

MERCED COUNTY
CIVIL GRAND JURY REPORT
2019-2020

Map of Merced County



Red pins denote cities where members of the MCCGJ reside.

Blue pins denote cities where investigations took place.

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CIVIL GRAND JURY

PO Box 2034
Merced, California 95344
<http://www.co.merced.ca.us/grandjury>

The Honorable Jeanne E. Schechter
Presiding Judge of the Civil Grand Jury
Merced County Superior Court

Dear Judge Schechter,

The 2019-2020 Merced County Civil Grand Jury (Grand Jury) respectfully submits our final report to the Merced County Superior Court and the citizens of Merced County in accordance with California Penal Code, section 933.05.

The Grand Jury was selected through an application and interview process. Applications are available in the Superior Court's Jury Assembly room. The Grand Jury completed Grand Jury and Report Writing training through the California Grand Jury Association. All interested members of the community are urged to submit an application to be considered for future Grand Jury service.

The 2019-2020 Grand Jurors faced many challenges in the beginning and end of our term. We began our meetings in the Merced County Administrative Building while our jury room was remodeled. Then the process of moving all the files from dusty boxes into our new room and getting our computers, printer, phones, and internet services installed impacted our time and focus. The last months of the year we have been impacted by the COVID-19 pandemic just as everyone else has. The Grand Jury has been creative and has found ways to conduct meetings, interviews, complete tours, and write reports while following state and local guidelines regarding social distancing and other safety measures. Through all of the turmoil, our goal to identify issues and develop sound recommendations to impact change remained paramount.

The Civil Grand Jury completed the mandatory inspection of all the Merced detention facilities including Merced County Sheriff's Department Main Jail Facility and John Latorraca Correctional Facility. In addition, the Grand Jury received a total of 22 complaints. The jurors took their duty very seriously and gave careful consideration to every complaint received. Not all complaints were within our jurisdiction or purview. Complaints that warranted investigation did not always

result in a final report. The complaints led to 9 inquiries resulting in 4 investigative reports. Jurors spent months compiling research, conducting interviews, and evaluating information for each report. This was a wonderful opportunity for us to learn more about local government while fulfilling our function as an arm of the court, the voice of the people, and the conscience of the community.

I want to thank my fellow jurors for their hard work and collaborative spirit. We are a diverse group of dedicated people, imbued with a wide range of expertise and abilities. For all of us, the opportunity to serve the County and its citizens as a Civil Grand Juror has been a rare and privileged undertaking. We thank those that shared information, resources and time to enable us to conduct our investigations in a logical and thorough manner. We are confident the positive and constructive responses to our recommendations will result in improved efficacy and improved services for the people of our community.

I especially want to thank you, the staff of the Superior Court, County Counsel, County Administration, and County Information and Technology Services. We could not have completed our work without your invaluable support. It has been an honor to serve as the foreperson of the Merced County Civil Grand Jury during the 2019-2020 term.

Respectfully submitted,

Karen Deeming
2019-2020 Merced Civil Grand Jury

2019-2020 MERCED COUNTY CIVIL GRAND JURY MEMBERS

- | | |
|-------------------------|---------------------|
| 1. Armstrong, Laurie | |
| 2. Bettencourt, Michael | |
| 3. Deeming, Karen | Foreperson |
| 4. de Santiago, Laura | Recording Secretary |
| 5. Foote, Ryan | Pro-Tem |
| 6. Green, Michael | |
| 7. Hargrove, Richard | |
| 8. Jackson, Jr., Stoney | |
| 9. Jorritsma, Eloise | |
| 10. Kregg, Phyllis | |
| 11. Marcum, Teri | |
| 12. Martins, Joe | |
| 13. Mattos, Jr., Weldon | |
| 14. Murphy, Linda | |
| 15. Phillips, Levonne* | |
| 16. Pirtle, George* | |
| 17. Smith, Rebecca | |
| 18. Soares, Toby* | |
| 19. Sousa Jr., Jose | |
| 20. Tenenbaum, Samuel | |
| 21. Williams, Steven | |

*Members unable to complete their term

The 2019-2020 Civil Grand Jury members resided in the following communities in Merced County:

