC's Brown Act training resigned mid-term and was replaced by appointment. That newly appointed Board Member received Brown Act training through the California Special Districts Association on August 22, 2013.

In the Jury's opinion, some of the Brown Act violations include:

- On December 12, 2012, a Director sent an email to the other Directors regarding the Chief Financial Officer, thus conducting a Serial Meeting in violation of the Brown Act.
- During the February 12, 2013 Board meeting, while approving the Consent Calendar, the Board approved a six page resolution (Resolution No. 2-13) amending existing rules and procedures. This was done without calling for public comment. Among other things, Section 5 of the Resolution changed the time of regular meetings from 7:00 p.m. to 2:00 p.m. Public controversy surrounded this change.
- On April 9, 2013, a Director sent an email to the other Directors regarding a Strategic Plan; conducting a Serial Meeting.
- During the May 14, 2013 Board meeting, a Director commented, "We are saying 'no' to many things that you are not aware of at this point." This comment led to a written complaint sent to the Grand Jury because the statement inferred that Directors were conducting Serial Meetings, or they were conducting TUD business outside of a public meeting. The statement the Director made does not violate the Brown Act, however, business taking place outside of the public meetings is a Brown Act violation.
- Also on May 14, 2013, the Board of Directors discussed a proposed controversial connection fee and related matters. The President declared the questions being asked are for the Finance Committee and "are not to be brought up here." In the Jury's opinion, this comment implies that the public does not have a right to question the Board during public board meetings.

- Another Director insisted on May 14, 2013, that members of the public who wanted to speak had to state their names and identify themselves. Under the Brown Act, attendance lists or sign in sheets are strictly voluntary, and must state such on the attendance list or sign in sheet before being distributed.
- During the July 23, 2013 Board meeting, the Directors established a Public Advisory Committee (PAC) to advise them on needed changes to connection fees. In spite of its name, PAC's early meetings were not open to the public, which could be a violation of the Brown Act. This issue was hotly debated at several subsequent Board meetings. One Director stated there was no need for public involvement until after PAC issued its report, which, inferred that there were PAC meetings held without public participation, which this Jury believes to be a Brown Act violation. The question of public participation was resolved in late September when the General Manager announced that the public would be allowed to attend.
- During the July 30, 2013 Board meeting, the Board President said he was conducting board meetings as "I see fit," "based upon a consensus of the Board." This led one member of the public to question when and how the Directors had reached its consensus.
- During the October 22, 2013 Board meeting, the President adjourned the public session to go into closed session. In the Jury's opinion, these were the following Brown Act violations:
 - The President did not announce the items to be discussed or seek public comment on the closed session items.
 - He also failed to inform the public that the public session would reconvene at the conclusion of the closed session. Among the items for the closed session was the performance evaluation of the General Manager that resulted in his termination.
 - The Board never reconvened and did not report out to the public. The Brown Act requires that after a closed session, the Board must reconvene the public session and report out any action taken during the closed session.
- Compounding these possible violations, the original minutes from the evening posted on November 12, 2013, stated the Board had reconvened and reported the termination. The minutes were not approved until December 10, 2013, when they were corrected. The revised minutes indicated the Board had not reconvened and reported out but had only recorded the General Manager's termination.

TUOLUMNE UTILITIES DISTRICT BOARD OF DIRECTORS (DIRECTORS)

There are five Directors on TUD's Board. Directors serve 4-year staggered terms with elections occurring on even years. Staggering the elections of the Directors is designed to ensure continuity between Boards as a whole. If a vacancy occurs, a new Director can be appointed by the existing Board. The appointed Director has to run in the next election. In the November 2012 election, four new Directors were elected. This resulted in four inexperienced Directors sitting on TUD's Board. The continuity between boards was left to one Director who had been on the Board for seven years.

Tuolumne Utilities District provided training and written material to the newly elected Directors. Subject matters presented at the trainings included: TUD's complex rate and fee structures, local ordinances, state and federal laws and regulations and information about TUD's infrastructure. The Directors were provided the opportunity to tour treatment plants, ditches and reservoirs. TUD has numerous regulations and resolutions that have to be reviewed and followed. Additionally, the Board of Directors must learn the basics of parliamentary procedure and the fundamentals of the Brown Act in order to conduct proper public business meetings.

