

EL DORADO COUNTY
GRAND JURY 2020-2021



FINAL REPORT

Public Release
JUNE 30, 2021



EL DORADO COUNTY GRAND JURY 2020-2021

Final Report

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IN MEMORY OF

Tom Simpson

1947-2020

For his commitment to the El Dorado County Grand Jury

During his 7 years on the Grand Jury, he served the people of El Dorado County well with his leadership, strength of character, wisdom and an untiring desire to improve the County he loved.

- ***2013-14 Juror***
- ***2014-15 Jury Pro Tem***
- ***2015-16 Juror***
- ***2017-18 Jury Foreman***
- ***2018-19 Jury Foreman***
- ***2019-20 Jury Foreman***
- ***2020-21 Jury Pro Tem***



El Dorado County Grand Jury 2020-2021

Jurors

Thomas Murphy- Foreman
David Hulme- Pro-Tem
Lisa Butler
Kelly Carter
Richard Coffin
Jack Cummings
Gael Filgate

Renee Finelli
Bill Knox
Pete Marty
Mary Anne Minnick
Roger Pickler
Jim Pucci
Sue Robbins



STATE OF CALIFORNIA

GRAND JURY
El Dorado County

P.O. Box 472
Placerville, California 95667
(530) 621-7477 Fax:
contact@edcgrandjury.com

2020-2021



June 2021

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

Judge Kingsbury,

The 2020-2021 Civil Grand Jury Final Report is the product of a dedicated panel of El Dorado County citizens. Each juror shares responsibility for the investigations, deliberations and ultimately, the Final Report. It is my privilege to present it to you.

As with the rest of the world, this past year has been a unique challenge due to Covid-19. The jury this year was composed entirely of citizens who had served on the jury previously. At the beginning of a normal jury year, new jurors are required to take a two-day training course. This training was, of course, not an option at this time last year. Acknowledging this dilemma, former jurors (who had already been trained) were recruited to serve again. Because they understood the value of the Grand Jury, these citizens made the time commitment to ensure the continuation of this proud tradition.

Covid-19 also impacted the way the Grand Jury did business. Plenary and committee meetings were conducted via video conferencing. Interviews were done with the interviewee and only two jurors in the Grand Jury room with other jurors joining from their computers at home. At other times, interviews were done entirely remotely. As you might expect, not being able to meet in person was not as productive, and some comradery was lost.

This past October, the jury and El Dorado County suffered a major loss with the unexpected passing of this year's Pro-Tem, Tom Simpson. This was the seventh Grand Jury on which Tom served, and he was Foreperson on three of those juries. Tom's dedication to the grand jury process and our County can be seen in the reports produced during his service. The personal affect he had on those he served with is difficult to put into words. Tom's drive to produce the best product possible and his ability to coax excellent work from his fellow jurors will stand as an inspiration to those of us who had the good fortune to serve with him.

I want to thank Senior Deputy County Counsel Paula Frantz, Amy Miller in the Auditor-Controller's Office and Assistant Court Executive Officer Shelby Wineinger for their valuable and continued support, which is essential to maintaining the operation and integrity of the Grand Jury.

I am honored to have served with a great group of jurors this year. I especially want to thank David Hulme, Pro-Tem, for his selfless assistance. I cannot say enough good things about their commitment to help improve the County for all of its citizens.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Thomas Murphy", written over a horizontal line.

Thomas Murphy, Foreperson – El Dorado County Grand Jury
cc: Honorable Mark A. Ralphs

The Superior Court

STATE OF CALIFORNIA
COUNTY OF EL DORADO
2850 Fairlane Court
Placerville, CA 95667

June 24, 2021

To the Members of the 2020/2021 El Dorado County Grand Jury,

On behalf of the El Dorado County Superior Court, I would like to express my appreciation for all your hard work and dedication. I wish to recognize the extraordinary service rendered by the 2020/2021 civil grand jury. The time and effort involved in grand jury service is significant, even in normal years. Because of the COVID-19 pandemic and the associated restrictions on gathering, you faced and overcame unusual challenges.

During the past year, as members of our civil grand jury, you have provided independent oversight of the operation of various local governmental agencies. You have inspected the adult and juvenile detention facilities operating in El Dorado County. You have reviewed processes and procedures, looking for ways in which government can operate more efficiently, effectively, and with more transparency.

Despite the long hours and the challenges associated with COVID-19 and social distancing requirements, you have worked tirelessly to conduct thorough investigations and provide comprehensive reports and recommendations. Your efforts and those of your predecessor grand jurors, have made El Dorado County a better place.

Thank you for your service.

Very truly yours,



Mark A. Ralphs,
Judge of the Superior Court

RESPONDING TO A GRAND JURY REPORT

The written response of each named respondent will appear 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. Before preparing an official response, carefully review the Penal Code and note the pertinent provisions outlined below. Each respondent must use the formats below for responses to each separate finding and recommendation identified above.

Please pay close attention to required explanations and timeframes. Incomplete or inadequate responses will likely 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:

- 1. Respondent agrees with finding,*
- 2. Respondent disagrees wholly with finding or*
- 3. Respondent disagrees partially with finding.*

If respondent uses option 2 or 3, the response must specify the disputed finding and include a clear explanation.

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

The Grand Jury derives Findings from testimony and evidence. All testimony and evidence given to the Grand Jury remains 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:

1. Recommendation has been implemented.
2. Recommendation has not been implemented but will be implemented noting a timeframe.
3. Recommendation requires further analysis or study noting a timeframe not to exceed six months from date Grand Jury Report was issued.
4. Recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

TIME TO RESPOND

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 violates California Penal Code Section 933.05 and is subject to further action that may include additional 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.

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 2020-2021
REPORT



COUNTY CEMETERY MANAGEMENT

CASE 20-01

Public Release
JUNE 30, 2021

EL DORADO COUNTY 2020-2021 GRAND JURY

COUNTY CEMETERY MANAGEMENT

Case 20-01 • June 30, 2021

SUMMARY

County Cemetery Administration has had many homes over the years. It currently falls under the County Planning and Building Department. The County reports it maintains 17 cemeteries (Attachment H). These include eight inactive cemeteries and nine active, meaning they still offer plot sales. The County does not have title to four of the cemeteries it manages.

On June 4, 2002, the Board of Supervisors (BOS) established the El Dorado County Cemetery Advisory Committee to serve as an advisory group. The Committee has specific responsibilities outlined in the establishing resolution, however, those responsibilities are not routinely being accomplished.

On November 17, 2014, the Board adopted the El Dorado County Cemetery Ordinance. One of the primary purposes of the ordinance was to designate abandoned cemeteries as Pioneer Memorial Parks. Additionally, the ordinance provides general guidelines for the maintenance of County cemeteries. The Grand Jury found the ordinance outdated and in need of revision. The Grand Jury also found County-maintained cemeteries were unsatisfactorily maintained in accordance with the guidelines in the County Ordinance. The Grand Jury recommends the County take action to more efficiently utilize County funds to maintain its cemeteries.

BACKGROUND

No one knows the exact number of bodies buried in El Dorado County, nor does anyone know how many cemeteries, burial sites and Pioneer Memorial Parks exist in the County. There are Native-American burial sites, family cemeteries, public and private cemeteries and unknown numbers of marked and unmarked burial sites. This is largely a result of the County's pioneer history. By California State Health and Safety Code, a cemetery exists where six or more people are buried; an area where less than six are buried is considered a burial site. According to California Health and Safety Code 8825-8829, a Pioneer Memorial Park is an abandoned cemetery acquired by the County for reasons of health, safety, comfort or welfare of the public. It has been estimated there are well over 100 cemeteries and hundreds more burial sites in the County. County representatives advised the Grand Jury there are no Pioneer Memorial Parks in the County, contrary to what the Grand Jury found.

County Cemetery Administration has had many homes over the years. It now operates under the County Planning and Building Department. Prior to that it was located in the Chief Administrative Office, the County Community Development Services Agency and the County General Services Department.

Currently the County reports to maintain 17 cemeteries (Attachment H). Nine of these County-managed cemeteries currently offer plot sales and eight are inactive. St. Michael's, one of the 17, is maintained by the County by court order.

There were 48 burials that occurred in County-managed cemeteries in 2018, 46 in 2019 and 32 in 2020.

On June 4, 2002, the BOS, by Resolution, established the El Dorado County Cemetery Advisory Committee to serve in an advisory capacity to the Board on cemeteries located in the County.

Our review of past Grand Jury Reports from 2000 to the present, found only one report pertaining to cemeteries. The 2009-2010 Grand Jury investigated the Happy Homestead Cemetery District (a non-County cemetery district) regarding possible improper claims submitted to the Auditor/Controller for reimbursement. The only other reference found concerning County-owned cemeteries was an 1899 *Mountain Democrat* article detailing a recently-released Grand Jury report. The 1899 report recommended the graves in the County Hospital Cemetery be marked appropriately. Given 121 years have passed since the writing of that report, the Grand Jury determined it appropriate to again examine County cemetery management.

METHODOLOGY

DOCUMENTS REVIEWED

- Resolution NO. 215-73 (May 29, 1973) of the Board of Supervisors of the County of El Dorado
- Resolution NO. 90-92 (March 24, 1992) of the Board of Supervisors of the County of El Dorado
- Resolution NO. 128-2002 (June 4, 2002) of the Board of Supervisors of the County of El Dorado
- El Dorado County Ordinance Chapter 8-20-Cemeteries
- 2007 Local Area Formation Commission (LAFCO) Public Cemetery Municipal Review
- El Dorado County Board of Supervisors Meeting June 26, 2018 Cemetery Update with Attachment B, Cemeteries Report
- California Health and Safety Code 8115
- California Health and Safety Code 8131
- California Health and Safety Code 8825-8829
- Dario Mancio On-Call Gardening and Landscaping Maintenance Services Agreement for Services #4957
- List of County-maintained cemeteries
- Cemetery Administration staffing organization chart

- Mountain Democrat front page, December 2, 1899
- El Dorado County Civil Grand Jury reports from 2000 to present
- El Dorado County Board of Supervisors March 24, 1992 meeting agenda excerpt
- Report of County burial totals for 2018, 2019, 2020
- 33 deeds for cemeteries in the County

Website Review

- El Dorado County Cemetery Administration
- El Dorado County Pioneer Cemeteries Commission
- County Cemetery Advisory Committee
- 17 County-maintained cemeteries
- El Dorado County video of El Dorado County Board of Supervisors Meeting June 26, 2018 Cemetery Update
- El Dorado County video of El Dorado County Board of Supervisors Meeting November 5, 2019 Cemetery Update

Site Visits

- 17 County-maintained cemeteries
- The February 2021 Zoom Cemetery Advisory Committee Meeting

Interviews

- Representatives from the County Planning and Building Department
- Representative from the Office of County Counsel
- Representative from the County Cemetery Advisory Committee
- Representative from the El Dorado County Local Area Formation Commission
- Representative from the County Facilities Department
- Representative from the County Historical Museum
- Representative from the now dissolved El Dorado County Pioneer Cemetery Commission
- Representative from the County Office of Risk Management
- Elected County Officials
- Representative from the Chief Administrative Office
- Representatives from the El Dorado County Sheriff's Office and the Placerville Police Department

DISCUSSION

The individuals interviewed during this investigation included elected officials, County employees and County citizens. Many of these individuals conveyed to the Grand Jury that El Dorado County Cemeteries are County, State and National treasures which need to be preserved.

This investigation focused on;

- Cemetery Administration
- The Cemetery Advisory Committee
- County Cemetery Ordinance
- Cemetery Maintenance
- County Pioneer Memorial Parks

Cemetery Administration

County Cemetery Administration now operates under the County Planning and Building Department. Prior to that it was located in the Chief Administrative Office, the County Community Development Services Agency and the County General Services Department. According to members of the Cemetery Administration staff, this lack of continuity and frequent movement to various departments has impacted the County's ability to effectively manage the program.

As discussed by the Cemetery Director in the BOS meeting of June 26, 2018 on the subject of Cemetery Updates, the County maintained 19 cemeteries. In a 2019 BOS meeting presentation on the same subject, an additional cemetery was added, bringing the total to 20. Currently, the County reports it maintains 17 cemeteries. The Grand Jury learned three deleted cemeteries were not titled in the County's name and were part of a privately-owned parcel. The Grand Jury could not ascertain how or when Cemetery Administration received authorization to spend public dollars to maintain privately-owned cemeteries.

