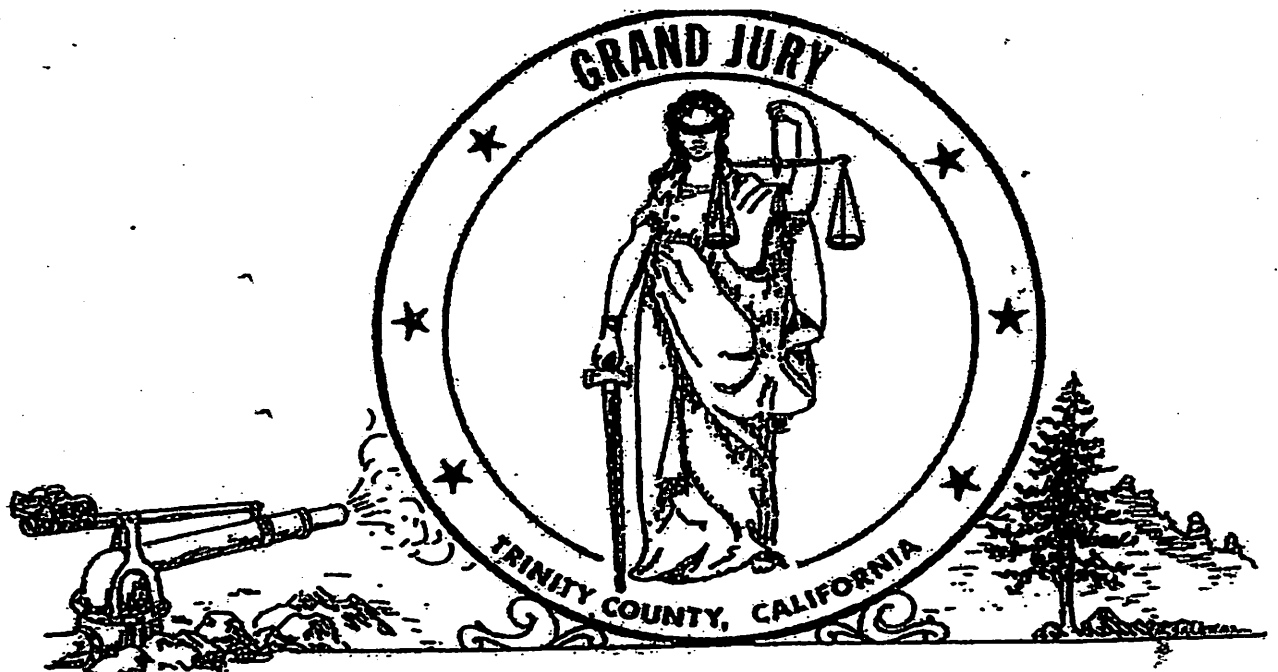


**FINAL REPORT OF THE**  
**TRINITY COUNTY**  
**GRAND JURY**

2014~2015



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***Note: Responses will be uploaded as a separate document once they are received. Please check back periodically.***



## TRINITY COUNTY

TRINITY COUNTY GRAND JURY

**P.O. Box 2308  
Weaverville, CA 96093**

Date June 10, 2015  
TO: Judge Elizabeth Johnson, Presiding Judge  
Trinity County Superior Court

FROM: Julie Dahl, Foreperson  
2014-2015 Trinity County Grand Jury

SUBJECT: Consolidated Final Report 2014-2015 Trinity County Grand Jury

I respectfully submit to you the enclosed 2014-2015 Consolidated Grand Jury Report for your review and transmittal to the Trinity County CAO for publication. Speaking for all my colleagues on the 2014-2015 Grand Jury, it has been an honor to serve this year. This completes my second year as a Grand Jury member.

I commend the outstanding work performed by each of my colleagues, especially our efficient secretary, Dorothy Pelton. I am fortunate to have such dedicated and talented members with which to work. They have spent countless hours researching and producing quality reports. Each member has demonstrated perseverance and determination with a common goal to produce their best work.

This year's Grand Jury strived to fulfill the mission of helping our county government be more accountable and efficient. The reports submitted contain findings and recommendations which have the potential of increasing the efficiency and effectiveness in Trinity County. The goal of this year's Grand Jury was to facilitate positive change.

After your review, the report will be uploaded onto the Grand Jury webpage. Responses will be uploaded as they are received. When all response requests are completed, a hard bound copy will be given to you and any appropriate agency required. It is also our plan to submit a Grand Jury Final Report insert in the Trinity Journal.

Thank you for your support of the Grand Jury. It has been an honor to serve you and the citizens of Trinity County. I would like to acknowledge Staci Holliday, Deputy Jury Commissioner and the CAO staff members for their continued support. It has been a pleasure to work with them and receive their ongoing assistance throughout this year.

With sincere appreciation for all the excellent work you do for Trinity County,

*Julie Dahl*  
Julie Dahl, Foreperson  
Trinity County Grand Jury

## 2014-2015 GRAND JURY ROSTER

<u>NAME</u>	<u>POSITION</u>	<u>TOWN REPRESENTED</u>
Julie Dahl	Foreperson	Lewiston
Robert Taylor	Foreperson-Pro Tempore	Lewiston
Dorothy Pelton	Secretary	Junction City
Martha Bell	Secretary-Pro Tempore	Weaverville
Travis Perkins	Parliamentarian	Weaverville
Whit Ashley	Chairperson	Trinity Center
Sam Frink	Chairperson	Weaverville
Bill Harger	Chairperson	Douglas City
Paul Turner	Chairperson	Burnt Ranch
Charis Stockwell	Chairperson	Salyer
Jean Casey	Member	Trinity Center
Kathleen Diaz	Member	Weaverville
Diana Sheen	Member	Weaverville

## Board of Supervisors

District 1—Keith Groves

District 2—Judy Morris

District 3—Karl Fisher

District 4—Bill Burton

District 5—John Fenley

County Administrative Officer—Wendy Tyler

County Counsel—Margaret Long

Auditor/Controller—Angie Bickle

Clerk/Recorder/Assessor—Shanna White

District Attorney—Eric Heryford

Sheriff—Bruce Haney

Treasurer/Tax Collector—Terri McBrayer

Superior Court Presiding Judge—Honorable Elizabeth Johnson

Chief Probation Officer—Hal Ridlehuber

Department of Transportation—Rick Tippett

Behavioral Health—Noel O’Neill

Child Support Services—Lisa Dugan

Health and Human Services—Christine Zoppi

Ag Commissioner/Sealer—Jeff Dol



RECEIVED

JUN 15 2015

Trinity County  
Board of Supervisors  
By: \_\_\_\_\_

**Superior Court of California  
County of Trinity**

P.O. Box 1258  
Weaverville CA 96093

ELIZABETH W. JOHNSON  
*Presiding Judge*

MICHAEL B. HARPER  
*Judge*

CINDY VAN SCHOOTEN  
*Court Executive Officer*

**MEMORANDUM**

**TO:** Board of Supervisors ✓  
Trinity County CAO  
Trinity County Counsel  
Trinity County Sheriff

**FROM:** Staci Holliday, Jury Commissioner ✗

**DATE:** June 15, 2015

**RE:** 2014-2015 Trinity County Grand Jury Report  
*DER 2014-2015-001 / Environmental Impacts Related to Marijuana  
Grows and Law and code Enforcement Problems Related to Marijuana  
grows*

This report is being provided to your department pursuant to Section 933.05 of the Penal Code relative to grand juries. Penal Code § 933.05(f) requires that grand juries, **following approval by the Superior Court Presiding Judge and at least two working days prior to the public release of the report**, shall furnish each respondent a copy of the report which pertains to the respondent. No respondent shall disclose any contents of the report prior to the public release of the final report.

This report will become a matter of public record on **June 20, 2015**. Sections 933 and 933.05 require you to respond in writing to the findings and recommendations pertaining to matters under the control of you or your department. Your original response should be addressed to Elizabeth Johnson, Presiding Judge of Trinity Superior Court **with a copy to the County Administrative Office "Clerk of the Board"**.

Enclosure

**Development and Environment Committee**

**DER 2014-2015 – 001**

**Final Report**

**Environmental Impacts Related to Marijuana Grows**

**And**

**Law and Code Enforcement Problems Related to Marijuana Grows**

**Approved 06/04/2015**

A handwritten signature in black ink that reads "Julie Dahl". The signature is written in a cursive style with a large initial "J".

**Julie Dahl**

**Foreperson**

## **Investigative Topic #1**

### **ENVIRONMENTAL IMPACTS RELATED TO MARIJUANA GROWS**

## **And Investigative Topic #2**

### **LAW AND CODE ENFORCEMENT PROBLEMS RELATED TO MARIJUANA GROWS**

#### **SUMMARY**

The Trinity County Grand Jury (GJ) investigated the effects of marijuana grows (cannabis cultivation) conducted on privately owned lands within Trinity County. Marijuana (MJ) grows which illegally occur on federally owned land (such as National Forest lands) may affect the County, however these grows are largely outside of the jurisdiction of the GJ. The GJ is not charged with making a value judgment on MJ growing. The GJ recognizes that proponents view MJ as a beneficial medical and/or recreational product that can be grown legally, profitably, and in an ecologically sound manner; whereas opponents view MJ as an illegal drug with negative social and environmental impacts. The GJ is focused on ensuring MJ activities are conducted in compliance with County ordinances while providing for adequate protection from adverse environmental impacts. The investigation focused on two inter-related topics regarding marijuana grows. The first topic was the impacts to the physical, social, and economic environment. The second topic concerned the problems faced by law and code enforcement in assuring compliance with County ordinances.

The GJ wanted to determine why there is widespread illegal MJ cultivation in Trinity County operating as an unofficial “MJ industry” despite the efforts by law and code enforcement to maintain cultivation to levels within the limits set by County ordinances.

The GJ found that the ordinance (Ordinance No. 315-797 of the Trinity County Zoning Code) adopted to control the quantity of MJ cultivation has been ineffective in reducing the quantity of plants to within legal limits on individual privately owned parcels. In addition, the ordinance has not resulted in the elimination of adverse environmental impacts resulting from the larger MJ grow sites. The GJ found that “most” of the Trinity County community is unaware that there is an ordinance to regulate the number of plants per parcel based on parcel size. Also, the GJ found that the funding and staffing to both inspect MJ grow sites and enforce ordinances are insufficient to provide effective environmental protections and legal compliance.

The GJ determined that actions need to be taken to achieve the objectives of the County ordinances adopted to control the impacts of MJ cultivations. MJ cultivations are proliferating beyond the levels allowed under county ordinances. The lack of funding and staffing is a problem that has resulted in foregoing effective law and code enforcement.

The GJ recommends that the Trinity County Board of Supervisors (BOS) become actively involved in working to eliminate the adverse environmental effects of MJ cultivation in Trinity County. Also, the GJ



recommends that the BOS promote a law-abiding environment in regards to MJ cultivation and promote an increase in public awareness and participation in achieving compliance with County ordinances.

## **GLOSSARY**

BLM	Bureau of Land Management (Federal Agency)
BOS	Board of Supervisors (Trinity County)
CAO	County Administrative Officer (Trinity County)
CDFW	California Department of Fish and Wildlife (California State)
CEO	Code Enforcement Officer
CEQA	California Environmental Quality Act
GJ	Grand Jury
MJ	Marijuana
NSO	Northern Spotted Owl
RWQCB	Regional Water Quality Control Board (California State)
SWR	State Water Resources Control Board (California State)
TC	Trinity County
TCB	Toxic Substances Control Board (California State)
USFS	United States Forest Service (Federal Agency)
USFWS	U.S. Fish and Wildlife Service (Federal Agency)

## **BACKGROUND**

### **Introduction**

“Then the whole range, much nearer now, paled into fresh splendor; A full moon rose, touching each peak in succession like some celestial lamplighter, until the long horizon glittered against a blue-black sky.” (From author James Hilton’s 1933 literary masterpiece Lost Horizon.)

This passage portrays the twilight mountain range enveloping the mythical idyllic community of Shangri-La. - a place of quiet pastoral beauty cradling a contented community of self-reliant, self-sufficient citizens. In 1941, eight years after the publication of “Lost Horizon,” Englishman James Hilton was asked what place in all his wanderings was closest to a real-life Shangri-La. His response was, “A little town in northern California. A little town called Weaverville.”<sup>1</sup>

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<sup>1</sup> Unassuming Shangri-La in Trinity Alps/Weaverville blends mystic East, Old West in Gold Rush alchemy,” by John Finn, published August 1, 2004, in SFGATE.

The stunning, rugged beauty of Trinity County in the forested far north of the state is obvious to those born and raised here and those who have chosen to relocate and make it their home. Like the remote and secluded Shangri-La, Trinity County and its County seat of Weaverville are becoming lost to its citizens and to all when the uncontrolled proliferation of MJ cultivation operations bring degradation to the natural environment and pose serious threats to the health, safety, and wellbeing of the County and its residents.

In order to maintain the special qualities of Trinity County, the Grand Jury chose to investigate both the environmental impacts and the effectiveness of law & code enforcement as these are related to large-scale MJ grows.

### **Trinity County History Significantly Bearing on the Issues Addressed in this Report**

For generations, the people of Trinity County were the beneficiaries of a thriving timber industry and a thriving lumber industry. The timber resource was renewable and with thoughtful stewardship practices and sustainable yield logging, Trinity County, its citizens, its resources and the industry were healthy and had a seemingly endless horizon. The sustainability of the industry and good stewardship practices were ensured not only by the desire of the industry and the citizens to have it continue as it had for generations, but by the Z'berg-Nejedly Forest Practices Act (1973) and its implementing Forest Practice Rules, the Timberland Productivity Act of 1982, CEQA in its various iterations since 1970, the Porter Cologne Water Quality Act, the Endangered Species Act, and by a vigilant USFS.

In 1978, governmental policy in forest and wildlife management became more of a “let-burn” policy rather than the aggressive suppression efforts of previous decades. The justification of this new policy was based on the assertion that decades of aggressively fighting forest fires had created huge fuel loads in the national forest and that the annual expense of maintaining the fire-fighting program was too costly.

In the mid-1980's (1985), environmental activists began a national campaign for the protection of the Northern Spotted Owl (referred hereafter as NSO), and by 1990, this political agenda prevailed and the protection of the NSO resulted in the elimination of many millions of acres of timberland on the west coast from harvest potential. “This resulted in an 85% reduction in historic timber sale levels from Federal lands, the closure of lumber mills, the loss of thousands of jobs and the virtual elimination of generated timber receipts to pay for county governments”<sup>2</sup>. Trinity County's current financial peril is a direct result of this history and is exacerbated by the current lawless activity addressed in this Grand Jury Report.

These two policies (the “let burn” policy and the protection of the NSO) combined to result in a loss of millions of acres from timber harvest for the protection of the NSO and an increase in fuel loads in those National Forest lands that would have otherwise been decreased and removed by active forest management. Fuel loads have continued to increase since the establishment of the NSO habitat protections, and as a direct consequence, when fires occur they are cataclysmic events. In 2008,

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<sup>2</sup> Testimony of Sierra Pacific Industries, Tom Nelson, House Natural Resources Committee Field Hearing - Longview, WA May 21, 2012.

California experienced forest fires that began in June and continued throughout the summer, resulting in the loss of 1.6 million acres, the largest number of acres burned in California in a single season.<sup>3</sup> More than 291,000 acres were burned in the Shasta-Trinity National Forest, with Trinity County's Iron Alps Complex consuming 105,805 acres and resulting in the loss of 10 lives<sup>4</sup>; the Lime Complex consuming 98,715 acres and the Lightning Complex burning 86,500 acres.

Based on extensive research, it is believed the greatest threat likely to cause reduction in NSO population in the future will be Barred Owl predation and catastrophic fires.<sup>5</sup> Absent from earlier research that resulted in the NSO protection and proscriptions on timber harvesting, but now the main threat to wildlife, particularly owl population, is any reference to poisons, just the kind of poisons (rodenticide) now being used by MJ growers on both public and private lands.

Wildlife Biologist for the Hoopa Tribe, Mark Higley, BS, MS, has studied wildlife and the environment on the Hoopa Reservation for the past 10 years. His study and research has determined great loss of wildlife due to rodenticide poisoning with 26% of fisher loss and 40% of the Barred Owl. Barred Owl and the protected NSO rely on the same food source - rodents - and fishers are an opportunistic predator who frequently relies on rodents, as well as carrion as their food source.

Rodenticide, as well as massive amounts of fertilizer, pesticides and other dangerous chemicals are always found by those charged with the clean-up of such grow sites, according to people such as Mark Higley, employees of USFS, CDFW, RWQCB and other State and Federal agencies. Rodenticide is made with attractants appealing to its target species, but it also affects additional species whose food sources are rodents, such as owls, fishers, bobcats, in fact the entire bio-ecosystem.<sup>6</sup> The combination of excessive fuel loads in the forest, the lack of viable and beneficial timber management practice, and the massive amounts of dangerous chemicals (rodenticide) being used is the "perfect storm" for environmental disaster for both wildlife and humans in what was once a Shangri-La.

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<sup>3</sup> Fire Seige, June 2008" Periodical, Page 6, Written and printed by the California Department of Forestry and Fire Protection (CAL FIRE), the Governor's Office of Emergency Services (OES), the United States Department of the Interior (National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and U.S. Fish and Wildlife Service) and the United States Department of Agriculture (U.S. Forest Service) with the cooperation of other local, state and federal agencies. Produced in cooperation with the USDA Forest Service, which is an equal opportunity service provider and employer.

<sup>4</sup> "Top 20 Largest California Wildfires," California Department of Forestry and Fire Protection, November 1, 2013 statistics;

<sup>5</sup> "Wildlife in Managed Forests - Northern Spotted Owl" Page 19, Oregon Forest Resources Institute (2007).

<sup>6</sup> Information obtained from April 11, 2015 presentation, "The Environmental Impacts of Trespass - Marijuana Cultivation," given during seminar entitled, "Marijuana and the Environment: Regulation and Responsibility in California," sponsored by the Drug Policy Alliance and Emerald Growers Association.

## Concerns for Degradation of the Trinity County Physical Environment

The Grand Jury was particularly interested in effects of MJ growing to the physical environment as it relates to:

- **Water Diversion and Water Depletion:** Extremely damaging in years meeting annual precipitation rates; disastrous in drought years (Trinity County is presently in the midst of a 4th year of drought, with mandatory statewide rationing imposed in early April); eliminates water for domestic use by rightful users and domesticated animals; heats water and promotes algae growth in riparian waterways, each of which injures and/or kills aquatic and mammalian life, which affects the salmonid population that supports fishing and tourism industries; eliminates water for native flora, legal farming, and ranching.
- **Water Contamination:** When invisible and odorless to animals and humans, it can poison individuals. When known or suspected, it can cause human concern about, and reticence for, the consumption of water and the consequent expense to purchase from an alternate source.
- **Pesticides and Fertilizers:** Poisons wildlife. With advent of rains or irrigation, flows to streams and injures and/or kills aquatic and mammalian life which affects the salmonid population that supports TC's fishing and tourism industries. Contaminates soils. (The following picture was taken on a raid by law enforcement at a Trinity County MJ grow site)



- **Soil Contamination:** Oil, petroleum, diesel, fertilizer, pesticide and other chemical storage and spills and human waste contaminate soils.
- **(Illegal) Substandard Road Building/Grading:** Creates human health and safety risk; creates erosion conditions that cause disrupted soils to flow to riparian waterways in turn causing silting-in, water heating, algae growth, oxygen depletion with consequent injury/death of aquatic/mammalian life, which affects the salmonid population that supports TC's fishing and tourism industries (virtually the only industries remaining to the County since the elimination of much timber harvest potential); reduces availability/fitness for domestic use.
- **(Illegal) Sub-standard Land Clearing:** Leaving site vulnerable to erosion. (The following picture was taken in 2014 in the Trinity Pines subdivision in the Hayfork area of Trinity County.)



- **Non-native soils:** Introduced to the local ecosystem and may include pathogens.
- **General nuisance:** Skunky odor; privacy fences of various, often substandard building materials and quality, creating a visual eyesore.

## Concerns for Degradation of the Trinity County Social Environment

The GJ was particularly interested in effects of MJ growing to the social environment as it relates to:

- **MJ related crimes:** Between 2011 and 2014, 11 murders were committed in TC; 7 of those were MJ related homicides. The murder rate in California (2010 population 37.35 million) is 4.8% per 100,000. The national average is 5.7%. In Trinity County (2010 population 13,786), the murder rate is 3 per 13,000, or 13.89%. By official estimate since the last census the population of the County has steadily decreased by approximately 4%. The rapid expansion of MJ cultivation in Trinity County has occurred between 2005 and present.
- Despite a stated policy of Zero Tolerance, use of marijuana in schools within the County is largely ignored and its use is commonplace. MJ grows are visible along bus routes and within sight and smell of approved bus stops.
- Largely lawless community in Trinity Pines. Planning and Environmental Health are sometimes refused access to properties for routine inspection. Prevalence of weapons and dangerous guard dogs.
- Effects on students' academic participation and the educational system.
- Health related issues from transients – Canine epidemic last year from un-inoculated canines brought into county by transients.
- Board of Supervisors adopting *fait accompli* (a thing already done) attitude that MJ will be legal for all purposes and allowing (sanctioning) various Supervisors to plan for future of TC as a MJ Industry when this is not currently the law.

## Concerns for Degradation of the Trinity County Economic Environment

The Grand Jury was particularly interested in effects of MJ growing to the economic environment as it relates to:

- **Drain on County resources with no offset of financial contribution to the Community/County:** Any income (property tax, permit application fees, etc.) received by the County from growers and their employees is disproportionate to the monies the County spends in law enforcement costs, including funds paid to public defender for defense of those arrested on MJ related or associated charges who claim indigent status, increase in County aid (TANF, public assistance, etc.) and the cost of law enforcement, clean-up of grow sites after arrests are made, or more often, abandonment of property, and housing of defendants in county jail while awaiting trial.
- Influx of transient population as MJ trimmers (referred to as “Trimmigrants”) that use local resources, but contribute little except limited retail purchasing.

## Concerns for Providing Effective Law and Code Enforcement

This section is provided not only as background information for a better understanding of the Report, but also to provide the public with important information concerning existing laws. There is a grave misunderstanding of the law as it relates to Trinity County by, most significantly, those who cultivate and traffic in MJ sales and transportation.

Trinity County currently has an inability to enforce MJ related laws. The issues created by illegal MJ grows within TC and on Federally administered lands contained within TC borders are of such a massive scope (numerically, geographically and financially) that enforcement of the applicable laws by Law Enforcement, District Attorney's Office and Code Enforcement has been ineffective.

1. **Federal Law:** MJ is a Schedule I (and for some purposes a less restrictive Schedule III) drug under the **U.S. Controlled Substances Act** (21 USC §801 et seq.). "Possession, sale, distribution and transportation of marijuana, medical or otherwise, remain completely illegal under federal law."<sup>7</sup> This is so even in states/jurisdictions within the U.S. that have enacted laws providing for legal medicinal use of cannabis and legal cultivation for such use within the state (California) and in states that have much more broadly decriminalized it within the state (Colorado, Washington).
2. **State Law:**
  - a. **Proposition 215** ("Compassionate Use Act of 1996"; California Health and Safety Code, §11362.5) allows the possession and cultivation of MJ, **only** by patients and their primary caregivers, **only** for the patients personal medical use and **only** with the recommendation or approval of a California licensed physician, and the subsequent enactment of,
  - b. **SB 420** (enacted as California Health & Safety Code §§11362.711362.83) "... broadens Prop. 215 to transportation and other offenses in certain circumstances; allows patients to form medical cultivation 'collectives, or 'cooperatives'; and establishes a voluntary state ID card system run through county health departments. SB 420 also establishes guidelines or limits as to how much patients can possess and cultivate. Legal patients who stay within the guidelines are supposed to be protected from arrest."<sup>8</sup>
3. **Local Law:** TC has a "Marijuana Ordinance" (Ordinance 315-797) which limits, based on the size of ones parcel of land, the maximum number of plants (indoor or outdoor) in a grow to 8 plants within a parcel which has a residence.
4. **Natural Law:** Every civilized society is ruled by its laws and so it has been since the dawn of the first civilized society in the Mesopotamian valley (Hamurabi's law). We are all guided by "Natural Law" as well, which compels us to do what is right and good for our fellow man and the

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<sup>7</sup> "CALIFORNIA NORML ADVICE FOR MEDICAL MARIJUANA PROVIDERS," subsection entitled, "FEDERAL LAW" California NORML website (<http://www.canorml.org/prop/collectivetips.html>).

<sup>8</sup> CALIFORNIA NORML Patient's Guide to Medical Marijuana," subsection entitled, "PROPOSITION 215?" California NORML website (<http://www.canorml.org/medical-marijuana/patients-guide-to-california-law>).

community at large. In simplest terms, natural law and man-made law are merely the embodiment of society's recognition of what is good, right and fair. Even in those instances when a technical law, regulation or ordinance is unknown, when one chooses his own interests over what is good, right and fair to his/her fellow man and society at large, such conduct is violation of natural law.

Accordingly, the growing of marijuana for commercial purposes in TC is not only a violation of Federal law, but of State law, local law and, in light of the environment, societal and financial issue created by the illegal MJ growers, a violation of Natural Law.

### **Topics Investigated:**

1. What is the nature and extent of environmental damage being caused by (rampant) illegal MJ grows in TC? What efforts is the county undertaking to address these issues? Are these efforts successful and are they sufficient?
2. What laws are being violated as a result of rampant illegal MJ grows in TC? What law enforcement efforts have been/are being undertaken and are they successful?
3. What is the societal impact on TC of rampant illegal MJ grows in the county? What efforts is the county undertaking to address these issues? Are these efforts successful and are they sufficient?
4. What are the financial repercussions on TC from rampant illegal MJ grows in the county? What efforts are the county undertaking to address these issues? Are these efforts successful and are they sufficient?

### **METHODOLOGY**

The GJ reviewed reports, photographs, and literature produced by various County, State, and Federal Agencies related to the cultivation of MJ. Included in the review: Trinity County Ordinance 315-797, Trinity County Planning Commission proposed ordinance regarding aggregate grows, State Water Quality Control Board advisory If you grow, things you should know and State and Federal law and guidelines regarding marijuana growing and transportation. Additionally, the GJ interviewed county elected officials and employees of the county who are directly involved with the decision-making, enforcement, and inspections of the impact of MJ growing within Trinity County.

Included in the interviews were incumbent and past members of the Board of Supervisors and Planning Commission, heads of departments and employees whose duties include permitting, enforcement and environmental effects of MJ in Trinity County. Also included in the GJ interviews were visits to various Trinity County departments, a review of County job descriptions, and statistical information from those departments regarding complaints, permits, and other documentation relating directly to MJ.

The GJ researched from various sources, including attendance at public meetings as private citizens, the perception and promotion of MJ, and the attempts to influence or write policy regarding MJ. The GJ



sought advice and clarification from legal counsel, including the county counsel and the District Attorney regarding current law, and its enforcement and funding for such enforcement. GJ research included reviews of various publications such as the Two Rivers Tribune, The North Coast Journal, The Times Standard, and the Trinity Journal. The GJ also sought and received statistical information from State and Federal sources, County law enforcement reports, and local schools representatives. The information solicited was relative to the impact of MJ specific to Trinity County. Any information gathered relating to State or Federal jurisdiction has not been included in this report, except where it relates to jurisdictional overlap within Trinity County by one or more agency.

## **DISCUSSION**

### **Ordinance No. 315-797**

Trinity County Ordinance No. 315-797 was passed and adopted by the Board of Supervisors on June 5, 2012. This ordinance has two distinct purposes and intents. First, to recognize the medical need for MJ as approved in the State of California Proposition 215 and Senate Bill 420 (which allow qualified patients and primary caregivers to use and cultivate MJ for medical purposes without fear of criminal prosecution under limited, specified circumstances). Second, to enact regulations to control the deleterious impacts (such as adverse impacts to water quality & quantity, wildlife, natural vegetation clearing, soil erosion, smells, visual quality, etc.) which would be detrimental to the public health, safety, and welfare of the Trinity County environment.

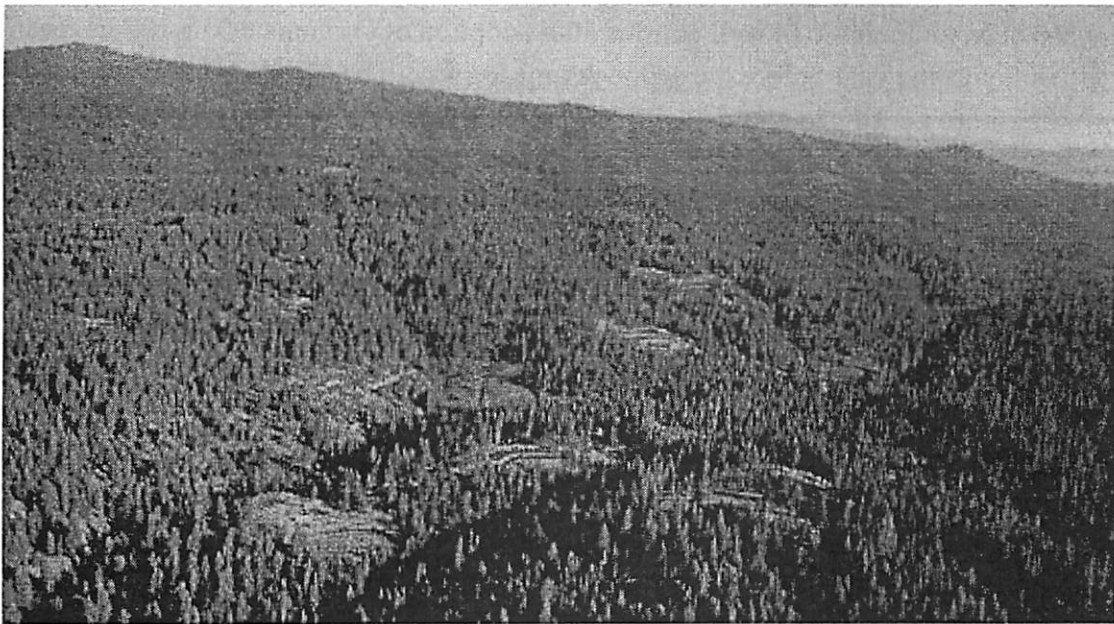
However, Trinity County has experienced a proliferation of large MJ cultivation operations that are not in compliance with Ordinance 315-797. The ordinance specifies that MJ grown on any parcel shall not exceed the following number of plants or square footage in size:

- For parcels of one acre or less, two marijuana plants or 50 square feet;
- For parcels between one acre and 2 ½ acres, four plants or 100 square feet;
- For parcels between 2 ½ and five acres, six plants or 200 square feet;
- For parcels between five and ten acres, six plants or 300 square feet;
- For parcels of ten acres or greater, eight plants or 400 square feet.

