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Edward Bergtholdt
Marshall Black
Tom Casale
Ross Clyborne

Mauna Ekema
Jacinto Gonzalez
Kat Harris
Elizabeth Hubbard

Sharon Lamagno
Gene Mooers
Lino Moran
Sandy Newman

Robert Peterson
Lisa Ramos
Don Sanders
Jeanne Savage

Cheyne Strawn
Mario Torres
Bill White
Louise Whittle-Clerk

TABLE OF CONTENTS

LETTER FROM THE FOREMAN	1
LETTER FROM JUDGE MELINDA REED	2
COMPLIANCE REVIEW	3
<u>ADMINISTRATION</u>	
DID YOUR VOTE COUNT	7
EXCESSIVE MAIL COSTS	12
MARIJUANA REPORT	14
RAIL LINES AND MEASURE R.....	18
<u>EDUCATION</u>	
SCICON	23
SCHOOL SUPERINTENDENT.....	26
TULARE COUNTY SCHOOL DISTRICT	31
<u>HEALTH & WELFARE</u>	
PERTUSSIS	41
SALARY SPIKING	44
TCERA.....	48
<u>JUSTICE</u>	
EXPLORING THE EXPLORERS	53
PORTERVILLE ANIMAL CONTROL.....	56
TULARE COUNTY DETENTION.....	60
<u>LAND USE</u>	
ENFORCING THE RESOURCE MANAGEMENT AGENCY	63
RMA PART 1	65
RMA PART 2	70
RMA PART 3	73
RMA PART 4	76
RMA PART 5	80
<u>SPECIAL DISTRICTS</u>	
TULARE COUNTY VETERANS MEMORIAL DISTRICTS	83
COMPLAINT FORM	87
DUTIES OF THE CIVIL GRAND JURY	90
TULARE COUNTY CIVIL GRAND JURY QUESTIONNAIRE.....	91

LETTER FROM THE FOREMAN



Tulare County Grand Jury

5963 South Mooney Boulevard
Visalia, CA 93277

(559) 733-6465 • Fax (559) 733-6078

The Honorable Melinda M. Reed
Presiding Judge of the Superior Court
Supervising Judge of the Grand Jury
State of California
County of Tulare Grand Jury

Dear Judge Reed:


The Tulare County 2010-2011 Grand Jury is proud to present its final report to you and the citizens of Tulare County as prescribed by California Penal Code Section 933.

This document is the result of 19 people from diverse backgrounds and geographical areas working together to achieve a common goal. On July 1, 2010, the Jury was sworn in, attended two days juror training and immediately started working on the reports that make up this consolidated report. During the course of the year they have learned the process, the procedures, some law, and most importantly a lot about the county and each other.

I have been most fortunate to have had a group of fine people on this Jury with the knowledge, skills, and work ethic to make this a quality product. For this, I thank each and every one of them.

I am also grateful for the advice, and support from you Judge Reed, your staff, County Counsel, her staff, the District Attorney and his staff.

A special thanks goes to the Clerk of the Grand Jury, Mrs. Louise Whittle who goes far beyond her job description to keep the Grand Jury functioning smoothly.


William R. White
Foreman, Tulare County
2010-2011 Grand Jury

LETTER FROM THE JUDGES

LaRayne Cleek
Court Executive Officer/
Jury Commissioner
Clerk of the Court

Superior Court of the State of California

County of Tulare

Administration, Room 303 ♦ 221 South Mooney Boulevard
Visalia, California 93291

(559) 730-5000 ♦ Fax (559) 737-4290



JUDGE'S COMMENTS

On behalf of the entire bench of the Tulare County Superior Court we want to sincerely thank the 2010-2011 Grand Jury for all the work they have performed on behalf of the citizens of Tulare County. Once again another Grand Jury's term has been completed.

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

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

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



Melinda M. Reed
Presiding Judge

Lloyd L. Hicks
Assistant Presiding Judge

RESPONSES TO GRAND JURY REPORT 2009-2010 COMPLIANCE REVIEW

BACKGROUND

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

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

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

The Grand Jury annually issues a final report which contains several reports addressing one or more issues. California Penal Code § 933 requires responses from governing agencies, including the Board of Supervisors, city and county governments, schools, special districts and certain non-profit corporations. This ensures that their functions are performed in a lawful, economical and efficient manner. Each report contains information such as the background regarding the subject matter, reasons for the investigation, the procedures followed in obtaining information, findings, conclusions, and recommendations. All required responders must reply, in writing, to each finding and recommendation in the specific report within a given time period.

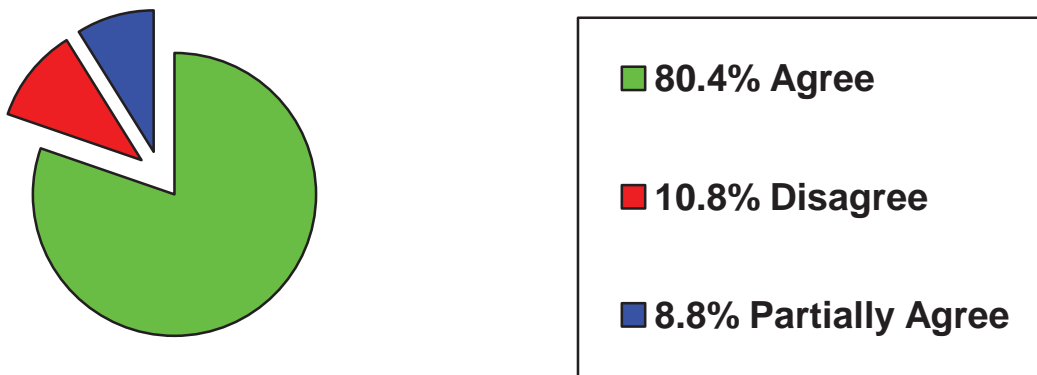
PROCEDURES FOLLOWED

1. Reviewed all returned responses to the 2009-2010 Grand Jury Reports
2. Reviewed relevant Penal and Government Codes
3. Compiled statistics regarding the responses

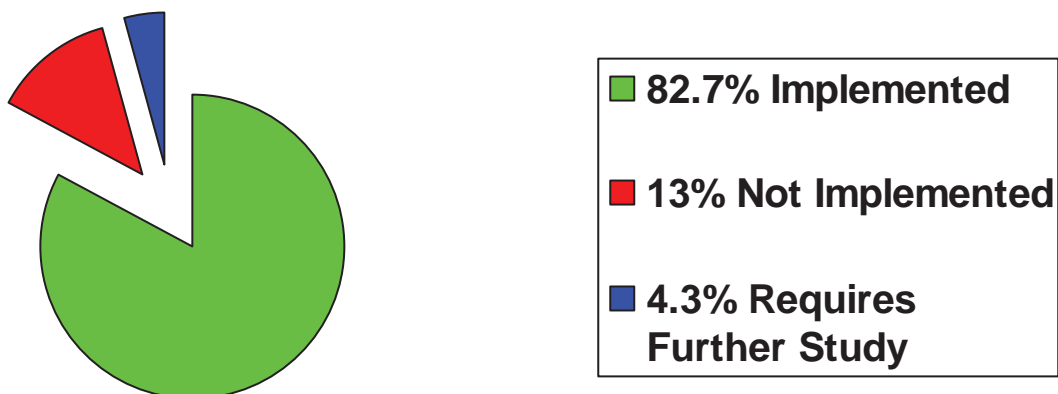
FINDINGS

1. There were a total of 23 Grand Jury reports in the 2009-2010 Final Report, 22 of which required 141 responses from 101 different entities.
2. There were 327 findings and 124 recommendations.
3. The following diagrams indicate the percentages of concurrence with or disagreement to the findings; and implementation or non-implementation of recommendations made to the responding entities.

2009-2010 Findings:



2009-2010 Recommendations:



CONCLUSIONS

Instructions are provided to all entities from whom responses are required. Not all entities respond by the response date and as required. Some do not respond at all. Entities need to respond in a timely and proper manner.

RECOMMENDATION

1. All government entities should attend the annual county-sponsored Government training. California Penal Code §933.05 requires a response to be filed. Failure to comply may result in court mandated sanctions.

RESPONSES REQUIRED

None

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DID YOUR VOTE COUNT?

BACKGROUND

The right to vote is yours and should not be taken lightly. In our country, too often it is taken for granted and not acted upon.

When you vote you express a formal opinion: a decision to elect someone or pass a law.

The Tulare County Election Department, located at 5951 South Mooney Boulevard, Visalia, across from Mooney Grove Park, is here to serve the public, which they do daily Monday through Thursday from 8am to 5pm and 8am to Noon on Friday.

By law, they receive their instructions from the Secretary of State in Sacramento.

Over the years, the right to vote standards have changed. In 1965, Federal legislation known as the Voting Rights Act, was enacted. The act prevented states (mostly southern) from discriminating against African Americans.

In 1975, the Act was amended to include languages other than English for minorities. Again in 1982, it was amended to better clarify the 1975 amendments.

In 2002, the Help America Vote Act was passed. ¹

The 2010-2011 Tulare County Grand Jury (Grand Jury) gathered the following information. As you will see in the following, mail-in ballots have created an accountability problem. The convenience factor of the mail-in ballots has led to many ballots being uncounted.

REASON FOR INVESTIGATION

The Grand Jury was made aware of possible fraudulent voting in two nearby counties in the past few years. Consequently, we made the decision to look into the possibility of voter fraud at the local level; primarily, the fallibility of the mail-in ballots. With the full cooperation of the Tulare County Election Board, the Grand Jury has investigated the possibility of voter fraud concerning mail-in ballots and rules followed at precincts.

PROCEDURES FOLLOWED

1. Election Board personnel were interviewed.
2. Precinct workers (chosen randomly from the election board records) were interviewed.
3. A Computer Disc (CD) which is available to the public was acquired from the Elections Office with names, addresses, and phone numbers of all registered

voters along with their party affiliation.

4. The CD was carefully scrutinized for the possibility of multiple voters at the same address as well as name variations. Any questionable addresses were researched by the Grand Jury.
5. Signature verification of mail-in ballots was observed.
6. Required identification was researched.
7. Members of the Grand Jury attended precinct worker training.
8. Members of the Grand Jury were “watchers” at the polls on November 2, 2010.

FINDINGS

1. Precinct workers who were interviewed were all satisfied with the current system in place at their precincts.
2. Precinct workers who were interviewed stated that they had never seen intimidation or any other suspicious happening while they were working.
3. Voters do **NOT** have to read or speak English.
4. Voter registration closes 15 days prior to the next County wide election.
5. Voters must live in Tulare County for a minimum of 15 days prior to the election.
6. Precinct workers were reminded during training NOT to ask for identification, unless the voters’ names were red flagged.
7. Mail-in/absentee ballots can be uncounted for the following reasons:
 - a. person is deceased
 - b. no signature
 - c. signatures do not match
 - d. received too late
 - e. resident’s address is an issue
8. The table below speaks for itself. The most significant is the 2008 General election where 452 ballots had unmatched signatures. In some cases, it can take less than 200 to change the outcome of an election.

CHALLENGED RETURNS

	Deceased	No signature Match	No Signature	Received Too Late	Residence Address Issue	Other	Totals
Primary 2004	1	57	29	326	102	12	527
General 2004		210	51	348	199	37	845
Primary 2006		100	15	525	7		647
General 2006	2	253	42	330	14	3	644
Pres. Primary 2008	30	276	72	389	1	10	778
Primary 2008		125	35	468	5	60	693
General 2008		452	95	147	1	35	730
Primary 2010	5	171	124	335		4	639

9. The Tulare County Registrar of Voters has a form letter that is sent to voters who have forgotten to sign their envelopes. This enables the voter the opportunity to return their ballot so it can be counted. All ballots must be received by the deadline of 8pm on Election Day.
10. In the recent June 2010 election, mail-in ballots were sent to the rural Post Offices with street names and addresses on them, not PO Box numbers. The Post Office returned them to the Election Board for the proper PO Box numbers, causing a delay to the voter in receiving their ballots. These voters had been forced into using mail-in ballots because their precincts were closed.
11. Costly touch screen voting booths are “hardly used.” The precinct workers interviewed stated they were advised not to encourage their usage.
12. There are 108 Tulare County overseas civilians and 228 military personnel worldwide. Their ballots and information are mailed 60 days prior to the election. For the November election, the ballots and information were mailed on September 3, 2010.
13. The California Secretary of State verifies legality of registered voters and relays this information to the county elections board.
14. According to the Registrar of Voters, there is no national program in place to verify if a person votes in more than one state.
15. Only names and addresses can be asked for to verify identification at the polls – unless the name has been red flagged by the Secretary of State’s office. Then the following ID is deemed acceptable. The following “ID required” notice was given to all Tulare County precinct workers and the wording at the bottom of the page shows how easily fraud can happen.

“ID REQUIRED” NOTICE

Voter: You are a newly registered voter and you are being asked to provide appropriate identification or other documentation according to Federal law. But please note that every individual has the right to cast a provisional ballot even if he or she does not provide the documentation. It is against the law to represent yourself as being eligible to vote unless you meet all of the requirements to vote under federal and state law.

Identification may include any ONE of the following that contains a photo and name of the voter:

- Driver's license (current and valid)
- State issued identification card
- Passport
- Employee identification card
- Identification card provided by a commercial establishment or business (Example Costco card)
- Credit card or debit card
- Military identification card
- Student identification card
- Health Club identification card
- Insurance plan identification card
- Any photo identification, prepared by a third party in the ordinary course of business that includes the name and photograph of the individual showing it

Identification may include any ONE of the following without a photo of the voter, but containing voter's name, address and a current date:

- Current utility bill
- Bank Statement
- Government check or paycheck
- Sample Ballot booklet
- Voter Notification Card
- Student ID Card
- Any document issued by a government agency that shows the name and address of the voter (Examples could include: public housing ID card, tuition statement or bill, an insurance plan card, a drug prescription card, property tax statement, vehicle registration, etc.)

Pollworker: Interpret the requirements above loosely. If the voter's proof is close to what is listed, go ahead and let the voter vote a regular ballot. If no proof, they should vote provisionally.

If questions, call the Elections Office at 559-733-6276.

-HA VA Section 303(b)(2)(A)(i) & Cal Code of Reg Title 2 Section 20107 (Rev 212005)

CONCLUSIONS

While mail-in ballots are vulnerable, no visible signs of tampering with mail-in ballots were found by the Grand Jury.

A mail-in ballot should be mailed or returned allowing enough time for it to be received by 8pm on Election Day. Voters who send in ballots that are not received by this deadline are not notified.

Voters are notified by mail after the election if their signatures are invalid and their ballots are not counted.

If you vote a mail-in ballot and are a senior citizen and/or have had any medical problems since last registering, it is possible your signature has changed. This could cause your ballot to be among the uncounted.

REQUIRED RESPONSES

None

ADDENDUM

The following statistics from the November 2010 General Election were provided by the Tulare County Election Board:

Vote By Mail (VBM):

	Ballots Issued	Ballots Returned Challenged	Ballots Returned Good	Ballots Returned Skipped	Ballots Returned Undeliverable
Per VBM	54,213	627	36,839	1	1,711
Mil-US	139	0	25	0	0
Mil-Oversea	89	2	20	0	0
Over-Civ	119	2	42	0	0
TOTAL	54,560	631	36,926	1	1,711

Provisional Ballots:

<u>Provisional Status</u>	<u>Total</u>	<u>Provision Reason</u>	<u>Total</u>	<u>Voting Method</u>	<u>Total</u>
Counted	2,459	Good	2,459	Provisional AV	1,627
Not Counted	645	Insufficient Info Prov	34	Provisional DMV	2
Partially Counted	<u>402</u>	Lives Out of County	6	Provisional Mail PCT	103
TOTAL	3,506	No signature	29	Provisional Misc	1
		Not in Election	2	Provisional No ID	6
		Not Registered	528	Prov.- Not in Roster	1,612
		Partially Counted	402	Provisional Party	6
		Returned AV	2	Provisional Voter	147
		Sig Doesn't Match	<u>44</u>	Voted by Mail Ballot	<u>2</u>
		TOTAL	3,506	TOTAL	3,506

¹ The Voting Rights Act of 1965 (42 U.S.C.A. § et. Seq.) prohibits the states and their political subdivisions from imposing voting qualifications or prerequisites to voting or standards, practices or procedures that deny or curtail the right of a U.S. citizen to vote because of race, color or membership in a language minority group.
<http://www.legal-dictionary.thefreedictionary.com/Voting.riggths.act.of.1965>

EXCESSIVE MAIL COST

BACKGROUND

The Tulare County Mail Services Unit is responsible for providing all county departments with services that meet mail needs while continually seeking ways to provide services in the most efficient manner. Costs are recovered through charges to user departments.

REASON FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) received a complaint concerning excessive mail cost by the Tulare County Health and Human Services Agency.

PROCEDURES FOLLOWED

1. Relevant witnesses were interviewed.
2. Relevant documents were reviewed.
3. One Grand Jury member was recused from this report.

FINDINGS

1. The Tulare County Administrative Office has an annual budget allowance for mail services of \$1,244,915.
2. A single page document that was not time sensitive or private in any sense was delivered to multiple addressees using Federal Express (FEDEX) at a cost of \$6.88 each.
3. This document could have been sent first-class mail for 44¢ or certified mail for an additional \$2.80.
4. The option to use FEDEX is within the purview of the sending organization.
5. The Grand Jury was unable to find any documented policy within the agencies interviewed that defines the most cost-effective method to send mail.

CONCLUSION

Although there was no evidence of widespread abuse of the system, the Grand Jury was able to substantiate the complaint and found the possibility exists for abuse. In these times of tight budgets, all avenues of cutting costs must be followed.

RECOMMENDATIONS

1. The Tulare County Administrative Office establish a policy defining specific methods of using mail services to obtain the most cost-effective way available.
2. Each agency investigates its mail charges on a regular basis to ensure they are meeting their best-practice goals.

