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Superior Court of California
County of Tuolumne

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2018-2019 Tuolumne County Civil Grand Jury Continuity Report

Review of Responses to the Tuolumne County 2017-2018 Civil Grand Jury Report

Summary

The 2017-2018 Tuolumne County Grand Jury issued its final report on June 21, 2018. The report consisted of six investigative reports.

California Penal Code §933 requires elected officials or agency heads to respond within sixty days of the issuance of a Grand Jury report, when a response is required. Governing bodies are required to respond within ninety days.

Elected officials and government agencies must respond to recommendations made in Grand Jury reports indicating their agreement or disagreement with those recommendations, and the reasons and action taken with regard to the recommendations. These responses are to be sent to the presiding judge of the Superior Court. The Grand Jury is responsible by law to ensure that each response is submitted within the required time frame and is otherwise compliant with California Penal Code §933.

The 2018-2019 Tuolumne County Grand Jury has received and reviewed all responses submitted to the 2017-2018 Grand Jury's investigative reports. Most agencies responded by either accepting and agreeing with the recommendations, stating that they had already been implemented, or had plans for implementation as required by California Penal Code §933.5. Where there was disagreement, reasons were noted.

Glossary

BSCC	State of California Board of State and Community Corrections
CALED	California Assn. of Local Economic Development
CDCR	California Department of Corrections and Rehabilitation
CDPH	California Department of Public Health
DIR	Department of Industrial Relations
GCSD	Groveland Community Services District
ICE	Immigration and Customs Enforcement
MGO	Macias, Gini, & O'Connell LLP
OLA	Office of Legal Affairs
OSHA	Occupational Safety and Health
RAC	Rehabilitative Achievement Credits (Prop. 57)
SCC	Sierra Conservation Center
SCCCAP	Sierra Conservation Center Corrective Action Plan
TCEDA	Tuolumne County Economic Development Authority

Background

The 2017-2018 Tuolumne County Grand Jury made requests for responses from the following entities:

- Sierra Conservation Center Warden
- Tuolumne County Sheriff
- Mother Lode Regional Detention Facility Superintendent
- Tuolumne County Probation Department, Juvenile Division Manager
- Groveland Community Services District Board of Directors
- Tuolumne County Board of Supervisors
- Sonora City Council
- Tuolumne County Auditor
- Tuolumne County Economic Development Agency Governing Board
- Tuolumne County Counsel

Complete responses as submitted are available online:

<https://www.tuolumnecounty.ca.gov/1132/2018-Grand-Jury-Report>

Methodology

The 2018-2019 Grand Jury evaluated responses to the 2017-2018 Grand Jury's Recommendations to ensure compliance with the law. The Grand Jury evaluated each response using the questions listed in the table below. The Grand Jury's determination for each Response is listed below the Recommendation.

Grand Jury Evaluation Table for 2017-2018 Report Responses

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
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The Grand Jury has endeavored to present this report in the most easily understandable form, and therefore where possible has listed findings adjacent to their corresponding recommendations. In some cases this was not possible and findings are listed separately.

Minor corrections to grammar, syntax, and punctuation have been made to various responses in favor of readability and do not affect the meaning of the passages altered in any way.

Review of Responses to the Report on Sierra Conservation Center

Summary

Every year, the Grand Jury is mandated to visit the three jail facilities in our county. The 2017-18 Grand Jury visited and inspected various locations within the Sierra Conservation Center. Six findings, and recommendations to remedy those findings, were included in the 2017-18 Final Report.

F1: According to SCCCAP, as of May 2018, the hand washing sink in the inmates' restroom in the Hazardous Materials/Motor Pool area still lacks a soap dispenser, as noted in the CDPH inspection report from August 2017.

R1: Install a soap dispenser at the hand washing sink of the inmates' restroom in the Hazardous Materials/Motor Pool area.

Response: The recommendation has been implemented.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Accepted	Yes	Implemented

F2. According to the SCCCAP as of May 2018, the upper level shower of Building 2 of Facility C is still awaiting remediation of the mold and deteriorated paint that were noted in the CDPH inspection report from August 2017.

R2: Remedy the mold and deteriorated paint in the upper level shower in Building 2 of Facility C.

Response: The recommendation has not yet been implemented, due to pending approval and funding from CDCR Headquarters. This recommendation will be implemented in the future once funding has been secured.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Made Excuse	Yes	No

2018-2019 Tuolumne County Grand Jury Note: While we concur that painting will require considerable funding, time, and logistical planning, paint is esthetic in nature. Mold, on the other hand, is a known health hazard, for both inmates and staff, and should be remedied forthwith.

F3: Temperatures as recorded in the SCC facilities that were monitored last summer did not reach as high as 100 degrees Fahrenheit. Temperatures were not recorded in many sections of the prison.