Trinity County Planning Commission recommended an aggregate grow ordinance in July of 2012 that would allow up to 99 plants within 2500 square feet if properly zoned with a residence on the property, proper sanitation, water quality protections, etc. However, the Board of Supervisors did not adopt this recommendation and there is no aggregate grow allowance in existing laws and regulations. Estimates received from interviewees and from observations in the investigation of MJ cultivations indicate that over 95% of the MJ grown on Trinity County privately owned lands is grown in excess of the number and square footage allowed in Ordinance 315-797 by parcel size. “Most” parcels with MJ grows include 90-99 plants; “many” parcels have 100 to 1000 plants; “some” parcels may have more than 1000 plants. Due to the unlawful nature of the quantities of plants involved, the “exact” numbers of parcels with illegal grows is unknown – but the “black market” value of the MJ product in Trinity county has been estimated in the hundreds of millions of dollars annually.

## Impacts to the Trinity County Physical Environment

Trinity County is known for its scenic and forested mountain landscape. Residents and visitors alike are drawn here to enjoy the beauty of the landscape, the water quality, the wildlife, the fisheries, etc. In the development of Ordinance 315-797, the Planning Commission and Board of Supervisors received “considerable and extensive public comments....that the deleterious impacts of marijuana cultivation....are fully confirmed and supported by the great weight of evidence” (regarding effects to the county’s unique physical environment). Clearly, the intent of the ordinance was to control detrimental MJ cultivation operations and maintain the physical environment in its natural high quality condition.



Congressman Jared Huffman took the above photo of the Trinity Pines area in 2014. His bird’s eye view inspired the following observation (from his official Facebook page):

*En route to the bust on federal wilderness land, we flew over a prime example of the other problem with our incoherent marijuana policy. These are not trespass grows; this is a subdivision. It’s the “Trinity Pines” neighborhood where every “house” is a pot farm pretending to be in compliance with Prop. 215 — a thin veneer for cartel drug trafficking. Note all the cut trees and exposed ground. Likely includes illegal water diversions and poorly managed fertilizer/pesticide use.*

There are no County permits which specifically allow for MJ cultivation (Federal laws do not allow “permitting” cultivation of an “illegal” substance). MJ growers may opt to forego applications for other “required” County permits (such as those for water, sewage, and building) to avoid drawing any attention to illegal grows. Violations for illegal use of recreational vehicles, building without a permit, discharge of sewage, dumping, road encroachment or roadbuilding, and well drilling, etc. may be peripheral activities that frequently exist without County approval for assuring environmental protection.

One way to possibly gauge the effectiveness of Ordinance 315-797 in limiting the degradation of the physical environment might be to compare the number of water wells drilled before and after the adoption of the ordinance in 2012. That is, the scale of the increased MJ cultivation may be relative to the increase in well drilling permits. In 2014, the County received an all-time high 260 requests to permit well drilling (mostly in the Trinity Pines subdivision between Hayfork and Forest Glen), whereas only 24 septic permits were received.

<u>YEAR:</u>	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<u>WELLS*</u> :	30	64	59	73	64	76	93	82	111	150	260
<u>SEPTICS**</u> :	17	115 *	63	49	37	37	45	35	29	25	24

\* note that there has been an increase in well permits after adoption of Ordinance 315-797 in year 2012.

\*\* note that year 2005 was the year before the septic permit fee was to be significantly increased by \$444 (therefore, there were more permits to avoid paying the increase).

The increase in wells is generally considered to be due to increased MJ cultivation and not due to construction of residences (note that Ordinance 315-797 requires a residence and sewage/septic in order to have a MJ grow on a private parcel). In addition, the recent banning of outdoor MJ grows in other Northern CA counties (Shasta, Tehama, and Butte) may be resulting in even more MJ growing in Trinity County; approximately 70 well permit requests have been received in the first 3 months of 2015.

The question to be asked is, “Does the adoption of Ordinance 315-797 assure adequate protection of the physical environment from detrimental MJ cultivation operations?” In order to provide assurance that detrimental impacts are mitigated and that environmental quality is maintained, a method of continuous checking on potentially detrimental operations is needed. To date, staffing and funding to inspect cultivation activities has not increased above pre-ordinance levels, resulting in resolving impacts to the physical environment being virtually unchanged. Trinity County personnel who are involved in checking activities which are occurring under a permit are focused on inspecting and reporting on the permitted activity – the consensus is that if they reported MJ grows wherever encountered, then fewer “permitted” activities would be inspected for compliance and site visitations in general would be “threatening” and in need of law enforcement accompaniment.

### **Impacts to the Trinity County Social Environment**

Due to the illegality of MJ, some cannabis farmers tend to be armed and to smuggle the marijuana out of state for sales and distribution. Since prohibition is the law, the drug trade involving MJ has been driven underground. According to the Drug Policy Alliance (the “nation’s leading organization promoting drug policies”), the prohibition of marijuana is “creating a violent illicit market that is responsible for far too many lost lives and broken communities”. Incidences of violence and corruption within Trinity County are likely tied to the cultivation, sales, and distribution of MJ.

Visitors to Trinity County generally come here to enjoy the magnificent alpine natural environment. Their safety (as well as that of residents out for recreation) may be compromised while walking in the

vicinity of MJ grows along with their enjoyment should they notice the detrimental effects to the physical environment.

Casual observations of the downtown areas within the area (such as Hayfork, Weaverville, and Salyer/Willow Creek) reveal an increase in transient laborers, a growing “criminal element”, RV residents, and trash which are likely increasing due to the large scale of MJ cultivation present.

Investigations by the GJ have revealed that there is a “laissez-faire” attitude in Trinity County schools regarding MJ cultivation and use (i.e. MJ is “here to stay, so tolerate it”). Incidences have been reported of students being “high” or “stoned”. Possession of MJ in schools is discouraged but seldom investigated. Students report-making good money from cultivating and trimming MJ. Motivation for students to pursue higher education is compromised by the lure of making more money in the “MJ Industry” than in a career requiring a college degree. Few students are aware that MJ is illegal – it has become the “norm” to acquire a 215 card to permit use and cultivation in the Trinity County environment.

### **Impacts to the Trinity County Economic Environment**

According to the Drug Policy Alliance, MJ is recognized as the “nation’s largest cash crop”. Recreational and medicinal uses of MJ provide the “demand” for this crop, but financial gain is the driving force behind the proliferation of MJ grows in Trinity County. At least two members of the BOS are participating in an open dialog with the local cannabis industry with the goal of creating the legal framework to move forward with the transformation of the medical cannabis industry into a viable means of livelihood for many Trinity County residents. The ramifications of “legalizing” the local cannabis industry is subject to conjecture since legalizing would likely stimulate large industries (such as Monsanto and Philip Morris industries) to compete for the economic benefits of selling cannabis. Estimates of recent revenues derived from the sales and distribution of MJ grown in Trinity County are estimated to be in the hundreds of millions of dollars.

Since total receipts or individuals’ income tax filings for MJ related profits are not reported, it is difficult to quantify the scale of the MJ industry. However, it is apparent that many families in Trinity County are dependent on the sale of MJ for their livelihood – and some likely receive large financial rewards for their involvement in the MJ industry. Large drug cartels have been reported as active participants in the MJ industry – with profits going to their organizations and not staying to benefit the local economy.

There are benefits to local merchants who provide materials to growers. There are no school year benefits to increased class sizes in schools (California bases financing for schools on average daily attendance – ADA) because school enrollment fluctuates with an increased number of students at the start of school in the MJ harvest/trimming season (materials and books are purchased for students who are only in school for the first two months of the school year). Fluctuating school enrollment due to the transient nature of the MJ trimming workforce forces schools to provide for the largest number of students enrolled (costs in books, supplies, chairs, desks, room sizes, etc.) without year-long ADA reimbursement from the state.

There are no taxes received from the sales of MJ which would provide (County) government services. County monies are used to finance the sheriff's department for providing law enforcement to control the "criminal" sales and distribution of MJ as well as finding and removing unlawful MJ grows. There are no County revenues from permits directly related to "profit making" MJ grows. Code enforcement inspection costs incurred to visit known MJ grow sites (such as in the Trinity Pines subdivision) are higher than other site visit costs because law enforcement "backup" is required to assure protection to County permit compliance inspectors. In summary, until MJ laws, decriminalization, and/or legalization of marijuana are changed, direct costs to local communities (including law enforcement costs to police criminal activity and the opportunity cost of losing tourist revenue) are greater than the economic benefits.

### **Problems faced by Law and Code Enforcement**

Trinity County's total land area is 3,178 square miles (roughly the size of Vermont). The Sheriff's Department employs a total of 18 law enforcement personnel including 3 drug enforcement officers and 1 code enforcement officer. The size (requiring much travel time) and scope (many grows, difficult terrain, potentially dangerous confrontations) of controlling MJ cultivations is generally considered to be beyond the capacity of County law and code enforcement. This is exacerbated by the fact that there is a large portion of the local citizenry who consider MJ cultivation to be a legal industry and that "big money" in a "black market" product is the wave of the promising future. In addition, the funding to the sheriff's department for enforcement of Trinity County MJ-related problems has been decreasing.

MJ is illegal under current law. Proposition 215 did not "legalize" MJ, but it did provide a legal defense to enable persons in medical need to grow and use MJ without fear of criminal prosecution. The sheriff's department and all branches of county government are required to enforce laws that exist and not laws that are "anticipated" such as MJ legalization in CA in November 2016. To manage within its limited staff and budgets, the sheriff's department has been forced to focus most of its efforts on the "spirit" of the existing laws and pursue removal of "large" MJ plantations (such as those with hundreds or thousands of individual plants) as a priority over "small" plantations (such as those with less than 20 plants). The larger MJ plantations are generally "civil" as well as "criminal" violations (which may result in an arrest).

	<u>Grow sites</u>	<u>Cultivated Plants</u>	<u>Arrests</u>	<u>Weapons seized</u>
2012*	31	46,972	90	39
2013*	61	162,772	71	50
2014*	29	127,887	58	29

\* Statistics are for Trinity County, including activities on private and public MJ cultivation sites. Also, the number of Grow sites encountered is related to the funding available for enforcement, which may explain why there were fewer grows abated in 2014 and the number of cultivated plants per grow were higher than in 2013 (focus on larger plantations).

The smaller plantations are generally “civil” violations - violating a land use ordinance. Generally, “civil” violations are only pursued after a complaint (“complaint-driven” investigation) is received and the grow is considered a land use “nuisance”. Smaller plantations are frequently ignored in Trinity County because the general public has “given up complaining” due to no action being taken to mitigate the problem. For example, there were 72 Notices of Violation of the MJ Ordinance (Ordinance 315-797) issued from 2012 to 2014. To date, there have been no hearings or abatement orders issued by the County partially due to the statutory timeline for due process. The administrative procedure to provide “due process” is lengthy, sometimes appearing non-functional. In most cases, plantations have been harvested before the administrative process could be completed. Not coincidentally, there have been no visitations to the Trinity Pines subdivision by code enforcement regarding marijuana complaints. Such is the situation when “complaint-driven” enforcement is the rule and “awareness-driven” enforcement is the exception.

Law and code enforcement effectiveness is largely dependent on the political will of the governing bodies within the county. A large portion of the Trinity County populace holds a philosophy that regulations and government interference infringe on constitutional rights and individuals’ freedoms. Consequently, the governing bodies may become hesitant to provide the means necessary to finance and staff the departments implementing the regulations and “interfering” with politically popular activities.

County Code 8.90 authorizes the assessment of civil fines to ensure regulation compliance and deter violations. However, MJ Ordinance fines (fines are \$100/day whereas individual plants may be worth as much as \$3000) are seldom assessed and have not proven to be a deterrent, MJ Ordinance regulations are given a low priority for enforcement, and MJ Ordinance violations in regards to the number of parcels having excessive plants are rampant. Given the existing environment of staffing and funding available for law and code enforcement, the GJ considers improvement in resolving the MJ problems necessary but unlikely under the current ordinance.

### **County Multi-Disciplinary Oversight Responsibilities & Relationships**

The violations of law and environmental degradation resulting from the profusion of illegal marijuana grows in TC is identified throughout this report. Following is a chart identifying topics covered by existing TC ordinances which bear upon such violations of law and environmental degradation. Also identified within the chart is the respective agency with potential responsibility for enforcing each ordinance.

Due to the scope of the issues created by illegal marijuana grows and the lack of law enforcement resources needed to combat these issues, the number of, and the problems resulting from, illegal MJ grows have mushroomed in TC in the last 10 years. It is readily apparent that this expanding problem cannot be remedied through law enforcement and criminal prosecutions alone. Accordingly, it is imperative that the identified county agencies responsible for code enforcement through civil abatement actions take a more active role in ensuring compliance with the county ordinances referenced below.

Effective code enforcement involves a two-step process of:

1. Citing the individual responsible for the county code violation/environmental degradation.
2. Initiating and following through on civil actions to abate the code violations/environmental degradation. Within this approach is the potential for imposing and collecting civil fines.

**Table 1. Trinity County Multi-disciplinary Oversight Responsibilities and Relationships. This table was developed in collaboration with those Trinity County offices and agencies listed across the top.**

MITIGATION ISSUES	Code Enf.	Sh er	Pl an	E n v	Bl dg	P u b	B O S	S W R	F & W	T S B	CA O
illegal sales		x				x	x				
water diversions				x		x	x	x	x		x
water depletion				x		x	x	x	x		
soil pollution				x		x			x	x	x
stream contamination				x		x		x	x		
pesticides/rodenticides				x			x		x	x	
nuisance	x	x		x		x	x				x
sight	x	x				x	x				
scent	x	x	x			x	x				
stream crossings						x	x	x	x		
sediment discharge				x		x	x		x		x
illegal ponds								x			x
maladroit road building						x	x				
erosion control				x	x	x	x	x	x		x
mud slides				x		x	x	x			
runoff control				x		x		x	x		
stream degradation				x		x	x	x	x		x
sanitation	x		x	x	x	x	x				x
human waste disposal	x	x		x						x	
trash	x	x		x							
fire permits						x	x				
legal residence requirement	x		x	x	x	x	x				x
septic tank requirement	x		x	x	x		x				
minimum square footage	x		x		x		x				
permit	x		x		x		x				
toilet	x			x	x						
zoning	x		x	x	x		x				
child welfare	x	x		x		x	x				
habitat destruction		x		x	x	x	x		x		x
illegal hunting/fishing		x				x	x		x		
fuel storage	x	x	x	x	x					x	
water rights violation		x					x	x			x
deforestation				x		x			x		
public safety	x	x		x		x	x				x
violence/criminality	x	x		x							
wells/water table depletion	x			x		x	x	x			
threat to protected wildlife				x		x			x		
RV permits	x		x	x		x	x				x
RV sanitation permits	x		x	x			x				x
garden visibility	x	x				x	x				x
encroachment permits					x		x				
land conversion		x				x	x				
appropriate 215 scripts		x					x				
lot size/plant population	x	x	x	x		x	x				x
primary caregiver falsification		x					x				
qualified patient falsification		x					x				

## TRINITY COUNTY AGENCY --- AREAS OF RESPONSIBILITY

Code Enforcement Officer (code enf.)... Interpret and enforce all county regulatory codes, respond to inquiries and citizen complaints, patrol, and investigation.

Sheriff (sheriff)... Chief County law enforcement, prevention, detection, protection of life and property, enforcement of criminal statutes, investigation of known or suspected criminal activity.

Planning Department (plan)... Ensures orderly use of land, zoning enforcement, permits, building inspection, environmental reviews, special use permits, site development, interpret laws and ordinances.

Environmental Health Director (env)... Inspections, investigations, interpretation of health laws, regulations, rules, sewage disposal, water supplies, wells, solid waste, substandard housing, initiation of non-compliance legal actions, filing criminal complaints, develop abatement recommendations, issue permits, detect unsanitary conditions.

Building Inspector (bldg)... Construction compliance, construction quality and methods, follow-up to ensure changes, inspections, zoning, health, safety standards.

Public (pub)... Observation, complaints, follow-up, address officials, letters to the editor of Trinity Journal, neighborhood groups, confidential complaints to appropriate offices.

Board of Supervisors (BOS)... Executive role for county, sets county priorities, supervises official conduct of county officers and employees, controls all county property, appropriates for programs that meet county resident's needs, impose or increase a tax, assessment, or fee as allowed by constitution or legislation and approved by voters, can consolidate county offices (see AB 1318, CH 407).

State Water Resources Control Board (SWR)

CA Dept. of Fish and Wildlife (F&W)

Toxic Substances Control Board (TSB)

County Administrative Officer (CAO)... Facilitate the implementation of the policies of the BOS, coordinate the work of all county departments, coordinate the overall administration of county government, analyze issues, and make recommendations to the BOS.

## **FINDINGS (F) and RECOMMENDATIONS (R) specific to Topic #1: ENVIRONMENTAL IMPACTS**

The recommendations are focused on problem-solving and many effective changes could be accomplished with minimal or no additional funding as administrators and department heads use the very capable County personnel for creative and improved oversight. The GJ recognizes that implementation of the following recommendations (which include targeted implementation dates in brackets such as [July 2015] to discourage delay) may involve commitments of funding and staffing. Previous GJ recommendations have been dismissed due to the unavailability of funding and staffing. The 2014-2015 GJ sincerely hopes that the Trinity County Board of Supervisors works diligently to implement the recommendations to keep our "Shangri-La" County environment both beautiful and lawful.



**F1. The GJ finds that there is no oversight entity specifically involved to provide a plan for MJ controls and develop ordinances to limit adverse environmental effects.**

**R1. The GJ recommends that the County form an interagency task force (including State, Federal, and local citizens) to provide a plan for MJ controls and develop ordinances to limit adverse environmental effects. [July 2015]**

**F2. The GJ finds that there is no specific Trinity County permit for medical MJ cultivation which might encourage compliance with SB 420 Cultivation Guidelines and County Code 8.55 (June 2012) that limit MJ grows to no more than eight plants (or 400 square feet) for parcels 10 acres or greater.**

**R2. The GJ recommends that the County prepare for changes in MJ laws which may allow for issuance of a permit specific to MJ cultivation. It would not be appropriate to issue a permit at this time (Mendocino County tried this and it met with much resistance since Federal laws currently classify MJ as an illegal drug). [by the Task Force, September 2016]**

**F3. There is no “aggregate grow” allowance which would permit MJ gardens to have excessive plants beyond the numbers specified in Ordinance 315-797.**

**R3. The GJ recommends that the County continue with Ordinance 315-797 and not adopt the aggregate grow ordinance as approved by the Planning Commission on July 12, 2012. Trinity County is a rural community where virtually anyone can find a plot or caregiver to grow the needed MJ. Allowing aggregate grows may lead to further proliferation of large MJ cultivations for black market profits. [No action needed]**

**F4. Trinity County Ordinance 315-797 is enforced primarily following a complaint received by the Planning Department – it is a “complaint-driven” enforcement, not an “awareness-driven” enforcement.**

**R4. The GJ recommends that the County enforce Ordinance 315-797. Secure the necessary funding & staffing (using staff available as identified in Table 1) as soon as possible. Non-compliance with the Ordinance may be a “civil” offense; MJ cultivation involving hundreds or thousands of plants may be a “criminal” offense. In either case, offenses that are “tolerated” are a detriment to the County environment and a law-abiding society. [July 2015]**

**F5. Environmental effects resulting from MJ grows are rarely monitored. Only MJ sites that have actual permits or permit applications for related activities are visited. (Violations for use of Recreational Vehicles, water impacts, buildings, sewage, dumping, roads, etc. are noticed randomly as County inspectors visit the sites).**

**R5. The GJ recommends that the County establish a formal registration system of growers identifying legal owners, APN of parcel, and evidence of Proposition 215 and SB 420 compliance. Environmental effects would be monitored by County Environmental Health and necessary mitigation measures to prevent adverse impacts would be implemented. [July 2015]**

**F6.** There is no monitoring on groundwater effects or depletion as the result of a large increase in wells for MJ cultivation within any area. The CA State Regulations rule water resources within all CA counties. No “sensitive aquifers” are identified within Trinity County which might limit the proliferation of water wells

**R6.** The GJ recommends that the County proactively work with CA State water regulators to evaluate the sensitivity of Trinity County water resources. The importance of eliminating adverse impacts to groundwater, rivers, streams, anadromous fisheries, and lakes cannot be overstated. [Ongoing, beginning July 2015]

**F7.** The impacts to wildlife from pesticide use in the vicinity of MJ grows are not monitored.

**R7.** The GJ recommends that the County develop a reporting system to notify the US Fish and Wildlife Service and CA Dept. of Fish and Wildlife of the locations of known MJ cultivation sites so that monitoring of non-target poisonings to wildlife can be initiated. County employees would provide this information while retaining anonymity. [August 2015]

**F8.** There is no “camping ordinance” (as of this writing in April 2015) to control the occasional public nuisance resulting from transients (including transient laborers sometimes called “trimmigrants”) who often work in the MJ industry. In some areas, a “Fishing Access Ordinance” is the only regulation which authorizes County officials to move campers out of public areas.

**R8.** The GJ recommends that the County draft and adopt an ordinance which specifies all areas where camping is not allowed. The ordinance would include enforcement and penalty guidelines. [August 2015]

**F9.** There is no County ordinance to control clearing the vegetation from parcels of land for large MJ cultivations – the only regulations are from CALFIRE for timber-related operations.

**R9.** The GJ recommends that the County adopt a grading and land management ordinance so that unacceptable impacts to soil water resources can be avoided. Coordinate the development of the ordinance with CALFIRE, Soil Conservation Service, and State Water Quality Control Board. [September 2015]

**F10.** Tracking of code violations from Notice of Violation through resolution is inadequate, allowing violations to remain unresolved in the complexity of the statutory process.

**R10.** The GJ recommends that the County review existing computer software programs and/or develop a software program to track all phases of code violations. The intent is to resolve violations swiftly. (There were 72 violations of Ordinance 315-797 cited from 2012 to 2014; to date, none have been resolved). [July 2015]

F11. Visitors to Trinity County have experienced undesirable impacts to the natural resource environment, threatening encounters with defensive growers, and a lower quality downtown environment which may be exacerbated by the participants in the cannabis industry.

R11. The GJ recommends that the County develop a “complaint system” whereby local citizens and County visitors can easily report areas of undesirable impacts and/or unpleasant encounters. Follow-up by the appropriate County personnel would be needed to resolve these matters. (A Complaint Form titled “Trinity County Grand Jury Complaint Form B” has been developed and is included in the Appendix of this report). [August 2015]

F12. Students in Trinity County schools experience negative MJ-related effects in both decreased academic motivation and in participation in an illegal economic industry.

R12. The GJ recommends that the County increase its involvement in MJ education in Trinity County schools. Emphasis needs to be placed on the illegal status of MJ, the County Ordinances applicable to MJ, environmental effects, and non-target impacts to wildlife. Involvement from the “Task Force” from Recommendation R1 would be appropriate. [August 2015]

F13. The MJ industry derives large sums of money from sales and distribution, yet the County receives very little benefit from the profits involved due to inadequate fines and collections.

R13. The GJ recommends that the County prepare for changes in MJ laws which may allow for counties to collect taxes (as Colorado does) from legal MJ activities. [October 2016]

## **FINDINGS (F) and RECOMMENDATIONS (R) specific to Topic #2: LAW AND CODE ENFORCEMENT PROBLEMS**

The Grand Jury recognizes that Trinity County personnel at all levels could assist in reporting, investigating and/or abating many “civil” violations that are in non-compliance with County Ordinances. To do so is within the supervisory control of the individual County Agencies and Departments. (Refer to the Interrelationships on Table 1)

F14. The size and scope of controlling MJ cultivations is beyond the capacity of County law and code enforcement. Trinity County is a large geographic area that is expensive to administer due to the time and distance between code enforcement personnel and MJ grow sites.

R14. The GJ recommends that the County aggressively pursue all avenues of federal and state assistance to provide resources to control illegal MJ grows. The “problems” associated with the illegal MJ industry affect areas beyond the boundaries of Trinity County, so federal and state intervention is warranted. [July 2015]

**F15.** Enforcing Trinity County Ordinances and providing MJ-related law enforcement is entirely dependent on the staffing and funding available to inspect, monitor, correct non-compliance, and (if necessary) prosecute violators. Inadequate funding and staffing has resulted in inadequate enforcement. Staffing available to do this work is relatively low and the trend is a decreasing budget and workforce.

**R15.** The GJ recommends that the County increase its emphasis on providing its citizenry with a law abiding environment by ensuring adequate staffing and funding is available for MJ-related ordinance and law enforcement. County staff at all levels needs to be trained and involved in reporting ordinance violations and illegal activities. [August 2015]

**F16.** County personnel may face dangerous situations upon visiting illegal MJ grows. Guns, dogs, “booby traps”, and defensive people are intimidating obstacles for a “safe” inspection compliance visit.

**R16.** The GJ recommends that the County pursue all available avenues (including Recommendations R14 and R27) to abate known illegal grows and provide law enforcement assistance in inspection compliance in areas where illegal grows are likely. There is no increased danger to County personnel upon visiting “legal” MJ grow sites. [July 2015]

**F17.** The Trinity County community is generally unaware of the restrictions which limit MJ grows to parcels of property which include single family residences and that a maximum number of 8 plants is permitted on the largest parcels (parcels of 10 acres or greater).

**R17.** The GJ recommends that the County become actively involved with public education involving Ordinance 315-797 and laws pertinent to MJ cultivation. Informational meetings, town hall presentations, forming partnerships with appropriate agencies, and providing informative articles to the Trinity Journal would help in gaining community support for growing MJ in compliance with existing ordinances and laws. [July 2015]

**F18.** An ordinance violation involving grows with excessive numbers of plants that is encountered by County personnel is rarely reported and therefore not abated.

**R18.** The GJ recommends that the County provide training to its personnel regarding job responsibilities involved with reporting illegal activities (not exclusive to MJ). County personnel need to be involved in providing ordinance compliance while not compromising their ability to be productive in accomplishing their assigned job duties. [August 2015]

**F19.** There is a large portion of the local citizenry who are “pro-marijuana” which tends to influence the BOS and inhibit the effective enforcement of existing laws and County ordinances. Many people in our rural county do not like government interference with their chosen activities.

**R19.** The GJ recommends that the County remain focused on enforcing the existing local, state, and federal laws. The County should not give preference to individuals who choose to cultivate MJ in violation of existing laws which have been legally adopted by the government. [Immediately and Ongoing]

F20. The general public has “given up complaining” about MJ grows in non-compliance of Ordinance 315-797 because the statutory procedure to correct the violation is very lengthy and cumbersome.

**R20.** The GJ recommends that the County assign a Hearing Officer within the District Attorney’s office to specifically render decisions on Ordinance violations on a timely basis. Part of the reason the general public may have “given up” is the lack of information regarding the illegality of MJ grows (refer to Recommendation R17). [July 2015]

F21. Adjacent Northern California counties have recently banned outdoor MJ grows, increasing the likelihood that Trinity County will become a preferred destination for outdoor MJ growers.

**R21.** The GJ recommends that the County act swiftly on Recommendation R4 so that Trinity County does not become the sanctuary of illegal MJ cultivation. Review other Counties’ regulations and meet with County Counsel to consider adoption of an Ordinance similar to the counties that have banned outdoor MJ grows. [July 2015]

F22. Members of the BOS are actively working with the MJ industry in anticipation of laws changing to benefit MJ cultivation, sales, and distribution which may eventually benefit the economy of TC residents.

**R22.** The GJ recommends that County Counsel be involved with the decisions of BOS members to participate in public meetings involving MJ industry plans which are not in compliance with existing local, state, and federal laws. The GJ recommends the members of the BOS actively working with the MJ industry to report their involvement openly in a BOS meeting. [Immediately and Ongoing]

F23. The civil fine for having excessive MJ plants on a privately owned parcel is \$100/day with a maximum penalty of 90 days. This fine is seldom collected and has not proven to be a deterrent to growing excessive numbers of plants.

**R23.** The GJ recommends that the County increase the civil fine so that it is “meaningful” in order to deter the activities in non-compliance with Ordinance 315-797. For example, Nevada County’s civil fine for excessive plants is \$1000/day. [July 2015]

F24. MJ Code enforcement fines that are collected do not benefit the program to finance subsequent code enforcement.

**R24.** The GJ recommends that the County BOS work with County Counsel to determine what, if any, opportunities exist to use collected fines for subsequent MJ code enforcement. [August 2015]

F25. Abatement orders are rarely used even though these may provide a swifter resolution to a problem than to use a search warrant or other “due process” techniques. Many illegal MJ grows are easily noticed, yet most are allowed to continue without abatement and are harvested at the end of the growing season.

