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CLERK OF THE SUPERIOR COURT
COUNTY OF TRINITY
BY: STACI HOLLIDAY



TRINITY COUNTY CIVIL GRAND JURY
2023

Compliance Report

Reviewed 12/13/23 amth
Judge Michael B. Harper

C&C Committee

RECEIVED

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TRINITY COUNTY
SUPERIOR COURT

BACKGROUND

Each year, the Trinity County Civil Grand Jury conducts investigations of county government and special districts and publishes reports of these investigations. These reports contain findings and recommendations intended to improve government services. The recipients of the reports are required to respond. It is the responsibility of the Civil Grand Jury to review the responses and report on them.

The Grand Jury believes it is important for future Grand Juries to continue to review these responses and be vigilant in seeing that recommendations that have been accepted are implemented.

Recipients of the reports are required to respond within certain time constraints and in accordance with specific formats pursuant to 933 and 933.05 of the California Penal Code. The required response to the findings is as follows:

Agree
Disagree partially with appropriate comment
Disagree wholly with appropriate comment

The response to the recommendations must include one of the following legally permitted options:

The recommendation has been implemented with a summary regarding the implemented action
The recommendation has not been implemented but will be implemented in the future with a time frame for implementation
The recommendation requires further analysis with an explanation and the scope and parameters of an analysis or study and a time frame (which shall not exceed 6 months from date of report publication) for the matter to be prepared for discussion.
The recommendation will not be implemented because it is not warranted or not reasonable with an explanation therefor.

SUMMARY

The 2023 Civil Grand Jury reviewed the reports from the 2022 Civil Grand Jury. The 2 reports were: 1) County Counsel Review and 2) Abandoned Vehicle Abatement. Responses were required from the Trinity County Board of Supervisors (BOS).

These 2 reports had a total of 17 findings and 9 recommendations to the BOS.

- 10 responses **Agree** with the findings.
- 5 responses **Disagree partially** with the findings.
- 1 response **Disagree wholly** with the finding.
- 1 response had no knowledge of the finding topic.
- 1 response stated that the recommendation **has been implemented**
- 3 responses stated that the recommendation **will not be implemented because it is not warranted or not reasonable**
- 1 response contained a mixed response that the recommendation will be partially implemented or it is not warranted
- 1 response stated that the recommendation required **further analysis**
- 2 responses stated that the recommendation **will be implemented in the future**
- 1 response differed from Code requirements.

For further explanation of the responses to the findings and recommendations, refer to the complete responses posted online. The following pages contain the response summary as well as the detailed response.

The 2022 Grand Jury Reports and Responses can be found on the Trinity County Grand Jury Website in their entirety.

Compliance Report

Response Summary

Report Title: County Counsel Review				
Responding Party	Response to Finding			
	Agree	Disagree partially	Disagree wholly	No Knowledge
Board of Supervisors	F1, F2	F4, F5, F7, F8, F9	F3	F6

Report Title: County Counsel Review				
Responding Party	Response to Recommendation			
	Has been Implemented	Not implemented but will be in the future	Requires further analysis	Not implemented because it is not warranted or not reasonable
Board of Supervisors	R1			R2, R3, R4

Report Title: Abandoned Vehicle Abatement			
Responding Party	Response to Finding		
	Agree	Disagree partially	Disagree wholly
Board of Supervisors	F1, F2, F3, F4, F5, F6, F7, F8		

Report Title: Abandoned Vehicle Abatement					
Responding Party	Response to Recommendation				
	Has been Implemented	Not implemented but will be in the future	Requires further analysis	Not implemented because it is not warranted or not reasonable	Differ from Code Requirements
Board of Supervisors		R2, R4	R1	R3	R5

Special attention should be paid to those responses requiring implementation within specified time frames. By doing this, the commitment and hard work of past and future Grand juries will result in positive changes for the citizens of Trinity County.

The following pages have the detailed responses.

