

EL DORADO COUNTY
GRAND JURY 2018-2019



FINAL REPORT

JUNE 2019



EL DORADO COUNTY GRAND JURY 2018 - 2019

FINAL REPORT JUNE 2019

HONORABLE WARREN CURT STRACENER, SUPERVISING JUDGE

JURORS

TOM SIMPSON, FOREMAN
RICHARD COFFIN
DAVID HULME
JIM LAUTH
THOM ORTH

ROGER BERGER
JACK CUMMINGS
BILL KNOX
PETE MARTY
REBECCA REED

RITA CLAYTON
BRYAN DILTS
EDMOND JACOBY
MARY ANNE MINNICK
GATHA WILLYARD

COLLEEN YOUNG

VICKI YORTI



BACK ROW: BRYAN DILTS, EDMOND JACOBY, RICHARD COFFIN, DAVID HULME, JACK CUMMINGS
FRONT ROW: TOM SIMPSON, BILL KNOX, MARY ANNE MINNICK, RITA CLAYTON, PETE MARTY, COLLEEN YOUNG,
GATHA WILLYARD, SOPHIA, JIM LAUTH

INSETS: ROGER BERGER, THOM ORTH, REBECCA REED, VICKI YORTI



EL DORADO COUNTY GRAND JURY 2018-2019 FINAL REPORTS

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June 2019

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

Judge Kingsbury,

This 2018-2019 Civil Grand Jury Final Report embodies the collaborative effort of committed El Dorado County citizens with whom I am proud to have been associated once again. I commend each juror for their individual contributions and collective success.

Yet, any accomplishment associated with this report should be tempered with the knowledge that part way through our term, the number of jurors declined to a precariously low level. For a brief time, it appeared we might not be able to complete our yearlong tenure. Fortunately, former grand jurors came forward to serve, bringing us close to a full complement; a testament to the dedication, commitment and resilience of grand jurors, past and present.

The relatively low number of reports this year was precipitated by fluctuations in the number of jurors. However, that does not detract from the import or quality of any individual report. Each was investigated and prepared with diligence and resolve.

Citizen applications to serve on the Grand Jury have declined during the past several years, even though the Superior Court staff continues to diligently recruit. Every Grand Jury I have been a part of has discussed recruitment possibilities. Members of this jury have undertaken proactive actions that will hopefully prove fruitful. Half of this year's jury have combined with several former grand jurors to restart the El Dorado County Grand Jurors Association with intent to re-energize recruitment efforts.

Once again, Senior Deputy County Counsel Paula Frantz, Keely Cleland in the Auditor-Controller's Office and Superior Court Administrative Analyst Suzanne Thurman provided indispensable knowledge and assistance to ensure the Grand Jury functioned smoothly week after week. Future Grand Juries are assured success with the assistance of these dedicated individuals.

Thank you to Grand Jury Supervising Judge Warren Stracener for recognizing that the requests I made will continue to benefit future grand juries.

Serving on the civil Grand Jury continues to be a personally rewarding experience. It is truly a thing worth doing.

I look forward to serving again,

Tom Simpson

Tom Simpson, Foreperson

cc: Honorable Warren C. Stracener

The Superior Court

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

SUZANNE N. KINGSBURY
PRESIDING JUDGE

May 22, 2019

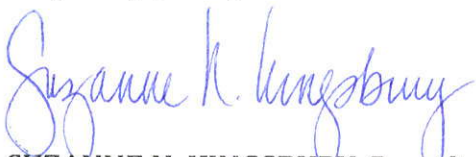
To The Members of the 2018/2019 Grand Jury,

On behalf of the El Dorado County Superior Court, I would like to thank each of you for volunteering your time, your intellect, and your energy in order to serve our county as members of this year's civil grand jury. The importance of the civil grand jury cannot be understated. Grand jurors examine the efficacy of government operations and make recommendations concerning changes which can be made to insure that public funds are being expended in a transparent and cost effective manner. Grand jurors examine the condition of county facilities, including jails and lockups, to insure that they are being properly maintained, and that they are operated as required by law. Grand jurors audit financial and transactional records maintained by city and county governments and special districts in order to determine if there are irregularities. Grand jurors also investigate citizen complaints which are lodged during their term.

All of these duties, plus many more which I have not enumerated, require a considerable amount of teamwork and effort. Grand jurors must examine complicated records and books, take statements under oath from percipient witnesses and then must 1) make findings of fact, and 2) make recommendations for actions to be taken to rectify any deficiencies or problems. All of these tasks are done in an unbiased and professional manner, with a view toward improving how our government carries out the people's business.

You are each to be commended for your willingness to serve on our civil grand jury. If it were not for people like you, our system would be far less transparent and efficient. The citizens of El Dorado County, and the court, owe you a debt of gratitude.

Very truly yours,



SUZANNE N. KINGSBURY, Presiding Judge

EL DORADO COUNTY GRAND JURY 2018-2019



MOVING FORWARD IN EL DORADO COUNTY FIRE SERVICE SUSTAINABILITY

CASE 18-01 • APRIL 16, 2019

Public Release

APRIL 19, 2019

EL DORADO COUNTY 2018-2019 GRAND JURY

MOVING FORWARD IN COUNTY FIRE SERVICES SUSTAINABILITY

Case 18-01 • April 19, 2019

Sustainability of El Dorado County fire services has been a crucial concern for many years. Short-term discussions of problems with fire service sustainability have taken place from time to time, but no long-term solutions have been identified. Renewed interest has led to a recent surge in discussions to identify pathways leading to resolution of this complex issue.

BACKGROUND

The passage of Proposition 13 in 1978 limited property taxes to one percent of property value. Since then, local governments have experienced a significant decrease in revenue. Local fire protection districts have felt the impact of that revenue shortfall more than most other government agencies. Legislation to implement Proposition 13 provided permanent block grants to local agencies, but continuing apportionment was based on the then-current budget of each agency. Under Assembly Bill 8 (1979), (AB 8), allocations can only be changed by the County Board of Supervisors when one district is dissolved, and another assumes responsibility for its territory through annexation. When Proposition 13 was passed, local fire protection districts, particularly in rural areas, were heavily staffed by volunteer firefighters, having significantly smaller budgets than departments that were staffed with full time paid personnel. Changes in state law setting standards for the training of volunteer firefighters caused County fire protection districts to move away from volunteer staffing. Adding to the problem has been a decrease in the availability of volunteers. The result has been a substantial increase in fire protection district operating costs with little increase in revenue.

In 2010, the El Dorado Local Agency Formation Commission (LAFCO) and El Dorado County commissioned Citigate Associates, LLC to review County fire services. The May 13, 2010, Fire and Emergency Service Study documented the challenges for the continuation of relatively poor rural fire districts.

Previous El Dorado County Grand Juries have recommended consolidation of fire protection services to save money. The 2007-2008 Grand Jury found that consolidation could provide an annual cost saving of more than \$1.2 million. The same Grand Jury recommended in a separate report that the Garden Valley Fire Protection District consider consolidation. Similarly, the 2015-2016 Grand Jury recommended that the Mosquito Fire Protection District pursue consolidation of services with other fire agencies. These concerns resulted in short-term discussions about fire service sustainability problems, but no long-term solutions were identified.

The El Dorado County 2017-2018 Grand Jury again addressed the issues of fire services sustainability and effectiveness. The El Dorado County Fire Protection Consolidation report found "The Board of Supervisors in conjunction with LAFCO is best positioned to champion fire agency consolidation." The Board agreed with the finding in its response. The same report also outlined why the search for a long-term solution has been difficult. Fire protection district boards are uneasy about losing local control. Lack of support from unions and citizens, and inadequate funding to support consolidation have also contributed to making solutions elusive.

Whether this renewed call of concern will once again result in inconsequential short-term discussions or will lead to tangible long-term solutions is a matter of interest to this Grand Jury.

METHODOLOGY

- Reviewed prior El Dorado County Grand Jury reports about fire protection districts.
- Reviewed the Citigate Associates, LLC, May 13, 2010, Fire and Emergency Service Study for El Dorado LAFCO.
- Interviewed El Dorado County elected officials.
- Interviewed El Dorado County appointed personnel.
- Interviewed 12 El Dorado County fire protection district board members.
- Interviewed a representative from the CAL FIRE Amador-El Dorado County Unit.
- Interviewed a representative from the El Dorado Local Agency Formation Commission (LAFCO).
- Attended the September 26, 2018, LAFCO study session on the state of fire districts in the County including options for finances and alternative governance models.
- Attended the January 23, 2019, LAFCO study session on options for alternative governance models for fire service.
- Attended the December 14, 2018, El Dorado Hills Fire Department Strategic Planning Committee meeting on LAFCO and County-initiated consolidation(s) of fire districts and the need for added State funding to increase overall revenue and long-term sustainability.
- Received a briefing from an appointed El Dorado County representative regarding a closed January 16, 2019, County fire service sustainability meeting.
- Interviewed a community services district appointed representative.
- Attended a March 2019 Strategic Planning Workshop.

DISCUSSION

Interviews of fire protection district board members from across El Dorado County provided perspectives on the question of pursuing consolidation in one form or another.

- *Administrative consolidation*, whereby districts remain legally separate but consolidate administrative or staff functions such as sharing a fire chief
- *Functional consolidations*, whereby one district performs special functions for another such as training
- *Operational consolidations*, a combination of both administrative and functional consolidations
- *Full consolidation*, in which one agency dissolves and the geographic area served by that agency is then annexed by another, effectively making one agency from two

The Grand Jury learned two districts had no interest in any type of consolidation. Several districts reported that some form of consolidation was an absolute necessity in order to provide continued service to their constituents. One district indicated they would not pursue full consolidation unless it had minimal financial impact or if it were to diminish existing services. The remaining districts were already involved in some type of consolidation or exploring that possibility.