Atwater
Dos Palos
Gustine
Hilmar
Le Grand
Livingston
Los Banos
Merced
Snelling
Winton

COVID-19 STATEMENT

The beginning of 2020 has indeed been filled with unprecedented challenges and enormous change. Despite the disruptions created by the COVID-19 pandemic, the government entities and public servants in Merced County strive to fulfil their commitment to the day-to-day tasks that maintains the community's viability, with an ongoing emphasis on protecting the health and safety of everyone. The 2019-2020 Merced County Civil Grand Jury (MCCGJ) has continued to pursue and complete its tasks, while recognizing the difficulty of collecting information from individuals and offices who, burdened with their own priorities, must discover alternative ways to communicate, conduct business, and keep various projects moving forward. As the world travels forward into the latter half of the year there will be more changes, interruptions and complications to overcome. We are all in this together and Merced County will persist, overcome, and ultimately survive these difficult days and come out better than ever. The 2019-2020 MCCGJ recognizes the unique and historical nature of our term and appreciates the opportunity to be a part of positive change in our community.

MANDATED INSPECTIONS OF JAIL FACILITIES

INTRODUCTION

In accordance with the requirements of the California Penal Code (CPC) Section 919(b), the 2019-2020 Merced County Civil Grand Jury (MCCGJ) conducted inspections of the detention facilities in Merced County. According to CPC Section 919(b), the purposes of these inspections are to inquire into the conditions and management of the jails within the county. Under these provisions, the Merced County Grand Jury toured and inspected the following facilities:

1. The Merced County Sheriff's Department Main Correctional Facility.
2. The Merced County Sheriff's Department John Latorraca Correctional Facility (JLCF).

The MCCGJ inspected the Merced County Sheriff's Department Main Correctional Facility in central Merced. The Grand Jury will not issue a report on the Main Correctional Facility as it is not required by law.

JOHN LATORRACA CORRECTIONAL FACILITY

SUMMARY

The MCCGJ determined that all facilities at John Latorraca Correctional Facility (JLCF) inspected met the minimum standards of the California Corrections Standards Authority (CSA), as specified in Titles 15 and 24 of the California Code of Regulations except for the exercise areas. Title 24 Section 2.10 located in the Board of State and Community Corrections (BSCC) guidelines state that the exercise area must contain or provide free access to a toilet, washbasin, and drinking fountain as provided in Section 1231.3. The exercise area at JLCF does not currently allow free access to a toilet and washbasin; however, there are several water stations in the exercise area and according to staff, inmates are escorted to toilets and washbasins when necessary. Phase I of the remodel will provide the required access to these facilities. The MCCGJ found that the education programs at JLCF reduces recidivism, saving the county funds and giving participants needed tools to integrate back into society.

BACKGROUND

The 2019-2020 MCCGJ inspected the JLCF located at 2584 W. Sandy Mush Road in Merced County (Figure 1) on September 17, 2019. The MCCGJ inspected the conditions and management of the facility. The buildings were constructed in the early 1990's as a minimum-security facility but now houses medium-risk to high-risk inmates.

The facility has a state-rated capacity for 564 inmates. The current population at the JLCF facility as of September 2019 averages 448 with a 10% female population. This includes approximately 117 documented gang members.

This facility maintains the minimum staff required with no relief factor for vacation, sick time, training, or emergency situations. The officers are required to work mandatory overtime which is often built into their schedules. At the time of the MCCGJ inspection a total of 26,529 hours of overtime hours had been logged by personnel at JLCF since January 1, 2019.



Figure 1: Entrance to John Latorraca Correctional Facility

METHODOLOGY

The MCCGJ used the Detention Facility Inspection Form provided by the California Grand Jurors Association (CGJA). Also reviewed was the Jail Inspection Handbook for Grand Jurors provided by BSCC for reference. The form guided the observations of the MCCGJ during its inspection. The MCCGJ documented facility staffing, condition of the grounds, and the interior and exterior of the buildings. The medical and kitchen areas were inspected. Educational and vocational programs were surveyed, as well as inmate discipline and grievance procedures. Inmate classification, orientation, visitation, and correspondence policies were reviewed. Inmate housing units were toured and inmate interviews were conducted. In addition, the Grand Jury reviewed Merced County website material and multiple interviews with staff, Correctional Officers (CO's), and Sheriff personnel.