R3: Consider recording temperatures in Facility A and other sections of the prison during the summer months.

Response: The recommendation will not be implemented, as it is not warranted. The mandate of where and when temperatures are documented is directed by the courts through the Coleman lawsuit agreement between the plaintiffs and CDCR.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Rejected	No	No

F4: At least one safety warning displayed in Spanish in Facility C, which reads, "NO SE AVISA PARA DISPARAR," imperfectly conveys the information shown in the parallel warning in English.

R4: Review all safety warnings displayed in Spanish, or other foreign languages, and revise any translations that are unclear.

Response: The recommendation will not be implemented because it is not warranted. The specific translation identified by the Grand Jury was discussed with a certified Spanish interpreter and, although imperfect, it does effectively convey the message there are no warning shots fired in the building.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Rejected	No	No

F5: The SCC's current practice of declining to evaluate an inmate's "satisfactory participation" in connection with awarding credits for RAC programs leaves considerable room for inmate manipulation of the system for earning rehabilitative program credits.

R5: Select and make known to the inmates one or more measures, in addition to mere physical presence, by which SCC staff or program facilitators will evaluate whether an inmate has met the "satisfactory participation" requirement for earning RAC hours credits.

Response: The recommendation will not be implemented because it is not warranted. SCC staff and program facilitators monitor, evaluate, and audit attendance for all programs on an ongoing basis. RAC programs do not have course work or testing, so they do not have concrete methods other than participation and attendance to identify "satisfactory participation." SCC is following and applying RAC credits as outlined by the CDCR regulations regarding Proposition 57.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Rejected	No	No

F6: This year's Grand Jury's investigation was compromised by SCC management's refusal to abide by the confidentiality requirements of Grand Jury investigations.

R6: Review and commit the SCC to full compliance with the confidentiality requirements of Grand Jury investigations.

Response: This recommendation requires further analysis. Previously SCC was directed by CDCR attorneys not to sign the admonishment form. This has been the practice of SCC since 2014 and was clearly communicated to the Grand Jury prior to scheduling the entrance meeting. However, SCC has again reached out to the CDCR attorneys at OLA for clarification and are awaiting a response.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Further Analysis	No	No

Review of Responses to Report on Tuolumne County Jail

Summary

In the 2017-2018 Tuolumne Grand Jury Jail Report, the Grand Jury found the existing jail facility complied with all regulatory standards during its inspection by the State of California's Board of State and Community Corrections (BSCC) on June 27, 2017. The 2017-2018 Tuolumne County Grand Jury found that two jail procedures No. 6.97 regarding transgender inmate housing (Finding 1), and No. 6.88 regarding immigration detainers, needed clearer definitions, or were outdated (finding 2). A third finding was a discrepancy in the Sheriff's Office's stated practice to provide an inmate's release date in response to a request from a federal immigration authority and the written procedure stating the Sheriff's Office will review an inmate's criminal charges and convictions and determine whether one of the enumerated circumstances applies before providing the release date to the immigration authority.

Responses to the Grand Jury's recommendations were provided by Tuolumne County Sheriff-Coroner and filed with the Superior Court on August 3rd, 2018. Below is a review of the Sheriff's responses to the former Grand Jury's recommendations by the 2018-2019 Grand Jury Continuity Committees.

F1: Sheriff's Office Procedure No. 6.97, relating to housing of transgender inmates, includes defined terms that are outdated or inaccurate and extraneous to the procedure itself.

F2: Sheriff's Office Procedure No. 6.88 has not been revised to reflect California Values Act, SB 54, which took effect January 4, 2018.

R1: Revise and update the Sheriff's Office Procedures as needed (F1, F2).

Response: Agree - Procedure No. 6.97 Section II Definitions A, Gender Identity Disorder (GID). Also referred to as Gender Dysphoria: A recognized health condition that involves strong and consistent cross-gender identification and a persistent disassociation with a person's birth-assigned sex. GID is a stable, non-violent condition that is not due to psychosis. This section of the Jail Policy has been removed due to the 2012 American Psychiatric Association removing Gender Identity Disorder from its list of recognized psychiatric disorders.

Procedure No. 6.88 has been updated and added to the Jail Policy to reflect the California Values Act which took effect in January 2018.

The Values Act (SB 54):

A. California law enforcement agencies shall not:

1. Inquire into an individual's immigration status.
2. Detain an individual on the basis of a hold request.
3. Provide information regarding a person's release date or

responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

4. Provide personal information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address or work address unless that information is available to the public.
 5. Make or intentionally participate in arrests based on civil immigration warrants.
 6. Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with Section 7282.5.
 7. Provide office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.
- B. The Value Act does not prevent any California law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:
1. Respond to a request from immigration authorities for information about a specific person's criminal history,

including previous criminal arrests, convictions, or similar criminal history information accessed through the California Law Enforcement Telecommunications System (CLETS), where otherwise permitted by state law.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Accepted	Yes	Already Implemented

F3: The Sheriff's Office's stated practice is to provide an inmate's release date in response to a request from a federal immigration authority. This practice differs from the Sheriff's Office's written procedure No. 6.88, which states that the Sheriff's Office will review an inmate's criminal charges and convictions and determine whether one of the enumerated circumstances applies before providing the release date to the immigration authority.