While materials and resources were provided to Directors, during the Jury's investigation, we found that not all materials were easily accessible. Additionally, we were told by various individuals that the Directors were not active participants in the trainings nor interested in the arranged field trips. When asked about the field trips and trainings, one Director told us, "The general consensus was 'why are we going on this?' and 'we [the Board] just plain stopped it.'"

- It was observed during the January 2013 Brown Act Training, based upon their questions; some Directors were interested in how to "get around it [Brown Act]." Additionally, during one interview, the interviewee stated, "the Brown Act is a joke to them." We were also told by a Director that, "the Brown Act gets in their way."
- Directors are expected to adhere to the *Guidelines for Conduct* (Guidelines), which were adopted on February 22, 2005 and amended on November 8, 2005.
 - In Section 3 the Guidelines state that Directors *shall not . . . harass any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, gender, sexual orientation, medical condition or disability.*
 - An employee filed a harassment claim against a Director. As a result, Directors and TUD employees attended harassment training on October 22, 2013. Additionally, the Director involved was required to attend an individual sensitivity training session. The cost of the investigation, resolution and remediation of this claim was at TUD's expense and exceeded \$10,000. The claimant did not seek monetary compensation.
 - During our investigation, the Jury received the following comments pertaining to the Directors and the hostile work environment: "There will be serious consequences, do you understand?" As noted from a committee meeting, "See, women are good for something." From an employee, "[the Director] has inappropriate behavior in regards to financial matters, he pits TUD against the Board, threatens jobs, calling them incompetent, puts the district at risk of litigation." As a Director stated in an email, "Instill in your management staff that the new day arrived in December. The past is irrelevant and it will not continue." This quote appeared to indicate that the Directors will be in charge of TUD.
 - Throughout the Jury's interviews and investigation, one reoccurring theme presented itself. The new Directors came in with their own agendas, which led to tension between the Directors and TUD staff.

TUOLUMNE UTILITIES DISTRICT PERSONNEL

TUD has 71 full-time employees (as of February 11, 2014), down from 77 in 2009. According to a document received by the Jury, the District is “staff stressed.” Most of the field staff at TUD are licensed or certificated by the State of California. Continuing education is required to maintain licenses at all levels. This attests to the dedication of TUD’s employees.

TUD has many long-term employees, some having been in the water business long before TUD was created.

- After the current board was elected, additional staff were encouraged to join the union, including office personnel for the first time. This provides the staff protection when contract negotiations occur. Employee benefits have been reduced in the past as a way to cut costs, which led to an increase in retirements. In the summer of 2014, contract negotiations will commence with several key employees stating they will retire if their benefits are further reduced.
- Members of the public have subjected TUD staff to undue harassment in the last two years. This included having cans of sodas and rocks thrown at them while they were working as well as being verbally assaulted. Multiple individuals informed the Jury that the increase in harassment started when the current board members were running for their board seats.
- Based on information supplied to the Jury by TUD, it has come to our attention that the use of an attorney has drastically increased. Total billed hours in 2011 was 86.5, billed hours in 2012 was 205.3, and the billing in 2013 was 361 hours. We have concerns of why the need for an attorney increased 400% from 2011 to 2013.
- During the Jury’s investigation into the practices of the Human Resources Department, we found that the yearly reviews for TUD employees were not completed in a timely manner. According to a document obtained by the Jury, “only 22% of TUD’s employees have four or less years with the District. Reviews are historically completed for new employees. Reviews are infrequent with those with longevity.” At the time of writing this report, TUD had 35 pending reviews and 22 reviews past due.

TUOLUMNE UTILITIES DISTRICT RESOLUTIONS, TRAININGS AND POLICIES

Throughout the Jury’s investigation, we submitted many Request for Documents (RFD) to gain a broader perspective of various topics within TUD. Through these RFD’s we discovered facts that presented themselves noteworthy of mention in our report.

- When the Jury requested documents, we received various resolutions from TUD, which were scattered in several binders throughout the TUD facility. When questioned, multiple interviewees stated the resolutions were in different areas, with no clear consensus on where full texts of resolutions are kept.
- The Jury received studies conducted by different consultants and agencies. These studies included Ditch Sustainability Projects, Urban Water Management Plans, Communication

Plans, studies on the Algerine Ditch Discontinuance, just to name a few. Some of these studies could have been done in-house, rather than hiring an outside consultant. For example, the Historic Properties Management Plan's project list created by this plan mirrored the project list done in-house by TUD employees.

