

Tuolumne County
2015-2016
Civil Grand Jury Report

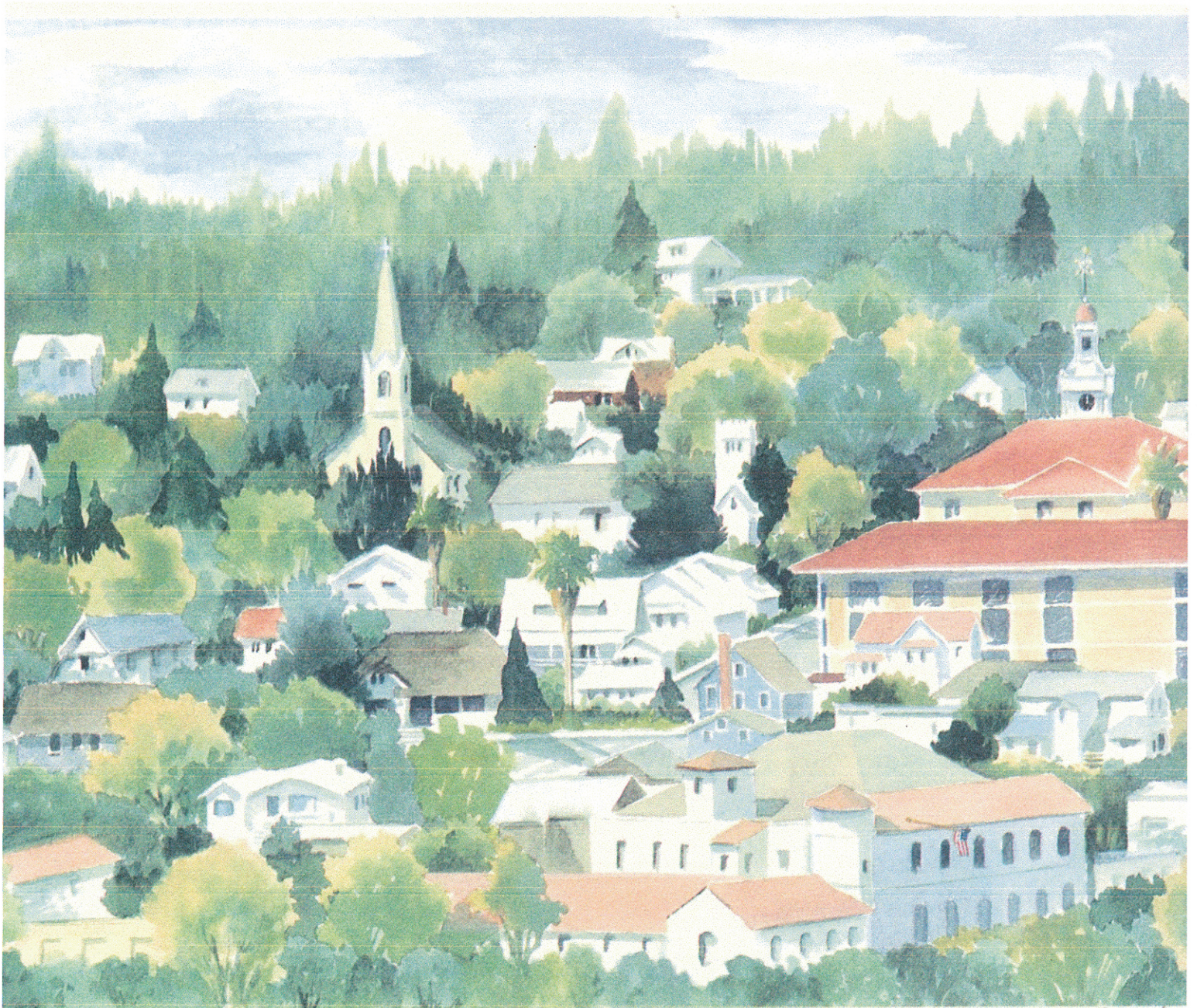
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JUN 30 2016

Superior Court of California

County of Tuolumne

by: Ruth Sonnenberger Clerk



Courtesy of the artist, Doris Olsen

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Grand Jury - County of Tuolumne

**Tuolumne County Administration Center
2 South Green Street
Sonora, CA 95370**

June 25, 2016

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

Dear Judge Segerstrom and Judge Powell'-Segerstrom

The 2015/ 2016 Tuolumne County Civil Grand Jury is pleased to present to you its Final Report. This report represents the work of 17 Grand Jury members who spent a year dedicated to fulfilling their mission of service to the Court and the citizens of Tuolumne County. I would like to sincerely thank each and every one of the Grand Jury members for their service and the countless hours of dedication and perseverance. This Plenary was full of skilled and talented people who gave selfishly of themselves and their time. It has been my honor to serve with this group of Tuolumne County citizens.

The entire Grand Jury would like to thank you both for your support throughout this process. We would also like to thank District Attorney Laura Knieg and County Counsel Sarah Carrillo for their guidance and assistance. We recognize and thank the office of the County Administrator for providing us with a private meeting location and the technology which greatly assisted us. We appreciate their support.

The Grand Jury interviewed approximately 47 individuals during our term. Those interviewed were insightful, accommodating and cooperative. We would like to thank them for their time and information.

Serving on the Grand Jury has been a great experience. We have all gained a tremendous amount of knowledge regarding our county, and for that we are thankful. As with years past, we encourage County government to continue in their diligence for transparency, ethical conduct and honesty in all relations and dealings. We also found some instances where the Grand Jury has commended the Department for a job well done.

We would also hope that each entity investigated and presented in this report would take the findings and recommendation to heart as a guide to improvement.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sandi Romena".

Sandi Romena
Foreperson, Tuolumne County Grand Jury 2015/2016

2015-2016 Members of the Civil Grand Jury

Sandi Romena

Foreperson

Tanya Allen

Foreperson Pro Tem

Beth Martinez

Secretary

David Cardoza

Lauri Crandall

Lorna Dean

Robert Dunker

Jerry Finnigan

John Freer

Charlotte Hague

Steve Holdeman

Bradley Keaster

Frank Mikkelsen

Chuck Miller

Roger Ryan

Bob Winters

Allan Zimmerly

2015-2016 TUOLUMNE COUNTY CIVIL GRAND JURY

2015-2016 Mission Statement

The mission of the 2015-2016 Tuolumne County Grand Jury is to objectively investigate verifiable facts by diligent examination of fiduciary compliance, ethical standards of administrative stewardship, and professionalism within County public agencies. We shall develop a report of findings and recommendations compelling enough to facilitate efficiency, effectiveness, and transparency of County government relying on our discretion and citizens' suggestions to determine what to examine.

Introduction

The California Constitution requires the Superior Court in each of the State's 58 counties to assemble and impanel citizens to form at least one Civil Grand Jury for each fiscal year. As authorized in Penal Code section 925 under Article 2, Civil Grand Jury's primary responsibility is to promote honesty and efficiency in government by reviewing the operations and performance of county and city governments, school districts, and special districts. In addition, mandatory investigations are required annually of the County Jail and any State Prison facility within the boundaries of the County. The Grand Jury also accepts and acknowledges all citizen complaints, responding to those within the jurisdiction of the Grand Jury as time and workload permit.

The Grand Jury is composed of nineteen citizens of the county, selected from a candidate pool developed from voter registration and Department of Motor Vehicle records. The jury serves from July 1st to June 30th, and based on their reviews produces a report that states its findings and may recommend changes in the way local government conducts its business. The report and all its content must be approved by at least 12 of the jurors. Copies of the report are distributed to public officials, county libraries, and the news media. The governing body of any public agency must respond to the Grand Jury findings and recommendations within 90 days. An elected county officer or agency head must respond within 60 days.

Grand Jurors are sworn to secrecy and this secrecy ensures that neither the identity of a complainant nor the testimony offered to the Grand Jury during its investigation will be revealed.

Any juror who has a personal interest in a particular investigation is recused from discussion and voting regarding that matter.

Citizen Complaints

All complaints received via US mail, electronic mail, verbally, or anonymously are recorded, assigned a number for reference and are securely filed. All citizen complaints are read before the Plenary (whole Grand Jury). If the Plenary recommended that an inquiry was

warranted, a committee was formed to investigate. Everyone who submits a complaint receives a letter acknowledging receipt, however, mail received late in a sitting Grand Jury's term will likely be submitted to the following Jury commencing on July 1.

How to Read Committee Reports

Understanding the Format for Committee Reports

Each committee report is divided into five sections:

1. The **INTRODUCTION** briefly explains why each committee has chosen to investigate that particular government agency and previews each individual report contained in the Committee Reports section below.
2. The **BACKGROUND** contains some general factual information intended to provide an overall view of the agency and issues investigated.
3. The **INVESTIGATION** explains which sources of factual evidence were explored during the investigatory process.
4. The **COMMITTEE REPORTS** section contains one or more individual reports, each of which is divided into four subsections as follows:
 - The ***Discussion*** contains detailed factual information developed from the investigation and may be organized into subsections by topics relevant to the findings.

Example of a Fact: "Six department heads feed their payroll data to the county controller by different methods: paper forms, electronic transmittals, and time cards."

- ***Findings*** bridge the gap between the facts in the Discussion section and the resulting recommendations and/or commendations. A finding is a conclusion or value judgment reasonably based on one or more facts from the Background or Discussion sections. Findings usually identify what needs to be fixed, improved, or corrected through a recommendation, or may point to something that is being done well through a commendation.

Example of a Finding: "The Grand Jury finds that the non-standardization of payroll submissions to the controller is unnecessarily time-consuming, expensive, and subject to error."

- ***Recommendations and/or Commendations*** must be reasonably based on at least one finding and state what the grand jury believes should be done, when

and by whom, or by which agency, to solve the problems identified in the findings. Recommendations should be specific, logically related to the problems identified in the findings, reasonably achievable and financially feasible, and not in violation of any laws.

Example of a Recommendation: “The Grand Jury recommends that the controller should reorganize all county payroll functions by December 31, 2015 so that there is a standard procedure for payroll submissions.”

5. **Responses:** Penal Code Section 933.05 directs that, if requested by the Grand Jury, the governing board, or elected official who was the subject of the investigation, is required to respond to the specific findings and recommendations. The grand jury can also invite other public officials, such as department heads or managers to respond to findings and recommendations.

SEND ALL RESPONSES TO:

**Honorable Judge Donald Segerstrom
Tuolumne County Superior Court
60 North Washington Street
Sonora, CA 95370**

6. The **Conclusion** usually summarizes the information contained in the Committee Reports and may also offer questions and issues for future consideration by the public or the next grand jury.

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CONTINUITY/RESPONSE COMMITTEE REPORT

(2014-2015 Grand Jury Report – Review of Responses)

INTRODUCTION

The 2015-2016 Grand Jury Continuity/Response Committee is required to review all responses made to the Findings and Recommendations of the previous Grand Jury (2014-2015). The review is completed to assess the legal adequacy of response as identified in Penal Code sections 933 and 933.05 (addressing timeliness, format, and content of response).

Glossary

APS	Adult Protective Services
ATCAA	Amador-Tuolumne Community Action Agency
BOS	Board of Supervisors
BSD	Building and Safety Division
CAO	County Administrator's Office
CFPD	Columbia Fire Protection District
CRA	Community Resources Agency
CUSD	Columbia Union School District
DA	District Attorney
DIC	Development Information Center
IT	Information Technology
PBK	Prosecutors By Karpel Software System
SAN	Storage Area Network
SCC	Sierra Conservation Center
SOP	Standard Operating Procedures
TCBD	Tuolumne County Building Division
TCBHD	Tuolumne County Behavioral Health Department
TCHRA	Tuolumne County Human Resources Agency
TCJ	Tuolumne County Jail
TCOES	Tuolumne County Office of Emergency Services
TCPC	Tuolumne County Planning Commission

METHODOLOGY

The 2015-2016 Grand Jury Continuity/Response Committee consisted of seven Grand Jury members. The Committee began its work by reviewing the 2014-2015 Grand Jury Report filed on June 23, 2015. As responses to the report began to come in, an Excel Spreadsheet was generated to identify whether a response was needed and if so, the date the response was received. The spreadsheet also tracked the subsequent work of the Committee, noting the determination of legal adequacy of response, or whether additional follow up was needed.

In summary, the 2014-2015 Grand Jury Report included six continued investigative reports from prior Grand Juries. Agencies in this grouping included Tuolumne County Office of Emergency Services (TCOES), Columbia Fire Protection District (CFPD), Tuolumne County Building Division (TCBD), Columbia Union School District (CUSD), Tuolumne County Administrator's Office (CAO), and Tuolumne County Behavioral Health Department (TCBHD). In addition, the 2014-2015 Grand Jury initiated five investigations during their term. The investigated entities included: Adult Protective Services (APS), Building and Safety Division (BSD), Tuolumne County Jail (TCJ), Tuolumne County Planning Commission (TCPC), and Sierra Conservation Center (SCC).

The table below summarizes the response needs from the 2014-2015 Jury Report.

2014 - 2015 Grand Jury Report	Investigated Agency	Response Needed	Date Initial Response Received
A. Continuity Committee	1. Tuolumne County Office of Emergency Services	No	NA
	2. Columbia Fire Protection District	Yes	3/30/16
	3. Tuolumne County Building Division	No	NA
	4. Columbia Union School District	No	NA
	5. Public Re-Alignment AB109 - Karpel Case Management System (PBK)	Yes	9/9/2015
	6. Tuolumne County Behavioria Health Department	No	NA
B. Investigations	1. Adult Protective Services	Yes	8/12/2015
	2. Building and Safety Division		
	Report 1 (Permit Fees)	Yes	9/9/2015
	Report 2 (Permit Technician)	Yes	9/9/2015
	Report 3 (Technology)	Yes	9/9/2015
	Report 4 (The Development Info. Center)	Yes	9/9/2015
	3. Tuol. County Jail Committee Report		
	Report 1 (Facility Inspection)	No	NA
	Report 2 (Reporting To Jail)	Yes	8/19/2015
	4. Tuolumne County Planning Commission Committee Reports		
	Report 1 (Attendance)	Yes	9/9/2015
	Report 2 (Public Comment)	Yes	9/9/2015
	5. Sierra Conservation Center		
	Report 1 (The American Correctional Assoc.)	No	NA
	Report 2 (Substance Abuse Training, SAT)	No	NA
	Report 3 (The Contraband Dogs)	No	NA

Of the overall cases needing a response (as listed above), the 2015-2016 Continuity/Response Committee monitored and reviewed thirty one individual findings and recommendations from the 2014-2015 Grand Jury Report needing follow-up action.

BACKGROUND

Under California Law, a seated Grand Jury may investigate local government entities and officials. Findings and recommendations of any investigation are documented in the Grand Jury's final report. Within ninety days of the report being published, those investigated must respond to the Grand Jury. Penal Code 933.05 requires that responses to Grand Jury recommendations must address agreement/disagreement with the finding and actions to be taken as defined:

Agreement/Disagreement

- The respondent agrees with the finding.
- The respondent disagrees, wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Actions to Be Taken

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation,
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time for the matter to be prepared for discussion by the officer or head of the agency or department being reviewed, including the governing body of the public agency when applicable. The timeframe shall not exceed six months from the date of the publication of the grand jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

Where a response is "invited" of an agency, a response is welcome, but not required.

INVESTIGATION

The 2015-2016 Grand Jury commends the following local government and agencies for their timely responses to the 2014-2015 Grand Jury Report: Tuolumne County Board of Supervisors and the County Administrator, Tuolumne County Behavioral Health Department, Tuolumne County Community Resources Agency, Tuolumne County Sheriff's Office, and the Tuolumne County Planning Commission.

The focus of the Continuity/Response Committee is the findings, recommendations, and responses related to ***only those recommendations needing follow-up action*** based on the 2014-2015 Grand Jury Report. The report in its entirety, along with the specific response letters from the respective departments and agencies, can be found in their entirety at the following website link: <http://www.tuolumnecounty.ca.gov/index.aspx?NID=389>

Columbia Fire Protection District

2014-2015 Grand Jury Findings and Recommendations:

Finding #2: The Grand Jury finds that, according to CFPD, the Standard Operating Procedures (SOP) have not been updated since 2003 and are outdated.

Recommendation #2: The Grand Jury recommends that CFPD establish a County Counsel approved SOP by February 2016, including periodic review schedules.

Finding #3: The Grand Jury finds that the terminology “*local criminal background investigation*” is vague, and current and updated criminal clearance checks have still not been completed for all employees and volunteers.

Recommendation #3: The Grand Jury recommends that CFPD have all employees and volunteers processed through LiveScan by September 1, 2015.

2015-2016 Continuity/Response Committee:

The 2015-2016 Grand Jury agrees with the 2014-2015 Grand Jury Report’s observation that CFPD has a number of recommendations from previous grand juries that have been ignored as far back as 2010. The Board’s disregard is unacceptable since it is responsible for firefighters who enter private homes, operate heavy equipment, and are often first responders in life-threatening situations. Further, all volunteer fire departments should use LiveScan checks to ensure public safety.

As the end of February 2016 approached, the 2015-2016 Continuity/Response Committee reached out to County Counsel’s office to determine if CFPD had submitted their SOP for County Counsel review. Per County Counsel, no SOP had been received. Additionally, there had been no follow up from CFPD regarding the use of the LiveScan system.

In early March, 2016, the Response Committee Chairperson reached out to the CFPD Fire Chief regarding the status of the follow up requested to the 2015 Grand Jury. The Chief stated that the new SOP had been turned into the County Counsel’s office. The Committee Chairperson asked that a copy of the SOP be provided to the Grand Jury. The Chairperson also requested an update on the use of LiveScan.