REQUIRED RESPONSES

Tulare County Board of Supervisors

Tulare County Administrative Office

Tulare County Health and Human Services Agency

MARIJUANA GARDENS – A GROWING PROBLEM

BACKGROUND

Federal Law prohibits the cultivation of marijuana in National Parks, National Forests and State Parks. It is also illegal to export marijuana to other states. Created in 1983, the Campaign Against Marijuana Planting (CAMP) is a unique multi-agency law enforcement task force managed by the Bureau of Narcotic Enforcement and composed of local, state and federal agencies organized expressly to eradicate illegal marijuana cultivation and trafficking in California (see Attachment A). The Tulare County Sheriff's Department is responsible for enforcing the law throughout Tulare County.

REASONS FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury decided to investigate the illegal farming, harvesting, and distribution of marijuana because of the following:

- A death occurred in neighboring Fresno County when a legal grower of marijuana allegedly shot and killed a young man for stealing marijuana plants from his backyard.
- A home invasion robbery took place where the suspect broke in to steal marijuana from the resident.
- A grower was killed during a raid on a marijuana garden in neighboring Kern County.
- The media reported that the number of marijuana gardens on public lands is increasing.
- The Director of the Office of National Control Policy, commonly referred to as the Drug Czar, reported that a majority of marijuana exported to other states was coming from the Central Valley of California.

PROCEDURES FOLLOWED

1. Observed raids on 3 marijuana gardens in Tulare County
2. Reviewed relevant documents
3. Interviewed relevant witnesses

FINDINGS

1. At any given time, there are over 100 known illegal marijuana gardens in Tulare County.
2. The Sheriff's Department indicated that an increase in border security after 9/11 prompted the cartels to grow marijuana within the United States rather than bringing marijuana into the country through the borders. This has resulted in an increase in the number of gardens and plants in Tulare County.
3. Many of the illegal marijuana gardens are financed and controlled by cartels and tended by people who are in the United States illegally.

4. The people who guard these marijuana gardens are often armed with military grade guns, ammunition and other weapons, many of which have been confiscated during these raids. In 2010, 108 weapons were seized and 103 arrests were made within the State of California (see Attachment A).
5. Arrests are difficult because the raids have to occur during daylight hours. Rough terrain demands the use of helicopters which can provide early warning to the growers.
6. Helicopters are rented and used to locate the marijuana gardens, to transport and rappel personnel to the more remote gardens, and to remove the plants after they have been cut down.
7. People tending the gardens have no sewage or running water for sanitary purposes. Gardens are strewn with raw sewage, trash, and dead animal carcasses. The growers have sophisticated means of watering the illegal plants, and use illegal pesticides and fertilizers that pollute the land and water table used by county residents. Some of the pesticides are not regulated by the United States, so their toxicity is not known.
8. The hikes into the gardens are extremely dangerous and strenuous. Those conducting the raids often have to climb around thick brush, rocks, ravines, and cliffs to get to the plants to cut them down. Injuries have occurred on the way to and from these gardens.
9. Illegal marijuana gardens have been found less than 2 miles from residential areas and school facilities.
10. In 2010, the 227,000 marijuana plants removed from Tulare County had an estimated street value of over 900 million dollars. According to the Sheriff's Department, marijuana is the number one cash crop of Tulare County. The estimated street value of one plant is \$4,000.
11. The plants grown today are bred to produce a more productive crop. Seeds for some crops grown locally in illegal marijuana gardens come from Afghanistan. The marijuana plants are bred to "bud" as many as 3 or 4 times per year, with a growing cycle of as little as 3 months. This puts marijuana on the street at a faster pace.
12. Tetrahydrocannabinol (THC) is the main psychoactive substance found in the marijuana plant. The THC level in marijuana was around 3% in the 1980's, but now the THC level in plants is much higher. Marijuana is a mind-altering drug. Law enforcement officials consider marijuana a "gateway" drug leading to the use of more serious drugs.
13. The County of Tulare receives a negligible amount of money from the federal government to help combat this growing problem.

14. There is a danger to hikers, fishermen, hunters and property owners that unknowingly walk into the gardens in the mountains.

CONCLUSIONS

1. Marijuana is the number one cash crop of Tulare County.
2. There is an urgent need to eradicate this illegal activity in Tulare County.
3. The illegal use of pesticides and fertilizers pollute the local water supplies.
4. Because some marijuana gardens are in close proximity to existing residential and school areas, the situation is even more dangerous to county residents.
5. The Tulare County Sheriff's Department, along with other law enforcement agencies, provide excellent services and are diligently attempting to combat this growing problem with limited resources.

RECOMMENDATIONS

None

RESPONSES REQUIRED

Tulare County Board of Supervisors
Tulare County Sheriff's Department

Attachment A 2010 CAMPAIGN AGAINST MARIJUANA PLANTING STATISTICS

PLANT SEIZURES BY COUNTY					
County	Plants Seized	County	Plants Seized	County	Plants Seized
1 Mendocino	572,680	15 Monterey	73,128	29 Alameda	23,728
2 Tuolumne	411,004	16 Napa	60,107	30 Alpine	23,065
3 Lake	374,958	17 Fresno	58,824	31 Calaveras	21,760
4 Shasta	325,480	18 Madera	58,650	32 El Dorado	21,051
5 Tehama	312,574	19 Yolo	57,784	33 Santa Clara	18,409
6 Sonoma	311,147	20 Ventura	57,501	34 San Benito	15,367
7 Tulare	227,002	21 San Luis Obispo	56,077	35 Sierra	15,290
8 San Bernardino	171,358	22 Glenn	56,068	36 Del Norte	12,589
9 Riverside	155,209	23 Solano	55,593	37 Santa Cruz	11,312
10 Humboldt	140,911	24 San Joaquin	52,657	38 San Mateo	7,389
11 Trinity	120,431	25 Mariposa	50,719	39 Amador	7,165
12 Kern	103,341	26 Modoc	35,849	40 Marin	5,819
13 Santa Barbara	99,173	27 Colusa	31,278	41 Yuba	2,272
14 Los Angeles	79,769	28 Nevada	24,807	42 Placer	1,019

2010 CAMP Season Summary

Length of Season	108 Days
Total No. of Plants Seized	4,320,314
Estimated Wholesale Value	17.2 billion
Plants Seized on Public Lands	3,174,802 (73 %)
Plants Seized on Private Lands	1,145,512 (27 %)
Total No. of Raids	755
No. of Arrests	103
No. of Weapons Seized	108

CAMP Program History			
Year	Plants Seized	Year	Plants Seized
1983	64,579	1991	85,159
1984	58,493	1992	92,388
1985	166,219	1993	66,386
1986	117,277	1994	82,694
1987	144,661	1995	74,769
1988	107,297	1996	94,221
1989	147,518	1997	132,485
1990	79,441	1998	135,960
		1999	241,164
		2000	345,207
		2001	313,776
		2002	354,202
		2003	466,054
		2004	621,315
		2005	1,134,692
		2006	1,675,681

“I’VE BEEN WORKING ON THE RAILROAD” RAIL LINES AND MEASURE “R”

BACKGROUND

In 2006, Tulare County voters approved Measure “R” by more than 67%. Measure “R” was a half cent transportation sales tax over 30 years to be used for the following:

1. Transit/Bicycle/Environmental (14%) - This category uses funds to “link the regional bike systems, provide increased transit service and [provide] an investment in environmental mitigation”.
2. Administration/Planning (1%) - This category is “directed to program implementation activities”.
3. Regional Projects (50%) - This category provides “benefits for multiple jurisdictions such as interchange improvements, regional widening projects and environmental measures”.
4. Local Programs (35%) - This program allows funding for projects “ranging from pot-hole repair, road rehabilitation and freeway interchange improvements”.

(The above information was taken from the November 7, 2006 Sample Ballot and Voter Information Pamphlet.)

These categories were developed by Tulare County Association of Governments (TCAG) which includes all eight incorporated cities and the County of Tulare. The Regional Transportation Plan prepared by TCAG, is updated every two years with twenty-five years of transportation projects.

REASONS FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) investigated the use of Measure “R” funds for short line freight rail for the following reasons:

1. In 2008, TCAG and member agencies approved an amendment to Measure “R” which allowed a \$3 million Rail Preservation Fund within the Transit/Bicycle/Environmental portion of Measure “R”.
2. The owner of the rail line, San Joaquin Valley Railroad (SJVR), a subsidiary of RailAmerica, received approval from the U.S. Surface Transportation Board to abandon 30.57 miles of rail line located between Jovista and Strathmore. This portion of the rail line was subsequently removed. They also petitioned to have 13.6 miles of track removed between Strathmore and Exeter. There are currently two shippers which utilize this line.
3. TCAG authorized a study from the Sid Craig School of Business at California State University Fresno at a cost of \$3,500 to determine the economic feasibility

of preserving the rail line between Jovista and Dinuba. TCAG also authorized an Eastside Business Plan to be prepared by Railroad Industries Incorporated at a cost of \$94,000 from Measure "R" funds, to determine the feasibility of preserving the rail line. According to the latter study, TCAG is working with existing and potential shippers to save the line from abandonment.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Visited the rail line before and after the Strathmore to Jovista section was removed
3. Reviewed relevant documents

FINDINGS

1. SJVR was successful in obtaining from the U.S Surface Transportation Board approval to remove the rail line between Jovista and Strathmore citing the fact that this portion of the line was unprofitable. The Sid Craig Study supported this finding. Based on a list of potential interested shippers, the above study found there is insufficient business activity to support the costs of this short rail line, and the estimated loss per year was over \$680,000.
2. Another company, Patriot Rail, was interested in purchasing the rail line, but negotiations were unsuccessful.
3. TCAG considered a recommendation to purchase the entire rail line from Jovista to Fresno; however, terms could not be reached which were mutually agreeable to TCAG and SJVR. Furthermore, TCAG, as it is currently constituted, does not have the authority to own land.
4. The current configuration of the rail line (75 lb. rail track from Strathmore to Exeter) limits rail transportation to a maximum of 10 mph. With the current shippers and with no renovations to the rails, this portion of the rail line is economically feasible in the short term future.
5. The current condition of the rail line is poor, and for the long term future of the line, the rail line would need to be renovated. The cost to upgrade the current track at 5% of the track per year would exceed \$350,000 (RailAmerica estimates roughly \$450,000 per mile) and routine maintenance costs would also exceed \$350,000 per year.
6. The estimated cost to upgrade the rail line south of Dinuba from 75 lb rail to at least 112 lb rail was \$20 million. This is needed to transport freight at a speed exceeding 10 mph.

In Tulare County, SJVR has plans to upgrade the portion of track between Exeter and Dinuba at a cost of \$1.2 million keeping the 75 lb rail.

7. Measure “R” did not originally contain language regarding the preservation of rail lines when approved by the voters; however, TCAG indicated the rail lines will provide an alternative to trucking which will help preserve the road conditions and improve air quality.
8. ***Any voter approved initiative can be changed if a majority of the City Councils of the 8 incorporated cities and the Board of Supervisors approve an amendment.*** This took place with the short line rail amendment. Measure “R” now contains the following language pertaining to Rail Lines: “For Rail expenditures from the ‘Transit/Bike/Environmental Project Program’ funding may be used for Right of Way acquisition and/or preservation of rail corridors. Preservation of rail corridors by purchase of existing fixtures includes but is not limited to railroad ties, ballast, tracks, and signals are permitted when anticipated commercial operation will result in preservation of the ROW. The purpose of the requirement is to ensure that real-property interest (long term-lease/easement) is maintained for rail use. The expenditure of Measure “R” funds shall not result in a commitment of additional funds. Prior to an agency requesting rail funds from the ‘Transit/Bike/Environmental Projects Program’ a plan must be submitted that demonstrates the economic viability of the rail corridor for which the funding is proposed”.
9. SJVR is a subsidiary company of RailAmerica, which is a company owned by Fortress Investment Groups, LLC. Although the studies indicate that the parent company is a hedge fund wanting to salvage the rails for quick income, the Grand Jury was unable to support that conclusion. The County indicated that this company is responsible for increasing costs to users to a point that drove users from using the rail lines. The components for costs to the shipper are as follows:
 - a. Shipping costs are negotiated between the major rail companies (Burlington Northern/Santa Fe and Union Pacific) and the shippers. SJVR does not govern these costs. Major rail company rate increases are passed to the shippers. The major rail companies pay SJVR to bring the rail cars from shippers to their lines.
 - b. The shippers are charged by SJVR when extra services are provided. This includes extra time for loading, picking up cars that have not been loaded and other ancillary services.
 - c. When a shipper’s volume is inadequate to cover the SJVR fixed cost of providing rail service to the shipper, SJVR adds a per rail car surcharge.
10. The County indicated that there is an advantage to having rail lines in the County for shipping purposes. In addition to keeping additional trucks off the County roads, the use of rails for freight also improves air quality, and provides an incentive for manufacturers to conduct business in Tulare County, thereby increasing employment opportunities for County residents. The County indicated that there may be additional funds from sources other than Measure “R” funds for the purchase and rehabilitation of the rail lines such as Air Quality funds.

11. The Grand Jury interviewed management representatives of the Economic Development Corporation (EDC), SJVR, and RailAmerica. These interviews revealed that while the EDC states that rail lines are important to the future economic growth of the county, the EDC is not making sufficient effort to bring

SJVR and RailAmerica into the process of recruiting new businesses to the county. EDC would not provide the Grand Jury with requested information regarding potential new rail users.

CONCLUSIONS

According to the studies prepared for TCAG, it was economically infeasible to purchase and operate the short line rail system which included the portion of the system from Strathmore to Jovista. ***The voters of Tulare County did not approve expenditures for rail lines when considering their vote for Measure "R".***

County organizations do not work effectively with potential shippers and the rail companies to increase the profitability of the rail lines. This would enable the rail companies to improve the lines without the use of government funds.

EDC does not have an effective working partnership with SJVR and RailAmerica to attract businesses into Tulare County.

RECOMMENDATIONS

1. If the County decides to preserve short rail lines, TCAG and its member agencies obtain alternate funding for the purchase and repair of the short rail lines; or alternately request voter input through an election process to approve the expenditure of Measure "R" funds for short rail line acquisition, repair and operation.
2. EDC prepare a plan to establish a more effective working relationship with RailAmerica and SJVR.
3. County organizations work more effectively with potential shippers and the rail companies to increase the profitability of the rail lines

REQUIRED RESPONSES

Tulare County Board of Supervisors

Tulare County Association of Governments

Tulare County Economic Development Corporation

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SCICON A NATURE EXPERIENCE

BACKGROUND

In 1955 the Outdoor School of Science and Conservation (SCICON) was only a dream. Since that time, the efforts of thousands of people throughout the valley have turned that dream into a reality. In 1958, Clemmie Gill donated the first 35 acres to Tulare County and that dream became a reality.

School districts, communities, and dedicated individuals rolled up their sleeves and started to work. Student cabins, dining facilities, roads, hiking trails and instructional areas were built. All this was done through the efforts of volunteer labor and donated building supplies.

The area surrounding the original 35 acres was in the process of being sold for a housing development. This would have destroyed what was meant to be a grand educational facility. In 1972, "The Friends of SCICON" sponsored a fund drive called "Acres for SCICON", which successfully purchased the 1,100 acres meant for the housing development. The purchase of the additional acres helped to insure the natural beauty of the area for generations to come.

SCICON is located eight miles above Springville in the foothills east of Porterville at an elevation between 2,000 and 3,500 feet. Within this 1,100 acre campus are many miles of hiking trails, a museum of natural history, planetarium, observatory, raptor center, and amphitheater for evening activities. There are more than 20 cabins for students, teachers, and staff. Meals take place in the John Muir Lodge.

Today SCICON serves nearly 15,000 national and international students and visitors yearly and is an exemplary program for environmental education. The motto of SCICON is "SCICON is people working together".

PROCEDURES FOLLOWED

1. Toured SCICON
2. Interviewed relevant personnel

FINDINGS

1. Under the direction of the Tulare County Board of Education, the Tulare County Superintendent of Schools operates and conducts SCICON.
2. There are two advisory boards made up of educators and interested citizens of Tulare County. They are the SCICON Administrative Board and the "Friends of SCICON" Board of Directors.

3. A SCICON Program Administrator oversees the program with the assistance of nearly 30 additional on-site staff, which includes instructional, clerical, maintenance and food service personnel. A full time nurse is on duty at all times.
4. A SCICON Lead Teacher (Teacher) is a fully credentialed professional who specializes in teaching outdoor education. The Teacher provides leadership to the SCICON instructional team, conducts environmental studies and provides curriculum and program organization.
5. From August through June of each year, all Tulare County fifth graders attend SCICON for one school day and sixth graders attend SCICON for one school week (five days).
6. Each cabin may house up to 11 students and one Cabin Counselor.
7. Cabin Counselors are students chosen from local high schools and they are instructed in rules of conduct and safety for the students. They sleep in the cabins with the students and accompany them on all trail walks.
8. Having students representing various districts at the same time helps them learn to socialize with each other.
9. There are two cabins, one for the boys and one for the girls that are specifically designed for the handicapped.
10. On a daily basis SCICON presently accommodates up to 300 students only because the cafeteria has a maximum capacity of 300.
11. Because of the increasing population of children within the County, SCICON is in the process of expanding. East of the present cabins and facilities, is a new site called "The East Village". As of March 25, 2011, six cabins have been built and are being used. Once completed, The East Village will be a mirror image of the present facilities, including a new cafeteria. The two sites combined will be able to accommodate up to 600 students.
12. SCICON has one building that was built from a grant. All the remaining buildings (i.e. cabins, cafeteria, etc.) were built from donated supplies, labor, and fundraisers. Additional funds are generated from outside organizations or individuals, such as weddings, church groups, etc.
13. "Friends of SCICON" are in charge of the fundraising activities. The most recent fundraiser was a barbecue lunch held in April 2011 at SCICON.
14. Large arbors were built by the LIONS and Rotary Clubs. Both arbors are equipped with speakers, tables with benches and a cooking area. During bad weather, heavy tarps may be used to enclose the arbors. An installed heating system keeps the students warm on those cold days or evenings.
15. At SCICON, the students learn about nature, not from books, but from a natural

outdoor setting. They are taught about everything from composting to the mating habits of salamanders. They study the stars at night and also use the planetarium.