- Granicus, the online tool that TUD utilizes to post meeting agendas, minutes and video recordings, is an interactive archive for public use. However, minutes for meetings are not posted within a timely manner, sometimes taking up to two weeks after the meeting to be posted online.
- Fiscal Year 2013 was the first year that TUD filed their 66013(d) report. Government Code 66013(d) states: *...a local agency shall make available to the public, within 180 days after the last day of each fiscal year, the following information for that fiscal year.* This report includes such topics as descriptions of charges, beginning and ending balances, amounts of charges, public improvement charges, etc.
- In the course of our investigation, we found that a record of trainings attended was hard to come by. Key trainings on the Brown Act, Ethics Training for Public Officials (AB 1234), and others are not in sequential order. Some of these trainings took place during different years. This has made it difficult to track what trainings are current with employees and board members.
- The Jury was informed that TUD's existing insurance policy provides a reduction in insurance premiums when Directors attend selected trainings. Although it is not a substantial savings, it does provide a savings for TUD.
- With the assistance of an outside consultant, TUD's staff, including the former General Manager, developed a Strategic Plan in 2008, which was adopted by the Board. The Plan outlined a clear vision of where the District should be within five years regarding succession planning, infrastructure guidelines, fiscal management and other important areas. Many of its ideas were implemented, including: undertaking some long range planning, establishing a training regimen for new Board members, creating the PAC to study connection fees, starting outreach programs and creating working relationships with agencies and associations having shared interests in water issues.
- The five-year Strategic Plan adopted in 2008 has expired. In March 2013, a Director offered that the current Board's Strategic Plan would focus more on finances and infrastructure. In October of 2013, after deciding against having an outside consultant renew the Strategic Plan, the Board delegated this function to the Intergovernmental/Public Relations Committee.
- The new General Manager, in his previous role as District Engineer, began a Treated Water System Optimization Plan (TWSOP). This is the type of long range planning that was called for in the Strategic Plan. The TWSOP has a twenty-year planning horizon and a forty-year vision, anticipating infrastructure needs for the future. The plan is the type of planning that is required for TUD to anticipate what its infrastructure and financial needs will be in the long term. The timeline for the TWSOP's completion is in December of 2014.

TUOLUMNE UTILITIES DISTRICT GENERAL MANAGER

The General Manager is responsible for day-to-day operations of TUD as well as maintaining a working, professional relationship with the Directors. TUD's Guideline for Conduct and the General Manager's contract make the roles of the Board and the General Manager clear. The division of labor is that the Board sets policy and the General Manager operates the District according to the Board's policies. If the Board does not provide guidance and policy, the General Manager operates without clear direction.

In 2006, TUD commissioned Alliance Resource Consulting, an executive recruitment firm, to conduct a search for a new General Manager. This position was filled with one of the candidates from the Alliance study. The General Manager continued his tenure at TUD until October 22, 2013.

- The Alliance Study cost TUD approximately \$22,000 and took eight months to complete. Through the study, Alliance Resource Consulting provided TUD with eleven candidates for General Manager.
 - The candidates for General Manager varied in current salaries, experience, education and certifications.
 - All candidates were experienced in special, utility or water district operations, with 5 to 25 years of experience.
 - The job description called for a “bachelor’s degree or higher” or “the equivalent (4 years minimum)” in utility management experience and “five years...experience in the administration of public utility...” Most of the applicants had advanced degrees. One candidate did not have a college degree.
 - In September of 2006, seven applicants were interviewed by various TUD staff, including the retiring General Manager, the Director of Human Resources, and several senior employees and Board members.
 - The 2006 Board of Directors chose to ignore the requirements of a college degree and hired the only candidate without a degree. The newly hired General Manager held multiple certificates and had limited experience being a General Manager.
- The General Manager hired was well versed in California Water Code and water laws.
- The General Manager's contract stated that performance evaluations were to be conducted annually. The Brown Act allows for these evaluations to be conducted in closed session. Throughout his tenure at TUD, the General Manager had at least four different types of performance evaluations. They ranged from a scale in which Directors graded him on his performance to a questionnaire.
- In October 2009, the Directors reviewed the evaluation process for the General Manager. BHI Management Consulting was employed by the District at a cost of \$6,800 to develop new guidelines to be used during the General Manager's Performance Evaluation. In November of 2011, the BHI process was adopted and accepted by the Directors.