On March 30, 2016 a copy of the CFPD SOP (erroneously submitted to the DA’s office) arrived in the Grand Jury’s mail. The Response Committee reviewed the SOP and found them to

be very comprehensive. It is assumed that County Counsel is currently reviewing the SOP from their perspective.

With regard to the use of LiveScan, the Chief stated that all permanent employees have been subject to a LiveScan review since the fall of 2015 per the Grand Jury request. For volunteers, however, the cost of LiveScan (approximately sixty dollars a scan) may be cost prohibitive. The CFPD budget is small. Volunteers typically spend a short time training and working, only to leave within a few months once a paid position is available elsewhere.

The Response Committee is satisfied with the current responses from CFPD. The Committee recommends, however, that all potential volunteer firefighters be asked to pay for their own LiveScan process. Volunteers gain experience from CFPD, which enables them to move on to paid positions. LiveScan is a small price to pay for the training and experience received, while assuring satisfactory background checks for those responding to incidents and entering the homes of the public.

Public Re-Alignment AB109 – Karpel Case Management System

2014-2015 Grand Jury Findings and Recommendations:

Finding #4: The Grand Jury finds that the DA's office paid close to \$100,000 for the Prosecutors By Karpel Software System (PBK), but cannot use all the software components that they purchased.

Recommendation #4: The Grand Jury recommends that the Board of Supervisors and the County Administrators direct the IT department to complete the purchase and installation of the required hardware and establish the required county-secure wi-fi connection in the County Superior Court by October 1, 2015, so the PBK software installation can be completed and used as intended.

2015-2016 Continuity/Response Committee:

A joint response from the Board of Supervisors (BOS) and the County Administrator's Office (CAO) dated August 8, 2015, indicated that efforts were being made to fully implement the Grand Jury recommendation. The proposed timing for the completion was December 31, 2015. The Response Committee has completed further follow-up with the CAO's office and received a letter dated March 16, 2016. While progress has been made, the District Attorney's Office is still not satisfied with the Karpel case management system overall.

According to the CAO's office, the following items continue to be pursued to maximize efficiency and satisfaction with the Karpel system:

- Upgrade the Storage Area Network (SAN) to accommodate large file transfers. This is expected to be completed by June of 2016.

- Upgrade the Tuolumne County Superior Court wireless system to support the use of the Karpel system during court proceedings. This is expected to be completed by December 2016.

The 2015-2016 Grand Jury recommends that if the Karpel system is not fully operational by December 2016, the 2016-2017 Grand Jury conduct a formal investigation into the matter. All indications suggest that not only does the system purchased for over \$100,000 not work as promised, adequate customer service and training from the vendor is not available. In addition, it appears that while the District Attorney's office is not satisfied, no one in the District Attorney's office is taking positive steps to pursue the matter.

Tuolumne County Behavioral Health Department – Adult Protective Services

2014-2015 Grand Jury Findings:

Finding #2: The Grand Jury finds that with the current Adult Protective Services (APS) Information Technologist retiring in October 2015, a replacement must be trained to keep the APS system current and running properly.

Recommendation #2: The Grand Jury recommends that Social Services choose an IT replacement. Staff selection and training shall begin by July 1, 2015 and be completed by October 1, 2015 so the replacement is trained and the transition is seamless.

Finding #4: The Grand Jury finds that APS is meeting the current needs of the adult population of the County and is on track with its overall goal: "To wrap a safety-net around the adult person to support their aging in place," but could benefit the community by having a formalized education plan.

Recommendation #4: The Grand Jury recommends that Social Services, by September 1, 2015, direct APS staff to work with Area 12 Agency on Aging, Catholic Charities, ATCAA, and the Tuolumne County Senior Center and continue developing additional outreach and training seminars (at least one seminar each year starting January 2016) for the general public on the common types of abuse, such as self-neglect and financial abuse, how to recognize the signs of abuse, and how to address them.

Finding #5: The Grand Jury finds that APS's general brochure is a tri-fold paper document because it easily copies, and has only been distributed to a narrow audience.

Recommendation #5: The Grand Jury recommends that Social Services shall upgrade the brochure to a professionally produced product and distribute it to a wider Tuolumne County audience including doctor's offices, the hospital, and county libraries by September 1, 2015.

2015-2016 Continuity/Response Committee:

A joint response from the Tuolumne County Human Resources Agency (TCHRA) and the CAO dated July 28, 2015, indicated that efforts were being made to fully implement the Grand Jury recommendations. The recommendation for Finding #4 was already being

implemented at the time of the response. Recommendations #2 and #5 were to be implemented later in the calendar year. The Committee recently completed further follow-up and found that Social Services IT needs are being met and a new, professional Adult Protective Services brochure has been developed and distributed. A copy of the new brochure was provided to the Grand Jury along with detailed information regarding the distribution of the brochure. In summary, the new brochure has been distributed as follows: 1,875 hard copies distributed to approximately 23 organizations and agencies; electronic copies provided to 4 entities, including all Tuolumne County department heads; and finally, the brochure is available on the Tuolumne County website.

The 2015-2016 Grand Jury commends the Tuolumne County Behavioral Health Department – Adult Protective Services for their thorough and timely follow-up to the 2014-2015 Grand Jury Report.

Tuolumne County Community Resources Agency – Building and Safety Division

Report #1: Permit Fees

2014-2015 Grand Jury Findings and Recommendations:

Finding #1: The Grand Jury finds that User Fees established for permitting procedures derives from a predetermined formula, circa 1990, of ten different public service Bargaining Units representing the County weighed against the local Consumer Price Index; there is no easily understood explanation for pricing made available to the public.

Recommendation #1: The Grand Jury recommends that the County Administrator annually update and display a self-explanatory User Fee Development Guide, to be available at the Development Information Center/Community Resources Center (CRA) and posted on the County website at the start of each fiscal year, beginning in 2016.

Finding #2: The Grand Jury finds in Chapter 3.40 of the Tuolumne County Ordinance Code, Fees (Section W, pages 18-20), a disparity in price valuations for fee scheduling in contrast to what Building and Safety currently provides in similar valuations.

Recommendation #2: The Grand Jury recommends that the Board of Supervisors and CRA shall adopt a policy and procedure prior to end of year 2015 showing that the County Code reflects current and same fee valuations when the Fee Schedule for Building and Safety Services is made public.

Finding #3: The Grand Jury finds the term “Community Development Department” listed in the County Ordinance Code as obsolete.

Recommendation #3: The Grand Jury recommends that the Board of Supervisors change this Ordinance Code term and be re-titled with the proper term “Community Resources Agency” by end of year 2015.

2015-2016 Continuity/Response Committee:

Individual and joint responses were received from the BOS, CAO and CRA. The Committee reviewed all responses and felt that the response and attention given to each finding and recommendation was adequate. It is noted that some follow up items will take place when practical, for example, when the next comprehensive update of the County's user's fees takes place. The User Fee Development Guide is posted on the County website at:

<http://www.tuolumnecounty.ca.gov/DocumentCenter/View/6539>

Report #2: Permit Technicians

2014-2015 Grand Jury Findings and Recommendations:

Finding #5: The Grand Jury finds the Development Information Center is understaffed by one critical element: a third qualified Permit Technician.

Recommendation #5: The Grand Jury understands all County agencies are under some form of budgetary restraint, but recommends that the Board of Supervisors allows CRA to hire a full-time Permit Technician I or II prior to the end of year 2015.

Finding #6: According to the Permit Technician's job description, the Grand Jury finds that they are to assist staff during State-mandated audits which reportedly have not occurred.

Recommendation #6: The Grand Jury recommends the Community Resources Agency Director or designee delete this language and any other job description requirements that are not performed by the end of year 2015.

2015-2016 Continuity / Response Committee:

Responses dated July 28, 2015 and August 18, 2015, were received from the CRA and BOS, respectively. The Committee reviewed all responses and felt that the response and attention given to each finding and recommendation was adequate. There is no longer a shortage of Permit Technician. Class specifications/job descriptions for all Tuolumne County employees are currently undergoing a review/update process.

Report #3: Technology

2014-2015 Grand Jury Findings and Recommendations:

Finding #7: The Grand Jury finds that Information Technologists are trying to keep everything "up to date" and it is "progressing," but, software upgrades are needed to make the Batch Permitting system more beneficial to both Building and Safety and permit holders.

Recommendation #7: The Grand Jury recommends Community Resources Agency maintain efficiency with software integrations, within budgetary restraints, as technology advances.

Finding #8: The Grand Jury finds there are no intuitive reference questions on the County's website for learning about Building and Safety Division's permitting procedures and "Batching."

Recommendation #8: The Grand Jury recommends an online detailed step-by-step permitting and "Batch" permitting application process in a "Frequently Asked Questions" section during the next County website update cycle and/or prior to end of year 2015.

Finding #9: The Grand Jury finds that applicants must telephone Building and Safety to learn of the daily inspection schedules, which wastes valuable time for both the staff and the applicant.

Recommendation #9: The Grand Jury recommends that prior to E-TrakIt implementation, scheduled for July 2015, Building and Safety e-mail the inspection schedule to all applicants and/or create a link on the County website to update permit owners – listing them by reference numbers, not by name.

2015-2016 Continuity/Response Committee:

A response dated July 28, 2015 was received from the CRA. The Committee reviewed the response and felt that the response and attention given to the findings and recommendations were adequate. Recommendation #7 was being implemented on an ongoing basis when the response was received. Since then, items related to Recommendations #8 and #9 have been implemented. The E-TrakIt system went "live" during the week of January 25, 2016. As such, the Batch permit system is no longer needed. Training on the new E-TrakIt system was provided to contractors and interested members of the public on February 11, 2016 and the BOS received training / information on February 16, 2016. Information on the new system is available on the County website.

Report #4: The Development Information Center

2014-2015 Grand Jury Findings and Recommendations:

Finding #10: The Grand Jury finds that some customers have exhibited aggressive behavior and created a safety hazard by actually violating the workspace of Building and Safety employees due to the lack of physical protection at the DIC.

Recommendation #10: The Grand Jury recommends that by the end of year 2015, an upgrade to the physical security of the Development Information Center (DIC), including a locking door / gate mechanism at the counter's two access portals for employees to secure their workspace area and completely separate their side from the public side of "The Counter."

2015-2016 Continuity/Response Committee:

A response dated July 28, 2015 was received from the CRA. The Committee reviewed the response and felt that the response and attention given to the finding and recommendation was adequate. Recommendation #10 has been partially implemented. Employee safety is paramount. Several security measures are in place to deal with the occasional angry visitor.

Tuolumne County Jail

2014-2015 Grand Jury Findings and Recommendations:

Finding #2: The Grand Jury finds that signage from the courthouse locating the reporting entrance of the jail facility is inadequate and proper directions are not given to the defendant at the time of sentencing.

Recommendation #2: The Grand Jury recommends that, by December 31, 2015, the Board of Supervisors approve and the County install four new signs (as described in the Grand Jury Report). In addition, the Grand Jury recommends that the Sheriff create and provide to the court a map with directions to the jail and reporting instructions to be included in the defendant's sentencing paperwork, to be implemented by December 31, 2015.

2015-2016 Continuity/Response Committee:

A response dated July 28, 2015 was received from the Tuolumne County Sheriff's Office. In addition, an August 24, 2015 response was received from the BOS. The Committee reviewed the responses and felt that the responses and attention given to the findings and recommendations was adequate. The need for further analysis regarding additional Jail signing was identified by the BOS. The Grand Jury offers that with the building of the new jail and justice center over the next few years, the need for additional signing to get defendants from Court to the County Jail in its current location is minimal.

Tuolumne County Planning Commission

Report #1: Attendance

2014-2015 Grand Jury Findings:

Finding #1: The Grand Jury finds that the elimination of the Southern County Planning Commission especially disenfranchises the Southern County area from the decision making processes.

Recommendation #1: The Grand Jury recommends that, no later than December 31, 2016, the Board reinstate the Southern County Planning Commission, at a cost of approximately \$17,000.00 per year, with 5 members instead of 7, to serve as an advisory body for the Planning Commission.

Finding #2: The Grand Jury finds that delayed broadcasts of Planning Commission meetings, only on cable Channel 8, does not adequately encourage public participation.

Recommendation #2: The Grand Jury recommends that, by December 31, 2016, the Planning Commission broadcast its meetings live on the Internet.

Finding #3: The Grand Jury finds that not having archived meetings available for the public to view on the County website results in less public participation.

Recommendation #3: The Grand Jury recommends that, by December 31, 2016, the Board of Supervisors direct the Planning Commission to have video of past meetings posted on the County website.

Finding #4: The Grand Jury finds that interactive Planning Commission meetings may have a positive effect on public participation.

Recommendation #4: The Grand Jury recommends that, by December 31, 2016, Planning Commission meetings be broadcast with interactive capability.

Finding #5: The Grand Jury finds that the procedures currently used by the Planning Commission for giving notice of upcoming meetings is the minimum required by the Brown Act.

Recommendation #5: The Grand Jury recommends that, by December 31, 2015, the Planning Commission post notice in the community calendar section of the local newspaper, public libraries, all County post offices, by mail to local senior centers, and on its's live broadcasts when they become available.

Finding #6: The Grand Jury finds that, at three meetings it attended, there were insufficient numbers of agendas available to the public.

Recommendation #6: The Grand Jury recommends that, beginning with the next meeting, the Planning Commission makes sure that there is a sufficient number of agendas available to the public before each meeting starts.

2015-2016 Continuity/Response Committee:

Responses dated August 18, 2015 and August 19, 2015, were received from the BOS and CRA, respectively. The Committee reviewed all responses and felt that the response and attention given to each finding and recommendation was adequate. It is noted that both the BOS and CRA disagreed with several of the findings of the Grand Jury Report and, therefore, implementation of the recommendations will not occur. The respondents provided thorough explanation as to why the recommendations would not be implemented, thereby meeting the requirements of the Penal Code.

Report #2: Public Comment

2014-2015 Grand Jury Findings and Recommendations:

Finding #7: The Grand Jury finds that asking persons wishing to offer public comment to identify themselves in any manner is a violation of the Brown Act.

Recommendation #7: The Grand Jury recommends that the Planning Commission immediately and permanently stop this practice and adhere to the Brown Act.

Finding #8: The Grand Jury finds that all public officials are required to attend ethics training and the Brown Act is part of the curriculum.

Recommendation #8: The Grand Jury recommends that all Planning Commission members complete the required ethics training, which includes the Brown Act as part of the curriculum, and each planning commission provide the Board of Supervisor's with a copy of the training certificate.

Finding #9: The Grand Jury finds that a three-minute time limit for public comment, although legal, is sometimes unreasonable and reflects neither the intent of the Brown Act nor the opinion of the California Attorney General.

Recommendation #9: The Grand Jury recommends that the time limit for public comments must be reasonable and thus adjusted upwards to five minutes or more when necessary to respect the intent of the Brown Act, based on criteria including but not limited to, the number of agenda items, the complexity of each item, the numbers of persons wishing to address each item, and the ability of the Planning Commission to end the meeting by 10:00 p.m.

Finding #10: The Grand Jury finds that having someone sit near the lectern and wave a sign indicating the time remaining for public comment is unreasonable.

Recommendation #10: The Grand Jury recommends that the Planning Commission immediately stop this procedure and instead use the green, yellow, red light system as a tool to help speakers realize the time remaining for their public comment.

2015-2016 Continuity/Response Committee:

Responses dated August 18, 2015 and August 19, 2015, were received from the BOS and CRA respectively. The Committee reviewed all responses and felt that the response and attention given to each finding and recommendation was adequate. Most of the recommendations above have been partially or fully implemented at this time.

AMADOR-TUOLUMNE COMMUNITY ACTION AGENCY COMMITTEE REPORT

INTRODUCTION

The Grand Jury received a letter in January 2016 which raised some concerns among jury members about a perceived bias in certain actions performed by an employee in one of Amador Tuolumne Community Action Agency's (ATCAA) programs. The program of interest was Central Sierra Connect (CSC). A committee was formed to understand the mission of CSC, how that mission was accomplished, and if there was any merit to the concerns raised by the letter.

Glossary

ATCAA	Amador Tuolumne Community Action Agency
CSC	Central Sierra Connect
CPUC	California Public Utilities Commission
CASF	California Advanced Services Fund
Client	A person being served by an ATCAA program
ISP	Internet service provider
JPA	Joint Powers Authority

METHODOLOGY

The Grand Jury ATCAA committee members met with the Executive Director of ATCAA. This meeting provided committee members with general information about ATCAA's operation and programs, and specific information about CSC and this program's employees. The committee members also met with an officer of ATCAA's Board of Directors. In addition, the committee reviewed information provided by the ATCAA web site, and the personal experiences and knowledge of some jury members. The committee members also conferred with County Counsel for a legal definition.

BACKGROUND

ATCAA is a non-profit organization that provides various services to low income persons of Amador and Tuolumne Counties. In 1981, ATCAA was established as a Joint Powers Authority (JPA), with a Board of Directors whose members include Board of Supervisors members from Amador and Tuolumne counties, and the public at large. One third of the Board of Directors must be from the low income community. These individuals must have the written support of at least twenty five members of the community. Board members usually have had some association or experience with one or more of ATCAA's programs. Board members are required to take ethics training usually provided by the Amador and Tuolumne county governments.

ATCAA is contracted by federal, state and county governments to provide services, assistance and information about shelter, money management, food banks, energy assistance, early childhood development, Head Start and other related services. ATCAA is funded by money received from federal, state, and county governments, donations, and public and private grants. The Agency has offices in Sonora and Jackson. The Agency's annual budget is nearly \$16,000,000.