16. The museum has stuffed wild animals, natural stones/rocks, a Native American display and much more.

CONCLUSIONS

Since the time SCICON was first a dream, a wonderful thing happened to all the citizens living in Tulare County. County citizens came together and made a dream come true. The students of yesterday and the students of tomorrow did, and will, come away from SCICON with a better understanding of what nature is and how it works. They did, and will, experience what a book cannot truly teach. A book is one thing; actually seeing, touching and feeling is the best educational tool of all.

RECOMMENDATION

1. Continue to do what is done best, "EDUCATE" the youth.

RESPONSES REQUIRED

None

SCHOOL SUPERINTENDENTS' COMPENSATION

BACKGROUND

There are 43 elementary and 10 high school districts within Tulare County. Seven of those districts are unified creating 46 school districts with a total of 180 schools. Two communities, Exeter and Woodlake, have a single superintendent managing their elementary and high school districts, but have a separate Board of Trustees for each district. This investigation, therefore, looked at a total of 44 superintendents.

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

REASON FOR INVESTIGATION

The decision by the 2010-2011 Tulare County Grand Jury (Grand Jury) to investigate the compensation costs for the superintendents of the Tulare County school districts was driven by a recommendation from the 2009-2010 Tulare County Grand Jury, recent media attention to the issue, as well as statewide education budget cuts.

PROCEDURES FOLLOWED

1. The Citrus South Tule and Liberty School Districts were eliminated from the investigation since both have retired administrators serving as interim superintendents on a part-time basis.
2. Reviewed copies of the 2010-2011 superintendent contracts from all public school districts in Tulare County. When a contract did not reference a particular form of compensation, a follow-up request to the Board president was made.
3. Determined the total compensation for each superintendent by adding the base salary to, where applicable, health and pension plan contributions, transportation allowance, as well as any additional forms of compensation operant during the current school year.

Attachment A

Superintendent Compensation Comparison

<u>District</u>	<u>Ref.#</u>	<u>Base Sal.</u>	<u>Health Ins.</u>	<u>Pension</u>	<u>Transportation</u>	<u>Additional Comp.</u>	<u>Total Comp.</u>	<u>ADA</u>
Allensworth Elementary	1	114,368	-----	-----	-----	-----	114,368	76
Alpaugh Unified	2	121,610	11,815	10,033	-----	-----	143,458	306
Alta Vista Elementary	3	103,341	13,422	-----	-----	1,000	117,763	483
Buena Vista Elementary	4	82,143	14,060	6,777	-----	-----	102,980	180
Burton Elementary	5	153,291	12,412	-----	-----	18,302	184,005	2,748
Columbine Elementary	7	118,560	15,363	9,781	1,200	-----	144,904	197
Cutler-Orosi Unified	8	167,130	10,863	14,891	-----	2,500	195,384	3,974
Ducor Elementary	10	80,000	14,088	6,600	-----	-----	100,688	175
Earlmar Elementary	11	125,000	12,062	-----	3,000	-----	140,062	1,923
Farmersville Unified	16	130,616	11,568	10,449	-----	-----	152,633	2,441
Hope Elementary	18	72,617	14,886	-----	-----	-----	87,503	131
Hot Springs Elementary	19	93,448	13,163	7,943	-----	-----	114,554	19
Kings River Union Elementary	22	102,900	13,118	8,489	4,200	1,000	129,707	485
Lindsay Unified	24	168,299	-----	14,189	-----	-----	182,488	3,917
Monson Sultana Elementary	29	95,000	12,819	7,838	-----	-----	115,657	402
Oak Valley Union Elementary	30	98,160	11,727	8,098	2,100	900	120,985	408
Outside Creek Elementary	32	82,283	16,122	6,843	-----	-----	105,251	118
Palo Verde Union Elementary	34	103,368	12,400	8,528	3,600	-----	127,896	554
Pixley Union Elementary	35	130,640	-----	11,108	3,600	2,000	147,348	955
Pleasant View Elementary	36	128,158	-----	10,986	3,600	1,400	144,144	531
Richgrove Elementary	38	136,341	15,571	12,852	18,228	-----	182,992	689
Rockford Elementary	40	90,000	15,826	7,425	-----	-----	113,251	331
Saculito Elementary	41	61,018	14,013	5,034	-----	-----	80,065	79
Sequoia Union Elementary	42	95,000	14,695	7,838	3,600	-----	121,133	345
Springville Union Elementary	44	82,416	13,805	6,799	-----	865	103,885	341
Stone Corral Elementary	46	85,000	11,348	7,013	-----	-----	103,361	131
Strathmore Union Elementary	47	127,765	-----	10,541	3,600	-----	141,906	761
Sundale Union Elementary	48	130,017	-----	3,600	3,600	-----	137,217	596
Sunnyside Union Elementary	49	97,458	11,835	7,900	-----	1,000	118,333	397
Terra Bella Union Elementary	51	110,824	13,867	10,006	3,900	1,000	139,597	873
Three Rivers Union Elementary	52	92,059	-----	7,365	-----	-----	99,424	147
Tipton Elementary	53	100,788	11,386	8,398	-----	1,000	121,572	581
Traver Joint Elementary	54	90,000	12,083	7,425	3,000	5,000	117,508	184
Tulare City Schools	56	149,250	-----	12,313	-----	-----	161,563	8,760
Vísalia Unified	57	150,512	10,890	27,203	6,000	-----	194,605	25,089
Waukena Joint Union Elementary	58	88,082	11,834	7,267	-----	-----	107,183	255
Woodlake Union Elementary/High	63	133,750	12,524	11,034	7,200	500	165,008	2,253
Woodville Union Elementary	64	85,000	15,993	-----	-----	-----	100,993	540
Exeter Elementary/High	68	172,110	-----	14,100	-----	-----	186,210	2,995
Tulare Joint Union High	72	150,792	-----	12,440	4,800	-----	168,032	4,876
Dinuba Unified	77	145,000	9,673	12,613	7,200	-----	174,486	5,609
Porterville Unified	78	154,987	14,200	15,048	-----	-----	184,235	12,153

4. The Average Daily Attendance (ADA) for each district was obtained from the 2010 Tulare County Schools Directory for use in comparing the total compensation of the 42 superintendents examined.

FINDINGS

1. The ADA for Tulare County school districts ranges from 19 (Hot Springs Elementary) to 25,089 (Visalia Unified). Superintendents' total compensation similarly ranges from \$80,071 (Saucelito) to \$195,384 (Cutler-Orosi) (Attachment A).
2. In general, total compensation tracks upward with increasing ADA (Attachment B). Exceptions to this trend may be driven by longevity on the job, the credential or degree held by the individual, the number of school sites in the district, the negotiating ability of the individual superintendent, as well as the amount of attention each Board pays to their incumbent superintendent's compensation.
3. Small district superintendents frequently have job responsibilities beyond their role as superintendent, such as teaching and site principal. The large district superintendents manage large and diverse staffs that cover all functional areas of school district operation.
4. There is a great deal of variation in the format of the superintendent's contract for the various school districts. A common format does exist and is used by many districts, but some districts have either drifted away from the original, or it was never used.
5. The contractual support for health insurance and pension benefits varies considerably. Some districts pay all health insurance costs for their superintendent and family, while others only provide access to the district's health insurance program. Similar variation occurs in regard to health insurance benefits at retirement. The differences noted in pension agreements appear to be more tactical and may be simply due to negotiations at the time of hiring or contract renewal.

CONCLUSIONS

The total compensation packages for the superintendents of the public school districts analyzed by the Grand Jury generally track positively with the ADA, size, and complexity of each district. The contents of each superintendent's contract regarding health insurance and pension benefits are variable and do not adhere to any standard form. This does not take away from the observation that the trustees of the school

districts in Tulare County are doing a reasonable job of managing their superintendent's compensation in line with the size and complexity of their districts.

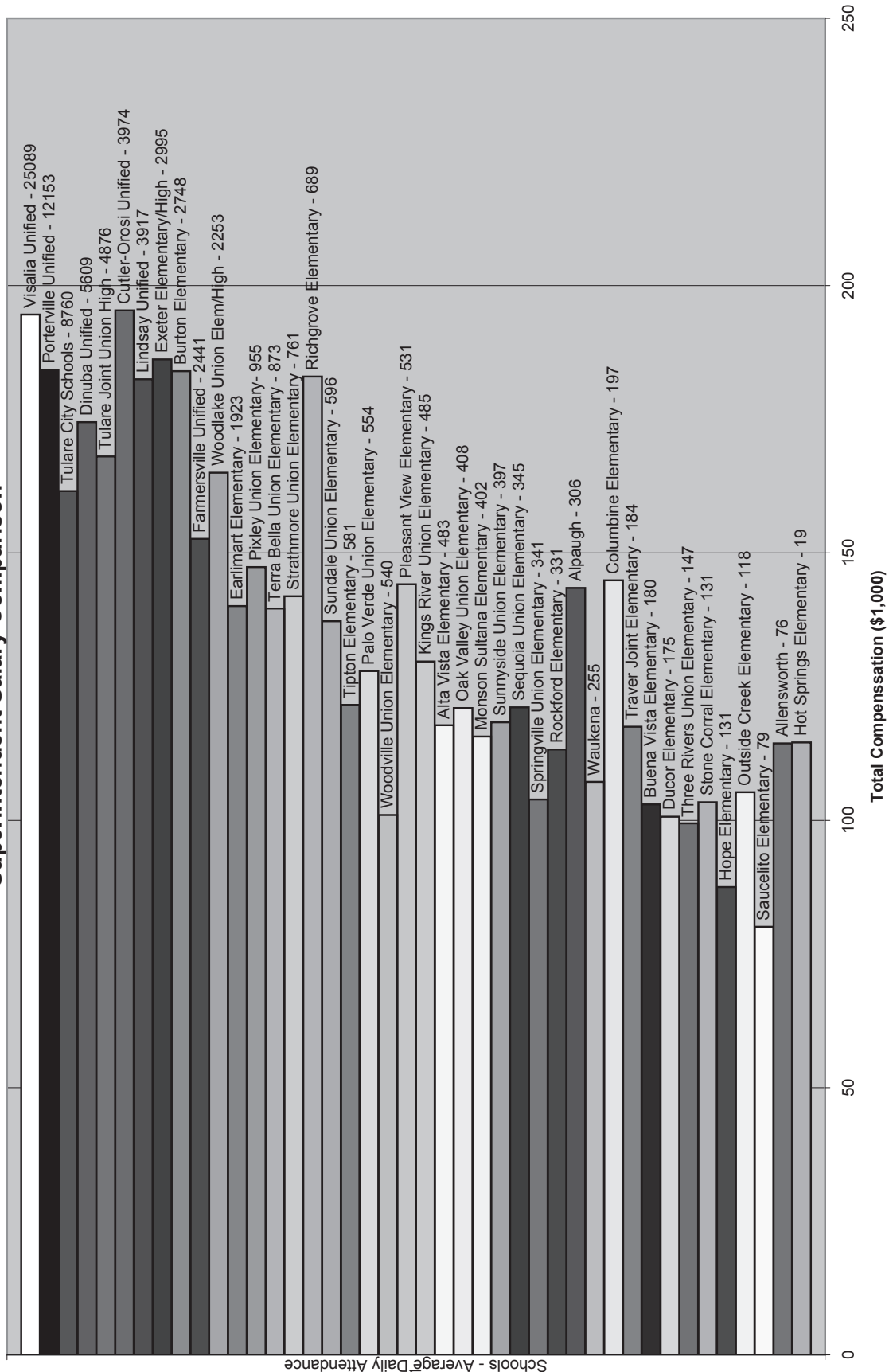
RECOMMENDATIONS

1. The school districts in Tulare County take advantage of the fact that their superintendent's contracts are all public documents. Requesting and analyzing contracts from similar districts around the county will prove useful when renewing their superintendent's contract or when negotiating with a replacement.
2. The existence of two independent school districts in the City of Tulare stands out in this county. Porterville also has two districts, but the Porterville Unified District has been making unification overtures to the Burton School District and others, and recently absorbed the Strathmore High School District. Tulare may have an opportunity to significantly reduce administration and management costs by consolidating the two districts. Two models for consolidation exist in Tulare County. The more common form is the dissolution of one district in favor of a unified district under the governance of a single board of trustees. The other model, found in Exeter and Woodlake, has the two districts maintaining their separate facilities and boards of trustees, but sharing the costs of a single superintendent and staff. Either model may work in Tulare and should be worth exploring, particularly in this time of shrinking financial support for our schools.

REQUIRED RESPONSES

None

Superintendent Salary Comparison



TULARE COUNTY SCHOOL DISTRICT BOARD MEETINGS

BACKGROUND

Meetings of school boards are governed by California's "**Ralph M. Brown Act**" (Brown Act), which requires meetings and actions of governing bodies of local government agencies and subsidiary bodies created to be open and public. It was intended the Brown Act implement a strong public policy. This policy ensures the public's right to attend and participate in the meetings of local government agencies.

REASON FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) decided to investigate and report on District School Board (Board) meetings, their meeting practices, and public participation.

PROCEDURES FOLLOWED

1. Attended Board meetings
2. Obtained and reviewed Board meeting agendas
3. Reviewed and included in this report, statistical information obtained from the 2011 Tulare County Schools Directory.

FINDINGS

1. Allensworth School District:
 - a. There is one school in the district serving grades K-8.
 - b. Allensworth has four teachers and an Average Daily Attendance (ADA) of 76 students.
 - c. The Revenue Limit per ADA is \$6,563 with a Total Revenue Limit¹ (TRL) of \$481,030 per year.
 - d. Board meetings are scheduled to be held on the first Tuesday of each month at 5:00 pm.
 - e. A meeting was held on December 7, 2010 and all Board members were present.
 - f. Board members conducted the meeting in a business like fashion.
 - g. The district received funding for staff instructional aides helping at risk students.
 - h. The district will host a Christmas program for the children. Gifts are to be provided by the Wasco State Detention Facility.
2. Alpaugh Unified School District:
 - a. There is one school in the district, serving grades K-12.

- b. Alpaugh has 29 teachers and an ADA of 454 students.
 - c. The Revenue Limit per ADA is \$6,830 with a TRL of \$2,131,631 per year.
 - d. Board meetings are scheduled to be held on the second Thursday of each month at 6:00 pm.
 - e. A meeting was held on March 10, 2011. Four of the five board members were present.
 - f. Board members were knowledgeable and conducted the meeting in a business like fashion.
 - g. There are plans to build a new school. The State is in the process of releasing design funds in the amount of \$212,250. The board will seek input from the community and hold a special meeting in the near future.
3. Burton School District:
- a. There are seven schools in the district, serving grades K-12.
 - b. Burton has 187 teachers and an ADA of 3,590 students.
 - c. The Revenue Limit per ADA is \$6,093 with a TRL of \$13,984,626 per year.
 - d. Board meetings are scheduled to be held on the first and third Mondays of each month at 5:30 pm.
 - e. A meeting, held on November 1, 2010, began 15 minutes late. The meeting lasted nearly four hours.
 - f. There were no microphones available making it difficult to hear and understand what was being said.
 - g. Two Board members attended the County sponsored Board training and appreciated the ethics and the conflict of interest topics.
 - h. Agendas had not been posted 72 hours in advance of their meetings and they "will work on complying with this Brown Act requirement".
4. Citrus South Tule School District:
- a. There is one school in the district, serving grades K-6.
 - b. There are three teachers and an ADA of 42 students.
 - c. The Revenue Limit per ADA is \$ \$7,115 with a TRL of \$262,200 per year.
 - d. Board meetings are scheduled to be held on the second Thursday of each month at 5:30 pm.
 - e. A meeting was held on February 17, 2011. There are four board members and all were present.
 - f. Board members conducted the meeting in a business like manner.
 - g. There are serious funding issues due to declining student enrollment.
5. Columbine School District:
- a. There is one school in the district, serving grades K-8.
 - b. There are nine teachers and an ADA of 197 students.
 - c. The Revenue Limit per ADA is \$6,089 with a TRL of \$978,841 per year.
 - d. Board meetings are scheduled to be held on the second Wednesday of each month at 4:00 pm.
 - e. At the February 11, 2011 meeting, it was noted that the posted agenda did not have the Notice of Agenda items as required by the California Government Code §54957.5² also known as SB343.
 - f. Board members conducted the meeting in a business like manner.
 - g. Currently Columbine has a reserve of \$900,000.