DISCUSSION

JLCF houses a kitchen that supplies meals prepared by low-risk inmates under the supervision of staff. Inmates who work in food service have been ServSafe trained. This program is essential for proper cleaning, refrigeration, preparation and distribution of food. The kitchen was clean and in good repair. Menus are reviewed by a licensed dietician annually and meet state regulated dietary guidelines. Special meals are provided for inmates who have health or religious restrictions.

Staff reported inmates are assessed for medical and mental health needs upon arrival. The medical facility was found to be clean, organized, and secure. The nursing staff distributes medications twice daily and provides ongoing care such as glucose monitoring, insulin level checks for diabetics and preventative care such as flu shots. In addition to standard examination rooms, there is a secondary bedding area for long term care, a quarantine location and a dialysis machine. Mental health care is available via satellite on a weekly basis.

In addition to educational programs enabling inmates to receive a high school diploma or GED certification, JLCF provides an in-custody treatment program aimed at addressing needs of participants after release. The program courses include: outpatient substance abuse treatment, alcohol abuse treatment, statistical risk offender needs guidance, individual cognitive behavioral therapy, life skills, moral reconation therapy, anger management, employment readiness, education readiness, personal journaling, women's trauma, and domestic violence awareness. Program data provided by JLCF shows that the recidivism from 2015 until present without programs is 83% and with programs is at 22%. The reduction in repeat offenders has reportedly saved the county in excess of \$1 million over the course of the program thus far.

The exercise areas are enclosed by fencing and are located in the center of the Correctional Facility. They are bordered on three sides by dormitories which are used as housing for the inmates. The recreation area was found to be clean and in operational order. Staff verified that two water stations are located in the recreation area but no direct access to toilets or washbasins are available.

A selection of dormitories was inspected. One dormitory was empty and being remodeled and repaired. Staff indicated that all the current dormitories were scheduled for remodeling and repair as part of Phase I project. These units were to be emptied and repaired on a rotating basis until all remodeling was completed. The inspected dormitories currently in use appeared to be relatively clean and usable. There was wear and tear noted due to constant use, the age of the facility, construction materials used when the facility was built, and deferred maintenance.

In November 2015, Merced County qualified for a \$40 million grant from the California Board of State and Community Corrections for construction and renovation of existing buildings at JLCF. Four new buildings are planned including a new health care building with 30 medical/mental health beds and associated clinic area, a new standalone program and services building, a new kitchen and laundry facility, a new intake and release, and administration building with visiting space. The existing parking lot will be reconfigured into public and secure employee parking. The dorms will be renovated with modifications that increase security including an upgrade to the toilet and shower area. Additionally, outdoor recreation yards will be constructed with direct access from the dormitories conforming to requirements for exercise yards. Phase I will also install upgraded utility systems such as water, septic sewer, electrical, plumbing, mechanical, heating, ventilation and air conditioning. Ground breaking is scheduled to begin April 2020 with a completion date in January 2023.*

FINDING(S)

- F1: The exercise area is non-compliant and does not provide access to toilets or washbasins but does have available drinking water stations. The toilet and washbasin access will be addressed in Phase I slated to begin in April 2020.*
- F2: The in-custody treatment program at JLCF reduced recidivism, which saved the county money by providing courses that improved the ability of participants to succeed after release.

