

# Merced County

## Civil Grand Jury

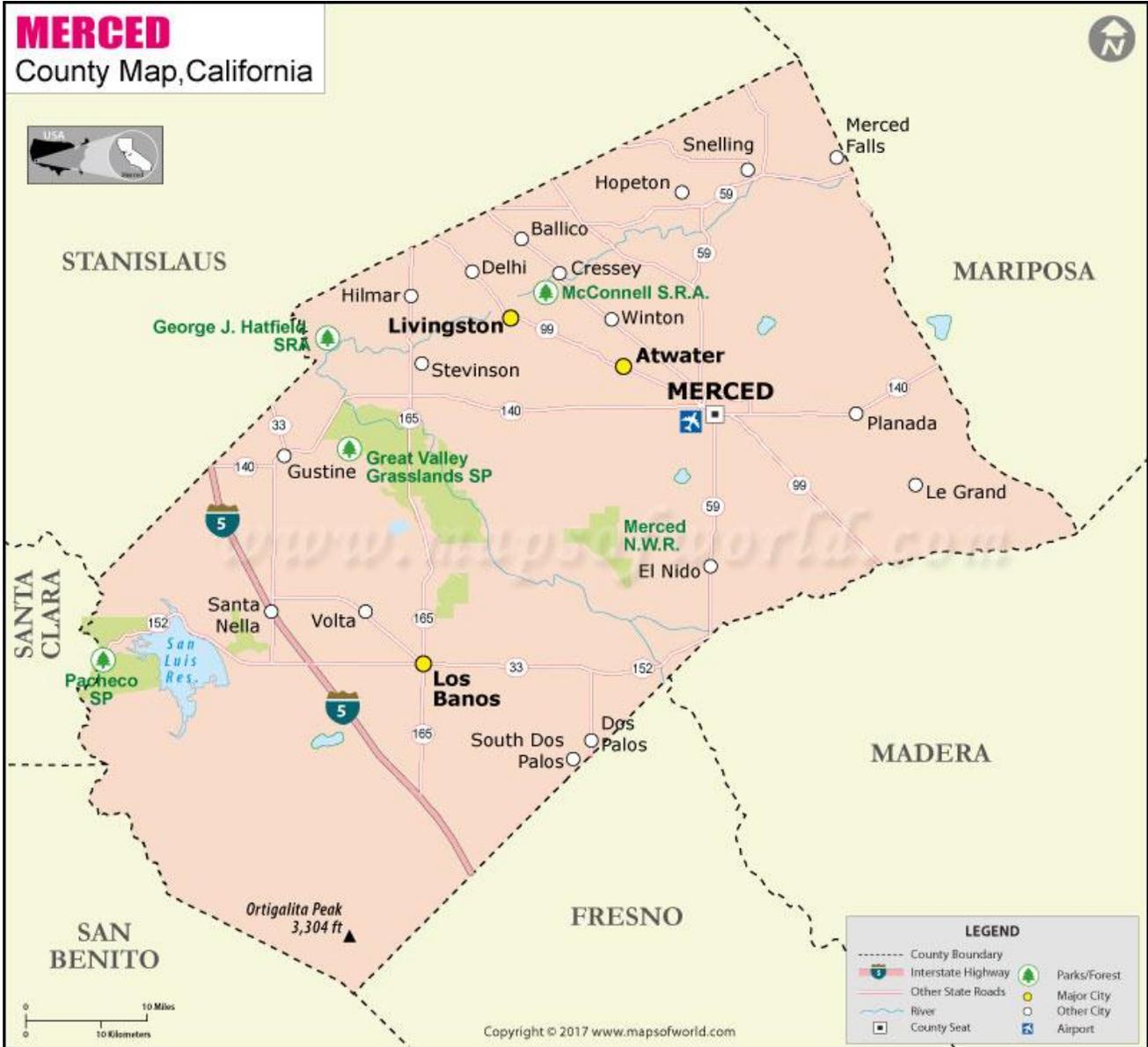
### Final Report 2017-2018





# MERCED

County Map, California





**MERCED COUNTY CIVIL GRAND JURY**

**FINAL REPORT**

**2017 – 2018**

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**Civil Grand Jury**

P.O. Box 2034

Merced, California 95344

<http://www.co.merced.ca.us/grandjury>

The Honorable Paul C. Lo  
Presiding Judge of the Civil Grand Jury  
Merced County Superior Court

Judge Lo,

Merced County Civil Grand Jury (Grand Jury) respectfully presents our 2017-2018 Final Report to the Merced County Superior Court and to the citizens of Merced County in accordance with the California Penal Code, Section 933.05.

Jurors were selected using an application which is available in the Superior Court's Jury Assembly Room and through an interview process. Jurors attended a training which was provided by the California Grand Jurors' Association with respect to the investigative process and report writing. Jurors also participated in various other trainings by Merced County or the California Grand Jurors' Association.

When a citizen feels that their voice is not being heard or has a concern about the general operation of local governments, they can file a complaint with the Grand Jury. A complaint form is available on the Merced County website. Once the Grand Jury initiates an investigation, a report may be written so that the citizens of Merced County can better understand the workings of local government agencies. For various reasons, every complaint did not warrant a full investigation. However, each complaint submitted to the Grand Jury was given its due consideration.

The 2017-2018 Grand Jury used their expertise and collective knowledge to study and investigate the policies and procedures within the county to prepare this report. The investigations by the Grand Jury were given serious consideration. Each report contains findings and reasonable recommendations, as well as requests for responses for each report when applicable.

The Grand Jury received a total of 8 citizen complaints during its tenure. One complaint was from an anonymous source, three (3) were outside the jurisdiction of the Grand Jury, three (3) were related to topics that were currently being reported by the Grand Jury and one (1) in which no action was taken.

As required by law, the Grand Jury inspected the county's three detention facilities: Merced County Sheriff's Department Main Jail Facility, John Latorraca Correctional Center, and the Los Banos Police Department Detention Facility. The Grand Jury will not report specifically on the Main Jail and Latorraca facilities inspected, as it is not required by law. However, it is noted that no construction of the John Latorraca Correctional Center expansion and upgrade has begun at the time of this report. While not required by law, the Iris Garrett Juvenile Correctional Complex was visited.

The Grand Jury would like to extend a heartfelt “thank you” to all city and county agencies in recognizing the importance of the Grand Jurys service and their prompt responses for requested information. The acceptance, findings, and implementation of the Grand Jury’s recommendations are now the responsibility of the elected officials, cities, and county agencies detailed in this 2017-2018 Final Report.

Serving on the Merced County Civil Grand Jury has been an honor and privilege for all Jurors. The time given to the citizens of Merced County by each Juror to investigate and issue this Final Report has been significant. Interested citizens of Merced County are encouraged to submit their application for consideration to serve on a future Grand Jury. The Grand Jury is a necessary integral part of the Merced County Superior Court.

Respectfully Submitted,

John B. Pickle, Foreperson  
2017-2018 Merced County Civil Grand Jury

**2017-2018 Merced County  
Civil Grand Jury Members**

1. Almazan, Edmund \*
2. Burger, Michael
3. Cota, Phillip \*
4. Daugherty, Ron
5. Eberhard, Jennifer \*
6. Frye, Nathan Carlisle \*
7. Gomez, Mary Esther
8. Leaman, Roberta
9. Mang, Robert (Pro Tem)
10. Meskus, Jr., George L.
11. Moses, Joel
12. Pickle, Brad (Foreperson)
13. Pietro, Frank \*
14. Rodriguez, David
15. Shelton, Arvery
16. Slaton, Elizabeth (Lisa)
17. Slovak, Marta
18. Wendling, Rick \*
19. Wight, Shannon

\*Jurors were unable to complete their term

The 2017-2018 Grand Jury members reside in the following communities of Merced County:

Atwater

Los Banos

Merced

Planada

Winton



# MANDATED INSPECTIONS OF JAIL FACILITIES

## SUMMARY

Per California Penal Code (CPC) Section 919(b), the 2017-2018 Merced County Civil Grand Jury (Grand Jury) conducted inspections of the jail facilities in Merced County. According to CPC Section 919(b), these inspections are required to inquire into the management and conditions of the jails within the county. During the year, the Grand Jury toured and inspected the following facilities:

- Merced County Sheriff's Department Main Jail
- Merced County Sheriff's Department John Latorraca Correctional Facility
- Los Banos Police Department and Jail Facilities

In its inspections, the Grand Jury found that all facilities met the minimum standards of the California Corrections Standards Authority (CSA), as specified in Titles 15 and 24 of the California Code of Regulations.