Compliance Report

Response Details

Trinity County 2022 Civil Grand Jury Report County Counsel Review		
Finding	Response	Respondent Comment
F1. A series of County ordinances enacted to regulate CCLs from 2016 through 2021 consistently failed to comply with CEQA requirements to identify and mitigate for the full range of environmental impacts associated with commercial cannabis cultivation. The BOS during that period relied on the current County Counsel for legal guidance.	Agree	No Comment provided
F2. Failure of the County to properly address CEQA resulted in a lawsuit filed by concerned County residents (TAA) seeking to compel compliance. After an initial settlement in which the County paid \$95,000 in the litigant's attorney fees in 2019, the County failed to honor the terms of the settlement and ultimately was ordered to pay an additional \$339,185 in costs and attorney fees in 2021. The current County Counsel provided legal guidance to the BOS throughout this period.	Agree	No Comment provided

**Trinity County 2022 Civil Grand Jury Report
County Counsel Review**

Finding	Response	Respondent Comment
<p>F3. As part of the 2021 Court Order in the TAA case, the County was ordered to desist from issuing or reissuing any CCL until CEQA compliance is achieved. Numerous Trinity County farmers found themselves unable to operate legally through no fault of their own, and several filed legal action against the County. In addition, numerous cannabis abatement cases against farmers who continued to operate without licenses were filed by the County. These cases, both by the County and against the County have and continue to represent significant additional legal costs to the County.</p>	<p>Disagree wholly</p>	<p>After the court order in the TAA case no cannabis cultivators initiated new litigation against the county. Additionally, legal costs associated with NOV (Notices of Violation) are the responsibility of the violator to pay.</p>
<p>F4. From FY2016-17 through FY2021-22, the County paid approximately \$4.5 million in legal costs. This total includes \$435,185 in settlements and award to litigants, \$94,641 paid to the Special Counsel retained for the TAA case and nearly \$4 million paid directly to County Counsel.</p>	<p>Disagree partially</p>	<p>\$216,287 passed through County Counsel to pay other outside counsel/investigations, leaving \$3.6 million paid to County Counsel over a six year period or an average of \$600,000 per fiscal year.</p>

**Trinity County 2022 Civil Grand Jury Report
County Counsel Review**

Finding	Response	Respondent Comment
<p>F5. During the period considered herein (2016-2022), the BOS and County Counsel displayed a tendency to conduct public business in secret. The BOS failed to consistently report decisions and actions taken in closed session as stipulated in State and County statutes, and County Counsel consistently invoked attorney-client privilege to conceal information ranging from services billed to the opinion of Special Counsel regarding the disposition of the TAA case.</p>	<p>Disagree partially</p>	<p>The current board has no knowledge of decisions or actions taken in closed session prior to January 2021, so cannot agree or disagree. Since January 2021 any actions on the TAA case were voted on in open session, and discussion and legal advice leading to those actions are privileged information. On more that one occasion following the 2019 TAA settlement agreement, the Board of Supervisors was publicly included by the Trinity Journal, asked to report out of closed sessions as to their vote regarding that settlement. It is acknowledged that the Board did not respond with the clarity that was requested.</p>
<p>F6. The 2016-2017 Grand Jury also found the BOS failed to provide meaningful or accurate reports regarding business conducted in closed session. In particular, the 2016-2017 Grand Jury found that the BOS reported that closed sessions for personnel evaluations of County Counsel were held 11 times in the span of one year. Both the BOS and County Counsel responded to that finding with a flat denial, which we find to be demonstrably false.</p>	<p>→</p>	<p>The current board has no knowledge of closed session meetings in 2016-2017.</p>