- BHI Management Consulting presented TUD with a detailed manual of how to conduct a performance evaluation for the General Manager. It included a “President’s Guide” for the President of the Board, to guide him/her throughout the evaluation. The manual also called for the General Manager to provide a written “Performance Report,” of his activities throughout the year. The Directors would then develop and approve a statement of the General Manager’s overall performance, giving it to the General Manager between four and seven days before the closed session evaluation.
- It was suggested in the BHI manual that the Directors should sign and record the evaluation with the Board Secretary. BHI also stated within the manual that the Director’s duty, under the Brown Act, was to reconvene into public session and report out any action taken during the closed session.
- The first performance evaluation under the BHI process started in December of 2011, when the General Manager presented his written Performance Report to the Directors. The closed session performance evaluation was eventually held on March 13, 2012.
 - Upon conclusion, the Directors reconvened and reported out that there was “no reportable action relating to the General Manager’s performance evaluation.” Later that month, the Board of Directors approved an Amended Employment Agreement with the General Manager, extending his contract to March 2017.
- On May 28, 2013, the current Directors conducted its first performance evaluation of the General Manager in closed session. Upon reconvening to a public session the Board of Directors reported out that there was no reportable action taken.
- On the evening of October 22, 2013, the Directors held an additional, second performance evaluation of the General Manager during a closed session. The action taken during the closed session was to “terminate the General Manager’s contract without cause.”
 - By terminating “without cause,” the Board obligated TUD to pay the General Manager one year’s salary (\$150,000) and benefits as severance pay. The General Manager also receives Unemployment Insurance benefits due to the nature of his dismissal. This benefit is funded from TUD’s reserve account.

SUCCESSION PLANNING

Succession Planning is an internal process within an organization to identify and monitor personnel for advancement within the company to retain talent, experience and knowledge for the greater good of the organization. Succession planning also aims to prepare a company for anticipated retirements of key personnel. With the possibility of long-term employees retiring at a rapid rate, there is a potential for TUD to lose valuable knowledge and experience. Succession Planning is very important for companies to continue and thrive.

In the first interview the Jury conducted, we asked if there was a potential for a *Brain Drain* to occur at TUD. A Brain Drain is where key employees depart the organization, leaving a void of knowledge that is difficult or time consuming to replace.

- In 2013, seven employees who held technical or operational positions retired.
 - The Engineering Services Technician had 31 years of specialized experience with TUD and previous agencies. The new hire started on the technician’s last day of work. This resulted in the inability to train the replacement. TUD’s Directors had to file an exemption to the CalPERS 180 day post-retirement waiting period to rehire retirees. This allowed the retiree to return to TUD part-time to train his replacement.
 - A utility worker retired in August, 2013. This left one unfilled position in the Wastewater Department. At the time, the Department needed increased manpower to comply with a court ordered consent decree arising from improper wastewater discharges and other regulatory challenges. Citing the retiree’s “specialized knowledge and skills in the wastewater department,” the Human Resources Manager proposed bringing him back as a part time employee to fill a critical need. The Board authorized this on September 3, 2013, as another exemption to the 180-day post retirement waiting period.
 - One Water Treatment Plant Operator retired on January 31, 2013. The Directors authorized his return to TUD as a part-time employee. The Board authorized this on January 22, 2013 and filed another exemption to the 180-day post retirement waiting period.
- As of December 3, 2013, there were four “Retired Annuitants” working part-time for TUD. They were needed either to train their replacements or help fill critical positions.
- On October 23, 2013, the President of the Board, another Director, the Finance Director and Director of Human Resources met with the Operations Manager and the District Engineer to discuss the newly vacant General Manager position. By terminating the General Manager the night before, there was no advanced planning to find a replacement.
 - During the meeting, the President suggested that either the District Engineer or the Operations Manager could fill the General Manager position.
 - The District Engineer changed his retirement plans and accepted the position of Interim General Manager. On October 28, 2013, a one-year renewable contract for the new General Manager was approved by the Directors.
 - In terminating the General Manager without cause, the Directors committed to his severance package. This left TUD with a shortfall of \$150,000, plus the cost of benefits and Unemployment Insurance. Due to this, there is no money allocated in TUD’s budget to replace the District Engineer.
 - The General Manager and the District Engineer have historically been separate, distinct positions. Each position requires 40 to 50 hours per week. Due to the lack of succession planning, a District Engineer has not been hired to oversee the day-to-day operations of that Department. The current General Manager is responsible for signing documents, as both the General Manager and District Engineer.