## METHODOLOGY

An inspection document provided by the CSA and the California Grand Jury Association (CGJA) was used by the Grand Jury. The form allowed precise documentation of the observations made during the site visits. Facility managers were also provided the same form to be completed prior to the inspection.

The Grand Jury reviewed the department staffing, facilities conditions, organization, maintenance and operations. Medical facilities were reviewed for deficiencies and/or hazardous practices. Kitchen facilities were reviewed to insure compliance for meal preparation procedures and nutritional compliance. Vocational and educational programs were discussed along with inmate discipline and grievance procedures. Cells were inspected, inmate classification, orientation, visitation, and correspondence policies were also reviewed.

The Grand Jury reviewed previous Merced County Grand Jury reports, interviewed staff, and reviewed the most recent inspection reports prepared by outside reviewing agencies including local fire departments, health authorities and the CSA. Prior to inspections and during the preparation of this report, the jurors communicated via email and telephone with facility staff.

The Grand Jury will not report specifically on the Main Jail and Latorraca facilities that were inspected, as this is not required by law. However, it is noted that expansion and modernization of the John Latorraca Correctional Facility still has not begun. The purpose of the construction is to provide additional space for housing inmates, and ultimately closing the Sheriff's Main Jail on 22<sup>nd</sup> Street.

The Main Jail is outdated and does not allow for adequate segregation of inmates. The current design of the jail building does not provide a safe environment for inmates or correctional officers.

The facility has a capacity for 120 beds and contains several types of housing including old style cell blocks, large holding cells and direct supervision areas. Five cell blocks house violent gang members in eight-person cells separated by iron bars, triple gated door access and a double walk access system. The cell block design permits passing of notes and contraband from cell to cell. Visitation areas are difficult to supervise and allow for frequent passing of contraband into the jail. In the past two years there have been several fights between inmates resulting in injuries and one death.

A \$40 million grant is committed to rebuild and update the Latorraca facility, with \$4.5 million needed in matching funds from Merced County. Previous grand juries have reported that funding is forthcoming from Merced County, yet those monies have still not been budgeted. The updated facility will provide a safer environment for inmates as well as employees.

**FINDING(S)**

**F1.** That the Sheriff’s Main Jail facility is outdated and is not safe for inmates or employees.

**F2.** That the modernization and expansion of the John Latorraca Correctional Facility has not been funded by the County.

**RECOMMENDATION(S)**

**R1.** That the Merced County Board of Supervisors should allocate the necessary matching funds for John Latorraca construction in the 2018-2019 fiscal year.

**REQUEST FOR RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- Merced County Board of Supervisors respond to F1 to F2 and R1 within 90 days
- Merced County Sheriff’s Office respond to F1 to F2 and R1 within 60 days

Responses are to be submitted to the Presiding Judge of the Merced County Superior Court in accordance with Penal Code Section 933.05.

**DISCLAIMER**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

# **POLICE DEPARTMENTS WITHIN MERCED COUNTY**

## **SUMMARY**

Not all law enforcement departments in the county have jail facilities. In addition to the above facility inspections, the Grand Jury also toured and inspected:

- Atwater Police Department
- Dos Palos Police Department
- Gustine Police Department
- Livingston Police Department
- Los Banos Police Department
- Merced City Police Department

## **BACKGROUND**

The Grand Jury chose to inspect each of the police departments located in Merced County. Each of these departments is the center of interaction between law enforcement and private citizens. While the police department may not hold detainees, it is still a vital part of the law enforcement that is critical to the safety of Merced County citizens.

## **METHODOLOGY**

The 2018-2019 Grand Jury visited each of the police departments in Merced County. The inspection included the dispatch centers, holding cells, staff work areas, armories, parking areas, secured storage areas and public access areas. The Chief of Police or a designated officer accompanied each inspection to provide information and clarification as needed.



## **CITY OF ATWATER POLICE DEPARTMENT**

The Grand Jury inspected the Atwater Police Department located at 750 Bellevue Road in Atwater on January 25, 2018.

The Atwater Police Department facility was added to the existing City Hall in 1969. The department area has been expanded and reconfigured numerous times since that time. The Atwater Police Department serves a population of 30, 406 in a 6.12 square mile area, containing residential, commercial and industrial users.

The department has a chief with 23 officers, 5 community services officers, 5 dispatchers and 2 reserve officers. The facility has 2 cells for holding purposes, with a capacity for 5-6 detainees. The average holding time is 4 to 6 hours before detainees are booked at the Merced County Main Jail facility.

The current area being used by the department is cramped and poorly configured. The current design lacks security as the hallways, staff areas, processing areas, cells and communications all flow into one area. The public reception area is shared with City Hall offices. The design creates visibility and supervision issues that can create potential safety problems for staff and detainees. The communication center experiences noise from other areas of the facility. The ventilation system needs upgrade and modernization.

The facility is regularly inspected by the State of California, health department, fire department and juvenile justice system.

### **FINDING(S)**

**F1.** That the current police department facilities are cramped and in need of expansion and redesign to improve safety and air circulation.

### **RECOMMENDATION(S)**

**R1.** That the Atwater City Council actively search for funding to relocate or rebuild the police department to provide a safe and functional facility.

### **REQUEST FOR RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the following responses are required.

- Atwater City Council respond to F1 and R1 within 90 days.
- Atwater City Police Department respond to F1 and R1 within 60 days

Responses are to be submitted to the Presiding Judge of the Merced County Superior Court in accordance with Penal Code Section 933.05.

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## **CITY OF DOS PALOS POLICE DEPARTMENT**

The 2017-2018 Merced County Grand Jury inspected the City of Dos Palos Police Department located at 1546 Golden Gate Avenue, Dos Palos on April 26, 2018.

The Dos Palos Police Department building was constructed in 1963 and has had several additions and remodels. The department employs a chief of police, one sergeant, five officers, two reserve officers and six dispatchers. The department serves a population of 5,375 in a 1.35 square mile area containing residential, commercial, and industrial properties.

The department has no holding cells. In the past, detainees were sent to the Los Banos Police Department for holding but are now transported directly to the Merced County Main Jail facility.

The Police Department was inspected by the previous Grand Jury, and significant problems were found in organization and cleanliness of the facility. The current Grand Jury noted significant improvement in the overall operations organization of the facility. Major improvements have been made to the evidence room providing better logging procedures and storage of evidence. Additional recommendations made by the prior Grand Jury for the parking lot are being provided for in this year's budget.

The facility is regularly inspected by the State of California, health department, fire department and juvenile justice system.

### **FINDING(S)**

**F1.** That the Dos Palos Police Department facility is adequate.

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## **GUSTINE POLICE DEPARTMENT**

The 2017-2018 Merced County Grand Jury (Grand Jury) inspected the Gustine Police Department located at 682 3<sup>rd</sup> Avenue in Gustine on January 30, 2018.

The Gustine Police Department serves a population of 5,886 in a 1.55 square mile area containing residential, commercial, and industrial properties. The police station was built in the late 1960's.

The department has a total of 6 full time sworn officers with a Chief of Police, and 1 community services officer with no reserve officers. Dispatching services for the department are contracted with the Livingston Police Department.

The department has no holding cells and sends all detainees directly to the Merced County Main Jail facility.

The current police station was found in good order and well maintained. Areas for the individual functions of the department are provided with adequate space for work and safety concerns.

The facility is regularly inspected by the State of California, Health department, Fire department and juvenile justice system.