All reported that funding inequities among Districts was the major obstacle to full consolidation. The majority of board members interviewed considered consolidation as a viable option if funding issues could be resolved. However, more than once we heard, "We have been talking about this for years without any action."

We were surprised to learn 58 percent of El Dorado County fire stations are closed for a variety of reasons, including the lack of qualified staff and reduced revenue. A representative from CAL FIRE advised the Grand Jury that while the closure of some stations is appropriate because of proximity to other stations, closure of others is problematic. Station closures increase response times in many areas of the County and negatively impact the availability of required resources. This situation is not unique to El Dorado County; it is common to many rural counties in the State.

In the summer of 2018, the El Dorado LAFCO Commissioners, two of whom are County Supervisors, requested that LAFCO conduct a study session on the state of fire districts in the County and to propose options for financing and alternative governance models. At this session, representatives from across the County reviewed the history of fire services in the County, the LAFCO process as it relates to consolidations or boundary changes, the current state of County fire services, funding of fire services in the County and a history of fire service reorganizations in the county. The session then went on to discuss different County fire service governance options.

LAFCO conducted a second study session about options for alternative governance models for fire services. Options were presented to the Commissioners, fire professionals and elected officials. The presentation led to significant audience comments. While no consensus was achieved, there appeared to be agreement that the current model is not sustainable, and that further study by the County is needed.

On December 14, 2018, the El Dorado Hills County Water District (Fire Department) held a Strategic Planning Committee meeting to discuss State funding and long-term sustainability for County fire services. In attendance at the meeting was State Assemblyman Kevin Kiley, who was asked to support State-level initiatives, such as the readjustments of AB 8 rates. The District stated a background paper on the subject would be prepared and delivered to the Assemblyman's office. As of the writing of this report, the Grand Jury was advised by an El Dorado Hills County Water District board member that the paper has not yet been prepared.

On January 16, 2019, the EDC Chief Administrative Officer held a fire service sustainability meeting of elected County fire protection district board members. The meeting consisted of a review of Proposition 13 and AB 8, and an overview of past fire service funding decisions and challenges. One proposal was to conduct follow-up meetings to discuss what the County role should be. Fire protection districts that have already been exploring options, such as reorganizations and shared service agreements, were encouraged to continue moving forward with those efforts. The Grand Jury learned after this meeting that a renewed effort to explore consolidation possibilities was proposed among three fire protection district boards. Lastly, it is envisioned that this group, organized as smaller, task-oriented working groups, continue to meet regularly to effect meaningful long-term change.

In March 2019, the EDC Chief Administrative Officer hosted a workshop to discuss updates to the County's Strategic Plan. In attendance were members of the Board of Supervisors, County staff and department heads, and representatives from fire, safety and water agencies. Representatives from the Grand Jury, LAFCO, the Office of Education and the general public were also in attendance. Five themes were identified as most important when discussing strategic planning goals. Fire district sustainability was identified as a top priority under public safety.

FINDINGS

- F1. Fire service sustainability is an issue confronting many rural counties in California.
- F2. AB 8 did not account for future fire district demographic changes. It also did not account for the additional financial burden of using salaried firefighters in lieu of volunteers in rural fire districts.
- F3. There are significant on-going discussions regarding County fire services sustainability encouraged by the County Board of Supervisors and LAFCO.
- F4. There is significant interest among elected County Fire Protection District Board members to address and identify solutions to fire services sustainability in the County.
- F5. Meaningful change to fire service sustainability in the County is challenging and will require continued and open dialogue among fire professionals, elected fire board members, the Board of Supervisors and other County officials.

RECOMMENDATIONS

- R1. The Board of Supervisors, in conjunction with LAFCO and elected fire protection district board members, should continue to explore options and models for County-wide fire service sustainability.
- R2. The Board of Supervisors should solicit assistance from the State to develop a solution to this issue.

REQUEST FOR RESPONSES

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

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

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

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

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

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

Response to Findings

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

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

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

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

Response to Recommendations

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

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

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

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

ELECTIVE OFFICERS OR AGENCY HEADS

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

Failure to Respond

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

Where to Respond

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

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

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

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

California Penal Code Section 933

933.

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

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

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

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

California Penal Code Section 933.05

933.05

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

(1) The respondent agrees with the finding.

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

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

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

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

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

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

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

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

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

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

EL DORADO COUNTY GRAND JURY 2018-2019



MENTAL HEALTH SERVICES ACT FUND SPENDING

CASE 18-02 • MAY 23, 2019

Public Release

MAY 29, 2019

EL DORADO COUNTY 2018-2019 GRAND JURY

MENTAL HEALTH SERVICES ACT FUND SPENDING

Case 18-02 • May 23, 2019

The Mental Health Services Act (MHSA) was approved by California voters as Proposition 63 in 2004. It became effective January 1, 2005, establishing the Mental Health Services Fund (MHSF). Its purpose is to provide funding, personnel, and other resources to support county mental health programs. The Grand Jury became interested after reviewing the California State Auditor's Report 2017-117, *Mental Health Services Act-The State Could Better Ensure the Effective Use of Mental Health Services Act Funding* and the California State Department of Health Care Services Report, *Mental Health Services Funds-Amounts Subject to Reversion Before July 1, 2017*. These reports show El Dorado County having \$3.6 million that had not been spent in the required time frame and was subject to reversion back to the State as of July 1, 2017. Given the need for mental health funds in the County, the Grand Jury questioned why funds allocated to El Dorado County specifically for mental health services were not being spent in a timely manner.

BACKGROUND

The Mental Health Services Act provided the first opportunity in many years for the California Department of Mental Health (DMH) to make increased funding, personnel and other resources available for county mental health programs. It addressed a broad continuum of prevention, early intervention, and service needs, along with the necessary infrastructure, technology, and training elements to effectively support this system. The act established the Mental Health Services Fund. Revenue for the MHSF is generated from a one percent tax on personal income in excess of one million dollars that is deposited into the Fund annually. The Fund provides personnel and other resources to support county mental health programs that monitor progress towards state wide goals for children, transition age youth, adults and older adults, and families.

The Act was anticipated to generate \$254 million Statewide in Fiscal Year (FY) 2004-2005 and \$683 million in FY 2005-2006, with annual increases thereafter. The 2018-2019 Governor's Budget shows \$1.8 billion was deposited into the MHSF in FY 2016-2017 and projected that \$2.1 billion would be deposited in FY 2017-2018 and \$2.2 billion in FY 2018-2019.

Program Components

The California Department of Health Services distributes funds monthly to all 58 California counties. Originally, the MHSA specified that funds be distributed in five components:

- Community Services and Support (CSS)
- Capital Facilities and Technological Needs (CF/TN)
- Workplace Education and Training (WET)
- Prevention and Early Intervention (PEI)
- Innovation (INN)

Community Services and Support provides mental health treatment, health care treatment, and housing assistance. It includes full-service partnerships under which local mental health agencies plan for and provide a full spectrum of community services in collaboration with consumers and their families when appropriate. Services include mental health and support, such as peer support and crisis intervention, and others such as food, clothing, housing and medical treatment. Example: Alameda County contracted with a vendor to provide a full-service partnership for homeless adults. The partnership provides a range of services, with a focus on community service, peer support, and stable housing.

Capital Facilities and Technological Needs creates additional infrastructure, such as clinics and facilities, and develops technological infrastructure for the mental health system, such as electronic health records for mental health services. Example: Alameda County purchased and renovated a property to develop a behavioral health care support center.

Workforce Education and Training provides recruitment of new employees, training for existing employees, and financial incentives for recruitment and retention of employees within the public mental health system. Example: San Diego County contracted with a vendor to provide training and continuing education for county mental health services staff.

Prevention and Early Intervention provides services to help prevent individuals' mental illnesses from becoming severe and disabling, including efforts to reduce the stigma and discrimination associated with mental illness diagnoses and with seeking mental health services. It requires that projects emphasize strategies to reduce seven negative outcomes from untreated mental illness. They are suicide, incarceration, school failure or dropout, unemployment, prolonged suffering, homelessness, and removal of children from their homes. Example: San Diego County contracted with a vendor to conduct a media campaign to increase awareness and understanding of mental illness, prevent suicide, and reduce the stigma associated with mental illness.

Innovation develops either new mental health practices or approaches, or changes to existing practices or approaches. It requires that projects increase access to services, increase the quality of services, and promote interagency collaboration, among other things. Example: Riverside County created a new service model that provides mental health services within the context of a partnership involving consumers, their families, supportive individuals, and providers. The service is designed to empower family members to become the primary supports in facilitating the recoveries of individuals with mental illnesses.

In addition to the components listed above, counties may move MHSF funds into a reserve account, used to compensate for annual overspending or when monthly MHSF revenues fall below projections. It allows counties funding flexibility for existing programs in the Community Services and Support and Prevention and Early Intervention components.

MHSA Program Changes

Due to recent changes in the MHSA program, monies are no longer provided by the State for the *Capital Facilities and Technological Needs* and the *Workforce Education and Training* categories. Money is now distributed into the following components:

Community Services and Support -76%
Prevention and Early Intervention -19%
Innovation -5%

Counties may still maintain balances in the *Capital Facilities and Technological Needs* and *Workforce Education and Training* categories until that money is spent or has reverted to the State.

Counties can move provided funds from *Community Services and Support* to another component, when necessary.