**Trinity County 2022 Civil Grand Jury Report
County Counsel Review**

Finding	Response	Respondent Comment
<p>F7. County Counsel advised the BOS to reject a potential \$30,000 settlement with TAA in 2021, ultimately resulting in a Court order for the County to pay TAA more than 10 times as much. In doing so, County Counsel stifled information casting doubt on County Counsel's advice and assumed full responsibility for the TAA case.</p>	<p>Disagree partially</p>	<p>No Comment provided</p>
<p>F8. County Counsel has been operating under the same contract for more than seven years, whereas State Government Code and County policy state that the term of County Counsel is four years.</p>	<p>Disagree partially</p>	<p>State code state that County Counsel's term will be 4 years and until his successor is appointed.</p>
<p>F9. The contract under which County Counsel currently operates consists of base fees for assisting with certain County business, but also stipulates that County Counsel will bill for any litigation services at a rate of \$200 per hour. This contractual structure appears to incentivize legal actions that promote litigation, or at least could discourage actions that avoid unnecessary litigation.</p>	<p>Disagree partially</p>	<p>County Counsel has an ethical duty to act in the best interests of the County.</p>

**Trinity County 2022 Civil Grand Jury Report
County Counsel Review**

Recommendation	Response	Respondent Comment
<p>R1. We recommend that the BOS abide by State and County policy regarding transparency. While the Government Code recognizes the need to keep certain sensitive information confidential, the Brown Act makes it clear that secrecy is not intended to be the default mode of doing public business. Likewise, we recommend invoking attorney-client privilege selectively rather than as a blanket mechanism for the BOS and Counsel to avoid accountability.</p>	<p>Has been implemented</p>	<p>The current BOS has abided by the Brown Act concerning closed sessions. The statement “direction given to staff” is sufficient when the BOS and Counsel are discussing ongoing litigation and do not want to make public their strategy. Settlements voted on by members currently serving on the BOS have been made in public meeting and not in closed session.</p>
<p>R2. We recommend considering establishing County Counsel as a full-time salaried employee of the County. Cases of litigation that arise beyond the capacity of County Counsel would then be managed through separate contracts with private attorneys. This business model would help separate actions that lead to or discourage litigation from the financial reward of prosecuting litigation, thereby removing the appearance of a conflict of interest.</p>	<p>The recommendation will not be implemented</p>	<p>Because the job of County Counsel requires more than just an attorney, the County would have to recruit and retain paralegal personnel and administrative staff. The cost for this would far exceed the average \$600,000 per fiscal year currently paid to County Counsel.</p>
<p>R3. If the County determines that retaining a contractor to serve as a County Counsel is necessary, consider restructuring the contract to remove the appearance of a conflict of interest by decoupling ordinary County business from litigation. This could perhaps be done with two separate contracts with competing legal firms.</p>	<p>The recommendation will not be implemented</p>	<p>Because County Counsel cannot initiate litigation, or enter into a settlement, and must bring all settlement offers before the BOS, it is the responsibility of the BOS to ensure that counsel does not enter into avoidable litigation. Furthermore, because County Counsel has a fiduciary relationship with the county, they are bound by law to work in the best interest of the County.</p>

Trinity County 2022 Civil Grand Jury Report County Counsel Review		
Recommendation	Response	Respondent Comment
R4. If the County determines that County Counsel must be retained through a contract similar to the current contract with Prentice Long, we recommend that such contracts be valid for a limited term, such as four years, and that bids from competing legal firms be solicited at the end of each term.	The recommendation will not be implemented	Because the contract with County Counsel allows the BOS to terminate the contract for any reason, or no reason, limiting the term of the contract is not necessary. The BOS will, however, begin to administer the yearly performance evaluations that are required by the contract.