INVESTIGATION

Central Sierra Connect

One of ATCAA's many programs is called Central Sierra Connect. The mission of CSC is (1) to identify potential high-speed internet users not currently served adequately such as schools, hospitals, government offices, libraries, etc., and (2) to assist internet service providers (ISPs) in extending service to geographic areas identified as unserved or underserved. CSC also provides a program to increase computer literacy, specifically the beneficial use of the internet among the clients ATCAA serves. CSC has two contracted employees to perform this work. One assists ISPs with technical issues and grant applications, and the other provides program administration and assists ATCAA clients with computer skills, coaching and training. Both employees are paid by ATCAA from funds granted to ATCAA from the California Public Utilities Commission (CPUC). These CPUC funds are generated by a tax on cellular telephone users, and are designated as the California Advanced Services Fund (CASF). In addition to the grant money awarded to ATCAA for CSC, CASF has grant money available to qualified ISPs who want to expand their service in the identified underserved and unserved areas.

CSC was able to identify many potential high-speed internet users, but in order to assist internet service providers in their applications for grants, actual service levels in underserved and unserved geographic areas had to be identified. This was a complex and difficult task primarily because of the limitations of the tools available for measuring service levels and internet speed. Apparently, CSC used a voluntary survey method, asking people in rural areas to submit information on their internet use and experience.

There are several ISPs who are interested in providing upgraded service to various areas of Tuolumne County. Providing internet service to unserved/underserved areas identified by the CSC survey first requires the evaluation of several technical and economic factors. The competition between ISPs for these areas can be intense and creative. ISPs have been known to claim intentions to provide service to an underdeveloped area in an effort to discourage or even "lockout" other ISPs from planning expansion into that area. The intended service may never develop, leaving the area underserved. Service territories can be just a commodity, held by one ISP on speculation only and sold later to another ISP to develop. Additionally, empirical measurements of service levels are nearly non-existent, and service level definitions can be flexible and subjective. Only recently has the PUC provided a method for the public to provide speed testing (service level) data for evaluation by the PUC.

CSC is also tasked with informing ISPs of CASF grant availability. The ATCAA newsletter and other forms of public outreach are used to meet this task. CSC is also tasked with assisting ISPs who want to serve the underserved and unserved areas, with grant application preparation. This assistance is in the form of general information about CASF grants, grant application format, potential users in the ISPs proposed service area, and population data. Although to date only one ISP has requested assistance, this assistance is available to all ISPs. Some applicants may be in competition for grant money, so CSC must be careful to be neutral in the assistance it provides.

Financial Oversight

ATCAA administers at least fifty different programs, many of which are complimentary in the services they provide. These programs are generally individually funded and managed. Program managers are responsible for providing the expected level of service within the budget available for that project. Ultimately, the Executive Director is responsible for the fiscal efficiency and service effectiveness of all programs. The ATCAA Board of Directors performs oversight by reviewing the financial statements when they meet every two months.

The ATCAA Financial officer develops a detailed monthly financial statement which includes the expenditures, accounts receivable, budget adherence, etc. of the administration offices and of every individual program. This statement is given to the Board's financial committee for review every two months. After review by the financial committee, the statement is presented to the full Board. Unexpected expenditures must be approved by the Board, but routine expenditures are approved as consent items on the agenda of the bi-monthly Board meetings.

In addition to the Board's review, ATCAA is audited annually by an outside auditor, and many of the private grant providers require an audit of the funds they give to ATCAA. The state also requires an audit of the state funds given to ATCAA, and of the services ATCAA is contracted to provide.

ACTAA currently holds no un-budgeted long term debt, and no program is operating with a deficit.

FINDINGS

- F1** CSC did advertise CASF grant availability, and CSC's availability to assist ISPs with the CASF grant application process. CSC also identified geographical areas with underserved or un-served internet access, however the method for gathering this information may have been cursory.
- F2** ATCAA has significant responsibilities to the people it serves and to the public and private entities that fund these services. These responsibilities are diverse and very public. Neutrality and fairness in fulfilling these responsibilities is paramount.

RECOMMENDATIONS

- R1** No recommendation.
- R2** In order to minimize the possibility of any real or perceived conflict of interest or bias, ATCAA programs must operate in a highly ethical manner. The ethics training program currently in place must not be neglected. The Grand Jury recommends that ATCAA new employees and staff, particularly staff with fiduciary responsibilities, continue their biannual ethics training without fail. In addition, because contractors often represent ATCAA to the public, it would be beneficial and prudent for ATCAA to require any person or company under contract to ATCAA to adhere to the same ethical standards required of ATCAA employees.

RESPONSES

Required Responses

- ATCAA Executive Director: R2

CONCLUSION

The Grand Jury has concluded that the concerns raised by the letter are minor and/or not within the jury's jurisdiction. However, the jury has also concluded that an agency such as ATCAA, which administers so many publicly funded programs, must be especially aware of its public image and reputation, and be diligent in its financial administration and ethical behavior.

RALPH M. BROWN ACT COMMITTEE REPORT

INTRODUCTION

The Ralph M. Brown Act (Brown Act), adopted in 1953, is a critical piece of legislation which protects transparency in California government. It prohibits secret dealings by various elected bodies and provides remedies for violations. It applies to city councils, boards of supervisors, and local agencies, such as school boards and special districts within the state. It can be found in its entirety at Government Code Sections 54950 – 54963.

METHODOLOGY

The Grand Jury received three citizen complaints regarding violations of the Brown Act provisions by the Sonora City Council, the Sonora Union High School District Board of Trustees and the Summerville Union High School District Board of Education. A common theme of the complaints was a lack of adherence to the Brown Act, such as failing to comply with the requirements of soliciting public comments on agenda items, or to comply with the requirements to provide the public with documents handed out to the boards or council during the meetings.

In response to those complaints, the Jury reviewed Brown Act requirements, considered data provided with the complaints, attended city council and district board meetings, examined various school board and city council agendas and minutes, and reviewed council and board websites. We interviewed city employees, educators and other school district employees, however, the Sonora City Council members failed to meet with the Grand Jury.

BACKGROUND

The preamble of the Brown Act makes the Legislative intent clear: “In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

In 2003, the State of California’s Attorney General’s Office published “*The Brown Act: Open Meetings for Local Legislative Bodies*.” In that report it was stated that throughout California’s history, local legislative bodies have played a vital role in bringing participatory democracy to the citizens of the state. Local legislative bodies, such as boards, councils and commissions, are created in recognition of the fact that several minds are better than one, and that through debate and discussion, the best ideas will emerge.

In November, 2004, voters also adopted Proposition 59, the “Open Government Ordinance”. This amends the California Constitution to make plain that the public has the absolute right of access to these meetings.

In Tuolumne County, there are many local, legislative, and governmental bodies of elected citizens serving County needs on a mostly volunteer basis. Every month these officials meet and make decisions that affect the lives of citizens of the county, concerning issues such as education, public safety, public health, water, sanitation, and pension administration. Provisions of the Brown Act cover their public meetings. Included in the Brown Act are provisions for types of meetings, notice and agenda requirements, rights of the public, permissible closed sessions, and penalties and remedies for violations of the Act.

Divisions of the Brown Act cover such elements as closed sessions, agendas, documents, remedies, and others.

Closed Sessions

There is a perception by some that the districts have improperly conducted closed sessions. The Brown Act permits closed sessions for particular types of business. The items most commonly heard during closed session are conferences with real property negotiators, discussions with legal counsel regarding current or pending litigation, public employee appointments, performance evaluations including disciplinary actions and public safety threats. These sessions may also include a discussion on whether a change in compensation is warranted based on performance, but may not include discussion or action on proposed compensation except for a reduction in compensation because of a disciplinary action.

Following a closed session, the legislative body, in some circumstances, must publically report on action taken in closed session and disclose, by name, the vote or abstention of every member present. Copies of any finalized contracts that are approved in a closed session must be promptly made available.

Agendas

The Brown Act requires that a public agency, board or council must post an agenda on the agency’s building that contains a brief and general description of each item, including items to be discussed in closed session, at least seventy-two hours prior to a regular meeting. The agenda must also be posted on the board or council’s website, if the agency has a website.

The agenda must be described with enough particularity to protect the confidentiality of the subject to be discussed, but at the same time provide the public with a general idea of the topic. No action can be taken on items not on the agenda, except brief responses to public testimony, requests for clarification from or references of matters to staff, brief reports on personal activities, when there is an emergency, or when two-thirds of the legislative body agree there is a need to take immediate action on a matter of which the body had no prior notice.

Documents

Records distributed at a public meeting are public records, unless otherwise exempted under the Public Records Act. The public is entitled to obtain them at the meeting if they were prepared by the public agency, or after the meeting if prepared by someone else. If there are not enough copies available at the time of the meeting, the board must be able to make and distribute sufficient copies.

Remedies

There are both civil remedies and criminal misdemeanor penalties for violations of the Brown Act. The civil remedies include injunctions against further violations, orders nullifying any unlawful action, and orders determining the validity of any rule to penalize or discourage the expression of a member of a legislative body. They are outlined below:

- **Cease and Desist Letter** : In 2012, Senate Bill 1003 was signed into law with an effective date of January 1, 2013, This legislation provides that a complainant or the district attorney may send a local agency or legislative body a “Cease and Desist” letter within nine months of a Brown Act violation. After receiving such a letter, the agency or legislative body does not have to admit fault for past violations of the Act, but only has to agree to abide by the law in the future.
- **Cure and Correct Letter** : A complainant or the district attorney may send a “Cure and Correct” demand letter to a legislative body for the purpose of stopping ongoing violations of the Brown Act or preventing threatened future actions. The written demand must be made within ninety days after the challenged action was taken in open session unless the violation involves the agenda requirements under Government Code section 54954.2, in which case the written demand must be made within thirty days. The topic of the letter must correct or cure the action within thirty days of receipt of the letter and notify the complainant within thirty days of their action or inaction. If the board does not respond within thirty days there is an assumption that no action will be taken.
- **Effectiveness of Remedies** : In most cases, legislative bodies that violate the Brown Act will receive a letter from the District Attorney advising them to correct the problem and avoid violations in the future as the violations are often viewed as mistakes or oversights. However, if the only actions is a District Attorney’s letter, the public’s confidence may be diminished, since the District Attorney can prosecute violations of the Brown Act as a misdemeanor. .

INVESTIGATION

The Grand Jury received three citizen complaints regarding potential school board and City Council violations of Brown Act provisions;. Therefore, the focus of this report is on the Sonora City Council, the Sonora Union High School District Board of Trustees and the Summerville Union High School District Board of Education compliance with certain portions of the Brown Act.

There were three complaints concerning the Sonora Union High School District Board of Trustees, four concerning the Summerville Union High School District Board of Education, and ten concerning the Sonora City Council. In each case, community perceptions of Brown Act violations created misunderstandings between board or council and the community. It was claimed that the school boards failed to abide by the proper procedure for creating and posting of agenda items, to follow the proper procedure in adjourning into closed session, and to call for public comment on every posted agenda item. The complaints also claimed that the school boards had failed to keep their websites updated with current information available to the public. It was further claimed that the boards had failed to establish and maintain the public's trust. It was also claimed that the Sonora City Council failed to provide for proper public comment, provide pertinent documents, and permitted discussion of an item not on the agenda.

Generally, since the passage of the Brown Act, board and council meetings are held in public session. Closed sessions are most commonly held to discuss certain confidential matters, such as real property negotiations, litigation, and personnel issues including performance evaluations and disciplinary actions. After a closed session, in some circumstances, the board or council must publicly report on actions taken in the closed session and disclose by name, the vote or abstention of every member present. These closed sessions are sometimes held at the end of the public meetings and, when the closed session is reopened the people attending the public meeting often have left, so they do not hear the results of the vote that night and cannot comment on it. Some contend that if an individual leaves the meeting during the closed session, the "problem" lies with the person who leaves, even if it is late at night. Boards, however, have the power to change the scheduling of closed meetings to an earlier time, although some boards have not done so.

The Brown Act requires that a public agency or board post an agenda that contains a brief general description of each item, including items to be discussed in closed session, at least seventy-two hours before a regular meeting. The posting must be on the agency's building in a location that is freely accessible to members of the public. Technology and the internet are now redefining the idea of "participatory democracy" as public expectations of the ability of online involvement are high. The agenda also must be posted on the board's or agency's website, if the board or agency has a website. Furthermore, the minutes of those public meetings are meant to reflect what happened at the meeting and allow the public to gather information after the fact. The Sonora City Council, the Sonora Union High School District and the Summerville Union High School District have websites.

The Brown Act also requires that when public documents are provided to a majority of board members, the documents must simultaneously be available to the people. If there are not a sufficient number of copies available at the time of the meeting, the board must be able to make and distribute sufficient copies.

The Act provides in Government Code Section 54953.3, that a "member of the public shall not be required, as a condition of attendance of legislative body or a local agency, to register his or her name, to provide other information, to complete questionnaire, or otherwise to fulfill any condition precedent to his or her attendance."

Legislative body and/or school board meetings must include an opportunity for public comment pursuant to Government Code Section 54954.3(a): “The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.” Government Code Section 54954.3(b), allows a public body to “adopt reasonable regulation” regarding public comment, “including but not limited to regulations regarding the total amount of time allocated for public testimony on particular issues for each individual speaker.”

Alleged Violations of Brown Act pertaining to the Sonora City Council

On May 4, 2015, during an open meeting, the Sonora City Council allegedly violated the Brown Act by intentionally, willfully and deliberately refusing to allow a member of the public to comment on an item within the Council’s jurisdiction that was placed on the posted agenda. A citizen rose to speak on an agenda item but was denied the right to speak and was told that public comment was “inappropriate” as the public appearance was not an “action” item. No council member spoke up on behalf of the member of the public to allow her the right to be heard.

On May 4, 2015, during an open and regular meeting, the Sonora City Council allegedly violated the Brown Act by failing to provide the public in attendance with copies of documents handed out to the council during the meeting. During the meeting, Fire Chief New circulated her Fire Hazard Assessment Report. No copies were made available to anyone in the audience. No one on the council called for copies to be made available to the audience.

On June 1, 2015, during an open and regular meeting, the Sonora City Council allegedly violated the Brown Act by initiating a discussion of an item not listed on the agenda. The topic of “quarterly Town Hall meetings” was introduced that could be an avenue to answer concerns about Vision Sonora. This started a discussion with other council members until a member of the public brought this to the council’s attention. The City Attorney informed the Council they could not have a discussion as it was not an “action item”.

The complaints regarding the Sonora City Council also claimed the Council had failed to abide by the Brown Act at numerous open and public meetings by failing to call for public comment on every posted agenda item as listed below:

- On July 15, 2013, during an open meeting, the City Council allegedly violated the Brown Act by requiring a sign in sheet without legal disclosure for participation in the public hearing. On that date a sign-up sheet was passed throughout the audience for individuals to sign if they wished.
- On July 7, 2014, during an open meeting, the City Council allegedly violated the Brown Act by not asking for public comment on any posted agenda item except for the items identified as “public hearing”.
- On August 4, 2014, during an open meeting, the City Council allegedly violated the Brown Act by not calling for any public comment on any posted agenda which included the increase in fees for Cal Sierra Disposal waste fees or updating the municipal code.

- On August 18, 2014, during an open meeting, the City Council allegedly violated the Brown Act by not calling for public comment on any public comment on any posted agenda item.
- On November 3, 2014, during an open meeting, the City Council allegedly violated the Brown Act by not calling for public comment on any posted agenda item which included the allocation of \$19,000.00 in funding to participate in the public meeting.
- On November 24, 2014, during an open meeting, the City Council allegedly violated the Brown Act by not calling for public comment on any posted agenda item.
- On December 15, 2014, during an open meeting, the City Council allegedly violated the Brown Act by not allowing public comment on any posted agenda items.

During the investigation of Brown Act compliance with the Sonora City Council, the Grand Jury attended three City Council meetings and later interviewed the City Administrator. The Jury found that the Council had developed a sound understanding about remedying previous Brown Act violations as no new violations were observed. Agendas were posted as required and also distributed to local print and electronic media. Agendas were available to the public at the meeting. The public was observed to be allowed to address the council on any item in the council's jurisdiction. Public comment was solicited on agenda items. The City Council's website was found to be easy to locate and updated with the most current agenda and meeting minutes. City Council members receive Brown Act training every two years.

Alleged Violations of Brown Act by Sonora Union High School District Board of Trustees

On July 7, 2015, during an open Special Board Meeting, the Sonora Union High School District Board of Trustees allegedly violated the Brown Act by outlining Public Comment Procedures that requires an individual to identify themselves in order to address the Board. As provided by the Government Code Section 54953.3, a member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition to his or her attendance.

During that same meeting the Sonora Union High School District Board of Trustees allegedly violated the Brown Act by failing to call for public comment on every agenda item listed. As provided by the Government Code Section 54954.3, every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item. Also, it is alleged that the Board violated the Act by excluding the public by going into an illegal closed session. The agenda item listed for closed session only indicated "personnel matters" and "legal matters" and did not include specific citation to statutory authority under which the closed session was being held.

During its investigation of Brown Act compliance with the Sonora Union High School District Board of Trustees, the Jury attended three District Board Meetings and was able to interview the full Board of Trustees. The Jury was impressed with the manner in which the board meetings were conducted using electronic media as a guide to follow each agenda item and solicit public comment before open voting. The agenda descriptions were described with

enough particularity to provide the public with a good understanding of the subject to be discussed. Agendas were posted at three different locations on the school campus for the public's information and were submitted to local print and electronic media. The Sonora Union High School District Board of Trustees website was easy to locate and use, was updated and provided both current meeting agendas and past meeting agendas and meeting minutes. The Trustees have received Brown Act training from both the Tuolumne County Board of Education and the California School Boards Association.

