

COUNTY OF EL DORADO

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August 31, 2021

The Honorable Suzanne N. Kingsbury, Presiding Judge
Superior Court of El Dorado County
1354 Johnson Boulevard
South Lake Tahoe, CA 96150

Dear Judge Kingsbury:

Pursuant to Section 933(b) of the California Penal Code, enclosed is the El Dorado County Board of Supervisor's response to the applicable findings and recommendations, as set forth by the El Dorado County Grand Jury in its 2020-21 Reports 20-01, 20-02, 20-04, and 20-05; issued on June 30, 2021. The attached response was approved by the Board of Supervisors and is being submitted to the courts via email.

The Board of Supervisors thanks the Grand Jury for its efforts in reviewing the various aspects of County government and operations, and commends each member for their individual investment of time.

Sincerely,

A handwritten signature in blue ink that reads "John Hidahl". The signature is written in a cursive style.

John Hidahl, Chair
El Dorado County Board of Supervisors

Enclosures: County Response to 2020-21 Grand Jury Reports 20-01, 20-02, 20-04 and 20-05

Cc: Grand Jury Foreperson

El Dorado County Board of Supervisors

Response to

El Dorado County 2020-2021 Grand Jury Reports

20-01: County Cemetery Management

20-02 Inspection of County Jail and Juvenile Treatment Center

20-04 Following Up on Mental Health Services Act Fund Spending

**20-05 West Slope Emergency Services, Joint Powers Authority and
Ambulance Services**

20-01: County Cemetery Management

The Grand Jury has requested responses from the Board of Supervisors to Findings 1 - 6 and to Recommendations 1-4.

FINDINGS

- F1. Four County-maintained cemeteries remain without title; one being St. Michael's, which is not owned by the County, but is maintained by court order.

The Board of Supervisors disagrees wholly with the finding.

All County-maintained cemeteries have titles. The title to St Michael's Cemetery is held by the Roman Catholic Archdiocese of Sacramento, and the County is constrained by court order to provide limited landscape maintenance at the cemetery. The titles for three cemeteries are in the name of the cemeteries, and there is no existing legal entity holding these titles.

The County most likely is the defacto owner of these three cemeteries, and a quiet title process is needed to clear the title history and convert the title ownership to the County.

- F2. The County could possibly own 16 additional cemeteries from the 1973 BOS Resolution and one from the 1992 BOS Resolution.

The Board of Supervisors disagrees wholly with the finding.

In 1973, the Board of Supervisors took action to designate 19 cemeteries as Pioneer Memorial Parks (Resolution No. 215-73); the County holds title to two of these cemeteries. In 1992, the Board of Supervisors took action to designate seven cemeteries as Pioneer Memorial Parks (Resolution No. 90-92); the County holds title to four of these cemeteries. (Note that two cemeteries were included in both resolutions.) In 1996, referring to Resolution 90-92, County Counsel determined that "The procedure followed in the enactment of that resolution failed to comply with statutory requirements and therefore that action did not result in the establishment of Pioneer Memorial Parks. For the same reasons, that conclusion is also applicable to Resolution No. 215-73 which also purported to establish Pioneer Memorial Parks..."

Because the action taken by the Board of Supervisors to declare multiple cemeteries as Pioneer Memorial Parks was defective, the titles to the cemeteries which did not already rest with the County were not converted to County ownership; the County holds title to five of the cemeteries included in the resolutions.

- F3. The Cemetery Advisory Committee often fails to provide the BOS with an annual report addressing the condition of cemeteries within the County, and a prioritized cemetery restoration and maintenance plan.

The Board of Supervisors disagrees partially with the finding.

While the Cemetery Advisory Committee did not consistently prepare annual reports or submit a County-wide maintenance and restoration plan, multiple annual reports were compiled by the Committee, as well as a prioritized list with specific recommendations on restoration and maintenance needed for multiple cemeteries. The committee relied on staff to take these reports and recommendations to the Board, but this was not completed by previous staff. In 2020, current staff found multiple reports which had been prepared and approved by the Committee and forwarded those reports to the Board; the reports were also posted on the County's Cemetery webpage.