- h. One agenda item concerned a State Auditor Inspection Report. The report stated, "Lunches provided for grades four through eight needed more sodium and calories".
6. Cutler-Orosi Joint Unified School District:
 - a. There are 13 schools in the district, serving grades K-12.
 - b. There are 226 teachers and an ADA of 3,985 students.
 - c. The Revenue Limit per ADA is \$6,362 with a TRL of \$20,471,908 per year.
 - d. Board meetings are scheduled to be held on the second Thursday of each month at 6:00 pm.
 - e. During the November 10, 2010 meeting, Board members were professional, business like, and knowledgeable.
 - f. There were microphones available; however, they were not needed.
 7. Dinuba Unified School District:
 - a. There are 11 schools in the district, serving grades K-12/Adult.
 - b. There are 322 teachers and an ADA of 5,653 students.
 - c. The Revenue Limit per ADA is \$6,690 with a TRL of \$30,752,865 per year.
 - d. Board meetings are scheduled to be held on the second and fourth Thursday of each month at 7:00 pm, closed sessions are at 6:00 pm when needed.
 - e. During the meeting held on October 14, 2010, it was noted that the Board members directed their agenda reports to one another rather than the audience.
 8. Earlimart School District:
 - a. There are four schools in the district, serving grades K-8.
 - b. There are 109 teachers and an ADA of 1,923 students.
 - c. The Revenue Limit per ADA is \$6,134 with a TRL of \$9,886,950 per year.
 - d. Board meetings are scheduled to be held on the first and third Tuesday of each month at 6:00 pm.
 - e. Agendas are posted in English and Spanish.
 - f. A meeting held on January 11, 2011 began at the scheduled time.
 - g. The board members were business like, courteous to each other as well as the visiting audience and appeared to be knowledgeable on school issues.
 9. Exeter Union School District:
 - a. There are four schools in the district, serving grades Pre-school-8.
 - b. There are 93 teachers and an ADA of 1,913 students.
 - c. The Revenue Limit per ADA is \$6,126 with a TRL of \$9,667,195 per year.
 - d. Board meetings are scheduled to be held on the fourth Tuesday of each month at 5:00 pm.
 - e. A board meeting held on March 22, 2011, began on time and all board members were present.
 - f. The board members were business like and appeared to be knowledgeable on school issues.
 - g. The main topic discussed during this meeting was the upcoming eighth grade Wilson School graduation.
 10. Exeter Union High School District:

- a. There are two schools in the district, serving grades 9-12.
 - b. There are 52 teachers and an ADA of 1,082 students.
 - c. The Revenue Limit per ADA is \$7,377 with a TRL of \$6,733,501 per year.
 - d. Board meetings are scheduled to be held on the third Wednesday of each month at 5:30 pm.
 - e. During the January 19, 2011 meeting, Board members appeared to be professional and business like.
 - f. There was one microphone, which was not used.
 - g. Members of the Grand Jury were unable to hear or understand what was said during the meeting.
11. Farmersville Unified School District:
- a. There are six schools in the district, serving grades K-12.
 - b. There are 142 teachers and an ADA of 2,441 students.
 - c. The Revenue Limit per ADA is \$6,587 with a TRL of \$13,224,476 per year.
 - d. Board meetings are scheduled to be held on the second and fourth Tuesday of each month at 6:45 pm.
 - e. On the August 24, 2010 Agenda, six Inter-District Requests for consideration were posted. Only one of those requests was approved.
 - f. Microphones were available; however, the audio was poor and speakers spoke in low tones, making it difficult to hear.
12. Hot Springs School District:
- a. There are two schools in the district, serving grades K-8.
 - b. There are two teachers and an ADA of 19 students.
 - c. The Revenue Limit per ADA is \$7,191 with a TRL of \$240,343 per year.
 - d. Board meetings are scheduled to be held on the second Monday of each month (except holidays) at 4:00 pm.
 - e. Board members conducted the January 10, 2011 meeting in a professional and business like manner.
13. Lindsay Unified School District:
- a. There are eight schools in the district, serving grades K-12.
 - b. There are 186 teachers and an ADA of 3,911 students.
 - c. The Revenue Limit per ADA is \$6,388 with a TRL of \$20,586,146 per year.
 - d. Board meetings are scheduled to be held on the second and fourth Monday of each month at 6:00 pm.
 - e. A meeting held on March 28, 2011 began on time.
 - f. Board members were well prepared for the meeting and appeared to be professional and business like.
 - g. There were microphones available and they were used.
14. Porterville Unified School District:
- a. There are 23 schools in the district, serving grades K-12/Adult.
 - b. There are 602 teachers and an ADA of 12,682 students.
 - c. The Revenue Limit per ADA is \$6,892 with a TRL of \$69,343,567 per year.
 - d. Board meetings are scheduled to be held on the second and fourth Thursday of each month at 4:30 pm.

- e. The Board meeting held on February 10, 2011 was standing room only.
 - f. Board members appeared knowledgeable and conducted the standing room only meeting in a professional manner.
 - g. It was noted that Granite Hills won the Academic Decathlon for the 10th year in a row. The theme was The Grapes of Wrath.
 - h. There was discussion of the Dual Immersion Program. So much time was used on the topic that the Board decided to holdover the discussion until the next scheduled meeting.
15. Richgrove School District:
- a. There is one school in the district, serving grades K-8.
 - b. There are 40 teachers and an ADA of 689 students.
 - c. The Revenue Limit per ADA is \$6,126 with a TRL of \$3,433,106 per year.
 - d. Board meetings are scheduled to be held on the second Thursday of each month at 6:00 pm.
 - e. At the December 9, 2010 meeting the Board members were knowledgeable and conducted the meeting in a business like fashion.
 - f. Board members attended board training in San Francisco.
 - g. In the near future Solar panels will be installed on the school campus saving the district approximately \$100,000 on its annual electric bill.
 - h. A sum of \$2.5 million from the districts childcare/pre-school budget needs to be returned to the state.
16. Springville Union School District:
- a. There is one school in the district, serving grades K-8
 - b. There are 19 teachers and an ADA of 341 students.
 - c. The Revenue Limit per ADA is \$6,100 with a TRL of \$1,725,931 per year.
 - d. Board meetings are scheduled to be held on the second Monday of each month at 6:30 pm.
 - e. All board members were present at the December 13, 2010 meeting.
 - f. Board members appeared to have read the agendas and were prepared for their meeting.
 - g. The board appeared to be professional, knowledgeable and treated the public courteously.
17. Stone Corral School District:
- a. There is one school in the district, serving grades K-8.
 - b. There are four teachers and an ADA of 131 students.
 - c. The Revenue Limit per ADA is \$6,159 with a TRL of \$685,260 per year.
 - d. Board meetings are scheduled to be held on the second Thursday of each month at 5:00 pm.
 - e. A meeting held on February 10, 2011 started late, at 5:15 pm.
 - f. No agendas were available and had to be requested.
 - g. Board members did not appear to be knowledgeable on the agenda items.
 - h. Board members did not stick to the agenda items and there was too much table talk between them.
 - i. Of the three board members, two were present.
18. Strathmore Union School District:

- a. There are three schools in the district, serving grades K-8.
 - b. There are 39 teachers and an ADA of 761 students.
 - c. The Revenue Limit per ADA is \$6,090 with a TRL of \$3,814,639 per year.
 - d. Board meetings are scheduled to be held on the second Monday of each month at 6:00 pm.
 - e. A meeting held on March 15, 2011 was held a day late due to a catastrophic leave situation. It was posted as being held on the day following the original scheduled meeting and was at 11:30 am.
 - f. Board members appeared to be professional and knowledgeable on the agenda items.
19. Sundale Union School District:
- a. There is one school in the district, serving grades K-8.
 - b. There are 33 teachers and an ADA of 696 students.
 - c. The Revenue Limit per ADA is \$6,099 with a TRL of \$3,462,162 per year.
 - d. Board meetings are scheduled to be held on the second and fourth Tuesday of each month at 7:30 pm.
 - e. At the January 25, 2011 meeting, board members were knowledgeable on the agenda items.
20. Terra Bella Union School District:
- a. There are two schools in the district, serving grades K-8.
 - b. There are 46 teachers and an ADA of 873 students.
 - c. The Revenue Limit per ADA is \$6,103 with a TRL of \$4,444,185 per year.
 - d. Board meetings are scheduled to be held on the second Thursday of each month at 6:30 pm.
 - e. At the board meeting held on January 13, 2011, board members appeared to have marginal knowledge of the agenda items.
 - f. There were no microphones available and it was difficult to hear what was being discussed.
 - g. It appeared that some board members tended to over explain some of the agenda items, causing the meeting to last longer than necessary.
21. Tulare City School District:
- a. There are 15 schools in the district, serving grades Pre-school – 8.
 - b. There are 441 teachers and an ADA of 8,760 students.
 - c. The Revenue Limit per ADA is \$6,129 with a TRL of \$44,109,785 per year.
 - d. Board meetings are scheduled to be held on the second and fourth Tuesday of each month at 7:00 pm.
 - e. A meeting held on February 22, 2011 was well run.
 - f. Board members appeared knowledgeable on the agenda items.
22. Tulare County Office of Education:
- a. Board meetings are scheduled to be held on the second Wednesday of each month at 3:00 pm.
 - b. At the February 9, 2011 meeting, it was noted that the meeting room is too small and there was standing room only.
 - c. Board members were knowledgeable on agenda items.

- d. The meeting was well run and board members were courteous to each other and to the public.
 - e. Board members appeared genuinely interested in what the audience had to say during the public comment time.
23. Tulare Joint Union High School District:
- a. There are eight schools in the district, serving grades 9-12/Adults.
 - b. There are 237 teachers and an ADA of 4,676 students.
 - c. The Revenue Limit per ADA is \$7,392 with a TRL of \$29,324,749 per year.
 - d. Board meetings are scheduled to be held on the first and third Thursday of each month at 7:30 pm.
 - e. A meeting held on February 17, 2011 began on time.
 - f. Board members appeared to have read the agenda, were prepared for the meeting, and were knowledgeable on the agenda items.
 - g. The meeting was well run and all items were discussed in a timely manner.
 - h. There was only one microphone available making it difficult to hear.
24. Visalia Unified School District:
- a. There are 38 schools in the district, serving grades Pre K-12/Adults.
 - b. There are 1,161 teachers and an ADA of 25,548 students.
 - c. The Revenue Limit per ADA is \$6,390 with a TRL of \$133,016,222 per year.
 - d. Board meetings are scheduled to be held on the second and fourth Tuesday of each month at 7:00 pm.
 - e. A meeting held on November 9, 2010 began on time and all board members were present.
 - f. Board members were prepared for the meeting, courteous to each other and to the audience.
25. Waukena Joint Union School District:
- a. There is one school in the district, serving grades K-8.
 - b. There are nine teachers and an ADA of 255 students.
 - c. The Revenue Limit per ADA is \$6,095 with a TRL of \$1,240,127 per year.
 - d. Board meetings are scheduled to be held on the second Monday of each month at 6:00 pm.
 - e. A meeting held on March 14, 2011 began at 6:10 pm. One board member arrived two hours late.
 - f. Some of the board members asked questions on certain agenda items, for clarification.
 - g. The Superintendent was asked to thoroughly explain each agenda item to board members.
26. Woodlake Union High School District:
- a. There are two schools in the district, serving grades 9-12.
 - b. There are 38 teachers and an ADA of 754 students.
 - c. The Revenue Limit per ADA is \$7,365 with a TRL of \$4,806,287 per year.
 - d. Board meetings are scheduled to be held on the first Wednesday of each month at 6:30 pm.
 - e. A meeting held on November 3, 2010 had three of five board members present.

- f. Board members appeared to have read the agenda and were prepared for their meeting.
 - g. After two agenda items had been discussed, the board members went into closed session for a hearing on Student Expulsion(s)/Reinstatement and dinner. After 1¼ hours, the meeting resumed.
 - h. There was unnecessary talking between the board members.
 - i. At 10:00 pm, the board members went into a second closed session for discussion on the Superintendent Evaluation.
27. Woodville Union School District:
- a. There is one school in the district, serving grades K-8.
 - b. There are 35 teachers and an ADA of 540 students.
 - c. The Revenue Limit per ADA is \$6,103 with a TRL of \$2,843,428 per year.
 - d. Board meetings are scheduled to be held on the second Tuesday of each month at 6:00 pm.
 - e. A meeting held on February 8, 2011 was well organized and the Board members appeared businesslike and professional.
 - f. Of the five board members, one appeared not to be prepared for the meeting.
 - g. Board members were courteous to each other and to the audience.
 - h. Microphones were not used, making it difficult to hear what was being said.

CONCLUSIONS

With the exception of a select few, school board meetings appeared to be well run by well-informed board members.

Some of the board meetings did not have microphones available and others had microphones available and not used. It was difficult to hear during those meetings.

During some school board meetings, there was unnecessary talking between board members and/or agenda discussions took too long.

RECOMMENDATIONS

- 1. Burton School District
 - a. Begin scheduled meetings on time.
 - b. Make microphones available and use them.
 - c. Post agendas 72 hours prior to scheduled meetings.
- 2. Columbine School District
 - a. Include on the agenda the required SB343 language.
- 3. Dinuba Unified School District
 - a. Board members spend less time talking to each other.
 - b. Board members spend more time engaging public participation.
- 4. Exeter Union High School District
 - a. Make more than one microphone available and use them.

5. Farmersville Unified School District
 - a. Improve the audio system.
6. Stone Corral School District
 - a. Make agendas available prior to a meeting.
 - b. Board members familiarize themselves with the agenda items prior to meetings.
 - c. Board members follow the agenda.
 - d. Board members spend less time talking among themselves.
7. Terra Bella Union School District
 - a. Make microphones available and use them.
 - b. Spend less time trying to explain agenda items.
8. Tulare County Office of Education
 - a. Have a larger meeting room available for those meetings that may have a larger than average attending audience.
9. Tulare Joint Union High School District
 - a. Add more microphones and use them.
10. Woodlake Union High School District
 - a. Board members have their evening meal **BEFORE** the scheduled meeting time.
 - b. Schedule all closed sessions before or after the public sessions. This may increase public attendance
 - c. Limit talking between the board members.
11. Woodville Union School District
 - a. Use the microphones that are available.

RESPONSES REQUIRED

Burton School District
 Columbine School District
 Dinuba Unified School District
 Exeter Union High School District
 Farmersville Unified School District
 Stone Corral School District
 Terra Bella Union School District
 Tulare County Office of Education
 Tulare Joint Union High School District
 Woodlake Union High School District
 Woodville Union School District

¹ California Education Code § 42238.9 defines the Total Revenue Limit.

² California Government Code §54957.5(b)(2) requires designating the location where these records will be available on agendas of “all meetings of the legislative body of that agency. . .

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PERTUSSIS (WHOOPIING COUGH) A DEADLY MENACE

BACKGROUND

Between January 1 and October 19, 2010, there were 6,257 confirmed, probable and suspect cases of Pertussis reported to California Department of Public Health for a state rate of 16.0 cases/100,000. This is the highest number of cases reported in 60 years since 6,613 were reported in 1950. It is the highest incidence in 51 years when a rate of 16.1 cases/100,000 was reported in 1959.

Beginning in July of 2010, the Tulare County Immunization Program began vaccination clinics for the public. They received over 7,500 doses of Tetanus Diphtheria Adult Pertussis (Tdap) vaccine from the State of California for the purpose of protecting infants too young to be fully vaccinated. The plan is to “cocoon” the infants by surrounding them with fully vaccinated parents, grandparents, siblings and other caretakers.

REASON FOR INVESTIGATION

With California’s current Pertussis epidemic prominent in the news, the 2010-2011 Tulare County Grand Jury decided to investigate the County’s readiness and preparation for handling this deadly disease.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Reviewed relevant documents

FINDINGS

1. California has the largest number of confirmed cases of Pertussis within the United States.
2. In 2010, there were 10 deaths due to Pertussis in California. Nine were infants less than two months old.
3. Tulare County falls in the midrange of cases reported by California counties.
4. Pertussis is an airborne bacterial respiratory illness. It can be spread from person to person by droplets released by coughing and sneezing.
5. Infants are at high risk because they are not vaccinated until they are about six weeks old. Adolescents and adults are also at risk to Pertussis because their immunity has waned from their childhood vaccinations. Two different vaccines

are used in the prevention of Pertussis. Diphtheria Tetanus Acelular Pertussis (DTaP) is given at six weeks of age. Tetanus Diphtheria Adult Pertussis (Tdap), is a booster given to youths and adults.

6. Approximately 1,500 doses of Pertussis vaccine were given throughout the county in November and December of 2010. The locations included swap meets, farmers markets, Tulare County Works Office, W. I. C. Offices, McDermott Field House, Tulare Outlet Mall, Tulare and Visalia Veterans Memorial Buildings, and at some school sites.
7. Depending on clinic attendance, vaccination costs range between \$8.00 and \$24.00. Another variable in determining cost included whether County employees or Maxim (a contracted health care personnel provider) administers the vaccinations.
8. Assembly Bill 354 (AB 354) requires all incoming students from 7th grade through high school to be immunized against Pertussis beginning July 1, 2011. The contract between the State and Maxim was extended, but cannot be utilized for the purpose of satisfying this new (unfunded) school mandate. Maxim can only be utilized to "cocoon infants." Children eligible for the Vaccines For Children (VFC) program can go to an Immunization Action Program (IAP) clinic and all others to their personal doctor for this vaccine.
9. Parents can easily opt out of having their children immunized by signing a form citing religious or medical objections.
10. Due to funding and staffing issues as of January 1, 2011, there will no longer be any clinics other than the regularly scheduled IAP clinics. Adults are welcome to attend IAP clinics for Tdap vaccine.
11. Tdap is offered in the County's Mobile Health Unit by appointment. All three birthing hospitals; i.e., Kaweah Delta Medical Center in Visalia, Tulare Regional Medical Center in Tulare and Sierra View Hospital in Porterville refer families of newborns for vaccinations.
12. Tdap is offered to parents of newborns coming into the Vital Statistics Office for birth certificates.
13. Immunizations with Tdap are strongly recommended by the Tulare County Health and Human Services Agency (HHSA) for anyone in a home where newborns and/or infants reside, or are cared for.

CONCLUSIONS

Due to the restrictions placed by the State, HHSA cannot use State supplied vaccines to conduct immunization clinics to include all students in each school.

Lack of funding limits HHSA personnel from conducting more clinics for purposes of cocooning, even though the County has access to vaccines from the State at no cost.

RECOMMENDATIONS

1. Tdap boosters be given every five years until the age of 65.
2. Improve communication between HHSA and school districts on implementation of AB 354.
3. To prevent the spread of Pertussis, it is recommended:
 - a. infants, children, and adults, especially new parents and care providers of infants, be up-to-date on immunizations for protection against Pertussis, as well as other vaccine-preventable diseases,
 - b. individuals cover their mouth when coughing or sneezing, and
 - c. individuals wash their hands thoroughly and often.