- The District has recently promoted an Engineer to Senior Engineer to oversee the day-to-day operations of the Engineering Department.
- Multiple vacancies in TUD staff have not been filled over the last two years. This has left departments such as Construction/Maintenance, Engineering, Water Distribution and Treatment with vacant positions. These positions are critical to the operations of TUD.

2014 WATER ISSUES AND INFRASTRUCTURE

When the Jury started its investigation in August of 2013, we never thought we would be in the middle of a major drought.

To fully understand Tuolumne County’s water issues, we have to explain how we got here. The State Water Resources Control Board (Control Board) tells the history.

“Water right law was set on a different course in 1849, when thousands of fortune seekers flocked to California following the discovery of gold. Water development proceeded on a scale never before witnessed in the United States as these “49ers” built extensive networks of flumes and waterways to work their claims. The water carried in these systems often had to be transported far from the original river or stream. The self-governing, maverick miners applied the same “finders-keepers” rule to water that they did to their mining claims. It belonged to the first miner to assert ownership.

To stake their water claims, the miners developed a system of “posting notice” which signaled the birth of today’s appropriative right system. It allowed others to divert available water from the same river or stream, but their rights existed within a hierarchy of priorities. This “first in time, first in right” principal became an important feature of modern water right law.

In 1850, California entered the Union as the thirty-first state. One of the first actions taken by its lawmakers was to adopt the common law of riparian rights. One year later, the Legislature recognized the appropriative right system as having the force of law. The appropriative right system continued to increase in use as agriculture and population centers blossomed and ownership of land was transferred into private hands.

The conflicting nature of California’s dual water right system prompted numerous legal disputes. Unlike appropriative users, riparian right holders were not required to put water to reasonable and beneficial use. This clash of rights eventually resulted in a constitutional amendment (Article X, Section 2 of the California Constitution) that requires all use of water to be “reasonable and beneficial.” These “beneficial uses” have commonly included municipal and industrial uses, irrigation, hydroelectric generation, and livestock watering. More recently, the concept has been broadened to include recreational use, fish and wildlife protection, and enhancement and aesthetic enjoyment.

Up to the early 1900’s appropriators – most of them miners and non-riparian farmers – had simply taken control of and used what water they wanted. Sometimes notice was filed with the county recorder, but no formal permission was required from any administrative or judicial body.

The Water Commission Act of 1914 established today's permit process. The Act created the agency that later evolved into the State Board and granted it the authority to administer permits and licenses for California's surface water. The act was the predecessor to today's water Code provisions governing appropriation.

These post-1914 appropriative rights are governed by the aforementioned hierarchy of priorities developed by the 49ers. In times of shortage the most recent ("junior") right holder must be the first to discontinue such use; each right's priority dates to the time the permit application was filed with the State Board. Although pre- and post-1914 appropriative rights are similar, post-1914 rights are subject to a much greater degree of scrutiny and regulation by the Board."

Because of TUD's history of assimilating other water districts into its own, Tuolumne County does not own any water rights. Instead, TUD buys 17,000 acre feet of water from PG&E which comes from Pinecrest Lake. It is then released into Lyons Reservoir, (which is owned by TUD) and Phoenix Lake, and other small reservoirs. From the reservoirs, the water travels down historic ditches, flumes and canals until it reaches one of fourteen treatment plants. At the plant, the water is made consumable and is held in closed storage tanks until released into TUD's distribution system.