At the writing of this report an Administrative Services Officer had been recently hired to fill a vacant position. One of the responsibilities of this position is to act as the Cemetery Director. Prior to that hiring, one individual from the Office of County Counsel was designated to work in Cemetery Administration. According to interviews conducted by the Grand Jury, that person had devoted minimal time to that effort. One Administrative Analyst works on cemeteries in addition to other responsibilities. In 2019, a presentation to the Board by the Cemetery Director, reported one fulltime equivalent was dedicated to cemetery management. The Grand Jury found no evidence this had changed in any significant way.

Cemetery Administration occasionally receives volunteer office support.

In the course of its investigation, the Grand Jury was told that no member of the Cemetery Administration routinely visits or inspects County-maintained cemeteries.

Cemetery Administration maintains its own website and the Cemetery Advisory Committee Website. The Cemetery Administration website was recently updated to reflect the current number of cemeteries the County oversees. It includes links to County-maintained cemetery websites and information regarding cemetery fees. It does not provide information regarding the availability of plots, crypts or niches. It offers a link to both the Cemetery Advisory Committee website and the County Adopt-a-Cemetery Program website.

The Cemetery Advisory Committee website provides committee meeting agendas and information on meetings held. Due to the COVID-19 pandemic, the last 2020 committee meeting agenda posted was for a scheduled January 22, 2020 meeting, but no meeting minutes were posted. In 2019, five scheduled meetings also had no minutes posted. This website does provide links to County-maintained cemetery websites and to the County cemetery fee schedule.

The County has title to 13 of the 17 cemeteries the County oversees, and four without title, one being St. Michael's, which is owned by the Catholic Diocese of Sacramento. A Court order obligates El Dorado County to maintain St. Michael's. For years, Cemetery Administration has been working to obtain title for all County-maintained cemeteries. The BOS Resolution NO. 128-2002 (Attachment C) charges the Cemetery Advisory Committee to "Research legal titles of cemeteries . . ." but in practice, this function is performed by the Office of County Counsel.

Cemetery Advisory Committee

Resolution NO. 128-2002 (Attachment C) established the Cemetery Advisory Committee to serve as an advisory group to the BOS regarding cemeteries located partly or wholly within the County. The Resolution, which was put in place in 2002, is broad in scope, and includes requirements for not only County-maintained cemeteries, but all cemeteries in the County. It does not require the Committee to have County-managed cemeteries as a primary focus. In part, the Resolution requires the Committee to:

- Submit an annual report to the Board of Supervisors addressing the status of cemeteries within the County, tasks accomplished during the report year and recommendations regarding future activities and projects.
- Develop and recommend to the Board of Supervisors a County-wide, prioritized cemetery maintenance and restoration plan.

While the Committee presented an annual report to the BOS in 2019, it appears they lack consistency in submitting these reports. The Grand Jury discovered that, prior to the 2019 report, the Committee only submitted annual reports in 2005, 2008, 2011 and 2014.

The Grand Jury found no evidence of a prioritized County-wide cemetery maintenance and restoration plan provided to the BOS.

A meeting of the Cemetery Advisory Committee, the first since January 2020, was held on February 24, 2021. Specific items of interest to the Grand Jury reported at this meeting were:

- The three County-managed cemeteries deleted from the 2019 list were deleted on advice from the Office of County Counsel as the expenditure of County funds to maintain these cemeteries, located on private parcels, was considered to be an unlawful gift of government funds.
- Some funds budgeted for cemetery maintenance are not intended to be spent but rather held as contingency funds in the event of a major loss (i.e., downed tree, vandalism).
- The Cemetery Advisory Committee has not been conducting regular inspections of cemeteries, but intends to start inspections this year.
- Priority of cemetery inspections will not be given to County-managed cemeteries.

County Cemetery Ordinance

On November 17, 2014, the BOS adopted the El Dorado County Cemetery Ordinance (Attachment D). The ordinance, posted on the BOS website, shows no record of recent changes, pending amendments or previous versions of the law. Along with definitions, procedures which designate abandoned cemeteries as Pioneer Memorial Parks (described below) and cemetery management responsibilities, the ordinance provides general guidelines for the maintenance of County cemeteries. It also grants authority to the Cemetery Director to waive requirements or impose additional maintenance requirements in particular cases where the best interest of the public will be served.

A knowledgeable County employee, familiar with the County Cemetery Ordinance and County cemetery management, informed the Grand Jury the ordinance requires updating to provide more specific information on cemetery maintenance requirements. Additionally, a report released at the BOS Meeting of June 26, 2018, *Cemetery Update Attachment B, El Dorado County Government Operated Cemeteries Report*, discusses cemetery risks and liabilities of maintenance and protecting the public from hazardous conditions. Specifically, the report identified the need to "... update the ordinance with respect to liability matters."

Cemetery Maintenance

County-maintained cemeteries are maintained under the direction of the County Cemetery Director, who is appointed by the Chief Administrative Officer. The County Facilities Division, outside contractors and volunteer groups all assist in maintaining County cemeteries. Three County cemeteries are maintained under the Georgetown Cemetery Zone of Benefit, a geographic area authorized to levy a special tax for cemetery maintenance.

As stated above, the Cemetery Advisory Committee is required to develop and submit to the BOS a County-wide, prioritized cemetery maintenance and restoration plan. The Grand Jury found no evidence this has been accomplished. Additionally, representatives from the County Planning and Building Department advised the Grand Jury they do not routinely visit or inspect County-maintained cemeteries to determine maintenance needs.

The El Dorado County Cemetery Ordinance details the following guidelines for maintenance of public cemeteries:

1. All roads, streets, walkways, fences, gates and grounds on cemetery property shall be kept in good repair and maintained so as to provide safe, unobstructed access to the cemetery.
2. All graves, markers and monuments shall be maintained in a safe and orderly condition.
3. Vegetation and shrubbery shall be kept in a trimmed and orderly condition throughout the cemetery grounds.
4. All rubbish shall be routinely collected and removed from the cemetery grounds and containers shall be provided for use by visitors.

Grand Jury inspection of all County-maintained cemeteries revealed inconsistencies in adherence to these guidelines. Jurors found pathways that were not easily accessible, grave markers in various states of disrepair, and grounds overgrown with weeds. Trash bins were often overflowing and, in some cases, non-existent. While not true for all sites, in general, County cemeteries appear grossly neglected.

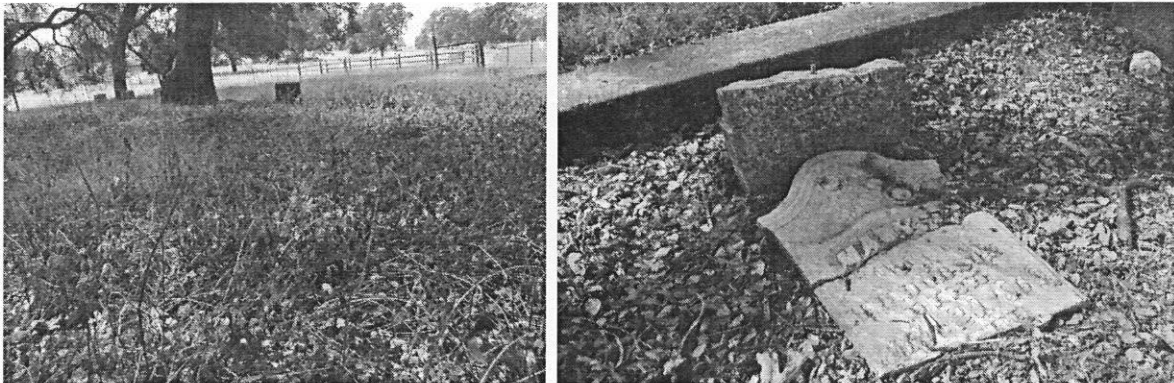


Figure 1: Cemetery neglect. Jurors found pathways that were not easily accessible.



The Cemetery Administration budget includes \$6,000 designated for transfer to the County Facilities Division for minimal cemetery maintenance. Maintenance is normally performed twice a year, not based on when there is an actual need. For the last fiscal year, \$5,363 was actually transferred. As of the writing of this report, no funds have been transferred to Facilities for the current fiscal year. There are no specific written guidelines or standards provided to Facilities on maintenance to be performed at each cemetery beyond the broad guidelines in the County Cemetery Ordinance.

In July, 2020, the County entered into an agreement with Dario Mancio, a private contractor, to provide on-call gardening and landscaping services at County-maintained cemeteries (the agreement excluded those in the Georgetown Cemetery Zone of Benefit). The contract is not to exceed \$24,000, and pays the contractor \$70 an hour for a crew of three workers. In 6 months ending December 31, 2020, only \$1,680 had actually been expended.

Additionally, the BOS has approved an Adopt-A-Cemetery program, which provides for volunteers to help complete cemetery maintenance and improvement projects. The Grand Jury learned from its interviews that, in 2020, no work was completed under this program. The Grand Jury believes it is realistic, in small part, to expect volunteer efforts to assist with Cemetery maintenance. The County should continue to have principal responsibility for this maintenance.

Representatives of the Placerville Police Department and the El Dorado County Sheriff's Office told the Grand Jury several cemeteries in the County have had routine calls for service for vandalism, trespassing and other law enforcement issues. Interestingly, we were told there appeared to be a direct inverse correlation between how well a cemetery was maintained and the number of law enforcement calls for service.

Pioneer Memorial Parks

California Health and Safety Code 8825-8829 and the County Cemetery Ordinance, define a Pioneer Memorial Park as an abandoned cemetery acquired by the County by Board of Supervisor's Resolution, for reasons of health, safety, comfort or welfare of the public. Upon recordation of the Resolution with the County Recorder, fee title to the cemetery is vested to the County. According to several interviewees, no Pioneer Memorial Parks exist in El Dorado County.

Information obtained early in its investigation caused the Grand Jury to question the accuracy of that information.

Upon further research, we located two BOS Resolutions designating various County cemeteries as Pioneer Memorial Parks. The first (Attachment A) adopted in 1973, designated 19 cemeteries as Pioneer Memorial Parks. Three of these appear on the current listing of El Dorado County-maintained cemeteries. The second Resolution, (Attachment B) adopted in 1992, designated seven cemeteries as Pioneer Memorial Parks. Five of these also appear on the listing of El Dorado County-maintained cemeteries. According to the BOS March 24, 1992 meeting agenda (Attachment I), the 1992 Resolution superseded the 1973 Resolution.

While the 1973 Resolution indicates it was forwarded to the County Recorder, it appears action was not taken to document the title change to all of the Pioneer Memorial Parks. It is unclear to the Grand Jury if the County actually owns all 19 cemeteries in the 1973 Resolution. The Grand Jury could not ascertain if the 1992 Resolution was ever forwarded to the County Recorder. There is one cemetery on the 1992 Resolution for which the county does not have title and is not on the 1973 Resolution. Ownership of that cemetery is in question as well.

FINDINGS

- F1. Four County-maintained cemeteries remain without title; one being St. Michael's which is not owned by the County, but is maintained by court order.
- F2. The County could possibly own 16 additional cemeteries from the 1973 BOS Resolution and one from the 1992 BOS Resolution.
- F3. The Cemetery Advisory Committee often fails to provide the BOS with an annual report addressing the condition of cemeteries within the County, and a prioritized cemetery restoration and maintenance plan.
- F4. The County Cemetery Ordinance is outdated and in need of revision.
- F5. By incorporating a cemetery maintenance plan, routine inspections of County-maintained cemeteries and specific cemetery maintenance guidelines, County funds targeted for cemetery maintenance could be more fully and efficiently utilized.
- F6. County-maintained cemeteries are not being maintained in accordance with the guidelines presented in the County Cemetery Ordinance.

RECOMMENDATIONS

- R1. The County should make it a priority to research pertinent records in order to obtain the three missing County-maintained cemetery titles and clarify ownership of the 17 additional cemeteries from the 1973 and 1992 Resolutions.
- R2. The BOS should stress to the Cemetery Advisory Committee the importance of fulfilling their responsibilities in accordance with their establishing resolution.
- R3. The County should update the County Cemetery Ordinance.