Trinity County 2022 Civil Grand Jury Report Abandoned Vehicle Abatement		
Finding	Response	Respondent Comment
F1. The AVA Program can complete "Private Abatement" efficiently with its existing resources and program structure, assisting residents with vehicles they wish to abate themselves.	Agree	No Comment provided
F2. The AVA Program is not able to complete all reports of AVs on roads and highways with its existing resources and program structure due to the limitations of its budget.	Agree	No Comment provided
F3. The current AVA Program is only able to respond to reports and cannot locate AVs daily to prevent the buildup of the PNVs.	Agree	No Comment provided
F4. Due to the AVA Program's self-funding capability without using General Funds, there is currently no routine annual evaluation of the AVA Program by the BOS or "oversight" by any board or community stakeholders.	Agree	Starting January 2024, establish annual program evaluation and CAO report to the BOS.

**Trinity County 2022 Civil Grand Jury Report
Abandoned Vehicle Abatement**

Finding	Response	Respondent Comment
F5. In the past five fiscal years, the AVA program's revenues from the State DMV fees have been insufficient to cover all the AVA program expenses.	Agree	No Comment provided
F6. The Clean California grant is available to supplement the AVA Program, but TC has no funding for the request and administration of this grant opportunity.	Agree	The county AVA program staff will assess the Clean California Grant for possible program applicability and the assessment will be included in the first annual program evaluation in January 2024.
F7. Over time, the cost to abate an AV increases, and the scrap value decreases, leading to a PNV that is left in place for lack of funds.	Agree	No Comment provided
F8. There is a lack of information available in the media (newspaper, social media) or on the County website for TC residents to report an AV or legally abate an AV on their property.	Agree	The county AVA program staff will evaluate methods to increase program awareness and ways to enhance access to program information for county residents.

**Trinity County 2022 Civil Grand Jury Report
Abandoned Vehicle Abatement**

Recommendation	Response	Respondent Comment
R1. The BOS should revisit the financial and personnel structure of the AVA Service Authority in TC to include other departments to assist in locating and tagging AVs to assist the Abatement Officer by October 1, 2023 (F3).	The recommendation requires further analysis	The AVA County staff will evaluate use of other department resources in determining and locating Abandoned vehicle owners. The analysis will be included in the first overall program evaluation and be completed by January 2024.
R2. The BOS should examine the AVA programs in Butte and Lake Counties to consider a future revision of the AVA Service Authority to include an "AVA Board" made up of community stakeholders by October 1, 2023 (F4).	The recommendation has not been implemented but will be implemented in the future	The BOS will establish a committee. On an as needed basis, the committee will review the AVA program, assist the AVA county staff and provide direction to the CAO. The committee and BOS appointment will be completed by January 2024
R3. The BOS should do a cost/benefit analysis of using additional General Funds to pay for grant writing for other departments, specifically General Services and Solid Waste by October 1, 2023 (F2, F5, F6, F7).	The recommendation will not be implemented	The real issue is not about the grant writing or grant application process. The real issue is grants associated with AVA require some level of a county general funds match and staff time to administer the grant.
R4. The BOS should do a cost/benefit analysis of a Public Relations Campaign (press release, social media posts, ad campaign) to highlight Private Abatement options for TC residents and how to report an AV on public roadways by October 1, 2023 (F8).	The recommendation has not been implemented but will be implemented in the future	The County web page already outlines how to access the AVA program functions and how to obtain a Private Abatement certificate. The county is in the process of evaluating different platforms to improve the ability to highlight private abatement options for county residents and should have improved methods by January 2024.

**Trinity County 2022 Civil Grand Jury Report
Abandoned Vehicle Abatement**

Recommendation	Response	Respondent Comment
<p>R5. The BOS should instruct the Information Technology and General Services departments to update the County website to include a downloadable "Report an Abandoned Vehicle" form, an "I Want To..." menu option to assist the public in navigating to the AVA Program page, a set of FAQs, a list of businesses to assist with private abatements, and all relevant program information by October 2, 2023 (F8).</p>	<p>This response does not meet Penal Code 933/933.05 requirements. Differ from code requirements</p>	<p>The county is in the process of evaluating different platforms to improve the ability to highlight private abatement options for county residents and should have improve methods by January 2024.</p>

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