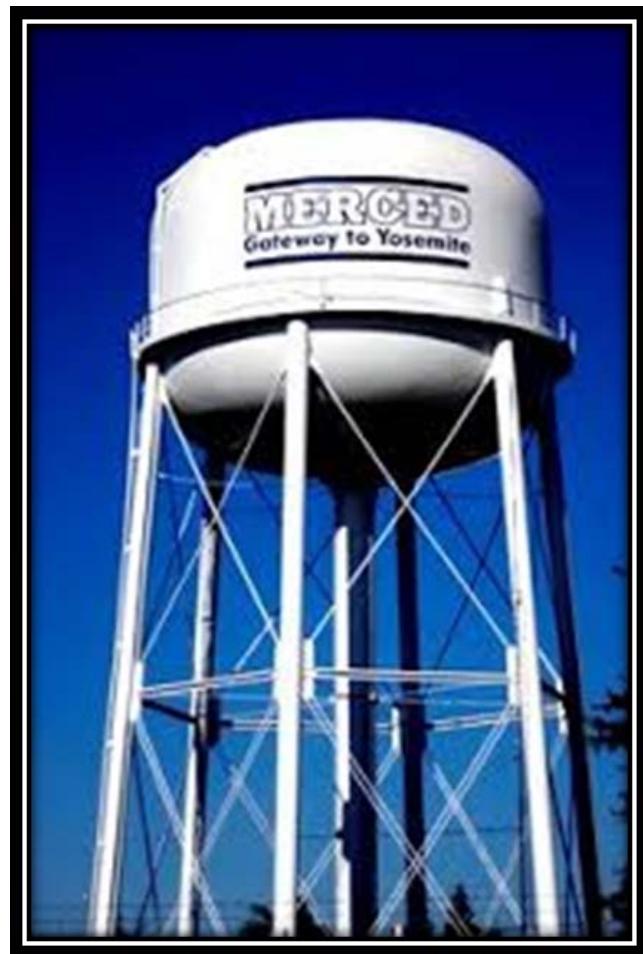
RECOMMENDATION(S)

No recommendation at this time.

*According to staff, COVID-19 has disrupted the process for Phase I.

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

INVESTIGATIVE REPORTS



MERCED CITY WELL 3C

SUMMARY

The City of Merced Public Works Department oversees the Water Division which is responsible for the maintenance and operation of the City's drinking water production and distribution system. The Merced County Civil Grand Jury (MCCGJ) became aware of an excessive disposal of approximately 864,000 gallons of water into the storm drain system daily for multiple years from Well 3C located at 12th and Canal Streets in Merced, California. A new filtration system was installed in 2017. The filtration system was contaminated and forced to go offline and dump millions of gallons of fresh water. The problem is not resolved and continues to waste water. In addition, costs associated with wasted water as well as pumping and testing are passed on to residents of Merced City during a time when everyone is asked to conserve precious water resources.

BACKGROUND

The MCCGJ received a complaint claiming the City of Merced was pumping 1,000,000 gallons of drinking water per day into the drain system because of a tainted filtration system that was discoloring the water. The original complaint also suggested the water was given away rather than sold for an offset of the costs.

METHODOLOGY

The MCCGJ conducted multiple interviews with City of Merced Public Works Administrative Staff and did research on both the County and City websites concerning water in Merced. Additionally, the MCCGJ toured the Well 3C site and conducted extensive observations at field sites. Locations included a pumping station at West Avenue, storm drains, and canals leading to Dickenson Ferry Road where water is rerouted into irrigation.

The MCCGJ collected correspondence between the City of Merced and the supplier of the filtration system, laboratory test results for the water from Well 3C, documents reflecting the volume of water discharged into the storm drain system, maps of the storm drain system, documentation of ultimate destination of water from Well 3C, documents concerning all issues and problems with Well 3C, documents pertaining to the construction of the Tetrachloroethylene (PCE) filtration system, and logbooks for maintenance at Well 3C.

DISCUSSION

Well 3C is located at the intersection of West 12th Street and Canal Street near downtown Merced. Approximately half (49.7%) of readings taken from well 3C between January 2011 and October 2015 indicated that the levels of PCE were above legal limits, indicating that the water was unsafe for consumption. In response, the City of Merced had a new filtration system installed at Well 3C including carbon-based filters. The construction was completed in September 2017. According to the Water Department, the well was online, pumping drinking water for 30-45 days before the water was rerouted to the storm drain system due to bacterial contamination from the filters.



Figure 2: Discharge from pump station on West Avenue.

per minute). The Well 3C maintenance logbook reflects Well 3C remained offline (pumping to waste) from 2017 until present. The MCCGJ was concerned with multiple areas that contained empty lines in the logbook contrary to best practices. When questioned, administration assured the MCCGJ that nothing had been deleted, removed or redacted from the logbook.