R4. The County should more efficiently and fully utilize allocated funds to better maintain the cemeteries under its care in accordance with the County Cemetery Ordinance on an as needed basis and not on a prescribed schedule.

ATTACHMENTS

- A-Resolution NO. 215-73 of the Board of Supervisors of the County of El Dorado
- B-Resolution NO. 90-92 of the Board of Supervisors of the County of El Dorado
- C-Resolution NO. 128-2002 of the Board of Supervisors of the County of El Dorado
- D-El Dorado County Ordinance Chapter 8-20-Cemeteries

https://library.municode.com/ca/el_dorado_county/codes/codes_of_ordinances?nodeId+PTA_GECOOR_TIT8PUHESA_CH8.20ce_S8.20.063CEMA

- E-California Health and Safety Code 8115
- F-California Health and Safety Code 8131
- G-California Health and Safety Code 8825-8829
- H-List of County-maintained cemeteries
- I-El Dorado County Board of Supervisors March 24, 1992 meeting agenda excerpt
- J-Report of El Dorado County burial totals for 2020

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.

Please review *How to Respond to an El Dorado County Grand Jury Report*, a separate document included with this report.

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**

ATTACHMENT A-1

Mjmsk
5/22/73



*Reperceded by
R-9092
3-24-92*

RESOLUTION No. 214-73

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

BE IT RESOLVED by the Board of Supervisors of El Dorado County that the below-listed cemeteries are designated as "Picnic Memorial Parks" as defined in Chapter 7, Section 8825, of the Health and Safety Code:

<u>NAME</u>	<u>LOCATION</u>
Blackwell-Washville Indian Cemetery	Sand Ridge Road
Clarksville Cemetery	Clarksville
Gold Springs Cemetery	Gold Springs
Craig Cemetery	Marble Valley
Diamond Springs Cemetery	Diamond Springs
Greenstone Indian Cemetery	Greenstone
Grizzly Flat Cemetery	Grizzly Flat
Grizzly Flat Catholic Cemetery	Grizzly Flat
Indian Diggins Cemetery	Indian Diggins
Mosquito Cemetery	Mosquito
Newtown Cemetery	Newtown
Old Placerville Cemetery	Chamberlain Street, Placerville
Pilot Hill-Cool Cemetery	Highway 49 between Pilot Hill and Cool
Pony Express Cemetery	Volcanoville Road
Spanish Dry Diggins Cemetery	Spanish Dry Diggins
Starbuck Cemetery	Starbuck Road near Green Valley Road
Skinner Burying Ground	Green Valley Road near Starbuck Road
Uppertown Cemetery	Placerville
Volcanoville Cemetery	Volcanoville

ATTACHMENT A-2

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 25 day of June, 1928, by the following vote of said Board:

ATTEST:
 CARL W. REE, County Clerk and ex-officio
 Clerk of the Board of Supervisors
 By: _____
 Secretary

Ayes: Franklin K. Lewis, W. F. Malcom,
 Raymond E. Lupton, Thomas M. Stewart
 None
 Absent: William J. Johnson
 Chairman, Board of Supervisors

DATE	COMMITTEE ON

ATTACHMENT B



RESOLUTION NO. 90-42

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

BE IT RESOLVED by the Board of Supervisors of El Dorado County that the below-listed cemeteries are designated as "Pioneer Memorial Parks" pursuant to Chapter 7, Section 3823 et seq of the Health and Safety Code.

<u>Name</u>	<u>Location</u>	<u>APN</u>
Darlington Cemetery	Fiserville	81-45-26-23
Diamond Springs Cemetery	Diamond Springs	54-372-01
Greenstone Indian Cemetery	Greenstone	319-280-10
Hornon Island Cemetery	El Dorado Hills	87-26-13
Shingle Springs Cemetery	Shingle Springs	80-04-24
Smith Flat Cemetery	Smith Flat	46-28-02
Spanish Dry Diggins Cemetery	Spanish Dry Diggins	74-56-18

PASSED AND ADOPTED by the Board of Supervisors of the County of E. Dorado at a regular meeting of said Board, held on the 24th day of July, 1998, by the following vote of said Board:

by ayes: Supervisors Kishen, DeWitt, Brown, James, Givens, William T. Carter, Phillip C. Upton.

ATTEST:
DIXIE L. FOOTE
Clerk of the Board of Supervisors

Wages: None
Absent: None
Manon Fabian
Chairman, Board of Supervisors

By: [Signature]
Deputy Clerk

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE _____
ATTEST: DIXIE L. FOOTE, Clerk of the Board of Supervisors of the County of El Dorado, State of California.
By: _____
Deputy Clerk

ATTACHMENT C-1

YDC-01
cemetery.comres
8/13/02

Cemetery Advisory Committee



RESOLUTION No. 135-2002

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

WHEREAS, the numerous cemeteries located in El Dorado County contain important artifacts of the County's cultural history, provide solemn final resting places for the County's citizens, furnish a vital public service where appropriate gravesites remain active and available, and contribute to the County's rural-cultural heritage and open space; and

WHEREAS, the Board of Supervisors wishes to protect and promote the public health, safety, and general welfare by preserving and enhancing the County's cemeteries; providing clear, fair, appropriate, and effective regulations for their use; ensuring appropriate treatment of Native American burial sites; compiling and recording cemetery information, records, and historical data; and identifying and pursuing funding for all of these activities; and

WHEREAS, to accomplish these goals, the Board of Supervisors wishes to draw upon the advice and expertise of trained, knowledgeable, and interested individuals within the local community;

NOW, THEREFORE, the Board of Supervisors hereby resolves as follows:

- A. There is hereby established an El Dorado County Cemetery Advisory Committee, consisting of eleven members. The composition of the Committee shall be as follows:
 1. Five members comprised of one member who resides in each of the five Board of Supervisor districts, nominated by the Supervisor in their district and appointed by majority vote of the Board of Supervisors;
 2. One member of a recognized fraternal organization, nominated by said organizations and appointed by majority vote of the Board of Supervisors;
 3. One member of a recognized Native American organization, nominated by said organizations and appointed by majority vote of the Board of Supervisors;
 4. One member possessing academic training and professional experience as an archaeologist, nominated by the County Cemetery Director and appointed by majority vote of the Board of Supervisors;
 5. One member of the Board of Supervisors, nominated by the Board of Supervisors and appointed by majority vote of the Board of Supervisors;
 6. The County Coroner, or designee;
 7. The County Cemetery Director, or designee.

ATTACHMENT C-2

Resolution No. 180-2008
Page 2

The Board of Supervisors may accept or reject all or any nominees for any member, and the Board may require further nominations or, alternatively, make its own appointments in place of those nominated, provided that the identities of the appointed members meet the criteria of this section.

- B. Subject to the provisions of section 210 of the County Charter, members shall have a term of two years or until a successor is appointed.
- C. Staff to the Committee shall consist of the Museum Director, County Counsel, and the County Planning Director, or their respective designees.
- D. Members shall serve without compensation.
- E. The Committee shall appoint from among its members a Chair and a First and Second Vice-Chair to act in the Chair's absence. The Committee shall appoint from among its members and staff a secretary to prepare written minutes of all meetings of the Committee and any subcommittees. Approved minutes shall be distributed to the Board of Supervisors, the County Cemetery Director, and anyone who makes a written request for them.
- F. The Committee shall meet monthly or as otherwise determined by the Committee to be necessary or desirable. All Committee meetings shall be conducted according to Roberts Rule of Order. The Ralph G. Brown Open Meetings Act shall apply to all Committee meetings. Six members shall constitute a quorum. Actions shall be taken by majority vote of the members present.
- G. The Committee's authority shall be as follows:
 - 1. It shall serve only in an advisory capacity to the Board of Supervisors regarding cemeteries and located partly or wholly within El Dorado County.
 - 2. It shall have no authority to, and shall not, formulate County policy or exercise authority or direction over County staff, nor make decisions that would bind the County contractually, financially, or otherwise.
 - 3. It shall serve as a liaison among the Cultural Resources Preservation Commission, County Departments, and interested community groups and citizens.
 - 4. It shall submit an annual report to the Board of Supervisors addressing the status of cemeteries within the County, tasks accomplished during the report year, and recommendations regarding future activities and projects.
 - 5. In addition to its annual report, it shall make recommendations to the Board, and report on findings resulting from its research, relative to cemeteries within the County.
- H. The Committee's initial assignments, in priority order, are as follows:
 - 1. Review the proposed update to the County Cemeteries Ordinance and:

ATTACHMENT C-3

Resolution No. 128-2002
Page 3

- a. No later than July 16, 2002, recommend that the Board of Supervisors adopt specified provisions, if any, of the proposed ordinance update that are acceptable to the Committee;
 - b. No later than September 24, 2002, recommend any additional revisions to the County Cemeteries Ordinance.
2. Research and report to the Board of Supervisors on the status of Native American burial sites within the County, including recommendations as to their documentation and preservation.
 3. Develop and recommend to the Board of Supervisors a County-wide, prioritized cemetery maintenance and restoration plan.
 4. Research and identify potential funding sources for specific cemetery projects (e.g., grants, private endowments, legislative initiatives, fundraising drives, volunteer efforts, etc.).
 5. Coordinate the compilation and recording in written form of information, records, and historical data relating to County cemeteries.
 6. Develop recommendations regarding the designation of cemeteries, if any, as Pioneer Memorial Parks.
 7. Develop recommendations for a website and written materials providing information on historical cemeteries within the County.
 8. Research legal titles of cemeteries to determine their public or private status, and for possible legal recognition of privately owned cemeteries.
- I. This resolution shall be effective immediately upon its adoption by the Board of Supervisors. Initial Committee nominations shall be submitted without delay, with a goal of full Committee appointment and initial Committee meeting within 30 days.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 26th day of June, 2002, by the following vote of said Board:

Ayes: DUPRAY, BAUMANN, BURELLI, HUMPHREYS, SOLARO

ATTEST
DIXIE L. POOTE
Clerk of the Board of Supervisors

[Signature]
Deputy Clerk

None
Absent: None
[Signature]
Chairman, Board of Supervisors

I CERTIFY THAT THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL, ON FILE IN THIS OFFICE

Date _____

ATTACHMENT E

11/3/2020

California Health and Safety Code - HSC Section 8115.

Home

California Codes

California
Attorneys

You are here: California / Health and Safety Code - HSC / CHAPTER 4. Local Regulation of Cemeteries [811.5. - 8115.] / Section 8115.

Section 8115. (Added by Stats. 1976, Ch. 525.)
Cite as: Cal. Health & Safety Code §8115.

The governing body of any city or county, in the exercise of its police power, may by ordinance prescribe such standards governing burial, inurnment, and entombment and such standards of maintenance for cemeteries, including mausoleums and columbariums, as it shall determine to be reasonably necessary to protect the public health or safety, assure decent and respectful treatment of human remains, or prevent offensive deterioration of cemetery grounds, structures, and places of interment. Such standards may be made applicable to every public and private cemetery within the city or county.

Nothing in this section supersedes any provision of this division or Division 7 (commencing with Section 7000) or authorizes the adoption of local standards in conflict with such provisions, except that city or county ordinances adopted pursuant to this section shall prevail over the rules and regulations of any private or public cemetery to the extent of any conflict.

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ATTACHMENT F

11/3/2020

California Health and Safety Code - HSC Section 8131.

[Home](#) [California Codes](#) [California Attorneys](#)

You are here: [California / Health and Safety Code - HSC / CHAPTER 1. General Provisions \[8125. - 8137.\] / Section 8131.](#)

Section 8131. (Enacted by Stats. 1939, Ch. 60.)
Cite as: Cal. Health & Safety Code §8131.

If not owned by a city or by a fraternal or beneficial association or society, public cemeteries are under the jurisdiction and control of the board of supervisors of the county in which they are situated.

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ATTACHMENT G



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HEALTH AND SAFETY CODE - HSC

DIVISION 8. CEMETERIES [§100 - 9702] (Division 8 enacted by Stats. 1939, Ch. 69.)

PART 3. PRIVATE CEMETERIES [§250 - 8829] (Part 3 enacted by Stats. 1939, Ch. 60.)

CHAPTER 7. Abandonment [§825 - 9029] (Chapter 7 added by Stats. 1957, Ch. 862.)