In 2017, State law was amended to extend the time frame for local mental health agencies to spend *Community Support, Prevention, and Innovation* program funds from three years to five years.

METHODOLOGY

- Reviewed the California State Auditor Report 2017-117, *Mental Health Services Act-The State Could Better Ensure the Effective Use of Mental Health Service Act Funding*, dated February 2018. (Attachment A)
- Reviewed the California State Department of Health Care Services Report, *Mental Health Services Act Funds-Amounts Subject to Reversion Before July 1, 2017*, dated October 1, 2018. (Attachment B)
- Reviewed the *Mental Health Services Act (Revised January 04, 2018)*. (Attachment C)
- Reviewed the *El Dorado County Mental Health Services Act Three-Year Program and Expenditure Plan*, approved on June 20, 2017 (Attachment D)
- Reviewed the *El Dorado County Mental Health Services Act Annual Update, Fiscal Year 2018-2019*, approved on June 28, 2018 (Attachment E).
- Reviewed the California Department of Health Care Services Website for information pertinent to the Mental Health Services Act.
- Interviewed elected and appointed County officials knowledgeable in El Dorado County Mental Health Services Act funding.
- Interviewed individuals from the Health and Human Services Mental Health Services Act Project Team knowledgeable in County Mental Health Services Act funding.
- Interviewed individuals from the Health and Human Services Fiscal Office knowledgeable in the Mental Health Services Act accounting for the County.

DISCUSSION

MHSA funds distributed to El Dorado County vary from year to year, but average about \$8 million annually. In February 2008, the California State Auditor reported that El Dorado County had an MHSA fund balance of \$12,128,000.

By law, counties originally had three years to expend the funds distributed for Community Services and Support, Prevention and Early Intervention, and Innovation. Counties were given ten years to expend funds distributed in Capital Facilities and Technological Needs, and Workforce Education and Training components. Recent program changes have extended the timeframe in which Counties must expend funds for Community Services and Support, Prevention and Early Intervention and Innovation from three to five years. Funds not spent in the required timeframe will be recovered by the State for redistribution.

The Grand Jury began to investigate after reviewing the California State Auditor's Report 2017-117, *Mental Health Services Act-The State Could Better Ensure the Effective Use of Mental Health Services Act Funding* and the California State Department of Health Care Services Report, *Mental Health Services Funds-Amounts Subject to Reversion Before July 1, 2017*. Both reports showed that El Dorado County had approximately \$3.6 million that had not been spent in the required time frame and therefore was subject to reversion back to the State as of July 1, 2017. Fortunately for El Dorado County, the Legislature passed a one-time exemption which stopped the reversion of these funds. This exemption was not permanent; it just reset the clock on the expenditure of the funds, which are still subject to reversion if not spent within the newly required timeframe.

Currently, El Dorado County has the following dollar amounts subject to reversion in the following timeframes, by category:

Community Services and Support

- \$4,425,957 will be reverted if not spent by July 1, 2022

Prevention and Early Intervention

- \$1,435,140 will be reverted if not spent by July 1, 2020
- \$1,240,928 will be reverted if not spent by July 1, 2021
- \$1,575,342 will be reverted if not spent by July 1, 2022

Innovation

- \$1,783,832 will be reverted if not spent by July 1, 2020
- \$224,526 will be reverted if not spent by July 1, 2021
- \$410,287 will be reverted if not spent by July 1, 2022

Workforce Education and Training

- \$74,166 will be reverted if not spent by July 1, 2028

Capital Facilities and Technological Needs

- \$266,824 will be reverted if not spent by July 1, 2020
- \$500,000 will be reverted if not spent by July 1, 2027

The amounts listed above total over \$11 million in County MHSA funds that could revert to the State, with millions more added each year. With the need for mental health services in the County, it is sensible that the County have a plan to properly and completely spend MHSA funds in a timely manner. With approximately \$3.6 million the County recently almost lost to reversion, it is logical to assume the County's previous plan has not been completely executable or not adequately implemented.

The Mental Health Services Act (MHSA) requires the County to complete a new plan every three years and to update that plan every year. MHSA plans and updates are posted for a 30-day comment period, after which the County Mental Health Commission holds public hearings to solicit additional input. The final part in the process is approval by the County Board of Supervisors. Planned spending for the Innovation component must also be approved by the State Mental Health Services Oversight and Accounting Commission (MHSOAC). If the plan or update is modified or changed during the year, the entire process for the change or update must be repeated.

Reversion of unspent funds to the State was a common issue for most California counties. Santa Cruz, Sonoma, and Tuolumne expended all funds allocated to them prior to the reversion deadline. This was a significant fact to the Grand Jury. In numerous interviews, we asked if those three counties had been contacted to determine how they were able to expend all funds. In all cases, the response from interviewees was that, to their knowledge, no such contact was made.

Several individuals knowledgeable in the development and execution of the El Dorado County MHSA Plan were interviewed. They reported four primary issues responsible for the inability of the County to spend allocated funds in a timely manner. They are:

Difficulty in determining appropriate programs for spending *Innovation category* funds and obtaining State approval

By MHSA definition, *Innovation projects* must be new projects that have never been tried before. Identifying projects of this type is inherently challenging. There are extensive regulations, changes to regulations, and proposed amendments that make obtaining approval of Innovation programs by the MHSOAC problematic. When an Innovation program is not approved, funds may not be spent for that program, which often results in underspending in that component. The majority of County MHSA funds subject to reversion by July 1, 2017 were in the Innovation component.

Lack of ability to fill vacant positions in a timely manner

The *El Dorado County Mental Health Services Act Annual Update* for Fiscal Year 2018-2019 reports:

El Dorado County Budget Philosophy

El Dorado County is a fiscally-conservative county. This means that 100% of expenditures are budgeted, even though the Behavioral Health Division historically comes in under budget in expenditures. For example, the staffing vacancy rate is approximately 7-8%, and therefore, staffing and benefits are regularly under budget estimates.

The two reasons reported for this vacancy rate are high staff turnover and a shortage of qualified applicants. Numerous interviewees advised the Grand Jury that it was common for individuals to accept a position in El Dorado County to gain job experience and obtain required work hours needed for certification. After those goals were achieved, many employees would leave El Dorado County for positions in neighboring counties where they were paid higher wages. In addition, we are hindered by a shortage of qualified applicants, due at least in part to the rural nature of El Dorado County.

Failure to meet plan's goals and objectives

There are many reasons that the County's Behavioral Health Division has not always met its MHSa plan's goals or targets. For example, the 2018-2019 plan update reports:

Another item that is out of the control of the Behavioral Health Division is the number of requests for services each year and the number of individuals hospitalized in an out-of-County psychiatric hospital. Annually, there may be fluctuation in the numbers of clients served, which results in the budgeted expenditures not matching actual expenditures.

Contractor performance has also been an issue in the past. In some cases, it was reported that contractors did not deliver services to the level required, or abandoned their contracts with the County, resulting in a budgetary mismatch between proposed and actual expenditures.

County MHSa Plan approval and contracting is a time-consuming process that can hinder the timely expenditure of funds. It makes spending updates and priority changes difficult, if not impossible

After extensive development, MHSa plans and updates are posted for the required 30-day public comment period. The County Mental Health Commission then holds public hearings to solicit additional input before a possible recommendation for approval to the County Board of Supervisors. Spending for an Innovation component must also be approved by the State Mental Health Services Oversight and Accounting Commission. In addition, County managers interviewed often opined that the process of actually getting a contract in place was complex and did not happen in a timely manner, which gave program administrators less time with contractors who may have helped them to get new programs in place more quickly. All this takes months to complete before the County can contract with a provider of services. When a shortfall in expenditures is identified in the middle of the fiscal year, there it is not possible to modify the plan in time to impact fund expenditures.

CONCLUSION

Unexpended MHSa funds are subject to reversion to the State, unlike most other County programs, where funds not spent during a budget year are returned to the County's General Fund. The State will then redistribute reverted funds to all 58 counties. The County 2018-2019 annual plan update has a *Reversion Reallocation Expenditure Plan*, which calls for funds subject to reversion to be given priority for expenditure. The annual update also calls for Community Services and Support funds identified during the fiscal year that are at risk of reversion be transferred to the Reserve account. The Grand Jury interviewed individuals with the most knowledge of Mental Health Services Act funds. However, none of the key County administrators interviewed indicated there have been any changes to either MHSa budgeting philosophy or contracting procedures, that could reduce the risk of the County having funds reverted to the State.

FINDINGS

- F1. Underspending of MHSa funds is a State-wide issue, although a few counties have managed to fully utilize funds provided under this program.
- F2. The County's MHSa Project Team has taken some actions to minimize the risk of reversion of MHSa funds.
- F3. There are systemic and persistent issues in hiring and retaining County mental health employees that impact the timely expenditure of MHSa funds.
- F4. The El Dorado County budgeting philosophy puts County MHSa funds at risk of reversion.
- F5. The County's contracting procedures are complex and time-consuming. This allows less time for contractors to assist staff in developing and implementing programs, putting County MHSa funds at risk of reversion.

RECOMMENDATIONS

- R1. The County should contact Counties who have been successful in spending MHSA funds in a timely manner to determine if there are best practices that might be used to better utilize MHSA funds.
- R2. The Chief Administrative Officer, the Director of Health and Human Services the County Auditor-Controller and the Director of Human Resources should review County budgeting and personnel philosophies, strategies, and procedures to ensure that these administrative functions fully support the timely expenditure of MHSA funds.
- R3. The Chief Administrative Officer, the Director of Health and Human Services, the County Auditor-Controller, and the Procurement and Contracts Division Purchasing Agent should review County contracting strategies and procedures to ensure that these administrative functions fully support the timely expenditure of MHSA funds.