REQUIRED RESPONSES

Board of Supervisors
Health and Human Services Agency

“SALARY SPIKING” AND OTHER BENEFIT ENHANCEMENTS FOR TULARE COUNTY PENSION PLAN PARTICIPANTS

BACKGROUND AND REASON FOR INVESTIGATION

During an investigation of Tulare County’s Employees’ Retirement Association (TCERA), it came to the attention of the 2010-2011 Tulare County Grand Jury (Grand Jury) that certain currently allowed maneuvering of job benefits by County employees results in increasing lifelong pension benefits payable to those employees upon retirement. The maneuvering is referred to by those familiar with the process as “Salary Spiking”. This report is the Jury’s attempt to bring the process to light so that the public can better understand the impacts on the County’s finances.

This report is also an opportunity to review some of the enhancements that have been made to the Tulare County employees’ pension plan (the Plan) in recent years. There is a heightened level of recent public interest and media reporting on public pension plans and the increasing pressure put on public treasuries to maintain adequate funding levels for these plans. The Grand Jury is attempting to make as much information available on the subject as possible in this year’s reports. This report is a companion to this year’s Grand Jury report called Tulare County Employee Retirement Plan.

PROCEDURES FOLLOWED

1. Attended TCERA board meetings
2. Interviewed relevant TCERA plan administrators and board members
3. Interviewed relevant County officials
4. Reviewed relevant documents

FINDINGS

1. Policies regarding pension benefits afforded the employees of the County are determined by the County’s Board of Supervisors (BOS), with input from the governing board of TCERA.
2. Some benefits given to Tulare County employees are in the form of a “flex benefit”. The flex benefit is given in a certain annual dollar amount and that amount differs according to the employee’s bargaining unit, job description, and salary. The amount of “flex benefit” can range from \$5,785 to \$27,101 and averages \$7,584 per employee annually. From the dollar amount granted, employees can purchase benefits including, but not limited to, health, vision, dental and life insurance. Several plans are available to choose from, with differing levels of costs and coverage. Because of the choices available, these types of benefits are commonly referred to as “cafeteria style” benefits.
3. Each year, when the “flex benefit” is offered, the employee is given two choices as to

how the benefit is reported to the Internal Revenue Service:

- a) The benefit amount can be reported as pre-tax income. In this case no income tax is paid by the employee upon receipt of the benefit, or
- b) The benefit amount can be reported as taxable income.

For obvious reasons, benefits are almost always taken as pre-tax income. But an employee may choose to have his "flex benefit" reported as taxable income for purposes of increasing his/her taxable income for pension benefit purposes.

4. A Plan member's retirement pay is determined by four factors. These factors are:
 - a) the employee's membership type (for instance public safety member pension benefits are higher than general member pension benefits),
 - b) years of service,
 - c) age at retirement, and
 - d) final average monthly salary (for most members an average of the highest consecutive 36 month period).
5. It is possible for Plan members to have their "flex benefit" paid to them as taxable income for the final 36 months of employment in order to show an increased level of income to be used in calculating their pension benefit. This is commonly referred to as "salary spiking" and employees are counseled in its use when they receive pre-retirement counseling provided by TCERA as administrator of the Plan.
6. Some County employees, by way of labor contract negotiations, are permitted to "cash out" some vacation leave and/or sick leave time. This additional pay is counted toward final average monthly salary and can result in enhanced pension benefits.
7. In some cases, it is possible for County employees who use a County vehicle in their work to opt to use their personal vehicle and instead receive a car allowance. This allowance is then included in final average monthly salary and can result in enhanced pension benefits.
8. Prior to 2005, most Tulare County employees' basic pension benefit was 2% of final average salary per year of service if the employee retired at age 61 $\frac{1}{4}$. In 2005 the benefit was changed to 2% of final salary at age 57. If retirement is postponed past age 57, the 2% multiplier is raised. The multiplier is 2.6% per year of service if the employee retires at 62. Safety employees now receive 2% at 50, and 2.6% at age 55.
9. TCERA, in accordance with its role as administrator of the Plan, maintains a separate account known as the Supplemental Retiree Benefit Reserve (SRBR). The monies in the SRBR fund (about \$120 million at the end of June, 2010) are described by

TCERA as having come from “excess earnings (that is those earnings above what the plan expects to make on its investments each year)”. Of earnings deemed to be “excess earnings” about 50% are put into the SRBR.

10. Additional retirement benefits are paid from the SRBR to retired Plan members in two ways:
 - a) A member with a minimum of ten years service receives \$18 per month for each year of service up to a maximum of twenty years of service. Therefore, supplemental monthly benefits range from \$180 to \$360 per month, or \$2160 to \$4320 per year.
 - b) An additional cost-of-living adjustment (COLA) is applied if a retiree's benefits purchasing power falls by more than 15%. This additional COLA (there are already COLA provisions in the basic pension's benefits) will retain the basic monthly allowance's purchasing power at 85%.
11. The SRBR benefits are granted by Tulare County with no explicit or implicit guarantees. TCERA has the right to reduce or delete these benefits at any time and explains this in its Members' Benefit Portfolio. Also stated is TCERA's intention to “structure benefit programs from the SRBR that will allow payments to be made for many years.”

CONCLUSIONS

1. ***The pension benefits paid on the portion of salary that results from spiking techniques are paid to the retiree for life. But the benefitting employee may have only contributed to the Plan on that portion of salary for a short period of time, commonly 36 months.*** This is an unfair burden on the County (meaning, of course, the taxpayer). As it is, the County will experience rapidly increasing contribution levels to the Plan for many years to come in an effort to keep up with what are already unsustainable benefit levels (please see this year's Grand Jury report on Tulare County Employee Retirement Plan).
2. The benefit level enhancements described in finding 8 have contributed substantially to the difficulties in funding the Plan. It is now possible for a “General Member” of the Plan who begins service to the County at age 22 to retire at age 57 with 70% of final salary (35 years of service at 2% per year). It is very possible for an employee to draw benefits for 25 to 30 years. Under current policies, ***the benefit may be enhanced by spiking and will be enhanced by the SRBR.*** Safety Members reach these levels approximately seven years earlier.
3. In light of the Plan's current and projected funding deficiencies (see this year's Grand Jury report on Tulare County Employee Retirement Plan), it is clear that when viewed with a long term perspective, the previously deemed “excess earnings” used to fund the SRBR were not “excess” at all. The funds in the SRBR, had they been kept in the general fund for retirees, would have helped bring the Plan to a healthier funded position today.

RECOMMENDATIONS

1. The Tulare County Board of Supervisors immediately pursue policies that will prevent “salary spiking” by Plan participants. In addition to the described role that “flex benefits” play in spiking, pursue new policies with employee representatives that limit the use of “cashed out” sick leave, vacation leave, car allowances, etc. to spike salaries.
2. Although benefits earned to date must, and should, be honored, Tulare County negotiate with employee representatives to roll back pension benefits for current employees for future service to levels that are sustainable without putting at jeopardy other County services. Raising the retirement age for full benefits, currently at 57 for most employees, and at age 50 for Public Safety Employees, should be considered as part of benefit negotiations.
3. Set pension benefits for new hires at levels sustainable without putting at jeopardy other County services. An even better alternative for new hires, and one that is fair to all County residents, is a defined contribution plan (like a 401(k) plan), with a contribution from the County, and the same professional management that TCERA now provides. *(The Grand Jury recognizes that a plan conversion for new hires would result in a short term increase in the county’s financial obligation, but the long term benefit to the county should far outweigh this temporary increase.)*
4. TCERA reduce SRBR payments to half their current level for the next two years as a transition period and then close the fund permanently, returning the balance to the general Plan fund for all employees’ future basic pension benefits.

REQUIRED RESPONSES

Tulare County Board of Supervisors
Tulare County Employees Retirement Association
Tulare County Administrative Officer

TULARE COUNTY EMPLOYEE RETIREMENT PLAN

BACKGROUND

Tulare County Employees' Retirement Association (TCERA) administers the retirement plan (Plan) for Tulare County's employees and retirees. TCERA is governed by a nine member board. Policies regarding pension benefits afforded the employees of our county are determined by the County's Board of Supervisors, with input from the governing board of TCERA.

REASONS FOR INVESTIGATION

Because of recent news coverage, there is a rising level of citizen interest in public employee pension plans and the growing public entity contribution of taxpayer money needed to fund them. The 2010-2011 Tulare County Grand Jury (Grand Jury) decided to study the issue and develop a report in an effort to help the public understand the workings of Tulare County's employee pension plan and its current financial status.

PROCEDURES FOLLOWED

1. Attended TCERA board meetings
2. Interviewed relevant TCERA plan administrators and board members
3. Interviewed relevant county officials
4. Reviewed relevant documents

FINDINGS

1. The nine member TCERA board includes four members appointed by the Tulare County Board of Supervisors, three elected by current employees, one elected by retired Plan members and the final member is the County Treasurer.
2. Each year TCERA issues an Actuarial Valuation Report (AV Report) that examines the financial health of the Plan as well as current trends. The AV Report recommends economic assumptions to be used in planning for the future.
3. Approximately every three years, TCERA issues an Asset/Liability Study (AL Study). The AL Study, last issued on 05/27/2009, projects the actuaries' expectations for the Plan's operation and financial position for the next ten years.
4. The Plan, according to the last AV Report of 06/30/2010, had a market value of assets of \$833,327,605. These assets have accumulated from employee contributions, plan sponsor (in this case Tulare County) contributions, and investment returns on these contributions. The assets will be used, over time, to pay for the Plan members' pension benefits.
5. A pension plan's current level of funding (the funded ratio) is determined by dividing

funded ratio on 06/30/2010 was 91.6%. ***According to the last AV Report, the funded ratio has decreased for nine of the past ten years.*** The funded ratio on 06/30/2001 was 116.9%.

6. As the funded ratio of the Plan decreases, contributions from the employees and/or the plan sponsor (Tulare County) must increase in order for the plan to maintain its financial position and to eventually return to fully funded status. Tulare County's contributions to the plan were 11.4% of payroll (about \$23 million) for the fiscal year ending in 2008 and are ***projected to be 19.3 % of payroll (about \$68 million) by 2018. At the same time, the funded ratio is projected to fall from 93.4% in 2008 to 75.9% in 2018.*** This significant projected drop in funded ratio is due partially to a recent increase in pension benefits granted in 2005. Prior to 2005, most county employees' basic pension benefit was two percent of final salary per year of service, retiring at age 61 $\frac{1}{4}$. An employee with 30 years service, retiring at 61 $\frac{1}{4}$, would be paid 60% of final salary for life. In 2005 the benefit was changed to two percent per year of service, but retiring at age 57. Also contributing to the large projected drop in the funded ratio are large recent losses (amortized over ten years) in the investment markets during the recent financial crisis. The amortization process allows these losses to be spread out over ten years, with one tenth of the loss shown on the books each year. ***It is therefore projected that the funded ratio will fall each year from 2009 through 2018.***
7. In order for TCERA to project the numbers in finding 6, an estimate of annual market returns on the Plan's investments for the ten year period must be made. ***The estimate currently used by TCERA for market returns is 7.9%.***
8. At the TCERA board meeting on 11/17/2010, the AV Report of 06/30/2010 was presented to the board. A representative of the Plan's financial advisor, Wurts and Associates, was present. He stated that he expected that, based on anticipated performance of the financial markets for the next ten years, ***the Plan's investment returns over the ten year period through 2018 would fall short of 7.9%.***
9. At the TCERA board meeting on 2/9/2011, Wurts and Associates presented their forecast for investment earnings expected for the Plan's assets for the ten year period ending in 2021. Given an average strength of the world's economy and average inflation for the period, ***the Plan's financial advisor is predicting investment returns of 5.4%.***
10. According to the AL Study, ***if the Plan's returns are lower than the projected 7.9 %, the impact on needed annual contributions can be "as much as \$25 million per percent shortfall".*** Given that there is a difference of 2.5% between Wurts and Associates anticipated investment return in an average economy (5.4%) and the number being used by TCERA (7.9%) in its ten year plan (AL Study), this seems to imply additional needed contributions to the plan of as much as \$62.5 million per year. ***And the county still ends up with a projected funded ratio in 2018 of 75.9%.***
11. The Plan is a "defined benefit" plan. It guarantees that at a certain age the employee's retirement benefit will be an agreed percentage of his/her salary, regardless of investment returns. The sponsor (Tulare County) assumes all market

risk. Most private companies that still offer pensions offer “defined contribution” plans. One familiar example is the 401 (k) plan. Here there is no guarantee of the amount of retirement benefit; only that contributions are made according to the plan’s provisions. The plan member assumes the market risk associated with the account’s investments. A 2010 study by Towers Watson, a leading global professional services company, showed that of the 100 largest U.S. corporations, only 17 offered defined benefit plans. Most corporations have determined that they cannot afford the costs and risks associated with defined benefit plans.

12. In 2008, TCERA lengthened the “smoothing period” used for recognizing investment gains and losses on their books from five to ten years. This was done as a direct result of substantial losses of assets during the recent financial crisis. This means that large annual losses (the worst were suffered by the Plan in 2008-2009) will adversely affect the reported funded ratio of the Plan for ten years. ***It also means that for the first several years after a large loss the unfunded ratio is in effect understated.***
13. Tulare County’s employee contributions to their pension plan are currently lagging the contributions made on their behalf by the County. According to the AV Report dated 6/30/2010, for the fiscal year ending on 6/30/2011 the recommended **average** employee contribution rate is 7.80% of salary. The recommended contribution rate for the County is 12.39%. The County also made payments on pension obligation bonds of about 2.5% of salaries. These fifteen-year bonds were issued in 1997 and generated \$45 million that was contributed to the Plan. The County is also contributing 7.65% of salaries to employees Social Security Insurance accounts. (Employee contributions are affected by age, years of service and type of employee)

CONCLUSIONS

1. The projections used in the AL Study seem to the Grand Jury to be grossly overly optimistic. An anticipated market return of 7.9 % is one that the Plan’s own investment advisor has said is much too high. California’s two largest pension funds, California State Teacher’s Retirement System (CalSTRS) and California Public Employees Retirement System (CalPERS), have reduced their projected investment returns because of perceived market changes. Pension plans do this very reluctantly because it necessitates larger sponsor contribution rates.
2. The Plan’s funded ratio will drop precipitously over the next eight years, even if TCERA’s current projections for investment returns are realized. This is because TCERA has recently adopted a “smoothing period” of ten years (formerly five years) used in reporting gains and losses to assets. The significant market losses of the Plan’s assets during the recent financial crisis will not be fully accounted for in the funded ratio until 2018. It is unwise to travel a path that, even if a 7.9% investment return can be realized, and the County can somehow increase its annual contribution rate from \$23 million to \$68 million, results in a funded ratio of 75.9% in 2018. It is impossible for the Grand Jury to see how the Plan recovers from this position, even if the ratio falls no further than to 75.9% by 2018. It is more likely than not that the ratio will fall to less than 75.9% over the next ten years.

3. As alarming as the Plan's current position is, many nearby counties have even deeper problems. According to a 2010 report from Fresno County's Grand Jury, Fresno County is projected to exceed contribution levels of 52% of salaries by 2013. Furthermore, as is the case in our own county, this is in addition to a contribution to employees' Social Security accounts of 7.65%. Fortunately, relative to some nearby counties, Tulare County has been more conservative in granting pension benefits in the past. We must also realize that without major changes, the County's pension costs will soon spiral out of control. The current path is unsustainable.
4. As pressures mount for more and more Tulare County contributions, sources for these costs will need to be found. Other County services will further suffer. A broadening burden will be born by all Tulare County residents in order to continue to secure funding for pension plan participants. Already, in many parts of the country, situations like this are resulting in serious political and social unrest.

RECOMMENDATIONS

1. A ten year plan should be put in place that targets a fully funded (100% funded ratio) plan by the fiscal year ending 06/30/2022. An assumption for investment returns in this new plan for the years 2012-2022 should be 5.4%, in accordance with Wurts and Associates current ten year forecast. Other currently used actuarial assumptions, including a 4% inflation rate, can be used. This plan will more accurately reflect the County pension plan contributions that will be needed if those contributions are the only remedy for the shortfall. TCERA and the Tulare County Board of Supervisors can then consider other changes that can be made to share the burden with the County. Some ideas for these changes appear in the balance of our recommendations.
2. Tulare County should negotiate with employee representatives, where necessary, to assure that employees' contributions will be, in any given year, at least equal to the County's contributions. This is in line with the most generous private defined contribution plans.
3. Although benefits earned to date must, and should, be honored, Tulare County should partner with employee representatives to balance pension benefits and employee contributions for future service to levels that are sustainable without putting at jeopardy other County services. Retirement age for full benefits, currently at 57 for most employees, and at age 50 for Public Safety Employees, should be considered as part of the discussions.
4. Pension benefits for new hires should be reset at levels sustainable without putting at jeopardy other County services. An even better alternative for new hires, and one that is fair to all County residents, is a defined contribution plan, with a contribution from the County. *(The Grand Jury recognizes that a plan conversion for new hires would result in a short term increase in the county's financial obligation, but the long term benefit to the county should far outweigh this temporary increase.)*

REQUIRED RESPONSES

Tulare County Board of Supervisors

Tulare County Employees Retirement Association

Tulare County Administrative Officer

EXPLORING THE EXPLORERS

BACKGROUND

The Explorer program is a national award-winning program sponsored by the Boy Scouts of America through their program "Learning for Life".

The program is devoted to the development of youth through vocational training, leadership development and community service.

REASON FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) decided to investigate the partnerships among the Explorers and the Sheriff's Department/local police departments.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Obtained and reviewed informational pamphlets provided by Explorer advisors
3. Observed Central Valley Law Enforcement Explorer Competition (Two jurors were privileged to be on a panel interviewing scholarship finalists.)