Figure 3: Discharge under Airport to Thornton Road.

located on West Avenue (See Figure 3) where it is pumped into the MID canal or routed under the airport to the canal on Thornton Road (See Figure 4) until it enters the MID canal at

The City Water Department tried multiple mitigation methods including backwashing and disinfecting the system, but eventually they were forced to replace the carbon filters in May 2018. The system remains contaminated at the time of this report. According to the Supervisory Control and Data Acquisition (SCADA) logs, Well 3C continues to pump 864,000 gallons of water into the drain system every day (600 gallons

per minute). The Well 3C maintenance logbook reflects Well 3C remained offline (pumping to waste) from 2017 until present. The MCCGJ was concerned with multiple areas that contained empty lines in the logbook contrary to best practices. When questioned, administration assured the MCCGJ that nothing had been deleted, removed or redacted from the logbook.

The water pumped into the storm drain travels to the pump station

Dickenson Ferry Road (See Figure 5). According to Water Department officials, MID does not purchase the water from Well 3C.

The cost of water to residents is \$0.74 per 748 gallons of water. If the city were selling this water at residential rates, the revenue would translate to more than \$854 per day or \$25,642 per month. Additionally, documents show the City of Merced pays an average of \$4,305 per month to power Well 3C while the well is offline and pumping to waste, ending up in MID canals for distribution. This monthly loss of nearly \$30,000 does not include any costs incurred from the additional pumping station on West Ave or any other cost of upkeep for Well 3C.

According to the Water Department, turning off or shutting off the water to Well 3C would lead to even greater levels of bio-contaminant buildup in the system. To remedy the biological contamination in the system and allow the system to come back online, a caustic washing service is needed. An outside contractor has provided an estimate of \$70,000 for the caustic treatment but will assume no risk or responsibility for future contamination. The estimated cost includes training Merced City employees to maintain the system properly in the future.



Figure 4: Thornton Road and Dickenson Ferry City storm drain to MID canal.

Water conservation has been a serious subject in recent years with a state of emergency declared in 2014 due to drought. According to the Merced County Water Conservation Ordinance, available on the City of Merced website, minimizing and/or eliminating water waste through voluntary compliance or punitive action is necessary to ensure compliance with all federal, state, and local requirements for water conservation and drought mitigation. The City of Merced website cautions that surface water is rapidly depleting and groundwater is being pulled from the ground faster than it is recharging.

The City of Merced website asks residents of Merced California to help conserve water. The website offers many tips on how to reduce personal and residential use and imposes restrictions on what type of water use is authorized. Additionally, a strict outdoor watering schedule is in place. Well 3C has been offline and pumping millions of gallons of water to waste, while at the same time the City of Merced is asking residents to conserve or face penalties for non-compliance.

FINDING(S)

- F1: That Well 3C pumps 864,000 gallons of water into the storm drain system every day.
- F2: That Well 3C has been offline and pumping water into the storm drain system since approximately November 2017.
- F3: That the water from Well 3C has been given to MID at no cost to MID.
- F4: That the cost of the wasted water and pumping costs average close to \$30,000 per month.
- F5: That the Public Works department received a quote of \$70,000 for the caustic disinfection at Well 3C including labor, chemicals, and training for Merced City employees.
- F6: That the maintenance logbooks contain multiple blank lines between entries.
- F7: That the public is unaware of the 864,000 gallons of water being pumped into the storm drain system every day.

RECOMMENDATION(S)

- R1: That Well 3C be disinfected and brought back online by December 31, 2020 or decommissioned to prevent continued waste of water and costs associated with pumping.
- R2: That water running to waste from Well 3C be sold or directed to ground water recharge basins immediately until Well 3C goes back online.
- R3: That the Public Works logbooks be maintained from this point forward with no blank spaces between entries as best practices for maintaining a proper logbook.
- R4: That the public be informed about the water running to waste from this point forward until it is repaired.

REQUEST FOR RESPONSES

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

From the following individuals:

- Merced City Public Works Director respond to F1, F2, F3, F4, F5, F6, F7, R1,R2, R3 and R4 within 60 days.

From the following governing bodies:

- Merced City Council respond to F1, F2, F3, F4, F5, F6, F7, R1,R2, R3 and R4 within 90 days.