A sample of TUD's Ditch System

The water level of Pinecrest Lake is regulated by the Control Board through its licensing of PG&E's Spring Gap-Stanislaus Project. Current Control Board regulations dictate that the lake must be maintained at a level of 5608 feet above sea level until September 5 of each year. When the water level is greater than 5608, TUD has access to the excess water. In low water level years, TUD has to request a variance from the Control Board to acquire water from Pinecrest Lake. In spite of TUD's proven critical need for a lower lake level, in 2012 the General Manager admitted that TUD did not have sufficient funds to do the ground work needed to negotiate a variance.

- The 5608 feet level gives precedence to recreational use over human consumption. In the summer of 2012, the water output had to be restricted in order to maintain the required water level.
- The Control Board's current environmental review under the California Environmental Quality Act (CEQA) should be completed in the spring of 2014. Depending on its findings, the Control Board will pronounce its new required lake level. At the time of writing our report, this decision had not been announced.

RATES

During the March 12, 2013 Board meeting, a Director stated the new TUD Board was "putting an end to rate increases." The President pointed out that unlike the 2012 Board, the current Board had a "couple of people who understand finance."

On July 23, 2013, the Board established a Public Advisory Committee (PAC). Use of a PAC had been suggested in the 2008 Strategic Plan. A PAC is a method of outreach that is essential to educating the public. The PAC presented its study to the Board on March 25, 2014. The study calls for a significant increase in water and wastewater connection fees.

Water Code Section 31007 mandates the rates and charges collected by TUD “*shall be fixed so as to yield an amount sufficient to . . . (a) Pay the operating expenses of the district. (b) Provide for repairs and depreciation of works owned or operated by the district...*” The section 31007 report appears to not have been met in prior years. Based on the Jury’s interviews, in our opinion, money is transferred from the sewer district to the water district in order to meet expenses and balance the budget. As a Director noted during the June 11, 2013 Board meeting, the water district is “in fact indebted to the sewer district.”

- The Financial Officer makes repayment transfers back to the sewer district, as funds are available. Recently, the Board authorized an inter-fund transfer of approximately \$250,000 bringing the repayments this fiscal year to nearly \$1 million dollars. The balance still owing the sewer district exceeds \$5 million dollars. Some Directors have expressed their displeasure with the inter-fund transfers.
- On December 16, 2013, the General Manager proposed, and the Directors approved, a fresh comprehensive rate study of water and sewer rates, to start in July 2014. Due to the upcoming rate study, the Jury chose not to include any recommendations regarding current rates.

THE DROUGHT

During the late fall of 2013, Tuolumne County entered its first drought phase. Due to the timeline in which the Grand Jury operates, it was not feasible for the Jury to investigate the drought as it related to TUD’s operations.



CONCLUSION

Throughout the course of the Jury’s investigation, we found TUD employees to be dedicated, hardworking employees who want the District to succeed. The employees work long hours in various weather conditions to ensure that our water supply is clean, safe and available. They do this despite being shorthanded and underfunded for projects. In the Jury’s opinion, the community could benefit from the employees and Board working better together to take TUD into the future.

FINDINGS

- F1.** The TUD Board of Directors receives training from the Office of County Counsel on the Brown Act. The Board receives AB1234 ethics training online from the Fair Political Practices Commission.

- F2.** The Board Members make reference to talking outside of the board meetings and conduct serial meetings, both of which violate the Brown Act.
- F3.** The Board of Directors has not imposed requirements upon themselves, which would allow greater access by the public than the basics permitted under the Brown Act.
- F4.** The Board Members did not publically reconvene and report out after its closed session on October 22, 2013, violating the Brown Act.
- F5.** Board Members do not properly announce closed session agenda items and do not invite public comment before going into a closed session.
- F6.** The Directors do not use a clerk or officer to take minutes of topics discussed and decisions of the closed session.
- F7.** Board Members have ignored the adopted Guidelines for Conduct on several occasions. This has caused negative public opinion about TUD, its employees and the Board of Directors.
- F8.** A TUD employee filed a harassment claim against a Director. This resulted in the Board of Directors, along with several managers, attending harassment sensitivity training. The offending Director was also required to attend a one-on-one sensitivity training session.
- F9.** Staff vacancies at TUD have negatively affected their operations, which has led to a “staff stressed” environment.
- F10.** After the current board was elected, additional staff was encouraged to join the union, including, office personnel for the first time.
- F11.** Employee benefits have been reduced in the past as a way to cut costs, which led to increased retirements.
- F12.** Current employees are concerned with additional benefit reductions when union negotiations take place.
- F13.** Members of the public have subjected the TUD staff to undue harassment in the last two years.
- F14.** TUD does not conduct annual reviews of full time employees in a timely manner.
- F15.** Approved resolutions dating back to 1992 are not organized nor easily available to be presented to staff and Directors.
- F16.** Some studies and proposals could be developed in-house, instead of being contracted out to consultants, which would save TUD money.
- F17.** Meeting minutes are not posted on TUD’s website/Granicus in a timely manner.
- F18.** Government Code 66013(d) requires TUD to give an annual detailed accounting of capacity charges that informs the public about the current financial state of TUD.