### **FINDING(S)**

**F1.** That the current police department facilities are adequate for the community.

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## **LIVINGSTON POLICE DEPARTMENT**

The 2017-2018 Grand Jury inspected the Livingston Police Department located at 1446 C Street in Livingston on February 1, 2018.

The Livingston Police Department serves a population of 13, 947 in a 3.7 square mile area. It serves residential, commercial and industrial users. The current police department facility was built in 1998.

The department employs a total of 34 full-time sworn officers, including a Chief of Police, 2 lieutenants, three sergeants, three corporals, one detective, one intelligence officer, 11 patrol officers and one reserve officer. Additionally, the department has 5 full-time and one part-time dispatcher, one animal services officer, one police service assistant, one reserve assistant, one records assistant, one evidence and special projects officer, one director of professional services and one executive assistant to the chief.

The department has no holding cells and sends all detainees directly to the Merced County Main Jail facility.

The current police station is modern, well-planned and well suited for the department's needs. The department's site is also used to store the regional emergency command trailer. The trailer is currently stored on a dirt lot behind the department and needs improvement for all weather use.

The facility is regularly inspected by the State of California, health department, fire department and juvenile justice system.

### **FINDING(S)**

**F1.** That the current police department facilities are adequate for the community.

**F2.** That the parking area for storing the Regional Emergency Command trailer needs to be improved to be an all-weather paved surface.

### **RECOMMENDATION(S)**

**R1.** That the City of Livingston allocate funding to pave the storage lot at the rear of the department.

### **REQUEST FOR RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the following responses are requested.

- City of Livingston respond to F1 to F2, and R1 within 90 days.
- Livingston Police Department respond to F1 to F2, and R1 within 90 days.

Responses are to be submitted to the Presiding Judge of the Merced County Superior Court in accordance with Penal Code Section 933.05.

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## **LOS BANOS POLICE DEPARTMENT**

The 2017-2018 Grand Jury inspected the Los Banos Police Department and jail facilities located at 945 5<sup>th</sup> Street in Los Banos on January 24, 2018. The jury did not inspect the police department's annex facility at 444 J Street that is used for Police Athletic League activities.

The City of Los Banos has a current population of 39,993 and contains 10.12 square miles of incorporated area combining residential, commercial and industrial development. The police department is contained in two buildings. The department operates out of a building at 945 5<sup>th</sup> Street, which contains offices, a 911 dispatch and jail holding facilities. The department also operates its Police Athletic League (PAL) at its annex located at 444 J Street.

The Los Banos Police Department is having difficulty in maintaining staff levels due to more competitive salary, better benefits and advancement opportunities offered by larger nearby Bay Area cities. The department currently has 42 sworn staff, 6 jail staff, 11 dispatchers and 6 Community Service Officers (CSO's). The department is a fully functioning police department with administration, investigation, communications, patrol, traffic, code enforcement, animal control, school resource officer program, VITAL (Volunteers Interacting to Advance Law Enforcement), and jail operations. Medical services are provided by an outside contractor. Food preparation is done by department staff for those being held in the facility.

The original facility at 945 Fifth Street was built in 1969. The building has been renovated multiple times, with the most recent remodel in 2013. The facility has seven cells, with a total holding capacity of 20 inmates.

The jail facility processes detainees within 96 hours. Detainees are either cited and released or moved to the Merced County John Latorraca facility. The Los Banos facility processes arrests not only from the City of Los Banos, but also under agreement with the Gustine police department, Merced County Sheriff's Department, California Department of Fish and Game and the California Highway Patrol.

The facility is undersized for the growing size of the department. The squad room is used not only as a meeting room but is also used as office space for individual officers and for storage. The public waiting area is small and cramped. The air conditioning is inadequate for the size of the facility. The food preparation area is shared with the laundry and storage spaces. Due to budget constraints, all but the most pressing repairs and minor items are taken care of. Major maintenance items have been deferred. It is apparent that the facility cannot meet the day-to-day demands of the department.

The City of Los Banos is currently looking at the purchase of a new 4-acre site for the construction of a new police facility to replace the outdated and inadequate facility currently being used. The City expects to have a new facility within the next three years. The approximate \$4 million cost will be paid through a ½ cent sales tax revenue approved by the voters in November 2004, and possible general fund monies or financing of a bond.

The facility is regularly inspected by the State of California, Merced Health Department, Los Banos Fire Department and state juvenile justice system.

### **FINDING(S)**

- F1.** That the department has a problem retaining staff due to low pay and advancement potential.
- F2.** That the current facility lacks adequate space and adequate ventilation.
- F3.** That the city is currently reviewing and negotiation for the purchase of land and construction of a new facility.

### **RECOMMENDATION(S)**

- R1.** That the City of Los Banos seek funding for a more competitive employee compensation package.
- R2.** That the City of Los Banos continue its process of securing property and completing construction of a new police facility within the next three years.

### **REQUEST FOR RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the following responses are requested.

- Los Banos City Council respond to F1 to F3 and R1 to R2 within 90 days.
- Los Banos Police Department respond to F1 to F3 and R1 to R2 within 60 days.

Responses are to be submitted to the Presiding Judge of the Merced County Superior Court in accordance with Penal Code Section 933.05.

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## **CITY OF MERCED POLICE DEPARTMENT**

The 2017-2018 Grand Jury inspected the City of Merced Police Department located at 611 W. 22<sup>nd</sup> Street in Merced on May 7, 2018.

The Merced Police Department serves a population of 83,955 in a 23.3 square mile area including residential, commercial, airport and industrial properties. In addition, the police department contracts to provide services at the community college. The existing department headquarters was built in 1956 and has been updated and remodeled several times. The department has several other sites that it occupies including a south side substation located at 470 West 11th Street, a leased storage facility and two other sites in the city that were not inspected by the Grand Jury. The current location of the other sites throughout the city creates logistical and operational challenges for the police department.

The Department employs a Chief of Police, three captains, three lieutenants, eleven sergeants. There are 97 authorized sworn officer positions, and 90 are filled at this time. In addition, the staff is supplemented by eight dispatchers, eight community services officers, code enforcement and animal control personnel.

The department has a close working relationship with both the Merced Community College Police and the Merced campus of University of California Police Departments. The department shares a captain's position with the Community College Police.

The department has two holding cells that are used for holding detainees for a maximum of six hours prior to being sent to the John Latorraca Correctional facility. There is a shortage of holding facilities with only three detainees being able to be processed at any one time. This also becomes difficult when youth offenders are processed due to the mandates of separating youth detainees from adult detainees.

The current police station is undersized for the needs of the department. Some staffing areas are not within proximity of supervising officers. The current locker rooms are utilized for the storage of officer's belongings as well as department equipment. Due to the lack of space, hallway space is being used for the storage of locked filing cabinets for case files. The heating and air conditioning system is inadequate and causes areas of the building to become unusable during hot days.

The Department dispatch center has two work stations to handle the estimated 218,000 requests each year for assistance. This includes calls and dispatch for the Merced City Fire Department.

The city is currently in the process of preparing to build a new police facility with adequate space that will combine all services on one site. While the city has purchased the property at 3033 G Street, currently the Sun Star Newspaper offices, no funding has been secured for the building of the facility.

The facility is regularly inspected by the State of California, health department, fire department and juvenile justice system.

**FINDING(S)**

**F1.** That the current police department headquarters facilities are inadequate for the community.

**RECOMMENDATION(S)**

**R1.** That the City of Merced at all due speed secure funding for the construction of a new and adequate police department facility.

**REQUEST FOR RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- Merced City Council respond to F1 and R1 within 90 days.
- Merced City Police Department respond to F1 and R1 within 60 days.

Responses are to be submitted to the Presiding Judge of the Merced County Superior Court in accordance with Penal Code Section 933.05.

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# **ELECTION PROCEDURES PREVENT FRAUD**

## **Internal Investigation 17-12-05**

### **SUMMARY**

In past elections, concerns have been expressed by citizens about voter fraud in the polling place and from electronic manipulation of voter counts. The Merced County Civil Grand Jury (Grand Jury) investigated to determine the potential for fraud in the election process.