FINDINGS

1. Explorer Program Coordinators from the Sheriff's Department and several local police departments explained how their officers and other advisors interacted with and advised the Explorers. Many advisors and fellow officers provide their personal time and assets willingly in support of the program.
2. The ages of Explorer candidates range from 14 to 21.
3. Each Explorer Post teaches co-ed youth vocational and leadership training and provides them positive alternatives to uncommitted leisure time.
4. Explorer curriculum includes both classroom and actual hands-on training and role-playing.
5. The program provides positive adult role models and promotes positive peer support as an alternative to negative peer and social pressure.
6. Membership requirements include:
 - a. parental approval
 - b. good moral habits
 - c. no serious law enforcement contacts or arrests

- d. enrollment in school with a minimum 2.0 GPA and no failing grades
 - e. a background check
 - f. a willingness to volunteer personal time to their community
7. Some Explorer duties include:
- a. attending monthly meetings
 - b. conducting traffic and parking control at community events and parades
 - c. acting as color guards at parades
8. Explorers go on ride-alongs with police officers which enables them to have a better understanding of problems they may encounter if they decide to become officers in the future.
9. Explorers experience the responsibilities of a law enforcement officer.
10. Explorers attend annual competitions. One such event, the Central Valley Law Enforcement Explorer Competition, was held at the Tulare County Fairgrounds in March 2011. Members of the Grand Jury observed 26 explorer groups (10 from Tulare County) representing California, Nevada and Arizona. There were 350 Explorers and 100 Advisors participating in 28 scenarios commonly experienced by law enforcement officers. Members of the Boy Scouts of America Administration were present to monitor the scenarios to insure safe practices. There were 144 trophies and 5 scholarships awarded.
11. Explorers participate in social and recreational activities such as:
- a. camping trips
 - b. picnics
 - c. field trips and outings with other Explorer Posts
12. Most recently, Explorers from several posts throughout the county assisted with parking at the World Ag Expo in Tulare.

CONCLUSIONS

The goal of the Explorer program is to allow all Explorers to participate in the law enforcement experience which may ultimately lead them to be officers of the law or into other careers associated with law enforcement.

This is a superb program for our youth. The intensity of the relationships between officers and the youth is a primary factor in how well the program succeeds. The officers interviewed explained they are very active with the Explorers.

The Grand Jury applauds and thanks the volunteers/advisors who give unselfishly of their time to make Explorer competitions a success.

We compliment each Explorer for his/her dedication to the program, their peers and each other.

REQUIRED RESPONSES

None

PORTERVILLE ANIMAL CONTROL

BACKGROUND

For several years the City of Porterville contracted with the City of Lindsay for Animal Control Services. Within the past five years, the Tulare County Grand Jury (Jury) received several citizen complaints against Lindsay Animal Control (LAC) for failure to properly handle unprovoked vicious animal attacks upon Porterville citizens.

In 2006, the Jury received a citizen complaint concerning a vicious pit bull attack, which caused serious personal injury. As a result of this one complaint the 2006-2007 Jury published two Animal Control Reports and one on the Porterville Police Department.

This same Jury concluded that due to the gross negligence of the Porterville Police Department and LAC's failure to follow state laws, the pit bull had disappeared and was never found. It was therefore recommended that the City of Porterville adopt an Animal Control Ordinance, discontinue contracting with LAC for services and begin the operation of its' own Animal Control Service.

Porterville followed the Jury recommendations and adopted an Animal Control Ordinance. Porterville Animal Control (PAC) was also established and began servicing the needs of Porterville.

REASON FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) decided to investigate and report on the operations of the now one year old PAC.

PROCEDURES FOLLOWED

1. Interviewed relevant personnel
2. Inspected the PAC facility
3. Obtained and inspected copies of Animal Control Contracts and Porterville's Animal Control Ordinance

FINDINGS

1. Porterville ended its contract with LAC on December 31, 2008.
2. PAC began its operation on January 1, 2009 and used the Porterville Maintenance Yard as a temporary holding facility for impounded dogs.
3. LAC ended its operation as 85% of its operating costs were generated from its contract with Porterville for Animal Control Services.

4. PAC does not currently take cats because they don't have an area set up for
5. On November 1, 2009, the City of Porterville contracted with the City of Lindsay for the use of the Lindsay Animal Shelter. The cost to Porterville for the use of the shelter is \$1.00 per year.
6. On February 1, 2010 the City of Lindsay contracted with the City of Porterville for shelter services. Per contract Lindsay transports its animals to the facility for impound.
7. Lindsay pays the following shelter service fees:

a. Dog or cat	\$30.00 per impound
b. Dog or cat (Quarantine)	\$50.00 per impound
c. Evidence fowl	\$6.00 per day
d. Horse, cow, goat, etc.	Actual cost at market value
e. Protective custody/evidence hold	\$6.00 per day
f. Other evidence hold	Actual cost at market value
g. Dead animal disposal	\$6.00 per animal
h. Veterinary services	Actual reimbursement costs
8. On August 1, 2010 the City of Woodlake contracted with the City of Porterville for sheltering any animals that Woodlake transports to the PAC Facility.
9. Woodlake pays the following shelter service fees:

a. Dog or cat (Litters are counted as one)	\$30.00 per impound*
b. Dog or cat (Quarantine)	\$50.00 per animal
c. Evidence fowl	\$6.00 per day
d. Horse, cow, goat, etc.	\$10.00 per day
e. Protective custody/evidence hold	\$8.00 per day
f. Other animal hold	\$8.00 per day
g. Dead animal disposal	\$8.00 per animal
h. Veterinary services	All incurred costs

*Impounded dogs or cats are held a minimum of 6 days. If an animal is to be held longer than the 6-day minimum there will be an additional charge of \$8.00 per day.
10. PAC is located at 23611 Rd 196, Lindsay, CA, and is open to the public Monday through Friday from 9AM to 5PM, Saturday from 9AM to 4PM and Sunday from 9AM to 3PM.
11. PAC has five full time staff members and a number of volunteers.
12. Volunteers are from a court ordered Sheriff Work Program called Sheriff's Work Alternative Program (SWAP).

13. During the inspection of the PAC Shelter, the Grand Jury observed the following:
 - a. The kennels were remarkably clean
 - b. The dogs were quiet and calm
 - c. Volunteers and staff take the dogs out of the shelter and exercise the animals in a grassy area.
14. All animals brought into the shelter are vaccinated during processing.
15. With the exception of sick, injured and vicious animals, PAC strives not to practice euthanasia.
16. On a daily basis, PAC advertises, in the Porterville Recorder's lost and found section, the animals brought into the shelter. Animals available for adoption are advertised in the pet section.
17. Owners claiming their pet pay a \$20 impound fee plus a daily boarding fee.
18. The cost for adopting an animal is \$70, which includes spay or neuter services and a leash.
19. Some of the animals available for adoption are given to rescue shelters, increasing their chance for adoption.
20. There were two elderly Pomeranians that were not adoptable because of their age and medical conditions. PAC found a pet nursing home type of facility to take these dogs and care for them.
21. The City of Porterville requires all dogs to be licensed. The fees are \$10 per year for an animal that has been neutered or spayed and \$22 for an unaltered animal.
22. PAC is required to file an annual report to the California Department of Health. Some of the information included in the most recent report dated December 31, 2010 includes:

a. Dogs/cats reclaimed by owners	1,227
b. Dogs/cats adopted	358
c. Dogs/cats euthanized	915
d. Dogs/cats died of other causes	66
e. Dogs/cats stolen, escaped, etc. (from the shelter)	55
f. Dogs/cats rescued, transfer to other shelter	621
g. Total animal bites (within the City of Porterville)	28

CONCLUSIONS

The Grand Jury believes that PAC is adequately providing the services needed for animal control in Porterville.

PAC is to be commended for going above and beyond its services by utilizing the press as an aid to reunite families with their pets and advertising pets available for adoption.

RECOMMENDATIONS

1. Incorporate an area at the PAC Shelter for cats.
2. Continue using the press for family reunification and adoption.

RESPONSES REQUIRED

Porterville Animal Control

Porterville Police Department

Porterville City Council

TULARE COUNTY DETENTION FACILITIES

BACKGROUND

The Main Jail (MJ), located in central Visalia, was built in 1962. Most of the males arrested in Tulare County are booked at the MJ. It has the capacity to house 264 individuals, which includes the general population and gang members. As an older facility, it has a linear layout in which the cells are laid out along a central corridor. The layout precludes direct supervision, which requires the staff to regularly patrol the corridors. The MJ does not meet current jail standards. However, should it be closed temporarily it could not be reopened.

Bob Wiley Detention Facility (BWDF) is located north of Visalia and was built in 1987. This newer facility has a layout that permits direct supervision of the inmates. There are nine units, three of which are reserved for females. All female detainees are transported directly to and booked at the BWDF. It has the capacity to house 690 individuals, which includes the general population, gang members, and administrative segregation.

Adult Pre-Trial Facility (APTF) is located north of Visalia and was built in 2001. Like the BWDF, its layout permits direct supervision of the inmates. It was designed to be a primary booking facility and includes its own courtroom. This facility has the capacity to house 384 inmates. The APTF includes an infirmary, which is used for all of the detention facilities.

Men's Correctional Facility (MCF) is located north of Visalia. Using converted World War II barracks, the MCF began operating as a detention facility in 1960. Inmates use one of several programs available, one of which is a substance abuse program. MCF houses inmate workers who can work outside of the facility. The MCF transferred its 290 inmates to the APTF due to the necessity of inspection and possible repair/replacement of antiquated gas lines. It is anticipated that MCF will be reopened in mid 2011.

REASON FOR INVESTIGATION

California Penal Code §919 (b) states "The grand jury shall inquire into the condition and management of the public prisons within the county". The 2010-2011 Tulare County Grand Jury (Grand Jury) received complaints from detention facility inmates.

PROCEDURES FOLLOWED

1. Interviewed relevant personnel

2. Investigated detention facility inmate complaints
3. Obtained and inspected inmate grievance forms
4. Inspected the four detention facilities mentioned in the background
5. Inspected the BWDF cattle and swine facilities
6. Observed the slaughter of the BWDF cattle
7. Inspected the produce farming facility
8. Three members of the Grand Jury recused themselves

FINDINGS

1. A BWDF inmate complained of cockroach/fly infestations. Upon inspection of an inmate cell, the Grand Jury noted the following:
 - a. Inmates are given the opportunity to clean their cells on a daily basis.
 - b. The inmate-inspected cell had days old food, dishes, and utensils stockpiled.
 - c. The cell floor was covered with food and crumbs.
 - d. Each cell unit is fumigated on a bi-weekly basis and if needed is fumigated weekly.
2. An inmate complained the BWDF laundry supplies were inadequate. Clothing sizes were unavailable or dirty and sheets had blood on them. The Grand Jury visited the BWDF laundry and found the following:
 - a. All clothing sizes are available and surplus supplies are on hand.
 - b. Inmates exchange their clothing twice a week.
 - c. Any item, whether it is clothing or bedding, found with blood on it, is disposed of as hazardous material.
3. Inmates from the MCF are used for the BWDFs farming operations.
4. The Grand Jury did a surprise inspection of the BWDF cattle and hog facilities and noted the following:
 - a. Dirty sand in the hog pens is completely removed and replaced with clean sand on a daily basis.
 - b. Both areas were kept amazingly clean and no odors associated with cattle or hogs were detected.
5. The Grand Jury observed the slaughter of the cattle raised at the BWDF. The animals were slaughtered quickly and humanely.

6. On a weekly rotation schedule, five head of cattle or 12 hogs are slaughtered.
7. Inmates from MCF are used for farming produce such as lettuce or cabbage. They also glean or separate the edible and inedible fruit, such as oranges that local area farmers donate to the BWDF. The produce and fruit are used for meals at all County detention facilities.
8. Produce and fruit unfit for human consumption are fed to cattle and hogs.
9. BWDF farming operations have saved the County the following yearly expenditures:
 - a. \$250,000 for both beef and pork
 - b. \$60,000 for produce such as lettuce, cabbage, etc.
 - c. \$107,310 for fruit, for example oranges

CONCLUSIONS

It has been determined by the Grand Jury that the complaints received this year from inmates were unfounded.

Using BWDF inmates to staff the kitchen and MCF inmates for the farming operations provide inmates with job skills, teaches responsibility and saves the County a great deal of money.

RECOMMENDATION

Tulare County try a co-op exchange program with detention farming operations from other counties. Exchanging a high yield crop to those with a low yield crop could save the County additional funds.

REPONSES REQUIRED

Tulare County Board of Supervisors

Tulare County Sheriff

ENFORCING THE RESOURCE MANAGEMENT AGENCY'S CODE ENFORCEMENT

BACKGROUND

The 2009-2010 Tulare County Grand Jury published a final report called "County Missed Opportunity to Collect Revenue". This report was generated because a citizen complained about a Property Owner (PO) installing a seatrain¹ without a Building Permit and the required inspections. This same PO was also operating a trucking business without a Special Use Permit (SUP). Both issues were in violation of Tulare County's Ordinance Code 352.

This same report indicated that the Resource Management Agency (RMA) failed to enforce zoning and ordinance codes.

REASON FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) received a citizen complaint concerning the same PO mentioned in the "Background". The citizen complaint also raised issues with RMA and its failure to enforce Tulare County's (County) zoning and ordinance codes.

PROCEDURES FOLLOWED

1. Interviewed relevant personnel
2. Obtained and reviewed relevant documentation
3. One Grand Juror was recused

FINDINGS

1. An Administrative Hearing (hearing) was held on January 21, 2009. The Hearing Administrator found the PO to be in compliance because a Special Use Permit Application (SUPA) was filed prior to notification of the hearing. Fines in excess of \$7,000 were waived and the PO was instructed to pay an Administrative Fee in the amount of \$270. Unfortunately, the Hearing Administrator did not know the SUPA could not be processed because it was incomplete and was therefore invalid. Prior to the hearing the PO was notified the SUPA could not be processed until the application was filled out in its entirety.
2. Between the January hearing and the hearing mentioned below, the PO did not complete the SUPA process.
3. On December 2, 2009 a second hearing was held. The PO was notified of the hearing and failed to appear. It was ruled that the PO was in violation of the following:

- a. Installation of a seatrail without a Building Permit or required inspections
 - b. Operating a trucking business in an AE-10 Zone without a SUP
 - c. Storage of inoperative vehicles and parts stored outside an enclosed building in an AE-10 Zone
 - d. Accumulation of solid waste in an AE-10 Zone
4. Again the PO was assessed an Administrative fee in the amount of \$270. As of November 2010, the PO had not paid the assessment.
 5. Since the December hearing, RMA has failed to bring the PO into compliance.
 6. An employee of RMA questioned the status of this particular PO and was instructed to **"leave it alone"**.

CONCLUSION

RMA is either unwilling or unable to bring this particular PO into compliance with the zoning laws of Tulare County.

RECOMMENDATIONS

1. Vacate the January 2009 Administrative Hearing decision and assess the PO with all previously waived fines and fees. In addition to the waived fines and fees, assess the PO all the fines, fees and accumulated interest.
2. Interest charges must be included with all assessed fines and fees.
3. Use all means necessary to bring this PO into compliance, including but not limited to use of the Superior Court.

RESPONSES REQUIRED

Tulare County Board of Supervisors

Tulare County Chief Administrative Officer

Director, Tulare County Resource Management Agency

¹ A sea-land cargo container (referred to as a seatrail) is defined as a prefabricated metal structure designed for use as an individual shipping container in accordance with international standards or a metal structure designed and built for use as an enclosed truck trailer in accordance with Department of Transportation standards.
<<http://www.sonoma-county.org/prmd/docs/policies/9-3-6.pdf>>.

RESOURCE MANAGEMENT AGENCY PART 1 TULARE COUNTY'S LACK OF CODE ENFORCEMENT

BACKGROUND

The 2008-2009 Tulare County Grand Jury published a report concerning Tulare County's Code Compliance Division (CCD) of the Resource Management Agency (RMA). At that time a Building and Zoning Inspector was responsible for enforcing the County's Ordinance Codes and the CCD was used as an aid to the Inspector.

The CCD processed all phone and written Ordinance Code complaints and performed the necessary inspections/investigations. In December 2008, there were 1,641 open and active cases. There was approximately \$1.5 million owed to the County for assessed fines, administrative fees, abatement costs, and accrued interest. Some of the fees, fines and interest were waived; however, there is some question remaining regarding the authority to waive fees by staff.

In 2009, the RMA Director claimed the CCD "couldn't pay for itself" and recommended the Tulare County Board of Supervisors (BOS) combine the CCD with the Building Inspection Division. This reorganization eliminated 11 positions; seven of those positions were vacant. It was estimated the County would save \$661,404 during the 2009-2010 fiscal year.

Published reports from several past Tulare County Grand Juries indicated that monies owed for code violations were placed as liens against an owner's property. This appeared to be a common practice as it was easier than trying to collect monies owed. A 2006-2007 Grand Jury Report recommended that clients owing monies be registered with E-OSCAR¹, a web based data furnisher, who reported delinquent accounts to all the major credit reporting agencies. This would have made it difficult for those seeking financial services.

REASON FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) decided to investigate and report on the restructured RMA, its ability to investigate code complaints and the collection of fines and/or fees owing for code violations.