R2: Review the Sheriff's Office's practices to ensure they comply with the utmost up to date version of Procedure No. 6.88. (F3).

Response: Agree – Procedure No. 6.88 does reflect our practice of not giving any information to ICE unless the inmate has a serious or violent felony charge or conviction as outlined in the Jail Policy. An inmate's release information is available to the public when the inmate has been sentenced. If ICE requests this information we will release it to them as we would to anyone who inquires as this is public information.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Accepted	Yes	Already Implemented

Review of Responses to Report On Mother Lode Regional Juvenile Detention Facility

Summary

The Mother Lode Regional Juvenile Detention Facility (MLRJDF) is a modern facility opened on April 10, 2017. The MLRJDF houses youth who are detained in connection with juvenile delinquency proceedings. The 2017-2018 Grand Jury inspected the MLRJDF under California Penal Code sections 919(a) and 925

The MLRJDF has memoranda of understanding in place with Amador, Calaveras, Inyo, and Mariposa Counties for their youth to be housed at the MLRJDF. All persons interviewed in connection with the Grand Jury's investigation indicated that detainees are treated well by the MLRJDF staff and management.

Quality of the Food provided

The facilities meal service is the same one in place for the inmates of the Tuolumne County Jail. Detained youth expressed frequent dissatisfaction with the quality of the food served.

Full provision of child welfare services to juveniles who come into contact with County through Juvenile Delinquency

There was a concern that youth in unsafe home situations who first come into contact with the County through juvenile delinquency, rather than child welfare proceedings, do not receive the full benefit of the services available through Child Welfare Services.

There exists a written protocol for joint assessments of a youth's situation by Child Welfare Services and Juvenile Probation, as required under California Welfare and Institutions Code section 241.1(e). Juvenile Probation confirmed that in the

last three years, there has not been any instance of that protocol being employed for a youth whose first contact with the County was through delinquency rather than child welfare proceedings.

F1: Youth housed at the MLRJDF expressed significant dissatisfaction with the jail food served there.

R1. Review the options for feeding the youth detainees at the MLRJDF something other than the food served to Tuolumne County Jail inmates.

Response: The recommendation is already in place for the Probation Department and is ongoing. Probation management staff is aware of the complaints of the youth housed at the Mother Lode Regional Juvenile Detention Facility regarding the meal service. During the services/program planning prior to the opening of the facility, multiple possible resources were explored for the food service which included running our own kitchen, local schools, restaurants and Adventist Health Sonora. Due to the low number of meals that would be prepared and other factors (transporting meals, capacity, hours of operation, cost), these options were not feasible. Trinity Food Services provides food service for many juvenile facilities in the western United States and were already providing the food service for our county jail. They are able to provide the complex and required documentation needed to participate in the National School Lunch Program which allows us to claim meal reimbursements through the program.

The meals meet the Title 15 Regulations nutrition guidelines/requirements and differ from the jail meals slightly to meet these requirements, as well as the School Lunch Program mentioned above. Discussions with Trinity Food Services' West Region Dietitian are on-going in an attempt to modify the menu to allow for more appealing meals. In addition, the Superintendent of the facility provides cooking opportunities for

the youth as a behavioral incentive and the Gold Ridge Educational Center incorporates cooking breakfast and lunch in their curriculum a few times each month. Our religious services volunteers often bring a meal or snacks for their Sunday evening program. We are also fortunate to have volunteers who have provided culinary experiences in the form of cooking classes as well.

Sincere and earnest attempts are made for the youth to have multiple opportunities each month for an alternative or additional meal that is more appealing and satisfactory to the youth housed in the facility.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Accepted	Yes	Already Implemented

F2: Tuolumne County has a written protocol for joint assessments by Child Welfare Services and Juvenile Protection under Welfare and Institutions (W&I) Code section 241.1(e), the "Dual Status Youth" protocol that has not been employed in the last three years for any youth whose first contact with the County is through juvenile delinquency rather than child welfare proceedings.

R2: Review the files of youth who are in delinquency

proceedings and determine whether the W&I Section 241.1(e) protocol should be employed for any additional youth.

Response: The recommendation will not be implemented because it is not warranted.