ATTACHMENTS

- A. *Mental Health Services Act-The State Could Better Ensure the Effective Use of Mental Health Service Act Funding*, dated February 2018
<https://www.auditor.ca.gov/pdfs/reports/2017-117.pdf>
- B. *Mental Health Services Act Funds-Amounts Subject to Reversion Before July 1, 2017*, dated October 1, 2018
https://www.dhcs.ca.gov/services/MH/Documents/Statewide_Reversion_Report_Final_Wordver.pdf
- C. Mental Health Services Act (Revised January 04, 2018)
<http://www.mhsoac.ca.gov/document/2019-01/mental-health-services-act-revised-January-20-2019>
- D. *El Dorado County Mental Health Services Act Three-Year Program and Expenditure Plan*, approved on June 20, 2017
<https://www.edcgov.us/Government/MentalHealth/mhsa%20plans/Documents/FY%2017-18%20MHSA%20Three-Year%20Plan%20-%20APPROVED.pdf>
- E. *El Dorado County Mental Health Services Act Annual Update, Fiscal Year 2018-2019*
<https://www.edcgov.us/government/mentalhealth/mhsa/documents/fy%2018-19%20mhsa%20annual%20update%20final.pdf>

REQUEST FOR RESPONSES

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

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

- Responses to all findings and recommendations are requested from The El Dorado County Board of Supervisors.

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

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

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

Response to Findings

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

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

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

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

Response to Recommendations

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

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

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

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

ELECTIVE OFFICERS OR AGENCY HEADS

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

Failure to Respond

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

Where to Respond

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

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

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

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

California Penal Code Section 933

933.

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

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

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

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

California Penal Code Section 933.05

933.05

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

(1) The respondent agrees with the finding.

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

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

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

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

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

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

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

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

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

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

EL DORADO COUNTY GRAND JURY 2018-2019



JAIL AND JUVENILE DETENTION CENTERS INSPECTIONS

CASE 18-03 • MAY 15, 2019

Public Release

MAY 20, 2019

EL DORADO COUNTY 2018-2019 GRAND JURY

JAIL AND JUVENILE DETENTION CENTERS INSPECTIONS

Case 18-03 • May 15, 2019

The 2018-2019 Civil Grand Jury conducted its annual inspections of the County jails and juvenile facilities located in South Lake Tahoe and Placerville. The inspections included both a physical inspection of the facilities as well as interviews with staff members, inmates and wards (juvenile offenders).

BACKGROUND

California Penal Code Section 919(b) mandates that the grand jury must inquire into the condition and management of *public prisons* within the county. That includes inspections of county jails and juvenile halls.

METHODOLOGY

- Interviewed the facility staff and inmates
- Followed the guidelines for the inspection from the Detention Facility Inspection Form
- Reviewed the Board of State and Community Corrections (BSCC) Jails Inspection Handbook
- Reviewed latest documentation of the Fire Marshal inspection for Placerville Jail
- Inspection of the South Lake Tahoe Juvenile Treatment Center (JTC) was conducted on Nov. 13, 2018.
- Inspection of the South Lake Tahoe Jail was conducted on November 20, 2018.
- Inspection of the El Dorado County Jail in Placerville was conducted on January 2, 2019.
- Inspection of the El Dorado County Juvenile Hall in Placerville was conducted on Jan. 2, 2019.

OVERVIEW OF JAILS OPERATIONS

Inspections of both jails included housing and medical units, culinary facilities, indoor gym, library, control room, booking room and the sally port, a secure entrance where inmates enter and exit the jail.

County jails were first built for pretrial detention and to house criminals sentenced to no more than one year. Those committing more serious crimes subject to longer sentences were sent to state prison, sometimes for many years or even the remainder of their lives. County jails were simply not designed to house prisoners serving long-term sentences.

The California Public Safety Realignment Act of 2011 (AB-109) resulted from a Federal Court Order to reduce the State's overcrowded prison system. This legislation intended to reduce the State prison population by moving lower-level offenders to county jails. Counties became financially responsible for incarceration, parole and parole revocation including all ancillary services related to long-term incarceration, transferring responsibility for a large segment of the state prison and parole system to the county system. Prior to AB-109, criminals were sent to state prison or county jail based mostly on length of sentence.

Since the initial shifting of inmates from prison to local county jails, the county Superior Court Judge determines the location of the facility when the criminal is sentenced.

The housing unit (pod) to which an inmate will be assigned is made by jail staff depending on an inmate's ability to associate with others. Some inmates are housed in isolation and are only allowed out of their cells periodically. They do not have direct contact with others at any time. Rival gang members are not housed together, and informants and white-collar criminals are generally housed separated from other inmates. All the pods are monitored by officers in the control room, which has many monitors showing activity in each pod. Officers can give inmates direction, such as when to come out of their cells for mealtime or exercise, or when to return to their cells.

The El Dorado County Office of Education (EDCOE) offers a wide range of educational classes at both facilities including court-ordered narcotics, alcohol and anger abuse management. Some inmates have completed General Educational Development (GED) tests, giving them an alternative to a high school diploma. Computer tablets are available to inmates to use when pursuing educational options. Tablet use is restricted but does allow communication with families and legal teams. Tablets are very popular and inmates must share them, as there are not enough tablets for everyone.

Both jails offer two vocational programs: waste water treatment and culinary skills. The wastewater treatment plant vocational program is an independent study program provided through EDCOE, and both programs provide job skills for inmates when they are released.

The culinary programs at both jails have received many awards. The food inmates in the program prepare is served daily to all the inmates. In addition, inmates have prepared many meals that have been served at a variety of County functions. Violent inmates cannot participate in the culinary program. Those that do participate are proud to be a part of it. Inmates must complete a Food Safety class in order to participate in the culinary program. Food storage areas at both jails are very clean. The refrigerated areas are well maintained, clean, neat and well organized. Cleaning fluids and chemicals are properly labeled and stored safely.

Workers in the culinary program are organized into teams of six inmates. Until recently, all participants in the culinary program were men. Jail policy does not allow men and women to commingle, and until recently, neither jail housed six women eligible to participate in the program. This year, several female inmates at the Placerville jail transferred to South Lake Tahoe, joining with other women to make the first team of women to participate.

Medical Services are provided at both facilities by Wellpath (previously California Forensic Medical Group, CFMG), a medical provider used at many jails throughout the State. There is a Registered Nurse at the jail during the day and a Licensed Vocational Nurse at night. Psychiatric/Psychological services are also available.

A registered dietitian reviews all menus and meal plans but is not on duty at the jail. A civilian staff cook oversees the day-to-day operations and management of the kitchen and inmates. Knives and other sharp instruments are counted and locked up when not in use. The goal is to provide three meals per day, two of which are hot. When a lockdown is in place, a *bagged meal* is provided.

Inmates can attend regular church services and are allowed a visit from their clergy by request. Inmates at both facilities exercise in an indoor yard for one hour two to three times per week.

SOUTH LAKE TAHOE (SLT) JAIL

The jail, originally built 46 years ago, has now been expanded to a 158 bed facility. At the time of our inspection it was at 88 percent capacity with 117 male and 20 female inmates. Classifications for housing inmates are: General Population, Administrative Segregation, Protective Custody and Maximum Security.

Approximately 23 percent of the detainees in the South Lake Tahoe jail are AB-109 Public Safety Realignment inmates. They are in custody for violating their parole or violating their Post-Release Community Supervision (PRCS), that may include charges for violent behavior. However, most are in custody for violating the terms of their Parole or PRCS. Many inmates within the jail system have mental health problems, but are not segregated unless a safety and/or behavioral issue arises.

Since the previous Grand Jury inspection in November 2017, no inmates have committed suicide, although there have been four attempts. There have been no deaths, no escapes and no attempted escapes.

A full body metal detector was visible in the lobby. We were advised that it was newly-acquired and fully functional at the time of the inspection. However, it was not being used to screen visitors because administrators had not yet provided procedural training to staff. Since the inspection, training has been completed and the full body metal detector is now being used.

One of the sobering cells had been converted to a transitional cell last year to accommodate those inmates who had been removed from a safety cell but still required enhanced observation. During inspection of the medical unit, some over-the-counter medicines were past their expiration dates.

Other than a water stain on the ceiling tiles in the conference room, the facility seemed to be in good condition. During the tour, we noted the interior walls were clean and free of graffiti. Floors, drains, and plumbing fixtures were all in working order. We did notice, however, that the hood and vent in the kitchen did exhibit a noticeable buildup of grease.

INTERVIEWS WITH INMATES

Grand Jurors interviewed two female and two male inmates. Topics discussed were food, availability of religious services, library services, medical services, and educational opportunities within the jail. The inmates interviewed had positive comments about the facility and correctional officers. They reported that the food is outstanding, especially compared to other facilities. One of the inmates was soon to be released and was extremely happy that he already had a job waiting for him.

PLACERVILLE JAIL

The 31-year-old jail in Placerville is a 303-bed facility with 202 male and 40 female inmates. The classification and number of each of the inmates is as follows: General Population (142), Maximum Security (30), Administrative Separation (44), Disciplinary Separation (1), Special Needs Separation (22), not yet classified (3).

Since the last inspection in November 2017, no inmates have committed suicide, although there have been three attempts. There have been no deaths, no escapes and no attempted escapes.

The full body metal detector was plugged in and working properly. One of the jurors with an artificial knee set it off while walking through it. We were informed the metal detector has been working and used since the previous visit by the Grand Jury.