Given current staffing levels, a limited budget, the amount of staff time that would be required to assist the Committee to undertake an effort to prepare a County-wide maintenance and restoration plan, and the amount of time that has passed since this direction was given, staff will seek direction from the Board of Supervisors on whether or not this is an effort they still want to prioritize.

- F4. The County Cemetery Ordinance is outdated and in need of revision.

The Board of Supervisors agrees with the finding.

- F5. By incorporating a cemetery maintenance plan, routine inspections of County-maintained cemeteries and specific cemetery maintenance guidelines, County funds targeted for cemetery maintenance could be more fully and efficiently utilized.

The Board of Supervisors disagrees partially with the finding.

A cemetery maintenance plan, routine inspections, and specific maintenance guidelines are all important and are already incorporated in the practices for landscape maintenance in County-managed cemeteries. However, other factors have prevented the County from performing maintenance to the level specified in the Cemetery Ordinance.

The Board delegated landscape maintenance for 10 cemeteries to the Facilities Division of the Chief Administrative Officer's Office. In general, care for eight of the cemeteries is done on a rotating basis, so that each cemetery receives special attention ideally three times per year, with all of them sharing equal priority. This includes leaf clean up, pruning and hedging, weed eating, herbicide application, and trash pickup. In addition, all roads, streets, walkways, fences, gates, and grounds are kept in good repair and maintained to provide safe, unobstructed access to the cemeteries. Over the years, the County has acquired additional facilities, parks, and trails, but has not been in the position to increase staffing levels further stretching limited resources. In recent years, Facilities has had difficulties both in hiring and retaining sufficient County Grounds staff

and in acquiring the necessary inmate workers to perform traditional maintenance duties and keeping to historic service levels.

Landscape maintenance is handled by volunteer community members for two cemeteries, with the result that a regular maintenance plan has not been followed consistently for these cemeteries.

The responsibility for landscape maintenance for five cemeteries rests with Cemetery Administration; landscape maintenance contractors are utilized for these cemeteries. The County processed Requests for Proposals (RFPs) in 2016 and 2019 with disappointing results. Only two vendors responded to the most recent RFP submitted by Cemetery Administration and the County was able to complete a contract with only one vendor, although County Procurement and Contracts Division staff worked with the other vendor for six months without the vendor successfully completing basic requirements to finalize a contract. Also, the Trades and Crafts union has recently raised concerns about using contractors instead of staff. Insufficient levels of grounds maintenance staff and the lack of contracted vendors to handle landscape maintenance in County-managed cemeteries has hampered landscape maintenance efforts.

- F6. County-maintained cemeteries are not being maintained in accordance with the guidelines presented in the County Cemetery Ordinance.

The Board of Supervisors agrees with the finding.

RECOMMENDATIONS

- R1. The County should make it a priority to research pertinent records in order to obtain the three missing County-maintained cemetery titles and clarify ownership of the 17 additional cemeteries from the 1973 and 1992 Resolutions.

The recommendation has not yet been implemented, but will be implemented in relation to three County-maintained cemeteries where the title is in the name of the cemetery. County Counsel has started work on a quiet title process for one cemetery, and has indicated that the process takes approximately one year; however, staff resource limitations within Cemetery Administration have delayed completion of research requested by County Counsel for the quiet title process.

The recommendation will not be implemented with respect to the cemeteries that were designated in the 1973 and 1992 Resolutions, for the reasons described in F2, except for the Diamond Springs Cemetery.

- R2. The BOS should stress to the Cemetery Advisory Committee the importance of fulfilling their responsibilities in accordance with their establishing resolution.