8825. A city or county having a nonendowment care cemetery within its boundaries which threatens or endangers the health, safety, comfort or welfare of the public may, by resolution of its governing board, if not more than 10 human dead bodies have been interred therein for a period of five years immediately preceding the date of the resolution, declare the abandonment of the cemetery as a place of future interment, but shall permit interment therein of any person who is an owner of a plot in the cemetery on the date of adoption of the resolution or who otherwise has a right of interment in the cemetery which is vested on such date. The resolution may provide for the removal of such copings, improvements, and embellishments which the governing board finds to be a threat or danger to the health, safety, comfort, or welfare of the public.

(Amended by Stats. 1977, Ch. 282.)

8826. The resolution for abandonment adopted under the provisions of this chapter shall specify and declare that at any time after the expiration of 60 days after the first publication of notice of declaration of intended abandonment, the city or county in which the cemetery is located will remove such copings, improvements, and embellishments which are found to be a threat or danger to the health, safety, comfort, or welfare of the public. Notice shall be given to all persons interested therein by publication in a newspaper of general circulation published in the county or city. Publication shall be pursuant to Section 8064 of the Government Code.

(Amended by Stats. 1959, Ch. 1241.)

8827. After the publication mentioned in Section 8826 of this code and after the expiration of the 60 days specified in the notice, the city or county shall remove such copings, improvements, and embellishments which have been found to be a threat or danger to the health, safety, comfort, or welfare of the public.

(Amended by Stats. 1979, Ch. 1241.)

8828. After the work which the governing body, in its discretion, finds necessary and practicable has been completed, the governing body shall immediately thereafter, by resolution, which shall contain a legal description of the cemetery, dedicate such abandoned cemetery as a pioneer memorial park and may cause to be erected a suitable central memorial honoring those who have been interred in the cemetery.

Upon recordation of the resolution with the county recorder of the county in which the cemetery is located, fee title to the cemetery shall vest in the city or county as the case may be. The governing body may bring an action to quiet title to the cemetery, and in the absence of fraud the resolution and the fact of recordation shall be conclusive evidence of fee title to the cemetery.

Any county or city acquiring fee title to a cemetery under this section shall only use the property for the purpose of establishing and maintaining a pioneer memorial park.

(Amended by Stats. 1978, Ch. 543.)

8829. Thereafter the city or county shall maintain said pioneer memorial park so that it will not endanger the health, safety, comfort, or welfare of the public.

(Added by Stats. 1957, Ch. 862.)

ATTACHMENT H

El Dorado County-managed Cemeteries

Cemetery	Address	City/Town	Approx. # Burials	Average	Title	Status	Maintenance
Diamond Springs Public	481 Pleasant Valley Road	Diamond Springs	683-	0.65	Cem	Inactive	Facilities
El Dorado	3747 Church Street	El Dorado	2040-	2.00	County	Active	Cem Div
El Dorado County Hospital	Spring Street	Placerville	1,000+	3.19	County	Inactive	Facilities
Fairplay	Perry Creek Road	Fairplay	993+	1.08	Cem	Active	Cem Div
Georgetown Pioneer	6264 Hwy 193	Georgetown	2121+	4.21	County	Active	Cem Div
Georgetown Reike Annex	6264 Hwy 193	Georgetown	168	0.77	County	Active	Cem Div
Georgia Slice	2463 Georgia Side Road	Georgetown	69	30.00	County	Active	Cem Div
Greenwood	Highway 193/Old Georgetown Road	Greenwood	472+	1.22	Cem	Inactive	Cem Div
Larabee	Larabee Road	Larabee	160+	2.00	County	Inactive	Facilities
Middletown	2780 Cold Springs Road	Placerville	677-	1.80	County	Inactive	Facilities
Mormon Island	Shadwinlux Lane/Green Valley Road	El Dorado Hills	474-	3.49	County	Active	Facilities
Pilot Hill	4781 Pedro Hill Road	Pilot Hill	206-	5.00	County	Active	Facilities
Placerville Union	650 Dee Street	Placerville	6531**	6.62	County	Active	Cem Div
Shingle Springs #1	Mother Lane Drive**	Shingle Springs	94	0.58	County	Inactive	Facilities
Smith Flat	1980 Cemetery Road	Smith Flat	160	1.09	County	Active	Facilities
Spanish Dry Diggings	Spanish Dry Diggings Rd./Slicer Mine Rd.	Greenwood	68	0.23	County	Inactive	Facilities
St. Michael's*	Hastings Drive	Rescue	29	0.49	Not	Inactive	Facilities

*County handles burial and maintenance only.

**General Shingle Springs Area

**Includes pre-needs and non-corporates

*Title held by Sacramento Archdiocese

Attachment H

ATTACHMENT I

- 15. Auditor/Controller requesting authorization to pay excess proceeds to the following:
 - a. Peter B. Henderson, from Tax Sale No. 02, in the amount of \$1,097.69 for APN 035-152-0210;
 - b. H.D.H. Company, from Tax Sale No. 03, in the amount of \$3,989.05 for APN 035-171-0810;
 - c. David E. Farrow, from Tax Sale No. 12, in the amount of \$1,021.31 for APN 015-302-2710; 9486
 - d. Julie Shular, from Tax Sale No. 13, in the amount of \$1,889.98 for APN 016-531-1210;
 - e. Tahoe Keys Property Owners Association, from Tax Sale No. 14, in the amount of \$854.49 for APN 022-162-0310; and
 - f. Diane P. McNulty-Calloway, from Tax Sale No. 23, in the amount of \$4,489.09 for APN 034-542-2010.

RECOMMENDED ACTION: Approve

- 16. County Counsel recommending Chairman be authorized to sign Quit Claim Deeds to be held and recorded simultaneously with the Record of Survey for certain portions of land in the Latrobe Townsite. (Referred 10/8/91, Item 33) 9070

RECOMMENDED ACTION: Approve DUGSC

- 17. General Services Department recommending Resolutions (2) be adopted superseding Resolution No. 215-73 pertaining to cemeteries designated as "Pioneer Memorial Parks" and Resolution No. 216-73 pertaining to "Active Cemeteries". 9358

RECOMMENDED ACTION: Adopt Resolution Nos. 89-92 and 90-92 DUGSC

- 18. Building Division recommending Resolution be adopted amending the Authorized Personnel Allocation Resolution No. 322-91 relating one Chief Code Compliance Officer position and adding one Senior Environmental Health Specialist position for the Local Enforcement Agency. 9487

RECOMMENDED ACTION: Adopt Resolution No. 91-92

- 19. Planning Division recommending Resolution be adopted authorizing the Chairman to sign Grant Deeds transferring the Open Space Easement for Assessor's Parcel Nos. 33-492-13, 34-154-12, and 34-665-12 to the United States Forest Service. 9488

RECOMMENDED ACTION: Adopt Resolution No. 92-92

ATTACHMENT I

ATTACHMENT J

Burial totals for 2020 in County-managed cemeteries

Cemetery	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
Diamond Springs Public													0
El Dorado		1			2		1				1	1	6
Fairplay													0
GT Pioneer	2												2
GT Renke Annex						2			1				3
Georgia Slide					1			2	2		1	1	7
Greenwood													0
Laloba												1	1
Middletown													0
Marion Island									1				1
Pilot Hill											1		1
Placerville Union	4	1				1	1		1			1	9
Smith Flat													0
Spanish Dry Diggings													0
Totals	6	2	0	0	3	3	2	2	5	0	4	5	32

El Dorado County Hospital, Single Springs, and St. Michael's cemeteries are not listed because burials are closed in these cemeteries

ATTACHMENT J

EL DORADO COUNTY
GRAND JURY 2020-2021
REPORT



**INSPECTION OF COUNTY JAILS AND
JUVENILE TREATMENT CENTER**

CASE 20-02

Public Release
JUNE 30, 2021

EL DORADO COUNTY 2020-2021 GRAND JURY

INSPECTION OF COUNTY JAILS AND JUVENILE TREATMENT CENTER

Case 20-02 • June 30, 2021

SUMMARY

The 2020-2021 Grand Jury conducted its annual assessment of El Dorado County's correctional and detention facilities differently than in previous years. Usually, jurors visit the jails and Juvenile Treatment Center (JTC) in person. However, this year's COVID-19 pandemic changed the normal inspection format from physical to virtual.

BACKGROUND

The jails in El Dorado County, located in South Lake Tahoe (SLT) and Placerville, are older facilities. Both operate under the supervision of the El Dorado County Sheriff's Office. The SLT jail, originally constructed in 1973, underwent additions and modifications during the 1980s. The SLT jail can house up to 158 inmates. Prior to the COVID-19 pandemic, inmate population at SLT numbered around 145. The Placerville jail, constructed in 1988, can accommodate 303 inmates. Pre-COVID-19 numbers for the Placerville facility averaged 245 in custody. These numbers have decreased by around 10% since March 2020 with continued efforts to reduce inmate population in both jails.

Throughout most of the pandemic, the California Department of Corrections has not allowed transfers of jail inmates who have been sentenced to state prisons. To facilitate social distancing and to reduce the spread of COVID-19 within the prison system, the State requires these inmates to be held in County jails until it has the ability to safely place them. As of March 2021, El Dorado County jails housed 14 such inmates, eight males and six females, divided between SLT and Placerville.

The JTC, located in South Lake Tahoe, operates under the administration of the El Dorado County Probation Department and contains 40 beds. As of January 2021, the JTC held a population of 11 wards, including two from neighboring counties.

Examining safety and security in these facilities continues to be the Grand Jury's priority, along with ensuring inmates and detained wards receive fair and humane treatment. The California Board of State and Community Corrections (BSCC) establishes and oversees regulatory standards for the construction, operation and administration of county detention facilities. The BSCC will close down a jail if it remains in a state of disrepair.

The COVID-19 crisis that began in March 2020, posed distinctive challenges for jails and juvenile treatment centers. According to the Centers for Disease Control and Prevention, (CDC):

Correctional and detention facilities can include custody, housing, education, recreation, health care, food service and workplace components in a *single physical* setting. The integration of

these components presents unique challenges for the control of COVID-19 transmission among incarcerated/detained persons, staff, and visitors.ⁱ

Staff at both jails and the JTC recognize the crucial importance of adhering to public health guidelines during the pandemic. They made the necessary adjustments to their practices to ensure the safety of staff, inmates and wards.

METHODOLOGY

- Reviewed past El Dorado Grand Jury reports
- Reviewed the latest BSCC inspection report
- Reviewed Centers for Disease Control and Prevention (CDC) website:
<https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>
- Interviewed jails and JTC administration and staff
- Reviewed jails and JTC maintenance logs

DISCUSSION

Virtual Inspection of Jail Facilities

Those interviewed reported that the Placerville and SLT jails remain in excellent condition. They uphold a high standard of cleanliness. County maintenance crews provide the support needed to ensure that operations run smoothly within both facilities. Jail administrators and staff work closely with maintenance workers to uphold a high level of cleanliness and assure regular preventive care is performed at both jails.

Metal detectors in the lobbies of both jails are functioning properly. Last fall, both facilities installed full body scanners that are reportedly operating effectively.

Housing units, referred to as “pods”, house inmates largely in accordance with their ability to associate with others. Some inmates are housed in isolation based on their criminal charges, combativeness, gang affiliation, mental state and other issues that could make them a danger to others, or make others a danger to them. These inmates do not have direct contact with other inmates at any time. Rival gang members are segregated. Informants and inmates charged with sexual misconduct against minors are housed separately from the general population. The general population includes those charged with theft, battery, assault, burglary, drugs and lesser crimes. Many inmates have mental health problems but remain unsegregated unless a safety or behavioral issue exists.

COVID-19 necessitated the need to reduce the number of inmates that eat and gather at one time. High-risk inmates eat one at a time, while four to six inmates per tier in Placerville, and no more than four in SLT take their meals and socialize at designated times. Before the pandemic, as many as 32 in Placerville, and 16 in SLT congregated in the common areas.

Wellpath, an independent medical care provider, contracts with the County to provide services to inmates. A Registered Nurse (RN) works at the jails during the day and a Licensed Vocational Nurse (LVN) takes over at night. Psychiatric/Psychological services are also available. Additionally, *Wellpath* employs a Licensed Clinical Social Worker (LCSW) to assist with mental health issues.