**R25.** The GJ recommends that the County adopt an ordinance to allow the Sheriff to take immediate abatement action on any MJ which is cultivated, possessed, or distributed in violation of County ordinance or state law. This action is currently in force in Nevada County under Ordinance No. 2349 (Abatement actions on pages 13-15) resulting in abatements being accomplished in as little as 10 days after a Notice of Violation is issued. [August 2015]

**REQUEST FOR RESPONSES:**

In accordance with the California Penal Code 933.05, a response is required as indicated below:

<u>Respondent</u>	<u>Findings/Recommendations</u>	<u>Due Date</u>
Board of Supervisors	F1-25 and R1-25	90 days
County Administration Office	F1-25 and R1-25	60 days
Trinity County Counsel	F22 and F24-25	60 days
	R22 and R24-25	60 days
Trinity County Sheriff	F25 and R25	60 days

The governing bodies indicated above should be aware that comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act

**APPENDICES:**

1. Appendix A. Ordinance No. 315-797 of the Trinity County Zoning Code
2. Appendix B. Ordinance No. 2349 of the Nevada County General Code
3. Appendix C. Trinity County Grand Jury Complaint Form B

**Appendix A**  
**Ordinance No. 315-797 of the Trinity County Zoning Code**

**Development and Environment Committee**

**DER 2014-2015 – 001**

**Final Report**

**Environmental Impacts Related to Marijuana Grows**  
**And**  
**Law and Code Enforcement Problems Related to Marijuana Grows**

**ORDINANCE NO. 315-797**  
**REPEALING AND RE-ENACTING SECTION 42 TO ORDINANCE 315,**  
**THE TRINITY COUNTY ZONING CODE**

The Board of Supervisors of the County of Trinity, State of California, ordains as follows:

**SECTION I.** The Board of Supervisors of the County of Trinity repeals Section 42 of Ordinance 315 (County Zoning Ordinance), and re-enacts such Section, to state as follows:

**(a) Purpose and Intent**

- (1) In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996"). The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances.**
- (2) In 2004, the Legislature enacted the Medical Marijuana Program Act, "MMPA," Senate Bill 420 (codified as California Health and Safety Code Sections 11362.7 et seq.) to clarify the scope of Proposition 215, and to provide qualified patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to specified State criminal statutes.**
- (3) In recent years, Trinity County has seen a proliferation of large marijuana cultivation operations that falsely claim to be conducted in accordance with Proposition 215 and the MMPA. These operations grow marijuana not just for individuals living on the property where the marijuana is grown, but for numerous others—sometimes hundreds of persons—many of whom do not live in Trinity County, and whose status as qualified patients or primary caregivers is questionable.**
- (4) The proliferation of marijuana cultivation operations within the County—particularly as pertains to operations intended to serve persons who are not Trinity County residents—poses serious threats to the health, safety, and well-being of the County and its residents. The deleterious impacts of such widespread cultivation include, but are not limited to: degradation of the natural environment associated with large marijuana grows, including diversion of, and discharges into, streams, creeks, and other natural watercourses; taking of endangered species, such as the Coho Salmon and Northern Spotted Owl; on-site grading without regarding to topography or erosion control, causing sedimentation of water bodies; erection of unpermitted and illegal buildings and structures; disposal of human waste without connection to sewage or septic systems; disposal of garbage and**



rubbish directly onto the property of grow sites; and the abandonment of grow sites without remediation of the aforementioned impacts.

(5) The impact of such cultivation operations has been particularly acute in residential areas of the County. Property owners in these areas, many of whom have moved to the community very recently, have planted several marijuana plants—sometimes as many as hundreds—on their properties. These plants are often directly visible to surrounding properties and visible from public streets. Plants also are sometimes cultivated openly and visibly near public schools, day care facilities, parks, and other areas where children are present. Throughout the growing and processing seasons, and especially during and immediately following harvesting, noise, lighting, unpermitted structures, and vehicle traffic associated with the grow operations continue into late hours of night and early morning. As the marijuana plants bud, they also can produce a very distinct and annoying odor (sometimes described as “skunky”) that can often be smelled many hundreds of feet away from the property where they are grown and throughout the community.

(6) In light of the considerable and extensive public comments provided to the Planning Commission and Board of Supervisors, received during numerous meetings held over a period of three years, the Board of Supervisors concludes that the deleterious impacts of marijuana cultivation, as described above, are fully confirmed and supported by the great weight of evidence. The Board further concludes these impacts create significant public nuisances and that the failure to enact regulations to control such operations would be detrimental to the public health, safety, and welfare and would result in further and significant degradation of the environment.

(b) As used within, the following terms are defined as follows:

(1) “Primary caregiver,” as described in *People v. Mentch* (2008) 45 Cal.4th 274, is a person who (1) consistently provided caregiving to a qualified patient, (2) independent of any assistance in taking medical cannabis, (3) at or before the time he or she assumed responsibility for assisting with medical cannabis.

(2) “Qualified patient” means a person who is entitled to the protections of Health and Safety Code section 11362.5 (Proposition 215).

(3) “Marijuana” shall refer to any plant of the genus *Cannabis*.

(c) The cultivation, harvesting, processing, drying, or assembling of marijuana are expressly declared to be unauthorized land uses in any zoning district of the County. This declaration is considered to be declarative of existing law, as the County Zoning Code has never expressly or impliedly authorized any such activities in any zoning district, whether as permitted or conditional uses,

or under any provision of the code authorizing specific uses (including but not limited to Section 30.2, pertaining to home occupations and cottage industries).

- (d) Notwithstanding subsection (c), neither the County nor any of its officials, employees, or staff members shall take any action to enforce any provision of Ordinance 315 against any person who satisfies all the requirements of this Section. Persons who satisfy all such requirements shall be considered immune from enforcement of Ordinance 315 against them so long as their compliance with this Section continues.
- (e) Cultivation, harvesting, processing, drying, and assembling of marijuana shall meet the requirements of this Section only if such activities are undertaken for the personal use of qualified patients. Sale of marijuana in any form, by any means, and for any consideration (e.g., cash, in-kind transfer, exchange of services, barter) is not authorized under this Section.
- (f) Activities shall be considered to be conducted for personal use in accordance with subsection (e) only if they are conducted to provide for the medical needs of qualified patients living on the parcel, and/or up to no more than one qualified patient living off the parcel, and if the activities meet all the following standards:
  - (1) The activities are conducted exclusively on a legal parcel of property on which a single-family residence is located.
  - (2) Only qualified patients or qualified caregivers conduct the activities.
  - (3) If any person conducting the activities is not the lawful owner of the parcel, such person shall maintain a notarized letter from the legal owner(s) consenting to the cultivation, harvesting, processing, drying, or assembling of marijuana on the parcel.
  - (4) Each building or outdoor area in which marijuana is cultivated, harvested, processed, dried, or assembled shall be set back from the property boundaries at the farthest feasible location from neighboring residences, but at a minimum in accordance with the applicable zoning regulations, including setback limitations, for the district in which the property is located.
  - (5) Marijuana being cultivated, harvested, processed, dried, or assembled must be secured from public access, and must not be readily visible from off the parcel. All marijuana cultivated outdoors shall be located behind a fully enclosed opaque fence of at least six feet in height. The fence may not be constructed or covered with plastic or cloth, except that shade cloth may be used on the inside of the fence. Vegetative fences shall not constitute an adequate fence under paragraph. The fence must be

adequately secured to prevent unauthorized entry. All processed marijuana must be secured to deter theft.

- (6) Marijuana may not be cultivated, harvested, processed, dried, or assembled outdoors within 1,000 feet of any school, recreation center, youth center, church, library, child-care facilities, substance abuse center or other public gathering area, nor shall such activities be undertaken within 500 feet of any school bus stop.
- (7) The cultivation, harvesting, processing, drying, or assembling of marijuana shall comply with the all applicable building, zoning, and environmental regulations set forth in Ordinance 315 and all other provisions of the County Code and state law.
- (8) The power source for the activities shall comply with all appropriate building and fire code standards and permitting criteria. Should a generator be used, the fuel-storage facility shall be reviewed and approved by the appropriate agency. If public utilities are available the site must connect to those utilities. Noise impacts from generator use shall be limited to the hours of 8:00 am to 8:00 pm.
- (9) The use of butane to enhance or for additive purpose in processing marijuana is prohibited.
- (g) The marijuana grown on any parcel shall not exceed the following number of plants or square footage in size:
  - (1) For parcels of one acre or less, two marijuana plants or 50 square feet;
  - (2) For parcels between one acre and 2 ½ acres, four plants or 100 square feet;
  - (3) For parcels between 2 ½ and five acres, six plants or 200 square feet;
  - (4) For parcels between five and ten acres, six plants or 300 square feet;
  - (5) For parcels of ten acres or greater, eight plants or 400 square feet.

For purpose of these size restrictions, any stacked growing levels or stories shall be measured separately as part of the total area permitted. The term "area," as used in this section, shall also be considered contiguously (i.e., plants may not be grown in separate areas of the property and their respective square footages combined to calculate area.) No part of a plant's canopy shall extend beyond the perimeter of the permitted area.

- (h) An individual property may also cultivate additional marijuana plants so long as such plants are immature. An immature plant is one where no part of the plant is flowering or displaying its sex. The number of immature plants that may be cultivated, when combined with the number of mature plants, shall not

exceed twice the number of plants permitted for each size category stated in paragraph (g).

- (i) Indoor cultivation of mature marijuana plants shall be limited to the same maximum size standards as stated in paragraph (g). Such cultivation may be conducted only in an approved accessory structure appropriate for that purpose, as defined by the current California Building and Fire Code standards.
- (j) Should marijuana cultivation, harvesting processing, drying, or assembling activities generate any odor-related complaint from property owners or residents who reside within one-quarter mile (1,320 feet) from the location of the parcel on which the activities occur, and if such odor can be independently verified in the location by a designated County representative, the County may declare the creation of such odor a public nuisance and abate the same in accordance with Chapter 8.64 of the County Code or other applicable law.

(k) Other provisions

- (1) This Section shall be enforced only by means that are civil in nature. The County shall not commence or undertake any criminal proceedings to enforce this ordinance.
- (2) Any activities conducted under this Section must strictly comply with Proposition 215, the MMPA, and the California Attorney General's Guidelines for Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended.
- (3) Neither this Ordinance, nor any of its provisions, shall be deemed to provide a defense or immunity to any action brought against any person by the Trinity County District Attorney, the Attorney General of State of California, or other state law enforcement authority. Nor is this ordinance intended to alter or exempt any provision of federal law prohibiting the cultivation, processing, drying, assembly, or of cannabis, or the enforcement of federal law by federal authorities.

**SECTION III.** This ordinance is not a project under the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.) ("CEQA"), and accordingly is not subject to its provisions. Nevertheless, to the extent that this ordinance may be construed as a project, it is exempt from CEQA under the general rule that it can be seen with certainty that this Ordinance has no possibility of having a significant effect on the environment, as set forth in California Code of regulations, title 14, section 15061, subdivision (b)(3). Further, this ordinance extending an interim urgency ordinance is exempt from CEQA pursuant to the provisions of Public Resources Code section 21080, subdivision (b)(4) and California Code of regulations, title 14, sections 15307 and 15308.

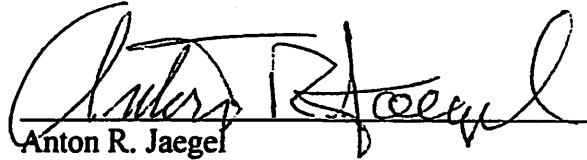
Presented to the Planning Commission of the County of Trinity on May 16, 2012,  
and passed and adopted by the Board of Supervisors of the County of Trinity on June 5,  
2012, by the following roll call vote, to-wit:

AYES: Supervisors Pflueger, Chapman, Morris and Jaegel

NOES: Supervisor Otto

ABSENT: None

ABSTAINING: None



Anton R. Jaegel

Chairman of the Board of Supervisors  
of the County of Trinity, State of California

ATTEST:



Wendy G. Tyler, Clerk of the Board of Supervisors  
County of Trinity, State of California

**Appendix B**  
**Ordinance No. 2349 of the Nevada County General Code**

**Development and Environment Committee**

**DER 2014-2015 – 001**

**Final Report**

**Environmental Impacts Related to Marijuana Grows**  
**And**  
**Law and Code Enforcement Problems Related to Marijuana Grows**



# **ORDINANCE No. 2349**

## **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

### **AN URGENCY ORDINANCE ADDING ARTICLE 5 TO CHAPTER IV OF THE NEVADA COUNTY GENERAL CODE REGARDING MEDICAL MARIJUANA CULTIVATION**

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA,  
ORDAINS AS FOLLOWS

#### **SECTION I:**

Article 5 of Chapter IV of the Nevada County General Code is hereby added to read as shown in Exhibit A attached hereto and incorporated herein by this reference.

#### **SECTION II:**

The County finds that this Article is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

#### **SECTION III:**

Severability. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

SECTION IV:

Pursuant to Government Code section 25123(d), this Ordinance shall take effect and be in force immediately upon the passage hereof, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in the Union & Sierra Sun a newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 8<sup>th</sup> day of May, 2012, by the following vote of said Board:

Ayes: Supervisors Nathan Beason, Edward Scofield, and Hank Weston, and Ted S. Owens.

Noes: Supervisor Terry Lamphier.

Absent: None.

Abstain: None.

ATTEST:

DONNA LANDI  
Clerk of the Board of Supervisors

By: Donna Landi

MM/DD/YYYY cc: Sheriff  
5/9/2012 County Counsel  
The Union  
Sierra Sun

Ted S. Owens

Ted S. Owens, Chair



## EXHIBIT A

### MEDICAL MARIJUANA CULTIVATION

#### Section G-IV 5.1 Authority and Title.

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code section 11362.83, and Government Code section 25845, the Board of Supervisors does enact this Article.

#### Section G-IV 5.2 Findings and Purpose

- (A) In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and entitled "The Compassionate Use Act of 1996").
- (B) Proposition 215 was intended to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. Proposition 215 further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."
- (C) In 2004, the Legislature enacted SB 420 (codified as California Health and Safety Code Section 11362.7 *et seq.*) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes.
- (D) California Health & Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420.
- (E) The Federal Controlled Substances Act, 21 U.S.C. sections 801, *et seq.*, classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.
- (F) The County's unique geographic and climatic conditions, which include dense forested areas receiving substantial precipitation, along with the sparse population in many areas of the County, provide conditions that are favorable to marijuana cultivation. Marijuana growers can achieve a high per-plant yield because of the County's favorable growing conditions. The Federal Drug Enforcement Administration reports that various types of marijuana plants under various planting conditions may yield averages of 236 grams (about one-half pound) to 846 grams (nearly two pounds). Based on law enforcement

...ures, yields in Nevada County have tended to be at the higher end of this range. The "street value" of a single cannabis plant is substantial. As of 2012, per pound prices for domestically produced high-grade cannabis sold illegally within Northern California can reach \$2,000 to \$5000. A single marijuana plant cultivated within the County can thus yield \$4,000 or more in saleable marijuana.

- 3) Proposition 215 and Senate Bill 420 primarily address the criminal law, providing qualifying patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Neither Proposition 215 nor Senate Bill 420, nor the Attorney General's August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* adopted pursuant to Senate Bill 420, provides comprehensive civil regulation of premises used for marijuana cultivation. The unregulated cultivation of marijuana in the unincorporated area of Nevada County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive civil regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation. These risks are especially significant if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.
- ) Cultivation of any amount of marijuana at locations or premises within 1000 feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana.

As recognized by the Attorney General's August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. In addition, the Indoor Cultivation of Marijuana without compliance with basic building code requirements creates increased risks of electrical fire, mold, mildew, plumbing issues and other damage to persons and property.

It is the purpose and intent of this Article to implement State law by regulating the cultivation of medical marijuana in a manner consistent with State law. It is also the intent of this Article to balance the needs of medical patients and their caregivers and which promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Nevada. This Article is intended to be consistent with Proposition 215 and Senate Bill 420 and towards that end, it is not intended to prohibit persons from individually, collectively, or cooperatively exercising any right otherwise granted by State law. Rather, the intent and purpose of this Article is to establish reasonable regulations regarding the manner in which marijuana may be cultivated, including restrictions on the amount of marijuana that may be individually,

...ectively, or cooperatively cultivated in any location or premises, in order to protect the public health, safety, and welfare in Nevada County.

- .) The limited right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Article, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Nevada County.
- .) Nothing in this Article shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under State or Federal law. No provision of this Article shall be deemed to be a defense or immunity to any action brought against any person in Nevada County by the Nevada County District Attorney, the Attorney General of the State of California, or the United States of America.
- 1) According to the Nevada County Sheriff, the amount of Marijuana cultivated in Nevada County increases significantly with each growing season and is increasingly occurring in residential areas, in close proximity to residences, and on vacant, unsupervised and unsecured properties. In 2011, Nevada County has experienced a dramatic increase in citizen complaints regarding the odor, threats to public safety and other nuisances that unregulated Cultivation sites can create.
- ) Cultivation sites have been the subject of serious criminal activity and associated violence including armed robberies, assault, battery, home invasion robberies and burglaries. An increasing number of sites are very visible to, and easily accessible by, the public, including children and youth. To protect the Marijuana, some of these Cultivation sites use aggressive and vicious dogs, booby-trap devices and persons with weapons that threaten severe bodily harm or death to those who attempt to access the site. Left unregulated, Cultivation sites also result in loitering, increased traffic, noise, environmental health issues, unreasonable odors and other public nuisances that are harmful to the public health, safety and welfare of the surrounding community and its residents.

In Nevada County, the typical growing season for Marijuana is approximately April through September of each year. Surrounding counties have adopted restrictions and, in some cases, bans on the Cultivation of Marijuana in their jurisdictions. If left unregulated for another growing season, it is likely that Nevada County will encounter increasing numbers of Marijuana Cultivation sites of increasing sizes, in locations which conflict with the provisions of this Ordinance and operated in manners which creates public nuisance to the surrounding community and its residents. Due to the start of the current Marijuana grow season there is an immediate need to provide certainty and guidance to those who might choose to Cultivate Marijuana in Nevada County and preserve the public peace, health and safety of Nevada County residents by regulating and addressing the public nuisances associated with Medical Marijuana Cultivation. In addition, if Medical Marijuana cultivation is not immediately regulated, large quantities of illegal Marijuana cultivation sites will be introduced into the local market in the near term.

G-IV 5.3 Definitions. As used herein the following definitions shall apply:

"Child Care Center" means any licensed child care center, daycare center, or childcare home, or any preschool.

- 3) "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- 2) "Cultivation" or "Cultivate" means the planting, growing, harvesting, drying, processing or storage of one or more Marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.
- 1) "Enforcing Officer" means the Sheriff, or his authorized deputies or designees, who is authorized to enforce this Article.
- ) "Fence" is defined in Section L-II 4.2.6 of the Nevada County Land Use and Development Code and Section G-IV 5.4(l)(1) of this Article, and is further defined as a wall or barrier connected by boards, masonry, rails, panels or any other materials approved by the Planning Director for the purpose of enclosing space or separating parcels of land. For purposes of this Article, the term "Fence" does not include walls, tarpaulins, scrap material, bushes or hedgerows.
- 1 "Hazardous Materials" means any substance that is "flammable, reactive, corrosive or toxic", as further defined in California Health and Safety Code Sections 25501 and 25503.5, as may be amended.
- 1) "Hearing Officer" means a person designated by the Board of Supervisors to conduct administrative lien hearings as provided in Section G-IV 5.9 of this Article.

"Identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., as may be amended.

"Indoor" or "Indoors" means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Nevada, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. . requirement.

"Legal Parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the California Government Code).

"Marijuana" shall have the same meaning as that set forth in Health and Safety Code section 11018, as may be amended. Marijuana, Medical Marijuana, and the Cultivation thereof, as defined in this Article shall not be considered an agricultural activity, operation or facility under Civil Code section 3482.5 or an Agricultural Product as defined in Section

L-II 3.3 of the Nevada County Land Use and Development Code, or an Agricultural Operation as defined in Sections L-II 3.3, L-II 6.1 and L-XIV 1.1 of the Nevada County Land Use and Development Code.

- (L) "Medical Marijuana" shall mean Marijuana recommended by a licensed physician, in accordance with California Health and Safety Code sections 11362.5 through 11362.83, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program Act.
- (M) "Medical Marijuana Collective" means Qualified Patients and/or designated Primary Caregivers of Qualified Patients, who associate, or form a cooperative in accordance with Section 12300 of the Corporations Code, within the unincorporated area of the County in order to collectively or cooperatively cultivate Marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775, as may be amended. The term collective shall include "cooperative" unless the context clearly indicates otherwise.
- (N) "Outdoor" or "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.
- (O) "Outdoor Living Area" means any patio, deck, barbecue, sitting area, dining area, , pool, hot tub, enclosed yard or other outdoor space or amenity which is designed and/or used for outdoor living and entertainment.
- (P) "Parcel" means a "Legal Parcel" as defined herein.
- (Q) "Premises" means a single, Legal Parcel of property. Where contiguous Legal Parcels are under common ownership or control, such contiguous Legal Parcels shall be counted as a single "Premises" for purposes of this Article.
- (R) "Primary Caregiver" shall have the definition as Health and Safety Code Section 11362.7(d), as may be amended.
- (S) "Qualified Patient" shall have the definition as Health and Safety Code Sections 11362.7(c) and (f), as may be amended.
- (T) "Residence" shall mean a fully enclosed structure used for human occupancy and shall have the same meaning as "domicile."
- (U) "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.
- (V) "School Bus Stop" means any location designated in accordance with California Code of Regulations, Title 13, section 1238, to receive school buses, as defined in California Vehicle Code section 233, or school pupil activity buses, as defined in Vehicle Code section 546.

- (W) "School Evacuation Site" means any location designated by formal action of the governing body, Superintendent, or principal of any school as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of any emergency or other incident at the school.
- (X) "Sheriff" or "Sheriff's Office" means the Nevada County Sheriff's Office or the authorized representatives thereof.
- (Y) "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

**Section G-IV 5.4 Nuisance Declared; Cultivation Restrictions.**

- (A) The Cultivation of Marijuana, either Indoors or Outdoors, on any Parcel or Premises in an area or in a quantity greater than as provided herein, or in any other way not in conformance with or in violation of the provisions of this Article, is hereby declared to be a public nuisance that may be abated in accordance with this Article, and by any other means available by law. The provisions of Section L-II 5.19 (Nonconforming Uses and Structures) of the Nevada County Land Use and Development Code shall not apply to the Cultivation of Marijuana hereby declared to be a public nuisance.
- (B) Medical Marijuana Cultivation is prohibited on any Parcel or Premises within the unincorporated territory of Nevada County except as an accessory use to a legally established Residence on a Legal Parcel.
- (C) Except as provided in Section 5.4(D) of this Article, Medical Marijuana Cultivation may be undertaken only by a Qualified Patient who occupies a legal Residence on a Legal Parcel or Premises proposed for Cultivation as his or her primary place of residence.
- (D) A Primary Caregiver may cultivate Medical Marijuana on behalf of his or her Qualified Patient(s), but only at the Qualified Patient's primary Residence and/or at the Primary Caregiver's primary Residence, and only in conformance with all applicable State and local regulations and all limitations set forth in this Article.
- (E) Indoor Cultivation may occur only within a legal structure that meets the definition of Indoor and complies with all applicable provisions of the County's Land Use and Development Code. Any accessory structure used for Cultivation of Marijuana shall be ventilated with odor control filters, and shall not create an odor, humidity or mold problem on the Premises or on adjacent Premises. Cultivation within any detached accessory structure that does not meet the definition of Indoor shall be considered Outdoor Cultivation.
- (F) All electrical and plumbing used for Indoor Cultivation of Marijuana shall be installed with valid electrical and plumbing permits issued and inspected by the Nevada County Building Department, which building permits shall only be issued to the legal owner of the Premises. The collective draw from all electrical appliances on the Premises shall not exceed the maximum rating of the approved electrical panel for the primary legal

Residence on the Parcel. The maximum rating shall be as established in the manufacturer specifications for the approved electrical panel.

(G) The following limitations apply to Cultivation of Medical Marijuana on each Premises located within the unincorporated area of Nevada County, regardless of the number of Qualified Patients or Primary Caregivers residing at the Premises or participating directly or indirectly in the Medical Marijuana Cultivation activity. These limitations shall be imposed notwithstanding any assertion that the person(s) Cultivating the Marijuana are the Primary Caregiver(s) for Qualified Patients or that such person(s) are collectively or cooperatively Cultivating Marijuana.

(1) Premises located within any area zoned primarily for residential uses (e.g., R-1, R-2, R-3 or R-A) shall be limited to the following:

- a. Premises with a gross area of less than two acres shall be limited to 100 contiguous square feet of Indoor Cultivation area.
- b. Premises with a gross area of two acres or more shall be limited to:
  - a. 75 contiguous square feet of Outdoor Cultivation area; or
  - b. Outdoor Cultivation of up to six (6) mature or immature Marijuana plants if grown in grow bags or pots which are 25-gallons or smaller, and all such plants are grown in a single, clearly designated contiguous grow area; or
  - c. 100 contiguous square feet of Indoor Cultivation area.

(2) Premises located within any area zoned primarily for rural uses (e.g., AG, AE, FR, or TPZ) shall be limited to the following:

- a. Premises with a gross area of less than two acres shall be limited to 100 contiguous square feet of Indoor Cultivation area or 150 contiguous square feet of Outdoor Cultivation area.
- b. Premises with a gross area of two acres but less than five acres shall be limited to 300 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.
- c. Premises with a gross area of five acres but less than ten acres shall be limited to 400 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.
- d. Premises with a gross area of ten acres but less than twenty acres shall be limited to 600 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.
- e. Premises with a gross area of 20 acres or more shall be limited to 1000 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.

- (3) The Indoor or Outdoor Cultivation of Marijuana, in any amount or quantity, on property located in any other zoning district is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Article.
- (H) The following setbacks shall apply to all Indoor and Outdoor Cultivation areas and shall be measured in a straight line from the nearest point of the Fence or other enclosure required by Section G-IV 5.4(I)(1) to either the nearest exterior wall of a residential structure on a Legal Parcel under separate ownership or the nearest boundary line of any Outdoor Living Area on a Legal Parcel under separate ownership.
- (1) On Parcels located within any area zoned primarily for residential uses (e.g., R-1, R-2, R-3 or R-A):
- a. If the Parcel is less than two gross acres, one hundred (100) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
  - b. If the Parcel is 2 gross acres or greater, two hundred (200) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
- (2) On Parcels located within any area zoned primarily for rural uses (e.g., AG, AE, FR, TPZ):
- a. If the Parcel is less than two gross acres, one hundred (100) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
  - b. If the Parcel is at least 2 gross acres but less than 10 acres, One hundred fifty (150) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
  - c. If the Parcel is at least 5 gross acres but less than 10 acres, Two hundred (200) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
  - d. If the Parcel is at least 10 gross acres but less than 20 acres, two hundred-fifty(250) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
  - e. If the Parcel is 20 gross acres or greater, three hundred (300) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
- (3) In a mobile home park as defined in Health and Safety Code Section 18214.1, one hundred (100) feet from a mobile home that is under separate ownership.



(I) Cultivation of Marijuana is prohibited on any Parcel or Premises located within the following areas:

- (1) Upon any Premises located within one thousand (1000) feet of any School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility Such distance shall be measured in a straight line from the Fence or other enclosure required by Section G-IV(I)(1) to the nearest boundary line of the Premises upon which the School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility is located.
- (2) In any location where the Marijuana would be visible from the public right of way or publicly traveled private roads at any stage of growth.
- (3) Within any setback area required by Section G-IV 5.4(H).

(J) All Cultivation areas shall comply with the following requirements:

- (1) All Marijuana Cultivated Outdoors must be fully enclosed within an translucent (but not transparent), sight obscuring Fence of at least six (6) but not more than eight (8) feet in height that fully encloses the garden area. The Marijuana shall be shielded from public view at all stages of growth. Should the Marijuana plant(s) grow higher than the Fence, the plants shall be cut so as to not extend higher than such Fence. All Fences shall comply with Section L-II 4.2.6 of the Nevada County Land Use and Development Code and shall be sufficient to conceal the Marijuana from public view. The Fence must be adequately secure to prevent unauthorized entry and include a locking gate that shall remain locked at all times when a Qualified Patient or Primary Caregiver is not present within the Cultivation area. Said Fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the Fence. Bushes or hedgerows shall not constitute an adequate Fence under this subsection. All Indoor Cultivation areas shall be adequately secure to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times when a Qualified Patient or Primary Caregiver is not present within the Cultivation area.
- (2) There shall be no exterior evidence of Indoor or Outdoor Cultivation from a public right-of-way or publicly traveled private road.
- (3) Outdoor Cultivation areas shall be on a single plane and shall be clearly staked or marked as an Outdoor Cultivation area for purposes of determining compliance with the requirements set forth in Section G-IV 5.4(G). No portion of any Marijuana plant, including any portion of the plant's canopy, shall extend outside of the Outdoor Cultivation area.
- (4) Marijuana Cultivation shall not adversely affect the health, safety, or general welfare of persons at the Cultivation site or at any nearby residence by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, or vibration, by the use or storage of hazardous materials, processes, products or wastes, or by any

other way. The Indoor or Outdoor Cultivation of Marijuana shall not subject residents of neighboring parcels who are of normal sensitivity to reasonably objectionable odors.

- (5) No person owning, leasing, occupying, or having charge or possession of any Parcel or Premises within the County shall cause, allow, suffer, or permit such Premises to be used for the Outdoor or Indoor Cultivation of Medical Marijuana in violation of the California Health and Safety Code or this Article.
- (6) The use of light assistance for the Outdoor Cultivation of Marijuana shall not exceed a maximum of four hundred (400) watts of lighting capacity per one hundred (100) square feet of Cultivation area.
- (7) All lights used for the Indoor or Outdoor Cultivation of Marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the Parcel upon which they are placed, and shall comply with the requirements of Section L-II 4.2.8.D. of the Nevada County Land Use and Development Code. Grow light systems associated with Indoor Cultivation shall be shielded to confine light and glare to the interior of the structure and shall conform to all applicable building and electrical codes. Grow light systems shall not be allowed for Outdoor Cultivation.
- (8) The Indoor or Outdoor Cultivation of Marijuana shall not exceed the noise level standards as set forth in the County General Plan.
- (9) Wherever Medical Marijuana is grown, a copy of a current and valid, State-issued Medical Marijuana identification card, physician recommendation or Affidavit as set forth in this Section must be displayed in such a manner as to allow law enforcement officers to easily see the recommendation or Affidavit without having to enter any building of any type. If a Qualified Patient has a verbal medical recommendation, then the Qualified Patient shall provide an Affidavit setting forth the name and contact information of the physician making the recommendation, the date of the recommendation and amount(s) of Marijuana recommended by the physician. The Affidavit shall be signed under penalty of perjury under the laws of the State of California.
- (10) If the person(s) Cultivating Marijuana on any Legal Parcel is/are not the legal owner(s) of the parcel, the person(s) who is Cultivating Marijuana on such Parcel shall (a) give written notice to the legal owner(s) of the Parcel prior to commencing Cultivation of Marijuana on such Parcel, and (b) shall obtain a signed and notarized letter from the legal owner(s) consenting to the Cultivation of Marijuana on the Parcel. The person(s) Cultivating Marijuana shall obtain this written letter of consent from the legal owner prior to Cultivating Marijuana on the Premises and at least annually thereafter. A copy of the most current letter of consent shall be displayed in the same immediate area as the recommendations set forth in section G-IV 5.4(J)(9), in such a manner as to allow law enforcement officers to easily see the letter of consent without having to enter any building of any type. The person(s) Cultivating Marijuana shall maintain the original letter of consent on the Premises at which Marijuana is being Cultivated and shall provide the original

letter to the Enforcing Officer for review and copying upon request. The Sheriff may prescribe forms for such letters.