### **BACKGROUND**

The Grand Jury was made aware of concerns that have been raised by county residents regarding voting procedures in Merced County. Concerns included the possibility of voters casting more than one ballot, electronic interference with voter rolls, vote count, and unauthorized changes in party affiliation.

### **METHODOLOGY**

In its investigation, the Grand Jury conducted interviews with Merced County Voter Registrar's office staff and several polling place workers. On November 6, 2017, Grand Jury members attended the Registrar's Observer Orientation Training for polling place staff. Jury members also observed the operation and closing of two polling precincts, along with the receipt, processing and counting of ballots at the county elections warehouse on Election Day.

### **DISCUSSION**

While elections are the responsibility of the county, they must comply with state and federal laws. Voting in Merced County is overseen by the county's Voter Registrar's office. The county office has a total of 7 full time employees. The staff is augmented by part-time employees and volunteers during election time. The Voter Registrar receives training from state and federal elections officials and the California Secretary of State Elections Center. The Registrar is certified in compliance with state and federal elections laws and signature identification procedures. The registrar's staff also receives training in election procedures and signature identifications.

Eligible voters can register to vote using state-issued forms that can be found at various agencies within the county. Completed forms may be mailed or hand delivered to the county Voter Registrar's Office. Voter registration may also be completed online through the California Secretary of State Registration's website and at various social services agencies. Additionally, voter registration drives are held by independent organizations who then submit the forms to the Registrar's office.

The State of California provides a vetting system for changes in the status of voters. Changes are reported to the Registrar's Office to update voter registration rolls by using data from official death certificates and DMV reports. The county is also required to purge rolls and to follow up on voters who have not voted for the last four (4) years.

On occasion, voters forget their voting status or party affiliation. Voters can confirm their registration status or make changes at any time with the Merced County Office of Voter

Registration. Changes can also be made by updating information with the Department of Motor Vehicles (DMV).

Reports of unauthorized changes in party affiliation have been received by the Grand Jury. In addition, the Registrar's office did report having problems with some independent registration drives not providing completed registration information. Both irregularities were forwarded to the jurisdiction of the California Secretary of State for review.

Some reports were received of voters not being listed on the rolls by the Register's Office in the last presidential election. The investigation revealed two basic problems. The first centered mainly on college students who were not registered to vote in Merced County, but were registered to vote in the county of their permanent residence. The second problem was a misunderstanding by voters that they could register to vote at their polling place.

To help voters more fully understand the registration and voting processes, the Registrar has been providing instruction for students of voting age through programs held at local high schools. Similar programs are also being developed for incoming students at the University of California at Merced and Merced Community College.

There are three types of ballots that can be cast by voters in Merced County; mail-in-ballots, polling place ballots and provisional ballots. Each are provided in specific situations and processed differently.

Mail-in-ballots may be requested for specific elections or on a permanent basis, but no later than fifteen days prior to an election. Voters may mail the ballot, deliver it to the County Elections office or any polling place. Ballots mailed in must be postmarked no later than the day of the election and delivered to the County Elections Office within three days following the election. The mail-in-ballot envelope was changed for the 2017 presidential election. A secured flap has been provided to cover the voter's signature, rather than the voter signing the outside of the envelope. This has provided additional security for the voter's signature and identity. The Registrar's Office advised the Grand Jury that the revisions were accepted well by voters and worked well during the last election.

In an exit interview prior to publication of this report, it was found that the new envelopes would not be used in the upcoming election due to specific equipment needs. It is hoped that the envelopes would be used in future elections.

Mail-in-Ballots that are received by the County prior to Election Day are taken to the Voter Registrar's Warehouse where they are unsealed, signatures verified and then tallied. These are counted prior to the polling place ballots. Mail-in-Ballots received from polling places are processed with the precinct ballots. Ballots received in the three-day period after Election Day are also processed and included in the vote count.

When voters opt to vote at their polling place, the voter is asked their name, which is then checked against the registrar's rolls. Further information such as the voter's address, date of birth or social security number is requested to confirm their identity. These questions may not be asked if the voter is known to the poll worker. California state law prohibits polling staff from asking for identification. The one exception is for voters who have registered online. The voter is required to provide proper identification, and then asked to sign the voter rolls prior to receiving their ballot. After marking their ballot, the voter's ballot is fed into a devise that

electronically tallies the ballot into the precinct's count. The paper ballot then falls into a secured ballot receptacle. The polls must allow voters to cast their ballots even after the closing of the polling station, provided voters were in line prior to the closing time.

After all votes have been cast, poll workers print out the precinct vote tallies and certify the paper printout. The tally and ballot counting equipment is not connected to any outside electronic devices as a measure of insuring there is no tampering with election results. The paper ballots are then placed in ballot bags that are specific to the precinct polling place and sealed. The bags are then taken to the Voter Registrar's Warehouse for processing and counting.

Provisional ballots are provided at the polls for voters that do not have a valid ballot. This occurs when the mail-in ballot is lost or damaged. The voter signs for the provisional ballot and it is kept secure and processed separately from the mail-in or precinct ballots. The voter rolls at each precinct indicate which voters received mail-in ballots. The registrar has procedures that insure no voter uses the provisional ballot to vote twice. One of those procedures includes signature verification by trained staff.

The Registrar is charged with certifying the count after Election Day. The office has 28 working days for standard elections and 30 days for presidential elections. Ballots are stored in a secure site for 22 months after the election, and then destroyed by shredding.

#### **FINDING(S)**

**F1.** That the Voter Registrar's office is working proactively to educate first time voters to ensure they are aware of registration and voter procedures.

**F2.** That any irregularities found in the registration process are forwarded to the jurisdiction of the California Secretary of State for review.

**F3.** That there is no capability for any connection between ballot counters and outside electronic interference.

**F4.** That new mail-in ballot envelopes have additional security with a new signature window and are hoped to be used in the future.

**F5.** That the cross-checking system for the three types of ballots prevents voters from voting more than once.

#### **RECOMMENDATION(S)**

**R1.** That the County Voter Registrar continue its outreach programs to local high schools, colleges and universities to educate new voters with regard to voter registration requirements and processes.

**R2.** That the County Voter Registrar and staff continue to receive training as it is available regarding electronic security for the voting process.

#### **REQUEST FOR RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the following responses are required.

- Merced County Registrar of Voters respond to F1-F5, and R-1 and R-2 within 90 days.
- Merced County Board of Supervisors respond to F-1, and R-1 and R-2 within 90 days.

**INVITED RESPONSE(S)**

University of California Merced, Chancellor

Merced Community College, President

Responses are to be submitted to the Presiding Judge of the Merced County Superior Court in accordance with Penal Code Section 933.05.

**DISCLAIMER**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

# **MERCED COUNTY LANDFILL TIPPING FEES**

## **Investigation 17-10-24**

### **SUMMARY**

Merced County is served by two landfill sites operated by the Merced County Regional Waste Authority (MCRWA). The Merced County Civil Grand Jury (Grand Jury) became aware of out-of-county waste being hauled to the landfills which caused concern that additional waste could have a detrimental effect on the life span of the sites, as well as additional costs to the County and its residents. Through its investigation, the Grand Jury found that the MCRWA operates the sites within adequate financial constraints and has over 100 years of capacity in the current sites.

### **BACKGROUND**

The Grand Jury conducted an internal investigation regarding the fees charged at the county's landfills. The investigation focused on the use of the landfills by out-of-county operators and their effect on the cost of operations, as well as the impact to the longevity of the landfills' capacity. Concerns were also raised about the safety of employees and the patrons that use the landfills.

### **METHODOLOGY**

The Grand Jury conducted a site visit at the Highway 59 facility and interviewed staff from MCRWA. The Grand Jury reviewed the Highway 59 expansion Environmental Impact Report (EIR) and accessed website information.