The overall appearance of the facility was clean and found to be in good condition. During the inspection we did notice a small amount of graffiti visible in the visiting area. Cameras and monitors are not allowed in the visiting areas so correctional officers are not always aware of the placement of graffiti being in the area.

The interior of the jail is painted twice a year by trusted inmates.

A new building is planned for construction adjacent to the existing jail. It will include multi-use space, medical beds and mental health services. There will also be two female housing units, for a total of 54 beds for women.

FACILITIES INSPECTIONS JUVENILE HALL

The Juvenile Treatment Center (JTC) in South Lake Tahoe is a 40-bed facility. The JTC contracts with Wellpath (previously California Forensic Medical Group, CFMG). They have a Registered Nurse on duty six mornings per week Monday thru Friday, 7:30 – 12:30, and Saturday for Medication Pass/Sick Call (usually a couple of hours). There is also a Nurse Practitioner who makes rounds at the JTC once per week.

A Mental Health Program Coordinator works full time for the Probation Department. She is a licensed therapist working with medical staff on mental health care, coordinating with the psychiatrist.

The juvenile hall in Placerville is an older facility that needs to be updated. The correctional officers and staff work well with the wards to see that all their physical and mental health needs are met. Educational classes with all the necessary books, tablets, teachers etc. are held daily so everyone can keep up with their individual level of education, making it easier for them to return to school when they are released.

INTERVIEWS OF WARDS

We interviewed two male and two female wards. Topics included food, library, books, medical services and the educational system available to them.

FUTURE JUVENILE FACILITIES PLANS

The County Board of Supervisors (BOS) has approved the construction of a 20-bed replacement juvenile hall in Placerville. The facility will be constructed on the site currently occupied by the Sheriff's Department on Fair Lane. The Sheriff will be moving to a new site in July of this year.

To finance the facility construction, the current Placerville Juvenile Hall will be closed effective June 30th of this year and the savings from that facility's closure will be used to pay the County share of construction costs. A \$9.6 Million State construction grant will pay the majority of construction costs. As of mid-June, all juvenile detention operations will be moved to the Juvenile Treatment Center (JTC) in South Lake Tahoe.

The Board of Supervisors also directed that the County provide recommendations for the use of the JTC building in SLT, after the newly constructed facility in Placerville is opened in 2021. The BOS expressed a desire to continue juvenile services in South Lake Tahoe, but understands it may not be financially viable.

FINDINGS

- F1. Some over-the-counter medicines at the South Lake Tahoe jail had expired.
- F2. The hood and the vent at the South Lake Tahoe jail kitchen had a noticeable buildup of grease on it.
- F3. Metal detectors are working and being used at both jail facilities.

RECOMMENDATIONS

- R1. All expired over-the-counter medicines at the South Lake Tahoe jail should be discarded.
- R2. Grease should be removed from the hood and the vent in the South Lake Tahoe jail kitchen.
- R3. Continue to use full-body metal detectors for all visitors.

REQUEST FOR RESPONSES

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

- **Responses to all findings and recommendations are requested from the El Dorado County Sheriff**
- **Responses to all findings and recommendations are invited from the El Dorado County Probation Chief**

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

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

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

Response to Findings

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

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Where to Respond

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

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

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

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933.

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

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

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

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

California Penal Code Section 933.05

933.05

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

(1) The respondent agrees with the finding.

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

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

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

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

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

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

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

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

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

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

EL DORADO COUNTY GRAND JURY 2018-2019



ELECTION OBSERVATIONS

CASE 18-04 • MAY 10, 2019

Public Release

MAY 15, 2019

EL DORADO COUNTY 2018-2019 GRAND JURY

ELECTION OBSERVATIONS

Case 18-04 • May 10, 2019

SPECIAL NOTICE

This is not a traditional grand jury report based upon an investigation. It is an informative report based on observations made by the Grand Jury during the Gubernatorial election on November 6, 2018. It does not conform to the traditional investigative report paradigm; it does not have findings or recommendations. However, it does present conclusions reached by the Grand Jury.

The California Elections Code provides that the public, candidates, committees and political parties may observe Elections Department activities including ballot counting, vote by mail and provisional ballot verification. Pursuant to that provision, the El Dorado County Elections Department invited the Grand Jury to observe the November 2018 Consolidated Gubernatorial General Election. The Grand Jury conducted site visits, interviews of participating County employees and volunteers, and observation of the various stages of conducting an election.

The Grand Jury concluded that the mandatory purchase of a new Elections Management System and the voluntary implementation of election reforms, both prior to the 2020 election, will impose a challenge for the County.

BACKGROUND

There are 121,192 registered voters in El Dorado County. Over 80 percent participate using Vote by Mail. Currently, there are numerous voting precincts in the County. They range from urban, high density areas to farm and agricultural land to mountains and foothill communities. Those diverse demographics and topographies are some of the reasons people relocate to El Dorado County, but they also present many challenges. This certainly is true when engaging in outreach to residents and encouraging people to participate in county governance by voting on issues unique to their communities.

METHODOLOGY

- Reviewed "*2017 El Dorado County Economic and Demographic Profile*", Center for Economic Development at Chico State University
- Reviewed California Senate Bill 450, 8/23/16, "*Elections: vote by mail voting and mail ballot elections*" (California Voters Choice Act)¹
- Interviewed elected and appointed El Dorado County officials, including those in the County Elections Department
- Interviewed El Dorado County staff
- Observed various polling sites, the Elections Department, and talked with poll workers

¹ https://legalinfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160sb450

VOTE BY MAIL BALLOT PROCESSING

Grand Jury members were given an illuminating and informative tour of the Elections Department by staff members on October 31, 2018. We observed the entire election process, from receipt of Vote by Mail ballots, to electronic ballot counting and preparing counted ballots for storage for the required retention period. Despite a labor-intensive process, the elections staff switched tasks seamlessly with no interruption in the workflow. The staff always worked in pairs to ensure process validity. We observed:

- Vote by Mail ballots received at the Elections Department are logged-in as they are received, batched into groups of one hundred, and assigned unique batch numbers that remain with the ballot group throughout processing.
- The group of unopened ballots undergoes signature verification by visually comparing the ballot signature with either the voter registration database or the California Department of Motor Vehicles database. When a signature cannot be verified, the unopened ballot, remaining in its sealed envelope, is removed from the batch for follow-up processing by staff.
- California Elections Code §15101 allows election officials to begin processing Vote by Mail ballots 10 business days prior to the election. Starting that day, the ballots in each batch are opened and separated from the signed envelopes. The batch is recounted, and batch routing slips are marked with the final number of ballots.
- While the Elections Department tabulates votes from Vote by Mail ballots as they are processed, no vote totals are accessed or released to anyone, including election officials, until after the polls close at 8 p.m. on election night.
- Each ballot is manually reviewed, checked for duplicate markings and, when possible, obliterating mistakes using White-Out to avoid miscounting. When necessary, the marks from a damaged ballot are transferred to a new ballot. Every change made to a ballot is initialed by both reviewers.
- The reviewed ballots in each batch are ready to be fed into the counting machine. This is done as time permits and when there are enough verified batches and staff available. The unique batch number is entered before counting the ballots in each batch. Afterwards, ballots are re-batched and retained on site if needed for an official canvass of the vote after the election.

Almost 80 percent of registered voters in the County opted to use Vote by Mail during the 2018 election. The County of El Dorado Official Final Report submitted to the California Secretary of State on December 4, 2018, stated that 90,730 ballots total were cast, representing a participation rate of 74.86 percent. Extrapolating from that vote total, the estimated number of Vote by Mail ballots was about 72,500. Adding to the complexity of the 2018 election, the Elections Department generated 170 different ballots throughout the County, due to the large number of local elections such as school district boards, fire district boards and various elections for city initiatives and measures.

The Elections Department delivers Vote by Mail ballots to post offices 30 days before the election. Infrequently, the volume of envelopes causes a temporary delay while they are held by post office workers. Post office delays are not common and are monitored by Elections staff. The Elections Department has a permanent staff of 7.5. Starting 45 days before the election, extra hires are brought in to assist with Vote by Mail ballot processing. Many extra help workers have worked during previous elections, making their training minimal and mostly done on-site. Another advantage is their familiarity with the Election Management System. We noted that the staff, including the extra help, were cross-trained for most tasks and moved to different stations with ease and little interruption in the process. Training for poll workers was conducted in various places throughout the County, generally lasting about three hours. Supervisors usually train for 25 to 30 hours. The Grand Jury was surprised to learn that trainees receive no pay during their mandatory training.

ELECTION DAY OBSERVATIONS

On November 6, 2018, the Grand Jury observed activities at the Elections Department and 14 different polling sites located throughout the County. The Grand Jury was at polling places various times from poll opening to poll closing.

- In most cases there was little wait time for voters between arrival and signing in, and receipt of ballots.
- A recurring problem encountered at many polling sites was that the precinct roster had numerous voters as Vote by Mail when the voters stated they had not requested to vote by mail. They did not bring their ballots, as voters who are registered as Vote by Mail are supposed to do. Those voters were given provisional ballots. The problem could have been caused by the California Department of Motor Vehicles voter registration process or could have been caused by voter error, but it was not investigated by the Grand Jury.
- Activity at the Elections Department central counting site was very steady. There were long lines of people wanting to vote. Traffic was backed up most of the day at the ballot drop off box in the parking lot.
- After the polls closed, results of the Vote by Mail ballots that been previously counted were released by the office. Not all Vote by Mail results were disclosed. Many Vote by Mail ballots came in on election day or after. Election officials working at the polls brought ballots to the counting site. Updated counts were released throughout the night and semi-official results were made available on line.
- As the ballots arrived at the Elections Department, three separate groups of people verified the number and precinct of each bag of ballots. Vote by Mail ballot envelopes and provisional ballots from the poll sites were separated and verified using the same process used for Vote by Mail ballots.
- On Thursday November 8th, the Elections Department began their official canvass of the vote, which included processing all remaining ballots, researching provisional ballots, auditing the polls and conducting a manual tally of all paper ballots. This was a time and labor-intensive process intended to make certain every vote cast was counted.