The Deputy Probation Officers assigned to the Juvenile Unit are trained to assess situations in a youth's life that may require a Suspected Child Abuse Report (SCAR) to be completed and submitted to Child Welfare Services. This assessment process is on-going, and remains for the life of the involvement with the youth or case.

When a youth first enters the delinquency system the Officer assigned to the case reviews any and all Child Welfare Services history. An extensive investigation and social interview is conducted. If the Officer believes there is a situation that falls under the W&I Code section 300, a meeting is scheduled between the two agencies to determine if a Petition should be filed under W&I Code Section 241.1(e). In order to pursue a Petition under this code section for youth whose first contact with the County is through delinquency rather than child welfare proceedings, there must be a current allegation of abuse or neglect of the youth by a parent or someone who resides in the home. In this case, Child Welfare Services is also required to file a Petition with the Juvenile Court alleging abuse or neglect.

Child Welfare Services and Probation have a strong working relationship. A potential "Dual Status Youth" is reviewed and assessed to determine which agency is best able to meet the needs of a particular youth and their family, or if involvement in both systems would be advantageous to the family. The Probation Department is considered a Child Protective Agency;

however, Child Welfare Services is considered the experts in the matters of abuse or neglect. Probation staff often consults with Child Welfare Services staff regarding questionable abuse or neglect situations.

Because Deputy Probation Officers are required to follow the same regulations regarding out-of-home placement and services to provide families as CWS Social Workers, there are situations that do not warrant the involvement of Child Welfare Services and services can best be provided by the Probation Department. With that being said, Tuolumne County understands the implications for a youth who is in the delinquency vs. dependency system. Out-of-home placement cases are assessed formally every six months (through Child and Family Team meetings) and informally monthly (during regular youth and family contact) or at the request of the Social Worker or Probation Officer. It is always a priority to de-escalate a youth from the delinquency system to the dependency system whenever possible. This is accomplished through the 241.1 W&I Code Section process. Youth in the delinquency system who have achieved rehabilitation by meeting their Court ordered terms and conditions of probation are almost always transitioned to the dependency system through a process allowed under W&I Code Section 450.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary action?
Yes	Rejected	No	No

Review of Responses to the Report on Groveland Community Services District

Summary

The 2017-2018 Grand Jury investigated the Groveland Community Services District due to perceived lack of transparency by the Board and management, contributing to a lack of trust from the public. The Grand Jury found consensus among GCSD employees and ratepayers that the District struggles financially to maintain operational integrity and to support its aging infrastructure. The Grand Jury also found instances of misbehavior during public Board meetings as well as issues with employee retention. The Grand Jury recognized a more positive and transparent environment at Board meetings with three new Directors and the new GM in place.

Below is a review of the responses provided by the Groveland Community Services District, filed at the Superior Court on August 15, 2018. Responses provided by Robert Swan, President of the Groveland Community Services District.

F1: Public confidence and trust has been eroded by disrespectful behavior of Directors at Board meetings and negligent management practices.

R1: Develop and enforce standards of orderly conduct by Board members during meetings. (F1)

Response: The recommendation has not yet been implemented, but the District has conducted three Board workshops thus far to develop Board Norms and Protocol, a process that will be completed by December 31, 2018. Protocol

developed in the first three Board workshops have been implemented.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accept	Yes	Yes

F2: Management practices created work conditions that resulted in the loss of highly qualified, experienced and certified employees.

R2: Periodically train employees in the problem resolution process outlined under section 710 of the GCSD employee handbook. (F2)

Response: The recommendation has not yet been implemented, but the policy will be reviewed and implemented by September 30, 2018.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accept	Yes	Yes

F2: Management practices created work conditions that resulted in the loss of highly qualified, experienced and certified employees.

R3: Offer exit interviews with Board members to all departing employees. (F2)

Response: The recommendation will not be implemented because it is not reasonable to involve Board members in personnel matters that are specifically delegated to the General Manager at Section 61051 of the Government Code. By December 31, 2018, the District will include in its employee relations system or separate employee retention program a policy detailing that employee exit interviews are to be conducted and establishing the appropriate method therefor.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Rejected *	Yes	Yes

**2018-2019 Tuolumne County Grand Jury Note: The GCSD offered an alternate recommendation that the Grand Jury finds reasonable.*

F3: Management has used District legal counsel communications to intimidate public individuals without full Board knowledge.

R4: Inform all Board members of legal communication before action is taken. (F3)

Response: The recommendation will not be implemented because it is not reasonable to involve all Board members in legal communications before actions are taken by management. The District will implement a policy by December 31, 2018 requiring that legal communication, appropriate for distribution to the Board, be made available to all Board members within a reasonable timeframe following its preparation.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Rejected *	Yes	Yes

**2018-2019 Tuolumne County Grand Jury Note: The GCSD offered an alternate recommendation that the Grand Jury finds reasonable.*

F4: Inadequate staffing levels have increased environmental and safety risks for GCSD.