Wellpath tests incoming inmates for COVID-19 onsite. They are then placed under quarantine for at least 14 days. Temperatures are taken daily. Symptomatic/exposed inmates also undergo quarantine for 14 days. All inmates can request a COVID-19 test.

Quarantine areas and intake rooms are disinfected several times daily. Day rooms, eating areas and all touch surfaces also undergo routine mandatory cleaning.

At the time of our interviews, the Placerville jail had reported two cases of COVID-19. Three inmates exposed to the virus remained under quarantine.

Beginning in March 2020, the jails suspended in-person visits by family and friends. Both jails only permit essential workers such as attorneys, clinicians, therapists, and social workers to visit with inmates. *Wellpath* screens everyone entering the facilities. Both sides of visitation booths receive a stringent cleaning after each visit.

Inmates have access to computer tablets for learning and entertainment. Usage depends on good behavior. The Network Computer Integrating Company (NCIC) provides the controlled internet access that comes preloaded onto these tablets. Since the suspension of in-person visits, inmates use ZOOM for video contact with family and friends. They are limited to three (3) "free" video visits per month with a maximum of one per week. Inmates can also purchase messaging software through which family members and others can respond to inmate messages free of charge. The jails allow only one message per week. Staff manages the distribution of these tablets. Inmates can also access "Earn and Learn" courses for points they can redeem for entertainment programs. Officers review these recorded video calls and messages daily. There are only 170 tablets between both jails. This limited number makes it difficult for all inmates to participate in distance learning and other computer-based activities.

During pre-COVID times, inmates joined together for religious services within the jails or they could request a visit from a clergy member. In accordance with COVID-19 guidelines, religious group activities remain suspended. However, the jails now allow inmates to visit one-on-one with a volunteer church layperson in the attorney/visitor booths or they can visit virtually with clergy via ZOOM.

The El Dorado County Office of Education (EDCOE) offers a range of classes at both jails. Inmates can complete General Education Development (GED) requirements to obtain a high school diploma. Since COVID-19, teachers no longer come to the facilities but provide instruction via distance learning. Teachers drop off and pick-up education packets weekly.

Court-ordered programs for anger management and substance abuse, normally held in groups, have been temporarily suspended. While administrative staff recognize the importance of these programs, they stress the greater importance of safeguarding the health of the entire jail population. These programs will resume once COVID-19 restrictions are lifted.

The award-winning culinary arts program remains active at the Placerville jail. SLT will resume its schedule when the program manager returns from a leave of absence. To participate in the program, inmates must complete a Food Safety course. Qualified candidates prepare meals under the supervision of a registered dietician and staff cook. Culinary workers are organized into groups of six. These groups prepare and serve meals to staff and inmates three times daily. Inmates also assist in the preparation of meals and perform other kitchen duties. At the time of this writing, one group of six inmates participated in the Placerville jail's culinary program.

Both jails have been aggressive in their efforts to prevent the spread of COVID-19 among staff and inmates. Since the beginning of the pandemic, staff have undergone daily screening for symptoms, and have their temperatures taken each day. They continue to adhere to public health guidelines that promote essential sanitation practices and personal safety protocols. Those interviewed reported an adequate stock of personal protection equipment (PPE) and cleaning supplies available at both jails. Neither jail reported any staff shortages due to the pandemic.

Only one positive test result for COVID-19 was reported among Placerville jail staff. Staff has been instructed that, when feeling ill or after exposure to the virus, they must remain at home. Working from home, of course, is impossible for jail staff because of the hands-on nature of the jobs performed. Fortunately, staffing issues have been solved by working within both jails to pool available personnel.

Placerville Jail

Measures to improve safety continue at the Placerville jail. New doors with food ports and better and more secure lock systems have been installed. Medium security blocks are being converted to maximum-security blocks. A newly-retrofitted block with 18 beds currently houses prison inmates. Glass walls and metal bars now surround the jail's sobering cell, allowing for easier observation.

A \$25 million grant, provided under California Senate Bill 844, has apportioned funds for the jail's expansion. Preliminary plans include a separate housing unit for female inmates. Additionally, a new medical wing will contain 14 beds, six more than the current number. Plans also call for the construction of several Americans with Disabilities Act (ADA) compliant cells, technical and programming spaces and a computer lab.

South Lake Tahoe (SLT) Jail

Because the SLT jail contains no medical wing, only minimal care can be provided. Inmates requiring more serious medical treatment are transferred to Barton Hospital or to the Placerville jail, where more staff and better resources exist.

Maximizing space remains a challenge. Reconfiguration plans for the facility include adding a new eight-person housing unit to the "old side" of the building, and converting the "old yard" into an ADA accessible recreation area. Options are also being explored for creating a medical wing within the facility, and exploring different ways to better equip classrooms with technology.

Juvenile Treatment Center (JTC)

Interviewed staff reported the facility to be in good condition, however, response times for maintenance requests from the County Facilities Division have been slow. As of January 2021, the Division employed one supervisor and one general maintenance worker in South Lake Tahoe. Ongoing recruitment efforts to find workers with more specialized skills, such as plumbing and electrical, continue.

JTC staff continues to meet the physical and mental health needs of its wards. It also maintains a contract with *Wellpath* for medical care within the facility. A Registered Nurse works six mornings per week, Monday through Saturday to dispense medication and attend to sick calls. A Nurse Practitioner makes rounds once each week. In addition, mental health program coordinator, licensed therapist, psychiatrist and other staff provide mental health care.

Wards exercise in the JTC's outdoor recreation area. The Facilities Division continues to explore solutions for providing some source of heat, including radiant heat options. However, cost remains a concern.

The current COVID-19 pandemic created new challenges for JTC staff and the wards housed there. New intakes must undergo onsite COVID-19 testing by *Wellpath* and remain quarantined for a minimum of 14 days. Symptomatic and/or exposed wards must also remain isolated for up to 14 days. While no significant mental health issues related to COVID-19 have been reported, some wards have expressed their fears and concerns regarding the pandemic.

As of April 2020, the JTC suspended family visits and temporary releases. Only lawyers, clinicians, therapists, and, most recently, church volunteers are allowed visitation. Both sides of visitation booths are sanitized after each visit.

Fortunately, the increased use of technologies such as ZOOM allow for visitation with family. ZOOM also facilitates distance learning with teachers via the internet. Daily education classes with books and tablets help students to maintain their educational goals. Teachers pick up and return assignments each week. Wards can also enroll in software programs such as Changes and Challenges, court-mandated programs that prepare them for life upon release. Staff reported that, while most wards welcome the chance to continue their studies, they miss the personal interaction with their teachers.

The JTC offers its wards Bible study classes once each week. Two local church volunteers' direct religious activities and wards can now attend church services in person on Fridays in the facility's group contact room.

Staff continue to stress the importance of consistent structure, and encourage socialization under these new and challenging circumstances. They do their best to practice social distancing by creating seating charts for meals and limiting the number of wards allowed in the recreation center at one time. All staff and wards wear masks. Disinfecting of the facility takes place multiple times each day. Although the JTC struggled in the beginning to obtain enough (PPE) and other essential provisions, it currently maintains an adequate inventory of supplies.

The COVID-19 pandemic has sometimes created staffing shortages for the JTC. However, members of the Probation Department fill in where needed. Meanwhile, JTC staff continue to undergo screening for COVID-19, and must stay home when feeling ill.

Future Juvenile Treatment Center Plans

Plans exist for the construction of a new 20-bed JTC on the site of the former Sheriff's Department headquarters in Placerville. A \$9.6 million State construction grant will pay most of the cost. The Board of Supervisors also directed the formation of recommendations for repurposing the SLT building after the new Placerville facility opens. The new, state-of-the-art JTC will offer a more homelike environment than the current facility.

FINDINGS

- F1. El Dorado County jails provide only 170 computer tablets between the Placerville and SLT locations. At normal capacity, the combined number of inmates equals 390.
- F2. Court-ordered classes for narcotics and alcohol abuse and anger management have been temporarily suspended at both jails due to COVID-19.
- F3. The outdoor recreation center at the JTC has no source of heat, therefore, making the area minimally usable for much of the year.

RECOMMENDATIONS

- R1. Both jails should explore options for the purchase of additional computer tablets to provide wider opportunities for inmates to access educational and self-improvement programs.
- R2. Both jails should consider temporary alternatives, either one-on-one visits or virtual support courses for court-ordered substance abuse and anger management programs. These could be similar to the Challenges and Changes virtual programs offered at the JTC.
- R3. The JTC should continue to work with the Facilities Division in its exploration of heating alternatives for its outdoor recreation center.

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.

Please review *How to Respond to an El Dorado County Grand Jury Report*, a separate document included with this report.

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

- **Responses to Findings F1, F2 and Recommendations R1, R2, are requested from the El Dorado County Sheriff.**
- **Responses to Findings F3 and Recommendation R3 are requested from the El Dorado County Chief Probation Officer.**

ⁱ "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," United States Center for Disease Control and Prevention, Updated Dec. 31, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>

EL DORADO COUNTY
GRAND JURY 2020-2021
REPORT



**GRAND JURY CONTINUITY AND
COMPLIANCE**

CASE 20-03

Public Release
JUNE 30, 2021

EL DORADO COUNTY 2020-2021 GRAND JURY

GRAND JURY CONTINUITY AND COMPLIANCE

Case 20-03 • June 30, 2021

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. 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 report containing evidence, findings of fact derived from that evidence and recommended actions based on those findings. Each report can require responses to report findings and recommendations from those officials responsible for the subject of the report.

Grand jury reports may be published and released at any time during the grand jury term. The time involved in conducting investigations, evaluating information gathered and writing reports dictates that they are most frequently published near the end of the term.

Responses to grand jury reports are typically received after the issuing grand jury's term has ended. The new grand jury receives the responses instead of the issuing grand jury. It is then incumbent upon the succeeding grand jury to evaluate those responses for statutory compliance and completion, providing, if all goes well, a semblance of grand jury continuity.

METHODOLOGY

- Reviewed the California Penal Code sections relevant to report responses, findings and recommendations
- Reviewed the 2018-19 and 2019-20 El Dorado County Grand Juries' reports and responses
- Communicated with several responding agencies after reviewing their replies

DISCUSSION

The current Grand Jury reviewed responses to the 2018-19 and 2019-20 Grand Jury reports. This review is intended to ensure that the work of prior grand juries is not disregarded or ignored. In most cases, responses were timely and complied with provisions of the California Penal Code. Further, most follow-up actions specified in the responses had either been accomplished or were in the process of being done. Any delays noted were directly related to the negative impact that the COVID-19 pandemic has had on the programs and services provided by local agencies and districts, and supporting personnel and processes.

The Grand Jury commends those local agencies and districts that provided timely and compliant responses to the reports of the prior Grand Juries, as well as their evident commitment to implementing recommendations for improving programs and service.

FINDINGS

F1. In most cases, responses to the 2018-19 and 2019-20 Grand Juries' reports were timely and complied with the provisions of the California Penal Code.

F2. Most follow-up actions specified in the responses have either been accomplished or are in process of being done.

RECOMMENDATIONS

This report has no recommendations.

REQUEST FOR RESPONSES

Responses to this report are not required or requested.

EL DORADO COUNTY
GRAND JURY 2020-2021
REPORT



**FOLLOWING UP ON MENTAL HEALTH
SERVICES ACT FUND SPENDING**

CASE 20-04

Public Release
JUNE 30, 2021

EL DORADO COUNTY 2020-2021 GRAND JURY

FOLLOWING UP ON MENTAL HEALTH SERVICES ACT FUND SPENDING

Case 20-04 • June 30, 2021

SUMMARY

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. Its purpose is to provide funding, personnel, and other resources to support county mental health programs.

The 2018-2019 El Dorado County Grand Jury investigated the County's Mental Health Services Act fund spending. Their investigation revealed that El Dorado County had \$3.6 million in MHSA funds that had not been spent in the required time frame and were subject to being reverted (returned back) to the State for redistribution. Given the ongoing need for mental health services in the County, the Grand Jury questioned why funds allocated to El Dorado County specifically for those services were not being spent in a timely manner. Further investigation identified the following factors were contributing to the County's difficulty in meeting their MHSA plan goals and objectives.