- Pursuant to Elections Code §15372, the elections official prepared a certified statement of the results of the election and submitted it to the California Secretary of State on December 4, 2018, meeting the guidelines of submission within 30 days of the election.
- The entire process started again to prepare for the March 26, 2019, Primary Election less than 5 months away.

THE ELECTION MANAGEMENT SYSTEM

The existing County Election Management System was installed in 2005. It uses Windows 2000 which is no longer supported by Microsoft. In addition, the age of the system hardware sometimes necessitated the purchase of needed replacement parts from Ebay. The Secretary of State has issued a directive that voting systems made before 2014 be upgraded for certification by August 2019 in preparation for the 2020 election. The need for an upgraded, certifiable Election Management System equipment is time critical for the presidential primary in March 2020. The current system must be replaced; however, the time frame is short for bid release, review, vendor selection and purchasing. Once a new system is received, the Elections Department has a concern about the length of time to transfer systems and adequately train staff to operate it. At the time of this writing, the county is preparing a Request for Proposals to purchase a new Election Management System.

SB 450 - CALIFORNIA VOTERS CHOICE ACT

California Senate Bill 450 (2016) provides voters more options for where, when, and how they can cast a ballot. All registered voters would automatically be sent a ballot 28 days before the election that they could return by mail, deposit at a drop-off location, or cast it in person at any vote center in their county of residence. Vote Centers would be open 10 days before election day and would also serve as problem resolution hubs for voters. At Vote Centers, a voter may:

- Cast a ballot in-person
- Drop off their completed ballot
- Access same-day voter registration
- Receive a replacement ballot
- Access accessible voting machines
- Access language assistance and translated materials

Voters may use any County Vote Center. A South Lake Tahoe voter may be served by a Vote Center in Placerville. There will be one Vote Center for every 10,000 registered voters available on election day and the Saturday, Sunday and Monday leading up to it. Starting 10 days before the election and through the Friday before election day, there would be one Vote Center for every 50,000 registered voters. El Dorado County currently is investigating how to make this happen, looking for possible locations throughout the county for Vote Centers and Drop-Off Ballot Boxes. It will be a major change in how elections are conducted in El Dorado County and will necessitate an extensive public outreach education effort.

SB 450 mandates that counties draft and adopt a detailed plan of execution through an open, public process. It also mandates education workshops with community groups, including organizations that assist voters with disabilities and minority language communities. El Dorado County would be allowed, but not required, to adopt SB 450 reforms for the 2020 election. In April 2019, the El Dorado County Board of Supervisors approved implementation of SB 450 reforms for the 2020 elections.

CONCLUSIONS

The Grand Jury developed a much greater appreciation for the staff and processes that make our election process function under challenging circumstances.

The acquisition of a new Elections Management System and necessary training prior to the 2020 Presidential election will pose a challenge for the County.

Implementing Vote Centers prescribed by SB 450 for the 2020 elections will require a strong community outreach program to educate voters prior to the election.

The Grand Jury believes poll or Vote Center workers should be compensated for their time attending required training.

SPECIAL NOTICE

This is not a traditional report based upon a grand jury investigation. Rather, it is an informative report based on observations made by the Grand Jury during the Gubernatorial election on November 6, 2018. It does not conform to the traditional investigative report paradigm; it does not have findings or recommendations.

Responses to this report are invited but not required.

EL DORADO COUNTY GRAND JURY 2018-2019



GRAND JURY CONTINUITY

CASE 18-05 • MAY 10, 2019

Public Release

MAY 15, 2019

EL DORADO COUNTY 2018-2019 GRAND JURY

GRAND JURY CONTINUITY

Case 18-05 • May 10, 2019

The El Dorado County Civil Grand Jury may appear to be an institution that exists continuously. However, it is actually a series of individual grand juries which each exist for exactly one year as mandated in the California Constitution and Statutes. No jury is a continuance of any other; California Statutes specifically prohibit that from happening. Each grand jury exists independently and separately from all others.

BACKGROUND

Each El Dorado County Civil Grand Jury investigates County government during its one-year term. It can also investigate city governments, agencies and districts within the County. Each investigation can generate a grand jury report containing evidence, findings of fact derived from that evidence and recommended actions government might take based on those findings. Each report can request or require responses to report findings and recommendations from those officials responsible for the subject of the report.

Responses must be made within a timeframe of 60 or 90 days from the date the report is published. Almost all reports are published close to the end of a grand jury term. Responses to grand jury reports are usually provided after the issuing grand jury's term has ended. The new grand jury in place receives the responses instead of the issuing grand jury. It is then incumbent upon the succeeding grand jury to evaluate those responses, providing a semblance of grand jury continuity.

METHODOLOGY

- Reviewed the California Penal Code sections relevant to report findings and recommendations.
- Reviewed Previous El Dorado County Grand Jury reports and responses.
- Communicated with several responding agencies after reviewing their replies.
- Reviewed responding agencies meeting agendas and minutes.

DISCUSSION

We reviewed 81 findings and recommendations from previous Grand Jury reports and every response to them. We found the responses and actions by the respondents were complete and did not warrant further Grand Jury actions.

FINDINGS

This report has no findings.

RECOMMENDATIONS

This report has no recommendations.

REQUEST FOR RESPONSES

Responses to this report are not required or requested.

California Penal Code Section 933

933.

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

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

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

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

California Penal Code Section 933.05

933.05

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

(1) The respondent agrees with the finding.

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

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

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

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

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

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

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

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

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

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

EL DORADO COUNTY GRAND JURY 2018-2019



A FAIR REVIEW

CASE 18-06 • MAY 23, 2019

Public Release

MAY 29, 2019

EL DORADO COUNTY 2018-2019 GRAND JURY

A FAIR REVIEW

Case 18-06 • May 23, 2019

INTRODUCTION

There is an agreement between El Dorado County (County) and the El Dorado County Fair Association (Association) that outlines their mutual understanding for the conduct of the Agricultural Fair and other activities on the County-owned Fairgrounds property. This agreement is outdated, largely disregarded and ignored by the County, and as a result, does not provide the full potential financial benefit to El Dorado County.

BACKGROUND

Under California Government Code Section 25905:

“The board of supervisors may contract with a nonprofit corporation or association for the conducting of an agricultural fair, as agent of the county, for a period not exceeding five years.”

The Association known as The El Dorado County Fair Association was created in April 1952, and through its Articles of Incorporation, states these specific and primary purposes:

“To sanction and promote an annual county fair in El Dorado County in cooperation with the County of El Dorado, and to contract from time to time with said County for the conduct and sponsorship of such annual fair by the corporation in conformity with and any and all provisions of law which authorize the counties of this State to conduct fairs through the instrumentality of nonprofit corporations or associations organized for such purpose”

The Association Board is made up of eleven (11) members, with six (6) members from the membership of the Association at large, and five (5) members appointed at large by the County Board of Supervisors.

The most recent agreement between the County and the Association is dated April 1, 2005. There was an amendment in May of 2017 to allow payments on a debt owed by the Association, however, it did not modify any other terms of the 2005 Agreement. The 2005 document will be referred to as *the Agreement* in this report. A copy of the Agreement is attachment A.

The Association conducts an annual agricultural fair. In addition, the Association leases out the facilities on the County-owned property for a variety of activities and events, including theatrical productions, dirt track car races, concerts, community events and charity fundraisers. The Agreement preamble states it is the mutual desire of the parties that the Association will act as an agent for the County:

“...for the purpose of holding and conducting such fair, and have the use, possession and management of the fairground for the period of this Agreement;”

As a part of the Agreement, the County is indemnifying the Association to the extent that:

“Claims of any type made against the Association shall be deemed to be claims against the County.”

Also, the Agreement acknowledges that the County owns the property, specifically:

“The buildings, tenant improvements, and all other fixed assets are property of County...”

The Agreement further states:

“...the fair and other activities shall be conducted in accordance with the highest standards for the benefit of County and the State of California.”

Through interviews with various County employees and elected officials, the Grand Jury ascertained the County government is not receiving any direct financial gain from the execution of the Agreement. Further, it appears that the County is being charged by the Association when the County makes use of the facilities it actually owns.

The Association’s cost for all maintenance of the fairgrounds provides their justification of charging for use of the County owned facilities, however, the agreement is somewhat ambiguous regarding the maintenance responsibility.

METHODOLOGY

- Attended a County Fair Association board meeting

Interviewed

- El Dorado County Fair Association personnel
- Various El Dorado County personnel and elected officials

Reviewed

- The Agreement between El Dorado County and the El Dorado County Fair Association and the most current revision
- The Articles of Incorporation for the El Dorado County Fair Association
- The By-Laws of the El Dorado County Fair Association
- The applicable State codes governing administration of county fairs
- Financial submissions by the El Dorado County Fair Association
- Claims against the El Dorado County Fair Association
- Contracts between the El Dorado County Fair Association and various concessionaires
- El Dorado County Fair Association Statement of Operations (STOP) submitted to the State

DISCUSSION

The Agreement was executed in 2005, with a five (5) year term and included automatic renewals each year after the five-year period expired. It requires a Notice of Intent be filed when either party intends to not renew the Agreement. This seems inconsistent with California Government Code §25905, which states that the Agreement cannot exceed five years.