### **DISCUSSION**

Merced County has two landfills that are operated by the MCRWA; a joint powers authority made up of the county's seven cities and the county. One landfill is located on Highway 59 east of the City of Merced and covers 600 acres. The Billy Wright landfill is located west of the City of Los Banos near Interstate 5 and covers 265 acres with a potential expansion of 600 acres. The potential increase in acreage will provide the county with a MCRWA staff-estimated more than 100-year capacity between both sites. Both county landfills currently operate with permits from the Merced County Health Department as well as, State and Federal agencies.

The fees for dumping items (tipping fees) at the sites are set by the MCRWA based on tonnage of waste being dumped. Tipping fees for dumping at the landfills were last increased by the authority in 2011 and set at a rate of \$43.05 per ton. Waste is brought to the sites generally by two methods, private vehicles or by franchised waste haulers. County residents using the sites are charged a minimum of \$19.00 per vehicle or \$43.05 per ton. There are additional fees based on the type of material being dumped such as; tires, appliances, mattresses, box springs, and hazardous waste materials.

Third-party haulers bring waste to the site under franchise agreements with individual cities. They currently pay \$43.05 per ton. The cost for county residents includes the \$43.05 plus the operational costs of their respective area as approved by their local jurisdiction. The franchise haulers fees are based on their operational costs plus the tipping fees as approved by their local jurisdiction.

The landfills receive waste from outside the county based on separate contracted fees ranging from \$19.00 to \$25.00 per ton. These fees are lower than the standard \$43.05 per ton charged to county residents, but the lower fees do cover the cost of space for the materials being dumped. The difference in fees is a result of additional services provided for the residents of Merced county such as hazardous materials handling and recycling. The program of providing out-of-county dumping was established to prevent additional fee increases to Merced county residents by paying off prior loans and bonds previously incurred by the MCRWA. Twelve contracts were approved by the MCRWA with jurisdictions and private businesses in the Central Valley and the South San Francisco Bay area.

The landfill site operations have recorded two deaths of staff members over the past fifteen years. Both fatalities were investigated by Occupational Safety and Health Administration (OSHA) and the county. Appropriate corrective measures have been implemented. MCRWA now conducts weekly safety meetings with operation staff to review safety procedures. Mandatory monthly safety meetings are held with all staff.

#### **FINDING(S)**

- F1.** That the combined Highway 59 and Billy Wright landfill facilities will have a MCRWA staff-estimated capacity to meet county landfill needs for the next 100 years.
- F2.** That the landfills provide services to both Merced and several out of county agencies and private entities.
- F3.** That providing services to other jurisdictions is appropriate and necessary to keep Merced County residents' fees low.
- F4.** That MCRWA now conducts weekly safety meetings with operation staff to review safety procedures.

#### **DISCLAIMER**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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**2017-2018**  
**Merced County Civil Grand Jury**  
**Continuity Report**

**A Follow-Up for the**  
**2016-2017 Report**



**April 2018**



## **MERCED COUNTY CIVIL GRAND JURY**

### **COMPLIANCE AND CONTINUITY REPORT**

#### **BACKGROUND**

Civil Grand Juries are governed by California Penal Code Section 933(a) which requires the Jury to submit a report to the presiding judge of the Superior Court of the findings and recommendations that pertain to county government matters. Section 933(c) requires responses from the governing body, elected county officials or department heads to the presiding judge of the Superior Court on the findings and recommendations within the required period of time. Governing bodies of public agencies are required to respond to the judge no later than 90 days after the Grand Jury submits a final report. Department heads are required to respond within 60 days of the final report.

Section 933.05(b) requires that in the response to the Grand Jury report, elected officials or department heads must provide one of four possible responses to each recommendation:

1. The recommendation has been implemented, with a summary of the action taken.
2. The recommendation will be implemented, with a timetable for implementation.
3. Further analysis is required, with an explanation and timeframe for the response of up to six months from the release of the report.
4. The recommendations will not be implemented because it is not warranted or is not reasonable, with an explanation.

When responses have been received, it is the responsibility of the clerk of the court to forward a true copy of the report and the responses to the State Archivist, who retains the report in perpetuity. The Grand Jury Reports are available to the public by request from the State Archivist in Sacramento. The reports can also be obtained from the Merced County website.

Included in this report are the investigations conducted by the 2016-2017 Merced County Civil Grand Jury (Grand Jury). A brief summary of each report is provided, along with findings and recommendations of the Grand Jury. Verbatim responses to the reports from the government agencies or departments are also provided.



# MUNICIPAL ADVISORY COUNCILS

Internal Investigation 16-06-14

## SUMMARY

The Merced County Civil Grand Jury conducted an internal investigation of the Municipal Advisory Councils (MACs). The MACs are organizations of residents in unincorporated areas of the county. The MACs provide input to the Board of Supervisors that relate to that area. In its investigation, the Grand Jury found that lack of training and financial resources made it difficult for the organizations to conduct their business effectively. Recommendations were made by the Grand Jury to provide training regarding the Ralph M. Brown Act and parliamentary procedures, maintenance of the county website to keep rural residents informed, as well as county procedures for seeking financial assistance.

## FINDING(S)

- F1.** That MAC members were not aware of the availability or the process for MACs to receive financial support to conduct business.
- F2.** That not all MACs receive annual training regarding the Ralph M. Brown Act and parliamentary procedures.
- F3.** That the Merced County website does not provide current information about MACs.
- F4.** That MAC members need to collaborate with other board members in the county.
- F5.** That members of the Merced County Municipal Advisory Councils are to be commended for their ongoing work and commitment to the betterment of their respective communities.

## RECOMMENDATION(S)

- R1.** That the Board of Supervisors review and communicate county procedures to MAC members for reimbursement of business expenses.
- R2.** That the Board of Supervisors (or their designee) provide training annually for all MAC members to ensure compliance with the Ralph M. Brown Act. Training should also include parliamentary procedures in conducting meetings.
- R3.** That the Merced County Board of Supervisors establish a procedure to ensure that the MAC website is maintained with current information.
- R4.** That the Merced County Planning Department schedule semi-annual collaboration meetings with MAC members.

**RESPONSE #1:**

The Civil Grand Jury investigated the County's Municipal Advisory Councils (MACs), how their meetings are conducted and how the MACs interact with their district Supervisors. It was reported that MAC members were not aware of the availability or the process for MACs to receive financial support to conduct business, not all MACs receive annual Brown Act and parliamentary procedures training, the County website does not provide current information about all MACs, and MAC members need to collaborate with other council members in the County. Regarding financial support for conducting business, an annual memorandum has been historically developed for each MAC chair detailing the reimbursement process for incurred expenses. It is the Board's understanding that prospectively, the Department of Community and Economic Development will send the memorandums electronically and will also hand-deliver them to the MAC chairs. The Brown Act is critically important not only for the Board of Supervisors, but for its auxiliary bodies as well. The Board appreciates the Civil Grand Jury's attention to this matter, and is pleased to report that the Merced County Counsel's Office has recently provided Brown Act training for each MAC.

The Civil Grand Jury found that the Merced County website does not provide current information about all MACs. Recently, the County launched a new, redesigned website that improves access to County information, provides better compatibility with mobile devices and brings the County's website into compliance with new Americans with Disabilities Act standards. As the County progresses forward with the new site, it will build upon and improve information about the MACs.

It is the Board's understanding that the Department of Community and Economic Development has previously facilitated collaborative meetings with each of the MACs to discuss best practices and various issues taking place. While only a few MAC chairs participated, the Board still finds value in these types of collaborative efforts and hopes for more participation in the future.

(Merced County Board of Supervisors, September 19, 2017)

**RESPONSE #2:**

Thank you for the opportunity to comment on Internal Investigation 16-06-14 pertaining to Municipal Advisory Councils (MACs) as detailed in the 2016-2017 Grand Jury Report. In regards to the findings (F1-F4) and recommendations (R1-R4) listed on pages 19 and 20 of the aforementioned report, please consider the

following responses from my organization (Community & Economic Development; otherwise known as Planning Department) as requested:

### Findings

F1: An annual memorandum has historically been prepared for each of the MAC chairs detailing reimbursement processes for expenses incurred (i.e. post office boxes, copies, materials, etc.). Prospectively, the Department of Community & Economic Development will send these memorandums via electronic correspondence (email) and will also hand deliver to the MAC chairs as part of our regular attendance at MAC meetings.