Alleged Violations of the Brown Act by the Summerville Union High School District Board of Education

On February 25, 2015, during an open Regular Board meeting, the Summerville Union High School District Board of Education allegedly violated the Brown Act by outlining Public Comment Procedures that required both a Speaker's Request to Address the Board Submission to be completed and submitted to the Superintendent's designee as well as the Agenda Public Comment section mandate for identification of the speaker. As provided by the Government Code Section 54953.3, a member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition to his or her attendance.

At the same meeting, the Board allegedly violated the Brown Act by failing to call for public comment on agenda items listed on both the Summerville and Connections Visual and Performing Arts Academy (VPAA) Agendas. During the Connections VPAA Board meeting, there was no call for public comment on agenda items. During the portion of the Summerville Board meeting, there was no call for public comment. As provided by the Government Code Section 54954.3, every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item. Also, during the meeting, the Board allegedly violated the Act by failing to provide the public copies of documents handed out during the meeting. No copies were made available to anyone in the audience and no one on the Board called for copies to be made available to the audience. As provided by Government Code Section 54957.5(a)(b), "and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body ... that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency." It was also alleged that during the meeting, the Board signaled their intent to violate the Brown Act by agreeing to participate in a potential "serial meeting" by e-mail to an administrator outside the open and public forum. The intent of the Brown Act is for board deliberation and action to be taken openly and serial meetings violate the goal of transparency.

During its investigation of Brown Act compliance by the Summerville Union High School District Board of Education, the Jury attended two school board meetings and interviewed the District Board President and the School District Superintendent. We found that the District Board was meeting the requirements of posting notice of their meetings and agenda items at the district office and through local print and electronic media. The agendas were

available to the public at the meetings and there were clear descriptions of the subject matter under consideration. The observed board meetings appeared to be well run with a conscientious effort to observe the principle of an open meeting. The Grand Jury, however, found that the Board provided a “Speaker’s Request To Address The Board” form for persons wishing to make public comments to the Board, and it was indicated that submitting the person’s name was optional. Presenters were allotted five minutes to make their presentation unless granted a longer time by the Board President pursuant to Board Policy 9323(B,4). Time was limited to thirty (30) minutes per agenda item

The Summerville Union High School District Board of Education has a website, which the Jury believes the average citizen would find somewhat difficult to locate, as it is not under the title for the school district board but under a website for the Summerville High School. The website, at the time it was searched for and viewed, was not up to date. The Summerville Union High School District Board of Education has received Brown Act training from both the Tuolumne County Board of Education and the California School Boards Association.

FINDINGS

- F1** Many members of the public do not understand the Brown Act and do not know how to correct a Brown Act violation nor the time frame to object to a perceived violation.
- F2** There has been a community concern as to the Sonora City Council’s understanding and implementation of Brown Act provisions.
- F3** There has been community concern regarding actions taken by the Sonora Union High School District Board of Trustees and that those actions might not be in full compliance with the Brown Act.
- F4** There has been a community concern regarding actions taken by the Summerville Union High School District Board of Education and that those actions might not be in full compliance with the Brown Act.
- F5** The Summerville Union High School District Board of Education’s website was difficult to identify and needed updating.

RECOMMENDATIONS

- R1** The Jury recommends that the Sonora City Council, the Sonora Union High School District Board of Trustees and the Summerville Union High School District Board of Education include in their website links to information regarding the Brown Act to enable citizens to post concerns about possible Brown Act infractions.
- R2** The Jury recommends that the Sonora City Council, the Sonora Union High School District Board of Trustees and the Summerville Union High School District Board of

Education have a link to an organization such as The First Amendment Coalition (<http://firstamendmentcoalition.org>) for both Cure and Correct and Cease and Desist letters, with instructions.

- R3** The Jury recommends that the Sonora City Council have annual training in the Brown Act for its council members and support staff.
- R4** The Jury recommends that the Tuolumne County Board of Education review its leadership and educational roles in servicing Brown Act Training needs for the school boards within Tuolumne County.
- R5** The Jury recommends that the Summerville Union High School District Board of Education consider making their website more user friendly and current.

REQUEST FOR RESPONSES

Required Responses

- Sonora City Council: R1, R2, R3
- Sonora Union High School District Board of Trustees: R1, R2
- Summerville Union High School District Board of Trustees: R1, R2, R5
- Tuolumne County Board of Education: R4

CONCLUSION

Since the alleged filed complaints occurred prior to the Grand Jury's current tenure, the Jury could not confirm whether these alleged Brown Act violations were deliberate attempts to mislead the public or oversights caused by insufficient or inadequate Brown Act training. The Jury concluded, as a result of its observations of the meetings attended, that the latter was more likely the cause. However, these potential Brown Act violations have created some mistrust within their respective communities. The Jury found through their investigations that citizens were uneducated about how to challenge or remedy Brown Act violations. Citizens need to be aware of their entitlement to open government and to the remedies they have at hand when they see violations of the Brown Act. At the same time, we believe that most elected or appointed officials, despite the occasional incident or unintentional violation of the Brown Act, take the law very seriously.

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TUOLUMNE COUNTY JAIL COMMITTEE REPORT

INTRODUCTION

A new county jail is on the horizon with completion expected in 2019. Previous Grand Jury reports recommended the construction of a new facility due to the aging infrastructure of the existing building, and the county is finally making the recommendations a reality for the community and, more importantly, the people who work and are housed in the jail. The Tuolumne County Grand Jury made its annual inspection of the Tuolumne County Jail facility and interviewed members of the Tuolumne County Sheriff's Department staff. The members of the Jail Committee were responsible for this report.

Glossary

AB109	Assembly Bill 109 – A law passed in 2011 that realigned the sentencing of non-violent, non-serious, and non-sexual offenders to serve their sentences in county jails rather than a state prison.
BSCC	Board of State and Community Corrections
CCR Title 15	Title 15 of the California Code of Regulations, Crime Prevention and Corrections, which outlines the rules and regulations of adult institutions, programs, and parole facilities regulated by the California Department of Corrections.
JMS	Jail Management System
Prop 47	Proposition 47 – A ballot initiative passed by California voters that reduced certain drug conviction felonies to misdemeanors, and requires misdemeanor sentencing for petty theft, receiving stolen goods, and forging/writing bad checks when the amount is \$950 or less.
Recidivism	A tendency to relapse into a mode of behavior, typically criminal behavior and frequently chronic.
SCC	Sierra Conservation Center, a state-run prison located in Tuolumne County
TCBOS	Tuolumne County Board of Supervisors
TCFD	Tuolumne County Fire Department
TCJ	Tuolumne County Jail
TCPHD	Tuolumne County Public Health Department
TCSO	Tuolumne County Sheriff's Office

METHODOLOGY

The inquiry into the TCJ included an inspection of the jail facility, interviews with the Sheriff and jail staff, follow up questions to and clarifications from those persons, and a review of jail-related statistics from the Board of State and Community Corrections (BSCC) website (http://www.bscc.ca.gov/m_data&research.php). In addition, the August 2015 BSCC biennial inspection, the 2015 Tuolumne County Fire Department (TCFD) annual inspection and re-

inspection report, and the 2015 Tuolumne County Public Health Department (TCPHD) inspection and re-inspection reports were reviewed. In order to gain an understanding into how Assembly Bill 109 (AB 109) and Proposition 47 (Prop 47) have affected the jails at the county level, various websites, news articles, and Grand Jury reports from other counties across the state were reviewed. The Inmate Orientation Handbook, Tuolumne County Jail Policy and Procedures Manual, and a Pre-Release Manual were provided to the Grand Jury and these items were also reviewed.

Disclaimer

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

BACKGROUND

Section 919(b) of the California Penal Code mandates that the Grand Jury inquire into the condition of a public prison within the county. Sections 919(a), 925, and 925(a) authorize the Grand Jury to investigate county and city jails and other detention facilities. Safety and security are vital elements in operating a detention facility, for inmates as well as the officers and employees working in the jail.

The main portion of the TCJ was built in 1959, added on to several times in subsequent years, and has had periodic renovations and maintenance efforts over the years. The jail lies within Sonora city limits in the midst of a residential community. There is relatively little space surrounding the jail to expand within its existing confines. Due to the deterioration of the facility and its limited capacity, the construction of a new jail facility is expected to begin in 2017 and to be completed in 2019, and house approximately 220 inmates.. The maximum capacity of the current jail is 147 inmates, and both men and women are housed at the facility. No juvenile offenders can be housed at this facility.

INVESTIGATION

Jail Inspection

Many members of the Grand Jury elected to go on a tour of the jail facility on September 16, 2015. As is the case with all jail visitors, all jurors were thoroughly searched by several officers prior to entering the jail to prevent the entry of illegal contraband. Upon entering the secure, restricted-access portion of the jail, two officers provided a tour of the jail facility. The tour of the facility included most areas of the jail, including the “safety and sobering” cells, the control room, various cell blocks, kitchen, rooftop recreation area, and the inmate visitation area. As noted by many previous Grand Juries, the building shows many signs of aging, but appears clean and as well-kept as could be expected. All inmates assume responsibility for the

cleanliness of their living quarters and daily inspections are used to enforce neat and clean conditions of the celsl. Inmates were observed performing a variety of work tasks during the visit and the orientation manual informs inmates that they may be required to do work at any time. Some of the jail officers are forced to use small rooms, previously closets, for offices. The hallways appeared relatively narrow which creates a safety hazard when inmates and jail staff are passing in the corridors. Many of the doorways are narrower than the hallways, thereby restricting clear lines of sight. Very little natural light enters the majority of the interior portion of the jail. Overall, the facility is understandably austere.

The sobering and safety cells are located immediately inside the entry portal. These cells have large windows facing the control/booking room for easy viewing by jail staff and a security camera positioned to observe most activities occurring in these rooms. They appeared clean and were free of graffiti and abnormal odors. The cells provide safe accommodation only for persons suffering from serious drug or alcohol impairment and at risk of personal harm due, primarily, to mental health issues. Persons held in these cells must be checked on a regular basis and accessed quickly should any medical or safety needs arise.

The jurors were allowed in the control room to observe the booking of an individual and talk to the personnel in the control room. They were informed of the decision making process that occurs when someone must be released due to the jail operating at or near capacity. The early release of inmates, either to the Probation Work Release Program or an early release from custody, is a regular daily occurrence and is typically the result of the need to create space for a newly incarcerated person charged with a crime that supersedes the need to retain an existing inmate. The early release of inmates, typically those convicted of a felony, means that these persons do not serve their entire sentence.

When the tour of the secure portion of the jail was complete, the jurors were shown the locker rooms of the jail officers and the room containing inmate clothing and supplies. The locker rooms, one each for men and women, were spartan at best, with an assortment of furnishings that were mismatched and worn. "We make do with what we have" was a comment provided by one of the Sheriff's Office staff, reflecting the hodge-podge of furnishings in various states of wear. Anyone needing to access the second locker room must pass through the first locker room. Anyone needing to access the storage area must pass through both locker rooms. This obviously minimizes the amount of privacy that is afforded to persons in the locker rooms. There were no windows in these rooms and leaks from the overhead plumbing were being captured by tarpaulins and funneled into large containers that required regular emptying. Inmates perform this task. Various trainings are conducted in one of the rooms due to overall limitations in space, further reflecting the necessity of the "make do" comment noted previously.

During the jail inspection, the staff openly discussed their experiences working in the jail and satisfactorily answered the questions posed by the Grand Jurors. Most of the officers eagerly await the construction of the new jail where many of the shortcomings of the existing facility will hopefully be remedied.

Interviews and Inspection Reports

The Sheriff and Jail Commander were independently interviewed by members of the jail committee in November and December, respectively. Follow up communications via e-mail were made as clarifications were needed and additional questions were developed. The TCPHD, TCFD, and BSCC inspection reports were reviewed.

Both the Sheriff and Jail Commander independently discussed the increasing challenges of operating the jail in the wake of AB 109 and Prop 47. Prior to AB 109, county jails were intended to hold persons convicted of misdemeanors and lower level felons with sentences typically of one year or less. Since the passage of AB 109, inmates can serve many years in the TCJ. This increase in incarceration time causes additional difficulties for the jail staff in regards to classification and assignment of inmates to housing units, cells, or cell blocks, management of individuals with serious medical or mental health issues, exposure to inmates who may have previously committed more serious or violent crimes, and safety of inmates and staff.

The assignment of inmates to a cell or cell block can be very difficult for the jail staff, especially for a facility not intended for long-term housing of inmates and with few options for holding inmates with wide ranging needs. Individuals can have pre-existing interpersonal relationship issues, gang affiliations, behavioral health needs, and develop personality conflicts after years in constant contact, to mention a very few, which makes spending long hours in very close quarters under stressful conditions very challenging. Further, gender identity and sexual orientation issues present unique challenges for placement in a cell or cell block and discrete, separate space is needed for these individuals.

As the potential for conflict increases, inmate safety is hard to ensure and the officers of the jail are also faced with safety risks associated with tempering or breaking up inmate-on-inmate violence. The jail officers must also undoubtedly endure the anger and threat of violence from inmates on a regular basis, though there are procedural ramifications and consequences for misbehavior. When inmate tensions are high, or when exposed to the anger and potential violence from inmates, the jail officers experience prolonged periods of very high levels of stress. Jail officers work relatively long shifts and most officers working on one of the primary shifts in the jail (daytime or “graveyard”) work eleven hour shifts for four consecutive days. Employees on this schedule are exposed to chronic stress which certainly exacts a toll on the mental and physical well-being of the officers, in and outside of the work environment. The jail is currently understaffed, with two positions vacant at the time of this report. This issue is discussed at length later in this report.

A review of the BSCC’s website provided some insight into the monthly statistics of the jail. Portions of the discussions with the Sheriff and Jail Commander were confirmed in that the majority of inmates are felons, many are awaiting sentencing for one or all charges, recidivism is high, the number of AB 109 inmates housed at the jail continues to increase, and the jail is at or near capacity most of the time.

The jail requires an annual inspection by the TCPHD (California Health and Safety Code, Section 101045) and Fire Marshal (California Health and Safety Code, Section 13146.1), while the BSCC inspection occurs biennially. The TCPHD report indicated the jail was largely compliant in environmental health, nutritional health, and medical and mental health evaluations, with a few minor exceptions. Following the initial TCPHD inspections (February 13th and 18th, 2015, respectively), most of the non-compliant issues were resolved in a timely manner during a follow-up visit by TCPHD on May 22, 2015. For the outstanding non-compliant issues, water temperature in one bathroom sink was lower than allowable by code thereby creating a sanitation issue, water temperature in one shower exceeded that allowed by code (124 degrees Fahrenheit versus 120 degrees, maximum) thereby creating a safety issue, and lighting levels in certain cell blocks were lower than allowable by code (three foot-candles versus twenty foot-candles, minimum).

The TCFD conducted two inspections of the jail. The first inspection on May 6, 2015, revealed two items that were not in compliance with applicable mandates. A second inspection conducted on July 28, 2015 showed the non-compliant issues were remedied.

The BSCC inspection was conducted in August 2015 and covered the physical plant (the actual facility) and applicable California Code of Regulations Title 15 sections. The jail (physical plant) was mostly compliant with the exception of the exceedance of allowable occupancy in two of the three person cells. In both cells, four persons were occupying the cells, thereby violating the minimum space allowance per inmate. The Title 15 inspection, which covers crime prevention and corrections, reported on four emphasis areas: policy, training, staffing, and procedures. The BSCC review was complimentary of the procedures used by the jail, especially those pertaining to the safety and sobering cells. The inspection noted the jail staff continues to use manual (non-computerized) methods to document inmate movements, checks, and activities, including those for the sobering and safety cells. Disciplinary outcomes were proportional to the offense and consistently applied. Potential outcomes are well-defined in the Inmate Orientation handbook. The commendation provided by the BSCC indicates the procedures and policies used by the TCJ are generally followed. The procedures and policies were reviewed during this investigation of the TCJ and were found to be well-defined and reasonable.

The only non-compliant element reported during the BSCC inspection concerned the inappropriate use of the sobering cell. During the inspection, two court-bound inmates were being temporarily held in the sobering cell. Title 15, Section 1056 limits the use of the sobering cell to arrestees who are so inebriated that they require a protected environment. The TCJ was directed to revise their policy and procedures to prevent this violation from occurring in the future. The report indicated the space limitations of the facility create the lack of a space where this type of temporary hold can occur.

Staffing

As noted previously, the jail is not fully staffed. When fully staffed, the jail has thirty-three officers comprised of deputies, corporals, and sergeants. The jail commander is a lieutenant. At present, there are thirty-one officers and the two vacant positions are deputies.

Minimum staffing, as required by law, is one supervisor and four deputies. A review of a sample work schedule provided by the jail commander indicated the primary work shifts (daytime and “graveyard”) are staffed by a sergeant and six deputies, one of whom could be a corporal or jail training officer. There are other job-related functions that officers can be assigned to and they include work programs (one for AB 109 and one community service), transportation of inmates, and inmate classification. These other job-related functions are two year assignments and the officers work eight hours a day, five days per week. The remainder of the jail staff includes six booking clerks and two jail program specialists. The jail program specialists facilitate the programs funded through AB 109 and other programs including Alcoholics Anonymous and Narcotics Anonymous.

As previously noted, a typical workday for officers working one of the primary custodial shifts is eleven hours and officers on these shifts work four consecutive days. The total hours worked per week is forty-four hours, four hours of which are overtime. The website “Transparent California” (transparentcalifornia.com) was accessed and the salaries (for 2015) of all jail employees were reviewed. Essentially all sergeants, corporals, and deputies work overtime to varying degrees. The average overtime compensation is just less than 10% of the total salary, not including benefits or “other” pay. One sergeant was an exception to this average and 22% of his total salary (not including benefits or other pay) was comprised of overtime pay.