Conditions have changed. The Agreement is outdated, and many sections are ignored. For example:

- The State no longer provides funds through the County for the operation of the County Fair.
- The County can no longer provide CalPERS benefits to the Association.
- The County no longer provides payroll services for the Association's employees.
- The Association does not deposit their funds in the County's treasury.
- The Association does not provide notice to the County of their expenditures under section 16 of the Agreement.
- The Association has not provided "certified" copies of their minutes to the Clerk of the Board, as required by section 17 of the Agreement.
- The Association has not provided the County with a complete cash audit of its operations, as required under section 27 of the Agreement.
- The Association has not provided a five (5) year plan projection to the County, as required under section 28 of the Agreement.

After interviewing County staff, elected officials, and Association officers, the Grand Jury could not identify one specific person responsible for monitoring and administering the Agreement between the Association and the County. The interactions and execution of the Agreement between the County and the Association are divided between The Office of Risk Management, the Treasurer/Tax Collector, the CAO's office, and the Auditor-Controller. Because there is no single point of contact within the County government, there is no accountability for overall compliance with the terms and conditions of the Agreement.

Under section 6 of the Agreement, the fairgrounds property consists of Assessor's parcel numbers 152-240-11, 352-240-12, 352-280-02 and 352-280-04. A review of County Assessor's maps showed the parcel numbers delineated in the agreement are incorrect. We assume that this is most likely a typographical error; the book numbers should be 325 for all the parcels. Title to these parcels is held by El Dorado County and under section 12 of the Agreement, the buildings, tenant improvements and all other fixed assets are property of the County. It was noted upon review of the Association's Internal Revenue Service (IRS) Form 990 filing that the Association's return included depreciation of facilities on the fairgrounds. The Grand Jury has not made a determination if this affects the County's net worth, nor have we made an assessment of the legality of the Association's IRS submission.

The Grand Jury asked both Association and County officials if there was any item in the Agreement that, by law, precludes the County from profiting from its ownership of the fairgrounds property. The general answer was there was nothing that prevents the County from such a benefit. The Association leases out various venues within the fairgrounds to for-profit companies. The agreements with the for-profit companies are negotiated by the Association, and do not include the provision that any of the receipts from the events be paid to the County. It appears that the County receives no direct financial benefit, even though the County owns the property and facilities, and has accepted the risk for the Association's undertakings.

FINDINGS

- F1. The Agreement between El Dorado County and the El Dorado County Fair Association is outdated. Many of the provisions are no longer applicable and others are not enforced.
- F2. El Dorado County does not appear to have a single point of contact responsible for administration, monitoring, and enforcing provisions of the existing Agreement.
- F3. El Dorado County holds title to the property on which the El Dorado County Fair Association conducts the annual agricultural fair, as well as a variety of other events.
- F4. The El Dorado County Fair Association was formed for the purpose of conducting the annual agricultural fair.
- F5. By delegating to the El Dorado County Fair Association, the year-round management of the fairgrounds, El Dorado County has missed opportunities to receive revenue from events held on the fairground property.
- F6. El Dorado County is inattentive to the El Dorado County Fair Association's management of the fair and fairgrounds.
- F7. El Dorado County Government has assumed liability for all fair activities and operations without any direct financial benefit.

RECOMMENDATIONS

- R1. The County should designate a specific department or person that is directly responsible for management of the agreement between the Association and the County.
- R2. The County should decide how it wishes to move forward relative to the Fairgrounds with one of these options:
 - a) Assuming direct control of the Fairgrounds and Agricultural Fair or,
 - b) Continuing the relationship with the Association and updating the agreement incorporating the changed conditions since the 2005 Agreement or,
 - c) Modifying the relationship whereby the Association is only responsible for conducting the agricultural fair and the County assuming management of all other activities held on the Fairgrounds.
- R3. In drafting a new agreement or assuming direct responsibility for operations of the fair and fairgrounds, the County should look into potential revenue opportunities for the County arising from activities outside the Agricultural Fair.

ATTACHMENT A

Agreement between the County of El Dorado and the El Dorado County Fair Association, Inc. A general non-profit corporation

REQUEST FOR RESPONSES

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

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

- **Responses to all findings and recommendations are requested from the County Board of Supervisors**

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

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

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

Response to Findings

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

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

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

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

Response to Recommendations

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

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

Response Times

The California Penal Code specifies response times.

PUBLIC AGENCIES

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

ELECTIVE OFFICERS OR AGENCY HEADS

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

Failure to Respond

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

Where to Respond

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

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

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

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

California Penal Code Section 933

933.

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

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

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

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

California Penal Code Section 933.05

933.05

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

(1) The respondent agrees with the finding.

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

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

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

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

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

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

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

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

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

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

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1 kept in connection therewith, which said records constitute County records; and that all money
2 constituting gross receipts from or in connection with the operation, holding and conducting of said
3 fair, and through the use, possession and management of the fairgrounds, constitute County monies.

4 NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

5 1. Association as agent for County under the authority of law applicable thereto, pursuant
6 to Government Code section 25906 will hold and conduct said fair on County Fairgrounds on the
7 dates designated by the Board of Directors of Association.

8 2. Association during the term hereof will annually present to the State Department of Food
9 and Agriculture the premium list and those other documents for said fair, which said list and
10 presentation hereof has constituted or shall constitute an application on the part of County to the
11 Department of Food and Agriculture of the State of California, for the apportionment, if such has
12 not heretofore been made, for the disbursement to County of monies from the State of California,
13 Fairs and Expositions Fund of the full amount as by law allowed.

14 3. Association will pay all premiums awarded by the judges at said fair, subject to the prior
15 approval of the premium list by the Department of Food and Agriculture and the necessary
16 apportionment and disbursement of the required funds by the State of California provided:

17 A. That all premium awards are made in accordance with a published premium list,
18 approved by the Department of Food and Agriculture as aforesaid, and applicable rules and
19 regulations of the Department of Food and Agriculture; and

20 B. That certification of the awards of said premiums by said judges has been duly
21 and regularly made and presented to County.

22 4. County will and does hereby constitute and appoint Association as agent of County
23 pursuant to Government Code section 25906 for the following purposes: To manage, use and
24 possess and to operate and conduct said fair, fairgrounds property and fairgrounds activities for the
25 term of this Agreement, under the by-laws in force and effect on the date of this contract as indicated
26 in Exhibit "A". The term of this Agreement shall commence the date first set forth above, and shall
27 run through June 30, 2010, at which time it shall expire, unless extended pursuant to the terms of
28 this Paragraph. Commencing April 1, 2006, and each April 1" thereafter (the "Renewal Date")

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1 during the term of this Agreement, the term of this Agreement shall be extended automatically,
2 without action of the parties, for a period of one (1) beyond its then current expiration date, unless,
3 prior to any Renewal Date, either party to this Agreement gives written notice to the other of its
4 intent not to renew this Agreement. In the event such notice is given prior to any Renewal Date, then
5 the term of the Agreement shall not be extended upon that or any subsequent Renewal Date and the
6 Agreement shall expire at the end of its then remaining term, it being the intent of the parties that
7 notice of nonrenewal be given not less than four (4) years prior to expiration of the Agreement.

8 5. Association will, subject to the laws of the State of California and County ordinances,
9 rules and regulations, use and possess said fair and fairgrounds, and operate and conduct said fair
10 and other activities within the limits and provisions of this Agreement to the end that said fair and
11 other activities shall be conducted in accordance with the highest and best standards for the benefit
12 of County and the State of California.

13 6. The real property known as the fairgrounds subject to this Agreement consists of APN
14 Nos. 152-240-11, 352-240-12, 352-280-02 and 352-280-04.

15 7. Association agrees to bear, assume, pay and discharge all expenses and obligations
16 incurred by it in connection with said fair from the funds provided to Association by County.

17 8. County shall pay to Association such sums as have been or may be appropriated by the
18 State Department of Food and Agriculture to County from the Fairs and Expositions Fund of the
19 State of California for the purpose of said fair and fairgrounds. County is not obligated to provide
20 general fund monies for any activity contemplated by this Agreement.

21 9. Claims of any type made against Association shall be deemed to be claims against County.
22 Association agrees that upon receipt of any document which purports to be a claim, it will forthwith
23 forward such documents to the office of the clerk of the Board of Supervisors.

24 10. County agrees to defend and indemnify Association, its officers and employees against
25 any claims made against such persons for personal injuries or property damage resulting from the
26 negligence or willful misconduct of such persons occurring in the course of official duties.
27 Association, its officers and employees shall cooperate in the defense of any action against County.

28 As part of its annual budget, the Board of Supervisors shall determine a direct services charge

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1 for Association which will reimburse County for its costs of such general liability risks of loss as
2 arise from operation of the County Fair. By March 1 each year, County shall notify Association in
3 writing of the amount of this charge. County shall compute and determine the amount of this charge
4 using the same computational methods as it employs to develop and budget similar internal charges
5 for the other departments of County Government. Association shall pay this charge in October of
6 each year, or in the month immediately following adoption of County's final budget.

7 11. It is understood that at this time vehicles used by Association in connection with official
8 duties are registered with the Department of Motor Vehicles in the name of Association. County
9 agrees that it shall defend and indemnify Association, its officers and employees resulting from
10 injuries to persons and property as the result of the negligence of willful misconduct of such persons.