This recommendation requires further analysis. Given current staffing levels, a limited budget, the amount of staff time that would be required to assist the Committee to complete the remaining mandates specified in the formation resolution, and the amount of time that has passed since this direction was given, staff will seek direction from the Board of Supervisors on whether or not they still want to prioritize these efforts.

- R3. The County should update the County Cemetery Ordinance.

The recommendation has not been implemented, but will be implemented within approximately one year as workload allows this to be handled.

Cemetery Administration recognizes the need for updates to the Cemetery Ordinance, as well as to both of the Management and Operations Plans for County-managed Cemeteries. The Board of Supervisors tasked the Cemetery Advisory Committee to recommend changes to the Cemetery Ordinance and the Committee prepared extensive revisions several times. Staff continues to work with County Counsel to prepare these recommended changes for Board action. The Cemetery Director regularly approves waivers of outdated requirements, which is allowed by the Cemetery Ordinance. Although it would be more efficient to request approval of updates to the Cemetery Ordinance, current staffing levels, limited budget, and the amount of staff time that would be required to undertake such an effort, have prevented this task from moving forward expeditiously and these efforts are ongoing.

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

The recommendation will not be implemented because it is not feasible.

The County has a bifurcated cemetery landscape maintenance program. Cemetery Administration staff administer all County-managed cemeteries but do not perform any landscape maintenance work. County Facilities performs landscape maintenance at eight cemeteries and they maintain these cemeteries on a prescribed schedule because their method dictates that the work be done in late winter and early spring. Facilities has experienced problems with staffing levels in the last three years, and because of the large number of County facilities they maintain, several times, including this past spring, they did little to no maintenance at cemeteries until complaints from the public were submitted to the Board of Supervisors.

Cemetery Administration staff currently has one landscape maintenance contract and the contractor performs landscape maintenance at two County-managed cemeteries. Cemetery Administration staff is in the process of preparing an as-needed contract request with another contractor to perform landscape maintenance at three other County-managed cemeteries and to serve as a back-up for any County-managed

cemetery in the event County Facilities does not have the staff resources to perform the required landscape maintenance.

To efficiently use the County's allocated funds, Cemetery Administration staff issues landscape maintenance work orders to contractors on an as-needed basis for the specific work that is needed at each cemetery, and it varies depending on the season and the timing and amount of precipitation received that year.

The Cemetery Administration budget includes funds for emergency needs such as removal of fallen trees, fence and gate repairs, and clean up and restoration needed when vandalism occurs. The total allocated funds are not needed for routine landscape maintenance, but if these funds were fully utilized for routine landscape maintenance, then Cemetery Administration would not have the funds available for emergency needs.

20-02: Inspection of County Jail and Juvenile Treatment Center

The Grand Jury has requested responses from the Board of Supervisors to Finding 3 and to Recommendation 3. The Sheriff was also asked to prepare a response to this report.

FINDINGS

F3. The outdoor recreation center at the JTC has no source of heat, therefore, making the area minimally usable for much of the year.

The Board of Supervisors *agrees with the finding.*

RECOMMENDATION

R3. The JTC should continue to work with the Facilities Division in its exploration of heating alternatives for its outdoor recreation center.

The recommendation requires further analysis.

It is anticipated that by the end of Calendar Year 2021, the Board of Supervisors will have made a final determination in regards to building a new juvenile detention facility on the West Slope. If the Board decides to build a new facility, the Facilities Division will work with the Probation Department to explore the feasibility of a temporary, cost effective solution. In the event the Board decides not to build a new juvenile detention facility, the Facilities Division will work with the Probation Department to explore a permanent solution to allow the outdoor recreation center to be used on a year round basis.

20-04: Following Up on Mental Health Act Fund Spending

The Grand Jury has requested responses from the Board of Supervisors to Findings 1 - 5 and to Recommendations 1-3.

FINDINGS

F1. Underspending of MHSA funds is still a State-wide issue, although the changes made by the State to extend the time given to expend funds have eased the immediate concern of losing funding earmarked for mental health programs.