- Difficulty in determining appropriate programs and obtaining State approval
- County MHSA Plan approval and contracting is a time-consuming process that can hinder the timely expenditure of funds
- High staff turnover and a shortage of qualified applicants
- Contractor availability and performance

Given the importance of the issue and the challenges of the Covid-19 pandemic, the current Grand Jury determined that it was time to investigate if the County had improved their processes to ensure that program goals and objectives were being met and that the expenditure of MHSA funds was being done on a timely basis.

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 MHSA established the Mental Health Services Fund (MHSF). Revenue for the MHSF is generated from a one percent tax on personal income in excess of one million dollars, which is deposited into the Fund annually. The 2020-21 Governor's budget shows the personal income tax revenue for MHSF Statewide at \$2.376 billion.

These funds are then allocated to counties using a formula that weighs each county's needs for mental health services by using factors including the size of its population that is most likely to apply for services, and the prevalence for mental illness in the county. Adjustments are made for the cost of living and other funding resources. The California Department of Health Services distributes funds monthly to all 58 California counties.

The MHSA established and requires the following five components in each county's mental health plan to address specific priority populations and key community mental health needs:

Community Services and Support (CSS) focuses on the development of recovery-oriented services for children, youth, adults and older adults with serious mental illness. Included in CSS is permanent and supportive housing.

Prevention and Early Intervention (PEI) focuses on education, supports, early interventions, and a reduction in disparities for underserved groups seeking access to mental health services.

The remaining components, *Innovation (INN)*, *Workforce Education and Training (WET)*, and *Capital Facilities and Technological Needs (CFTN)* serve to introduce new and creative ways of addressing community mental health needs, support the development of well trained, qualified and diverse workforce, and strengthen the foundation of the mental health system.

Each component is assigned a percentage of the total funding allocation the county receives and a specified timeframe is established for each component, during which the funds must be spent. If the county is unable to spend the allocated funds in the time required, those funds are subject to being reverted back to the State for redistribution.

Funding is no longer provided by the State for two of the MHSA program components: *Capital Facilities and Technological Needs* and *Workforce Education and Training*. Counties may still maintain balances in those components until that money is either spent or has been reverted back to the State.

In addition, counties are required to maintain a prudent reserve account, used to compensate for unanticipated costs or when monthly MHSF revenues fall below projections. The prudent reserve is funded with monies allocated to the *Community Services and Support* component and cannot exceed 33% of a county's average distribution for the previous five years. It allows counties funding flexibility for existing programs in the *Community Services and Support* and *Prevention and Early Intervention* components.

The MHSA also established the Mental Health Services Oversight and Accountability Commission (MHSOAC) to oversee the implementation of the Mental Health Services Act.

METHODOLOGY

DOCUMENTS REVIEWED:

- 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.
<https://www.auditor.ca.gov/pdfs/reports/2017-117.pdf>
- 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.
https://www.dhcs.ca.gov/services/MH/Documents/Statewide_Reversion_Report_Final_Worder.pdf
- *Mental Health Services Act (Revised January 27, 2020)*.
https://mhsoac.ca.gov/sites/default/files/MHSA%20Jan2020_0.pdf
- *El Dorado County Mental Health Services Act Three-Year Program and Expenditure Plan, Fiscal Years 2020-21 – 2022-23*
<https://www.edcgov.us/Government/MentalHealth/mhsa/Documents/FY%2020-21%20MHSA%20Three-Year%20Plan-APPROVED.pdf>
- *El Dorado County Mental Health Services Act Annual Update, Fiscal Year 2019–20*
<https://www.edcgov.us/Government/MentalHealth/mhsa%20plans/Documents/FY%202019-20%20Annual%20Update%20Final.pdf>
- State Mental Health Services Oversight and Accountability Commission’s Draft Report Mental Health Services Act Fiscal Reversion Policy Reconsidered: Challenges and Opportunities, dated March 2017
https://mhsoac.ca.gov/sites/default/files/documents/2018-01/MHSA_Fiscal_Reversion_Final_Report%20v4.0.pdf
- Department of Health Care Services Behavioral Health Information Notice Number 20-040, dated July 1, 2020
<https://www.dhcs.ca.gov/Documents/COVID-19/BHIN-20-040-MHSA-flexibilities-due-to-the-COVID-19-PHE.pdf>
- California Department of Health Care Services Website for information pertinent to the Mental Health Services Act.
<https://www.dhcs.ca.gov/>
- El Dorado County Mental Health Services Act (MHSA) Proposition 63 Website
https://www.dhcs.ca.gov/services/MH/Pages/MH_Prop63.aspx

INTERVIEWED

- Appointed County officials knowledgeable of El Dorado County Mental Health Services Act funding.

- Individuals from the Health and Human Services Mental Health Services Act Team knowledgeable in County Mental Health Services Act funding.
- Individuals from the Health and Human Services Fiscal Office knowledgeable in the Mental Health Services Act accounting for the County.

DISCUSSION

The MHSA funds distributed to El Dorado County vary from year to year, but average about \$8 million annually. It is estimated that the County will receive close to \$7.5 million in MHSA funds this fiscal year (2020-21). This is in addition to the remaining fund balance of over \$27 million unspent from prior years' allocations.

Each year, the County is required to submit an Annual Revenue and Expense Report and Certification to the Department of Health Care Services (DHCS). From that information, DHCS reports the County's unspent funds and determines the reversion amount (if any). The most recent report from DHCS shows that \$3.5 million that had been allocated to El Dorado County for fiscal years 2005 through 2015 was subject to reversion. That reversion of funds did not occur due to the passage of Assembly Bill 114 which, among other things, set up the reallocation of those funds back to the county of origin. The report also revealed that unspent MHSA funds for FY 2017-18 totaled over \$2.4 million and over \$1.9 million for FY 2018-19. According to the County's MHSA Annual Update for fiscal year 2019-20, the total amount subject to reversion in El Dorado County for this past fiscal year was just over \$3.5 million.

The possibility of having to return unspent funds to the State is a common concern for most California counties. Santa Cruz, Sonoma, and Tuolumne counties are among the few counties that expended all funds apportioned to them prior to the reversion deadline. In response to the Grand Jury's 2018-19 report, members of the County's MHSA team contacted these counties to learn what El Dorado County could be doing to help improve their fund utilization. These staff reported that other counties responded that, while they had gotten good at spending the money that was distributed to them by MHSA, they were not sure that they were getting good results from the money spent. El Dorado County MHSA managers indicated that good planning and assuring community involvement and input are significant parts of their strategy to ensure that any MHSA money spent by the program is spent wisely.

The next several paragraphs of this report outline the changes that the State has implemented to give Counties better opportunities to spend allotted MHSA funds prior to the reversion of these funds back to the State for reallocation. This Grand Jury is pleased to see that attention is being given to optimizing legitimate spending opportunities. It is important to note, however, that, from everything that we have learned, no funding has been reverted back to the State in any category since the last Grand Jury report was released in June, 2019.

Assembly Bill (AB) 114, which became effective July 10, 2017, amended certain sections of the Welfare and Institutions Code related to the reversion of MHSA funds. In particular, it required that any MHSA funds subject to reversion as of July 1, 2017, be redistributed to the county of origin for the purposes for which they were originally allocated. Subsequent to its approval, DHCS provided each county with an MHSA Reversion Schedule which included the reallocated

fund amounts. AB114 reallocated funds totaling nearly \$3.5 million to El Dorado County. The bill also required counties with unspent funds subject to reversion to prepare a plan to expend these funds on or before July 1, 2020. Use of these AB114 funds by the County are discussed throughout the County's FY 2019-20 MHSA Plan Annual Update, with the full Expenditure Plan captured in the Appendix.

The MHSA originally specified that counties had three years to expend funds assigned to the *Community Services and Support (CSS)*, *Prevention and Early Intervention (PEI)*, and *Innovation (INN)* components and ten years to expend funds allocated to *Capital Facilities* and *Technological Needs (CFTN)*, as well as *Workforce Education and Training (WET)* components before those funds would be eligible for reversion. AB114 clarified those time frames and extended some of the timeframes for counties with a population of less than 200,000 (which includes El Dorado County). The new timeframes, effective 7/1/2017, for El Dorado County are: five years after allocation for CSS and PEI components, five years after date of plan approval from the MHSOAC for the INN component, and ten years after allocation for the CFTN and WET components. There is no reversion for Prudent Reserve funds, although there is a limit as to how much funding can be held in the Reserve account.

The Covid-19 crisis has affected the ability of California counties to implement Mental Health-related programs and still maintain necessary safety protocols to prevent the spread of the disease. Assembly Bill (AB) 81, approved on June 29, 2020, authorized the State Department of Health Care Services (DHCS) to allow counties to determine the percentage of funds to allocate across specified mental health programs for the 2020-21 fiscal year. The bill also amended the MHSA and extended the reversion dates, making funds previously subject to reversion as of July 1 2019 and July 1, 2020, subject to reversion on July 1, 2021. DHCS released Behavioral Health Information Notice Number 20-040 on July 1, 2020, announcing that the State of California had chaptered AB 81, which provided counties with what they called "flexibilities" in the MHSA expenditure rules. Essentially, these changes to the MHSA expenditure rules made it easier to retain funding that was unable to be expended due to Covid-19 limitations.

Prior to the adoption of AB 81, El Dorado County had over \$11 million subject to reversion across the five MHSA categories. While the easing of reversion rules and regulations (and the decision not to revert funds during the last few years) is a welcomed respite, this Grand Jury maintains that the County should continue with every effort to effectively spend the available MHSA funding as soon as it is reasonable to do so.

The Mental Health Services Act (MHSA) requires the County to complete a new plan every three years and to update that plan annually. 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 process for the change or update must be repeated.

El Dorado County's *MHSA 3 Year Program & Expenditure Plan* for fiscal years 2020-21 through 2022-23 was approved and released in June of 2020. Readers who wish to know more about

the County's MHSAs-funded programs may want to follow the link provided in the *Documents Reviewed* section of this report

Several individuals knowledgeable in the development and execution of the El Dorado County MHSAs 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 prior to the reversion of these funds**

By MHSAs 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 MHSAs funds subject to reversion by July 1st, 2017 were in the Innovation component.

Recently, the State has helped with one of the inherent difficulties in spending Innovation funds. Assembly Bill 114 made changes to the Mental Health Services Act, including:

- Extending the time limit for expending funds from three to five years for small counties (this includes El Dorado County).
- Restarting the clock on Innovation funding reversion when an Innovation project gets approved by the State's MHSAs Commission. This "restart" clause was reiterated in the subsequent Senate Bill 79, passed into law in June of 2019.

In addition, the Grand Jury learned through interviews with MHSAs staff that Innovation category requirements have been loosened by the State's program staff, including a redefining of what constitutes a "new" project. These changes should also assist the County in better utilizing the available Innovation category funds.

➤ **Lack of ability to fill vacant positions and retain current staff**

The *El Dorado County Mental Health Services Act Annual Update* for Fiscal Year 2019-20 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 significantly under budget in expenditures.

According to interviews with management staff, the current vacancy rate in the Behavioral Health Division is approximately 27%- substantially higher than the County's reported 14% overall vacancy rate. The two reasons reported for this high 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. Our recent interviews of MHSA staff indicate that these practices are continuing.

The Grand Jury believes that, considering the ongoing difficulty in hiring and retaining key MHSA staff, all options should be considered to change this dynamic. We have been told by several people familiar with the operation of El Dorado County's MHSA program that it is difficult to hire and retain qualified staff, especially clinicians. We believe that the County needs to strongly consider, and in some cases, reconsider, personnel strategies and options such as:

- Increased salaries for positions which have historically been the most difficult to hire and retain
- Retention bonuses for MHSA employees who have reached their required licensing hours
- Certification bonuses for professional staff who have gained certifications related to their job responsibilities
- Other retention-related strategies that might cause current employees to stay with El Dorado County

While we learned that some of these options have been looked at in the past, we strongly recommend that all options be considered, including alternate funding possibilities.