(11) The use of Hazardous Materials shall be prohibited in the Cultivation of Marijuana except for limited quantities of Hazardous Materials that are below State of California threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any Hazardous Materials stored shall maintain a minimum setback distance of 100-feet from any private drinking water well, spring, water canal, creek or other surface water body, and 200-feet from any public water supply well. The production of any Hazardous Waste as part of the Cultivation process shall be prohibited.

(K) Nothing herein shall limit the ability of Fire District or other appropriate County employees or agents from entering the property to conduct the inspections authorized by or necessary to ensure compliance with this Article or the ability of the Sheriff to make initial inspections or independent compliance checks. The Sheriff is authorized to determine the number and timing of inspections that may be required.

#### Section G-IV 5.5 Change in Land Use.

The County shall encourage any person proposing to construct or operate a new or relocated School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility to consider whether the proposed location of such use is within one thousand (1000) feet of a Premises upon which Marijuana is known to be cultivated. Upon request, the Sheriff's Office shall inform any person proposing to construct or operate a new or relocated School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility regarding whether there is a Premises upon which Marijuana is known to be Cultivated within one thousand (1000) feet of the proposed location of such use, and, if so, shall also inform the person, owning, leasing, occupying, or having charge or possession of the Premises upon which Marijuana is known to be cultivated that such a use is being proposed within one thousand (1000) feet of the Premises.

#### Section G-IV 5.6 Notice to Abate Unlawful Marijuana Cultivation.

Whenever the Enforcing Officer determines that a public nuisance as described in this Article exists on any Premises within the unincorporated area of Nevada County, he or she is authorized to notify the owner(s) and/or occupant(s) of the Premises, through issuance of a "Notice to Abate Unlawful Marijuana Cultivation;" provided, however, that nothing in this Article shall affect or preclude the Sheriff from taking immediate abatement action without notice of any Marijuana which is Cultivated, possessed, or distributed in violation of state law.

#### Section G-IV 5.7 Contents of Notice

The Notice set forth in Section G-IV 5.6 shall be in writing and shall:

(A) Identify the owner(s) of the Parcel upon which the nuisance exists, as named in the records of the County Assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.



- (B) Describe the location of such Parcel by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- (C) Identify such Parcel by reference to the Assessor's Parcel Number.
- (D) Contain a statement that unlawful Marijuana Cultivation exists on the Parcel and that it has been determined by the Enforcing Officer to be a public nuisance as described in this Article.
- (E) Describe the unlawful Marijuana Cultivation that exists and the actions required to abate it.
- (F) Contain a statement that the legal owner or occupant is required to abate the unlawful Marijuana Cultivation within five (5) calendar days after the date that said Notice was served.
- (G) Contain a statement that the legal owner or occupant may, within five (5) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the Enforcing Officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the Notice and the provisions of this Article.
- (H) Contain a statement that, unless the legal owner or occupant abates the unlawful Marijuana Cultivation, or requests a hearing before the Board of Supervisors or its designee, within the time prescribed in the Notice, the Enforcing Officer will abate the nuisance at the legal owner and/or occupant's expense. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

**Section G-IV 5.8 Service of Notice to Abate**

The Notice set forth in Sections G-IV 5.6 and G-IV 5.7 shall be served in the following manner:

- (A) By delivering it personally to the legal owner of the Parcel and to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the occupant of the Parcel at the address thereof, and to any non-occupying legal owner at his or her address as it appears on the last equalized assessment roll, except that:
  - (1) If the records of the County Assessor show that the ownership has changed since the last equalized assessment roll was completed, the Notice shall also be mailed to the new owner at his or her address as it appears in said records, or
  - (2) In the event that, after reasonable effort, the Enforcing Officer is unable to serve the Notice as set forth above, service shall be accomplished by posting a copy of the Notice on the Parcel upon which the nuisance exists as follows: Copies of the Notice shall be posted along the frontage of the subject Parcel, and at such other locations on the Parcel reasonably likely to provide notice to the owner and any



person known by the Enforcing Officer to be in possession of the Parcel. In no event shall fewer than two (2) copies of the Notice be posted on a Parcel pursuant to this section.

- (B) The date of service is deemed to be the date of personal delivery or posting, or three (3) days after deposit in the U.S. Mail.

Section G-IV 5.9 Administrative Review.

- (A) The Board of Supervisors delegates the responsibility to conduct a lien hearing in conformance with this Article to a Hearing Officer.
- (B) Any person upon whom a Notice to Abate Unlawful Marijuana Cultivation has been served may appeal the determination of the Enforcing Officer that the conditions set forth in the Notice constitute a public nuisance to the Hearing Officer, or may show cause before the Hearing Officer why those conditions should not be abated in accordance with the provisions of this Article. Any such administrative review shall be commenced by filing a written request for a hearing with the Sheriff's Office within five (5) calendar days after the date that said Notice was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this Section, the findings of the Enforcing Officer contained in the Notice shall become final and conclusive on the sixth day following service of the Notice.
- (C) Upon timely receipt of a written request for hearing which complies with the requirements of this Section, the Sheriff's Office shall set a hearing date not less than five (5) days or more than thirty (30) days from the date the request was filed. The Sheriff's Office shall send written notice of the hearing date to the requesting party, to any other parties upon whom the Notice was served, and to the Enforcing Officer.
- (D) Any hearing conducted pursuant to this Article need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- (E) The Hearing Officer may continue the administrative hearing from time to time.
- (F) The Hearing Officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice to Abate Unlawful Marijuana Cultivation. The Hearing Officer shall issue a written decision in the form of a resolution, which shall include findings relating to the existence or nonexistence of the alleged unlawful Marijuana Cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the Notice. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the Notice was served, and the Enforcing Officer.



- (G) The decision of the Hearing Officer shall be final and conclusive.

Section G-IV 5.10 Liability for Costs.

- (A) In any enforcement action brought pursuant to this Article, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful Marijuana Cultivation to exist shall be liable for all costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Article, whether those costs are incurred prior to, during, or following enactment of this Article;
- (B) In any action by the Enforcing Officer to abate unlawful marijuana cultivation under this Article, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

Section G-IV 5.11 Abatement by Owner or Occupant.

Any owner or occupant may abate the unlawful Marijuana Cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the Enforcing Officer.

Section G-IV 5.12 Enforcement.

- (A) Whenever the Enforcing Officer becomes aware that an owner or occupant has failed to abate any unlawful Marijuana Cultivation within five (5) days of the date of service of the Notice to Unlawful Marijuana Cultivation, unless timely appealed, or as of the date of the decision of the Hearing Officer requiring such abatement, the Enforcing Officer may take one or more of the following actions:
- (1) Enter upon the property and abate the nuisance by County personnel, or by private contractor under the direction of the Enforcing Officer. The Enforcing Officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the Board of Supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this Code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California; and/or
  - (2) Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance; and/or

- (3) Issue administrative citations in accordance with Section L-II 5.23, et seq., of the Nevada County Land Use and Development Code; and/or
- (4) Take any other legal action as may be authorized under State or local law to abate and/or enforce the provisions of this Article.

Section G-IV 5.13 Accounting.

The Enforcing Officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the Hearing Officer showing the cost of abatement and the administrative costs for each parcel.

Section G-IV 5.14 Notice of Hearing on Accounting; Waiver by Payment.

Upon receipt of the account of the Enforcing Officer, the Sheriff's Office shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the Hearing Officer will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the Enforcing Officer prior to the time set for the hearing by the Hearing Officer. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

Section G-IV 5.15 Hearing on Accounting.

- (A) At the time fixed, the Hearing Officer shall meet to review the report of the Enforcing Officer. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.
- (B) The report of the Enforcing Officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.
- (C) The Hearing Officer shall also determine whether or not the owner(s) had actual knowledge of the unlawful Marijuana Cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner(s) did not have actual knowledge of the unlawful Marijuana Cultivation, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such Parcel or otherwise attempted to be collected from the owner(s) of such Parcel.

Section G-IV 5.16 Modifications.

The Hearing Officer shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.

**Section G-IV 5.17 Special Assessments and Lien.**

The Board of Supervisors may order that the cost of abating nuisances pursuant to this Article and the administrative costs as confirmed by the Board be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to section 25845 of the Government Code; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The Board of Supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code.

**Section G-IV 5.18 Summary Abatement.**

Notwithstanding any other provision of this Article, when any unlawful Marijuana Cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in Sections G-IV 5.6 through G-IV 5.12 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the Enforcing Officer may direct any officer or employee of the County to summarily abate the nuisance. The Enforcing Officer shall make reasonable efforts to notify the persons identified in Section G-IV 5.7 but the formal notice and hearing procedures set forth in this Article shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections G-IV 5.13 through G-IV 5.17.

**Section G-IV 5.19 No Duty to Enforce.**

Nothing in this Article shall be construed as imposing on the Enforcing Officer or the County of Nevada any duty to issue a Notice to Abate Unlawful Marijuana Cultivation, nor to abate any unlawful Marijuana Cultivation, nor to take any other action with regard to any unlawful Marijuana Cultivation, and neither the Enforcing Officer nor the County shall be held liable for failure to issue an order to abate any unlawful Marijuana Cultivation, nor for failure to abate any unlawful Marijuana Cultivation, nor for failure to take any other action with regard to any unlawful Marijuana Cultivation.



**Appendix C**  
**Trinity County Grand Jury Complaint Form B**

**Development and Environment Committee**

**DER 2014-2015 – 001**

**Final Report**

**Environmental Impacts Related to Marijuana Grows**  
**And**  
**Law and Code Enforcement Problems Related to Marijuana Grows**

TRINITY COUNTY GRAND JURY COMPLAINT FORM B

**ENVIRONMENTAL ABUSE AND/OR CODE VIOLATIONS**

DATE: \_\_\_\_\_

LOCATION OF INCIDENT: (address; assessor's parcel #; range, township, section; GPS coordinates, if known)

\_\_\_\_\_

DIRECTIONS FROM IDENTIFIABLE POINT: \_\_\_\_\_

\_\_\_\_\_

OWNER OR OCCUPANT IF KNOWN: \_\_\_\_\_

POTENTIAL DANGERS TO INSPECTION: \_\_\_\_\_

DATE OF INCIDENT OR OBSERVATION: \_\_\_\_\_

DESCRIPTION OF ABUSE OR CODE VIOLATION: \_\_\_\_\_

\_\_\_\_\_

PREVIOUSLY CONTACTED (FEDERAL, STATE OR COUNTY DEPT) \_\_\_\_\_

\_\_\_\_\_

**CIRCLE ITEMS WHICH APPLY: (for other issues not listed below please utilize the reverse side of this form)**

- |                    |   |                        |                         |
|--------------------|---|------------------------|-------------------------|
| water diversion    | unusually dry stream beds   | water rights           | stream crossings        |
| erosion            | aquatic life damage   | illegal ponds          | pesticides/rodenticides |
| soil pollution     | lack of sanitation/septic tanks   | encroachment           | excess traffic          |
| wildlife threat    | non-permitted residence   | deforestation          | habitat destruction     |
| land conversion    | hunting fishing   | nuisance (scent/sight) | dead animals            |
| sediment discharge | zoning  | poor road construction | non-permitted fire      |
| shacks/tents/RVs   | trash accumulation (toxics, motor oil, fertilizers near streams or bodies of water) |                        |                         |

Printed name: \_\_\_\_\_ e-mail \_\_\_\_\_

Your address: \_\_\_\_\_ Home phone \_\_\_\_\_

I declare under penalty of perjury that the facts stated above are true and correct to the best of my knowledge:

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

Anonymous forms will be accepted. The Grand Jury appreciates your effort to make improvements in our county.

MAIL FORM TO: TRINITY COUNTY GRAND JURY, PO BOX 2308, WEAVERVILLE, CA 96093



RECEIVED  
JUN 15 2015  
Trinity County  
Board of Supervisors  
By: \_\_\_\_\_

Superior Court of California  
County of Trinity

P.O. Box 1258  
Weaverville CA 96093

ELIZABETH W. JOHNSON  
Presiding Judge

MICHAEL B. HARPER  
Judge

CINDY VAN SCHOOTEN  
Court Executive Officer

MEMORANDUM

**TO:** Board of Supervisors ✓  
Trinity County CAO

**FROM:** Staci Holliday, Jury Commissioner *SH*

**DATE:** June 15, 2015

**RE:** 2014-2015 Trinity County Grand Jury Report  
*FAR 2014-2015-001 / Participation Series 2005 Bond Report*

This report is being provided to your department pursuant to Section 933.05 of the Penal Code relative to grand juries. Penal Code § 933.05(f) requires that grand juries, **following approval by the Superior Court Presiding Judge and at least two working days prior to the public release of the report**, shall furnish each respondent a copy of the report which pertains to the respondent. No respondent shall disclose any contents of the report prior to the public release of the final report.

This report will become a matter of public record on **June 20, 2015**. Sections 933 and 933.05 require you to respond in writing to the findings and recommendations pertaining to matters under the control of you or your department. Your original response should be addressed to Elizabeth Johnson, Presiding Judge of Trinity Superior Court **with a copy to the County Administrative Office "Clerk of the Board"**.

Enclosure

**Financial and Administrative Committee**

**FAR 2014-2015 – 001**

**Final Report**

**Participation Series 2005 Bond Report**

**Approved 06/04/2015**

A handwritten signature in cursive script that reads "Julie Dahl".

**Julie Dahl**

**Foreperson**

# **2014-2015 Trinity County Grand Jury Financial and Administration Committee Trinity County Certificates of Participation Series 2005 Bond Report (FAR-2014-2015-001)**

## **SUMMARY**

A complaint was received about the Certificates of Participation (COP), Series 2005 Bond, and the use of the Trinity County (TC) Courthouse and Juvenile Detention Center to secure it. A possible conflict of interest involving the County Board of Supervisors (BOS) and/or County employees was investigated. An additional related complaint of missing official Trinity County documents was included in this Grand Jury investigation. The 2014-2015 Grand Jury wanted to determine the following: was there a violation of the Brown Act; was there any conflict of interest; did the county employees follow proper legal procedure in procuring the bond; are there documents missing; and was there improper use of public property/funds.

## **GLOSSARY**

AFR	Annual Financial Report; older style report compiled by the auditor each year
BOS	Board of Supervisors
CAFR	Comprehensive Annual Financial Report; newer style of financial report
CAO	County Administrator Officer
CC	California Constitution
CDIAC	California Debt Investment Advisory Commission, a state agency which keeps track of municipal debt. and helps with advice
COP	Certificate of Participation, a special type of financial instrument, similar to a municipal bond
GJ	Grand Jury; a group of county citizens, appointed by the local Superior Court Judge each year for a one year term; a watchdog group
PH	Proposition H; a measure on TC voter ballot to levy a parcel tax throughout the County
TC	Trinity County
TCPFC	Trinity County Public Facilities Corporation; a public corporation created to help with agreements between TC and non-county entities
TPUD	Trinity Public Utilities District
TRAN	Tax Revenue Anticipation Note; a short term note (loan) secured against future tax revenues

## BACKGROUND

Trinity County was operating the local hospital at a loss of \$100,000 to \$150,000 per month from February 1997 to February 2005. By June 2004 the accumulated deficit was over \$3.8 million. By July 2004, the losses jumped up to \$200,000 to \$300,000 per month.

A Grand Jury report, like this one, filed in January 2004, recommended the establishment of a healthcare assessment district levy (tax) to be submitted for voter approval. By June 2004, the BOS submitted a proposal to voters for setting a County wide tax of \$150 per parcel. This measure, Proposition H (PH), was defeated. After PH failed, a law was passed in the state legislature and signed into law by the Governor that would allow TPUD, a public utilities district, to operate as a healthcare district. This law, AB 1199, made it legal to transfer operational management of the hospital to TPUD, which was done. Subsequently, TPUD could manage the hospital while it was losing money and give the BOS time to figure out a permanent plan.

The 2003/2004 GJ also recommended the BOS to study the effects of closing the hospital. A report from the Center for Economic Development, California State University Chico, gave the county an impact analysis of closure of the hospital on property values. The potential decrease in assessed value was \$429 million from 2004 to 2014.

Trinity County is not allowed, by the California Constitution, to run deficits, as described by Section 18 of article XVI of the CC. It reads in part; “(a) *No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose*”. However, counties are allowed to issue COP type bonds. A COP bond is a special type of municipal bond that does not require voter approval (see The California Municipal Law Handbook, 2002 Edition, Section VII-Finance, subsection 3. a & b, on page 83). It is normally used for capital improvement projects. The money secured from the bond is spent on some capital improvement, which is then leased back by the county. The lease back payments have been determined by the California Supreme Court to not be debt for the purposes of Section 18 (see *Doland v. Clark*, 143 Cal. 176(1904)).

In TC’s case, the bond was used to alleviate the financial trouble the County was in from the previously mentioned hospital deficits. Although this is legal, the California Debt Investment Advisory Council (CDIAC) recommends against this type of financing. The CDIAC is an advisory council under the State Treasurer, which helps cities, counties, and other public facilities manage their debt. The CDIAC Handbook of Municipal Funding states under Guideline 4, “*Do Not Fund Operating Expenses With Long-Term Lease Obligations...Most finance professionals strongly discourage the use of long-term obligations to fund current operating expenses...Deficit financing in this manner reflects an unwillingness or inability on the*

*part of management to address the underlying discrepancy between revenues and expenditure obligations". In addition the CDIAC states "Inherently, by using the General Fund for repayment if funds are unavailable, cuts are made to other areas of the budget to fulfill the obligation of the COP". As stated in the CDIAC handbook, "agencies should subject leasing decisions to central planning and control procedures, to prevent the unplanned accumulation of lease obligations, which are fixed commitments that diminish needed budgetary flexibility."*

The County, through the BOS, secured a COP bond in the amount of \$4,560,000 in 2005. This bond matures in twenty years, pays 8.5% interest, and requires a final interest cost of \$10,313,366.67. The county states that this was necessary due to the hospital's accumulated operating deficit, obligation of the general fund in the amount of \$7,500,000, a Tax Revenue Anticipation Note (TRAN) payment coming due, and a loan from TPUD for \$1,800,000. The county borrowed \$3,000,000 from the Treasurer's pooled funds to meet a portion of the Hospital's operating requirements and to make the first payment of the TRAN note. The second payment of the TRAN in the amount of \$1,544,875 was coming due in May of 2005. The proceeds were to repay the \$3,000,000 borrowed from the Treasurer's pooled funds, pay the second payment of the TRAN note for \$1,544,875, fund additional working capital expenditures, and establish the required reserve fund for the COP and to cover the cost of issuance. The breakdown given by the county for the disbursement of funds is as follows:

- \$4,560,000.00 less the placement agents fee of \$68,400
- Repayment of the Treasurer's pooled funds (inter-fund borrowing) of \$3,000,000
- Repayment of the TRAN note in the amount of \$786,078\*
- Proceeds Fund for working capital expenditures in the amount of \$55,722
- Certificate Reserve fund in the amount of \$456,000
- Cost of Issuance (other than placement agents fee) totaling \$195,600

\* These notes are issued in anticipation of receiving future tax receipts and revenues. TRANs are a short-term obligation of an issuer to repay a specified principal amount on a certain date, together with interest at a stated rate, usually payable from a defined source of anticipated revenues. Notes generally mature in one year or less, although notes of longer maturities are also issued.

## **METHODOLOGY**

Interviews with people of interest knowledgeable of the issue, county personnel involved in budgeting, fiscal operations, and a collection and review of county documents were used for this investigation. It took about six months to collect all of the requested documents from county officials.

## **DISCUSSION**

Construction of public facilities and infrastructure often involve long-term and extremely expensive projects that lend themselves to a lease-back arrangement. The lease-back arrangement typically involves a government agency leasing undeveloped land to a developer, who bears responsibility for constructing a public facility that, when completed, is leased back to the government agency. The California Attorney General has described the lease-back as commonly used to finance the construction of public facilities through the aegis of a nonprofit corporation, thus avoiding the debt limitation provisions of the California Constitution applicable to the state and local governments. It is a classic medium that has been approved in cases such as *Dean v. Kuchel* (1950) 35 Cal.2d 444; *City of Los Angeles v. Offner* (1942) 19 Cal.2d 483 and *County of Los Angeles v. Nesvig* (1965) 2231 Cal.App.2d 603 .30 and used for construction of stadiums, sports arenas, theaters, and even rubbish incinerators.

In a lease-purchase agreement, a government entity seeking to acquire an asset makes a series of lease payments that are considered installments toward the purchase of the asset. The participants in a lease-purchase agreement are: 1), the lessee, which is a government entity; 2), the lessor, which may be a private firm, vendor, or another governmental entity; and 3), investors. Often the lessor, after arranging an agreement, will assign the rights to the lease payments to a number of investors. A Certificate of participation (COP) type bond is a widely used type of lease-purchase financing mechanism. Each certificate signifies that the investor owns a proportional interest in the lease payments to be made by the governmental entity. In a typical COP transaction, the lessor assigns the lease and lease payments along with its rights and obligations to a trustee, who executes the certificate. The tax-exempt status will be passed through to the owners of the COP to whom the interest component is distributed.

The Trinity County Public Facilities Corporation (TCPFC) is a nonprofit corporation, formed in 1997, to facilitate financial transactions like this. The ownership of the Courthouse and Juvenile Detention Center were transferred to the TCPFC and the corporation then used the property to secure the bond. TCPFC has been used in the past to secure COP bonds. The corporation has no budget. The members of the board of the corporation do not get a salary, and make no money off the transaction.

The 2005 Certificates will mature on January 15, 2026. The cost to have the COP issued is enormous, with funds going to various legal advisors, bond counsels, and financial advisors. Requirements of the issued COP includes that a reserve be set aside in the event the entity is unable to make a payment.



This investigation brought up several questions that due to a lack of time remain unanswered. They included the following:

- Why the budget still reports a \$7,500,000 deficit for the hospital every year.
- A change in the BOS policy to not inform the public about certain items.
- An annual TRAN loan for 3 million dollars taken every year, which costs the county \$60,000 in additional interest per year.

#### **FINDINGS (F) and RECOMMENDATIONS (R)**

**F1.** The closed-door session by the BOS on this matter for a COP bond was not a violation of the Brown Act, since the BOS does not need public approval for this kind of financing.

**R1.** No action required.

**F2.** There appears to be no conflict of interest between the county BOS, and/or county employees.

**R2.** No action required.

**F3.** The use of this bond was legal. However, it was used in a way that shows an inability for responsible county officials to address the underlying discrepancy between revenues and expenditure obligations. February 1997 to June 2004 is a long time for a hospital to operate in a deficit before taking action.

**R3.** The GJ recommends that future financial impacts to Trinity Co. of this nature be discussed openly in public by the BOS before this kind of action is taken, including the possible reduction of services to the public in the event of failure to balance the budgets of the entities involved. Bonds can be more fully explained to the public via an informational article in the Trinity Journal newspaper in order to give the voters a more educated understanding of the process that the BOS will undertake in order to balance the county budget.

**F4.** Nearly all of the requested documents were supplied, although it took from November 2014 to May 2015 to collect everything.

**R4.** The GJ recommends that a policy be adopted for the paperwork filing requirements of TC and not just the basic legal requirement from the federal and state governments. This adopted policy needs to be readily available to the public, maintained by the county, and provide for documents to be stored in a secure area.

**F5.** The payments received from the County for the properties are turned over to the holders of the bond, which in this case is Oppenheimer Funds

([https://www.oppenheimerfunds.com/advisors/doc/Rochester California Municipal Fund Semi annual Report.pdf?dig\\_asset\\_metrics=done&cb=32773939858](https://www.oppenheimerfunds.com/advisors/doc/Rochester_California_Municipal_Fund_Semi_annual_Report.pdf?dig_asset_metrics=done&cb=32773939858)) (page 33). The use of public funds was legal, but somewhat imprudent.

**R5.** No action required.

**F6.** The additional questions brought up suggest a carryover investigation by the next GJ.

**R6.** Investigate by the next GJ.

### **REQUEST FOR RESPONSES**

In accordance with California Penal code 933.05, a response is required as indicated below:

<u>Respondent</u>	<u>Findings/Recommendations</u>	<u>Due Date</u>
Board of Supervisors	F1, F3, R1, and R3	90 days
County Administration Office	F1, F3, R1, and R3	60 days



RECEIVED  
APR 21 2015  
Trinity County  
Board of Supervisors  
By: \_\_\_\_\_

Superior Court of California  
County of Trinity

P.O. Box 1258  
Weaverville CA 96093

ELIZABETH W. JOHNSON  
Presiding Judge

MICHAEL B. HARPER  
Judge

CINDY VAN SCHOOTEN  
Court Executive Officer

MEMORANDUM

**TO:** Board of Supervisors  
Trinity County CAO  
Veterans Services Officer

**FROM:** Staci Holliday, Jury Commissioner *SH*

**DATE:** April 21, 2015

**RE:** 2014-2015 Trinity County Grand Jury Report  
*HHR-201443-2015-001: Veterans Services "Thumbs Up"*

This report is being provided to your department pursuant to Section 933.05 of the Penal Code relative to grand juries. Penal Code § 933.05(f) requires that grand juries, **following approval by the Superior Court Presiding Judge and at least two working days prior to the public release of the report**, shall furnish each respondent a copy of the report which pertains to the respondent. No respondent shall disclose any contents of the report prior to the public release of the final report.

This report will become a matter of public record on **April 28, 2015**. Sections 933 and 933.05 require you to respond in writing to the findings and recommendations pertaining to matters under the control of you or your department. Your original response should be addressed to Elizabeth Johnson, Presiding Judge of Trinity Superior Court **with a copy to the County Administrative Office "Clerk of the Board"**.

Enclosure

**TRINITY COUNTY GRAND JURY**

**2014-2015**

**Health and Human Services Committee**

**HHR 2014-2015-001**

**Final Report**

**Trinity County Veterans Service:**

**Thumbs Up!**

**Approved 04/16/2015**

A handwritten signature in black ink that reads "Julie Dahl". The signature is written in a cursive style with a large initial "J".

**Julie Dahl**

**Foreperson**

**2014-2015 Trinity County Grand Jury Final Report**  
**Health and Human Services Committee**  
**Trinity County Veterans Service: Thumbs Up!**  
**HHR-2014-2015-001**

**SUMMARY**

The reasons for investigating the Trinity County Veterans Service were the following:

- (1) identify the service delivery areas, including any outreach programs, by location and hours. It was found that the primary location is in Weaverville, CA and the outreach program is in Hayfork, CA. The locations and hours were found to be adequate.
- (2) identify the process used to locate the veterans who reside in Trinity County. The process involves two forms. The first form CW-5 is from the Health and Human Services. The second form is a Monthly Returnee spreadsheet sent from CALVET. Both forms are found to be appropriate and successful.
- (3) examine what effect the implementation of Public Law 113-146, the Veterans Choice and Accountability Act of 2014 has on the veterans who reside in Trinity County. The process determining the mileage is found to be troublesome. There is a need for the Trinity County Veteran Service (TCVS) to continue to advocate for the Trinity County Veterans for an appropriate determination of mileage regarding Public Law 113-146, the Veterans Choice and Accountability Act of 2014.

**GLOSSARY**

BOS- Board of Supervisors  
CAO – County Administrative Office  
CALVET- California Veterans  
DVA- United States Department of Veterans Affairs  
ROVPS – Redding Veterans Outpatient Clinic  
TCHHS – Trinity County Health and Human Service  
TCVS – Trinity County Veterans Service  
VSO – Veterans Service Officer

**BACKGROUND**

The Trinity County Grand Jury is charged, by law, to periodically review all management and operations of Trinity County offices. One area of review is the Veterans' Service Office. The Veterans Service Office was last investigated by the 2008-2009 Grand Jury. This current investigation is not complaint based. However, the following areas were of interest:

1. Service delivery to include hours and locations of any currently implemented outreach programs.
2. An explanation of the process used for the identification of the Veterans who reside within Trinity County.
3. The effect of Public Law 113-146, the Veterans Choice and Accountability Act of 2014 has on Trinity County veterans with regard to determination of mileage.

### **METHODOLOGY**

Interview with the Veterans Service Office Staff

Tour of Trinity County Veterans Service Office at the Weaverville location

Research of Trinity County 2008-2009 Final Report

Research of the monthly column in the Trinity Journal

Review of 2014-2015 Trinity County Veterans' Service Operation Plan (Appendix A)

Review of letter dated 1-20-15 from BOS to U.S. Dept. of Vet. Affairs (Appendix B)

Review of Trinity Journal article written by Amy Gittelsohn, dated 4-1-2015, "VA to drop 'as the crow flies' calculation". (Appendix C)

Review of Quick Facts About Your Veterans Choice Card (Appendix D)

Review of cover letter sent with Choice Cards (Appendix E)

### **DISCUSSION**

The mission of the Trinity County Veterans Service (TCVS) is "to provide outstanding service to veterans and their families and being an exceptional partner to Trinity County Departments, CALVET, United States Department of Veterans Affairs (DVA) and Veterans Organizations". The Trinity County State and Federal statutes, demographics, service partners, service stakeholders, staffing, budget and training are described and defined in Appendix A- Trinity County Veterans Service Operations Plan 2014-2015.

An interview with the Veterans' Service Staff was made in the Veterans' Service office on February 26, 2015. The office area was well organized and furnished well. The staff person began his position in 2012 and stated that he receives great support from Trinity County Risk Management, the County Administrative Office (CAO) and the Board of Supervisors (BOS).

The major focus of the Veteran Service Officer's position is to provide information and guide the veterans through the required paper work. The majority of time is spent assisting veterans in obtaining their benefits such as how to qualify for health care, how to obtain a service connected disability compensation and how to apply for a pension for indigent veterans over 65 years of age.