F2: Merced County and each of its departments takes its role and responsibility with Brown Act compliance very seriously as the public both expects and deserves. From an organizational standpoint, I remain very hopeful that our MACs will also take Brown Act compliance as seriously moving forward and properly conduct its meetings and noticing processes. In this respect, we are gratified knowing that the Merced County Counsel's Office has provided in-depth training to each MAC in recent months.

F3: With respect to the Merced County website not providing current information, this will be immediately remedied as Merced County prepares to soon launch its new website.

F4: The Department of Community & Economic Development has previously facilitated collaborative meetings with each of the MACs invited to discuss best practices and issues taking place. Unfortunately, due to either lack of interest or schedule conflicts, only a handful of MAC chairs participated. My organization continues to believe that collaboration is a positive opportunity and thanks those MAC chairs who participated in such discussions in the past.

### Recommendation

R1: The Department takes no exception as this has historically taken place.

R2: The Department agrees and is pleased knowing the Merced County Counsel's Office has conducted trainings for each MAC on the Brown Act in recent months.

R3: The Department takes no exception as the Merced County website has been entirely overhauled and will be launched in coming days inclusive of fresh content.

R4: The Department takes no exception as it has previously facilitated collaboration meetings with MAC members in the past. It remains hopeful that we will see greater participation from several of the MACs in the future.

In conclusion, my organization appreciates the efforts of the Grand Jury to help the MACs become more productive and efficient and is equally appreciative for the opportunity to improve our own processes to effectuate that goal. Again, thank you for the opportunity to submit responses.

(Merced County Department of Community and Economic Development, August 8, 2017)

**INVITED RESPONSE(S)**

The Grand Jury invited responses from the Municipal Advisory Committees, including Delhi, Franklin/Beachwood, Hilmar, Le Grand, McSwain, Planada, Snelling, and Winton. No responses were received.

# **MERCED COUNTY'S HOMELESS POPULATION- HOW LAW ENFORCEMENT CAN AFFECT SERVICES**

Internal Investigation 16-09-13

## **SUMMARY**

The Merced County Civil Grand Jury conducted an internal investigation regarding the interaction and response by local law enforcement agencies with regards to the homeless population. The Grand Jury received three (3) complaints regarding treatment of the homeless by law enforcement. The complaints were anonymous, limiting the Grand Jury's ability to investigate. The internal investigation was to focus on law enforcement's interaction with as well as services available to the homeless.

## **FINDING(S)**

- F1.** That because there are no bathroom facilities for the homeless, businesses within the county continue to have issues with the homeless urinating and defecating on their property.
- F2.** That certain jurisdictions are taking effective measures to alleviate homelessness, including special training for law enforcement, housing services, and hygiene resources. Notwithstanding such efforts, some communities still lack resources for the homeless.
- F3.** That the Grand Jury commends Bethany Community Church and Los Banos Memorial Hospital for their commitment and action in providing portable showers and restrooms for the homeless population in the City of Los Banos.

## **RECOMMENDATION(S)**

- R1.** That communities within Merced County implement a plan to provide and maintain portable restrooms and showers for the homeless.
- R2.** That all county and community law enforcement agencies provide special training for officers to effectively interact with the homeless.
- R3.** That all county and community law enforcement agencies be provided with informational materials on assistance programs for distribution to the homeless.

## **REQUESTED RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the following responses are required:

- Merced County Board of Supervisors respond to F1-F2 and R1-R3 within 90 days.
- Merced County Sheriff's Department respond to F2 and R2- R3 within 90 days.

- Community Police Departments within the County of Merced respond to F2 and R2-R3 within 60 days.

**RESPONSE #1:**

This year's Civil Grand Jury report addressed law enforcement's interaction with and services available to the homeless population. The report found that there are no bathroom facilities for the homeless, resulting in issues with urination and defecation on the property of local businesses. It is recommended that communities within Merced County implement a plan to provide and maintain portable restrooms and showers for the homeless. The report mentions that certain jurisdictions are taking measures to alleviate homelessness, including special training for law enforcement and other services. The Civil Grand Jury recommends that County and community law enforcement agencies provide special training for officers to effectively interact with the homeless. The report also recommends that all County and community law enforcement agencies be provided with informational materials on assistance programs for distribution to the homeless.

**Response:**

The Board of Supervisors appreciates the Civil Grand Jury looking into this matter and understands the struggles that take place with trying to address the needs of the local homeless population. The County is currently working on identifying solutions to this issue. Several areas are being explored, which include making navigational services and supportive services more directly available. These are long-term goals that are still in the formative states, but if accomplished, it would go a long way toward moving homeless individuals from the streets into a more stabilized lifestyle. The goal of the County is to address issues with the homeless population from a holistic approach as opposed to a patchwork of various services and resources, Restroom and shower availability will certainly be explored as part of this ongoing project.

Merced County law enforcement works very closely with Behavioral Health and Recovery Services, the Human Services Agency and other departments to effectively interact with the homeless. This relationship helps to ensure that we are providing the best services possible. Additional trainings could be implemented if necessary and if desired by the County Sheriff. Additionally, the Board supports the idea of developing and distributing informational materials to the homeless population regarding available assistance programs.

(Merced County Board of Supervisors, September 19, 2017)

## **RESPONSE #2:**

R2. Requested Response: “The Merced County Sheriff’s Office currently collaborates with several agencies to effectively interact with the homeless. We work closely with Behavioral Health and Recovery Services, The Human Services Agency, The Probation Department, and the Department of Public Works to provide the appropriate resources. If additional training is offered by experts with extensive knowledge in this area, the Merced County Sheriff’s Office would be open to having deputies participate.

R3. Requested Response: The Merced County Sheriff’s Office would welcome informational materials on assistance programs. They could be displayed at the main office and substations and/or given to deputies to distribute when responding to calls involving the homeless, depending on the quantity and type of materials that are provided.

(Merced County Sheriff’s Office, August 11, 2017)

## **INVITED RESPONSE(S)**

The Merced Police Department provides its officers with training in the area of tactical communication which, when applied, allows an officer to effectively resolve conflict and gain compliance verbally without using physical force. The Merced Police Department also continues to work closely with Merced County Behavioral Health Services to provide training to officers and staff on recognizing and responding to mental health issues that are often present with the homeless population. In addition, police department staff receive training on the various resources that are available to the homeless and they are equipped with pamphlets to distribute as needed. A copy of the 2016 Homeless Resource Directory that we currently distribute to the homeless is enclosed for your reference. In addition to the above efforts, the Merced Police Department maintains an active Disruptive Area Response Team (D.A.R.T.) whose main focus is to address quality of life issues within the city of Merced, including homelessness.

(Merced Police Department, August 31, 2017)



# DOS PALOS POLICE STATION

Internal Investigation 16-10-10

## SUMMARY

The City of Dos Palos is a small farming community located on the south side of Merced County. Like so many small communities in the Central Valley, Dos Palos has experienced little growth in population and in revenue. In the past, the City of Dos Palos has had difficulty in fully funding the Police Department. As a follow-up to prior Civil Grand Jury Reports on the Police Department, the Merced County Civil Grand Jury (Grand Jury) voted to proceed with an internal investigation of the Police Department with emphasis on the station facility. The station is located in an older building; however, with cleaning and repair, it could be a functional and safe working environment, as well as something the community can be proud of.

## FINDING(S)

- F1.** That the interior of the police station has not been properly maintained or cleaned on a regular basis.
- F2.** That the evidence is not properly organized.
- F3.** That the police yard, which holds the secured metal storage container and police vehicles, is not a fenced and gated area.
- F4.** That the City of Dos Palos has no debt and has a goal to annex Midway and South Dos Palos.