PROCEDURES FOLLOWED

1. Interviewed relevant RMA personnel
2. Obtained and reviewed relevant documents
3. One Grand Juror was recused

FINDINGS

1. On May 1, 2008, RMA signed a contract with a local collection agency. This contract did not include a time period renewal clause. It did stipulate that a 30-day written notice to terminate services from either party was required.
2. As of March 1, 2011, a written notice of termination had not been served upon either of the contracted parties.
3. Documentation dated September 28, 2010 showed that **in 2008 there were 90 accounts sent to the collection agency.** Value of these accounts was \$580,958.74. Of this amount, \$39,855.15 was collected. Of the 90 accounts opened, 16 were closed (paid in full).
4. Documentation dated September 28, 2010 showed that **in 2009 there were 12 accounts sent to collections** totaling \$67,626.79; \$5,196.97 was collected and one account was closed as paid in full. **There were no accounts sent for collection in 2010.** However, there was \$706.50 collected on an account from a prior year.
5. During an interview with an upper management RMA employee, the following was discovered:
 - a. It was not known how much time was being spent on code compliance issues.
 - b. Complaints were being signed off without looking at the paperwork.
 - c. Informational data, monthly reports, etc. were not requested or given to supervisors.
 - d. At the time of the restructuring, the total amount of monies owed for code violations was not known to this employee.
 - e. As of November 2010, the total balance of monies owed for code violations was not known to this employee.
 - f. Nothing is being done at this time to collect any monies due.
 - g. No consideration has been given to any type of collection method.
 - h. This employee had no knowledge of the contracted collection agency.
 - i. The last Administrative Hearing (Hearing) was held in December 2009.
 - j. Hearings were expected to resume in March 2011; however, a Hearing scheduled for March 3, 2011 was cancelled.
6. **As of November 19, 2010, according to an RMA report, total fines plus interest owed to the County was \$3,058,241.46, administrative fees were \$19,160, and the amount received was \$610,431.54, leaving a balance due of \$2,456,383.77.**
7. As of February 1, 2011, there were seven full time and two part time Zone and Building Inspectors. Not one had specific training for code violations or code compliance.

8. Between January 2, 2010 and December 30, 2010 RMA received 457 code complaints. The status of those complaints was as follows:
 - a. 115 had verified code violations
 - b. 105 had no violations
 - c. 46 were duplicate complaints
 - d. 20 were not applicable as they belonged to other area agencies such as a city
 - e. Between June 29 and December 30, 2010 RMA **had not investigated/inspected 200 of the 457 complaints received.** Out of those 200 complaints, 53 were anonymous complaints and 13 were of unknown origin.

9. A partial list of information recorded in a ledger of accounts (ledger) owing fines include:
 - a. Violation number
 - b. Violation status
 - c. Parcel number
 - d. Client (actual or business name)
 - e. Date of Fine (Hearing)
 - f. Amount of fine
 - g. Total payments
 - h. Balance due

10. Some of the information concerning two clients recorded in the ledger of accounts includes the following:
 - a. Client Number One: the parcel number recorded is 888-888-88, client name recorded is "COUNTY VIOLATOR", Date of Fine is 1/1/2006, fine amount is \$2,500, no payments and the Balance Due is \$4,715.07. **There is no such parcel number, no such client name and the Date of Fine (Hearing) was not 1/1/2006 (New Years Day)!**

 On March 24, 2011, RMA provided a revised ledger that "COUNTY VIOLATOR" is actually an example of how to fill out the ledger. **This example continues to accrue interest on the ledger.**
 - b. Client Number Two: client name is recorded as "Tulare County Deputy Sheriff", Date of Fine (Hearing) 07/17/2007, fine amount is \$270. The violations were corrected; however, there have been **no payments toward the balance due, and no interest has been charged!**

11. The ledger, mentioned in Findings 9 and 10, is one example of inaccurate recorded information. A second is a file log on Areas one through eight and Redevelopment. One parcel recorded in Area six, has a Site Inspection/Confirmation date of 12/30/2011 and the Courtesy Notice Mailed is 1/20/2011. This information as recorded indicates a Courtesy Notice was mailed 11 months prior to the inspection/confirmation.

12. The file log mentioned in Finding 11 also indicates that after the CCD was consolidated with the Building Inspection Division, a Courtesy or First

Notice would be sent to the property owner, up to 18 months **after** the violation had been inspected/confirmed.

13. RMA partially agreed with the 2006-2007 Grand Jury's E-OSCAR recommendation mentioned in the Background, fourth paragraph. Rather than use E-OSCAR, RMA used a collection agency to report delinquent accounts as the collection agency has the ability to report to all the credit reporting agencies.

CONCLUSIONS

RMA made a recommendation to the Tulare County Board of Supervisors (BOS) to consolidate the Code Compliance Division with the Zone/Building Inspectors. Data supporting RMA's position on the CCD had not been submitted to the BOS.

In December 2008, \$1.5 million was owed to the County. Since the mid-year 2009 consolidation, monies owed to RMA have ballooned to more than \$3 million.

It is obvious, since the consolidation, RMA is not doing the job as intended. RMA is:

- a. **not** attempting to collect monies due,
- b. **not** using the contracted collection agency for past due accounts,
- c. **not** inspecting properties or serving notice on property owners for code violations,
- d. **not** having Administrative Hearings,
- e. **not** charging interest on several accounts,
- f. **not** attempting to bring confirmed past violating property owners into compliance (example, see this year's Grand Jury Report "Enforcing the Resource Management Agency's Code Enforcement").

The County is losing money and is paying RMA employees for a job that is not being accomplished.

RECOMMENDATIONS

1. Separate the Code Compliance Division from the Zone/Building Inspectors and reinstate it to its former position.
2. Restructure the Resource Management Agency in such a way that supervisors are able to and doing the jobs they are employed to do.
3. Clean up the database and correct the ledgers being used for code compliance.
4. Immediately restart the monthly Administrative Hearings. Hearings may be needed twice a month until such time that RMA has caught up with its duties.

5. Immediately begin the process of bringing property owners into compliance. Should the need arise that the Court is used, property owners be held accountable for the necessary expenditures.
6. The Board of Supervisors and the Chief Administrative Officer immediately form an independent task force to aid and monitor RMA's performance.
7. Immediately begin submitting past due accounts to the contracted collection agency.
8. In addition to using the contracted collection agency, report past due balances to E-OSCAR.
9. Use Superior Court to obtain a judgment for monies due.
10. Do not place liens against properties for monies due until **exhausting all other** remedies for collection as this has proven not to be an effective collection method.

RESPONSES REQUIRED

Tulare County Board of Supervisors

Tulare County Chief Administrative Officer

Director, Tulare County Resource Management Agency

¹ E-OSCAR, www.e-oscar.org/index.php is a web-based, Metro 2 compliant, automated system that enables Data Furnishers (DFs), and Credit Reporting Agencies (CRAs) to create and respond to consumer credit history disputes. CRAs include Equifax, Experian, Innovis and TransUnion, their affiliates or Independent Credit Bureaus and Mortgage Reporting Companies. E-OSCAR also provides for DFs to send "out-of-cycle" credit history updates to CRAs.

RESOURCE MANAGEMENT AGENCY PART 2 PERMISSION GRANTED

BACKGROUND

Tulare County Resource Management Agency (RMA) is composed of a large number of functional divisions. RMA's current organization resulted from consolidations carried out during 1996 and 1997. The Permit Center within RMA oversees discretionary planning projects, use and building permits, as well as zoning and code compliance. The Permit Center processes permit applications associated with development of commercial, industrial, agricultural, dairy, and public properties along with residential building permits.

REASON FOR INVESTIGATION

Media reports of a Special Use Permit application that had been in process since August 2002 attracted the attention of the 2010-2011 Tulare County Grand Jury (Grand Jury). This application was finally resolved favorably in September 2010; however, the Grand Jury decided to investigate the state of the permitting backlog in RMA, the management tools being used to track applications and reporting status to the RMA Director, the County's Chief Administrative Officer (CAO), and as needed, the Board of Supervisors (BOS).

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Requested and reviewed relevant documents and policies

FINDINGS

1. Despite repeated requests to several RMA management employees, the Grand Jury did not receive an adequate report of the backlog of in-process permit applications. The reports received on March 15, 2011, did show applications in-process in 30 day increments up to 90 days, but only a number at over 90 days without any indication whether it was days, weeks, months, or years beyond 90 days. The over 90 days category contained the largest number.
2. Interviews of the same management employees yielded only estimates of the number of open applications and of how long some of the projects might have been open. One employee estimated there are over 300 open projects with about 5 over one year old. The report mentioned in finding number one shows 1,601 pending permits, 1,389 of which are over 90 days old.

3. **There is no monthly, quarterly, or annual reporting process that rolls up project status and performance from the planners through management to the RMA Director or the CAO. The Grand Jury also found no evidence of discrete goals for the Permit Center performance at any level in RMA.**
4. The engineers whose projects make up the Permit Center's principle customer base have in recent years held a negative view of the Center's performance. This view appears to be changing positively as new management is soliciting their input and making improvements to the process.
5. The permitting process requires the participation of many outside agencies. The agencies involved are from state, county, municipal and federal jurisdictions. The Grand Jury found that the outside agencies generally provide timely support and do not normally impede the process.
6. Project planners are required by the Assessor's Office to request, in written form, when they require information from the tax rolls or parcels in the Assessor's database. This may add up to two weeks to the permit processing time.
7. Recent BOS approval of proposals to abolish the Office of Zoning Administrator and the Site Review Committee, transferring their duties and authority to the Tulare County Planning Commission, is a positive sign that RMA is seeking opportunities to streamline the permitting processes.

CONCLUSIONS

The Permit Center is not in control of the management practices, management tools, and status information necessary to produce and maintain a process that is both reliable and predictable.

The absence of accurate project status and performance information makes staffing and supporting the process a guessing game at best. When building and development activity returns to the levels seen prior to 2008, the Permit Center will not be able to meet the needs of Tulare County's people in a timely or satisfactory manner unless some real changes are made to its management practices.

RECOMMENDATIONS

1. Cleanse the permit database so that management has an aged database composed only of permit applications that are known to be active with an expectant customer participating in the processing. Archive the remaining records until some event stimulates their return to the active project database.
2. Use the active project database to establish a baseline for setting performance goals and objectives for participants at each level of RMA, including the RMA Director. Performance measurements against these goals and objectives must be a significant portion of each individual's annual performance review.

3. Institute a monthly reporting process that rolls up the Permit Center's project performance and backlog status from the planner level through RMA management to the CAO. At a minimum, the reports should contain the number of projects closed, the number opened, and the total in active backlog. Any projects older than 90 days be profiled with the reason for delay identified for escalation to management.
4. Allow RMA planners free access to the Assessor's database so they can access the data they need to do their jobs without the delay inherent in the current practice. RMA planners have the same confidentiality mandate as the personnel in the Assessor's Office.
5. Employ process mapping or some similar technique to break down the various tasks associated with the permitting process into manageable pieces that can be analyzed for opportunities to streamline the process by modifying, linking, or eliminating tasks. This type of exercise should be ongoing and employ the knowledge and experience of RMA employees who actually process permits not an outside consulting firm.

RESPONSES REQUIRED

Tulare County Board of Supervisors

Tulare County Chief Administrative Officer

Director, Tulare County Resource Management Agency

RESOURCE MANAGEMENT AGENCY PART 3 SAFE ROUTES TO SCHOOLS

BACKGROUND

Tulare County's Resource Management Agency (RMA) is responsible for ensuring that streets are properly marked for school safety in outlying rural areas of the county. Generally, signs are posted along the streets notifying motorists that a school zone is being approached. Often, signs and crosswalks are painted in the street to reinforce the fact that a school zone is present, and to provide safe access to and from school for the County's youth.

REASONS FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) investigated school street/road signage in areas adjacent to rural schools in order to determine that safe passage is available to Tulare County youth to and from schools.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Visited rural school sites
3. Reviewed relevant documents

FINDINGS

1. There are over 40 rural schools in the County of Tulare, i.e., schools that are located in School Districts with three or less schools in the District. Unlike schools located in cities or smaller communities where street maintenance is taken care of by city streets or public works departments, street signage for rural schools is overseen by RMA.
2. In school zones, signs are usually painted on the street asphalt saying "SLOW SCHOOL XING". In the rural areas, 74% of schools had these signs painted on the street surface. Of those schools, 75% of the signage was degraded.
3. Crosswalks painted on the street are needed for safe passage of students to and from schools. 79% of the rural schools have crosswalks painted at the school, or at the intersection nearest to the school. Of the schools that have crosswalks, 57% of them are degraded.
4. Only 55% of the schools have a sign for pedestrian and/or school children crossing (universal symbol of a woman with a child and a crosswalk).
5. Stop signs are needed at times near schools, especially at intersections when

the children are crossing crosswalks to and from school; however 42% have no stop signs.

6. Traffic signals are not warranted at most rural schools. Traffic signals that stop traffic when no children are present are costly and unnecessarily slow traffic. There is only one rural school (Liberty Elementary) that has a traffic signal adjacent to the school.
7. There are no lighted crosswalks or lighted stop signs at any of the rural schools.
8. Speed limits are 25 miles per hour when children are present. This speed limit is mandatory in all "school zones". Not all schools have needed signage. Signs are not reflective and visibility is sometimes limited in rural areas due to adverse weather conditions. 24% of rural schools are not posted with school zone speed limit signage.
9. Schools are generally posted with a school zone sign (universal symbol of a mother walking with a child). 21% of the rural schools are not posted with the "School Zone" sign or symbol. A majority of the signs that are posted are the older style sign which is not reflective.

CONCLUSION

Signage is lacking at most of the rural schools. This includes stop signs, signs painted on the street, posted signage and crosswalks. Maintenance of existing signage is sometimes lacking.

RECOMMENDATIONS

1. RMA paint "SLOW SCHOOL XING" on the streets that currently don't have this signage and repaint signage that is old and faded.
2. Paint crosswalks at or near all schools. Specifically, install a crosswalk at Carl Smith Middle School at the eastern corner of the school. Repaint the crosswalks that are old and faded.
3. Install lighted crosswalks at streets where traffic is heavy or the speed of traffic is higher.
4. Post pedestrian and/or school children crossing signs at all rural schools.
5. Post reflective speed limit signs at all rural schools where they do not currently exist.
6. Post reflective school zone signs at all rural schools where they do not currently exist.
7. Install stop signs at street intersections abutting schools.

REQUIRED RESPONSES

Tulare County Board of Supervisors

Tulare County Chief Administrative Officer

Director, Tulare County Resource Management Agency

RESOURCE MANAGEMENT AGENCY PART 4 COUNTY LEASED AND OWNED BUILDINGS

BACKGROUND

Departments of the County of Tulare offer programs and services from buildings throughout the County that are either leased or owned by the County. These buildings are located within 12 geographical locations (cities and small communities). Most of the leased buildings are owned by private individuals, corporations, partnerships or family trusts.

REASONS FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) investigated the owned or leased buildings of the County of Tulare for the following reasons:

1. Leases often are an expensive fixed expense for any organization. This is especially true for the County of Tulare who is faced with continuing severe budget constraints.
2. The Grand Jury elected to explore the costs, uses and ownership details for the buildings leased and owned by County agencies.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Visited all County leased and owned buildings in Tulare County from a County provided list
3. Reviewed relevant lease documents
4. Researched available ownership information from the County Assessor's Office

FINDINGS

1. According to the County's list, there are 56 buildings leased and 22 owned by the County. The list as it is currently compiled is not complete. Some of the buildings are missing from the County's list. For instance, the Sheriff/Coroner building located at 1205 N. "O" Street, Tulare and facilities owned near Sequoia Field are not on the current list.
2. Some of the rents for leased buildings are extremely favorable to the County of Tulare. For example, the Strathmore, Woodlake and Traver Sheriff Auxiliary buildings located respectively at 19628 Orange Belt Drive, Strathmore; 20389 Avenue 360, Woodlake; and 4075 Merritt Drive, Traver are leased at no cost to the Sheriff's Department and/or County of Tulare because of the benefit to the

communities. This is true for the Lindsay and Woodlake Senior Centers along with several other buildings. The Fire Administration Building located at 907 W.

Visalia Road leases space from the City of Farmersville for a reasonable cost, an arrangement that is favorable to the City, County and ultimately the taxpayer.

3. Over \$550,000 per month (approximately \$6.6 million per year) is spent on fixed leases in the County of Tulare. Several building leases are extremely favorable to the building owners. While office buildings in the County of Tulare can generally be leased at a rate of \$1.15 to \$1.20 per square foot or less, the County of Tulare is spending over \$1.35 per square foot on over 25% of its buildings. The County is renting a building in Tulare for over \$1.60/sq. ft. Some leases have automatic escalator clauses causing the County of Tulare to automatically pay an increase of 2-3% more each year. With private businesses, this is not the case.

In the private sector, only the newest buildings in the best locations, and offices equipped for medical use rent for \$1.35 per square foot or higher. Because there is so much available unoccupied office space within the County, office owners are competing for tenants. The cost per square foot is actually decreasing because of the surplus vacant office space.

4. The County expends large sums of money on building improvements. These improvements belong to the owner upon the termination of the leases. Improvements include things such as new roofs, new carpet, air conditioning systems, wiring for computers, etc. Hundreds of thousands of dollars are spent on buildings not belonging to the County. This is usually a building owner's expense, not a tenant's expense.
5. Many of the leases from the County are in a "pending" or "holdover" status. This means that the lease terminated at an earlier date, yet the County agency is still renting the facility.
6. The terms for leases are varied. Some are year-to-year (the County has an option to extend the lease for an additional year) and some are month-to-month. Some leases have a 5-year term and 5-year option. Some leases are up to 20 years (for example, the Mental Health building located at 303 E. Olive, Porterville).
7. Some of the offices leased through the County are open only 1 hour per day (i.e., Agriculture Office, 250 Antelope Street, Ste. L, Woodlake).
8. Several buildings owned by the County of Tulare are vacant. These include buildings in Dinuba (920 S. College) and Visalia (210 N. Court and 100 E. Center).
9. The County's property list further shows that some properties leased or owned by the County are at taxpayer expense, but are provided to nonprofit or for profit

organizations that are not County agencies or departments. Although there are many worthwhile nonprofit organizations within the county, most nonprofit organizations pay their own rent. For example, the County of Tulare is subsidizing the operations of the Senior Gleaners by allowing the County owned building at 682 S. Main Street, Porterville to be used by this organization. The

Tulare Athletic Boxing Association is another example whereby the County owned building located at 1311 S. "O" Street, Tulare is being provided for this organization. This also includes Blue Cross Anthem, office of former Assemblyman Bill Maze, Kings/Tulare Area Agency on Aging (KTAAA), office of Louis Medina Jr., and the National Council on Alcoholism. Some buildings, being paid for by the County, are for the Housing Authority that has its own operating funds for services, yet the County is paying for two of its facilities (628 and 546 E. Tulare Avenue, Visalia).