**The Veterans' Service Office is located at 101 Memorial Drive within the town of Weaverville. The hours of operation in Weaverville are Monday through Thursday from 10:00 a.m. to noon and from 1:00 to 4:00 p.m.**

**Trinity County was given an additional State Funding in FY 2013-2014. This additional funding has provided an additional 10 hours per month. This extra time has allowed the Veteran Service Officer to serve a bi-monthly outreach program at the Community Center in the town of Hayfork, which is over a mountain pass, 36 miles from Weaverville. When needed, scheduled after hours in the evenings and on weekends can be made.**

**The Veterans' Service Officer will drive to home appointments if the veteran is homebound, has no transportation or is on limited income. Appointments are made by phone 530-623-3975 or by email TVCO@velotech.net. The hours of operation are posted on the office doors and are adequate as per the Trinity County Veterans Service Operation Plan dated January 20, 2015 (Appendix A).**

**Informative monthly articles are written in the Trinity Journal and authored by the VSO. These articles are well written and devoted to current military veteran's issues..**

**According to the CVSO/CalVet Veterans' Claims Case Management systems Database, 1,504 Veterans lived in Trinity County in 2013-2014. The number of claims filed in 2013-2014 was 40. The average amount of new awards received was \$9,644.00.**

**The information forms utilized for the identification of Trinity County Veterans are the CW-5 form and the CALVET Monthly County Veteran Returnee spreadsheet.**

**The CW-5 form is sent to the VSO from the Trinity County Health and Human Services Department (TCHHS). This form is required by California State law and the purpose is for screening. The VSO completes the form and verifies whether or not the Veteran receives service. The CW-5 form is returned to TCHHS. A copy of the form is left with the VSO. The VSO initiates a phone call to the veteran in order to offer services.**

**The CALVET Monthly county Veteran Returnee spreadsheet is sent via email attachment to the VSO. This spreadsheet gives names and mailing addresses for recently discharged veterans who reside in Trinity County. A letter inquiring if there is any interest regarding veteran's benefits is then prepared by the VSO and sent to the identified veteran. During January of 2015, four Trinity County veterans were identified.**

According to the Trinity County Veterans Service Office, PL 113-146, the Veterans Choice and Accountability Act of 2014 as passed by the House and the Senate and signed into law by the President is presenting problems for Trinity County veteran's exercise of choice as follows: The law as written authorizes the Secretary to determine how the 40 mile geographical challenges will be applied. It appears that the decisions made by the Secretary to re-define the 40 mile criteria will limit the number of veterans that will be eligible for Choice Cards.

Trinity County is on the eastern side of the coastal mountain range of northern California. The Trinity County VA Health Care System enrollees (448 enrollees as of 6/14/2014, who comprise 31% of the veteran population in Trinity County) must drive two-lane mountain roads with numerous switchbacks, and over Buckhorn Pass (elevation 3200 feet) to get to the VA clinic in Redding CA. The Hayfork enrollee's (driving distance 63.95 miles to VA clinic Redding) have an additional two lane multiple switchback road (Highway 3) and 3700 foot Hayfork Summit to drive over just to get to Highway 299 as well as the Buckhorn Pass in order to drive to the VA Clinic in Redding, CA. Driving distance for Weaverville enrollee's is 46.95 miles and from Trinity Center it is 81.32 miles. Both Highway 299 and Highway 3 are "geographical challenges" and a "significant travel hardship" for enrollee's, especially in the winter.

It is strongly believed that Trinity County veterans need to be afforded the right to use driving distance for determination of "40 miles or less from the residence of the veteran due to geographical challenges or that present a significant travel hardship" accordance with the intent of PL 113-146.

It is clear that the decision made by the Secretary to use "straight line distance" or "as the crow flies" ignores the language in PL 113-146, "40 miles or less from the residence of the veteran due to geographical challenges". A simple way to determine mileage may be to allow the VA provider to use map quest to determine mileage.

The Trinity County Board of Supervisors (BOS) wrote a letter written to the U.S. Department of Veterans Affairs on January 20, 2015, (Appendix B) requesting that the decision to determine the 40 mile radius, i.e. "straight line distance" be rescinded and replaced with "driving distance of 40 miles or less from the residence of the veteran due to geographical challenges or that present a significant travel hardship."

A Choice Card is sent to each qualified veteran with a cover letter explaining the program and the use of the card (Appendix E). An explanation of Quick Facts About Your Veterans Choice Card is also enclosed (Appendix D).



**FINDINGS**

F1. The service delivery hours and locations of the Veteran’s Service office and outreach program are adequate as per the TCVS Operation Plan dated January 20, 2015.

F2. The Health and Human Services Form CW-5 and the CALVET Monthly Returnee spreadsheet are utilized to identify Trinity County Veterans.

F3. There are troublesome areas in the determination of mileage for Trinity County veterans with regard to PL 113-146, the Veterans Choice and Accountability Act of 2014.

**RECOMMENDATIONS**

R1. The Grand Jury recommends the TCVS continue to implement the adequate hours and appropriate locations of service delivery.

R2. The Grand Jury recommends the TCVS continue to utilize the appropriate identification process of Trinity County veterans.

R3. The Grand Jury recommends that the CAO supports and encourages the TCVS to continue to monitor and advocate for the needs of the Trinity County veterans with regard to the determination of mileage with regard to of Public Law 113-146, the Veterans Choice and Accountability Act of 2014.

**REQUEST FOR RESPONSES**

In accordance with the California Penal Code Section 933.05, responses are required as indicated below:

Board of Supervisors	Findings/Recommendations 1, 2, 3	90 days
County Administrative Office	Findings/Recommendations 1, 2, 3	60 days
Trinity County Service Officer	Findings/Recommendations 1, 2, 3	60 days

The Trinity County Veteran’s Service Department should be commended and given recognition for the exceptional fulfillment of their mission in providing outstanding service to Trinity County Veterans and their families.

**APPENDIX**

Appendix A: Trinity County Veterans Service Operations Plan for Fiscal Year 2014/2015

Appendix B: BOS letter to U. S. Department of Veterans Affairs 1/20/15

Appendix C: Trinity Journal article, dated 4-1-2014, VA to drop ‘as the crow flies’ calculation

Appendix D: Quick Facts About Your Veterans Choice Card

Appendix E: Cover Letter for Choice Card, January 2015

**TRINITY COUNTY VETERANS SERVICE (TCVS)  
OPERATIONS PLAN FOR FISCAL YEAR 2014/2015**

**ABSTRACT**

The TCVS Operations Plan for FY 2014/2015 is designed to capture in one document all the important State and Federal requirements for provision of veteran's services in Trinity County. An analysis of Trinity County veteran demographics provides a current profile of our veterans. A section is focused on analysis of Veteran Service Partnerships and Stakeholders in order to describe the linkage with public and private organizations as well as Identifying California Department of Veterans Affairs (CALVET) priorities shared with TCVS. A section is focused on Staffing, Budget and Training issues. The section on Veteran Services focuses on the general principles of veteran service delivery in Trinity County. Action directives for the Veteran Service Officer (VSO) are contained in the Operations Plan.

**Prepared By  
Patrick Meagher  
Trinity County Veterans Service Officer  
November 2014  
Approved by Trinity County Board of Supervisors  
January 20, 2015**

**TRINITY COUNTY VETERANS SERVICES  
OPERATIONS PLAN FOR FISCAL YEAR 2014/2015**

**VISION STATEMENT**

**TO PROVIDE OUTSTANDING ASSISTANCE TO VETERANS AND FAMILIES WHILE WORKING TOWARD A COMMON SET OF CALVET AND TRINITY COUNTY PRIORITIES.**

**MISSION STATEMENT**

**THE MISSION OF TRINITY COUNTY VETERANS SERVICE IS TO PROVIDE OUTSTANDING SERVICE TO VETERANS AND THEIR FAMILIES AND BEING AN EXCEPTIONAL PARTNER TO TRINITY COUNTY DEPARTMENTS, CALVET, UNITED STATES DEPARTMENT OF VETERANS AFFAIRS (DVA) AND VETERANS ORGANIZATIONS.**

## SECTION I

### STATE AND FEDERAL STATUTES AND POLICIES THAT APPLY TO COUNTY VETERANS SERVICES

The California Military and Veterans Code (CMAVC) Article 4, Section 970-974.5 and Section 721 establish and define county veteran services that may be provided to qualified veterans and their families. California Code of Regulations Title 12, Sections 450-455 provides the detail requirements for county participation in the CALVET Subvention program CALVET MEMORANDUM of May 12, 2012, containing Veterans Services Division Policy regarding VETERANS CLAIM REPRESENTATION, provides guidance for all persons providing veterans claims assistance under the auspices of CALVET. 38 CFR Sections 1.503,1.524, 1.525 address the issues of privacy, representation of veterans, inspection of records, and disclosure of information to veterans authorized representative ; and 14.626 through 14.633 discusses regulation of representatives, agents, attorneys and others who assist veterans with claims. The Burial With Honor Act of 2012 (AB 1806) was signed into law on January 3, 2013. *PUBLIC LAW (PL) 113-146 The Veterans Choice, and Accountability Act of 2014 is in process of roll-out. (attachment 1) (New)* The statutes and policies referenced here are maintained in the Veteran Service Office and are available for review.

### TRINITY COUNTY VETERAN DEMOGRAPHICS

*CALVET revised Veteran Demographic Data projects 1432 Veterans lived in Trinity County in 2012. Additional CALVET veteran demographic data projects 89% are men. Following a review of open and closed veteran cases in possession of the Trinity County Veterans Service Office, the Trinity County projection is approximately 97% of veterans in the county are men. Another set of data from CALVET tells us that the age cohort 50 and above make up 67% of the 1.70 million veterans that reside in California. (The 67% figure checks with open claims and cases closed in the last two years). In addition the number of veterans 70-75 years of age is projected to increase 22% between 2015 and 2019. Extracting data from the 2010 Trinity County Census Quick Look available on the internet, reveals that 11,263 residents are over the age of 18 and 5,631 are men. Further calculation reveals that approximately 25% of these men are veterans. The estimate for women Veterans residing in Trinity County is less than 20. *As of November 2014 the Trinity County Veterans Service Office has less than 30 pending claims (with data on over 240 veterans entered in VETPRO).* While not tracked by CALVET for workload subvention funding, in FY 2013/14, eighteen veterans were signed up for VA healthcare.*

Note: *CALVET STRATEGIC PLAN FY2013/14-2015/2016 INTRODUCTION, California's Veterans, page 12. "The largest demand for benefits and services for veterans occurs immediately after discharge and again as the veteran population ages and requires greater access to medical facilities and long-term care services. With the substantial number of veterans under age 30 leaving the military after deployments to the wars in Iraq and Afghanistan, coupled with a considerably large population of Vietnam veterans who need greater access to medical and long-term care, California should expect and plan for a sustained spike in demand for these earned services".*

## SECTION II

### TRINITY COUNTY VETERAN SERVICES PARTNERS

Partnership is defined as an arrangement where parties agree to cooperate to advance their mutual interests. At the federal level, TCVS partners with the Redding Veterans Outpatient Clinic (RVOPC) and the Veterans Justice Outreach Specialist (VJOS) at VA Hospital Mather CA. At the state level, TCVS partners with CALVET. At the county level, TCVS partners include Trinity County Health and Human Services (TCHHS), the Trinity County Sheriff's Office (TCSO), Trinity County Superior Court and Probation Services TCSC/PS). Finally, at the private organization level, TCVS partners with Veterans of Foreign Wars Post 7705, and the Human Response Network (HRN).

#### RVOPC-TCVS PARTNERSHIP

The RVOPC-TCVS partnership was formed in April 2013 during the semi-annual mobile clinic held in the Veterans Hall. The TCVSO actively recruits Trinity County Veterans for VA healthcare as requested by the RVOPC Site Manager. The RVOPC Site Manager provides information, and consultation to the TCVSO on issues related to VA healthcare and Claims and Pension Examinations. In addition he may write a quarterly TRINITY COUNTY VETERAN focusing on VA healthcare related issues.

**Action: Continue to represent and advocate for Trinity County VA Healthcare System enrollee's to utilize the rural VA healthcare initiative contained in PL 113-146.**

**Action: Continue to attend quarterly Northern California Healthcare Advisory meetings.**

## VJOS-TCVS PARTNERSHIP

The VJOS-TCVS partnership was formed in July 2013 in order to assist an incarcerated veteran and the spouse of an incarcerated veteran. TCVS makes initial contact with the veteran, collects preliminary information and consults with the VJOS and defense counsel as appropriate. TCVS orders DD-214, and prepares other VA applications. VJOS provides advice and assistance with the VA Healthcare System to support various treatment options if alternative sentencing under California Penal Code Section (CPCS) 1170.9 is approved. VJOS consults with TCSC/PS as necessary.

## CALVET-TCVS PARTNERSHIP

*The CALVET STRATEGIC PLAN FY 2013/14-2015/16 STRATEGIC PLAN DEVELOPMENT, CALVET PARTNERS, page 14 states: "CALVET has expanded its outreach efforts through our successful partnership with the State's County Veterans Service Officers (CVSO) that work within their communities with local organizations to advocate for their respective veteran populations. Together, we work to connect veterans with their benefits. We will continue to strengthen our relationship with Veteran Service Organizations (VSO), whose advocacy, services and support are invaluable to our veteran community."* CALVET's Oakland Regional Office, provides important advice and assistance for TCVS in developing and monitoring Trinity County veteran's claims. CALVET is coordinating the Digital-to-Digital (D2D) marriage of VETPRO with the VA's electronic Claims and Pensions filing system.

**ACTION: TCVS attend CDVA sanctioned training to stay current with D2D efforts.**

## TCHHS-TCVS PARTNERSHIP

TCVS collaborates with TCHHS by verifying DVA benefit status for county veterans seeking assistance. TCHHS provides the CALVET VETERANS RESOURCE BOOK and the Trinity County Veterans Service Officers business card to county veterans seeking their assistance.

**ACTION: TCVS will contact all veterans referred by TCHHS on CW-5 and offer a Counseling meeting to discuss DVA benefits.**

## TCSO/TCSC/PS-TCVS PARTNERSHIP

TCVSO is notified by the Trinity County Jail Commander when a prisoner is booked who “has served in the military” and is requested to meet with the prisoner to determine eligibility for VA assistance. TCVSO met with the Deputy Trinity County Prosecutor regarding implementation of CPC SECTION 1170.9. TCVSO briefed the Trinity County Probation Department on DVA and CALVET Veterans Justice Outreach efforts and CPC SECTION 1170.9. The VA Veterans Justice Outreach Specialist at Mather-Sacramento serves as primary consultant to the TCVSO on matters pertaining incarcerated veterans.

**ACTION: Continue to consult with the TCSO/TCSC/PS regarding incarcerated veterans  
And implementation of CPC SECTION 1170.9.**

## VFW POST 7705-TCVS PARTNERSHIP

VFW Post 7705 makes referrals to TCVS for assistance with DVA services, and on occasion provides endorsement letters for veterans request for assistance to their elected officials. In turn, TCVS provides information and material support to VFW Post 7705. On occasion TCVS makes referrals to Post 7705 for veterans who are in need of emergency financial assistance.

## HRN-TCVS PARTNERSHIP

HRN provides limited homeless shelter/assistance in Trinity County. In the 2014 CALIFORNIA VETERAN’S RESOURCE BOOK, CALVET states it is addressing veteran homelessness by working with various State and local agencies throughout California that assist veterans transitioning from active duty status (Page 138) and goes on to list several DVA and Housing and Urban Development veteran homeless assistance programs. The TCVSO has partnered with HRN and joined their Homeless Committee. In the case of a homeless veteran, TCVS can assist with claims and referrals for services to DVA.

TCVS rents the HRN office in the Hayfork Community Center two days per month in order to provide outreach services to Hayfork veterans.

## TRINITY COUNTY VETERAN SERVICE STAKEHOLDERS

Stakeholders are defined as an individual or group with an interest in an organizations success in delivering intended results and maintaining the viability of the organizations service. Stakeholders influence programs, products, and services. The TCVS stakeholders include CALVET, Trinity County Board of Supervisors, the Trinity County Veteran's Community, and Trinity County Veterans Organizations.

### CALVET as STAKEHOLDER

The CALVET ENTERPRISE STRATEGIC PLAN 2012, Strategic Goal 1, Section D, tasks the Veterans Services Division to do the following: (1) Initiate performance assessments of County Veteran Service Officers. (2) Revise CVSO subvention formula. (3) Implement a Veterans Representative Academy. (4) Develop the VETPRO paperless pilot program. (5) Increase collaboration with stakeholders and partners (CVSO's, Veteran Service Organizations, etc.) *These initiatives have been completed.*

### TRINITY COUNTY BOARD OF SUPERVISORS as STAKEHOLDERS

The Trinity County Board of Supervisors (TCBOS) are responsible for adoption of an annual budget outlining the proposed expenditures of all departments of the county on a fiscal-year basis. In addition, the TCBOS supervises the activities of the County Administrative Officer (CAO) and all county departments. TCVS provides an annual Veteran Services Operations Plan for review and approval by the TCBOS in the first quarter of the new fiscal year.

### TRINITY COUNTY VETERANS as STAKEHOLDERS

Trinity County veterans who have used TCVS provide word-of-mouth advertising of services available to other veterans. TCVS initiated the TCVS FOLLOW-UP QUESTIONNAIRE in first quarter FY12/13. The responses to the questionnaire will provide important veteran evaluation data to the Trinity County CAO and TCBOS. TCVS will continue to employ the TCVS FOLLOW-UP QUESTIONNAIRE.



## TRINITY COUNTY VETERANS SERVICE ORGANIZATIONS as STAKEHOLDERS

VFW Posts 7705 (Weaverville) and 9546 (Hayfork) as representatives of the Trinity County Veterans, have advocated for veterans services to TCBOS on several occasions over the past three years. Both Posts remain strong supporters of TCVS.

### SECTION III

#### TRINITY COUNTY VETERANS SERVICE STAFFING, BUDGET and TRAINING

##### STAFFING

Trinity County Veterans Service is staffed at half-time (20 hours/week). *Following provision of additional CALVET funds in FY14 and FY15, an additional ten hours a month has been added to the VSO's schedule in order to provide outreach to hayfork on a twice a month basis.* The CVSO works Monday through Thursday five hours a day. Analysis of workload for FY13/14 documented in the VSO work-log for that period demonstrates half-time is more than adequate for TCVS. California Military and Veterans Code Article 4. Administration, Sections 970 (b), 971, 973, and 974 stipulates that the CVSO must personally provide or directly supervise personnel delivering services to veterans. There is no provision within the code for the CVSO to delegate these responsibilities.

##### TCVS BUDGET FOR FY 13/14

The TCVS operations budget for FY 13/14 is contained in attachment 2.

##### COUNTY VETERAN SERVICE OFFICER (CVSO) TRAINING

*The CALVET STRATEGIC PLAN FY 2013/14-2015/16, Section C, page 23 states " To sustain the knowledge gathered through the California Veterans Service Representative Academy (CVSRA/VetRep Academy), CalVet will conduct refresher courses on change to programs, policies, and procedures. Continuing Education Units (CEU's) will be given upon completion of these courses. One of the most significant components of this initiative is a well-managed data that tracks CEUs and current accreditations. This database will help us manage the recertification process and ensure that effective and standardized training is available. The CVSO's will then follow up and assist with training and updates in the local communities to veteran service organizations and other regional benefits organizations.*

The new CALVET training initiative is intended to formalize processes to support training and certification requirements established in 38 CFR. 38CFR Section 14.629 (a) (2) (i) stipulates the CVSO must work at least 1000 hours annually, (ii) has successfully completed a course of training and an examination which has been approved by a Regional Counsel with jurisdiction for the State; (iii) Will receive either regular supervision and monitoring or annual training to assure continued qualification as a representative in the claim process. CALVET MEMORANDUM of May 12, 2012, containing Veterans Services Division Policy regarding VETERANS CLAIM REPRESENTATION, provides additional guidance for all persons providing veterans claims assistance under the auspices of the CALVET. It is clear CALVET is committed to enhanced training and accreditation for County Veterans Service Officers. These training events are provided by the California Association of County Veteran Service Officers (CACVSO). Given the CALVET-DVA D2D development and transition, and the push to use Fully Developed Claims, TCVSO attendance at all scheduled training conferences in FY14/15 is very important. Documented participation in continuing training and education is also required to maintain accreditation with the DVA. CALVET provides \$4000.00 a year for attendance at sanctioned trainings. TCVSO is currently accredited with the Department of Veterans Affairs by the National Association of County Veterans Service Officers (NACVSO).

#### SECTION IV

##### PROVISION OF VETERAN SERVICES

It is not the intent of this section to detail all the services to be provided by the Trinity County Veterans Service Officer. Those details are covered in 38 CFR, the 2014 CALIFORNIA VETERANS RESOURCE BOOK, and the DVA and CALVET websites. Additional requirements are spelled out in the CALVET VETERANS SERVICE DIVISION PROCEDURE MANUAL FOR SUBVENTION, MEDICAL COST AVOIDANCE PROGRAMS AND THE COLLEGE FEE WAIVER PROGRAM. Instead, the focus here will be on the general principles of veteran service delivery in Trinity County.

1. All claims and pension application forms are contained in VETPRO and are "fillable", accordingly veterans seeking to file disability claims or pensions, healthcare applications, etc. will be assisted by the TCVSO in the Veterans Service Office as practicable.
2. Forms will be completed on line, printed, signed by the veteran, and mailed to the appropriate Service Representative for filing with the DVA Regional Office.
3. Veterans Service outreach will be provided twice a month to Hayfork. As necessary, the VSO may make appointments to see individuals in their homes. Criteria for outreach are homebound, disabled, and limited income-transportation challenged.

4. **Information and referral on a wide variety of veterans issues and concerns is an important component of service to veterans and their families as well as members of the community. The TCVO will write the monthly TRINITY COUNTY VETERAN for publication in THE TRINITY JOURNAL. As noted in Section II, the RVOPC may write a quarterly TRINITY COUNTY VETERAN.**
5. **The draft report to: State Assembly Budget Subcommittee No. 4, CALVET AND CVSO STRATEGIC PARTNERSHIP AND BEST PRACTICES was contained as an attachment in the 2013/14 Ops Plan. It is on file and available for review in the Veterans Service Office. It should be noted that TCVSO already employs many of the best practices identified, and will implement others as appropriate.**
6. **The effectiveness of Trinity County Veterans Services is provided by the CDVA Secretary Annual Report (Attachment 3). Started in FY 12/13, the TCVS FOLLOW-UP QUESTIONNAIRE provides important evaluative data on service delivery.**

## SECTION V

### CONCLUSION

A review of the Operations Plan indicates that delivery of veteran services in Trinity County has become more complex with the addition of two partnerships in 2013/14; RVOPC and VJOS. *In addition, the aging veteran population coupled with the impact of PL 113-146 will require the VSO to become more involved in veterans healthcare needs and concerns going forward.* Implementation and maturation of VETPRO and transition to electronic filing of claims (D2D) requires additional training and higher level of computer and software skills. These need to be reflected in Knowledge, Skills, and Experience requirements in the Veteran Service Officer Position Description and Performance Standards. Trinity County should anticipate more involvement from CALVET, such as implementation of CALVET Best Practices and a performance assessment of the current Veteran Service Officer. Based on workload data mentioned previously in the section on staffing, a half time Veteran Service Officer is quite sufficient to provide the full range of services required, providing outreach on a limited basis and manage the county and CALVET administrative work load.

**ATTACHMENT 1**

PUBLIC LAW (PL) 113-146 the Veterans Choice, and Accountability Act of 2014

Roll-Out Issues in Trinity County

BY

Patrick Meagher

Trinity County Veterans Service Officer

Trinity County California

PL 113-146, the Veterans Choice, and Accountability Act of 2014 as passed by the House and the Senate and signed into law by the President is presenting problems for Trinity County veteran's exercise of choice as follows: The law as written authorizes the Secretary to determine how the **40 mile geographical challenges** will be applied. **It appears that the decisions made by the Secretary to re-define the 40 mile criteria will limit the number of veterans that will be eligible for Choice Cards as explained below.** (All underlining and bold print are the authors)

THE TRAVEL SITUATION FOR TRINITY COUNTY ENROLLEES

Trinity County is on the eastern side of the coastal mountain range of northern California. Trinity County VAHC System enrollees (448 as of 6/14/2014)) must drive two-lane mountain roads with numerous switchbacks, and over Buckhorn Pass (elevation 3200 feet) to get to Redding. For Hayfork enrollee's, (driving distance 63.95 miles to VA clinic Redding) they have an additional two lane multiple switchback road (highway 3) and 3700 foot Hayfork Summit to drive over just to get to highway 299 and Buckhorn in order to drive to the VANCHC Clinic in Redding CA. Driving distance for Weaverville enrollee's is 46.95 miles and from Trinity Center is 81.32 miles. I point out that both highway 299 and 3 are "geographical challenges" (in the words PL 113-146) and a "significant travel hardship" (in the words of the VA Fact Sheet cited below) for enrollee's especially in the winter.

DISCUSSION

THE LAW, DVA INTERPRETATION, AND IMPACT ON TRINITY COUNTY ENROLLEES

The Veterans Access, Choice, and Accountability Act of 2014 Title 1, Section 101, (b) ELIGIBLE VETERANS resides—(D) (ii) (II) states as follows: **"Faces an unusual or excessive burden in accessing each medical facility described in clause (i) that is 40 miles or less from the residence of the veteran due to geographical challenges, as determined by the Secretary."** Secretary McDonald's A MESSAGE FROM THE SECRETARY, an undated informational letter, stated in paragraph 6. **"The first group of Choice Cards along with a letter explaining eligibility for this program is currently being sent to veterans who may live more than 40 miles from a VA facility."**

In an undated VA Fact Sheet, Veterans Access, Choice, and Accountability Act of 2014 Title I: Choice Program and Health Care Collaboration, in the paragraph ELIGIBILITY d) states: “The Veteran faces a geographic challenge, such as excessive distance around water or other geologic formations, such as mountains, that presents a significant travel hardship.”

On the internet based U. S. Department of Veterans Affairs Veterans Choice Explorer, the user is presented with a series of questions designed to determine if the user is eligible for the Choice Card based on the 40 mile criteria. Question 1 asks if you are enrolled in the VA for healthcare benefits, question 2 is for enrollment date, question 3 asks about scheduling an appointment within 30 days, question 4 requires the respondent to actually enter their physical home address including zip code, and question 5 asks the following: “Do you face an unusual or excessive travel burden (i.e. you cannot travel to a local VA due to a body of water or **land barrier that cannot be crossed by road or highway**)?” Answering no to question 5 automatically excludes you from eligibility for a Choice Card. Answering yes gives you a provisional OK for the Choice Card.

Director of the NCHC System David Stockwell, at the quarterly regional meeting at the Redding VA Clinic on October 30, 2014, explained that the 40 mile limit is defined “as the crow flies” (or straight line distance in the words of the VA Fact Sheet) and that out of 100 thousand plus veterans enrolled in the NCHC System, by their calculation there will only be approximately 440 eligible for the Choice Card.

It is clear that the decision made by the Secretary to use “straight line distance” measurement ignores the language in PL 113--146 “40 miles or less from the residence of the veteran due to geographical challenges”, and ignores that distance to be computed is implied as driving distance (i. e. “that presents a significant travel hardship); and is in conflict with the spirit and the intent of PL 113-146. I would argue that this decision is designed with two objectives in mind. One, to simplify managing the implementation of the 40 mile requirement and Two, to exclude as many eligible enrollees as possible (the reduction impact is self-evident in the reduced number of eligible enrollees cited in the paragraph above). This decision will exclude Weaverville, and Hayfork VANCHC system enrollees. Lewiston and Douglas City VANCHC System enrollees who face the same geographical challenge of mountain driving and the need to cross Buckhorn summit for access to VA Health Care even though their driving distance is less than 40 miles are also excluded. I would also note that the Veterans Choice Explorer question 5 includes a definition (or land barrier that cannot be crossed by road or highway) that misuses the language contained in the VA Fact Sheet and PL 113-146, Title 1, Section 101, (b) ELIGIBLE VETERANS resides—(D) (ii) (II)and is also designed to exclude respondents that answer no.

#### THE FIX

It is acknowledged that the VA Secretary has the authority to decide how the **“40 mile-geographical challenges”** will be determined, however he does not have authority to rewrite the law pertaining to the distance determination i.e. “straight line distance.” NCVAHC System enrollee’s need to be afforded the right to use **driving distance** of over 40 miles from home to VA Healthcare facility as implied in the language of PL 113-146. A simple fix is for the VA provider

to use map quest to determine mileage. A statement from the enrollee regarding “geographical Challenges” if driving distance is less than 40 miles could be accepted as well. When rollout of the “Choice Card” is well underway, say January 2015, a transition to this policy should be initiated.



# TRINITY COUNTY

Board of Supervisors

P.O. BOX 1613, WEAVERVILLE, CALIFORNIA 96093-1613  
PHONE (530) 623-1217 FAX (530) 623-8365

January 20, 2015

U. S. Department of Veterans Affairs  
Attention: Secretary Robert A. McDonald  
810 Vermont Avenue NW  
Washington, DC 20420

Dear Secretary McDonald:

RE: Implementation of Public Law (PL) 113-146 in Trinity County California

The Trinity County Board of Supervisors are requesting that the decision to determine the 40 mile radius, i.e. "straight line distance" be rescinded and be replaced with "driving distance of 40 miles or less from the residence of the veteran due to geographical challenges or that present a significant travel hardship."

The proposed language is consistent with the intent and spirit of PL 113-146 Title 1, Section 101, (b) ELIGIBLE VETERANS resides—(D) (II), and the undated VA Fact sheet, Veterans Access, Choice, and Accountability Act of 2014 Title 1: Choice Program and Health Care Collaboration, ELIGIBILITY, d).

After careful review of the above cited documents, it is clear that the language is unambiguous regarding veterans residence distance from the nearest VA medical facility and is to be determined by driving distance. We also note that PL 113—146 does not authorize the secretary to substitute "straight line distance" for the referenced language contained in the law.

Trinity County is on the eastern side of the coastal mountain range of northern California. Our VA Health Care System enrollees (448 as of 6/14/2014, who comprise 31% of the veteran population in Trinity County) must drive two-lane mountain roads with numerous switchbacks, and over Buckhorn Pass (elevation 3200 feet) to get to Redding CA. For Hayfork enrollee's, (driving distance 63.95 miles to VA clinic Redding) they have an additional two lane multiple switchback road (highway 3) and 3700 foot Hayfork Summit to drive over just to get to highway

KEITH GROVES  
DISTRICT 1

JUDY MORRIS  
DISTRICT 2

KARL FISHER  
DISTRICT 3

BILL BURTON  
DISTRICT 4

JOHN FENLEY  
DISTRICT 5

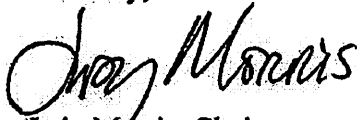


Secretary McDonald  
January 20, 2015  
Page 2 of 2

299 and Buckhorn in order to drive to the VA Clinic in Redding CA. Driving distance for Weaverville enrollee's is 46.95 miles and from Trinity Center is 81.32 miles. Both highways 299 and 3 are "geographical challenges" and a "significant travel hardship" for enrollee's especially in the winter.