The Board of Supervisors disagrees partially with the finding.

El Dorado County cannot make a determination whether other counties are underspending their MHSA funds. This would require the County to assess each county for reversion potential and evaluate the spending plan (the MHSA Plan / Annual Update) of each County.

The authors of the Act recognized that MHSA funds would not necessarily be fully utilized within one year, and allowed each County to establish a timeframe in which the funds would be utilized based upon the County's MHSA Plan / Annual Updates, up to the maximum number of years allowed by the Act. Funds not used by the end of that "reversion period" would revert to the State.

El Dorado County has not had any funds subject to reversion since FY 2015-16.

AB 114 (signed by the Governor on July 10, 2017) modified the reversion periods for three of the five MHSA components:

- *Community Services and Supports (CSS)*
 - *Funds utilized within five years are considered timely expenditures (originally a three-year reversion period).*
 - *In El Dorado County since FY 2006-07, CSS funds have been fully utilized within two years and have never been subject to reversion.*
- *Prevention and Early Intervention (PEI)*
 - *Funds utilized within five years are considered timely expenditures (originally a three-year reversion period).*
 - *Since FY 2015-16, PEI funds have been fully utilized within three years, including all reversion funds reallocated to the County by AB 114, but the County is now using those funds within four years.*
- *Innovation (INN)*
 - *Funds encumbered to an Innovation Plan have an extended reversion period. INN funds are encumbered up to the Innovation Plan budget amount and the reversion period ends according to the terms of the approved INN Plan (originally a three-year reversion period).*

- *As noted by the Grand Jury, INN funds continue to be challenging to encumber. However, at this time, all INN funds previously at risk of reversion have been encumbered to an approved Innovation Plan. For any of the old, reallocated reversion funds that may remain at risk of reversion in the future, there are no actions that can be taken to utilize those funds at this time. Attempts by Behavioral Health to encumber those funds were faced with ongoing delays beyond the control of Behavioral Health.*
- *Additionally, Behavioral Health will be seeking proposals for new INN projects during the FY 2022-23 Community Program Planning Process, which begins in the fall of 2021 to encumber currently available INN funding.*

The reversion period for the remaining two MHSAs components remains at 10 years:

- *Workforce Education and Training (WET)*
 - *Since FY 2008-09, WET funds have been fully utilized within the 10-year reversion period.*
- *Capital Facilities and Technology (CFTN)*
 - *Since FY 2008-09, CFTN funds have been fully utilized within the 10-year reversion period.*

Health and Human Services Agency continues to monitor MHSAs revenues and expenditures on a monthly basis, and adjust the programs as may be warranted annually based upon stakeholder input and fiscal data.

- F2. The County's MHSAs Project Team is continuing their efforts to minimize the risk of reversion of MHSAs funds, recently assisted by Statewide changes to the reversion rules.

The Board of Supervisors agrees with the finding.

- F3. There are still systemic and persistent issues in hiring and retaining County mental health employees that impact the timely expenditure of MHSAs funds.

The Board of Supervisors agrees with the finding.

- F4. The El Dorado County budgeting philosophy puts County MHSAs funds at risk of reversion.

The Board of Supervisors disagrees with the finding.

There are a number of factors which contribute to County MHSAs funds being at risk of reversion. This finding calls out one of those potential factors. Over the past several years, the MHSAs Team has worked closely with the Health and Human Services Agency Budget Team to develop the MHSAs Plan and Annual Update budgets. In doing so, the MHSAs budget has been developed in a manner that reduces, but does not eliminate, the potential risk of reversion.

- F5. The County's contracting procedures, listed as one of the problems in the Grand Jury's previous MHSAs report, have been significantly improved.

The Board of Supervisors agrees with the finding.

RECOMMENDATIONS

- R1. The County should continue to contact counties who have been successful in spending MHSA funds in a timely manner to determine if there are best practices that might be used here to better utilize MHSA funds.