Again, the jail is not fully staffed and probably won’t be in the near future unless the county decides to fully staff the jail. This would require allocating additional funds as authorized by the Tuolumne County Board of Supervisors (TCBOS). It is apparent that there is essentially no “relief factor” for the officers. This means if an employee is sick, injured, on annual leave, or on maternity leave, for examples, there are few options for covering the absence. Working overtime to cover these staffing shortcomings is an option available to all officers and the choice to work overtime is voluntary. Working overtime, while fiscally beneficial, means employees spend less time with family, friends, and away from the stress of working in close quarters with inmates. If the jail were fully staffed, there would be more flexibility in scheduling employees to compensate for absences due to leave and less overtime paid to employees.

One of the main concerns expressed by the TCSO staff was the difficulty they experience recruiting and retaining officers, especially women. One of the factors contributing to the difficulty is the potential to make more money at the Sierra Conservation Center (a state-run prison) or in other cities and counties throughout the state. Employee salaries are negotiated between the county and the Deputy Sheriff’s Association; however, there are financial realities associated with a small, low tax revenue county, and the chief reality among them is the county only has a certain amount of funding it can allocate to the jail. As such, the pay for officers in Tuolumne County is less than in some higher population, adjacent counties or those in more affluent areas. This pay discrepancy has led to employees taking jobs elsewhere once the cost of recruitment and training these employees has been expended by Tuolumne County.

The general educational requirements to become a jail deputy are not excessively demanding as a twelfth grade education or high school equivalency credential is the minimum requirement. However, in a county where declining student populations are apparent in the primary education system, there appears to be a limited pool of eligible persons interested in law

enforcement careers. To address these challenges locally, the TCSO has a recruitment team that attends job fairs and recruits from local colleges, high schools, and law enforcement academies. Outreach also includes advertisement on the county website and various media outlets, especially when job vacancies occur. The recruitment team does not have a formalized plan for implementing the outreach program, but they do have an informational brochure for distribution. The team expends more energy locally because people with roots in the community tend to remain with the TCSO longer than recruits from out of the area. According to a member of the recruitment team, there is an interest in developing an “Explorer” program that introduces high school students to routine law enforcement activities and procedures. The Sonora City Police Department has a similar program in place.

The general pay received by full-time deputies appears to be aligned with average income figures for a household in Tuolumne County. Based on the salary figures from the Transparent California website, the average salary for a deputy (not a corporal or sergeant) is close to \$45,000 (range of approximately \$32,000 to \$55,000), and the median salary for the twenty-four highest paid deputies is approximately \$50,800. When compared to the U. S. Census Bureau statistics (for the years 2010-2014), the median income per household for Tuolumne County is \$48,500, while the per capita (per person) income is approximately \$26,100 (<http://www.census.gov/quickfacts/table/PST045215/06109>). The Tuolumne County Human Resources department recently commissioned a review and report on salaries from adjoining counties and it found the median top pay for Tuolumne County jail deputies was 18% lower than the counties to which the salaries were compared (Koff and Associates 2015). Further, the Sierra Conservation Center (SCC), the state-run prison in Tuolumne County, offers higher pay than that for county jail officers; however, the inmates housed in the SCC have typically been convicted of much more serious crimes.

One of the incentives provided to jail officers is the opportunity to increase their education, and salary, through courses provided at Columbia College or on-line. These employees can take classes in criminal justice or psychology, for example. The incentive program partially covers the costs of the classes; however, the employees must cover some of the costs due to limitations on available funding. On-line classes can be taken at times when the employees are not at work which helps with staff availability and scheduling. Four to five employees are currently taking extra classes. The additional education allows for increases in pay for these employees.

One concern raised regarding the recruitment and retention of prospective employees, including jail officers and especially female officers, is that the staffing needs will increase once the new jail is occupied and operating. There will be some operational efficiencies gained with a high functioning jail facility which will benefit the staff; however, the inmate capacity will also increase. The jail commander indicated an additional five or six new positions will be needed to effectively staff the new jail.

Jail Management System

The modern world increasingly functions in an electronic world. Computers significantly enhance the economic and efficient operation of most organizations. The effective and efficient

operation of the jail is no different. As noted previously, classification of inmates is critical to the smoothest operation of the jail possible. Jails and prisons use software applications that facilitate the booking, classification, and tracking of inmate activities. These software applications are called jail management systems (JMS). Modern JMS have extensive data fields that keep track of virtually every aspect of an inmate's tenure in a correctional facility, from booking to release. A very few of the data fields include: associating booking photos and biometric (example, fingerprints) information with their criminal record; suicide checks; bond, sentence, and court information; veteran status; commissary funds available to the inmate; and tracking inmate location, medications, grievances, and rehabilitation program attendance. Some JMS also have handheld data entry devices that integrate with the main system which allow the jail officers to quickly add information from anywhere within the jail or during work release. The data kept for each inmate allows for comprehensive analysis and reporting. Examples of data use include identifying crime trends and effectiveness of rehabilitation programs, including those funded by AB 109 allocations. A high functioning JMS expedites traditional time-consuming tasks, reduces administrative costs through increased data availability and accuracy, limits potential errors associated with transferring hand-collected data into an electronic format (called data integrity), and improves inmate and jail staff safety.

The JMS used by the TCJ was purchased and installed in October 2005. The JMS vendor, Advanced Technology Information Management Systems (ATIMS), provided periodic updates to the JMS, and the jail diligently installed all new updates. However, the system is now relatively antiquated and increasingly obsolete for the needs of the jail. As noted previously, the effective classification of inmates reduces inmate-on-inmate and inmate-on-officer conflict and violence, in addition to facility damage caused by inmates.

With the passing of AB 109, additional data collection and reporting needs were imposed on the TCJ and the existing JMS did not have the capability of recording the required information. This limitation means the officers record certain information by hand and provide the information to the booking clerks who then record the information outside of the JMS. This is obviously an inefficient use of time for the limited staff, and there is the potential that these hand recorded notes are misplaced or lost. Accidental loss of important information is unacceptable, especially if it affects the safety and security of any of the people in the jail. All jail employees are affected by this inefficiency with the booking clerks spending the most time dealing with this hand collected information. The most-affected employee estimates they spend approximately 25% of their work time manipulating this information.

Another critical function the JMS provides is the effective communication and transmittal of information within the TCSO, the judicial system, and cooperating agencies. With the planned consolidation of the county's judicial system into the yet to be built "Law and Justice Center", the JMS absolutely needs to be fully integrated with all parts of the criminal justice system. The current JMS does not effectively communicate with all of the involved parties. In addition to the need for the JMS to communicate with internal TCSO aspects (patrol, records, detectives, etc.), the system needs to be integrated and accessible by the court system, district attorney, public defenders, probation, Behavioral Interventions (the AB 109 funded programming provider), medical provider, food provider, and the kitchen/commissary provider.

The system needs to communicate with the state-run prison because the un-sentenced inmates may receive sentences that would require them to be transferred to a state-run prison. A review of the statistics from the BSCC website indicated a large percentage (greater than 80% on average over the last year) of inmates are awaiting sentencing. Another instance of the need to communicate with other correctional systems is when an inmate commits a serious crime while in the jail and needs to be sent to prison. Conditions and amenities in the jail are worse than the prison and some AB109 inmates incur additional crimes to be moved out of the jail and into the prison.

During the review of the data relating to the early releases of un-sentenced versus sentenced inmates in the jail, there was an apparent change in this ratio after August 2014. Prior to August 2014, the release of sentenced inmates exceeded that of un-sentenced inmates. However, after this date (beginning in September), there was a significant increase in the monthly release of un-sentenced inmates. The jail commander clarified what happened and indicated the numbers of these early release inmates seemed off when reviewed. The lead booking clerk was asked to research the issue while reverting back to keeping statistics by hand. There was an obvious discrepancy in the reporting and it was because the JMS was not keeping an accurate tracking of the data. The vendor was contacted, provided a “fix” to the problem, and the issue was resolved. This example, though, provides a clear indication that the data being reported to the BSCC was not accurate and is attributable to a poorly functioning system. If the state relies on the accuracy of this data, especially considering the statistics clearly use the dates implementing AB 109 and Prop 47 as reference points, then the current JMS fails this task.

Perhaps the most important consideration for the low-functioning JMS is that, if not replaced soon, the brand new, state-of-the-art jail will open and rely on the existing, antiquated system. A review of the county’s Law and Justice Center website (<http://www.tuolumnecounty.ca.gov/index.aspx?NID=934>) indicated the anticipated occupancy of the new jail is April 2019. There is a need for a modern JMS to be purchased before the occupancy of the building because the staff will need to understand and be comfortable with the operation of the new facility without having to deal with an outdated and inefficient (and inaccurate) JMS. If a new JMS is purchased well in advance of the occupancy of the building, the staff will be familiar with the system and not have to endure the added stress of learning a new technology at the same time as moving into the new jail.

FINDINGS

- F1** The portions of the jail inspected by the Grand Jurors appeared clean and as well-kept as could be expected from the aging facility. The inmates are required to participate in the daily cleaning of the jail.
- F2** The jail staff was courteous and knowledgeable, demonstrated professionalism, and their appearance was consistent with public expectations.
- F3** The limitations caused by inadequate facility capacity and jail cell/cell block design create difficulties for the staff to effectively classify and organize groups of inmates.

- F4** The typical inmate housed at the jail is a felon serving a multiple year sentence.
- F5** Inmates housed at the jail may not be currently serving a sentence for a non-violent, non-sexual, or non-serious crime, but they may have been previously convicted of one of the types of crimes.
- F6** With the increased number of felons and the jail typically operating at or near capacity, the jail officers are constantly exposed to a “harder” criminal than was common a decade ago.
- F7** The jail is forced to regularly release prisoners to either probation or back to the community because the capacity of the jail is limited to a maximum of 147 inmates.
- F8** The three inspection reports, BSCC, TCPHD, and TCFD, are largely in compliance with applicable regulations.
- F9** The jail is not fully staffed resulting in difficulties related to scheduling, increased pay spent as overtime hours, and added stress to employees working under continuously challenging circumstances.
- F10** Staffing is a critical need which will only grow with the construction of a new facility; unfortunately, the TCSO has difficulties recruiting, especially for female officers.
- F11** The Sheriff’s Office uses a recruitment team as an outreach effort to attract the interest from potentially new employees.
- F12** The Sheriff’s Office provides incentives to employees to further their education and increase their income by taking on-line or local college-level courses relevant to their profession.
- F13** When the new jail is completed (expected 2019), five to six new positions will be needed to effectively operate the facility.
- F14** The current JMS was purchased and installed in 2005 and periodic updates were provided by the vendor.
- F15** The TCJ installed the updates in a timely manner.
- F16** The current JMS does not fully meet the data collection and reporting needs of the jail, resulting in the inefficient hand collection of data, redundant collection of data, ineffective classification of inmates, inaccurate reporting of data to the state, reduced safety of inmates and jail staff, and damage to the jail.

F17 The current JMS does not effectively communicate with all facets of the criminal justice system, including other TCSO operations, the court system, district attorney, public defenders, probation, and prison.

F18 To facilitate a seamless occupancy of the new jail, a fully functional, modern JMS needs to be acquired and operational prior to that occupancy.

RECOMMENDATIONS

R1 No recommendation.

R2 No recommendation.

R3 Ensure the design of the new, larger jail maximizes flexible housing arrangements to accommodate the effective classification of inmates within the budgetary constraints imposed by anticipated funding.

R4 No recommendation.

R5 No recommendation.

R6 Provide additional training opportunities, including the continued support of continuing education, for jail staff to ensure they are equipped with the skills needed to interact effectively with a felon-dominated jail population.

R7 Ensure the design of the new, larger jail accounts for the county's projected needs for inmate housing within the budgetary constraints imposed by anticipated funding.

R8 No recommendation.

R9 The TCSO needs to evaluate the current and future staffing needs of the jail and increase the funding of additional staffing in order to improve scheduling flexibility, decrease costs incurred from overtime pay, and reduce employee stress as deemed necessary. This evaluation is essential prior to the move into the new jail.

R10 Within 90 days, the Sheriff should appoint a committee of officers to develop a formalized recruiting strategy or plan that explores additional and expands existing outreach programs, including, but not limited to employee referrals, cadet program, Columbia Community College certification courses, and incentives.

R11 Same as Recommendation 10.

R12 The TCSO should continue to make funds available for continuing education and provide scheduling flexibility to allow jail staff the opportunity to spend time increasing their education.

- R13** Advanced planning is needed to ensure additional funds are provided for the future staffing needs of the new jail. These funds should be accounted for in the FY2017 and FY2018 budget planning cycle.
- R14** No recommendation.
- R15** No recommendation.
- R16** The TCSO should purchase and install a new JMS to reduce the costs of inefficient data collection, inaccurate reporting, and problematic classification of inmates and improve the safety of inmates and jail staff. This purchase and installation should occur within the next budget cycle.
- R17** Within 180 days, the Sheriff should ask the TCBOS to convene a committee or series of meetings to assist in the identification of needs provided by a new JMS. The committee should be comprised of agencies and departments affected by the arrest, incarceration, and release of citizens in order to ensure a Jail Management System will fully meet the needs of the county and state, including the County's Information and Technology Department. The committee could also include an at-large member of the public with appropriate knowledge to facilitate the purchase.
- R18** Same as Recommendation 16.

REQUEST FOR RESPONSES

Required Responses

- Tuolumne County Sheriff: R3, R6, R7, R9, R10, R12, R13, R16, R17, and R18.

CONCLUSION

The Tuolumne County Jail is operated by a dedicated group of officers and support staff. The deteriorating and outdated building makes it difficult for the staff to effectively classify and organize the inmates housed in the jail. These difficulties decrease the safety and well-being of inmates and jail staff, increase the incidence of new crimes due to inmate-on-inmate and inmate-on-officer violence, and increases damage to jail facilities. Limitations on funding do not allow for the jail to be fully staffed, thereby limiting scheduling flexibility and increasing the length of work shifts. There are difficulties recruiting and retaining qualified employees due to a limited local recruitment pool of potential applicants and better wages for similar work in nearby counties and at the state prisons. With the construction of a new jail, staffing needs will increase and compound the problems the County already has when hiring new, qualified employees. The jail management system used by the Sheriff's Office does not effectively communicate within and outside of the TCSO and is no longer capable of providing the county and state quality service. The JMS needs to be replaced as soon as possible to improve the efficiency of officers

and staff as well as improving the safety of the inmates housed in the jail. Overall, the staff is to be commended for their service to the community based on their dedication to providing high quality custodial care to the inmates in a difficult and outdated environment.

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COMMUNITY RESOURCES AGENCY APPEAL FILING FEES COMMITTEE REPORT

INTRODUCTION

The 2015-2016 Grand Jury received a citizen complaint dated January 7, 2016, regarding the Tuolumne County Community Resources Agency (CRA) and filing fees related to the business the CRA conducts.

Glossary

BOS	Tuolumne County Board of Supervisors
CRA	Tuolumne County Community Resources Agency

METHODOLOGY

An inquiry was initiated by the Grand Jury on January 14, 2016. The Grand Jury reached out to the CRA Director, who was specifically asked for a list of all projects and fees or waived fees for appeals of CRA projects / decisions over the past three years. On January 15, 2016, the Grand Jury received the requested information from the CRA Director. The information provided included background information and a list of projects for which an appeal was filed, dating back to 1997. In addition, a copy of a Memorandum dated January 15, 2016, from County Counsel to the Board of Supervisors (BOS) pertaining to the same issue was provided.

BACKGROUND

The mission of the CRA is to provide responsible stewardship of community resources in Tuolumne County by providing land use, transportation, construction, housing, environmental, and public safety information and services in an efficient, courteous, professional, and cost-effective manner with the highest degree of customer service. The issue noted in the complaint was whether or not the CRA is charging and collecting fees mandated by existing County ordinances.

Disclaimer

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

INVESTIGATION

The appeal fee was adopted by the BOS in 1995. At that time, the BOS determined that the fee did not apply to applicants because the BOS considered such cost to be included as part of the application fee. Since the adoption of the appeal fee in 1995, County staff has followed that direction and not required the fee from applicants appealing a Planning Commission decision. The information provided by the CRA Director confirmed this information. Since 1997, owners / applicants have filed appeals to the BOS for eight (8) project decisions. No appeal fees were paid for in any of those cases.

FINDINGS

- F1** During the course of their inquiry, the Grand Jury found that County Counsel was already reviewing Tuolumne County Ordinance Code (TCOC 17.68.130(B)) which addresses appeal fees and was prepared to assist the CRA and BOS in resolving the dilemma.

RECOMMENDATIONS

- R1** The Grand Jury recommends that the CRA and BOS follow the advice of County Counsel and require the appeal fee from both applicants and aggrieved parties.

REQUEST FOR RESPONSES

- Tuolumne County Board of Supervisors: R1

CONCLUSION

County Counsel had already issued a memorandum dated January 15, 2016, addressing the issue. The memorandum stated: "Office of County Counsel has advised the Community Resources Agency to require the appeal fee of both applicants and aggrieved parties. Should your Board wish to consider an alternative fee structure for appeals, my Office can assist the Community Resources Agency in bringing forward appropriate ordinance code revisions to accomplish your Board's direction."

SCHOOL REORGANIZATION COMMITTEE REPORT

INTRODUCTION

The Grand Jury initiated an inquiry regarding potential efficacy and plausibility of reorganizing the eleven school districts in Tuolumne County. Since school enrollments continue to decline, the Grand Jury has questioned the wisdom and reasonableness of funding an infrastructure that might be better served by some form of consolidation to a lower number of districts and less overhead in management. The purpose of the inquiry was to determine if consolidation were possible, how it could be achieved, and what potential benefits and problems might be encountered by such an attempt.