- F19.** Records of staff trainings, including the Brown Act, Ethics Training for Public Officials (AB 1234), and other trainings are not in sequential order and are, therefore, hard to find.
- F20.** TUD could save money on insurance premiums by having the Directors attend more training, which is already available to them.
- F21.** The 2008 Strategic Plan has expired and a new Strategic Plan is not in place.
- F22.** The Treated Water System Optimization Plan (TWSOP) is a necessary component of the Strategic Plan. A strategic plan is needed for TUD to anticipate what its infrastructure and financial needs are projected to be in the long term.
- F23.** The search for a new General Manager in 2006 took eight months and cost \$22,000 to complete.
- F24.** TUD was presented with ten applicants for General Manager in 2006 that were more experienced and qualified than the one hired.
- F25.** The Performance Evaluation for the General Manager has been a convoluted process, which does not always have continuity from one year to the next.
- F26.** There are no checks and balances to assure that the annual Performance Evaluation of the General Manager is performed.
- F27.** The BHI Performance Evaluation details how to perform an evaluation in conjunction with existing Brown Act laws.
- F28.** The Board of Directors in March 2012 followed the Brown Act and BHI Guide. The Board reconvened a public session and reported out after the action taken during its closed session Performance Evaluation of the General Manager.
- F29.** The Performance Evaluation Guide that BHI Consulting developed for TUD was not followed in the last two General Manager's performance evaluations.
- F30.** Two General Manager Performance Evaluations took place in 2013. Following the May 28 closed session, the Board reconvened and reported out with no reportable action taken.
- F31.** During the closed session on October 22, 2013, the Board terminated the General Manager "without cause." The Board of Directors did not reconvene and report out after the closed session.
- F32.** The General Manager's termination "without cause," resulted in a severance package of \$150,000 with benefits to be paid per his contract. He also receives Unemployment Insurance that is paid by TUD.
- F33.** Retired employees have returned to train their replacements or perform their old duties on a part time basis, at an additional cost to TUD.

- F34.** There was no advance planning in place for an interim General Manager after the General Manager's termination on October 22, 2013.
- F35.** Due to the cost of the General Manager's severance package, there is no money allocated in TUD's budget to fill the District Engineer's position.
- F36.** The District Engineer was promoted to General Manager. The Board authorized the General Manager to also function as the District Engineer in a limited capacity.
- F37.** An Engineer was recently promoted to Senior Engineer to take over the day-to-day operations of the Engineering Department. The General Manager signs documents as the District Engineer.
- F38.** There is little to no succession planning within TUD.
- F39.** TUD does not own any significant water rights. It is dependent upon other sources for its water supply and subject to an array of time consuming administrative proceedings when attempting to increase the amount of water available.
- F40.** The Control Board's current environmental review under the California Environmental Quality Act (CEQA) will decide the new required water level for Pinecrest Lake.
- F41.** Recently, the Board established a Public Advisory Committee (PAC). The PAC is a method of outreach that is essential to educating the public and the Board of Directors.
- F42.** The Water Code Section 31007 mandates the rates and charges collected by TUD. The Section 31007 report appears to not have been met in prior years.
- F43.** Inter-fund transfers between sewer and water districts occur regularly to meet expenses and balance the budget.
- F44.** A new rate study was proposed to start in the first quarter of Fiscal Year 2014 – 2015. The Jury has since learned that the rate study has now been postponed until Fiscal Year 2015-2016.