11 Property damage to Association vehicles, whether caused by third persons or otherwise, shall
12 be the sole responsibility of Association. By mutual agreement with County, Association may
13 transfer title to such vehicles to County for management within County's fleet management program.
14 In that event only, Association shall remit to County the mileage based internal charges applicable
15 to the County departments. Fleet managed vehicles are replaced or repaired at County expense when
16 depreciated or damaged.

17 12. The buildings, tenant improvements and all other fixed assets on the fairgrounds are
18 property of County, and shall be financially protected against sudden and accidental loss or damage
19 to the same extent as County insures or self-insures against these same risks of loss to other County
20 owned properties and assets.

21 As part of its annual budget, the Board of Supervisors shall determine a direct service charge
22 for Association that will reimburse County for its costs of such risk of property losses. By March
23 1 each year, County shall notify Association in writing of the amount of this charge. County shall
24 compute and determine the amount of this charge using the same computational methods as it
25 employs to develop and budget similar internal charges for the other departments of County
26 government. Association shall pay this charge in October of each year or in the month immediately
27 following adoption of County's final budget.

28 13. Association will implement such loss control policies and procedures and keep records

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1 appropriate to the operations and management of the fairgrounds as are properly required of County
2 departments. At least once annually association officer shall meet with County officers to review
3 these policies and procedures.

4 14. In connection with any fair functions or fair sponsored function, Association shall require
5 all concessionaires and sublessees to provide appropriate insurance and indemnity agreements to
6 indemnify County and Association from any and all liability or loss due to negligent acts or willful
7 misconduct of the concessionaires or sublessees. Risk Management shall provide to Association an
8 annual schedule of all required insurance parameters with respect to type of coverage. County
9 Counsel will provide the required indemnity language.

10 15. Association will accurately make and keep all records substantially in agreement with
11 the accounting and procedures as illustrated in the FAIRS ADMINISTRATION MANUAL, issued
12 by the Department of Food and Agriculture, Division of Fairs and Expositions, of all its transactions
13 as an agent hereunder, and will, among other things, require and procure serially numbered receipts
14 for any and all money received and detailed itemized invoices or other supporting documents for any
15 and all money disbursed or expended by Association in connection with its executive management
16 and control of said fair and fairgrounds. Association hereby agrees that all books, records and
17 documents pertaining to said management and control shall be subject to examination by the State
18 Department of Food and Agriculture and that all such books, records and documents shall be
19 preserved by Association and remain public records.

20 16. Association shall retain and use all monies received by it from the conducting of said
21 fair, and from the use, possession and management of said fair, and from the use, possession and
22 management of fairgrounds, and shall pay therefrom all expenses incurred in connection with both.
23 Association shall carry out all provisions of law relating to county fairs. In accordance with
24 Government Code section 25906, Association agrees that an annual budget shall be submitted by it
25 to and approved by the Department of Food and Agriculture after approval by the County Board of
26 Supervisors, showing the estimated revenues and the proposed expenditures from all sources during
27 the ensuing calendar year, and no funds shall be expended by such Association except pursuant to
28 such budget.

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1 17. Association agrees to file with the clerk of the Board of Supervisors of County, and with
2 the Department of Food and Agriculture, a certified copy of the minutes of each meeting of the
3 Board of Directors of Association within twenty (20) business days after each meeting.

4 18. Association agrees to include and maintain within the text of its governing by-laws
5 provision for the establishment and reservation of County directorships, upon its governing board
6 of directors, which shall be five (5) in number.

7 19. County agrees that, in the matter of selecting its nominees for service on Association's
8 governing board, it will follow the criteria contained within Association's current by-laws wherein
9 the qualification of directors is set forth.

10 20. It is mutually agreed that County hereby delegates to Association the matter of hiring,
11 terms of employment, discharge and all other personnel matters and shall be employees of
12 Association. Such employees of Association shall not be members of the classified service of
13 County and shall not be listed in the County Authorized Personnel Allocation Resolution. However,
14 such employees shall be treated as County employees for the purpose of membership in CALPERS
15 retirement programs as allowed by law. County agrees to provide, and Association agrees to pay for,
16 the following employee benefits:

17 A. Workers' Compensation as required by statutes of the State of California, through
18 County's Workers' Compensation Program.

19 B. The same health benefits as provided to County employees, through County's
20 program, pursuant to the currently in force Memorandum of Understanding with the recognized
21 employee organization representing the General, Professional and Supervisory Bargaining Units,
22 excluding any benefits under the county's retiree health defined contribution plan.

23 C. Unemployment Insurance as required by statutes of the State of California.

24 D. Payment of payroll taxes due for participation in the Medicare portion of Social
25 Security as required by federal law.

26 E. Long Term Disability and Life Insurance as provided to County employees
27 pursuant to the currently in force Memorandum of Understanding with the recognized employee
28 organization representing the General, Professional and Supervisory Units.

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1 F. County's Employee Assistance Program as provided to County employees
2 pursuant to the currently in force Memorandum of Understanding with the recognized employee
3 organization representing the General, Professional and Supervisory Bargaining Units.

4 As part of its annual budget, the Board of Supervisors shall determine a direct service charge
5 for Association which will reimburse County for its costs of such workers' compensation risks of
6 loss as arise on account of Association's employees. By March 1 each year, County shall notify
7 Association in writing of the amount of this charge. County shall compute and determine the amount
8 of this charge using the same computational methods as it employs to develop and budget similar
9 internal charges for the other departments of County government. Association shall pay this charge
10 in October of each year, or in the month immediately following adoption of County's final budget.

11 The Board of Supervisors shall from time to time establish the rates per pay period for the
12 cost of County sponsored health benefits. Association agrees to pay County at this established rate,
13 each pay period, for health benefits on the same basis as a County department.

14 As part of its annual budget, the Board of Supervisors shall determine a direct service charge
15 for Association which will reimburse County for its costs to provide the life insurance, long term
16 disability insurance and employee assistance programs specified above. County shall compute and
17 determine the amount of this charge using the same computational methods as it employs to develop
18 and budget similar internal charges for the other departments of County government. Association
19 shall pay this charge to County quarterly each year.

20 It is agreed that as to employees, the type and level of employee benefits, other than those
21 required by law, may be established by the Association board of directors.

22 21. As part of its annual budget, the Board of Supervisors shall determine a direct service
23 charge for Association which will reimburse County for its costs for PERS retirement by May 1 of
24 each year. County shall notify Association of the PERS cost for the following fiscal year.

25 22. That Association agrees that all routine contracts which it executes, including but not
26 limited to, exhibit space, concession services and non-fair usage shall have the approval of a quorum
27 of the Board of Directors of Association and shall be recorded in the minutes of the meeting.

28 23. Association and County agree that with respect to the commitment or expenditures of

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1 any funds allocated by an executive order of the State Department of Food and Agriculture pursuant
2 to section 19630 of the Business and Professions Code, which provides regulations for the
3 expenditure of state monies in support of capital improvement projects at fairs, the regular County
4 procedure with respect to purchases and contracts must be followed.

5 24. It is mutually agreed that the solicitation, selection, supervision and any other
6 employment related matters of the County Fair employees shall be the sole responsibility of
7 Association, following such rules, agreements and policies established by Association.
8 Remuneration for employees shall be set by Association.

9 25. The criteria for the establishment of the number and categories of employees and degrees
10 of remuneration shall be in strict accord with the then-current state approved Association budget,
11 wherein authorized personnel requirements are outlined. The criterion for job descriptions of all
12 Association employees shall be in accord with those outlined by the State Personnel Board, which
13 recognizes the special category of "Fairgrounds Employees" within the state's system.

14 26. This Agreement shall be without force or effect unless it is approved by the State
15 Department of Food and Agriculture.

16 27. Association agrees to provide County with a complete cash audit of its operations under
17 this Agreement if during the term of this Agreement, the State of California fails to perform such an
18 audit.

19 28. The El Dorado County Fair Association Board of Directors shall annually, on or before
20 March 1, and in conjunction with its budget review, submit to County in writing a general briefing
21 and program review including a five (5) year plan projection.

22 29. That County Counsel be designed as legal advisor on an "as needed" basis for the Board
23 of Directors, and only to the extent that County Counsel determines there is no conflict of interest
24 between County and Association.

25 30. If any provision of this Agreement, or part thereof, is for any reason held to be invalid,
26 the remaining sections shall not be affected but shall remain in full force and effect and to this end,
27 the provisions of this Agreement are severable.

28 31. This Agreement supersedes and replaces that agreement entered into by the County and

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1 the Association for the same purposes, the term of which was January 1, 2005 through June 30,
2 2005.

3 IN WITNESS WHEREOF, County has, by order of the Board of Supervisors, caused these
4 presents to be subscribed by the Chairman of the Board and to be attested by the clerk of the Board,
5 and Association has duly caused these presents to be subscribed by its duly authorized officers who
6 have affixed the corporation seal of Association hereof, the day, month and year written below.

7 Dated: COUNTY OF EL DORADO
8
9 By Charlie Paine
Chairman, Board of Supervisors 3/29/05

10 ATTEST:
11 CINDY KECK, Clerk of the
Board of Supervisors
12 By Cindy Keck
13 Deputy Clerk 3/29/05

15 Dated: 4/5/05
16 EL DORADO COUNTY FAIR ASSOCIATION
17 By Walter S. May
President
18 By Joseph Keck
19 Secretary-Manager

20 Per paragraph __, this Agreement is approved:
21 Dated: DEPT. OF FOOD AND AGRICULTURE,
22 Division of Fairs and Expositions
23 By Michael King
Assistant Director

24 LBG/km
25 s:\Fairgrounds\Agreements\Fair.agm 2005

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