R5: Delegate responsible staff for training and proper disposal of Hazmat according to the new Board policy currently in the process of development. (F4)

Response: The recommendation has been implemented through management direction for specific hazmat training, and implementation of an Asbestos Cement Pipe handling and disposal protocol in accordance with OSHA and DIR standards.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Implemented	Ongoing	Ongoing

F4: Inadequate staffing levels have increased environmental and safety risks for GCSD.

R6: Create a "whistleblower" program that protects the confidentiality of employees and the public. (F4)

Response: The recommendation has not yet been implemented, and the District will adopt a specific policy regarding reporting and handling of safety, operational and administrative concerns. Currently, the District annually posts California Labor Law Posters which include information regarding the state's "Whistleblower Protection Act" and how employees can report illegal acts. This poster is posted throughout the District's different departments and employees are made aware of where they are located.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	No

F4: Inadequate staffing levels have increased environmental and safety risks for GCSD.

R7: Adequately staff operations to meet the requirements for routine inspections and preventative maintenance. (F4)

GCSD Comments (on F4): “We disagree with the finding that the District was or is inadequately staffed. Lacking state certification, experience in the public utility field, and not having utility management expertise; the Grand Jury is simply not qualified to understand the intricacies of operation and maintenance of a water and wastewater system. Every utility is different in the age and condition of infrastructure, mechanical complexity of the system, construction standards used, amount of money invested in infrastructure and equipment, etc. All of these factors, coupled with ever changing state permit requirements, come into play in determining adequate staffing levels.

In addition, there are no established industry standard staffing levels against which the Grand Jury can measure and make the determination that the District is understaffed.

We also disagree with the finding that District safety or environmental risks were increased, for any reason. In fact, there had been over one year without a workplace injury until March 2018, when an employee was bitten by a dog during its rescue from the wastewater pond. In addition, there has been no enforcement action by the Regional Water Quality Control Board, the enforcement entity for (wastewater) environmental compliance, since 2013, and that action was due to sewer spills caused by grease and a defective sewer pipe, not due to a shortage of employees. There have also been no legal actions or liability claims filed against the District due to environmental or safety issues.

Lastly, District staff was able to keep service going during the March 22, 2018 150 year storm event that flooded Groveland and wreaked havoc throughout parts of Tuolumne County, surely a testament that contradicts the Grand Jury's findings."

Response (to R4): The recommendation has been implemented and the adoption of the 2018/19 fiscal year budget and sewer rate increase proposal supports this effort. The Board's July 9, 2018 agenda contains consideration for increased staffing.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Contradictory	Disagreed with Finding; Claimed Implementation	Contradictory	No

F5: Employees have used District equipment for personal use in violation of policy.

R8: Hold employees accountable for violating policies regarding unauthorized equipment use. (F5)

Response: The recommendation has been implemented and will be reinforced through management memoranda.

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No	Implemented	Ongoing	Ongoing

F6: Policy and procedures were not followed for purchasing vehicles in 2017.

R9: Hold managers and employees accountable for violations of District purchasing policies. (F6)

Response: The recommendation has been implemented and will be reinforced through management memoranda.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Implemented	Ongoing	Ongoing

F7: Union pay negotiations between management and union workers were conducted by relatives.

R10: Train GCSD Board members on their conflict of interest policy documented in the Policy Manual of the Board of Directors. (F7)

Response: The recommendation has been implemented and the District's conflict of interest policy will be updated by December 31, 2018. A Board Orientation program outline was approved by the Board in June, 2018, and will be completed and implemented by November 30, 2018. The Board orientation program includes annual training on the District Conflict of Interest policy.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issue, offer excuses, or accept and begin to implement the action within six months of the published date of this report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accept	Yes	Yes

Review of Responses to the Report on Tuolumne County's Deteriorating Roads

Summary

The 2017-2018 Tuolumne County Grand Jury found that, in general, the important Major Arterials, Minor Arterials, and Major Collectors are in good condition. In addition, the jury found that the rest of the County roads are in very poor condition. Further, the jury determined that this is due to the overall lack of funding for road maintenance and that the State and County policies give priority to Major Arterials, Minor Arterials, and Major Collectors.

Below is a review of the responses provided by the Board of Supervisors of Tuolumne County filed at the Superior Court on August 24, 2018, and response provided by the Administrator for the City of Sonora.

F1: Funding for road maintenance (including the new SB1 funds) remains inadequate to reverse the deterioration of the City and County system, particularly the Minor Collector and Local community roads. Current Tuolumne County funding for maintenance will be about \$9 million per year when fully receiving the new SB1 funds. An additional \$4 million per year for 20 years is needed to catch up for all roads.