Additionally, while we understand that its use would not solve many of the vacancy issues within the program, we continue to believe that allowing some kind of over-budgeting in the Behavioral Health Division might assist in bringing the vacancy rate down. Budgeted staff in Behavioral Health is listed at 89.5. Because we know that the vacancy rate in that Division hovers around 27%, we can estimate that, at any given time, somewhere around 22 or 23 positions will be vacant. The idea of over-budgeting, or what some interviewees referred to as "Recruitment Allowance Positions", is that you are allowed to recruit and hire aggressively on an on-going basis. Because we know that historically, it has been difficult to hire and retain staff, a consistent push to hire qualified mental health professionals will create the best opportunity to have enough staff available to complete the necessary tasks. If, by some extremely unusual circumstance, you have someone you want to hire, but all budgeted positions are filled, your candidate could be placed in a recruitment allowance position and moved to an appropriate budgeted position when one is

available. Because of the high vacancy rate in Behavioral Health, it would be almost impossible for administrators to exceed their budgeted funding for staff.

➤ **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 2019-20 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 in other cases, stopped performing under their contracts with the County, resulting in a budgetary mismatch between proposed and actual expenditures. Interviews with current MHSA staff indicate that contracted staff might still be underperforming, but expressed more concern with the apparent lack of viable mental health contractors in some areas of the County, leading to unproductive attempts to contract for these services. Using outside contractors to supplement the work of County staff is a good idea, except when there are no interested contractors in the area to provide these services. It was reported to the Grand Jury that County program clients are routinely referred to services in neighboring counties, due to services being unavailable in El Dorado County.

➤ **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, as detailed below.**

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's Mental Health Services Oversight and Accountability Commission. In the Grand Jury's initial investigation in 2018, 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. According to MHSA staff interviewed for our current report, significant progress has been made to shorten the time necessary to get a contract in place. The current Grand Jury is pleased to hear of the improvements, as the original report in 2018-19 listed complex and time-consuming contract processes as a major finding, and strongly recommended that the County work to improve the process.

CONCLUSION

While there have been steps taken by the State's Department of Health Care Services to relax the codes and timeframes that control the reversion of funds, unexpended MHSA funds are still subject to be returned back 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 then redistributes unspent 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 County's new three year Program Plan (Fiscal Years 2020-21 to 2022-23) also includes a Reversion Reallocation Expenditure Plan. Additionally, the annual update (Fiscal Year 2019-20) calls for Community Services and Support funds identified during the fiscal year that are at risk of reversion be transferred to the Reserve account. As was the case with the previous Grand Jury, we interviewed individuals with the most knowledge of MHSA funds. This time around, however, these key County administrators indicated that there have been some recent changes that reduce the risk of the County having funds returned to the State. While the underlying budget philosophy in the County has not changed, we can see that progress has been made, including:

- Taking steps to start the contract process sooner, including earlier approval by the Board of Supervisors, so that the contracted services are available when they are needed.
- Assuring that funds are used in a "First In, First Out" sequence, so as to minimize the possibility of losing funds.

While we've noted these successes since our last MHSA report a few years ago, both County and Behavioral Health Division administrators need to strongly consider possible strategies to assist with the hiring and retention of MHSA staff, especially clinicians. One thing that has not changed since our last report is the extremely high vacancy rate in the program, and we don't see that improving without a significant change to how our County administrators deal with both the high turnover and the difficulty in recruiting.

Finally, it should be noted that the Grand Jury believes that the risk to the County by "over-hiring" staff for the MHSA program is minimal, as historically, the program has never been fully staffed, nor have they expended anywhere close to the amount budgeted for program personnel. This could be accomplished by the use of Recruitment Allowance Positions. In addition, according to high-level MHSA staff the Grand Jury interviewed, the Prudent Reserve from MHSA funding may be used to cover potential personnel cost overages, although such use would probably require the prior approval of the State's MHSOAC. It has also been reported to us that counties in our area-including Sacramento County, are already using this budgeting strategy.

FINDINGS

- F1. Underspending of MHSAs funds is still a State-wide issue, although the changes made by the State to extend the time given to expend funds have eased the immediate concern of losing funding earmarked for mental health programs.
- F2. The County's MHSAs Project Team is continuing their efforts to minimize the risk of reversion of MHSAs funds, recently assisted by Statewide changes to the reversion rules.
- F3. There are still systemic and persistent issues in hiring and retaining County mental health employees that impact the timely expenditure of MHSAs funds.
- F4. The El Dorado County budgeting philosophy puts County MHSAs funds at risk of reversion.
- F5. The County's contracting procedures, listed as one of the problems in the Grand Jury's previous MHSAs report, have been significantly improved.

RECOMMENDATIONS

- R1. The County should continue to contact counties who have been successful in spending MHSAs funds in a timely manner to determine if there are best practices that might be used here to better utilize MHSAs funds.
- R2. The Chief Administrative Officer, the Director of Health and Human Services, and the County Auditor-Controller should review County budgeting and personnel philosophies, strategies, and procedures to ensure that these administrative functions fully support a) the best available opportunities to hire and retain MHSAs program staff and b) the timely expenditure of MHSAs funds.
- R3. The Director of Health and Human Services and the County Auditor-Controller should use all available options to implement an over-budgeting strategy or the use of recruitment allowance positions to maximize staffing of the MHSAs program.

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 are requested from The El Dorado County Board of Supervisors.

EL DORADO COUNTY
GRAND JURY 2020-2021
REPORT



**WEST SLOPE EMERGENCY SERVICES,
JOINT POWERS AUTHORITY AND
AMBULANCE SERVICE**

CASE 20-05

Public Release
JUNE 30, 2021

EL DORADO COUNTY 2020-2021 GRAND JURY

EL DORADO COUNTY EMERGENCY SERVICES

Case 21-05 • June 30, 2021

WEST SLOPE EMERGENCY SERVICES, JOINT POWERS AUTHORITY AND AMBULANCE SERVICE

BACKGROUND

Approximately forty years ago, only two ambulances served the western slope of El Dorado County—one private, one from Pollock Pines Fire Protection District. In 1976, the private ambulance company left the County, necessitating that changes be made to the County's Emergency Medical system (EMS). In 1976, the voters passed a special tax to provide needed Ambulance service, resulting in the creation of County Service Area # 7 (CSA 7), which covers the West slope of El Dorado County. In 1996 the County Board of Supervisors, requested that the voters in the Western Slope approve a special parcel tax of \$ 25.00 to fund additional ambulances, this also passed. CSA 7 then funded additional ambulances staffed by firefighter/paramedics and EMTs from Pleasant Valley, Pollock Pines, Cameron Park and El Dorado Hills Fire protection districts.

At this time, to provide a more comprehensive emergency medical system it was recommended that the Fire Districts form a Joint Powers Authority (JPA), named El Dorado County Emergency Services Authority, as allowed by California Law. This was accomplished in 1996, with ten fire agencies joining: California Department of Forestry and Fire Protection (CalFire), Cameron Park Community Service District. (CPCSD), Diamond Springs/El Dorado Fire Protection District (FPD), El Dorado County FPD, El Dorado Hills County Water District (El Dorado Hills Fire), Georgetown FPD, Garden Valley FPD, Mosquito FPD, Pioneer FPD, and Rescue FPD.

METHODOLOGY

DOCUMENTS REVIEWED

- The El Dorado County Emergency Services Authority, 2017-2022 Strategic Plan
- *The Joint Powers Agreement Revised* dated January 23, 2019
- *Contract for Prehospital Advanced Life Support and Dispatch Services* between the County and JPA
- *Advanced Life Support Ambulance Agreement* between the JPA and Fire Districts
- Several JPA Board of Directors Meeting minutes
- El Dorado County Civil Grand Jury fire protection reports – 2017-2018, 2018-2019, 2019-2020

Interviews

- Fire district staff and directors
- County staff
- JPA staff

DISCUSSION

ADMINISTRATION

The CSA 7 ambulance service is organized in a manner that is unique to El Dorado County. The County has overall responsibility and oversight for the service. The County contracts with the JPA to provide the ambulance service. In turn, the JPA contracts with five fire districts to operate and staff eight ambulances. The JPA also contracts with CalFire to provide 911 dispatch services through the Emergency Command Center (ECC) in Camino.

The current contract between the County and the JPA is dated July 1, 2018, and expires on June 30, 2023. The Scope of Services includes emergency medical standards and requirements, system designations, system status management, emergency medical service requirements, personnel requirements, training requirements, community education plan, quality improvement/quality assurance, response time standards, backup unit coverage requirement, mutual aid requests, disaster/multi-casualty incident requirements and standby and special event coverage. Compensation paid to the JPA is \$11,300,000 annually, and is adjusted yearly by the Medicare Ambulance Inflation Factor released by the Center for Medicare and Medicaid Studies. In addition, the JPA received \$500,000 for each of the first three years of the contract for repair and replacement of capital assets.

The JPA is governed by a Board of Directors (BOD), and has one full time staff and a part time Executive Director. The current JPA staff started in the fall of 2020. They are in the process of reviewing and updating equipment, files, and procedures. The organization of the JPA office has suffered inefficiencies over the last couple of years, largely due to inconsistent and temporary staffing. The BOD has 11 Directors: the Fire Chief from each of the nine CAS 7 fire departments plus a CalFire and Marshall Hospital representative. The fire district Chiefs represent both districts that operate ambulances and districts that do not provide ambulance services. A BOD, comprised of fire professionals, a Marshall Hospital representative, and no public participation could be perceived as not responsive. In numerous interviews, the large size of the BOD was described as being unwieldy at times. We heard no definitive option for changing the makeup of the BOD, just that its composition should be reviewed. Any BOD change would require BOD approval, which, from a political and practical standpoint, could be difficult.

Funding to provide this service comes from CSA 7 property tax, CSA 7 special tax and ambulance billing. The revenues from the property and special tax varies, however, it is a

reasonably predictable and consistent amount. Ambulance billing amounts can vary widely depending on service calls and collection success.

To do ambulance billing the County receives ambulance call information digitally from the ambulance staff. After reviewing the information, it is passed on to an outside billing service under contract with the County. The billing service in turn bills the appropriate entity, such as the patient, Medicare, MediCal or other insurance providers. The ambulance charge rates are determined by the Board of Supervisors (BOS) and base rates have not been changed since 2016. The rates are adjusted each year per the Medicare Ambulance Inflation Factor. If there is a payment problem the County has contracted with another private firm to do collections. Each year the BOS approves the write off of fees the collection company has deemed uncollectable. The net fees and taxes collected less the contract cost with the JPA and County CSA 7 administration activities has produced an annual surplus, which has grown from \$6,527,030 as of June 30, 2016 to \$9,530,499 as of June 30, 2020.

The Grand Jury believes that the surplus is consistent enough that the BOS and JPA should explore ways to allocate more of these funds to improve Advanced Life Support (ALS) service for CSA 7. Some ideas we heard in interviews include additional part time ambulance service, adding new technically advanced equipment, and increasing funding to improve ALS fire engine service. There are limitations on how the funds can be spent per the CAS 7 and JPA's charters. Significantly changing the charters is a time-consuming and costly procedure that could require voter approval.

OPERATIONS

All interviewees advised the Grand Jury that the ambulance service provided by the JPA is a professional and excellent operation. The ambulances are staffed by firefighters, providing enhanced service to the public. An ambulance staff can assist in rescues and are available for other firefighter duties. When ambulance service is provided by private companies, as is the case in many parts of California, these enhanced capabilities are lost.

The JPA is responsible for providing ambulances 24 hours a day and seven days a week (24/7), in order to provide adequate service to CSA 7. The eight ambulances are ALS certified and staffed with one Emergency Medical Technician-1 and one Emergency Medical Technician-Paramedic per ambulance. Ambulance purchase and operation costs, as well as medical equipment and supplies are the responsibility of the JPA. The County has loaned the JPA a limited amount of equipment. Staffing and operation of the ambulances is provided under contract with the JPA by five fire districts in CSA 7. Ambulances operated include: El Dorado County FD - four, Diamond Springs/Eldorado FD - one, Georgetown FD - one, CPCSD - one, and El Dorado Hills FD - one. The length of these contracts is the same as the County/JPA contract. The JPA compensation to each fire department is a fixed fee of \$1,150,000 annually for each ambulance.

CPCSD has contracted its fire protection services with CalFire. CalFire operates one ambulance in CPCSD, however, CalFire receives a reimbursement of direct costs, not a fixed rate like the other operating fire departments. Reimbursed fees for CPCSD have been less than the fixed fee rate.

Under the fixed rate fees, fire districts can keep any fee amount that is above their direct operating expenses. The Grand Jury's investigation found that at least some of the fire departments had a surplus in the initial years of the latest contract.