## FOLLOW-UP

On April 19, 2017, the Grand Jury made a follow-up inspection of the Dos Palos Police Station and noted the following:

- The station was clean and organized.
- The debris and cobwebs were removed.
- The hallways were clear of clutter, and the trash receptacles were emptied.
- The evidence room was organized and the floor cleared.
- The guns were in the process of being inventoried and prepared for destruction.
- The travel trailer had been removed.

## RECOMMENDATION(S)

- R1.** That the police station is cleaned and maintained for safety on a regular basis.
- R2.** That all evidence is organized and properly inventoried on a regular basis.

- R3.** That all evidence and old guns released by the court be destroyed in a timely manner.
- R4.** That the City of Dos Palos find funding to install a fence with a security gate around the police yard.

### **REQUESTED RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the following responses are required:

- Dos Palos City Council respond to F1-F4 and R1-R4 within 90 days.
- Dos Palos Police Department respond to F1-F3 and R1-R4 within 60 days.

### **RESPONSE #1:**

**Response from City of Dos Palos City Council, Police Department**  
September 19, 2017

**GENERAL COMMENT** Thank you for your positive report and acknowledgement of our improvements since your last visit.

Regarding Findings (F) and Recommendations (R):

#### **CLEANING & ORGANIZATION**

**Finding 1** That the interior of the police station has not been properly maintained or cleaned on a regular basis.

**04-19-17 Follow-up** The station was clean and organized. The debris and cobwebs were removed.

The hallways were clear of clutter, trash receptacles were emptied.

**Recommendation 1** That the police station is cleaned and maintained for safety on a regular basis.

**Response 1** We agree. As of today, the responsibility to assign work or contract for services to accomplish proper cleaning and maintenance for safety is given to the City's Director of Public Safety. This responsibility will be reassigned to a new Chief of Police once hired (anticipated January 1, 2018 or sooner).

#### **EVIDENCE**

**Finding 2** That the evidence is not properly organized.

**04-19-17 Follow-up** The evidence room was organized and the floor cleared.

**Recommendation 2** That all evidence is organized and properly inventoried on a regular basis

**Response 2** We agree. As of today, the responsibility for keeping the evidence room organized and properly inventoried on a regular basis is assigned to senior police officer in charge. Upon the hiring of a new Chief of Police, this responsibility may be re-assigned if necessary.

## **WEAPONS**

**Recommendation 3** That all evidence and old guns released by the court be destroyed in a timely manner.

**04-19-17 Follow-up** The guns were in the process of being inventoried and prepared for destruction.

**Response 3** We agree. As of today, the current Chief of Police is directed to complete this process and implement an ongoing procedure for future weapons.

## **YARD AND GATES**

**Finding 3** That the police yard, which holds the secured metal storage container and police vehicles, is not a fenced and gated area.

**04-19-17 Follow-up** The travel trailer had been removed.

**Recommendation 4** That the City of Dos Palos find funding to install a fence with a security gate around the police yard.

**Response 4** City staff will research costs and seek grant or match funding. This recommendation will proceed for council consideration and anticipated funding at the next budget adoption.

## **DEBT AND ANNEXATION**

**Finding 4** That the City of Dos Palos has no debt and has a goal to annex Midway and South Dos Palos.

**Response 5** Thank you for acknowledging our elimination of over \$15 million of debt incurred or borrowed before 1990. This effort alone may have kept our city from bankruptcy during the recent economic crisis. As reported at our interview, we do participate in Water and Wastewater JPA's that have remaining debt service.

**Response #6**

Unification of our communities is indeed our goal. We are currently completing a Municipal Service Review with LAFCO and have been awarded a \$500,000 planning grant to study, test, draft, and design a new water plant.

**Completion of the grant should make the city eligible as disadvantaged for 100% grant funding for a new \$8 million water plant. We believe these and a changing political environment will help facilitate the annexation process.  
END**

(City of Dos Palos City Council, Police Department, September 19, 2017)

# NEW BEGINNINGS FOR MERCED COLLEGE

Internal Investigation 16-10-11

## SUMMARY

News reports about leadership and law enforcement at Merced College was widely publicized in the fall of 2016. The reports about Merced College caused concerns for the students, staff, and community. At the same time, the college was in search of a new President. The law enforcement contract between Merced College and the Merced County Sheriff's Department had also expired. There were reports of inconsistent enforcement of parking policies on the campus. These events triggered an internal investigation by the Grand Jury.

## FINDING(S)

- F1.** That the Merced College Board of Trustees used a well-defined, inclusive process in selecting a new college president.
- F2.** That Merced College administration is taking decisive action to involve the students, staff, and the community with the goals and direction of Merced College.
- F3.** That Merced College law enforcement is reviewing enforcement of parking policies on its campuses.
- F4.** That a new law enforcement contract was awarded to the Merced City Police Department. This contract provides training and purchasing opportunities for the Merced College Police Department.
- F5.** That college administration is planning to renovate existing buildings on campus when funding becomes available.

## RECOMMENDATION(S)

- R1.** That Merced College continue to use an open and transparent selection process for hiring when appropriate.
- R2.** That law enforcement at Merced College continue to update and post its parking policies.
- R3.** That Merced College continue to build a positive relationship with the Merced Police Department to ensure appropriate law enforcement on campus.
- R4.** That Merced College continue making plans to renovate existing buildings to better suit the requirements of a 21<sup>st</sup> century institution of higher education.

## RESPONSE(S)

Pursuant to Penal Code Section 933.05, the following responses are *required*:

- Merced College Board of Trustees respond to F1-F5 and R1-R4 within 90 days.
- Merced College Office of the President respond to F1-F5 and R1-R4 within 60 days.

## RESPONSE #1

This letter is to formally respond and confirm receipt of the internal investigation (16-10-11) titled “New Beginnings for Merced College” conducted by the Merced County Civil Grand Jury (“Grand Jury”). The Merced Community College District (“District”) Board of Trustees have thoroughly reviewed the report, including the findings and recommendations.

In response to findings 1-5, the Board of Trustees are pleased with the outcomes of the investigation and concur with the findings. In response to recommendations 1-4, the Board of Trustees appreciate the due diligence of the Grand Jury and will work with the College President to follow through and address each of them to improve operations and services to the community. Specifically, the Board of Trustees provide the following responses to each of the recommendations:

Recommendation 1: That Merced College continue to use an open and transparent selection process for hiring when appropriate.

Response: The District will continue to adhere to Board Policy (BP) 7120, Recruitment and Selection, and BP 2431, along with the associated administrative procedures, to continue the practice of open and transparent selection processes for hiring new employees.

Recommendation 2: That law enforcement at Merced College continue to update and post its parking policies.

Response: The Merced College Campus Police Department and the District are committed to transparent and updated parking policies for employees, students, and visitors. Currently, parking policies are posted in the parking lots, on the Merced College website (<http://www.mccd.edu/campus-life/parking-transportation.html>), and outlined in BP 6750 and Administrative Procedure 6750.

Recommendation 3: That Merced College continue to build a positive relationship with the Merced Police Department to ensure appropriate law enforcement on campus.

Response: The Merced College Superintendent/President meets regularly with the City Police Chief and City administrators and officials to ensure a positive relationship and partnership with the Merced Police Department. The District is currently in the process of reviewing and revising the established Memorandum of Understanding to strengthen services and the relationship between the two agencies.

Recommendation 4: That Merced College continue making plans to renovate existing buildings to better suit the requirements of a 21<sup>st</sup> Century institution of higher education.

Response: The District is committed to renovation projects and new buildings to enhance the learning experiences of its students. The District is currently in the process of reviewing and revising the comprehensive Merced College Facilities

Master Plan to guide facility projects, expansions, renovations, and bond measures for the next ten years.

Again, we extend our appreciation for the professionalism and thoroughness of the Grand Jury. Please let us know if you need additional information from our Board.  
(Merced College Board of Trustees, August 29, 2017)

## **RESPONSE #2**

The Office of the President provided the same response to the report under his signature.