RECOMMENDATIONS

- R1.** The Directors should attend the yearly Brown Act training presented by the Office of County Counsel, in addition to others available through outside entities or webinars. The Board of Directors Guidelines for Conduct should be amended to reflect this.
- R2.** The Directors must immediately abide by the Brown Act during all meetings to prevent further violations of the Brown Act.
- R3.** The Directors shall develop and abide by stronger guidelines than the Brown Act requires during all meetings.
- R4.** The Directors must promptly reconvene to a public session and properly report out after every closed session, as required by the Brown Act.

- R5.** The Directors must clearly announce agenda items to be discussed at closed sessions and invite public comment on them before going into closed session.
- R6.** The Directors shall designate a clerk or officer to take minutes during closed sessions.
- R7.** Directors shall immediately follow the existing Board of Directors Guidelines for Conduct Policy. The Conduct Policy shall be amended to include consequences for failing to adhere to the Conduct Policy. The Directors should be trained on the Conduct Policy before being sworn into office, and annually thereafter.
- R8.** No recommendation.
- R9.** No recommendation.
- R10.** No recommendation.
- R11.** No recommendation.
- R12.** No recommendation.
- R13.** The Board and staff at TUD shall begin a public outreach campaign to change the negative public opinion regarding TUD. This would alleviate the undue harassment against TUD employees.
- R14.** The Human Resources department shall ensure that all annual reviews are conducted and brought current.
- R15.** The District shall maintain and catalog a complete set of resolutions making them available to the public, staff and Directors upon request.
- R16.** The District shall complete as many studies in-house as feasibly possible to minimize costs.
- R17.** Meeting minutes shall be published on Granicus within 48 hours of the meeting.
- R18.** The District shall continue to publish the financial information in accordance with Government Code 66013(d) every year to maintain financial transparency.
- R19.** Completed Director training shall be organized and in sequential order, then posted on the TUD website with expiration dates.
- R20.** Directors shall attend and implement additional educational trainings to decrease TUD's insurance premiums.
- R21.** The General Manager, staff and Directors shall develop a new, current Strategic Plan, so there are long-term goals and a vision for the District.
- R22.** The TWSOP shall be completed and implemented as part of the new Strategic Plan.

- R23.** Due to the time needed, the Directors shall immediately engage an outside firm to commence a search for the next General Manager.
- R24.** The Directors shall make every effort to hire a new General Manager with special district experience and the required educational levels.
- R25.** The Performance Evaluation for the General Manager, as developed by BHI Consulting, shall be adopted as a resolution and followed for every evaluation hereafter.
- R26.** An oversight committee by members of TUD's staff shall be created to assure that the Performance Evaluation of the General Manager occurs in a timely and proper manner.
- R27.** No recommendation.
- R28.** No recommendation.
- R29.** See R25.
- R30.** No recommendation.
- R31.** See R4.
- R32.** No recommendation.
- R33.** Identification of potential retiring employees shall be done semi-annually by the Human Resources department. Cross training should take place in all departments to avoid retirees returning after retirement to train replacements.
- R34.** No recommendation.
- R35.** The District Engineer position should be filled as soon as possible, so the General Manager can focus on his duties of overseeing the entire District.
- R36.** No recommendation.
- R37.** No recommendation.
- R38.** The Human Resource Director, along with the General Manager shall work to outline a succession plan as soon as possible. It should be updated yearly, or before any union negotiations, and include preparation for the replacement of potential retirees.
- R39.** The District shall pursue all avenues to be involved with any pending CEQA processes, including litigation as needed to secure adequate water rights.
- R40.** No recommendation.
- R41.** TUD shall continue with the PAC to assure proper public outreach and communication to improve subscriber relations and public opinion of TUD.

R42. TUD shall continue with publishing Water Code Section 31007's financial report every year.

R43. TUD shall investigate the legality of the inter-fund transfers.

R44. TUD shall commence a new rate study in the first quarter of Fiscal Year 2014 - 2015.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests the responses as follows:

Required Responses:

- TUD Board of Directors: R1, R2, R3, R4, R5, R6, R7, R13, R15, R16, R17, R19, R20, R21, R23, R24, R25, R39, R41, R43.

Invited Responses:

- General Manager, TUD: R13, R14, R15, R16, R18, R21, R22, R26, R33, R35, R38, R39, R41, R42, R43, R44.

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

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