10. The County leases over 450,000 square feet of office and warehouse space. Some of the space used by the County is for warehousing documents.
11. According to the Secretary of State website (<http://www.sos.ca.gov/>), some of the entities that the County is leasing from are "merged out" or cancelled corporations.

CONCLUSION

Tulare County is overpaying on much of the leased office and warehouse space within the County. This is especially true for the Health and Human Services Agency leased facilities located in the cities of Visalia, Lindsay and Porterville.

RECOMMENDATIONS

1. Tulare County negotiate more favorable leases, not to exceed the median rents within the county.
2. All Tulare County leases be brought current.
3. Tulare County negotiate for the owners to pay for fixed asset improvements for their buildings such as carpeting, lighting, computer wiring, paint and other improvements. These are assets to the owner not the lessee.
4. Tulare County consolidate its operations into less overall square footage to reduce its fixed costs. This is especially true with warehouse space. Warehousing of documents can be done in vacant buildings owned by the County.
5. Review all non-essential rent subsidies to nonprofit and for-profit organizations.
6. Update Tulare County's list of buildings to include **ALL** leased and owned facilities.

7. Consolidate Tulare County operations that do not need full-time offices. The Agriculture Office in Woodlake is located within 100 feet of another County office (WIC). These two offices could be combined for more effective use of space.
8. Repair and use vacant office buildings, or sell them to private individuals. No buildings should be retained by the County that are not intended for future use.

REQUIRED RESPONSES

Tulare County Board of Supervisors
Tulare County Chief Administrative Officer
Tulare County Health and Human Services Agency
Tulare County Sheriffs Office
Tulare County Department of Agriculture
Tulare County District Attorney's Office
Tulare County Fire Department
Tulare County Probation Department
Director, Tulare County Resource Management Agency

RESOURCE MANAGEMENT AGENCY PART 5 HOUSING ELEMENT REVIEW

BACKGROUND

The State of California requires County and local governments to complete a General Plan that governs the projected needs of its residents. One of the components of a General Plan is the Housing Element. The Tulare County Resource Management Agency (RMA) is responsible for its preparation. The Housing Element governs such topics as land availability for housing, housing costs, housing for all income groups, renter and owner occupied housing, multi-family and single family housing, and housing for special needs populations. In order to provide an incentive for county and local governments to comply with the requirement to complete the Housing Element, the State awards points on grant applications to those jurisdictions that have an approved Housing Element. These points often determine which entities receive grant funding as the process for obtaining grants is highly competitive.

REASONS FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury investigated the status of the Housing Element for the following reasons:

1. The Housing Element for the County of Tulare was due in 2009 and still is not completed. Prior to 2009, the County was regularly awarded grant funds from the State Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME) and CalHOME Programs. Since 2009, the grants awarded have dropped substantially.
2. During the August 10, 2010 Board of Supervisors meeting, a law firm threatened litigation if the County of Tulare approved a development project, citing the fact that the County was not in compliance with its Housing Element. The law firm stated that compliance was required prior to action being taken by the Board of Supervisors on every development project.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Reviewed relevant documents
3. One Grand Juror was recused

FINDINGS

1. RMA is not in compliance with the State's requirements regarding the preparation of its Housing Element. The document was due in 2009 and has yet to be completed.

2. Completion of the Housing Element affects the "rating and ranking" of the County's application for State CDBG, HOME and CalHOME Program funds.
3. Each year, although the amount changes from year to year, the State has awarded the County: CDBG funds in an amount of approximately \$1-2 million; HOME funds in the approximate amount of \$800,000 to \$3 million (depending on the project or program); and CalHOME funds in the amount of \$600,000 to \$1 million. From 2000 to 2007, the County received an average of \$1 million per year from these sources. These grant funds are used primarily for housing and infrastructure improvements in lower income neighborhoods.
4. Because the County is not in compliance with the State's Housing Element requirements, the County has lost the opportunity to be competitive with these grant awards. The County was not granted a \$70,000 CDBG Technical Assistance grant, and a CalHOME grant of \$1 million. These funds could have been used to facilitate improvements in low income neighborhoods, such as water wells, community facilities (i.e., senior centers, daycare centers, etc.), sewer systems, and housing assistance to low income families.

CONCLUSION

RMA needs to complete its Housing Element in order to successfully compete for grants at the State level.

RECOMMENDATION

RMA assign staff or hire a consultant to complete the Housing Element.

REQUIRED RESPONSES

Tulare County Board of Supervisors
Tulare County Chief Administrative Officer
Director, Tulare County Resource Management Agency

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TULARE COUNTY VETERANS MEMORIAL DISTRICTS

BACKGROUND

Tulare County (County) Veterans Memorial Districts (Districts) were established between 1948 and 1954. The Districts are governed by the Military and Veterans Code §1170 - 1259.

A five person Board of Directors governs each District. Of the five Board Members, three must be veterans.

In addition to the general powers established by the Board of Directors, the Military and Veterans Codes have specific governing powers that may be followed. Some of those powers are as follows:

- § 1191(a)(1) Provide and maintain memorial halls, assembly halls, buildings, or meeting places...
- § 1191(a)(3) Purchase, construct, lease, build, furnish, or repair halls, buildings, meeting places, and facilities upon sites owned or leased by the district or made available to the district...
- § 1191(a)(6) Sell or lease any district property to the highest responsible bidder, as determined by the board, except as provided by § 1191.3...

There are currently fourteen Districts within the County of Tulare:

Dinuba	Porterville	Three Rivers
Exeter	Sequoia	Tulare
Ivanhoe	Springville	Visalia
Lindsay-Strathmore	South Tulare County	Woodlake
Orosi	Terra Bella	

South Tulare County Memorial District is comprised of the following towns, each of which has one Memorial facility: Alpaugh, Earlimart, Pixley, Richgrove and Tipton.

REASON FOR INVESTIGATION

The 2010-2011 Tulare County Grand Jury (Grand Jury) received a citizen complaint concerning the lack of concise rules and regulations for conducting District business. The Grand Jury discovered additional issues, some of which are serious and need to be addressed in this report.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Attended Memorial District Board meetings
3. Obtained and reviewed relevant documents

4. Visually inspected each District building

FINDINGS

1. There are 14 Districts in the County. Of the 14 Districts, 12 have one Memorial building (building), the Lindsay-Strathmore District has buildings in Lindsay and Strathmore and the South Tulare County Memorial District has buildings in Tipton, Earlimart, Pixley, Alpaugh and Richgrove.
2. Currently there are only eight Districts that have veteran groups regularly utilizing the facilities. They are Springville, Porterville, Exeter, Visalia, Tulare, Oroshi, Ivanhoe and Dinuba.
3. Woodlake is used by the veterans only ONCE a year for an event which is attended by veterans County wide.
4. There are several Districts that serve only as community buildings, as veterans no longer use these facilities.
5. There are some Districts that lease their building to nearby schools. Those schools pay a nominal fee for the building's use.
6. Several Districts do not have enough board members to adequately govern the facilities and have canceled most of their meetings. Those Districts are conducting District business without majority board approval and are in violation of the Military and Veterans Code §1199 (example: Sequoia Memorial District has had one meeting within the past two years). This same District has not rented their facility to anyone in over two years.
7. The Lindsay/Strathmore Memorial District has not handled its own business in over ten years. A Certified Public Accountant (CPA) is paid to do this job. Board members do attend their meetings; however, the CPA conducts the meetings and makes recommendations to the board for appropriate action.
8. Not all of the requested documents received by the Grand Jury were up to date i.e. agendas, minutes, and audits.
9. Most of the Districts do not know how to properly complete a meeting agenda. Most of the Districts did not have the required language of the California Government Code §54957.5¹, (also known as SB343) listed on their meeting agendas. Most agendas do not have the required language of the California Government Code §54954.2(a)(1)².
10. Attending several different District meetings, the Grand Jury noticed that an American Flag was not displayed in the meeting room and there was no flag salute prior to starting those meetings. There are a few Districts that do have the flag on display; however, meetings still began without saluting the flag.

11. There are several successful Districts and their success may be based upon location, community participation (facility bookings), décor, etc. Several Districts are **failing** for many of the same reasons as stated above.
12. Having two facilities, the Lindsay/Strathmore District is one example of a failing District. During the past year, the Lindsay building has only been used twice for board meetings, has not been rented out and is in serious disrepair. The Strathmore building while used more often for meetings, does occasionally rent to an outside source and is also in serious disrepair.
13. Another failing District is the Ivanhoe Memorial District. The facility is not ADA (American Disabilities Act) code compliant and the parking lot is in serious disrepair. Ivanhoe recently received a \$48,000 grant plus an additional \$26,436 in District funds for some facility improvements and will be brought into compliance with the ADA. Due to gang related issues, the community is reluctant to rent the District facility.
14. Property tax revenues subsidize all of the Districts and none of the Districts would be able to survive without it.
15. For the fiscal tax year 2009-2010, the Districts received the following property tax revenues:

Dinuba Memorial; \$56,854	Lindsay-Strathmore Memorial; \$97,300
Exeter Memorial; \$170,575	Orosi Memorial; \$33,000
Ivanhoe Memorial; \$22,197	Porterville Memorial; \$232,704
Sequoia Memorial; \$18,200	South Tulare County Memorial; \$258,704
Springville Memorial; \$62,519	Terra Bella Memorial; \$51,407
Three Rivers Memorial; \$42,881	Tulare Memorial; \$379,193
Visalia Memorial; \$121,240	Woodlake Memorial; \$60,206
16. In 2010 the State claimed economic hardship caused by Federal budget cuts and **borrowed** money from the wealthiest Districts. The monies borrowed are to be repaid to the District by the year 2013.

CONCLUSIONS

Some Districts are receiving tax money to maintain buildings that no longer serve a useful purpose for the veterans or the community.

Many facilities are more than 50 years old and are deteriorating faster than the District's ability to maintain them.

There are several Districts that do not have the required number of board members to establish a quorum. This has resulted in meetings being cancelled. Financial transactions are being done without board approval or participation.

RECOMMENDATIONS

1. Districts condemn, sell, or cancel their leases for facilities that are no longer in use, redirect tax money and take whatever action necessary to dissolve the District.
2. Buildings that serve a useful purpose for the community remain open even though they no longer hold veteran events.
3. All District Board members attend any voluntary special district training opportunities they can find including the series of Government trainings that are sponsored by the Board of Supervisors. Training materials that are presently available on the Board of Supervisor's website be reviewed by all board members.
4. All District agendas include the required language of the California Government Codes §54957.5 and §54954.2(a)(1).
5. Although the Grand Jury recognizes that having and saluting the flag are not legal requirements, all Districts adopt a policy of displaying and saluting the flag.

RESPONSES REQUIRED

Tulare County Board of Supervisors
 Tulare County Chief Administrative Officer
 Dinuba Veterans Memorial District
 Exeter Veterans Memorial District
 Ivanhoe Veterans Memorial District
 Lindsay-Strathmore Veterans Memorial District
 Oroquieta Veterans Memorial District
 Porterville Veterans Memorial District
 South Tulare County Veterans Memorial District
 Springville Veterans Memorial District
 Terra Bella Veterans Memorial District
 Three Rivers Veterans Memorial District
 Tulare Veterans Memorial District
 Visalia Veterans Memorial District

¹ California Government Code §54957.5(b) (2) requires designating the location where these records will be available on agendas of "all meetings of the legislative body of that agency".

² California Government Code §54954.2(a) (1) If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability...

Citizen Complaints

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

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

Submission of Complaint

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

Content of Complaint

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

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

Confidentiality

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

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

Citizen Complaint Form

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

Tulare County Grand Jury

5963 So. Mooney Blvd.

Visalia, CA 93277

Phone: (559) 624-7295

Fax: (559) 733-6078

Date: _____

1. YOUR PERSONAL INFORMATION:

Name: _____ Res. Phone _____

Res. Address (City/Zip) _____

Work Location _____ Bus. Phone _____

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

Name/Agency: _____

Location or Address: _____

Phone: _____ Person in Charge (if agency): _____

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

Agency and Location

Approximate Date of Contact

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

(Attach Additional Sheets if Necessary)

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

6. PERSONS YOU THINK SHOULD BE CONTACTED:

Name and Occupation: _____

Address: _____

Reason to Contact: _____

Name and Occupation: _____

Address: _____

Reason to Contact: _____

Name and Occupation: _____

Address: _____

Reason to Contact: _____

7. ACTION WHICH YOU BELIEVE WE SHOULD TAKE:

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

DUTIES OF THE CIVIL GRAND JURY

Civil Grand Jurors serve a one (1) year term from July 1st through June 30th. The jury panel consists of nineteen (19) persons who are assigned to various committees plus three (3) alternates. It is understood that Civil Grand Jurors may be absent for reasonable periods for vacations. During your term as a Civil Grand Juror you would be excused from trial jury service in the State Courts.

The Civil Grand Jury is a time-honored component of our Anglo-American legal system. Civil Grand Jurors are selected citizens of the county who are expected to exercise sound judgment in reviewing and commenting upon the actions of governmental agencies.

Essentially, the Civil Grand Jury operates as an investigative agency performing a two-fold function. First, the Civil Grand Jury has powers and duties with respect to the oversight of public offices, officers, and transactions. Designated State and all County and special District agencies that serve Tulare County are routinely reviewed and critiqued by the Civil Grand Jury in its annual and interim reports.

Secondly, the Civil Grand Jury has powers and duties with respect to inquiry into possible public offenses, misconduct in office by public officers and determining whether to return indictments charging the commission of felonies.

The 2011-2012 Tulare County Civil Grand Jury selection process will be conducted May - June 2011. The process involves completing this questionnaire and being interviewed by the designee of the Presiding Judge of the Tulare County Superior Courts. After selection, the designee of the Presiding Judge will further instruct jurors of their duties. Throughout its term, the Civil Grand Jury may request advice on legal matters from the District Attorney and County Counsel.

2011 – 2012

TULARE COUNTY CIVIL GRAND JURY QUESTIONNAIRE

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

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

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

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

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

- Check one: () I am interested in serving on the Tulare County Civil Grand Jury for the fiscal year **2011-2012** and I understand the time commitment required
- () I am unable to serve on the Grand Jury in **2011-2012**
- () I am unavailable at this time, but would like to be considered for term **2012~2013**

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

IF QUALIFIED, please continue and complete the questionnaire, returning it in the pre-paid envelope provided.

TULARE COUNTY GRAND JURY REPORT 2010-2011

CALIFORNIA RULES OF COURT, Rule 10.625, regarding certain demographic data relating to regular grand jurors.

{Please check the appropriate box to the following}

(A) Age range, please check the appropriate box: ☐ 18-25 ☐ 26-34 ☐ 35-44 ☐ 45-54 ☐ 55-64 ☐ 65-74

☐ 75 and over (B) Gender: ☐ Male ☐ Female

(C) Please indicate your ethnic origin by circling one of the following (may select more than one):

☐ American Indian or Alaska Native ☐ Asian ☐ Black or African American ☐ Hispanic/Latino ☐

Native Hawaiian or other Pacific Islander ☐ White ☐ Other (please specify)_____

☐ Decline to Answer

Place of Residence by Supervisorial District: ☐ District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5

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

PLEASE PRINT LEGIBLY

1. Full Name: _____ Date of Birth: _____
(First) (Middle) (Last)

2. Address (Phys.): _____ City: _____ Zip +4: _____

Address (Mail): _____ City: _____ Zip +4: _____

Residence Phone: () _____ Business Phone: () _____

Cell Phone: () Fax Number: ()

Email Address: _____

3. Occupation:

Employer: _____

If retired, previous occupation

4. Can you afford the time required to be a Civil Grand Juror (approximately 20 hours per week)?

If not, briefly state why not:

5. Do you have any physical or mental condition which would interfere with your ability to function as a Civil Grand Juror?

Juror? _____ If yes, explain briefly _____

What accommodations would the Court need to provide to accommodate your physical or mental impairment?

6. Education (Circle highest grade completed):

6 (or less) 7 8 9 10 11 12 College: 1 2 3 4 5 6 7

Name of schools attended and degrees or certification attained:

7. Clubs or organizations: List any civic, service organizations or any volunteer work to which you belong.

8. Spouse / Domestic Partner Name: _____
 Occupation: _____
 If retired, list previous occupation you retired from _____
 Employer: _____
9. Are you or any immediate family member an appointed or elected public officer of any public agency? _____
 If yes, explain: _____
10. Are you currently involved in any litigation (law suits) in this county? _____
11. Are you or any of your immediate family members employed by the County of Tulare or any school district within the county? _____
 If yes, where? _____
12. Do you have any significant problems reading or understanding the English Language? _____
13. Do you have any suggestions, comments or other matters you would like to bring to the judges attention in connection with your application? _____
14. Please tell us about any special skills or abilities that you have which the judges should know about in considering your application? _____

15. Please tell us why you are interested in serving on the Tulare County Civil Grand Jury. (Please attach additional pages as needed)

16. Describe any background experience or skills you have which would be helpful to grand jury service (i.e., computer skills, leadership skills, or experience writing/editing reports, working in groups, or conducting investigations or interviews.)

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

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

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

Or Fax to: (559) 737-4290

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

TULARE COUNTY GRAND JURY REPORT 2010-2011

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

Signed: _____

Date: _____

PLEASE RETURN THIS QUESTIONNAIRE NO LATER THAN: April 29, 2011

Tulare County Grand Jury
Government Plaza
5963 South Mooney
Visalia, California 93277
Phone: (559) 624-7295
FAX (559) 733-6078
E-MAIL: Grnd_jury@co.tulare.ca.us
WEBSITE: www.co.tulare.ca.us