F2: The County uses a two-stage approach to allocation of available funds. Minor Arterials and Major Collectors are given first priority, followed by a screening process based on the Pavement Condition Index process if there are any remaining funds.

F3: Using the Pavement Condition Index (PCI) as the primary criteria to allocate funds for Minor Collectors and Local Roads is not a true Return to Source policy and disadvantages some communities over others. (Return to Source: a method for fairly and proportionately distributing a general tax back to the various communities of the County.)

F4: The oldest roads in the County (71 of 484 non-private subdivisions) were not built to known road standards for drainage, base, and asphalt topping, and generally require more maintenance than newer roads built to standards.

F5: The County lacks adequate funding to maintain roads in the 375 non-private subdivisions for which it is responsible.

F6: Of the 107 non-private subdivisions with responsibility for funding of road maintenance, only 21 are currently doing so.

R1: Tuolumne County continue to maintain priority for State and Federal maintenance funding (including SB1) on Minor Arterials and Major Collector roads and extend where possible to Minor Collector roads.

Board of Supervisors Response: This recommendation has been implemented and will continue in the future. The Board adopted *2016 Pavement Management Preventive Maintenance Methodology Matrix* implemented direction to staff consistent with this recommendation. Staff will continue to present the condition of the roads to the Board by means of the *State of the Roads Report* and allow the Board to make necessary changes based on available funding and goals of the Board.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Agreed	Yes	Already implemented

City of Sonora Response: The City agrees with the finding. Available funding for roads (Gas Tax, LTF, RSTP and, etc.), even with the addition of SB1 funds, are not adequate to maintain the City's arterial, major/minor collector and local roads.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Agreed	No	No

R2: Tuolumne County and the City of Sonora to conduct a public discussion regarding a sales tax increment for Minor Collector and Local Roads, following the successful approach offered by the Self-Help Counties Coalition (the existing 24 county sales tax programs throughout the State of California).

Board of Supervisors Response: This recommendation has not been implemented but will be in the future. County staff continues to follow our neighboring agencies and watch the success within rural regions of the Self-Help Counties Coalition.

The Board and County staff will seek additional steps to engage public discussion for additional local measures to improve roadway infrastructure.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Agreed	Yes	No

City of Sonora Response: The City has not implemented the recommendation but will conduct a public meeting prior to the end of Fiscal Year 2018-2019 to ascertain the level of community support for a sales tax increase dedicated to the maintenance of local roads. Should there be sufficient support, the City staff will present a sales tax ballot measure to the City Council to consider for an election in 2020.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	Yes, by end of new Fiscal Year

Review of Responses to the Report on Tuolumne County Economic Development Authority

Summary

The 2017-2018 Tuolumne County Grand Jury investigated Tuolumne County Economic Development Authority and focused on three primary topics including general assistance to businesses, management oversight of the agency, and overall strategy and direction for the agency.

The following entities responded to the recommendations in the report as listed below:

Tuolumne County Board Of Supervisors: R2

City Council of Sonora: R2

Tuolumne County Auditor: R2

Tuolumne County Counsel: R5

TCEDA Governing Board: R1, R3, R4, R5, R6, R7

F1: Businesses have an inconsistent awareness of the existence of TCEDA and the services it offers.

R1: TCEDA develop a Business Support Guide (similar to the Incentives and Grants guides) that indicates business support services offered by TCEDA and other local, state, and federal resources. (F1)

TCEDA Governing Board Response: Implemented. The TCEDA already developed and published a Business Support Guide. The first Business Guide was produced in 2012 with funding support from the Sonora Area Foundation. It was last

revised in 2016 (see Attachment G) in partnership with Tuolumne County SCORE, "'Counselors to America's Small Business". The Business Guide lists several local, state and federal resources with links to their related websites. In acknowledgment of the Grand Jury's comments, the TCEDA will endeavor to include brief summaries of the various services available through each organization in addition to that inferred in the formatting of the Guide and provision of website links.

Did the agency's address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	Already implemented

F2: TCEDA's refusal to disclose the specific nature of its activities or the identities of business clients does not allow for independent oversight or auditing and may impact Brown Act compliance.

F3: TCEDA does not follow best practices for public agencies with regard to transparency in the use of public funds.

F4: TCEDA Board fails to provide effective operational oversight and does not verify or monitor the accuracy of information presented to the public.

F5: TCEDA lacks both internal and public transparency regarding the appropriateness of budget expenditures.

F7: TCEDA lacks sufficient metrics and procedures to evaluate its effectiveness.