(Merced College Office of the President, August 29, 2017)



**PROCEDURES THAT GOVERN SAFETY IN SCHOOL SITE SELECTION  
LOS BANOS UNIFIED SCHOOL DISTRICT'S ACQUISITION OF  
CREEKSIDE JUNIOR HIGH SCHOOL SITE  
Follow-up: External Investigation 16-02-05**

**SUMMARY**

The 2017-2018 Merced County Civil Grand Jury (Grand Jury) conducted a follow-up investigation regarding the Los Banos Unified School District (LBUSD) officials' failure to respond to the 2015-2016 Grand Jury report. Response should have been received within 90 days of the report. Pursuant to Penal Code Section 933.05, public officials are required to respond to Grand Jury reports. The original report pertained to Creekside Junior High School in Los Banos, which was constructed in an airport flight zone.

**BACKGROUND**

The 2015-2016 Grand Jury reported on the newly constructed Creekside Junior High School in Los Banos. The school was constructed in an airport flight zone, which is contrary to both the State Department of Education and the State Public Utilities Codes.

The report detailed the process for acquisition of the property without the approval from the state agencies as required by law. Per that investigation and pursuant to Penal Code Section 933.05, the Grand Jury had requested responses by the LBUSD and the Merced County Airport Land Use Commission. At the time of this follow-up investigation, the mandatory response had still not been received from LBUSD officials.

**METHODOLOGY**

The 2017-2018 Grand Jury interviewed LBUSD and Merced County School officials to determine why there had been no response.

**DISCUSSION**

During the original investigation, the 2015-2016 Grand Jury reported that LBUSD had built a junior high school in the flight path of a municipal airport. The Grand Jury report cited safety concerns and failure to follow proper procedures for approval of land acquisition and construction of the school. In its report, the Grand Jury recommended that LBUSD notify parents that the school is in a flight zone. It was suggested a clause be included in school registration documents.

The 2016-2017 Grand Jury, as part of its continuity reporting, visited the site and attempted to obtain the required response from district officials in the spring of 2017. School administrators were unaware of the report, and additional copies were provided at the district level.

During interviews in 2018 with LBUSD leadership, Grand Jury members were informed there was miscommunication amongst staff during administrative changes occurring at that time. In its investigation, the Grand Jury was advised that the new leadership was unaware of the report or that a response was required.

The LBUSD leadership stated there would be a review by LBUSD staff of the original Grand Jury report and request for response. As the commencement of this follow-up investigation, the mandatory response had still not been received from LBUSD officials.

**FINDING(S)**

- F1.** That there was no response by LBUSD to the Grand Jury report 16-02-05.
- F2.** That LBUSD has not informed the parents at Creekside Junior Middle School that the site is located in an airport flight zone.

**RECOMMENDATION(S)**

- R1.** That LBUSD respond to the original Grand Jury report 16-02-05.
- R2.** That LBUSD take appropriate action to notify parents at Creekside School that the site location is in an airport flight zone.

**REQUEST FOR RESPONSE(S)**

Pursuant to Penal Code Section 933.05, the following responses are requested.

- Los Banos Unified School District respond to F1-F2 and R1-R-2 within 90 days.
- Merced County Office of Education respond to F1-F2 and R1-R2 within 90 days.

Responses are to be submitted to the Presiding Judge of the Merced County Superior Court in accordance with Penal Code Section 933.05.

**INVITED RESPONSE(S)**

None

**A FOLLOW-UP TO THIS REPORT**

On March 5, 2018, the Grand Jury received the following response from the Los Banos Unified School District regarding the original 2015-2016 Grand Jury report.

The Findings and Recommendations for the original report were as follows:

**FINDING(S)**

- F1.** LUBSD purchased land in default from a local developer who owed tax assessments to the district.

**F2.** The sole responsibility of the Airport Land Use Commission is to prevent incompatible land use development, and thereby protect the public from both noise and risks. It is also to preserve the utility of airports.

**F3.** The School Site Selection and Approval Guide of the Department of Education states under **Evaluating Safety Factors** that “Safety is the first consideration in the selection of school sites”, and that “in selecting a school site, the selection team should consider the following factors: (1) proximity to airports;”

**F4.** The responsibilities of the school district, the California Department of Education, and the Department of Transportation Aeronautics Program, Office of Airports, concerning a school site’s proximity to runways are contained in Education Code Section 17215 (as amended by Assembly Bill (AB) 747, Chapter 837, Statutes of 1999). (See CCR, *Title 5*, Section 14014011(k).)

### **RECOMMENDATION(S)**

**R1.** MCCGJ recommends that the leadership, as well as the trustees, of the Los Banos Unified School District follow the State Public Utilities and Education Codes when selecting future school sites. The population of Los Banos continues to grow and the need for new schools will continue. These new schools need to be constructed in an area that will provide the safest environment for educational opportunities for all the students of Los Banos.

**R2.** MCCGJ recommends LBUSD be more proactive and informative when purchasing property and constructing new school sites by keeping the public informed.

**R3.** MCCGJ recommends that LUBSD include a clause in its student registration documents stating that the Creekside Junior High School is located in an airport Zone C.

### **RESPONSE FROM LOS BANOS UNIFIED SCHOOL DISTRICT**

“Re: Response to Los Banos Unified School District to Procedures that Govern Safety in School Site Selection Los Banos Unified School District’s Acquisition of Creekside Junior High School Site (External Investigation 16-02-05)

Dear Judge Proietti:

Please accept this letter as Los Banos Unified School District’s (“District”) formal response to the above referenced Grand Jury Report (“Report”) and the request in January 2018 for a formal written response. The District thanks the Grand Jury for providing it with the opportunity to respond to the report at this time, as the District was in a time of leadership transition without a permanent superintendent when the Report was first published. This response is submitted to you pursuant to Penal Code section 933.05. I have thoroughly reviewed the information and recommendations contained in the Report and respond as follows:

### **FINDINGS**

F1: The District disagrees partially with the finding. The District purchased land from a local developer. The District's acquisition of the property upon which Creekside Junior High school is now located was part of a larger transaction involving three parcels owned by the developer and an amendment to a pre-existing agreement requiring the developer to pay school impact mitigation fees to the District. Attached as Exhibit A, please find Resolution 12-13, adopted by the Governing Board on June 7, 2013, describing the acquisition process, including that the District had not yet determined its proposed use of the various parcels and so certain regulatory compliance matters were not yet ripe for consideration.

F3: The District agrees the current version of the School Site Selection and Approval Guide published by the California Department of Education on its website on February 15, 2018, states among other things, what is in this finding.

F4: The district agrees partially with this finding. The responsibilities of the various agencies involved in the school site selection process, and specifically with respect to a school site's proximity to runways, are contained in Education Code section 17215; however, other provisions of law also impact the school site selection process and interplay with Education Code section 17215.

## **RECOMMENDATIONS**

R1: This recommendation has been implemented. Student safety is of the foremost concern for the District and its Board. Rest assured, the District prioritized student safety when it followed the requirements of law set forth in the Government Code to override zoning ordinances and selected to use land it had previously acquired as the location for Creekside Junior High School. Importantly, the Government Code procedure – as applied by the District – provided notice and an opportunity for the Airport Land Use Commission and the public to comment on the site selection in substantially the same manner as the Public Utilities Code process. For future school site selection, the District is committed to utilizing the Public Utilities Code procedure, as recommended by the Grand Jury. Additionally, the District will actively communicate with the Airport Land Use Commission to ensure the District receives the valuable perspective of the ALUC on matters impacting the school district.

R2. This recommendation has been implemented. The District's Board discusses and takes action on school facilities issues during its public board meetings in compliance with the Brown Act. The District solicits public input on school facilities and communicates regularly with its constituents regarding these issues through social media, written correspondence, and community café's or town hall style meetings.

R3: This recommendation has not yet been implemented but will be implemented beginning at the start of the 2018-2019 school year.

We thank the Grand Jury for their hard work reviewing this issue. Thank you again for the opportunity to meet with you and for affording me time to respond to your concerns.”

## **DISCLAIMER**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