Medical calls make up over 50% of fire district dispatches in CSA 7. In many cases, a fire engine is the first to arrive at a call location, arriving before an ambulance. This is especially true in more rural areas of CSA 7. Fire engines can be ALS certified with the proper equipment and appropriate staff qualifications. When an ALS fire engine arrives, first medical treatment can commence immediately. El Dorado County FD, El Dorado Hills FD, Diamond Springs/Eldorado FD, Garden Valley FD, Rescue FD and CPCSD are the only FDs that have 24/7 ALS fire engines. Garden Valley FD is financially challenged, and may not be able to maintain ALS certification. Currently, ALS fire engines can get medical supplies from the JPA, however, this is not always easily accomplished, and can cause financial hardship for the fire districts. Staging of ambulances requires vigilant monitoring by the ECC to ensure adequate coverage when ambulances are on runs. Having more ALS fire engines in CSA 7 would improve response time for medical treatment.

The JPA owns 16 ambulances. Eight remain on duty while eight stand by in ready backup mode or under maintenance. When an ambulance is at end of life, the JPA has saved money by installing the old ambulance box onto a new chassis/engine/drivetrain. It is very expensive to equip an ambulance, and the cost continues to rise. New medical equipment is continuing to be developed that brings better care to the patient at the response location. Advanced medical equipment is not inexpensive, however, especially when needing to outfit eight, to sixteen ambulances. The funds available to the JPA for repair and replacement of capital assets is \$1,500,000 in their current five-year contract with the County.

CONCLUSIONS

Emergency medical response in CSA 7 is a system of which the County can be proud. The firefighters who provide these services are true professionals. The nine FDs in CSA 7 work well together as one entity to serve the public. However, the disparity in FDs (see Grand Jury fire protection reports from 2017-2018, 2018-2019 and 2019-2020) can cause a varying level of initial response. The current ambulance service is producing an annual financial surplus. The County and JPA can make a good service even better.

Findings

F1. Ambulance service in CSA 7 is contracted by the County to the JPA who, in turn, contracts with five fire districts to operate the ambulances.

F2. The current contracts that the JPA has entered into with the fire districts operating ambulances are fixed rate contracts except for the CPCSD agreement, which is for reimbursement of direct costs. Some of the fire districts that receive reimbursements on a fixed rate have had a surplus, as their direct costs have been lower than their contracted fees.

F3. The CSA 7 fund has a \$9,530,499 fund balance as of June 30, 2020. This fund has grown by \$3,003,469 since June 30, 2016.

F4. The BOD of the JPA has eleven members. Numerous interviewees indicated that they believed this large Board makes the Board unwieldy.

F5. The ambulance service is highly professional. Ambulances staffed with firefighters provide enhanced flexibility in the services provided.

F6 Medical calls make up over 50% of fire district dispatches. ALS fire engines provide additional medical service to the public. The limited funding of some districts within the JPA may reduce the number of ALS engines in CSA 7 in the near future.

Recommendations

R1. The County should consider changing the contract with the JPA from fixed price to direct cost reimbursement for the next contract period.

R2 The County and JPA should explore ways to use the CSA 7 fund surplus to increase ambulance and medical services. Maintaining or improving ALS fire engine service should be a priority.

R3. The JPA should explore ways to reconstitute the Board of Directors to make the Board more effective.

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.

Please review *How to Respond to an El Dorado County Grand Jury Report*, a separate document included with this report.

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

- Responses to R1 and R2 are requested from the Board of Supervisors.
- Responses to F4, R2 and R3 are requested from the JPA Board.

EL DORADO COUNTY
GRAND JURY 2020-2021
REPORT



**INVESTIGATION OF EL DORADO
COUNTY PROBATION DEPARTMENT**

CASE 20-06

Public Release

JUNE 30, 2021

EL DORADO COUNTY 2020-2021 GRAND JURY

INVESTIGATION OF EL DORADO COUNTY PROBATION DEPARTMENT

Case 20-06 • June 30, 2021

SUMMARY

The 2020-2021 Grand Jury investigated the functions and duties of the El Dorado County Probation Department. This report examines the myriad responsibilities assumed by the Department, responsibilities that reach far beyond the scope of basic probationary supervision. Additionally, the report discusses the impact of the COVID-19 pandemic on normal practices and procedures. Finally, the report explains how the passage of Assembly Bill (AB)-1950 will affect future operations. The Grand Jury found the Probation Department is operating efficiently in spite of the restrictions necessitated by the COVID-19 pandemic.

BACKGROUND

Since the passage of the original Probation Act of 1925, probation officers (POs) have been responsible for supervising probationers (referred to as clients by the Probation Department). The Sentencing Reform Act of 1984 further expanded their responsibilities to include monitoring the people subject to supervised release. The Federal Courts Administration Act of 1992 stipulated that the Probation Officer could also supervise federal offenders conditionally released under the provisions of 18 United States Code (U.S.C.) 4243 and 4245. The Federal Criminal Code and Rules sets forth the various duties and responsibilities of the United States Probation Officer, specifying the basic two-fold role of the Probation Officer as "...investigator and supervisor". (U.S.C. 3552 and 3603 and in Rule 32(c)).

AB-109 established the California Public Safety Realignment Act of 2011. This act allows for current non-violent, non-serious, and non-sex offenders to be supervised at the local county level after they are released from a California State prison. The implementation of AB-109 in El Dorado County included the formation of an Executive Probation Committee (EPC), which made relevant recommendations to the El Dorado County Board of Supervisors. The Committee included the County's Chief Probation Officer, Placerville's Chief of Police, the County Sheriff, as well as nursing and mental health professionals and a representative from the County Office of Education.

The EPC first examined or reviewed what kinds of inmates the County had in custody and how to keep them from becoming repeat offenders. The Committee also focused on mental health issues within the County's correctional system. They discovered 18% of the offender population suffered from some form of mental health issue. Finally, the Committee's report explained how they believed the passage of AB-1950 would affect future operations within the department.

Starting in January 2021, AB-1950 changed the length of the term of probation. This new law reduced the former three-year probation term for non-violent offenders to just one year. This, in turn, allowed probationers to apply for an expungement, which removes the violation from their criminal record per Penal Code section 1203.4. This new law was passed because formal felony probation was often a difficult burden on offenders. It often required frequent appointments with their PO as well as the possibility of law enforcement arriving at their place of work, home, or school to search their possessions.

Methodology

Interviews

- Sworn probation officers
- Non-sworn employees in the Probation Department
- Outside vendors and County employees who have worked with the Probation Department to provide client counseling in areas such as mental health, substance abuse, job placement, and education

Documents Reviewed

- State Assembly Bill 1950
- Probation Act of 1925
- Sentencing Reform Act of 1984
- Federal Courts Administration Act of 1992
- State Assembly Bill-109
- August 2013 Mountain Democrat Article
- Grand Jury reports from El Dorado County, Santa Clara County, Alameda County, Sacramento County, and Napa County
- Guide to Judiciary Policies and Procedures for Probation and Parole Officers
Volume 10, Chapter 1, Part B
- The El Dorado County Probation Department's Mission Statement
- The December 2, 2020 Shouse California Law Group report *AB-109 Realignment in California*

DISCUSSION

County POs perform duties and responsibilities beyond the scope of investigation and supervision of their clients, which includes providing services to their clientele to help them to change their negative behavior.

POs are subject to many hours of training which also includes on the job training. They are also required to participate in continuing education, with the goal of maintaining and improving

their skill set. Due to Covid-19 restrictions, some continuing education is being taken via ZOOM. However, other training, especially training requiring a more hands-on approach, has been cancelled or postponed.

The PO's role as an investigator is instrumental in aiding the court in providing information regarding a defendant's background. This includes criminal history, family background, financial information, education, job history, the defendant's current offense(s), and facts leading up to the commitment of the offense(s). The PO then organizes the information and submits a report to the court. This aids the court in imposing appropriate sentences for both adult and juvenile offenders.

In their supervisory role, the PO instructs his or her client on the conditions of his or her probation as specified by the court. The PO follows up to ensure that the probationer is adhering to the conditions of his or her probation. They also submit reports regarding the client's progress or violations, as required by the court.

The Juvenile Treatment Center (JTC), located in South Lake Tahoe, operates under the administration of the Probation Department and contains 40 beds. As of January 2021, the JTC held a population of 11 wards, including two from neighboring counties. JTC staff meet the educational, physical and mental health needs of its wards. It maintains a contract with *Wellpath*, a licensed medical service provider, for medical care within the facility. A Registered Nurse works six mornings per week, Monday through Saturday to dispense medication and attend to sick calls. A Nurse Practitioner makes rounds once each week. In addition, a mental health program coordinator, a licensed therapist, a psychiatrist and other staff provide mental health care.

AB-109, a 2012 bill commonly referred to as the Public Safety Realignment Implementation Plan, is directed towards reducing the State prison population by placing non-violent and non-threatening offenders under county jurisdiction. In conjunction with AB-109, the County established in 2013 the Community Corrections Center (CCC), which is a one stop shop for clients to access services.

The CCC brings together professionals within the Community Corrections Partnership (CCP), which includes mental health services, public health nursing, public guardian and the County Office of Education. Per the Shouse California Law Group, all have a common goal of helping clients and parolees of "non-serious, non-violent, and non-sex related crimes". This program is designed to target individuals who assess as having both a high risk for recidivism (tendency of a convicted criminal to reoffend), as well as a need for treatment of substance abuse, mental health and criminogenic behavior (of a system, situation, or place causing or likely to cause criminal behavior).

The Probation Department oversees the CCC program. Some clients decline participation in the services provided by the CCC because their employment schedules do not allow them the time to participate. Other clients decline participation for personal reasons.

It is difficult to ascertain the full measure of successes brought about by the CCC. Clients don't always complete the program, but may still be successful in changing their behavior. Staff believes that clients benefit, even if they attend only one session. Staff associated with the program stated clients who avail themselves of CCC services have demonstrated a range of positive changes to their behavior. While some succeed in not returning to their previous behaviors, there are others who continue with their old negative activities.

Probationers are categorized into three groups: low-risk, medium-risk, and high-risk for recidivism. Those clients designated as low-risk require little supervision or intervention. Those considered to be medium-risk require bi-weekly visits with their assigned PO.

Those probationers designated as high-risk require more stringent supervision, with weekly contact with their PO, testing for drug or alcohol use, and/or attendance to specific classes, if such attendance is designated in the terms of their probation. The high-risk probationers have proven to be more prone to repeat their criminal behavior, and in these cases, early intervention is critical to deterrence. By providing the services offered by the CCC, the hope is to provide the probationers with the tools needed to change their negative behavior.

Because of the Covid-19 pandemic, the Probation Department has had to re-evaluate how they conduct business to comply with ongoing changes to Covid-19 safety guidelines. They have instituted ZOOM meetings or phone calls to meet with their clients. The Department has also increased the use of home monitoring devices to manage their clients.

When a person is scheduled for probationary release, the standard procedure is to meet with that inmate within 72 hours before release. If this is not possible due to Covid-19 restrictions, the PO will set up a meeting within a week after the inmate's date of release. In this meeting, the PO evaluates the parolee's need for housing, Medi-Care, food stamps, substance abuse programs, or other avenues of assistance that may prevent them from returning to their previous behavior and from being incarcerated again.

Interviewed POs, County and contracted employees expressed passion for the work they do. It is clear that they are focused on helping those clients who willingly seek the services provided by the CCC in order to choose a better path for their lives. The Probation Department remains dedicated to guiding their clients and giving them the tools to help them lead a more productive life.

FINDINGS

- F1. As a direct result of the Covid-19 pandemic, several training classes for Probation Officers, especially those that require a "hands-on" approach, have been cancelled or postponed. These classes will resume when it is safe to do so.

- F2. Due to Covid-19, the ability for Probation Officers to reach out to inmates incarcerated and designated for release has been limited but not halted.
- F3. The Probation Officers interviewed expressed the positive effects of the CCC being available for their clients and saw it as a useful tool to help their clients address their needs and concerns, and to make the transition into society go more smoothly.
- F4. The CCC supports clients of only non-serious, non-violent, and non-sex related crimes as defined in AB-109.
- F5. The Probation Department appears to be doing a good job handling the wide variety of services it provides for its clients.

REQUEST FOR RESPONSES

- **Responses are not required or requested.**