R2: The County Auditor retain an independent firm to perform a Management Audit of TCEDA operating policies and practices. The Board of Supervisors and the City Council of Sonora fund the County Auditor in retaining an independent firm. (F2, F3, F4, F5, F7) The audit will include:

- a. Best practice for comparable agencies with specific recommendations on implementing a check and balance system for pre-approval and post-approval of travel and entertainment.
- b. A set of minimum disclosure requirements that includes the purpose of each meeting/trip/meal, specific entertainment participants and their organizations, who accepted a meal.
- c. Performance metrics and management reporting.
- d. Identification of a process for specific independent review and approval of exceptions to policies.
- e. Policies in regard to TCEDA interactions and disclosures with private businesses.
- f. Policies regarding meals and alcohol.
- g. Identifying whether the CEO is correctly identifying work time on time cards.

Tuolumne County Board of Supervisors Response: This recommendation has not yet been implemented, but will be as outlined below:

- The Board of Supervisors will immediately request that the TCEDA Board take the necessary budgetary actions to fund the management audit. Based on numbers provided by the Auditor-Controller, \$26,250 should be set-aside for this purpose; and
- This management audit should cover all of the points

requested by the Grand Jury with the exception of those related to TCEDA interactions and disclosures with private business. On behalf of the TCEDA, County Counsel is already addressing this matter.

In addition, the Board of Supervisors will also immediately request the TCEDA Board to:

- Take the necessary budgetary actions to fund a full financial audit of the TCEDA. Based on numbers provided by the Auditor-Controller, \$15,000 should be set-aside for this purpose; and
- Request the California Association of Local Economic Development (CALED) to poll its membership to help identify best practices in the area of setting goals, establishing related performance measures and reporting. CALED has already committed to performing this service at no cost except for any travel (lodging and/or food) costs that may be incurred to come to Tuolumne County to present and/or assist the TCEDA with implementation of same. The TCEDA should likewise budget \$2,000 for this purpose. CALED has also offered to help gather information that could assist the audit firm in complying with the Grand Jury's work point "a" outlined above.

It is the Board's desire that: 1) the Auditor-Controller coordinate completion of both the management audit and financial audit; and 2) all of this work be completed expeditiously. If the work cannot be completed before the end of calendar 2018, it should be completed as early in 2019 as possible.

This response is intended to address all of the points raised by the Grand Jury and more (i.e. requesting the financial audit) to demonstrate the Board's commitment to transparency in the conduct of governmental affairs.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	Yes

Sonora City Council Response: The City has not implemented the recommendation but will do so within the next fiscal year. In coordination with the County of Tuolumne, the City will implement this recommendation during Fiscal Year 2018-2019 by retaining a mutually agreeable firm to conduct a Management Audit addressing the areas of concern identified by the Grand Jury. It is the City's position that the funding for this audit should come from the existing TCEDA budget and/or existing TCEDA reserves. It is also the City's position that as part of this Management Audit, a separate and independent audit of the TCEDA's financial records be conducted for the prior two fiscal year(s). The requested audit of TCEDA's financial records should be separate and apart from any obligation TCEDA has to conduct a financial audit as required by law.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	Yes

Tuolumne County Auditor Response: Recommendation has not been implemented. I have contacted the County's outside auditors for an estimate of both a financial audit and a management audit. Since this will be the first year for a financial audit the cost will be between \$10,000 and \$15,000. For a management audit the cost will not exceed \$26,250. I have attached proposed estimate and scope of work for a management audit provided by MGO, the County's external auditors. I would need authorization from the TCEDA Board to enter into a contract for either or both of these audits.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	No

F2: TCEDA's refusal to disclose the specific nature of its activities or the identities of business clients does not allow for independent oversight or auditing and may impact Brown Act compliance.

F3: TCEDA does not follow best practices for public agencies with regard to transparency in the use of public funds.

F4: TCEDA Board fails to provide effective operational oversight and does not verify or monitor the accuracy of information presented to the public.

F5: TCEDA lacks both internal and public transparency regarding the appropriateness of budget expenditures.

F7: TCEDA lacks sufficient metrics and procedures to evaluate its effectiveness.

R3: TCEDA Board consider and implement recommendations that result from the management audit. (F2, F3, F4, F5, F7)

TCEDA Governing Board Response: It has not yet been implemented due to the fact a Management Audit has not yet been commissioned and completed. Once the issues raised have been studied and specific recommendations made the TCEDA will discuss each and take action within specific timelines as deemed appropriate.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	No

F3: TCEDA does not follow best practices for public agencies with regard to transparency in the use of public funds.

R4: TCEDA to obtain Certification by the California Joint Powers Association. (F3)

TCEDA Governing Board Response: It will not be implemented because it is not warranted. The City of Sonora

and County of Tuolumne are members of several JPAs which do not seek or maintain this certification. Obtaining such a certification requires a fee (approximately \$2000). This seems to be an unnecessary and partially duplicative process that would require additional staff time and money during a time of scarce resources. Audits have been discussed above.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Rejected	No	No

F8: TCEDA Board and Staff serve on multiple boards and appear to be in conflict of interest.