We strongly believe that our veterans need to be afforded the right to use driving distance for determination of "40 miles or less from the residence of the veteran due to geographical challenges or that present a significant travel hardship" in accordance with the intent of PL 113--146."

Sincerely,



Judy Morris, Chairman  
Trinity County Board of Supervisors

CC: by e-mail: Secretary, California Department of Veterans Affairs  
Jared Huffman, United States House of Representatives  
The Rural County Representatives of California (RCRC)  
American Legion, Department of California  
California Association of County Veteran Service Officers

4-1-2015

# VA to drop 'as the crow flies' calculation

BY AMY GITTELSON  
THE TRINITY JOURNAL

Most Trinity County veterans will be able to visit health care providers within Trinity County and have that visit paid for through a Department of Veterans Affairs program following a change announced recently by the VA.

The change which will take effect in about two months is part of implementation of the Veterans Access, Choice and Accountability Act of 2014. The law was passed in response to reports that veterans died waiting for appointments at a VA hospital in Phoenix and records were manipulated to hide the delays.

It was meant to enable veterans far from VA facilities to seek care locally if they lived more than 40 miles from the nearest VA facility or had over a 30-day wait time for that facility. However, the VA applied the 40-mile part in a straight "as the crow flies" fashion rather than driving mileage.

Veterans in Trinity County received their Veterans Choice cards a couple of months ago. But under the straight line formula, none qualified.

"Nobody's got a drone or a helicopter or an airplane they're going to fly," said Trinity County Veterans Services Officer Patrick Meagher.

The interpretation drew letters of protest to VA Secretary Robert McDonald

See VA, page 8

# VA: 40-mile rule changed

Continued from page 1

from representatives of veterans in mountainous areas, including the Trinity County Board of Supervisors and Rep. Jared Huffman. It was fodder for "The Daily Show" with Jon Stewart, who noted that as the crow flies is "the least meaningful way to calculate how long it takes to get somewhere for non-crows."

The VA changed course. They are going to use driving miles," Meagher said, but he added that this will have to go through the Congressional rules change process which includes 60 days for comments.

The rule change is expected to roughly double the number of eligible veterans nationwide.

Meagher believes all 448 veterans in Trinity County signed up with VA health care as of Aug. 1, 2014, will be eligible. However, in the case of those in Douglas City and Lewiston which are less than a 40-mile drive from the VA clinic in Redding, Meagher said he can assist with a waiver based on difficulty of travel.

The other side of the equation is the local health care providers, who need to sign up with TriWest Healthcare Alliance which is administering the program for the VA to participate.

From the Mountain Communities Healthcare District, CEO Aaron Rogers said the district is working on the contract with TriWest so that veterans can use the hospital and clinics in Weaverville and Hayfork.

"Whatever is in our control we're getting done as fast as we can," Rogers said. "We will be ready as soon as it's allowed."

Other local physicians may sign up as well.

The VA already pays for veterans with emergencies to be seen at emergency rooms, including the one at Trinity Hospital. This is not affected by the Veterans Choice Program.

There are a few other wrinkles, Meagher said.

Veterans must call TriWest each time they want to use their Veterans Choice card to see a provider, and that number is provided on the card.

Also, the program is temporary and expires when the allocated funds of \$10 billion are used or no later than Aug. 7, 2017.

Meagher feels that all the veterans in Trinity County should have the opportunity to use local providers if they want to, but based on receiving about 20 calls since January he's not sure how many will. Many are satisfied with the VA clinic in Redding, he said, and they still have that option.

Veterans with questions may call Meagher at 623-3975.

Appendix C

Appendix D

# QUICK FACTS ABOUT YOUR VETERANS CHOICE CARD

VISIT [WWW.VA.GOV/OPA/CHOICEACT/](http://WWW.VA.GOV/OPA/CHOICEACT/) FOR MORE INFORMATION.

**Before your Veterans Choice Card can be used, you must first meet the following test of eligibility for Choice Card benefits. If, after following Step 1 of the test you are not eligible for benefits, just hold on to your Card - you do not need to call us.**

## TO FIND OUT IF YOU'RE ELIGIBLE:



### PERSONALLY ASSESS YOUR ELIGIBILITY FOR CHOICE CARD BENEFITS.

Before you call us, ask yourself these four simple questions:

- 1) Have you been told by your local VA medical facility that you will need to wait more than 30 days from your preferred date or the date medically determined by your physician? **OR**
- 2) Is your current residence more than 40 miles from the closest VA health care facility? **OR**
- 3) Do you need to travel by plane or boat to the VA medical facility closest to your home? **OR**
- 4) Does a geographic challenge, such as extensive distances around water or other geologic formations, such as mountains, present a significant travel hardship?



If you answered yes to any of these questions, you may be eligible to use your Choice Card. **VERIFY YOUR ELIGIBILITY by calling 866-606-8198.**

When you call us, please be prepared to provide us with any other health insurance coverage you have, such as employer or union-provided health plans, so we can assess coverage responsibilities.

**IMPORTANT: If you do not receive approval, you may be responsible for some or all of the costs of the non-VA treatment you receive.**

## NOT ELIGIBLE RIGHT NOW? NO NEED TO DO ANYTHING! JUST KEEP YOUR CARD!

If you are not eligible to use the Choice Card right now, **keep your card in a safe and convenient location.** There is no need to call us.

**VA**

U.S. Department  
of Veterans Affairs

**THANK YOU FOR  
YOUR SERVICE TO  
OUR COUNTRY!**



U.S. Department of Veterans Affairs  
PO Box 462  
Saint Louis, MO 63166

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Appendix E  
Page 1

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[DR-]

## FORWARDING SERVICE REQUESTED

January 2015



On behalf of the Department of Veterans Affairs (VA), thank you for your service to our country. At VA, we value your commitment and strive each day to honor your service by providing you with timely and reliable access to health care and benefits - a responsibility we take very seriously.

Three months ago, the President and Congress, enacted the Veterans Access, Choice, and Accountability Act of 2014, which directed the establishment of a new program to provide improved access and meet the short-term health care needs of our Nation's Veterans. This is a new, temporary benefit allowing some Veterans to receive health care in their communities rather than waiting for a VA appointment or traveling to a VA facility. It does not impact your existing VA health care or any other VA benefit you may be receiving.

As part of this new program, we are issuing a Veterans *Choice Card* to every Veteran enrolled for VA health care as of August 1, 2014 or eligible to enroll as a recently discharged combat Veteran within 5 years of separation. The *Choice Card* allows Veterans to elect to receive care outside of VA when they qualify for the new program based on their residence, or when wait times for VA health care exceed the standards established in law.

Your *Choice Card* is enclosed. If your eligibility for this new program is verified, the *Choice Card* provides you with flexibility in meeting your health care needs. The *Choice Card* does not replace the identification card you already use to access other VA benefits. Please do not throw away that identification card.

If you believe you may be eligible because a health care appointment could not be provided to you within 30 days of your preferred date or the date that is medically determined by your physician, or if you live 40 miles from the nearest VA facility, please call 1-866-606-8198 to verify eligibility before using this card for health care appointments in your community.

Please note, if your current address is listed as a P.O. Box number or general delivery, you must FIRST provide VA with a legal residence or personal domicile in order for VA to determine if you are among those eligible to use the benefits of the *Choice Card* based on your residence being more than 40 miles from a VA medical facility. Then you can verify your eligibility and get approval to utilize the Choice Program.

If this is the case and you would like to have your eligibility for the *Choice Card* determined based on your residence, select one of the following convenient ways to submit your home address information:

- Call us at 877-222-VETS (8387)
- Submit your information online at [www.ebenefits.va.gov](http://www.ebenefits.va.gov) and select the "Apply for VA Health Care" link under Recommended Resources
- Download the Health Benefits Update Form from [www.va.gov/healthbenefits/apply](http://www.va.gov/healthbenefits/apply) and return it to Health Eligibility Center, 2957 Clairmont Road, Atlanta, Georgia, 30329

It is important to know that the *Choice Card* does not provide guaranteed health care coverage or an unlimited medical benefit. In fact, before your *Choice Card* for this new benefit can be used, your eligibility must be verified and you must receive advance authorization from VA. If you are satisfied with your local VA facility, there is nothing you need to do at this time.

If you have questions about your eligibility or would like to start using your *Choice Card* for non-VA care, please call 866-606-8198 to verify your eligibility and get approval to seek care in the community based on your distance from a VA facility. If you do not confirm your eligibility by calling this number prior to seeking care in your community, you may be responsible for some or all of the costs of the non-VA treatment you receive. This does not impact any other approved non-VA care.

When you call us, please be prepared to provide us with information on any other health insurance coverage you have, such as employer or union-provided health plans. Providing this information is required by law and will help us assess what community-based care may already be covered by your other health plan(s).

If you would like more information on the *Choice Card* and this health care program, please refer to the additional materials enclosed or visit [www.va.gov/opa/choiceact](http://www.va.gov/opa/choiceact).

Thank you for your service to the Nation. We are honored you have elected to enroll in VA's health care system, and we are committed to providing the highest quality care to you and to all the Veterans we serve.

With appreciation,



Secretary Robert A. McDonald  
U.S. Department of Veterans Affairs



**Superior Court of California  
County of Trinity**

P.O. Box 1258  
Weaverville CA 96093

**ELIZABETH W. JOHNSON**  
*Presiding Judge*

**MICHAEL B. HARPER**  
*Judge*

**CINDY VAN SCHOOTEN**  
*Court Executive Officer*

**MEMORANDUM**

**TO: Board of Supervisors  
Trinity County CAO  
Trinity County Sheriff**

**FROM: Staci Holliday, Jury Commissioner**

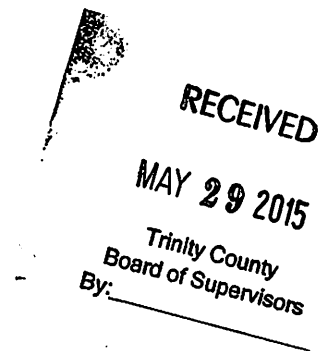
**DATE: May 28, 2015**

**RE: 2014-2015 Trinity County Grand Jury Report  
*JUR 2014-2015 -001 Trinity County Detention Facility Jail Report***

This report is being provided to your department pursuant to Section 933.05 of the Penal Code relative to grand juries. Penal Code § 933.05(f) requires that grand juries, **following approval by the Superior Court Presiding Judge and at least two working days prior to the public release of the report**, shall furnish each respondent a copy of the report which pertains to the respondent. No respondent shall disclose any contents of the report prior to the public release of the final report.

This report will become a matter of public record on **June 3, 2015**. Sections 933 and 933.05 require you to respond in writing to the findings and recommendations pertaining to matters under the control of you or your department. Your original response should be addressed to Elizabeth Johnson, Presiding Judge of Trinity Superior Court **with a copy to the County Administrative Office "Clerk of the Board"**.

Enclosure



**Judicial Committee**  
**JUR 2014-2015 – 001**  
**Final Report**

**Trinity County Detention Facility Jail Report**

**Approved 05/21/2015**

*Julie Dahl*

**Julie Dahl**

**Foreperson**

**2014-2015 Trinity County Grand Jury  
Judicial Committee Investigation  
Final Report JUR -2014-2015-001 Trinity County Detention Facility**

**SUMMARY:**

Section 919 (b) of California Penal Code provides "The Grand Jury shall inquire the condition and management of the public prisons within the County". This inquiry should take into account the construction, operation and administration of the facility. The Jail is considered to be Type II and it holds inmates pending arraignment, during trial and after sentencing to the County Jail.

Sadly, the findings and recommendations of past years continue to worsen year after year. There has been a dangerous understaffing fluctuating as low as eleven of the ideal nineteen staff members recommended (Appendix D). The intercom system is not reliable and the observation systems can not be monitored due to lack of staffing. Both of these communication systems lead to extreme risk for both staff and inmates. The aging jail has issues involving mold that can affect the health of staff and inmates. The booking area leaves jail staff vulnerable to physical harm. Dispatchers are working without scheduled breaks for lunch or bathroom needs. There is no time for being sick, taking vacations or attending to family needs. Many of these staff members are raising families. This is only the beginning of a long list of findings. The light has gone from yellow to red on a danger scale. The doors to lawsuits are opening wider and wider. How can our hard working defenders of this community be treated with such conditions? They are over worked and under paid. They have many needs that should have been met long ago.

The 2014-2015 Trinity County Grand Jury found many areas of focus that required investigation. These areas involved: an uncompleted Classification and Compensation study; ongoing recruitment and retention challenges resulting in understaffing levels; an unreliable intercom system; inadequate work space with desks and computers; the quantity and quality of inmate food; sanitation issue in exercise yard; an unsafe booking room; improper use of the sobering cell; and plumbing and mold issues. The Grand Jury wanted to discover reasons why these issues had not been resolved and what reasonable solutions could be put in place.

The Grand Jury has determined the following:

- The Classification and Compensation study has not been completed.
- The greatest challenges with regard to recruitment and retention are the inadequate pay rate/benefit package and the safety conditions of the jail.



- The current understaffing situation has continued to present critical issues regarding safety, morale and excessive workload.
- The intercom system does not operate in a consistent manner and parts for repair are difficult to find due to the age of the system.
- The jail staff have inadequate workspace and desks on which to perform documentation duties.
- There are numerous complaints regarding the inmate food served and according to the Biennial Inspection 2014-2016 dated April 16, 2015 (Appendix A), the nutritional health inspection has not been performed.
- The exercise yard continues to have a health/sanitary need due to the lack of a urinal.
- There is a safety issue in the design of the booking room.
- There are improper uses of the sobering cell.
- There are many health issues concerning plumbing and mold.

The 2014-2015 Trinity Grand Jury recommends:

- Immediate attention be given toward the completion of the delinquent Classification and Compensation study.
- Negotiation and implementation of salary and benefit packages, with a focus on law enforcement officers (to include the Sheriff) be made in line with comparable positions in counties of similar size.
- Recruitment and retention challenges are addressed with a more substantial salary and benefit package.
- The understaffing be increased to the recommended staffing of nineteen (Appendix D).
- The repair or replacement of the intercom system be expedited.
- The reserve room be equipped with additional desks and computers needed for staff use.
- A consistent monitoring system be created to ensure the quantity and quality of food is appropriate.
- An appropriate urinal be installed in the exercise yard.
- The safety needs for the Booking Room and use of the Sobering Cell be assessed and adequate funding be given to ensure any safety needs found.
- Immediate attention be given to the health issues (plumbing and mold) and properly funded.

## **GLOSSARY**

**BOS – Board of Supervisors**

**BSCC- Board of State and Community Corrections**

**CAO – County Administrative Officer**

**CO – Correctional Officer**

**DC – Dispatch Center**

**TCADF- Trinity County Adult Detention Facility**

**TCS – Trinity County Sheriff**

**TCSCJ – Trinity County Superior Court Judge**

## **BACKGROUND**

The Trinity County Grand Jury is mandated by law, California Penal Code 919(b), to inquire into conditions and management of public prisons within the county, which includes the Trinity County Adult Detention Facility (TCADF).

According to the 2014-2016 Biennial Inspection Report (Appendix A, page 4), the jail was originally constructed under the 1973 Title 24 Regulations. The current jail was built in 1977. A single housing cell and two dormitories were added under the 1988 regulations in 1990-1991. The application of the less-restrictive 1994 Regulations allowed the use of a second bed in two of the single occupancy cells, resulting in a facility rated capacity of 53 inmates. The existing jail was designed during a time when jail inmates required a lower level of separation and a lesser amount of special services.

This facility is defined by the Correction Standards Authority as a locked adult detention facility. It is classified as a Type II Facility that holds inmates pending arraignment, during trial, and after sentencing to the County Jail. The length of time an inmate can be incarcerated at the Jail after sentencing is up to four one-year consecutive sentences. It is arranged to support and segregate males and females. The jail facility is situated within the town of Weaverville.

The topics being investigated include:

- classification and compensation study
- recruitment and retention challenges
- understaffing
- intercom system
- work space for jail staff
- quality and quantity of inmate food
- sanitary facilities in the exercise yard
- unsafe booking room

- improper use of the sobering cell
- plumbing and mold problems in showers and other places.

The need for a classification and compensation study was identified in Finding #6 of the 2013-2014 Final Report and to date is delinquent.

Recruitment and retention was identified as significant and ongoing challenges in both the 2012-2014 (Appendix B) and 2014-2016 (Appendix A) Biennial inspection of the Board of State and Community Corrections.

Understaffing issues have been ongoing and put the staff and inmates at risk. These issues have been reported in many past jury reports and in many past Biennial inspection reports from the Board of State and Community Corrections (Appendices A and B).

The inconsistent operation of the inmate intercom system creates danger within the correctional facility.

Complaints are expressed from staff with regard to adequate work space needed to perform required reports and documentation.

Numerous inmate complaints have been received with regard to inadequate food quality and quantity. The nutritional health inspection was not performed according to the 2014-2016 Biennial Inspection report (Appendix A). The Trinity County Jail Inmate Commissary Order with price information is attached for your information (Appendix E). Unfortunately, it is the family members that often pay these prices out of their own food budget needs.

During this year's annual inspection, Grand Jury members observed a sanitary need for a urinal in the exercise yard. This need was also identified in last year's Final Grand Jury report.

Grand Jury members also observed an unsafe booking room during their inspection. The Sobering Cell was identified as a noncompliance issue in the 2014-2016 Biennial Inspection report (Appendix A).

Numerous complaints were made involving plugged plumbing and the presence of mold. The Grand Jury recognizes that the plumbing issues most likely are caused by the inmate population. However, it is the county's responsibility to provide a safe and sanitary facility for both inmates and staff. This issue was also reported in the 2012-2014 Biennial Inspection (Appendix B).

## **METHODOLOGY**

In order to accommodate all 17 Grand Jury members, two back-to-back inspections were conducted on October 2, 2014. Questions were asked throughout the inspections and detailed answers were given. Sgt. Braga conducted the tours and is commended for the flexibility, support, patience and courtesy displayed during the long inspection process. Initial interviews with follow-up interviews were implemented with the Trinity County Sheriff and a jail staff member.

There was considerable study of previous year's Trinity County Grand Jury reports and news articles written by the Trinity Journal relating to the Trinity County Adult Detention Facility for fiscal year 2014-2015.

Careful review was given to the pertinent information including:

- Memo written 7/26/06 regarding the number of officers required to operate the Jail/Dispatch (Appendix D).
- The Biennial Inspection reports of the Board of State and Community Corrections (BSCC) conducted 2012 -2014 (Appendix B) and 2014-2016 (Appendix A).
- Trinity County Sheriff's Department reports on individual inmates.
- Trinity County Detention Facility Inmate Disciplinary Review Hearing Final Appeal Reply forms.
- Trinity County Detention Facility Reply to Inmate Grievance forms.
- Trinity County Detention Facility Disciplinary Incident/Violation Reports.
- Trinity County Disciplinary Review Hearing forms.
- Cell Watching Log Sheets.

## **DISCUSSION:**

The management of small detention facilities is very challenging. The difficulties of maintaining detention facilities in rural counties are well publicized and documented in many previous final reports.

The 2011-2012 Final report on the Trinity County Detention Facility - Discussion section Page three states, "There appears to be no long-term strategic planning with other departments that would allow for pooling of financial and human resources providing for greater efficiency and incorporation of needed changes". In 1999, a Proposal for Local Detention Facilities Construction Grants, Juvenile and Adult Facility Funding was signed by the Chief Probation Officer for submission to the California Board of Corrections. The Grand Jury was told that the proposal for an adult facility was never approved by the County Sheriff at that time and therefore was not submitted, although funding was available at the time from the State of

California. This extensive proposal recommended the creation of a full justice center with a county jail, juvenile detention center, court facility and related support facilities. This justice center would have allowed for shared services such as administration, reception, record-keeping, kitchen and laundry. It is unknown whether the economic benefits and ongoing operating costs of such a facility were defined. These plans also included moving the hospital to this location and the infrastructure was put into place to accommodate all facets of this project.

The 2012-2013 Final report on the Trinity County Detention Facility records a response from the sheriff in which he states, "The current Trinity County Detention Facility has long surpassed its life expectancy. Since the beginning of this fiscal year we have estimated \$50,000 to \$80,000 in needed repairs to the jail with the expectation of additional repair costs. For the past two years, the administration of the Trinity County Sheriff's Office has followed various funding sources and last year submitted an application for AB 900 Phase II funding for a new jail. Preference for AB 900 funding was given to counties that send the largest number of inmates to the California Department of Corrections (state prison). Trinity County was ranked 57 out of 58 counties on the preference list and did not receive the needed funding."

It was discovered during an interview with the Trinity County Sheriff that Trinity County had applied for the Justice Assistance Grant. This was the first time since the grant was introduced that it became a competitive process. Counties were evaluated and awards were given. Trinity County was not selected.

The Trinity County Sheriff has been diligently seeking funding for the jail. He announced at the Board of Supervisors meeting April 22, 2015 that the next round of jail funding will come from Senate Bill 863. He explained that this is not a Grant, but is known as a Lease Revenue Bond process. The Request for Proposal has not been finalized and is scheduled to be complete this June with a submission date sometime in August. The current Sheriff is commended for his perseverance as he seeks the critical jail funding.

The Sheriff stated, "Trinity County is the only county in this state where the Chief Probation Officer starts at a 15% higher pay rate than an elected Sheriff or District Attorney. I harbor no ill feelings for our current Chief Probation Officer and can tell you he is a real good guy, but his challenges and responsibilities do not compare to what I face on a daily basis. Hopefully the county will be ready to compensate the Sheriff position accordingly."

The greatest challenge with regard to recruitment and retention of correction officers are inadequate pay, especially during the first year when county financial support in the form of

insurance and retirement contributions are not made available. The starting rate of pay for Corrections Officer/Dispatcher I is \$13.29 per hour.

Many current employees are married with children. If you consider approximately 1/3 of their pay goes to insurance and retirement, the amount left to support a family is inadequate. With this limited pay, these valuable correctional officers are faced with a standard of living that is very difficult to maintain considering the current economic times.

These conditions of pay have likewise contributed to the lack of retention and high turnover rate of 2/3 of the jail personnel during the most recent two years. This issue leads to a breakdown of morale and encourages officers to look elsewhere for employment.

The California Controllers Office (<http://gcc.sco.ca.gov>) has reported the following approximate pay scale comparisons for 2013 for the Correctional/Dispatcher I position, as can be best determined. The approximate (2013) county populations are also shown:

Mono	\$54,972	population:	14,202
Mariposa	\$42,548	population:	17,775
Sierra	\$39,907	population:	3,047
Alpine	\$35,100	population:	1,149
Modoc	\$30,792	population:	9,147
Trinity	\$27,643	population:	13,792

Sadly, Trinity is at the bottom of the pay scale for this classification.

The 2013-2014 Final Report- Finding #6 "Salary and benefits for correctional officers are insufficient for retention". The response given on August 19, 2014 by the Trinity County Sheriff (TCS) was, "It is my understanding that the county will be conducting a classification and compensation study to address these issues".

The response given by the Board of Supervisors on September 23, 2014 was, "...the County is well aware of the issues in pay and scale classifications and compensation of our employees. In good faith, the County has made an agreement with members of the Deputy Sheriff's Association to fund a classification and compensation study. While pay scale may be lower than offered in other areas, the county does provide a substantial benefit package to all employees".

The response given by the County Administrative Officer was, "...The County has recently agreed to fund a classification and compensation study for members of the Deputy Sheriff's

Association and will negotiate implementation of the study when completed. The Association includes the correctional officer classification. The County provides a very generous benefit package for employees”.

To date the Classification and Compensation Study is still uncompleted. It has been well over eight months. Further, the “very generous” benefit package does not apply to incoming jail staff left to pay for their own benefits. To state that the County provides a generous benefit package seems disingenuous in light of the actual pay and benefit package offered to jail staff.

Understaffing is an ongoing critical issue. It is a doorway to lawsuits, decreases staff morale and puts both staff and inmates in danger. This critical need has been identified in the following Final reports:

- 2013-2014: Insufficient staff for operating jail and dispatch center
- 2012-2013: Staffing levels consistently fall below the optimum level of 19
- 2011-2012: Deficit number of staff, especially females
- 2009-2010: Staffing levels for dispatch and jail are out of compliance
- 2008-2009: Staffing shortages make it necessary for one officer, rather than a medical technician to distribute medications to inmates
- 2007-2008: The jail is greatly understaffed
- 2006-2007: The jail is functioning with less than 50% of the required staff

A recommendation by a staff member memo regarding the number of officers required to operate the Jail/Dispatch Center is nineteen officers (Appendix D). At the time of a staff member interview, the existing number of staff was a dangerously low number of twelve. The twelve officers were performing an overwhelming workload, thus contributing to discouragement and burn out. These factors consequently add to a high turnover rate.

The 2014-2016 Biennial Inspection Report dated April 16, 2015 (Appendix A) has noted a Title 15 Noncompliance issue. This regulation specifies several staffing requirements including that sufficient personnel be on duty at all times to ensure the implementation and operation of all programs and activities required by the regulations. Included in this regulation are requirements that hourly safety checks are performed and that female staff are immediately available and accessible when female inmates are in custody.

The report reads, “As found during past inspections, staffing recruitment and retention remains a significant and ongoing challenge. We noted several periods in excess of 60 minutes between safety checks. This occurred more often during high-activity times of the day including med

pass, food service, clean-up, visiting, and inmate movement even when two officers were working. During many of these activities, officers were present in the housing units and many if not all the inmates were observed or contacted but no safety check was recorded. Additionally, we noted that insufficient numbers of female staff were available to ensure all services, including hourly safety checks are provided when female inmates were present. When only male officers were on duty, inmates in the female unit were not checked at all until a female officer was available.”

Dispatchers have no scheduled breaks. This brings into question a violation of labor laws. Dispatchers can only take breaks when jail activity is at a point where jail staff can assume dispatching responsibilities. The remedy is to have the County allocate more positions and funding to better staff the jail and dispatch center.

There are simply not enough of these dedicated, hard working officers to perform the critical duties required or to cover absences for training, illness, injuries or vacations. Their continued persistence and perseverance to work under inadequate conditions are to be commended.

The optimum number of inmates is reported to be thirty-five. In recent years, the number of inmates has been 75 in 2012 and 65 in 2013. The average daily jail population for fiscal year 2013-2014 was 53. The daily jail rate cost per inmate is \$92.11 (Appendix C- Jail Rate Computation).

The size of the jail easily allows for overcrowding which in turn contributes to negative morale, friction or fighting between inmates. This increases danger for correctional officers. Troublesome inmates can not be properly segregated. The inmate population is composed almost entirely of felony charged inmates. Most non-violent criminals are released pending trial.

There is a critical need for a second dispatcher at the 911 center. This is a 24/7 system and is currently supporting all emergency call formats and mapping. This includes administrative lines, all 911 calls, sheriff radio frequency, the county network, medical emergencies and the jail radio frequency. The dispatchers work 12-hour shifts with no scheduled bathroom breaks or lunch periods. There are television cameras distributed around the jail to record activity for use as evidence when needed and to monitor cells, dormitories and the inmate exercise yard. These locations are visible in the dispatch center using overhead television screens. Unfortunately, due to insufficient staffing, these cameras cannot be monitored on a critical continuous basis. The dispatcher works in the same room as the television screens mounted above the desk area. However, the dispatcher is often unable to focus on the screens due to



the incredible amount of incoming calls. This leaves a high risk situation in which inmate behavior is unable to be monitored as needed. The intercom system is not operable in a consistent manner, again leaving a high risk situation to staff and inmates.

The current maintenance issues are easily ignored due to the overwhelming need for a new facility. It encourages the attitude of why correct problems when the jail will be abandoned in the future. This jail is outdated with limited safety features thereby putting jail staff and inmates at risk. It is neither attractive nor inviting to any incoming or potential correctional officer.

There is an inadequate work space for required documentation. They do not have access to the desks or computers on which to write their required reports and/or record documentation.

There have been ongoing complaints from inmates regarding inadequate food quality and quantity. The quality of the food is reported to be poor, portions small and non-satisfying. The menu and portions served need to be monitored. This issue has led to inmates "swiping" portions from one another and much grousing. This negative state of affairs contributes to the difficulties of increased disruption of jail activity.

There is an urgent sanitary need inside the inmate exercise yard. The Final Report for 2013-2014 reported in finding #9, "No bathroom or sink is available in the exercise yard. Inmates go to the bathroom on the ground." An unbreakable urinal has not been installed as recommended by last year's final report. Inmates continue to urinate in the outdoor exercise yard itself, creating health issues.

During the Grand Jury inspection, it was noted that the booking room was unsafe. In the event of a violent inmate, the staff is blocked in the room, therefore creating an area that is unsafe. The Sobering Cell was identified as a noncompliance issue in the 2014-2016 Biennial Inspection Report (Appendix A). It reads as follows, "Title 15, Section 1056, Use of the Sobering Cell: This regulation specifies the requirements for using the sobering cell. Use of this cell is limited to holding inmates who are a threat to their own safety or the safety of others due to their state of intoxication. Inmates are to be checked by staff at least every 30 minutes. An evaluation by a medical staff person or by custody staff, pursuant to written medical procedures, is required whenever an inmate is retained in the sobering cell for more than six hours. And lastly, such inmates are to be removed from the sobering cell when they are able to continue with processing. The intent of the regulation is to provide a protected environment in which to safely detain and monitor inebriates until they are sober enough to continue processing. It is

not intended to detoxify inmates. Detoxification would occur under a medical protocol typically followed in a medical treatment facility.

The facility has no safety cell, only one holding cell, and one sobering cell. As a result, the sobering cell is used to hold hostile inmates, inmates in restraints, and any inmate when no other holding cells are available. The padded floor and the absence of a bench in the sobering cell could be thought of as a safer environment in the event a struggle ensues between the hostile inmate and staff, but unfortunately the regulation does not allow for sobering cells to be used as holding cells.

Having only one sobering cell also poses additional challenges when multiple inmates need the sheltered environment but are incompatible in one cell or if male inmates occupy the cell and an intoxicated female inmate arrives for booking. In those cases, staff must decide who gets the benefit of the sobering cell.

We also suggest reviewing the practice of placing all inmates having ingested drugs or alcohol into the sobering cell and keeping them there until their blood alcohol level is 0.00.

Usually inmates are sufficiently sober to complete the booking process and be re-housed to other cells before all the alcohol is gone from their system. Unfortunately, often there is no other place in the jail to hold them so they remain in the sobering cell.