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

OBSERVATIONS FOR MERCED IRRIGATION DISTRICT DIVISION 3 NOVEMBER 2019 SPECIAL ELECTION AND MARCH 2020 PRIMARY ELECTION IN MERCED COUNTY

SUMMARY

The Registrar of Voters of Merced County invited the Merced County Civil Grand Jury (MCCGJ) to participate as official observers at the local elections for both the Special Merced Irrigation District (MID) Election held on Tuesday, November 5, 2019 and for the Primary Election held on Tuesday, March 3, 2020.

The MCCGJ found that the poll workers were competent, helpful with the processes of voting and there was reasonable accessibility at most locations. Concerns were found with poll site signage and a lack of preparedness for emergency scenarios. Additionally, ballots were removed from the privacy folder before being fed into the machine by the poll worker.



Figure 5: Registrar of Voters Elections

BACKGROUND

The MCCGJ accepted the invitation to observe the elections to ensure the overall integrity and security of the process.

METHODOLOGY

On the Monday prior to the November 5, 2019 election, observers met at the Merced County Elections Warehouse at 250 East 15th Street, Merced, CA 95341 for an orientation on elections procedures, equipment, guidelines, and other information related to observing the voting process. During that election, members of the MCCGJ visited multiple polling sites.



Figure 6: Voting Booth

At each location, the MCCGJ took note of the voting procedures including signage, accessibility provisions, voter check-in, and casting

ballots. Lack of adequate signage, unassembled booths at some locations, and a lack of preparation or procedures for emergency situations prompted the MCCGJ to send a letter to the Registrar of Voters outlining these observations and concerns.

The MCCGJ attended a second orientation for the March 3, 2020 Primary Election reiterating guidelines for observers and learning about modern technology implemented for greater communication and accessibility for voters. The MCCGJ observed multiple voting sites in many precincts throughout Merced County.

DISCUSSION



Figure 7: Expressvote Machine

By the March 3, 2020 election, there were upgrades in voting technology. The voting machine for the disabled was replaced with a new machine that was easier to use and more adaptable for those with differing types of disabilities (See Figure 8). A language translation station with real-time voter translation assistance was introduced in select precincts (See Figure 9). The vote tabulation and ballot collection machines were also replaced with an upgraded model (See Figure 10). The way voters checked in changed from paper to an electronic format (See Figure 11).

On March 3, 2020 the California State Primary Election was held. It covered the Presidential primary, state and local primary elections, in addition to municipal ballot measures. All 127 precincts located at 57 sites throughout the county participated in this election.



Figure 9- DS200 Tabulator

Voting Assistance Centers were set up in four locations, including Merced, Los Banos, and Atwater. These facilitated early voting, ballot drop off, and special situations—such as printing of provisional ballots. MCCGJ members observed multiple voting sites. Some precincts are exclusively vote-by-mail due to California Elections Code 3005, which stipulates vote-by-mail for all where there are 250 or less people registered to vote 88 days



Figure 8: Translation Machine



Figure 11: Pollpad

prior to the election.

Overall the signage for the majority of polling locations was good; however, some signs were difficult to see due to size, position and/or location. Signage was not always sufficiently visible during evening hours.

Concerns with ballot secrecy was noted when the security sleeve was removed by the poll worker before inserting the ballot into the machine, thereby exposing the ballot to public view.

When questioned about procedures to ensure vote integrity in an emergency, poll workers provided a variety of answers regarding training and procedures. Some workers indicated they had received some training, while others specified that they had not. Others stated they were told to take the voting materials only if it was safe to do so. In the event the materials had to be left behind, the workers were told to call the warehouse for further instructions.

As of May 8, 2020, California Governor Gavin Newsom, in consideration of the ongoing concerns and unknowns regarding COVID-19, has issued a Gubernatorial Executive Order declaring California a Vote-By-Mail state. It is also stated that polling places will be provided for those who cannot or choose not to participate in the vote-by-mail option.

FINDING(S)

- F1: That there is a lack of adequate training for emergencies at polling sites.
- F2: That signage visibility and placement issues exist.
- F3: That ballot privacy is not consistently protected from public view.
- F4: That the new technology transitioned well into election procedures.
- F5: That poll workers responded well to the needs of voters.

RECOMMENDATION(S)

- R1: That training for emergency situations is implemented before the November 3, 2020 General Election.
- R2: That signage to polling sites be visible and in well-lit locations for evening voters.
- R3: That adequate training for the secure and secret handling of ballots be required before the November 3, 2020 General Election.