Glossary

JPA	Joint Powers Authority
IT	Information Technology

METHODOLOGY

The members of the Grand Jury conducted interviews with members of the Tuolumne County Superintendent of Schools, Tuolumne County Board of Education Trustees, County Counsel, and various other members of the education community that are responsible for maintaining oversight of current costs and employee hiring decisions. A document review of the existing California Education Code was conducted and research into other counties that had undergone some school district consolidation was also investigated.

BACKGROUND

There are thirty-one public schools in Tuolumne County, managed by eleven school districts. Of the eleven districts, five are single school districts (elementary) and one operates two elementary schools. All of these schools are kindergarten through eighth grade. There is only one true middle school operated by an elementary district. Two districts are dedicated union high school districts, with alternative programs. Only one district is comprehensive, operating one elementary school, two high schools, and two alternative schools.

The potential for school district consolidation was an obvious consideration, however, the California Attorney General has provided an opinion interpreting both the Penal Code and case law as it relates to GJ authority, which is that the authority is limited in scope. The opinion can be found at 78 Ops. Cal. Atty. Gen. 290 and discusses the authority of the GJ related to school district overview, and such authority is related to the school district performing its duties and functions but not to policy decisions, including reorganization. Nevertheless, it is a primary task of the Grand Jury to review County government entities for efficient and effective use of

taxpayer money. It was the obvious potential for savings of taxpayer money in overhead, management, and purchasing that attracted the Grand Jury to initiate this inquiry. The Grand Jury chose to focus on this task as it pertains to the eleven county school districts.

INVESTIGATION

Early in the inquiry it became evident that with eleven distinct school districts a great deal of redundancy, with associated costs, existed. The Grand Jury learned that several of the county school districts participate in a Joint Powers Authority (JPA) constituted to pursue common issues that would result in greater efficiencies. For example, all of the participating districts have agreed to purchase propane as one entity which has generated a favorable pricing structure. It was suggested that greater savings may be realized by more districts participating, and by expanding JPA purchasing into other common cost centers such as cafeteria supplies, paper and office supplies, bus storage and maintenance, and IT and records support.

The Grand Jury discovered that there is a chronic issue of inter-district transfer requests. These requests create enrollment and administrative issues between school districts. This issue can also create logistical difficulties and resentment for parents of students whose requests are denied. These issues may be greatly reduced by the merging of districts with common borders. Some of the elementary school districts with common borders are Curtis Creek, Sonora, Belleview, Twain Harte, Columbia, Soulsbyville and Summerville.

In reviewing the California Education Code, the following summary of pertinent information concerning district mergers was found:

- If twenty-five percent of the electorate in a district vote to reorganize or consolidate, then it can proceed. However, in the case of Tuolumne County, all eleven school districts must pass the measure by the mandatory twenty-five percent.
- Should three of five of the sitting school board members of two adjoining districts agree to vote for consolidation, those two districts can proceed. If all eleven school boards pass the measure by at least a three out of five margin, they could all merge.
- Three of five sitting board members from each interested school board can approve a merger between interested schools.

The County Board of Education is empowered by the Education Code to serve as a committee to initiate, coordinate, facilitate and arbitrate petitions for school district reorganization. This committee is also empowered to provide several ancillary services to assist in the petition process.

The Grand Jury believes that the Code requirements concerning district consolidation are not generally known to the parents of public school students.

FINDINGS

- F1** There is a redundancy in purchasing, bus fleet management and other management scenarios that would benefit from further transparency. Participation in a JPA appears to have potential for greater efficiencies and cost savings
- F2** The high level of inter-district transfer requests creates administrative and enrollment issues for the districts.

RECOMMENDATIONS

- R1** A cost benefit analysis of opportunities for more JPA efforts should be undertaken by every school district, and greater purchasing by the JPA should be implemented where savings are apparent.
- R2** The Grand Jury recommends that an independent and definitive study of the economic benefits and costs of school district reorganization be undertaken. The results of this study, and the section of the California Education Code pertaining to school district consolidation, should be actively made available to all Tuolumne County taxpayers and elected officials. Grants from appropriate public or private agencies should be pursued to pay for this study.

REQUEST FOR RESPONSES

Required Responses

- Tuolumne County Superintendent of Schools: R1, R2
- Belleview School District Superintendent: R1, R2
- Big Oak Flat-Groveland Unified School District Superintendent: R1, R2
- Columbia Union School District Superintendent: R1, R2
- Curtis Creek School District Superintendent: R1, R2
- Jamestown Elementary School District Superintendent: R1, R2
- Sonora School District Superintendent: R1, R2
- Sonora Union High School District Superintendent: R1, R2
- Soulsbyville School District Superintendent: R1, R2
- Summerville School District Superintendent: R1, R2
- Summerville Union High School District Superintendent: R1, R2
- Twain Harte School District Superintendent: R1, R2

CONCLUSIONS

There exists a method, available to the school districts, to save taxpayer funds through cooperation in purchasing and perhaps in other areas of administration. It is very likely the expansion of the current JPA purchasing efforts would result in additional savings to the participating school districts.

In addition, the Grand Jury believes that the current school district structure results in inefficiencies and reduced effectiveness in the use of taxpayer money. Pending the results of a cost benefit study of district reorganization, the Grand Jury believes it is likely current administrative and logistical support redundancies, and their associated costs, could be reduced, resulting in overall financial savings, and other benefits. These savings could be applied directly to the classroom environment with the goal of improving student performance.

SIERRA CONSERVATION CENTER AND BASELINE CONSERVATION CAMP COMMITTEE REPORT

INTRODUCTION

California Penal Code Section 919(b) requires the Grand Jury in each county to inquire into the condition and management of the state prisons within the county. The Sierra Conservation Center (SCC) and the Baseline Conservation Camp (BCC) are public prisons subject to the Tuolumne County Grand Jury's inspection and inquiries.

Glossary

BCC	Baseline Conservation Camp
CDCR	California Department of Corrections and Rehabilitation
SCC	Sierra Conservation Center
SOMS	Strategic Offender Management System

METHODOLOGY

On November 18, 2015, the Grand Jury conducted an approximate one hour orientation meeting with the SCC's Acting Warden and management staff. The management staff were open and forthright in answering all of the Grand Jury's questions. Following the meeting, the Public Information Officer provided the Grand Jury a tour of Level I and Level II yard facilities. In addition, jurors were given tours of the recreation areas, food services, academic and vocational education facilities, medical and dental facilities, and religious programs and accommodations. A second inspection tour on January 13, 2016, focused on the Level III yard, the housing units, and the Administrative Segregation Unit.

The Administrative Segregation Unit is for the placement of inmates in an isolated environment for the safety and security of the prison. The second half of the inspection included a visit to the BCC facility on Peoria Flat Road. Lunch and a tour of the baseline camp was conducted by the Camp Director and the Public Information Officer. On February 24, 2016, a third visit to the prison was made to meet with the Men's Advisory Council for Levels I and II, a group of representative inmates, to learn issues that they might have regarding their incarceration and prison programs.

The Grand Jury reviewed copies of the California Department of Corrections and Rehabilitation's (CDCR) 2015 Annual Report and the last four years of the Tuolumne County's Grand Jury Reports.

Disclaimer

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

BACKGROUND

The Grand Jury investigated the SCC and the BCC. Both facilities are located west of Jamestown and are operated by the CDCR which constitutes one of the largest employers in Tuolumne County. The SCC celebrated its fiftieth anniversary in October, 2015. While some of the buildings are of the initial construction, they are still usable in an effective manner. The prison was expanded in the 1980s to accommodate the housing of more violent inmates. The upkeep and the appearance of the facilities surpassed our expectations. Administrative, custodial, vocational, educational, medical (including dental and mental health staff), that were contacted, exhibited dedication and professionalism.

The Sierra Conservation Center's primary mission is to provide housing and program services for minimum and medium custody inmates. The prison is separated into two dormitory type facilities, Level I and Level II, for minimum and medium custody inmates. A third separate high-medium custody facility, Level III, is for Sensitive Needs Yard placement/Administrative Segregation.

In October 2011, for cost-saving purposes, California enacted AB 109 (the Public Safety Realignment Act), which allows non-violent, non-serious, and non-sex offenders to serve their sentences in county jail instead of state prison. AB 109 distinguished between offenses that result in a prison sentence and offenses that result in a county jail sentence in two ways. First, it amends the Penal Code to specify which crimes are violent, serious, or sex offenses, resulting in a prison sentence under the reappportioned system. Second, at the request of law enforcement, it codifies a list of 60 additional crimes that are not defined as serious or violent, but nevertheless must result in a prison sentence rather than county jail.

Regardless of the effects of Assembly Bill 109, the prison continues to maintain a high level of safety and security for both inmates and staff. As the result of the first two tours of the prison and the conservation camp, the Jury found the operation of the two correctional facilities continues to meet the requirements and standards that earned the prison accreditation with the American Correctional Association in 2014. Certification renewal will occur in calendar year 2017.

INVESTIGATION

Sierra Conservation Center

The SCC, located at 5100 O'Byrnes Ferry Road, encompasses 450 acres and has an operating budget of \$155,482,353.00. However, the amount is reduced by reimbursements from Cal Fire to \$139,262,896.00. The extra funds are monies spent on payroll and inmate welfare that Cal Fire pays back into the prison's budget.

As of February 18, 2016, there were 2,568 inmates housed at the SCC and 113 inmates at the BCC. There are a total of 475 correctional staff. In addition, there are an approximate 600 non-correctional staff which includes clerical, medical, dental, mental health, and educational personnel. The facility trains and provides inmate personnel to assist Cal Fire with wild land fire suppression.

Receiving and Release

All inmates are processed in and out of the Sierra Conservation Center through the Receiving and Release Unit. The intake process includes a picture identification card, issuance of clothing, bedding and dormitory assignment, a medical evaluation, counselor assignment, and an inmate file review. Inmates requiring medical, dental, or mental health services are referred to the appropriate clinic. Each inmate receives a statewide-adopted hand book of rules and procedures regarding inmate behavior and interaction with prison staff. The inmate is required to sign a written acknowledgment that he has received and understands the hand book. Non-English speaking inmates have access to translation services through facility personnel.

A statewide prison software system, the Strategic Offender Management System (SOMS), is currently in use at the prison. The system provides real-time offender data improving the safety of staff and inmates along with the better care of inmates. The system allows for tracking of an offender anywhere, and throughout his life with the CDCR. It has improved staff efficiencies by reducing the use of paper files, the need for printed forms, and transporting information between CDCR. One of its objectives is to reduce offender violence by using up to date, accurate information to make determinations on classifications, movements, parole monitoring and gang management.

Housing

Level I and Level II areas house minimum and low-medium risk inmates in dormitory type facilities. The dormitory the Grand Jury viewed contained double bunks to provide space for up to 32 inmates. Originally, the dormitories were built to house 16 inmates. Each dormitory has a common day room, one shower, and two toilets. The inmates housed in these two levels share a common outside yard called "The Plaza" that inmates can access and freely move around. There are no perimeter fences separating the Level I and Level II dormitory.

Upon entering the dormitory, it at once appeared crowded as the double bunks were close together allowing minimal space between bunks or passage down the central aisle. The

bathroom facilities appeared inadequate for the number of inmates currently housed in the dormitory. Metal privacy half walls between the toilets have been removed when they started to deteriorate with age as the metal pieces that could be broken off created a safety hazard as they could be made into a weapon.

The Level III facility houses inmates who have been designated as having sensitive needs and also includes an Administrative Segregation Unit. Administrative Segregation is a part of the disciplinary process utilized to keep inmates and staff safe. Disciplinary procedures are covered in the California Code of Regulation, Title 15, Crime Prevention and Corrections, Division 3, Article 5. These inmates cannot mix with the general population inmates as a result of their crimes, gang affiliation, or notoriety. These inmates also receive full basic medical and dental care within that facility. Housing includes five units each with a control booth with a 270 degree field of vision. There is armed coverage in both the housing unit and the outside yard areas. When there is a need to move or transport an inmate, he is placed in restraints and guarded at all times. During their outside or yard time, the inmate is placed in a single person, fully-caged confinement area, separated from other inmates. Level III has a lethal electrified fence surrounding the secure perimeter. Use of the fence reduces cost by eliminating the staffing of additional guard towers. In all three levels of housing, the facility appeared to be efficiently functioning and well maintained.

Inmate Services

The main medical clinic for inmates in Levels I and II also houses a newly remodeled six chair dental clinic, radiology, a pharmacy, and a ten bed hospital used for basic medical and mental health care. Inmates requiring lengthy levels of care are transferred to the California Health Care Facility in Stockton. Emergency and/or critical care inmates are transported under guard to local hospitals. Inmates in Level III have a separate medical and dental unit as well as a dispensing pharmacy.

The food service areas in the prison appeared to be clean and efficient in serving the inmates two hot meals, breakfast and dinner, and a bag lunch every day. The meals provided meet State standards set for caloric and nutritional needs. Accommodations are made for special religious and medical dietary need requirements. Inmates perform, under supervision, a variety of culinary preparation and serving duties. Level I and II inmates share access to dining halls at different time periods. Level III inmates have a separate dining area, while inmates in Administrative Segregation receive meals in their cells.

The Grand Jury toured the prison's educational facility and observed inmates in their classrooms. Inmates are encouraged to participate in educational programs for Adult Basic Education, programs to achieve General Education Development Certification, and a variety of Career Technical Education programs, including carpentry, masonry, welding, auto body repair, auto mechanics, office services and garment and fabric goods production. All academic programs are accredited. College degrees are also available, but are limited to Associate of Arts and Bachelor's Degrees. Also found in the education building is the inmate library containing both fiction and non-fiction reading sections, as well as a law library with both law journals and computers for law research.

Another important function of the education program available is the Substance Abuse Treatment Program. This program focuses on educating and affecting change in inmates who have histories of alcohol and substance abuse by using a therapeutic community model. The course of study centers on developing positive values and behavior, and the inmate is responsible for making the changes in his lifestyle. The program is directed towards inmates with six months remaining on their sentences. Participation is voluntary unless court ordered, then it is mandatory. Anger management is addressed in the Substance Abuse Treatment Program. Separate anger management groups are also offered.

During the February 24, 2016 meeting with one of the Men's Advisory Councils, the representative inmates voiced dissatisfaction with their inability to dry their work out clothing. They indicated they would prefer to be able to wash out their work out clothing after each work out rather than have sweat soiled clothing. However, they have no acceptable means to hang them out to dry. Some have improvised by creating string lines by shredding fabrics to fashion into a line of twisted threads. By hanging their clothing on these lines, a safety hazard is created by limiting a clear view through the dormitory and is therefore prohibited.

A second issue discussed was shower timing. As a result of the current drought, water has been turned off and only allowed for certain three hour periods. The inmates stated the time periods allowed for showers are not coordinated with the times that work detail inmates can effectively use. There is no policy regarding the length of time an inmate can shower, thus adding to their problem of equal use and availability.

A third issue initiated by the inmates was a need for improvement in the manner in which they obtain their canteen items. A prison commissary, or canteen, is a store within a correctional facility from which inmates may purchase products such as hygiene items, food snacks (including coffee, ramen, pastries and candy), and clothing items through a CDCR approved vendor. Inmates are not allowed to possess cash, but instead make purchases through an account with funds contributed by family members, friends, or earned as wages. The prisons set a maximum limit of funds spent by each inmate on commissary items. The commissary is staffed by inmates. The inmate complaint was that when they submit their order they may not always receive the item requested due to unavailability. They then have to wait until the next monthly ordering cycle. They would like to have a "mini canteen" available to access individual items they initially may have failed to receive.

A fourth issue expressed by the inmates was regarding their dental care scheduling and co-pays. Their co-pay for dental work is five dollars per visit. Their issue is over the number of dental visits for extractions or fillings. They questioned why more than one extraction or fillings could not be fulfilled per visit, rather than consecutive visits, thereby reducing their co-payments.

Baseline Conservation Camp

BCC is located on Peoria Flat Road and is one of twenty such camp sites in central and southern California. The camp is minimum security with an administrative building, a dining hall, four housing unit barracks, and work areas. Within the housing barracks each inmate has

his own area with a bed, a storage locker, and is surrounded by a half wall. Bathrooms are at the back of each building. In the front of each building there are two separate bedrooms for the team leaders.

While in camp, inmates are in the custody of a CDCR officer. Facility security, custodial and medical support, food services, and housekeeping are provided by non-firefighting inmates and CDCR staff. While out of camp fighting fires or performing other community work projects, Cal Fire personnel supervise the inmates.

Specific inmate classification guidelines for fire-fighting eligibility have been developed by the CDCR. To meet eligibility, inmates are required to have less than five years remaining on their sentence and not have convictions for crimes including arson, sexual offenses, or violence. They must be physically fit, having passed health and fitness requirements prior to acceptance for fire training. The inmates receive their basic fire-fighting training while at the SCC from both CDCR and Cal Fire personnel. While at the camp, inmates receive additional fire, safety, and work training. Fire-fighting inmates are fed a prescribed menu consisting of 2,800 calories daily. As the inmates must maintain a high level of physical fitness, weight training is available and a hiking trail is accessible adjacent to the housing barracks which inmates may utilize after checking in with staff.

The camp is self-contained with kitchen and dining facilities, a laundry, library, three television/recreation rooms, and a canteen. Inmates can purchase listed products from the canteen on a monthly basis. An outside visiting area with picnic tables is available. Only pre-packaged food items can be brought in during visits. Cameras and cell phones are prohibited and only limited physical contact is allowed.