The recommendation has been implemented.

The MHSA Team continues to participate in statewide calls with other counties to discuss the latest developments in MHSA, including receipt and use of MHSA revenues and reversion. Through these calls, contacts are established with all counties so that staff may communicate with outside leaders to ask questions or make comments specific to how those other counties are able to spend down funding in a timely manner while still achieving successful outcomes. Calls have been helpful in providing up-to-date examples of strategies utilized by other counties to spend down MHSA funds while improving or enhancing services, locally.

- R2. The Chief Administrative Officer, the Director of Health and Human Services, and the County Auditor-Controller should review County budgeting and personnel philosophies, strategies, and procedures to ensure that these administrative functions fully support a) the best available opportunities to hire and retain MHSA program staff and b) the timely expenditure of MHSA funds.

The recommendation will not be implemented because it is not warranted or reasonable.

HHSA, the Chief Administrative Office, and Human Resources continuously review County budgeting and personnel philosophies, strategies, and procedures for efficiencies that will aid in accomplishing the MHSA Plan.

El Dorado County Behavioral Health, as well as other counties throughout California, continues to struggle with hiring Clinicians. There is a shortage of Clinicians nationwide (especially licensed Clinicians), and this has been exacerbated by the COVID-19 Public Health Emergency. El Dorado County has a compensation philosophy with the goal of compensating all employees at the median of the total compensation paid to employees in Butte, Napa, Nevada, Placer, Sacramento, Solano, Sutter and Yolo counties and the State of California. As the County gets closer the compensation goal, the County will be better able to hire and retain MHSA program staff. HHSA has and will continue to participate in statewide calls with other counties to discuss the latest developments in MHSA, including budgeting and compensation practices.

- R3. The Director of Health and Human Services and the County Auditor-Controller should use all available options to implement an over-budgeting strategy or the use of recruitment allowance positions to maximize staffing of the MHSA program.

This recommendation requires further analysis.

By December 2021, the HHSA will research recruitment allowance positions as a budgeting strategy. In addition, they will consult with County Human Resources and the Chief Administrator's Office to ensure such a strategy is also consistent with El Dorado County Personnel Rules and the potentially impacted labor agreements to ensure that administrative functions support the best available opportunities to hire and retain MHSA program staff and the timely expenditure of MHSA funds.

20-05: West Slope Emergency Services, Joint Powers Authority and Ambulance Services

The Grand Jury has requested responses from the Board of Supervisors to Recommendations 1-2. The Joint Powers Authority (JPA) Board was also asked to prepare a response to this report.

RECOMMENDATIONS

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

The recommendation requires further analysis.

The current contract expires June 30, 2023. If the Board authorizes a successor agreement with the JPA, the compensation structure would be a topic of negotiations noting that the JPA originally requested a flat rate contract and entered into similar flat rate contracts with each of the fire districts that provide ambulance services.

- R2. The County and JPA should explore ways to use the County Service Area (CSA) 7 fund surplus to increase ambulance and medical services. Maintaining or improving Advanced Life Support (ALS) fire engine service should be a priority.

The recommendation will not be implemented because it is not warranted.

As noted in the Grand Jury's report, the service currently being provided by the JPA is a "professional and excellent operation" and the JPA is "providing enhanced service to the public." Additionally, the JPA is currently meeting response time requirements based on the level of service defined and agreed upon in the contract, so it is not clear that ambulance services need to be "increased." The level of service would be discussed during negotiations for a successor agreement; however, the JPA has indicated that it believes an increase in compensation would be necessary to maintain the current level of service in a successor agreement. The full costs of the current level of service and the CSA's ability to support those costs must be analyzed before any increase in the level of service is contemplated.

CSA 7 funding may only legally be used to support ambulance transport services. Each independent district within the County that provides fire service is responsible for determining the level of medical services to be provided by engine staff within its district, and funding that service.