Using the sobering cell, the holding cell and the visiting rooms to separate inmates that are incompatible is also a concern. At the time of the inspection, there were only two holding cells in the facility and one has no toilet, washbasin or drinking fountain. The other holding cell in the booking area is often converted to living quarters for unruly inmates or those needing separate housing. The visiting room is the only other option and it does not meet the requirement of a holding cell. Officers must regularly decide where to detain inmates when separation is required and no cells are available to accommodate the need.

In summary, whenever the sobering cell is used for holding inmates who are not a threat to their own safety or the safety of others due to their state of intoxication, the facility is noncompliant with this regulation."

Complaints were made with regard to plugged plumbing lines and the presence of mold in the showers. It was reported that there is sewage smell in the dormitory area. This situation was also noted under the Health Inspection in the 2012-2014 Biennial Inspection Report (Appendix B), "We saw problems involving structural cracks, faulty video cameras, leaking and plugged plumbing lines and the presence of mold, most notably in the showers".

## **FINDINGS WITH RECOMMENDATIONS:**

Some of the following recommendations are focused on problem-solving and changes could be accomplished with minimal or no additional funding. It is the hope of the Grand Jury that the department heads utilize their very capable personnel for creative support with these recommendations. The Grand Jury also recognizes that implementation of many of the recommendations may involve commitments of funding and staffing. Previous Grand Jury recommendations have been dismissed due to unavailability of funding and staffing. It is with sincere hope that the 2014-2015 Grand Jury recommendations be fulfilled for the staff, inmates and visitors.

**F1. The Classification and Compensation study from Finding #6 of Final Report 2013-2014 is delinquent and as of this date has not been completed.**

**R1. The Grand Jury recommends the CAO expedite the Classification and Compensation study in order to determine a salary and benefit package more in line with law enforcement officers (to include the Sheriff) in counties of similar size and increase salary and benefit packages as soon as possible, but no later than 60 days after receipt of this report.**

**F2. Recruitment and retention challenges are critical.**

**R2 The Grand Jury recommends the CAO address the recruitment and retention challenge by upgrading the Trinity County Jail staff salary and benefit package and investigate the money saved by reducing the ongoing training and overtime cost due to lack of retention as soon as possible, but no later than 60 days after receipt of this report.**

**F3. Understaffing continues to exist.**

**R3. The Grand Jury recommends the CAO increase the current staffing to the recommended staffing of 19 as outlined in the memo dated 7/26/06 (Appendix D) as soon as possible, but no later than 60 days after receipt of this report.**

**F4. The intercom system is not operable in a consistent manner.**

**R4. The Grand Jury recommends the CAO authorize funding for the replacement of the unreliable intercom system, as soon as possible, but no later than 60 days after receipt of this report.**

**F5. There is inadequate work space and computers for required paperwork and documentation by staff members.**

**R5. The Grand Jury recommends the Trinity County Sheriff authorize the reorganization of the reserve room with added desks, computer, printers and any required material in order to accommodate the work needs of the staff. The CAO should provide funding as soon as possible, but no later than 60 days after receipt of this report.**

**F6. Numerous complaints have been received regarding the quality and quantity of inmate food served.**

**R6. The Grand Jury recommends the Trinity County Sheriff investigate ways to monitor the food served and designate a staff member to create a consistent monitoring system in order to evaluate and ensure the quality and quantity of inmate food served and the nutritional health inspection be performed as soon as possible, but no later than 60 days after receipt of this report.**

**F7. There is a lack of sanitary facilities in the exercise yard.**

**R7. The Grand Jury recommends the CAO authorize funding for the purchase and installation of an unbreakable/appropriate urinal in the exercise yard as soon as possible, but no later than 60 days after receipt of this report.**

**F8. The Booking Room is unsafe.**

**R8. The Grand Jury recommends that the Trinity County Sheriff assess the safety issues of the booking room and give the recommendations to the CAO in order to implement the funding as soon as possible, but no later than 60 days after receipt of this report.**

**F9. The Sobering Cell is in noncompliance.**

**R9. The Trinity County Sheriff will write a corrective plan to be sent to the Board of State and Community Corrections. The CAO should provide any funding needed as soon as possible, but no later than 60 days after receipt of this report.**

**F10. Numerous complaints have been made involving structural cracks, plugged plumbing lines and the presence of mold, most notably in the showers and sewerage smell in the dormitories.**

**R10. The Grand Jury recommends the Trinity County Sheriff submit a list of repair needs and clean up areas for removal of mold to the CAO who should provide funding to facilitate repair of the plumbing issues and address the mold issue as soon as possible, but no later than 60 days after receipt of this report.**

**REQUEST FOR RESPONSES:**

In accordance with the California Penal code 933.05 a response is required as indicated:

<u>Respondent</u>	<u>Finding/Recommendation</u>	<u>Due Date</u>
County Administration Office	F/R1- F/R2- F/R3- F/R4- F/R5- F/R7-F/R8- F/R9- F/R10	60 days
Trinity County Sheriff	F/ R6- F/R8- F/R9 – F/R10	60 days
Board of Supervisors	F/R1- F/R2- F/R3-F/R4- F/R5 F/R7-F/R8- F/R9- F/R10	90 days

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

**APPENDICES:**

APPENDIX A-Board of State and Community Corrections Biennial Inspection, Trinity County Sheriff's Department, Adult Detention Facility, Penal Code Section 6031 dated April 16, 2015

APPENDIX B-Board of State and Community Corrections Biennial Inspection, Trinity County Sheriff's Department, Adult Detention Facility, Penal Code Section 6031 dated March 17, 2014

APPENDIX C-Trinity County Sheriff's Office Daily Jail Rate Computations for Fiscal year 13/14

APPENDIX D-Memo dated 7/26/06 re: Number of Officers Required to Operate Jail/Dispatch

APPENDIX E- Trinity County Jail Inmate Commissary Order Form

# APPENDIX A



LINDA M. PENNER  
*Chair*

KATHLEEN T. HOWARD  
*Executive Director*

STATE OF CALIFORNIA  
**BOARD OF STATE AND COMMUNITY CORRECTIONS**  
2590 VENTURE OAKS WAY, SUITE 200 • SACRAMENTO CA 95833 • 916.445.5073 • BSCC.CA.GOV



EDMUND G. BROWN, JR.  
*Governor*

April 16, 2015

Sheriff Bruce Haney  
Trinity County Sheriff's Department  
P.O. Box 1228  
Weaverville, California 96093

Dear Sheriff Haney:

BIENNIAL INSPECTION, TRINITY COUNTY SHERIFF'S DEPARTMENT, ADULT DETENTION FACILITY, PENAL CODE SECTION 6031

On March 18, 2015, the Board of State and Community Corrections (BSCC) conducted the 2014-2016 biennial inspection of the Trinity County Jail. The jail was inspected for compliance with the Minimum Standards for Local Detention Facilities, as outlined in Titles 15 and 24, California Code of Regulations. The inspection consisted of a review of applicable written policies and procedures governing the operation of the facilities, a site visit of each facility, and a review of documentation to verify your practices follow your written procedures.

We would like to acknowledge your Jail Manager, Sergeant Peter Braga for his assistance, patience, and courtesy during the inspection process. Sergeant Braga graciously accommodated our schedule on short notice and compiled all of the necessary information for the inspection.

The complete BSCC inspection report is enclosed and consists of: this transmittal letter; the Procedures checklist outlining applicable Title 15 sections; the Physical Plant Evaluation outlining Title 24 requirements for the design, and the Living Area Space Evaluation that summarize the detention facility's configuration. We encourage the practice of maintaining a permanent file for historical copies of all inspections that would also include documentation of corrections made following the inspection.

## Local Inspections

In addition to a biennial inspection by the BSCC, annual inspections are required by the County Health Officer and the Fire Marshal<sup>1</sup> pursuant to Health and Safety Code §101045 and §13146.1, respectively. Please consider our report in conjunction with the reports from the local health officer and the local fire authority for a comprehensive perspective of your facility.

## Fire Inspection

The Weaverville Fire Marshal inspected the jail on February 27, 2015 and a fire clearance was granted.

<sup>1</sup> Effective 1/1/05, the fire marshal's inspection is required every two years.

## **Health Inspections**

On November 10, 2014, the Trinity County Health Department conducted the health inspections that included reviews of the medical and environmental health policies, procedures and records as well as an inspection of the facility. No concerns were noted in the report.

The nutritional health inspection has not performed. Please forward a copy of the report to our office when it is received.

During our last inspection, we saw problems involving structural cracks, faulty video cameras, leaking and plugged plumbing lines and the presence of mold; most notably in the showers. We noted that several issues have been addressed since our last visit and hope that funding is available for remaining maintenance projects.

## **BSCC Inspection**

### **Title 15 Review of Policies and Practices**

The inspection began with a review of the applicable policies to determine compliance with Title 15 regulations. We found no issues of noncompliance with the policies. For further information, please refer to comments noted on the Procedures Checklist.

The inspection process continued at the jail with a review of available documentation including samples of security check logs, incident reports, grievances and disciplinary actions to ensure that practices are consistent with policies. We found no issues of noncompliance during our documentation review of inmate records, classification records, and incident reports. The facility does not have a safety cell and long-term restraints have not been used during this inspection cycle.

During the review of sample documentation of the grievance process, we found the records to be complete and answers were timely, candid, and responsive. We did not identify a pattern indicating that any specific services had been denied.

We reviewed documentation of the discipline process and found the sanctions to be appropriate and offered an avenue of appeal. We saw no record of mandated privileges being denied without due process.

While not a compliance issue at the time of our visit, it appears that two officers will not have successfully completed the training requirements by the end of their first year of employment. Because of the staffing shortages and recent vacancies, it is unlikely that these officers will complete the Core Training Course within the allowed time period. Until vacancies are filled and preliminary training is completed, we understand that there is no plan to send the two officers through the training.

### **Title 15 Noncompliance Issues**

Title 15, Section 1027. Number of Personnel: This regulation specifies several staffing requirements including that sufficient personnel be on duty at all times to ensure the implementation and operation of

all programs and activities required by the regulations. Included in this regulation are requirements that hourly safety checks are performed and that female staff are immediately available and accessible when female inmates are in custody.

As found during past inspections, staffing recruitment and retention remains a significant and on-going challenge. We noted several periods in excess of 60 minutes between safety checks. This occurred more often during high-activity times of the day including med pass, food service, clean-up, visiting, and inmate movement even when two officers were working. During many of these activities, officers were present in the housing units and many if not all the inmates are observed or contacted but no safety check was recorded.

Additionally, we noted that insufficient numbers of female staff were available to ensure all services, including hourly safety checks are provided when female inmates were present. When only male officers were on duty, inmates in the female unit were not checked at all until a female officer was available.

Title 15, Section 1056, Use of the Sobering Cell: This regulation specifies the requirements for using the sobering cell. Use of this cell is limited to holding inmates who are a threat to their own safety or the safety of others due to their state of intoxication. Inmates are to be checked by staff at least every 30 minutes. An evaluation by a medical staff person or by custody staff, pursuant to written medical procedures, is required whenever an inmate is retained in the sobering cell for more than six hours. And lastly, such inmates are to be removed from the sobering cell when they are able to continue with processing. The intent of the regulation is to provide a protected environment in which to safely detain and monitor inebriates until they are sober enough to continue processing. It is not intended to detoxify inmates. Detoxification would occur under a medical protocol typically followed in a medical treatment facility.

The facility has no safety cell, only one holding cell, and one sobering cell. As a result, the sobering cell is used to hold hostile inmates, inmates in restraints, and any inmate when no other holding cells are available. The padded floor and the absence of a bench in the sobering cell could be thought of as a safer environment in the event a struggle ensues between the hostile inmate and staff but unfortunately the regulation does not allow for sobering cells to be used as holding cells.

Having only one sobering cell also poses additional challenges when multiple inmates need the sheltered environment but are incompatible in one cell or if male inmates occupy the cell and an intoxicated female inmate arrives for booking. In those cases, staff must decide who gets the benefit of the sobering cell.

We also suggest reviewing the practice of placing all inmates having ingested drugs or alcohol into the sobering cell and keeping them there until their blood alcohol level is 0.00. Usually inmates are sufficiently sober to complete the booking process and be re-housed to other cells before all the alcohol is gone from their system. Unfortunately, often there is no other place in the jail to hold them so they remain in the sobering cell.

Using the sobering cell, the holding cell, and the visiting rooms to separate inmates that are incompatible is also a concern. At the time of the inspection, there were only two holding cells in the facility and one has no toilet, washbasin, or drinking fountain. The other holding cell in the booking area is often



converted to living quarters for unruly inmates or those needing separate housing. The visiting room is the only other option and it does not meet the requirements of a holding cell. Officers must regularly decide where to detain inmates when separation is required and no cells are available to accommodate the need.

In summary, whenever the sobering cell is used for holding inmates who are not a threat to their own safety or the safety of others due to their state of intoxication, the facility is noncompliant with this regulation.

### **Physical Plant**

The jail was originally constructed under the 1973 Title 24 Regulations. A single housing cell and two dormitories were added under the 1988 regulations. The application of the less-restrictive 1994 Regulations allowed the use of a second bed in two of the single occupancy cells, resulting in a facility rated capacity of 53 inmates.<sup>2</sup>

As noted during previous inspections, there are several infrastructure needs; many that can only be properly addressed when a new jail is constructed. The existing jail was designed during a time when jail inmates required a lower level of separation as well as a lesser amount of special services. There are insufficient sobering and holding cells in the booking area and crowded housing areas. Program space is insufficient to allow programming, even if resources were available to increase the program services. With the exception of the multiple cell in the female housing area, the facility was not crowded. On the day of the inspection, extra bunks were present in two of the dayrooms but were not being used.

### **Title 24 Noncompliance Issues**

Title 24, Section 2.6, Single Occupancy Cells: This regulation specifies the minimum requirements for single occupancy cells to determine the rated capacity. Limiting factors include square footage, plumbing fixtures, and dayroom features. The holding cell in the booking was rerated as a single occupancy cell. It now has two beds and houses two inmates which is noncompliant with this regulation.

Title 24, Section 8227, Multiple Occupancy Cells: This regulation specifies the minimum requirements for multiple occupancy cells to determine the rated capacity. As configured, the rated capacity for the multiple occupancy cell located in the female housing unit is four inmates yet the cell has eight bunks. During this inspection, we noted seven occupied beds and one temporary cot (also occupied) in this cell which is noncompliant with this regulation.

### **Summary and Corrective Action**

We ask that you please provide an overall corrective action plan on or before June 18, 2016 to address the issues of noncompliance noted during our inspection. Please provide copies of any policies that were

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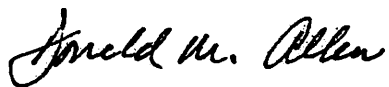
<sup>2</sup>Facilities are inspected under the regulations in effect at the time of receipt of the Letter of Intent for initial construction or significant remodel as specified in Title 24, Section 13-102 (c) 1.

Bruce Haney, Sheriff  
Trinity County  
Page 5

developed or modified. Upon review of documentation to confirm compliance, we will remove the findings of noncompliance.

This concludes our inspection report for the 2014-2016 inspection. As we discussed on the day of the inspection, I will be retiring soon and no longer be assigned to your county. Please contact the FSO Officer of the Day at 916.445.5073 should you have questions before another Field Representative is assigned. I have very much enjoyed the opportunity to work and to share experiences with you and your staff. I very much appreciate everyone's dedication to ensure the safe and secure operation of the Trinity County Jail in spite of the many challenges. If you have any questions, please contact me at (916) 324-9153 or by e-mail at [don.allen@bscc.ca.gov](mailto:don.allen@bscc.ca.gov).

Sincerely,



DONALD M. ALLEN  
Field Representative  
Facilities Standards and Operations Division

Enclosures

cc: Sergeant Peter Braga, Trinity County Sheriff's Department  
Chair, Board of Supervisors, Trinity County \*  
Presiding Judge, Superior Court, Trinity County \*  
County Administrator, Trinity County \*  
~~Grand Jury Foreman, Superior Court, Trinity County \*~~

\* Complete copies of this inspection report are available upon request.

## APPENDIX B



Board of State and Community Corrections  
600 Bercut Drive, Sacramento, CA 95811  
916.445.5073 PHONE  
916.327.3317 FAX  
bscc.ca.gov

GOVERNOR Edmund G. Brown Jr.  
CHAIR Linda Penner  
EXECUTIVE OFFICER Kathleen Howard

March 17, 2014

Sheriff Bruce Haney  
Trinity County Sheriff's Department  
P.O. Box 1228  
Weaverville, California 96093

Dear Sheriff Haney:

BIENNIAL INSPECTION, TRINITY COUNTY SHERIFF'S DEPARTMENT, ADULT  
DETENTION FACILITY, PENAL CODE SECTION 6031

On December 3, 2013, the Board of State and Community Corrections (BSCC) conducted the 2012-2014 biennial inspection of the Trinity County Jail. The jail was inspected for compliance with the Minimum Standards for Local Detention Facilities, as outlined in Titles 15 and 24, California Code of Regulations. The inspection consisted of a review of applicable written policies and procedures governing the operation of the facilities, a site visit of each facility, and a review of documentation to verify your practices follow your written procedures.

We would first like to acknowledge members of your jail team for all of their assistance, patience, and courtesy during the inspection process. We personally thank Jail Manager, Sergeant Pete Braga for devoting the extra time and effort needed to prepare for a successful inspection.

The complete BSCC inspection report is enclosed and consists of: this transmittal letter; an informational sheet identifying the facility and listing areas of noncompliance; the Procedures checklist outlining applicable Title 15 sections; the Physical Plant Evaluation outlining Title 24 requirements for the design, and the Living Area Space Evaluation that summarize the detention facility's configuration. We encourage the practice of maintaining a permanent file for historical copies of all inspections that would also include documentation of corrections made following the inspection. This file should be the first point of reference when preparing for all future inspections.

### Local Inspections

In addition to a biennial inspection by the BSCC, annual inspections are required by the County Health Officer and the Fire Marshal<sup>1</sup> pursuant to Health and Safety Code §101045 and §13146.1 respectively. Please consider our report in conjunction with the reports from the local health officer and the local fire authority for a comprehensive perspective of your facility.

<sup>1</sup> Effective 1/1/05, the fire marshal's inspection is required every two years.

## **Fire Inspection**

The State Fire Marshal inspected the jail on January 21, 2014 and a fire clearance was granted.

## **Health Inspections**

On December 4, 2013, the Trinity County Health Department conducted the health inspections that included reviews of the medical, nutritional, and environmental health policies, procedures and records as well as an inspection of the facility. No concerns were noted in the medical/mental health report and the nutritional health report.

While no issues were noted in the environmental health report, during our tour, we noted several security/maintenance issues that have accumulated over the years. We saw problems involving structural cracks, faulty video cameras, leaking and plugged plumbing lines and the presence of mold, most notably in the showers. We do understand that the drain in one of the showers has been replaced since our visit and hope that funding is available for additional maintenance projects.

## **BSCC Inspection**

### **Title 15 Review of Policies and Practices**

The inspection began with a review of the applicable policies to determine compliance with Title 15 regulations. The jail has converted from an in-house policy manual to one based on the Lexipol template. The new policy should be much easier for your staff to read and understand. We found no issues of non-compliance but we did provide recommendations that should be considered during the next scheduled revision. For further information, please refer to comments noted on the Procedures Checklist.

The inspection process continued at the jail with a review of available documentation including samples of security check logs, incident reports, grievances and disciplinary actions to ensure that practices are consistent with policies. We found no issues of noncompliance during our documentation review of inmate records, classification records, and incident reports.

The facility does not have a safety cell and long-term restraints are seldom used. Only five records were available for review. In some of the examples, it was difficult to confirm compliance. Had sufficient information been included in one easily-retrievable document, regular internal reviews would be more easily accomplished. Because such occurrences are of low frequency, we suggest regular refresher training to remind officers of the prerequisite requirements and the need for proper documentation.

During the review of sample documentation of the grievance process, we found the records to be complete and answers were timely, candid, and responsive. We did not identify a pattern indicating that any specific services had been denied.

We reviewed documentation of the discipline process and found the sanctions to be appropriate and offered an avenue of appeal. We saw no record of mandated privileges being denied without due process.

## **Noncompliance Issues**

**Title 15, Section 1027, Number of Personnel:** This regulation specifies several staffing requirements including that sufficient personnel be on duty at all times to ensure the implementation and operation of all programs and activities required by the regulations. Included in this regulation are requirements that hourly safety checks are performed and that female staff are immediately available and accessible when female inmates are in custody.

While vastly improved since our last visit, compliance with portions of this regulation remain a concern. We were especially pleased to find that staffing has improved significantly and now all of the supervisory positions are filled and the Jail Manager is not routinely removed from his managerial duties to fill in for vacant line staff positions. Additionally, we noted that sufficient staff is always available to ensure at least two officers are always on duty inside the jail and at least one is fully trained in all aspects of the assignment.

Unfortunately, during much of this inspection cycle, insufficient numbers of female staff were available to ensure all services, including hourly safety checks are provided when female inmates were present. When only male officers were on duty, inmates in the female unit were not checked at all until a female officer was available.

At the time of this inspection, Sergeant Braga was in the process of rescheduling staff to correct this issue. Since the inspection, two additional female officers have been hired leaving only one of the four shifts with only one female officer. On one occasion when the one female officer was ill, there were no female officers available to replace her.

We also noted several periods in excess of 60 minutes between safety checks. This occurred more often during high-activity times of the day including med pass, food service, clean-up, visiting, and inmate movement even when two officers were working. During many of these activities, officers are present in the housing units and all the inmates are observed or contacted but sometimes the check is not recorded.

While staffing appears to be very much improved since our last inspection, recruitment and retention remains a significant and on-going challenge. We will continue to monitor this issue for compliance. We suggest a follow-up review in six months to verify stability in the staffing plan and the timeliness of the safety checks..

**Title 15, Section 1056, Use of the Sobering Cell:** This regulation specifies the requirements for using the sobering cell. Use of this cell is limited to holding inmates who are a threat to their own safety or the safety of others due to their state of intoxication. Inmates are to be checked by staff at least every 30 minutes. An evaluation by a medical staff person or by custody staff, pursuant to written medical procedures, is required whenever an inmate is retained in the sobering cell for more than six hours. And lastly, such inmates are to be removed from the sobering cell when they are able to continue with processing. The intent of the regulation is to provide a protected environment in which to safely detain and monitor inebriates until they are sober enough to continue processing. It is not intended to detoxify inmates. Detoxification would occur under a medical protocol typically followed in a medical treatment facility.

We were pleased to find that the old policies that allowed the use of the sobering cell for holding inmates irrespective of their sobriety are gone. The previous policy allowed using the cell to hold hostile inmates, inmates in restraints, and to hold inmates when no other holding cells are available. The Lexipol template does not include such verbiage. The padded floor and the absence of a bench in the sobering cell could be thought of as a safer environment in the event a struggle ensues between the hostile inmate and staff but unfortunately the regulation does not allow for sobering cells to be used as holding cells.

Having only one sobering cell also poses additional challenges when multiple inmates need the sheltered environment but are incompatible in one cell. In those cases, staff must decide who is the most needy. If male inmates occupy the cell and an intoxicated female inmate arrives for booking, staff must decide who gets the benefit of the sobering cell. It is our understanding that staff typically decides who needs the cell the most and moves the least impaired inmate(s) to locations elsewhere in the jail to make room in the sobering cell.

We also suggest reviewing the practice of placing all inmates having ingested drugs or alcohol into the sobering cell and keeping them there until their blood alcohol level is 0.00. While some drugs can impair consciousness, attention, balance and orientation; many do not. We reviewed documentation in which the inmates were not described as being impaired in any way but were held in the sobering cell only because they were arrested for charges that involved being under the influence of drugs and/or alcohol. Instead the assessment form might be a better indicator of specific needs based on the custody officer's observations of each individual inmate rather than focusing on the initial charges.

At the time of the inspection, there were only two holding cells in the facility and one has no toilet, washbasin, or drinking fountain. The other holding cell in the booking area is often converted to housing for unruly inmates or those needing separate housing. The visiting room is the only other option and it does not meet the requirements of a holding cell. Officers must regularly decide where to detain inmates when separation is required and no cells are available to accommodate the need.

In summary, whenever the sobering cell is used for holding inmates who are not a threat to their own safety or the safety of others due to their state of intoxication, the facility is noncompliant with this regulation. Until funding is available for building additional sobering cells, we suggest the process for accepting and monitoring inebriates be reviewed and all options are explored.

### Physical Plant

The jail was originally constructed under the 1973 Title 24 Regulations. A single housing cell and two dormitories were added under the 1988 regulations. The application of the less-restrictive 1994 Regulations allowed the use of a second bed in two of the single occupancy cells, resulting in a facility rated capacity of 53 inmates.<sup>2</sup>

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<sup>2</sup>Facilities are inspected under the regulations in effect at the time of receipt of the Letter of Intent for initial construction or significant remodel as specified in Title 24, Section 13-102 (c) 1.

As noted during previous inspections, there are several infrastructure needs; many that can only be properly addressed when a new jail is constructed. The existing jail was designed during a time when jail inmates required a lower level of separation as well as a lesser amount of special services. Space is limited which compromises the ability to securely move inmates through cramped work areas and to observe and monitor inmate activity in cells and dormitories. There are insufficient sobering and holding cells in the booking area and crowded housing areas. Program space is insufficient to allow programming, even if resources were available to increase the program services.

The facility continues to be crowded. On the day of the inspection, extra bunks were present in two of the dayrooms; a situation that has repeatedly occurred during much of this inspection cycle. The existing design and continual deferral of major maintenance projects raises security concerns; several of which we discussed with Sergeant Braga during the inspection.

We were pleased to learn that visibility in the sobering cell has been improved since the last inspection. We see that a partition located next to the toilet fixture has been shortened and now allows officers to more easily monitor activity inside the cell without the necessity of opening the door. While the partition is required by regulation, its purpose is not for modesty but to provide support and prevent falls by inebriates. The shortened partition continues to offer that support.

#### **Noncompliance Issues**

Title 24, Section 2.6, Single Occupancy Cells: This regulation specifies the minimum requirements for single occupancy cells to determine the rated capacity. Limiting factors include square footage, plumbing fixtures, and dayroom features. The holding cell in the booking was rerated as a single occupancy cell. It now has two beds and houses two inmates which is noncompliant with this regulation.

Title 24, Section 2.8, Dormitories: This regulation specifies the minimum requirements for dormitory housing units to determine the rated capacity. Limiting factors include square footage, plumbing fixtures, and dayroom features. The two men's dormitories are rated for a total combined capacity of 26 inmates. Both dorms are identical and capacity is limited by space. In the past, we have recognized that both dorms have 14 beds which, if only occupied by a total of 26 inmates, would allow some flexibility when assigning inmates to housing locations. During this inspection, we noted 16 occupied beds and one temporary cot (also occupied) in "F" Dorm which is noncompliant with this regulation.

Title 24, Section 8227, Multiple Occupancy Cells: This regulation specifies the minimum requirements for multiple occupancy cells to determine the rated capacity. As configured, the rated capacity for the multiple occupancy cell located in the female housing unit is four inmates yet the cell has eight bunks. During this inspection, we noted seven occupied beds and one temporary cot (also occupied) in this cell which is noncompliant with this regulation.

Title 24, Section 470(a) Design Criteria, Beds: This regulation specifies the minimum requirements for beds including size, construction qualities, and installation design. The temporary cots are noncompliant with all the requirements of this regulation.

**Title 24, Section 2.9, Dayrooms:** This regulation specifies the minimum requirements for dayrooms. When temporary cots are located in the dayrooms, there is insufficient space for inmate activity which is noncompliant with this regulation.

When the facility is crowded, inmates housed in the dayrooms must enter the regular housing cells to use the toilets and washbasins. To allow such access, housing cells must remain unlocked at all times. While not a compliance issue, this is a practice that we discourage. Anytime cell doors are left open, especially when short staffed, security may be compromised.

### Summary and Corrective Action

We enjoyed the opportunity to work and to share experiences with you and your staff. We very much appreciate everyone's dedication to ensure the safe and secure operation of the Trinity County Jail in spite of the many challenges.

We are hopeful that funding can be someday be available to help you address the long-term issues noted in this report. While we understand that some initial corrective steps have been taken since our visit and the date of this report, we would ask that you please provide an overall corrective action plan on or before May 30, 2014 to address the issues of noncompliance noted during our inspection. Please provide copies of any policies that were developed or modified. Upon review of documentation to confirm compliance, we will remove the findings of noncompliance.

This concludes our inspection report for the 2012-2014 inspection. If you have any questions, please contact me at (916) 324-9153 or by e-mail at [don.allen@bscc.ca.gov](mailto:don.allen@bscc.ca.gov).

Sincerely,



DONALD M. ALLEN  
Field Representative  
Facilities Standards and Operations Division

Enclosures

cc: Undersheriff Ken Langston, Trinity County Sheriff's Department  
Sergeant Peter Braga, Trinity County Sheriff's Department  
Chair, Board of Supervisors, Trinity County \*  
Presiding Judge, Superior Court, Trinity County \*  
County Administrator, Trinity County \*  
Grand Jury Foreman, Superior Court, Trinity County \*

\* Complete copies of this inspection report are available upon request.