R5: County Counsel review possible conflicts of interest for TCEDA Board members serving in various capacities on multiple boards. (F8)

TCEDA Governing Board Response (to F8): Partially disagree. The TCEDA Board agrees that TCEDA Board members and staff serve on multiple boards. Given this fact, some may believe conflict of interests exist. However, the Government Code specifically exempts some conflicts of interest for Board members who are appointed to a Joint Powers Authority (JPA) Board because they are on the Board of one of the governmental bodies that is a party to the JPA. Thus, for the Board of Supervisor members and the City Council members, there is no conflict of interest under the law

and they are authorized to serve in both capacities. As to the at-large Board members of the JPA and staff, the TCEDA Board will work with County Counsel to review all potential conflicts of interest. Should a true conflict of interest be identified, it will immediately be rectified. The TCEDA Board finds it important to note that individuals serving on these boards do so in a volunteer capacity. Unfortunately, there are not enough volunteers to serve on all the boards identified in the Grand Jury report and as a result a few committed individuals serve on numerous boards. The TCEDA Board recommends one simply look at the vacancies on the numerous County boards, commissions, committees, etc. which demonstrates the fact more volunteers are needed to serve in these volunteer capacities.

Tuolumne County Counsel Response: The recommendation has not yet been implemented, but will be implemented by the end of the calendar year. This Office provides legal representation to the TCEDA and one of the deputies has been assigned as the primary legal advisor to that entity. This Office is in the process of meeting with individual TCEDA Board members and staff to gather facts regarding potential conflicts of interest so that a detailed legal analysis may be completed. Once completed, this Office will advise the TCEDA Board of its recommendations. As with all other attorney-client privileged matters, the advice to the TCEDA Board regarding conflicts of interest will remain confidential. The role of counsel is to advise its client as to its legal opinion and make recommendations for action, but the client maintains the ultimate decision-making authority. This Office thoroughly reviews all conflicts of interest

brought to its attention and accordingly, will exercise due diligence in its review of the matters raised by the Grand Jury.

TCEDA Governing Board Response: It has not been implemented but is in process with some meetings already scheduled. The TCEDA Board will work with County Counsel to review any potential conflicts of interest and should any exist, such conflicts will be immediately addressed and rectified. This process will be completed by the end of December 2018.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	Yes

2018-2019 Tuolumne County Grand Jury Note: The 2018-2019 Tuolumne County Grand Jury notes that this review was performed, but the TCEDA Governing Board has repeatedly refused to release the results to the public, claiming Attorney-Client privilege. See 2018-2019 Tuolumne County Grand Jury Report for more information.

F6: TCEDA policy on entertaining "Clients" is loosely interpreted beyond the original intent of the Executive Director contract.

R6: TCEDA Board develop, and describe and approve a formal policy specifically defining "Clients" and acceptable entertainment of Clients, as well as defining a policy of

acceptable entertaining of Board members and other officials of the City and County. (F6)

TCEDA Governing Board Response: It has not yet been implemented but will be by the end of December 2018. The Director has been instructed that going forward and pending adoption of a formal policy regarding this topic, meals are for clients only.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	Yes

F9: The Executive Director's vacation policy allows for both abnormally low use of vacation time and abnormally high cashing out of vacation time.

R7: TCEDA Board establish a maximum amount of accrual of vacation time for the Executive Director per fiscal year. (F9)

TCEDA Governing Board Response: It has been implemented in that accrual caps are already established in Section 13, Subsection B of the County of Tuolumne Executive & Confidential Compensation Plan and pursuant to the Employment Agreement between the TCEDA and the Executive Director. However, to the extent there are disparities between the Employment Agreement and the Executive & Confidential Compensation Plan, the Board will make the

necessary revisions to ensure County policies are complied with when it comes to vacation accrual and cash outs.

Did the agency's response address the subject of the findings and recommendations?	Did the agency attempt to avoid the issues, offer excuses, or accept and begin to implement the action within six months of the published date of the report?	Did the agency's response indicate that it would take the necessary action to correct the problem?	Did the agency provide a specific date by which it would take the necessary corrective action?
Yes	Accepted	Yes	Implemented

FILED

6-10-19

Superior Court of California
County of Tuolumne

BY Diana Deely
Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF TUOLUMNE

IN RE:

GENERAL ORDER

2018-2019 Grand Jury

I certify that the 2018-2019 Tuolumne County Grand Jury Final report section on the Tuolumne County Civil Grand Jury Continuity Report complies with Title Four of the California Penal Code and direct the County Clerk to accept and file this section of the final report as a public document.

Dated this 10th day of June, 2019

Kate Powell-Segerstrom

Kate Powell-Segerstrom
Judge of the Superior Court

GENERAL ORDER