Inmates are paid \$1.45 per day for their labor. Skilled workers, including those with basic trades expertise and lead fire crew workers earn up to \$2.56 per day. Inmates also earn an additional \$1.00 per hour while on fire duty. Two positions in camp that can top out at \$3.90 per day are lead clerk and lead cook, which do not earn fire pay as they stay in camp at all times. Any BCC rule violations may result in the inmate returning to the main prison facility for the rest of his sentence. Lesser punishments imposed may include confinement to quarters, changes in room assignments, and restriction of television use. All behavior violations are documented and subject to review.

AB 109 Implementation Impacts

AB 109 has brought significant changes in the redistribution of inmates between state and county detention facilities as generally lower-risk inmates were released to be assigned to county jail detention or supervision by county probation departments. The number of state prison inmates eligible for volunteer firefighting assignments has significantly dropped. As a result, the CDCR has had to develop new guidelines for eligibility requirements for inmates to qualify for fire camp programs. New guidelines are significantly less rigorous.

Contraband Dog Program

On the November 18, 2015, tour of the Level I and II yards, the Grand Jury was introduced to two of the contraband dogs, Bo and Rooster, both Labrador retrievers, and their handlers. These specially trained dogs and their handlers are now being used by the CDCR to detect narcotics, cell phones, and homemade devices in prisons. Searches using the canine teams are scheduled on a random basis. Canine teams have been used at the SCC since November, 2009. All dogs and their handlers are required to train a minimum of eight hours each week and participate in monthly training to ensure the dogs maintain established standards.

FINDINGS

- F1** The administration, educational, custody, and medical staff of the Sierra Conservation Center are dedicated to the care and rehabilitation of the inmates in their charge. Working within the constraints of strict state guidelines and budgets, the staff sufficiently maintains the facility and sees to the needs of its population.
- F2** Inmates are afforded a variety of educational opportunities for their personal growth. Substance abuse education along with Alcoholics Anonymous and Narcotics Anonymous meetings are available for the inmates.
- F3** The Sierra Conservation Center operates an efficient medical facility. It also contains a new dental facility, a ten bed hospital, pharmacies, and a mental health care unit.
- F4** There are jobs performed by Level I and II inmates on the prison grounds. Inmates assigned to the Baseline Conservation Camp provide wildland fire-fighting and other community work projects off the prison grounds.
- F5** As the result of the implementation of AB109, the number of State Prison inmates eligible to volunteer for fire-fighter assignments has significantly dropped.
- F6** Inmate appearance was good. Clothing looked to be in good condition and appropriate for the season. Inmates are allowed to purchase pre-approved clothing to augment their prison issued clothing.
- F7** A wide variety of religious programs are offered. Congregational services, religious education programs and counseling services are provided through institution chaplains, with support provided through various community volunteers.
- F8** There is no policy regarding the length of time an inmate can shower, thus adding to their problem of equal use and availability.
- F9** Inmates would like to have a 'mini canteen' available to access individual items they initially may have failed to receive in their monthly order.

F10 The California Correctional Peace Officers Association (CCPOA), the California Correctional Supervisors Organization (CCSO), and the Service Employees International Union (SEIU) sponsor a variety of city and county events throughout the year. Many individuals are involved and their time and efforts are very much appreciated.

RECOMMENDATIONS

The Grand Jury has no recommendations to make.

RESPONSES

No Required Responses.

CONCLUSIONS

The Tuolumne County Grand Jury wishes to extend out sincere appreciation to management and staff of SCC and BCC for their cooperation during this inquiry. We found everyone cooperative and professional in answering all questions put to them. We also found the facilities clean, buildings in good repair, and the grounds well kept.

TUOLUMNE UTILITIES DISTRICT COMMITTEE REPORT

“To provide reliable, responsive utility services with dedicated customer service and in a financially responsible manner.”

Mission of the Tuolumne Utilities District

INTRODUCTION

During 2015 the Tuolumne Utilities District (TUD) revealed that its water and sewer infrastructures were in much need of repairs and upgrades, and that the necessary capital improvement costs and operating expenses would be \$6.6 million a year over five years. After public notices and hearings, the TUD Board of Directors approved new annual water and sewer rates on November 17, 2015. These rates will, in many cases, double customer costs over the five year plan. Since California’s Constitution authorizes Grand Juries to look at any Special District that operates within its County, the Grand Jury chose to conduct a review of TUD. The original intent was to explore the feasibility of the District re-integrating with Tuolumne County Government. As our investigation progressed the committee determined that such a move was not practical and chose to focus on assessing their efficiency in managing operating costs, as well as exploring potential opportunities for savings, other funding, and relief solutions for customers, while highlighting for the community the unique and challenging tasks facing TUD.

Glossary

Directors	Tuolumne Utility District Board of Directors
CIP	Capital Improvement Plan
CEQA	California Environmental Quality Act
CF	Cubic feet of water
DWR	California Department of Water Resources
HPMP	Historic Properties Management Plan
MND	Mitigated Negative Declaration
NRHP	National Register of Historic Places
PAC	Public Advisory Committee
PG&E	Pacific Gas and Electric Company
RFD	Request for Documents
SWRCB	State Water Resources Control Board
THCSD	Twain Hart Community Services District
TUD	Tuolumne Utilities District
TUDDSP	Tuolumne Utilities District Ditch Sustainability Project
TCECDA	Tuolumne County Economic Development Authority
TRWD	Tuolumne Regional Water District
TWSOP	Treated Water System Optimization Plan
USDA	United States Department of Agriculture

METHODOLOGY

The Grand Jury began its inquiry in September. In addition to our training with the California Grand Juror's Association, we researched appropriate California Water Code sections. The Grand Jury developed a list of documents to review, people to interview, questions to ask, and sites to visit. We examined various policy and procedure manuals used by TUD, and reviewed several reports issued by the District, including financial statements. We also studied the orientation binder given to each new Director.

During our inquiry, we interviewed 12 individuals, including all levels of TUD staff, members of the Board of Directors, County executives, and the Tuolumne County Economic Development Authority (TCEDA). The Jury inspected TUD's ditches, canals and reservoirs, as well as its drinking water and wastewater treatment plants and facilities. We also reviewed several newspaper articles and third party studies and reports (see Bibliography).

Disclaimer

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

BACKGROUND

As a County Water District under the California Water Code, TUD is responsible for fee structures and rates, adhering to State water treatment standards and testing, and conforming to water board standards for employee qualifications and certifications. For the purposes of accounting, the District is designated as an enterprise fund. The activities of enterprise funds closely resemble those of ongoing businesses in which the purpose is to conserve and add to basic resources while meeting operating expenses from current revenues. All District funds are accounted for on a cost of services of "capital maintenance" measurement focus.

TUD owns 11 water systems and 5 wastewater systems, and maintains 70 miles of ditches, canals and flumes, 14 water treatment plants, 78 treated water storage tanks, and 330 miles of treated water pipeline. The District serves nearly 14,000 treated water customers, 600 ditch (raw) water customers, of which 130 are "ditch domestic" (their sole source of water is the ditch) customers. TUD sells treated wholesale water to the Twain Harte Community Services District (THCSD) (which in turn serves roughly 1,600 connections), Muller Water Company, Sonora Meadows Water Company, Sonora Water Company, and the Sleepy Hollow Water Company. Additionally, the District's Columbia Water System is also the sole water source to Cal Fire's Columbia Air Attack Base.

The age of TUD's facilities varies widely. The Sonora treatment plant was constructed in the 1950's, while construction of the Tuolumne plant finished in 2011. TUD's treatment facilities are small in scale and extremely inefficient. Many of the facilities were constructed by developers to serve specific developments and were not constructed to TUD standards or with

future expansion in mind. Consolidation of treatment facilities into regional facilities has long been a goal of District staff. Currently treatment plants serve an average of 900 connections per facility. It is extremely expensive to operate and maintain so many facilities with such a small customer base.

Many of the plants receive their raw water from 57 miles of open ditches and two miles of elevated wooden flumes, and raw water quality deteriorates as it travels through this system. The distribution infrastructure to connect various treatment facilities has yet to be developed. Subsequently, each water system has its own host of storage tanks. The District's service area ranges from over 4,900 feet elevation to approximately 1,200 feet and storage tanks offer a convenient way to "break pressure" before delivering it to the localized customers. The typical lifespan of water pipes is 50-70 years. Major sections of the water system are now 80 years old. Of the 14 water treatment plants that TUD maintains, eight of them are in need of improvement. As noted, most of these water treatment plants were acquired when previous water agency providers could not meet State drinking water standards; as a result the operating costs of these plants are high.

Sewer service is provided to over 12,000 connections, of which nearly 9,000 are single-family connections. The District utilizes 140 miles of sewer pipeline to collect 400 to 500 million gallons of sewage per year. The Sonora Regional Wastewater Treatment Plant collects sewage from the surrounding areas of Columbia, East Sonora, Mono Village, Mono Vista, Ranchos Poquitos, Soulsbyville, Twain Harte, and Willow Springs. The plant was constructed in the late 1970's, along with a reclamation system that allows for the reuse of nearly 100 percent of the treated sewer effluent for irrigation on pasture lands outside of the community of Jamestown. The Reclamation System includes 10 miles of recycled water pipeline, and approximately 670 acres of irrigated lands. Most of the irrigated lands are privately owned and the reclaimed water is delivered under contract between the property owner and the District.

California's Water History

To fully understand Tuolumne County's water issues, we have to explain how we got here. On its website, the State Water Resources Control Board (SWRCB) documents the history:

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

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

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

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

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

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

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

Today California is facing serious challenges to the long term sustainability of the state’s water resources. In a 2013 Pacific Institute study, authors Kristina Donnelly and Dr. Juliet Christian-Smith wrote that many California water managers “are now talking about a ‘new normal,’ and how it will impact water system planning.” This “new normal,” they wrote, “is characterized by decreasing demand for water, along with increasing costs to provide a safe and reliable supply.”

Water rate structures throughout the state “describe the way that total system costs are allocated among different customers. No matter which water rate structure is used it should be effective at balancing total costs against total revenues. In other words, in order to maintain fiscal solvency, the total cost of providing water should be recovered through the prices customers pay to use water.”

TUD History and Infrastructure

TUD's roots began in 1852 with the creation of the Tuolumne County Water Company, which was reincorporated in 1858 as the Tuolumne County Water and Electric Power Company. Sometime later it became a part of the Sierra and San Francisco Power Company, which was sold to Pacific Gas and Electric Company (PG&E) in 1927.

With the enactment of the Safe Drinking Water Act, PG&E was required to either pipe the ditches or improve water treatment plants. Instead, PG&E sold the water system to the county in 1983. With the purchase, Tuolumne County received the lateral ditches and water systems, but PG&E retained control of water deliveries through the Main Canal and to the Phoenix Lake powerhouse. Unfortunately, no water rights were transferred and hydro power remained with PG&E. Finding the cost of piping to be too expensive, the county renovated its water treatment plants to comply with the new water regulations. Also, as the population in the County grew, there was an increase in the use of the ditch system as a recreational trail and new residential homes were allowed to build too close to the water.

In 1992, Tuolumne County voters approved the merger/consolidation of the Tuolumne County Water Department and the Tuolumne Regional Water District (TRWD), creating TUD, which acquired the water and wastewater systems previously owned and operated by the predecessor agencies. This included water and wastewater systems throughout Tuolumne County and within the City of Sonora, the only incorporated city in the County. Because of this "acquisition/assimilation" process, Tuolumne County does not own any water rights. Instead TUD receives, at no cost, 17,000 acre feet of water from PG&E, which comes from Pinecrest Lake. It is then released into Lyons Reservoir, Phoenix Lake, and other small reservoirs. From the reservoirs the water travels down ditches, flumes and canals until it reaches one of fourteen treatment plants, where the water is made consumable and is held in closed storage tanks until released into TUD's distribution system.

Federal regulations require that PG&E target a water level at Pinecrest Lake above an elevation of 5,610 feet above sea level through Labor Day, if possible, to support recreation at the lake. In 2009, SWRCB set a minimum mandatory Pinecrest elevation of 5,608 at Labor Day. This ruling prohibited the delivery of water from Pinecrest to TUD in many years during the summer months, when the water is needed the most. In December 2011, in response to the Pinecrest Lake Level Study, TUD and PG&E submitted a request to the SWRCB that they allow for lower lake levels at Labor Day in order to support domestic water supply. If applied, the modified lake level request would provide a reasonable water supply for the next 30 years and allow for a Labor Day Pinecrest elevation as low as 5,600 feet.

Under current SWRCB requirements, when the District experiences a watershed supply problem, such as occurred in 2014, it is required to seek a variance to the Pinecrest Lake level requirement of the 5,608 foot elevation. The District must work through PG&E in submitting a variance request to the SWRCB. In such cases, a variance is necessary in order to continue to meet the water supply needs of Tuolumne County and District customers.

In May 2014, the county was experiencing extremely dry conditions, which indicated that the runoff for the South Fork Stanislaus River would end much earlier than ever recorded. At that time, TUD estimated that as of August 2014, Tuolumne County would not have enough water supply for the community unless more water was attained from Pinecrest Lake prior to Labor Day. TUD asked that PG&E submit a variance request on the District's behalf asking that the SWRCB allow Pinecrest to be drawn down to an elevation of 5,602 feet by Labor Day in order to assure that county residents and businesses could continue to receive water. Concurrently, and based on both the uncertainty of the water supply forecast for late summer and whether the SWRCB would grant the requested variance, TUD imposed significant conservation measures on District customers to save as much water as possible. In July 2014, the SWRCB approved a variance request to reduce the Pinecrest level to 5,606, if needed. Due to extreme conservation measures from TUD customers, coupled with operational changes by TUD and PG&E, the Pinecrest Lake level at Labor Day 2014 did not fall below 5,609 feet elevation.

In March of 2015, the SWRCB released a Notice of Intent to adopt the Mitigated Negative Declaration (MND) to lower the minimum lake elevation requirement for Pinecrest from 5,608 feet to 5,600 feet until Labor Day, depending on the water year, thus allowing PG&E normal access to water from Pinecrest to support TUD during unusually dry years. As yet, a final ruling on the MND has not been released by the SWRCB.

Acquired Water Systems

The conditions of the acquired systems vary widely, with TRWD's wastewater system in good condition while other wastewater collection and water distribution systems serving District customers range from good to poor condition. One of the stated purposes of the formation of TUD was to serve as a receiving agency of privately owned water and wastewater systems that were either determined by the regulatory agencies or the system's customers to be better served by the District.

Between 1992 and 2008, over 17 systems were acquired by TUD, most of which were in a state of disrepair, regulatory non-compliance, and/or severely financially challenged. Although "Improvement Districts" were formed to fund many of the needed improvements in the acquired systems by annual assessments, time has revealed that the amount of the surcharge did not always cover the cost of improvements, as well as other factors such as the cost of operating and managing multiple remote and deteriorating systems that were not factored into TUD's cost projections. In addition, during this same time period, many of the systems experienced customer growth, and the State imposed new water quality regulations requiring significant changes. The end result is a situation where many of the water treatment plants serving these areas are currently near or at production capacity, with little land area for needed expansion to meet capacity needs or the increasing State and Federal regulations. This is despite the fact that the District has consolidated some treatment plants. Many of the water distribution systems within existing developments are also at capacity and do not have standard fire hydrants or meet current fire flow requirements.

INVESTIGATION

Board of Directors

TUD is governed by a five-member Board of Directors, elected by the voters of Tuolumne County. The Board establishes policies for the operation of the District, hires the General Manager, and has the authority to develop and operate water facilities for consumption and hydroelectric power generation, and sewer facilities for collection, treatment and disposal. Directors serve four year staggered terms with elections occurring on even years. Staggering the elections of the Directors is designed to ensure continuity between Boards as a whole. If a vacancy occurs, a new Director can be appointed by the existing Board in non-elective years. Currently, two of the directors are scheduled to stand for re-election this year, and three in 2018.

The current Board is comprised of members with four Bachelor degrees, two Masters degrees, and professional experience that includes land management, finance, park management, construction, health care, and, of course, water management. The members have varying tenure in Tuolumne County, and all have served on either elected or appointed boards or commissions, other than TUD.

The current Board conducts itself as described by the *Board of Directors Handbook* and in conformity with the Brown Act, which the Jury observed in practice on two occasions. They also steadfastly adhered to the requirements of Proposition 218 in communicating and enacting the recent rate increases. Prior TUD Boards have been criticized for failing to adhere to the Brown Act, and not properly alerting the community to the serious divide between capital improvement necessities and the capability of TUD to pay for such products. For example, the 2012 Board cancelled a proposed rate increase.

On July 23, 2013, the Board established a “Public Policy Advisory Committee” (PAC). A PAC is a method of outreach that is essential to educating the public and receiving their feedback. The PAC was tasked with advising the Board on appropriate “hookup” charges and presented its study to the Board on March 25, 2014. The continuance of a PAC as a public forum, or study group, has not been used since.

General Manager

The General Manager (GM) is responsible for day-to-day operations of TUD as well as maintaining a working, professional relationship with the Directors. TUD’s *Guideline for Conduct* and the General Manager’s contract make the roles of the Board and the General Manager clear. The division of labor is that the Board sets policy and the General Manager operates the District according to the Board’s policies. When the Board does not provide guidance and policy, or the GM Position is vacant, the effect is not unlike driving to a new location without a GPS.

In 2006, TUD commissioned Alliance Resource Consulting, an executive recruiting firm, to conduct a search for a General Manager, resulting in the hiring of a new GM. In 2009, the Directors employed BHI Management Consulting to develop guidelines to be used during a

GM's Performance Evaluation. These recommendations were adopted by the Board in 2011. Following reviews of the GM's Performance Report (written in December 2011) in March 2012, his contract was extended five years to March 2017; however, another review in March 2013, resulted in the GM's termination. In October 2013 the retiring Chief Engineer was elevated to GM on a one year contract. He was replaced by a contract with a retired GM of another water district and a search was begun for a replacement.