## APPENDIX C

Trinity County Sheriff's Office  
Daily Jail Rate Computations  
Fiscal Year 13/14  
07/01/13 - 06/30/14

<b>Direct Costs (All)</b>		Notes:
Wages & Benefits	1,508,747.58	
Services & Supplies	336,584.02	
Medical Costs	193,017.27	
Equipment Purchases	0.00	
Support & Care	6,258.15	
<b>Total Direct Costs</b>	<u>2,044,607.02</u>	A
<b>Less: Unallowable Direct Costs</b>		
Booking Costs	29,632.59	
Salary of Elected Official	63,215.70	
<b>Total Unallowable Direct Costs</b>	<u>92,848.29</u>	B
<b>Total Allowable Direct Costs</b>	1,951,758.73	(A-B)
<b>Less Offsetting Reimbursements</b>		
STC	8,830.00	
Work Alternative	26,449.59	
Interfund Revenues	133,715.16	
Misc Income	898.74	
<b>Total Offsetting Reimb</b>	<u>169,893.49</u>	C
<b>ALLOWABLE COSTS</b>	1,781,865.24	(A-B-C)
Average Daily Jail Population	53	D
Average Annual Jail Population	19,345	(D*365 days)
<b>Average Daily Jail Rate</b>	<b>92.11</b>	(Allowable Costs / Annual Population)

**APPENDIX D**

**TRINITY COUNTY SHERIFF'S DEPT.  
P.O. BOX 1228 , 101 MEMORIAL DR.  
WEAVERVILLE, CA. 96093  
(530)623-2611**

**MEMO**

DATE: 07/26/06

**RE: NUMBER OF OFFICERS REQUIRED TO OPERATE JAIL/DISPATCH**

**TO: WHOM IT MAY CONCERN**

**FROM: CPL. PETER W. BRAGA C11—JAIL COMMANDER**

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Corporals-Shift Supervisors ----- One for each block of shifts. Total = 4

Dayshift - 1<sup>st</sup>. block ----- Two Officers + One Dispatcher. Total =3

Nightshift - 1<sup>st</sup>. block ----- Two Officers + One Dispatcher. Total =3

Dayshift - 2<sup>nd</sup>. block ----- Two Officers + One Dispatcher. Total =3

Nightshift - 2<sup>nd</sup> block ----- Two Officers + One Dispatcher. Total =3

Transport Officer - Works 5 days a week. (Mon.-Fri.)----- Total =1

V / CT / PH / S / Training -- Relief Officer -----One Officer per block of shifts. Total =2

**Total =19**

If the Corporals are included as one of the three officers assigned to a shift it would not be that effective in reducing to much overtime and would not meet the minimal desired staffing levels of the California Standards Authority-----**Total =15**

***The minimal recommendation to achieve best results and to minimize over time, not including the Jail Commander would be a total of ----- Total =19***

Cc: Sheriff L. Craig

Cc: Trinity County Auditor Brian Muir

# TRINITY COUNTY JAIL INMATE COMMISSARY ORDER

APPENDIX E

NAME \_\_\_\_\_

DATE \_\_\_\_\_

ID # \_\_\_\_\_

LOCATION \_\_\_\_\_

ACCOUNT BALANCE \_\_\_\_\_

Qty Code	Description	Cost Ea.	Qty Code	Description	Cost Ea.	Qty Code	Description	Cost Ea.	Qty Code	Description	Cost Ea.
1202	CLR TOOTHPASTE 1.5 OZ	\$ 1.30	2199	SOUR FRUIT BALLS 3.75 OZ	\$ 2.05	5174	LAYS SOUR CREAM & ONION 1.5 OZ	\$ 1.40	6004	DRAWING PAPER	\$ 3.95
1206	DIAL SOAP 3.5 OZ	\$ 2.00	2202	RANCHERS ASSRTD 7 OZ	\$ 4.20	5202	CLUB CRACKERS 5.25OZ	\$ 3.95	6008	9 X 12 ENVELOPES	\$ 0.95
1207	IVORY ANTI BACTRL SOAP 3.5OZ	\$ 2.20	2206	FIRE JOLLY RANCHERS 7 OZ	\$ 4.20	5207	RITZ BITS W/CHEESE 1.5OZ	\$ 1.35	6011	STAMPED ENVELOPES	\$ 0.90
1245	CLEAR SOAP 1.5 OZ	\$ 2.15	2207	BUTTERSCOTCH 4OZ	\$ 2.55	5220	TORTILLAS 10 CNT	\$ 3.35	6018	GOLF PENCIL	\$ 0.20
1246	CLEAR 3 IN 1 SOAP 4OZ	\$ 2.00	2208	LEMON DROP 4 OZ	\$ 2.55				6026	PENCIL TOP ERASER	\$ 0.20
1301	SMALL SHAMPOO 4 OZ	\$ 1.90	2212	ROOT BEER BARRELS 4OZ	\$ 2.55	5302	OATMEAL COOKIES 2.5OZ	\$ 1.00	6029	DICTIONARY ENGLISH	\$ 3.55
1306	DANDRUFF SHAMPOO 4OZ	\$ 1.90	2226	S/F CHOCOLATE 3OZ	\$ 3.95	5303	PEANUT BUTTER COOKIE 2.5OZ	\$ 1.00	6038	SPANISH/ENGLISH DICTIONARY	\$ 4.05
1309	CONDITIONER 4OZ	\$ 1.70	2228	SF WILD FRT CANDY 2.75 OZ	\$ 3.95	5304	CHOC. CHIP COOKIE 2.5OZ	\$ 1.00	6101	FRIENDSHIP ENGLISH CARD EA	\$ 2.85
1319	SUAVE SHAMP/COND 14.5 OZ	\$ 7.55	2306	STARBURST 2.07OZ	\$ 2.10	5306	VANILLA MOON PIE 2.75OZ	\$ 1.40	6102	FRIENDSHIP SPANISH CARD EA	\$ 2.85
1401	LADY SPEED STICK 1.5OZ	\$ 6.05	2308	HOT TAMALES 2.12OZ	\$ 2.10	5307	MOON PIE CHOCOLATE 2.75OZ	\$ 1.40	6103	BIRTHDAY ENGLISH CARD EA	\$ 2.85
1403	MENEN SPEED STICK 2OZ	\$ 6.05	2318	RED VINES 5 OZ	\$ 2.80	5309	RICE KRISPIE TREATS	\$ 1.70	6104	BIRTHDAY SPANISH CARD EA	\$ 2.85
1406	SM STIK DEODRNT .5OZ	\$ 1.35	4001	ICE TEA MIX SINGLE	\$ 0.50	5314	RASPBERRY COOKIES 2OZ	\$ 1.10	6105	CURRENT HOLIDAY CARD	\$ 2.85
1422	LG STIK DEODRNT 2OZ	\$ 4.00	4002	COFFEE SINGLES	\$ 0.50	5321	FUDGE BROWNIES 2.75 OZ	\$ 1.55	6121	BIRTHDAY CARD-JUVENILE	\$ 2.85
1505	COLGATE TOOTHPASTE 1.3OZ	\$ 1.95	4003	DECAFE COFFEE SINGLE	\$ 0.50				6202	TUMBLER W/LID	\$ 1.00
1601	BABY POWDER 4 OZ	\$ 2.90	4005	COCOA SS	\$ 0.60	5382	SLCD JALA PERS 7 OZ	\$ 0.85	6209	SOAP DISH	\$ 1.35
1608	BABY OIL 4 OZ	\$ 3.00	4016	HERBAL TEA SINGLE	\$ 0.50	5430	POPARTS-BLUEBERRY 3.67OZ	\$ 1.85	6212	EAR PLUGS	\$ 1.15
1609	SM SKIN CARE LTN 4OZ	\$ 2.30	4049	MAXWELL HSE COFFEE BAG 4OZ	\$ 12.05	5432	POPARTS-STRAWBERRY 3.67OZ	\$ 1.85	6221	BOWL W/LID	\$ 2.65
1611	LG SKIN CARE LTN 20 OZ	\$ 4.75	4107	SUGAR SUBSTITUTE 10 PKT	\$ 1.00				6301	PLAYING CARDS	\$ 3.75
1613	COCOA BUTTER LOTION 4 OZ	\$ 1.70	4201	FRUIT PUNCH MIX SINGLE	\$ 0.45	5438	ICED HONEY BUN	\$ 3.95	6302	PINOCHLE CARDS	\$ 3.75
1710	SMALL COMB	\$ 0.30	4202	CHERRY MIX SINGLE	\$ 0.45	5561	MARIAS COOKIES 6 OZ	\$ 2.35	6308	BOOK CROSSWORDS	\$ 3.75
1739	POCKET BRUSH	\$ 1.85	4203	LEMONADE MIX SINGLE	\$ 0.45	5587	JALAPENO CHIPS 1 OZ	\$ 1.25	6309	BOOK WORD FIND	\$ 3.75
1802	RC HAIR DRESSING 4OZ	\$ 5.45	4204	ORANGE MIX SINDLE	\$ 0.45	5602	BEEF/PEP STICK 1.125OZ	\$ 1.55	6331	BOOK SUDOKU	\$ 2.80
1927	CHAPSTICK .15 OZ	\$ 2.55	4301	S/F FRUIT PUNCH SINGLE	\$ 0.45	5610	KOSHER DILL PICKLE 5OZ	\$ 2.10	6405	READING GLASSES 1.0	\$ 11.90
1933	QUISANA MD FOOT PWDR	\$ 9.80	4304	SF LEMONADE SINGLE	\$ 0.45	5628	JALAPENO CHEESE SQUIREZE 1OZ	\$ 1.15	6406	READING GLASSES 1.5	\$ 11.90
1934	FOOT POWDER 7OZ	\$ 4.35	4305	SF ICED TEA SINGLE	\$ 0.45	5640	LOUISIANA HOT SCE 0.5 OZ	\$ 0.35	6407	READING GLASSES 2.0	\$ 11.91
1956	TERRY PONY TAIL	\$ 0.75	4306	S/F COCOA SINGLE	\$ 0.70	5645	SPICY MEAT/CHEES 1.125 OZ	\$ 1.55	6408	READING GLASSES 2.5	\$ 11.03
2031	REESES PIECES BAG 3 OZ	\$ 2.40	5002	BBQ CHIPS 1.5OZ	\$ 1.40	5672	HOT & SPICY SAUSAGE 5 OZ	\$ 4.20	6409	READING GLASSES 3.0	\$ 11.90
2042	SNICKERS KING SZ 3.7OZ	\$ 2.95				5714	RAMEN CHICKEN SOUP 3 OZ	\$ 1.05			
2047	M&M PLAIN 3.14OZ	\$ 2.95	5004	CHEETOS 1.5OZ	\$ 1.40	5717	SHRIMP RAMEN 3OZ	\$ 1.05			
2068	M&M PEANUT KS 3.27 OZ	\$ 2.95	5006	DORITOS 1.75 OZ	\$ 1.40	5719	CHILI SOUP RAMEN 3OZ	\$ 1.05			
2070	TWIX 4 TO GO KS 3.02 OZ	\$ 2.95	5016	FLAMING HOT CHEETOS 1.5OZ	\$ 1.40	5720	BEEF RAMEN 3OZ	\$ 1.05			
2072	WHOPPERS BAGGED 7 OZ	\$ 3.50	5018	BBQ CORNNUTS 1.4OZ	\$ 1.35	5722	BEEF PICANTE RAMEN 3 OZ	\$ 1.05			
2085	REESE P/B CUP LG	\$ 2.40	5036	HOT-N-SPICY PORK RIN	\$ 1.40	5726	JALA REFRIED BEANS 4 OZ	\$ 2.40			
2086	KIT KAT LG 2.4OZ	\$ 2.40	5051	HOT NACHO CHIPS 6 OZ	\$ 2.80	5732	INSTANT SPANISH RICE 2.2OZ	\$ 1.70			
2108	OREOS 1.8 OZ	\$ 1.05	5068	TAKIS CHIPS	\$ 1.39	5773	TUNA 3OZ	\$ 3.05			
2120	CHICK-O-STICKS .7 OZ	\$ 0.45	5100	TRAIL MIX 2 OZ	\$ 1.25	5791	SALSA PACKET 0.5 OZ	\$ 0.25			
2159	HERSHEY ALMOND BAR 1.85 OZ	\$ 2.40	5107	PB GRANOLA BAR 1.5 OZ	\$ 1.25	6001	LEGAL PAD	\$ 2.50			

COST INCLUDES SALES TAX

**\$75.00 MAXIMUM ORDER**

- Damages or shortages must be identified upon delivery to you.
- If you are released or transferred prior to receiving your order you will have 5 days to claim them.
- Orders left beyond that time will be forfeited.
- By signing below you acknowledge and understand the terms of commissary orders and authorize funds to be deducted from you account to pay this order.

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Signature

Revised 11-20-13



RECEIVED

JUN 15 2015

Trinity County  
Board of Supervisors  
By: \_\_\_\_\_

**Superior Court of California  
County of Trinity**

P.O. Box 1258  
Weaverville CA 96093

ELIZABETH W. JOHNSON  
*Presiding Judge*

MICHAEL B. HARPER  
*Judge*

CINDY VAN SCHOOTEN  
*Court Executive Officer*

**MEMORANDUM**

**TO:** Board of Supervisors ✓  
Trinity County CAO  
Trinity County Auditor  
Trinity County Probation

**FROM:** Staci Holliday, Jury Commissioner [Signature]

**DATE:** June 15, 2015

**RE:** 2014-2015 Trinity County Grand Jury Report  
*JUR 2014-2015-002 / Public Defender and Indigent Claim Form*

This report is being provided to your department pursuant to Section 933.05 of the Penal Code relative to grand juries. Penal Code § 933.05(f) requires that grand juries, **following approval by the Superior Court Presiding Judge and at least two working days prior to the public release of the report**, shall furnish each respondent a copy of the report which pertains to the respondent. No respondent shall disclose any contents of the report prior to the public release of the final report.

This report will become a matter of public record on **June 20, 2015**. Sections 933 and 933.05 require you to respond in writing to the findings and recommendations pertaining to matters under the control of you or your department. Your original response should be addressed to Elizabeth Johnson, Presiding Judge of Trinity Superior Court **with a copy to the County Administrative Office "Clerk of the Board"**.

Enclosure

**Judicial Committee**  
**JUR 2014-2015 – 002**  
**Final Report**

**Public Defender and Indigent Claim Form**

**Approved 06/04/2015**



**Julie Dahl**

**Foreperson**

**2014-2015 Trinity County Grand Jury  
Judicial Committee Investigation  
Final Report JUR-2014-2015-002  
Public Defender & Indigent Claim Form**

**SUMMARY**

The Grand Jury (GJ) serves as a branch of the judicial system and as a watchdog to the action and performance of public officials, including elected officials, and the departments of the county government. The GJ is a reporting institution, charged with examination of county government, special districts, redevelopment agencies, LAFCO, joint powers agencies and certain non-profit agencies established by or for the benefit of a public entity. It is the duty and responsibility of the GJ to assure honest, efficient government in the best interests of the people. (Penal Code § 925 et seq.).

Trinity County Public Defender (PD) is a contracted position in Trinity County (County), rather than an office or department of the County. As a contracted position, the only oversight available to the County is approval of fees and expenses submitted in the course of representation of defendants who have claimed to be indigent. Appointment of a public defender to represent those defendants requesting representation is based upon financial need. A defendant is required to complete and submit a form referenced in this report as the Indigent Claim Form (Form).

Currently the County does not have a contract with the PD who has represented indigent defendants of the County since the early 1990's. This GJ sought to determine if it would be in the best interest of the County to fund its own PD office rather than contracting as it has in the past. Additionally, this GJ had concerns and questions as to the process of verifying the accuracy of information supplied by the defendants prior to, or at any time in the period of, representation by a PD. As of this writing the PD represents 90% of all defendants charged in the County.

The GJ has determined that the County has no clear process for the processing of information received by defendants on the Form, and that the Form itself is outdated and of little or no value to the County. Additionally, the GJ determined that during the time that the County has operated without any specifically contracted public defender, the County has spent less taxpayer dollars than during the same period of time in preceding years.

The 2014-2015 Trinity County Grand Jury recommends the following:

- The County immediately approve and adopt the revised form “PUBLIC DEFENDER QUALIFICATION FORM FINANCIAL DECLARATION & STATEMENT OF ASSETS”, attached to this report as Appendix A, and develop procedures for the process of verification of information received by indigent defendants as set forth more specifically in the Findings and Recommendations section of this Report;
- The County consider authorizing the preparation of a costs analysis specifically for the development and maintenance of a County public defender’s office;
- The County continue to offer the public defender services as a competitive process rather than a contracted position.

## GLOSSARY

GJ	Grand Jury
PD	Trinity County Public Defender
County	Trinity County
Form	Indigent Claim Form
DA	Trinity County District Attorney
LAFCO	Local Agency Formation Commission

## BACKGROUND

The GJ found in its investigation that the County had in the past completed a cost analysis by Marilyn Horne. Based on the information contained in that analysis, the Board of Supervisors at the time determined that it would not be in the best financial interest for the County to fund its own PD office. During this budget cycle the PD expenses paid by the County are less in comparison to previous years. This decrease may be attributed to the County **not** contracting with one specific PD office at a lump sum amount, but rather paying for actual services rendered to indigent defendants by multiple attorneys.

It appears that the Form currently being used by the County has not been modified, revised or updated since its first adoption by the County. There is no evidence that any information supplied by the defendant is actually verified. In fact, there is no person and/or department responsible for the receipt of the Form or follow-up for the information contained on the Form.



## **METHODOLOGY**

The GJ (GJ) reviewed reports and documents obtained from various departments of the County related to the PD and Form.

Additionally, the GJ interviewed the County elected officials and employees, and residents of the County who are directly involved with the criminal justice systems in the County. Included in the GJ interviews were visits to various County departments and a review of job descriptions, budget and financial records and statistical information from those departments.

The GJ sought advice and clarification from legal counsel, including the county counsel and the District Attorney regarding current law, its enforcement and funding regarding the subject matter.

## **DISCUSSION**

Trinity County (County) has a population of 13,786 residents, spread between 17 communities in a land area of 3,128 square miles. The County jail has a population that fluctuates between 50 and 65 inmates, of which an estimated 90% are represented by a public defender. The County, for many years, has had a contract with a sole attorney for the services of PD, who at the time of this writing had a current caseload of 496 defendants. At this time, there is not a contract in place with any attorney acting as PD, although the County has sent out a Request for Proposal (RFP) seeking applicants.

The process for appointment of the PD to a defendant includes the collection of financial information from the defendant prior to or at the time of arraignment before the Superior Court Judge. Because there is no current PD contract, when defendants in need of a PD are appointed by the presiding judge, a PD is appointed and then bills the County on a case by case basis rather than the past lump sum monthly amount (plus any extraordinary costs due to trial, expert witnesses, etc., which are an additional cost to the County) as set forth in the contract.

Under the most recent PD contract, base compensation was \$336,000 annually. An additional \$106,904 was billed for other attorneys acting as conflict counsel. Complex litigation for defense of Homicide and 3 Strikes defendants is subject to additional billing, and in 2013-14 contract year, \$107,600 was paid out for such complex litigation. A total of \$610,472 was paid by the County to the PD, including conflict counsel. The current year PD budget recommendation is \$656,073. In contrast, the current year DA budget is \$760,582, which amount includes wages, benefits and office expenses for 4 attorneys, 1 investigator, 3 clerks and 1 secretary.

Defendants are requested (**not required**) to complete a financial disclosure form, which is referred hereafter as the Form. Information requested on the Form currently used by the County includes personal information, financial information relating to bank account balances and investments, and real property owned.

Once completed, the Form is submitted to the Judge prior to appointment of a PD **only if requested by the judge hearing the matter**. While the actions, or inactions, of the Superior Court Judge are outside the mandate for investigation and comment by the GJ, the processes, adherence and enforcement of County procedures are well within the mandate, and it is the processes and adherence to those processes that were the subject of this investigation.

The GJ was able to determine the process up to the point of the Form being submitted to the Court when requested. What the GJ was not able to determine was what happens next. Despite numerous interviews with County staff, department heads, elected and appointed officials, as well as court officials, the GJ was not able to verify with any confidence the procedure for processing the Form.

Specific questions were asked of County staff and department heads regarding the processing and verification of the Form. There was an assumption that the information contained on the Form was being verified, by someone, and most likely by County probation/collections. In fact, this was, not the case.

The chief probation officer is appointed by the Superior Court Judge. The probation department in the County is also the collection department, and at some time in the past, the Form was most likely sent from the court to County probation for collection. While it is true that County probation is responsible for the collection of fine and penalties assessed by the court, our investigation revealed that any further action such as verification of assets, addresses or anything beyond the collection process for Court mandated fines and penalties is not or has ceased to be the responsibility of the County probation/collection department.

The County has requested an evaluation of the Comprehensive Court Ordered Debt Collection Program by adjoining Humboldt County<sup>1</sup>. The GJ commend the County for seeking help with County processes. While this report does not examine or report on the process (or lack thereof) relating to the subject of our investigation, it does identify that the County has significant issues with the debt collection processes as a whole. The GJ concur with Humboldt County's assessment of the failed processes and request that the recommendations contained in that evaluation be added to the recommendations made by the GJ here.

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<sup>1</sup> County Administrative Office Revenue Recovery Team, County of Humboldt. Received by Trinity County on February 6, 2015. Copy attached for readers convenience and information.

As the GJ interviewed subjects regarding the Form, each subject was given a true and correct copy of the Form as it currently exists<sup>2</sup>. The current form is very hard to read as its font is quite small and it has been copied and reproduced many times over the years. The information requested is very basic and not much different than the information necessary for a first visit to a new doctor. While there is a statement regarding signing under penalty of perjury, there are no other warnings and/or admonishments regarding accuracy of the information or that the information will be verified.

The Indigent Claim Form is the only documentation relied upon by the presiding judge in the appointment of a public defender for those arrested inside the County boundaries. The PD is the office charged with providing legal defense to those **who cannot otherwise afford their own defense**. And that is the point to the investigation of the Form; not that any person arrested in our County should not receive a defense, but that those who can afford their own defense be financially responsible for such defense, rather than the citizens of the County.

At the time of this investigation, by all estimates, at least 90% of criminal defendants are represented by the PD.

Considering that, 1) A defendant is asked by the presiding judge to complete the Form only 50% of the time, that, 2) No one person or department in the County is responsible for receiving or processing the Form and that, 3) Without any effort at all to verify the claimed indigent status, every single defendant who requests a PD will be granted that request, just for asking -- with the County bearing 100% of the cost, for both the prosecution and the defense.

#### **FINDINGS and RECOMMENDATIONS**

The Grand Jury has found and recommends the following:

**Finding No. 1:** 90% of all defendants in Trinity County are represented by the Public Defender. Defendants are not uniformly required to submit the indigent claim form to the presiding judge prior to the appointment of a Public Defender.

**Recommendation No. 1:** All indigent defendants complete financial statement as a standard procedure.

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<sup>2</sup> Indigent Claim Form submitted to defendants by County for completion attached to this report for reference.

**Finding No. 2:** The County has contracted with a single public attorney for more than 20 years, whose caseload for the 2014-2015 reporting period was in excess of 450 active cases.

**Recommendation No. 2:** Trinity County continue to assign defendants to Public Defender on a competitive basis rather than entering into an annual or multi-year contract, or establishing a county based PD office.

**Finding No. 3:** The County has last prepared a cost analysis of the potential of funding a County Public Defender office in 2011.

**Recommendation No. 3:** Trinity County Board of Supervisors consider the preparation of a Cost Analysis, and factor into such analysis any and all potential cost savings due to such things as reduction in conflict counsel costs and direct oversight by the County.

**Finding No. 4:** The Indigent Claim Form is outdated and inadequate for the accurate retrieval of financial information.

**Recommendation No. 4:** Approve and adopt the use of the suggested PUBLIC DEFENDER QUALIFICATION FORM/FINANCIAL DECLARATION & STATEMENT OF ASSETS form attached to this Report as Appendix A.

**Finding No. 5:** There is no system in place for the processing and verification of the Indigent Claim Form.

**Recommendation No. 5:** Assign the responsibility of verification of financial information and determination of financial responsibility to a specific person or department within the County - within the County Probation Department or within a stand-alone position dedicated to the verification and collection of all court-related fees, fines and defense costs .

**Finding No. 6:** Due to the lack of systems and/or oversight, potentially large amounts of taxpayer monies were used for the defense of people who may not have otherwise qualified for public defender services. Those monies are not recoverable.

**Recommendation No. 6:** Establish a method for collection once it has been determined that a defendant is wholly or partially responsible for their defense, and a procedure for actually collecting the money from the defendant.

**Finding No. 7:** 100% of the costs of prosecution and 90% of the costs of defenses are paid for by the taxpayers of Trinity County.

**Recommendation No. 7:** Board of Supervisors officially request that Superior Court Judge routinely request defendants submit completed PUBLIC DEFENDER QUALIFICATION FORM prior to assignment of public defender.

**REQUEST FOR RESPONSES:**

In accordance with the California Penal Code 933.05, a response is required as indicated below:

<b><u>Respondent</u></b>	<b><u>Findings/Recommendations</u></b>	<b><u>Due Date</u></b>
Board of Supervisors	1, 2, 3, 7	90 days
County Administration Office	1, 4, 5, 6	60 days
Auditor	2, 3	60 days
Probation	1, 4, 5, 6	60 days

**APPENDIX**

**PUBLIC DEFENDER QUALIFICATION FORM  
FINANCIAL DECLARATION & STATEMENT OF ASSETS  
w/ Attachments**

**PUBLIC DEFENDER QUALIFICATION FORM**  
**FINANCIAL DECLARATION & STATEMENT OF ASSETS**

**PLEASE NOTE:** This form must be completed and signed under Penalty of Perjury in order to qualify for the services of a Public Defender. The information on this form will be verified by Trinity County using various county, state and federal sources. Failure to include information requested, or if the information supplied by you is found to be false, misleading or fraudulent, in addition to Perjury charges, you may be held responsible for all financial investigation and prosecution-related costs, including but not limited to legal fees and all such costs related to the defense obtained by way of false, fraudulent or misleading information in this form.

**All Requested Information Must Be Completed to the Best of your Knowledge. You will be Required to give Names and Location Information for Persons who can Verify All Information Provided, including But Not Limited to Employment Related Information.**

**Case No.**

Name:

AKA(s):

Mailing Address:

Physical Address:

If less than 12 months at this address, please supply prior address:

**Personal Information**

Date of Birth:

Social Security Number:

Gender:         M     F

Number in household:

Married:        Y     N

If married, spouse's name:

Is your spouse employed:         Y     N

Home Phone Number:

Cell Phone Number:

Work Phone Number:

Emergency Contact Number:

Driver's License Number:

State Where Issued:

**Source of Income**

Employer:

Job Title;

Address:

Phone Number:

Self-employed        Occupation:

Name, address and telephone number of person(s) who can verify self-employment status:

**PUBLIC DEFENDER QUALIFICATION FORM**

**Other Sources of Income: (Please list all sources of income)**

Pension/Retirement:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$	Dividends/Interest	<input type="checkbox"/> Yes <input type="checkbox"/> No \$
Social Security/SSI:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$	Rental Income	<input type="checkbox"/> Yes <input type="checkbox"/> No \$
Unemployment:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$	Other Income:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$
Disability:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$	Welfare/AFDC:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$
State:		State:	
Food Stamps:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$	Child Support:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$
State:		Paid by:	
Spousal Support:	<input type="checkbox"/> Yes <input type="checkbox"/> No \$		
Paid by:			

Total Monthly Income: \$

Gross  Net

**Financial Information:**

Name of Bank or Credit Union:  
Address:

Account Number:

Name of Bank or Credit Union:  
Address:

Account Number:

Real Estate:

Address:

County:

State:

Name(s) on title:

Your percentage of ownership:

Real Estate:

Address:

County:

State:

Name(s) on title:

Your percentage of ownership:

Have you transferred any real property to any person or entity within two (2) years prior to your arrest:

Yes

No

If yes, what is physical address of property:

If yes, please give name, address and phone number of person or entity to whom property was transferred:

**PUBLIC DEFENDER QUALIFICATION FORM**

**Vehicles/Vessels/Motorhomes:**

Make                      Year                      Legal Owner:                      Amount Owed:

Make                      Year                      Legal Owner:                      Amount Owed:

Make                      Year                      Legal Owner:                      Amount Owed:

**Other Assets (Please identify all other assets):**

Stocks       Bonds       Mutual Funds/Securities

Cash on hand      Amount: \$      Source of cash:

Location:

Is anyone holding assets for you?       Y       N

If yes, please give name and address of person holding assets and description of asset(s).

Have you disposed of or transferred any assets since  arrest;  the issuance of citation;  filing of this matter.

If yes, please describe property and details of transaction:

**Debts:**

Loan       Credit Card       Support Arrearages       Taxes  
Payable to:      Amount Owed: \$

Address:      Loan Number:  
Phone Number:

Loan       Credit Card       Support Arrearages       Taxes  
Payable to:      Amount Owed: \$

Address:      Loan Number:  
Phone Number:



**PUBLIC DEFENDER QUALIFICATION FORM**

**Monthly Expenses:**

- Rent/Mortgage \$
- Insurance \$
- Court Ordered Fines \$
- Electricity \$
- Food \$
- Child Support \$
- Telephone \$
- Clothing \$
- Other \$

Total Monthly Expenses: \$

**I certify under penalty of perjury that the information contained in this form is true and correct, and that I have neither provided false or misleading information in the form nor failed to disclose information required to be included in the form.**

**Dated:** \_\_\_\_\_ **Signed:** \_\_\_\_\_

**For Staff Use:**

- Received Completed Bank Authorization for Release of Account Information**
- Bank Authorization sent to Financial Institutions**
- Financial Account Information Received & Verified**
- Received Completed IRS form 8821**
- IRS Form 8821 sent to IRS**
- Tax Returns Received & Verified**
- Valuation of vehicles completed**
  - List Attached**
- Valuation of real property completed**
  - List Attached**
- Eligible for PD** \_\_\_\_\_  **Not Eligible for PD**
- Determination of Eligibility Noted to File.**
- Superior Court Judge notified of Eligibility**

**PUBLIC DEFENDER QUALIFICATION FORM**

**Continuation / Additional Information:**

**Spouse's Source of Income**

Employer: Job Title;  
Address:

Phone Number:  
Total Monthly Income: \$ [ ] Gross [ ] Net

**Financial Information:**

Name of Bank or Credit Union: Account Number:  
Address:

**Real Estate:**

Address:  
County: State:  
Name(s) on title: Your percentage of ownership:

**Vehicles/Vessels/Motorhomes:**

Make Year Legal Owner: Amount Owed:  
{Current Value:  
Make Year Legal Owner: Amount Owed:  
{Current Value:  
Make Year Legal Owner: Amount Owed:  
{Current Value:

**Stocks/Bonds/Mutual Funds/Securities:**

Please list all other assets:

[ ] Loan [ ] Credit Card [ ] Support Arrearages [ ] Taxes  
Payable to: Amount Owed: \$  
Address:  
Phone Number: Loan Number:

[ ] Loan [ ] Credit Card [ ] Support Arrearages [ ] Taxes  
Payable to: Amount Owed: \$  
Address:  
Phone Number: Loan Number:

*APPENDIX A p. 5*

Date:

To: (Bank Name & Address)

Object: Authorization to Release Account Information to Trinity County Court

Dear (Bank):

This letter is to acknowledge that you are hereby authorized to release to TRINITY COUNTY COURT all banking information requested relating to ACCOUNT NO.

Thank you for your cooperation.

Sincerely,

If needed

DISCLAIMER

If needed