The current General Manager, was hired by the Board in September of 2015 and started November 2nd, after serving as Gilroy's city administrator since 2008. He also served as General Manager for the South Regional Wastewater Authority, a joint powers authority of the cities of Gilroy and Morgan Hill. With experience overseeing city water and sewer systems, and twenty years as a Tuolumne County property owner, he is uniquely qualified to help TUD develop a long-term vision on water supply and financial sustainability.

Personnel

Maintaining this unique and challenging water system requires a highly labor intensive organization. As of January, 2016, TUD had 70 fulltime employees, down from 77 in 2009, and 10 vacancies. TUD also has four "Retired Annuitants" working part time. Many on the payroll are long-term employees, some having been in the water business long before TUD was formed. Most TUD employees are licensed or certified by the California Water Board, and continuing education is required to maintain licenses. TUD, with its ditches, flumes, and extreme terrain variations, is without doubt, a unique and challenging work environment.

Water technology is a special kind of career. While formal education is available, most of the skills and knowledge required are acquired experientially. Because of the novel infrastructure and mountainous conditions in which they must work, TUD employees with their "institutional knowledge" are essential to maintaining the systems. This also makes them valuable commodities to other districts, but with a few exceptions, turnover is rare. Still, retirements are inevitable sources of job openings, and usually at the most experienced skill levels. For this reason, maintaining an accurate, viable Succession Plan and process is vital to the long term well being of the organization.

Succession Planning

Succession Planning is an internal process to identify and monitor personnel for advancement within an organization, and to retain experience and knowledge required for efficiency and success. Its primary purpose is to anticipate turnover and to identify and document persons qualified to replace key personnel. With the possibility of long-term employees retiring, there is potential for TUD to lose valuable knowledge and experience.

A prior Grand Jury recommended that identification of potential retiring employees be done semi-annually by the Human Resources department and that cross training take place in all departments to avoid retirees returning after retirement to train replacements. They also proposed that the Human Resources Director, along with the General Manager work to outline a succession plan as soon as possible. Such a plan would be focused on managers and critical

employees, and updated yearly, or before any union negotiations, and include preparation for the replacement of potential retirees. In reviewing this with the Human Resources Manager, the Grand Jury learned that such a plan is still under development.

In discussing planning for turnover with key managers, the Jury learned that most managers understand the importance of keeping ahead of the problem, and have been developing junior personnel and informally identifying them as possible successors. While this is commendable, it is also important that such planning be documented and reviewed, accepted or revised, by senior staff, so that everyone in the organization is on the same page and employees receive accurate feedback and direction.

Morale

While we did not survey all of TUD's employees, we did receive sufficient anecdotal input to form a general opinion of employee attitudes and morale. Employees view TUD as an enjoyable and rewarding place to work for a variety of reasons, foremost of which is a consensus that Tuolumne County is a good place to live and employees pride themselves in providing a safe, dependable water supply for their fellow citizens. They recognize the challenges to maintaining a unique, aging water system but seem genuinely committed to make the organization successful. But servicing this system comes at a price, due to the frequent "leaks" and "outages" that cost TUD over 150 hours of overtime per pay period, and create a "staff stressed" environment.

Prior Grand Juries noted that the community had an unfavorable opinion of TUD and its employees. We confirmed that many employees believe this perception still exists, but that it is not as pronounced as it was four years ago. While we believe this "perception" to be untrue, we also believe that building a trusting and supportive relationship with the community based on customer service is essential to both employee satisfaction and TUD's success.

Rates

The largest source of revenue for TUD is water and sewer service fees. Unfortunately, past increases have not been sufficient to cover all of the costs to meet mandatory regulatory and other legally required work and to replace the District's aging facilities. As noted earlier, a proposed rate increase was pulled by the Board after objections from customers in 2012. During the March 12, 2013 Board meeting, a Director stated that the new Board was "putting an end to rate increases," and another member added that unlike the 2012 Board, the current Board had a "couple of people who understand finance." These assessments have since been superseded by the reality of the state of the infrastructure. The shortfall in funds became so critical that no capital improvements to the water system were budgeted in 2015.

The recently implemented rates are forecast to raise \$3.9 million per year to be spent on new and aging water facilities and an additional \$2.7 million per year to service sewer facility needs. TUD water customers had been paying a monthly "Ready to Serve" or "Fixed Service" fee, which is set based on the size of the water meter serving the property. Customers with 5/8" or 3/4" pipes, and customers with 1" pipes, saw their fixed rate for 400 CF (cubic feet of water)

rise from \$36.38 to \$47.50 on January 1, 2016 and it will rise each year until January 1, 2020, when the rate will be \$64.50. This same population saw their consumption charge for water over 400 CF, increase from \$1.80 per cubic foot to \$2.50 on January 1, 2016 and it will rise to \$3.40 in 2020. The former charge for sewer service for a single family dwelling was \$35.59, and rose to \$40.00 on January 1, 2016. It will increase each year until it is \$51.00 on January 1, 2020.

It should also be noted, that to minimize the impact of capital project costs on users, the District attempts to finance some of its capital projects in part via a combination of State and/or Federal loans and grants which are administered by the SWRCB, California Department of Water Resources (DWR), the United States Department of Agriculture (USDA) and other funding agencies. However, without the rate increase most of the District's capital improvement needs would not be eligible for grant funding. Recipients of the various Federal and State loans and grants that are available must comply with the granting agencies program guidelines and contract provisions. These guidelines require that recipients of these grants and/or loans establish a system of user charges that recovers operations, maintenance, and replacement costs from users on a basis proportionate to use. With the new rates the District is now eligible to pursue available grants.

Donnelly and Christian-Smith ended their study report, *The New Normal*, with the following: "Choosing an appropriate rate structure will always entail tradeoffs and, therefore, there is no 'one-size-fits-all' rate structure. Rather, each community must determine which structure is appropriate based on customer water usage patterns, the need for long-term water supply reliability, and the ability of the structure to achieve the social and economic goals established by the community."

It is important that the community understand that TUD's known capital improvement needs total \$70 million, while the new rate increase plan will provide only \$30 million. The funding shortfall offers significant management challenges and fortunately prioritizing the Capital Improvement Plan is underway to identify and correct the most critical needs.

Customers and the Economic Outlook

Like many other rural counties in the foothills of the Sierra Nevada mountain range, most of the land in Tuolumne County is managed by government agencies (80 percent). The two major areas of public land are sections of Yosemite National Park and the Stanislaus National Forest. As of 2015 the estimated population of Tuolumne County was 54,696, which is spread over approximately 2,021 square miles. Included with the above population figure are the inhabitants of the City of Sonora with an estimated population of 4,903. Between 2000 and 2015, the population of Tuolumne County generally remained constant. There are on the order of 22,378 households identified within the County with a Median Household income of \$48,911. The per capita income is \$26,063.

There is a civilian labor force of 21,900 people with an unemployment rate of 7.3 percent. Unfortunately, the number of persons living in poverty is 7,444 (14.7 percent) up from 5,193 (10.4 percent). This is the portion of the population who will likely confront the raised rates with difficulty. On the positive side, both population and per capita income are forecast to

grow over the next four years. The population will grow by 0.18 percent per year through 2020, while per capita income is forecast to grow an average of 2 percent a year.

The Drought

It is common knowledge that California is in the midst of a four year drought, but we are really in a 14 year drought, during which we have had only two years that the SWRCB classified as “wet” and one they called “normal.” The remaining 11 have either been identified as “dry” or “critically dry.” The Woods Hole Oceanographic Institution said that the short term drought appears to be worse than any previous span of consecutive years of drought without reprieve. A 2014 study of tree-growth rings indicated the current drought is the worst in at least 1200 years. They compared tree rings with known moisture amounts to reach their conclusion.

Getting out of the drought will be a long, uphill battle. It’s going to take a couple years of average or above-average rainfall so that we can not only fill our reservoirs, build up snowpack, but also recharge our groundwater basins. The bottom line is we need to make up at least some of the deficit from the past four years. Improvement will be on a scale of months, not weeks, or single precipitation events.

Typically, about half of California’s annual precipitation is expected to fall during the December-February season. In March 2016, the monthly snow survey showed that the snowpack in northern California was 98 percent of normal, 88 percent in central, and 72 percent in the south. State water officials said that for the drought to be at an end the snowpack needed to be at least 150 percent of normal by April 1 – it wasn’t. In March TUD announced that the winter had at least ensured adequate water supply through the remainder of 2016. In February 2016, the SWRCB extended water conservation targets throughout the State, including a 21% goal for Tuolumne County. The U.S. Drought Monitor says that 93.28 percent of California is in some form of drought, from moderate to severe, and extreme to exceptional. Tuolumne County is in the latter category.

On May 9, 2016, Governor Jerry Brown ordered a set of water restrictions that have helped the state weather the drought to be made permanent, including bans on washing cars without a shut-off nozzle, spraying down hard surfaces like sidewalks and driveways, and watering lawns to the point of causing runoff. In directing the SWRCB to take the appropriate steps to implement his order, Brown said, “now we know that drought is becoming a regular occurrence and water conservation must be a part of our everyday life.”

In November 2015, because TUD customers exceeded TUD’s mandatory conservation goal to reduce usage below 2013 levels by 35 percent these rules were lifted. TUD now relies on voluntary conservation while strictly enforcing limitations on outdoor watering, such as prohibiting the use of potable water to wash sidewalks or driveways, requiring the use of hoses with shutoff valves, and prohibiting outdoor irrigation within forty-eight hours of measureable rainfall.

The drought has impacted TUD negatively in a number of ways. Over 200 wells in the County have failed and resulted in over 30 new, unplanned treated water connections. Also, the

drought has caused a particularly dangerous situation for TUD's infrastructure. Due to tree mortality caused by the drought, and a bark beetle infestation, dead and dying trees pose a significant threat to TUD facilities, especially the vulnerable flume and ditch system. Falling trees could significantly damage water tanks, treatment facilities, and ditch containment berms.

In October, Governor Brown declared a state of emergency to expedite removal and disposal of dead and dying hazardous trees throughout the Sierra. TUD managers developed a "Hazard Tree Management Plan" to address an estimated 1,000 dead and dying trees threatening TUD facilities. The cost of removing trees ranged from \$250 to \$2,000 per tree, depending on location and accessibility. Fortunately, the California Office of Emergency Services approved a partial reimbursement of 75 percent of TUD's eligible costs. Also, TUD management reached out to the Tuolumne County Hazard Tree Task Force, the County Office of Emergency Services (OES), Cal OES, Cal Fire, and other utilities including PG&E, and Twain Harte Community Services District to coordinate felling and removal of affected trees.

Historic Properties Management Plan

In 2002, the District started a Ditch Optimization Study which was not completed due to a variety of financial and political reasons; however, as part of that plan TUD planned to examine where the ditch system has failed in the past and ways to fix those faulty areas, as well as look at effective ways to line the ditches and remotely operate the ditch-flow controls. Although not completed, it gave birth to the Tuolumne Ditch System Sustainability Project (TDDSSP), an attempt to find long-term solutions for meeting the ditches dual demands.

The TDSSP has resulted in the Historic Properties Management Plan (HPMP). The main purpose of this document is to provide guidelines and procedures for management of the properties that are considered and treated as eligible for the National Register of Historic Places (NRHP) while facilitating the continued use of the ditch system to meet existing and future demands for municipal, industrial, and irrigation water. Overall TUD's canal and ditch system appears eligible for listing on the NRHP under two of the four criteria identified in the law, which reads: *"The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and (a) that are associated with events that have made significant contribution to the broad patterns of our history; and (c) that embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction."*

FINDINGS

- F1** TUD's water systems are challenging, requiring special skills and dedication. Fortunately, TUD's staff is hardworking, uniquely qualified and dedicated to maintaining an antiquated and pervious infrastructure.
- F2** A needed, formal Succession Plan process is not in place.

- F3** Frequent “leaks” and “outages” cost TUD over 150 hours of overtime per pay period, and create a “staff stressed” environment.
- F4** The new five year rate plan that went into effect January first, 2016, to support a much needed Capital Improvement Plan won’t provide sufficient funds to meet all of TUD’s existing and future needs.
- F5** TUD’s has adopted a new Strategic Plan, including a long term Vision and Goals, and a new Mission Statement. The new plan is expected to enhance implementation of the Capital Improvement Plan. The Treatment Water System Optimization Plan will be complete by March 2017.
- F6** TUD does not own any water rights, and is primarily dependent upon other companies and agencies for its water supply, and is subject to an array of time consuming administrative proceedings when water supplies are limited.
- F7** Unlike some past Boards, the current Board of Directors appears committed to its fiduciary responsibilities, especially solving the organization’s financial dilemmas.
- F8** The new GM has the experience, know-how, and temperament to be a successful General Manager.
- F9** The Public Advisory Committee (PAC) concept created by the Board in 2013 has not been active since its report on connection fees in 2014.

RECOMMENDATIONS

- R1** No recommendation.
- R2** The Grand Jury recommends that the GM and HR director develop, as soon as possible, a formal Succession Plan and process. As part of this process HR should ensure all annual reviews are conducted and brought current, and potential retiring employees should be identified semi-annually, so that cross-training can take place to avoid re-hiring retirees to train their replacements.
- R3** The Grand Jury recommends that TUD make water treatment consolidation a high priority in the CIP, as a means of achieving greater efficiencies and possible manpower reductions.
- R4** The Grand Jury recommends that the TUD Board pursue as many avenues as possible to increase revenue, including the pursuit of grants and “out of the box” ideas for other sources, as well as operational savings.
- R5** No recommendation.

- R6** The Grand Jury recommends that the District pursue all avenues to secure adequate water rights, including County of Origin rights.
- R7** No recommendation.
- R8** No recommendation
- R9** While Board of Directors meeting are public events, very few “customers” attend, unless prompted by a vested interest in a subject. We recommend that the Board and staff consider developing a comprehensive strategy for public outreach, including use of Public Advisory Committees as a means of facilitating feedback from customers, and step up their customer service training for employees, similar to the County’s *Customer Care Program*.

REQUEST FOR RESPONSES

Required Responses

- TUD Board of Directors: R3, R4, R5, R6, R9.
- TUD General Manager: R2, R3, R4, R5, R9.

CONCLUSION

Over the course of our inquiry, the Grand Jury found TUD to be staffed by knowledgeable, experienced people who take their responsibilities seriously in providing excellent water for the community. The Jury learned that the staff has many obstacles to overcome including being short-handed, coping with an antiquated infrastructure and a historically limited water supply. Additionally, there appears that some in the community perceive that TUD employees are overcompensated and don’t work very hard. While we discovered this “perception” to be untrue, building a trusting and supportive relationship with the community based on customer service and satisfaction is essential to any organization’s reputation and success.

TUD water and sewer rates have not kept up with rising expenses, inflation, and changes in State regulations, despite not paying PG&E for the water it receives, thus sparing customers millions in fees. Significant segments of TUD’s water and sewer pipes are old and in need of repair or replacement, and many of TUD’s water conduits, comprised of open ditches, canals, and flumes, hand hewn by miners in the 1850’s and engineered to convey water from the Stanislaus River to the gold fields of Sonora, Columbia, Tuolumne, Jamestown and everywhere in between, require extensive expenditures of time and capital to maintain.

Between 1983 and 1992, planning officials failed to have a clear understanding of the ditch system. More specifically, many roads and storm drains were constructed to utilize the

ditches to convey storm water into them. A Water Quality Plan in 2006, revealed that creeks and lakes fed by the ditch system within the Sullivan Creek and Phoenix Lake watersheds were contaminated by high levels of fecal bacteria, likely caused by failed septic systems. Also as the population in the area grew, TUD started to see an increase in the use of the ditch system as a recreational trail and residential homes being built too close to the water.

The ditches tell two different stories. The first is about history, recreation and a thriving riparian environment. The second is about unreliability, vulnerability, and about a 30 to 40 percent loss of water from leaks, evaporation, and contamination.

Those Gold Rush-era ditches still serve the district today, which emphasizes their vulnerability since they are susceptible to damage or serious failure due to fallen trees, rocks, mud, and snow. In the winter TUD's ditch tenders and other crews must physically break up the snow through bitter conditions so that water can consistently reach the community. Due to the constant need for maintenance, as well as regular inspections for water flow, TUD's ditch tenders regularly inspect the 57 miles of open ditches.

Even taking this into consideration, there is still resistance to the replacement or modification of the ditches because of their cultural and historic nature, opportunity for tourism, trail recreation and ecosystem service. At the same time, another impediment to replacement is the cost. It has been estimated that it could cost as much as \$70 million to pipe the entire distribution system.

The challenge for TUD and its customers is how to reconcile the ditch's two different stories. While some describe this system as "naturalized waterways" – actually they are not. Rather, the system is made up of antiquities of the Gold Rush era. In this, the twenty-first century, the historic and esthetic value of these facilities has to be evaluated against their maintenance costs and the loss of water by evaporation, leaks, and end losses. It has been estimated that if TUD can find the money to gunite not-yet-gunited parts of the ditch system, and pipe the areas with the worst leaks, that they can save half the water that is now lost.

While there is every reason to believe that with dedication and creativity, the gap between infrastructure needs and funding can be overcome, there is also the very real prospect that more of the 104 other water systems in the County will fail to meet SWRCB standards and will be reassigned to TUD, exacerbating management's efforts to balance the books. In fact, in May, the Sierra Park Water Company (a for profit business) requested that TUD evaluate consolidation of their system of 360 residential lots. If a consolidation were to proceed, the customers of Sierra Park would become customers, just as has happened with other systems in the County. Most of the systems TUD has acquired were unable to keep up with State regulations to deliver safe, clean water.

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