REQUEST FOR RESPONSES

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

From the following governing bodies:

- Merced County Assessor/Clerk-Recorder/Registrar of Voters respond to F1, F2, F3, R1, R2, and R3 within 60 days.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury6

*Two (2) jurors were recused from this report

IS FOG SEALING THE ANSWER: LOS BANOS ROADS MAINTENANCE

SUMMARY

The Los Banos Public Works Department (PWD) Roads Division (RD), located at 411 Madison Avenue, is in charge of the road maintenance, improvements and replacement throughout the city. This division is responsible for 130 miles of streets and 5 miles of alleys. Curbs, gutters and sidewalks are also under their jurisdiction. The Merced County Civil Grand Jury (MCCGJ) found the majority of the roads in Los Banos are rated below “satisfactory” and need more than fog seal treatments for proper preservation. The MCCGJ recommends that the RD put funding toward more substantial repairs of the roads instead of fog sealing roads in “fair-poor,” “poor,” and “very poor” condition. In addition, the MCCGJ recommends the RD provide a comprehensive website to inform the public, and provide a centralized complaint system for reporting problems.

BACKGROUND

The MCCGJ received a complaint regarding street repair procedures. There were concerns about the expenditure of public funds and resources going toward the substantial expense of oiling roadways and repainting and striping without first doing any repair, even of significant cracks and potholes.

METHODOLOGY

Members of the MCCGJ inspected multiple streets in Los Banos, both thoroughfares and residential areas. Additionally, the MCCGJ met with management of Los Banos PWD. Documents received included past repair history from 2015 through 2019, street work plan, Pavement Condition Index (PCI), cost of pavement treatment, map of pavement conditions, road repair budget and explanation of repair procedures. The MCCGJ also reviewed the City website for information about road repairs and maintenance.

DISCUSSION

The RD provides a wide range of services that include pavement management, concrete improvements, sidewalk maintenance, painting streets, curb markings, traffic signs and signals, bridges, minor construction, flood control, weed abatement, traffic surveys, and leaf removal.

The Los Banos RD rates City roads according to their condition to determine the appropriate rehabilitation, preservation, and repair needed. According to the *City of Los Banos Pavement Summary*, the City has an overall Pavement Condition Index (PCI) of 59 which coincides with the “fair” condition assessment chart provided by public works (See Table 1).

The cost for treatment and the treatments themselves depends upon the condition of the road (See Table 2).

Fog sealing is an application of diluted asphalt emulsion. The emulsion is used to seal and enrich the asphalt

pavement surface, seal minor cracks, and prevent further deterioration of the street. The application is a preventive maintenance activity and is scheduled before the street or road shows visual signs of any structural damage; however, Los Banos RD applies this treatment to all roads, regardless of condition.

According to the website, the RD sprays about 30,000 gallons of sealer on City streets with the

goal of treating approximately 20 miles or one-fifth of the City streets each year.

Management reports that the cycle of spraying can extend from 5-7 years, depending on the budget.

Fog sealing is designed to increase the service life of streets by approximately five years. Each subsequent application of fog seal treatment provides a lessened

Table 1 City's PCI Categories

Condition Assessment	PCI Value
Good	86 – 100
Satisfactory	71 – 85
Fair	56 – 70
Poor	41 – 55
Very Poor	0 – 40

Table 1- City's PCI Categories

M&R Category	M&R Work Type	Unit Cost	Unit	PCI Condition
Preventative / Preservation	Fog Seal	\$ 0.25	SqFt	Good
	Slurry Seal	\$ 0.75	SqFt	Satisfactory
	Cape Seal	\$ 1.50	SqFt	Fair
	Scrub Seal	\$ 1.85	SqFt	Fair-Poor
Major Rehabilitation	2-Inch Overlay	\$ 1.75	SqFt	Fair-Poor
	Fabric & 2-Inch Overlay	\$ 2.00	SqFt	Fair-Poor
	Cold Milling & 2-Inch Overlay	\$ 2.25	SqFt	Fair-Poor
	Full Reconstruction	\$ 4.50	SqFt	Poor
				Very Poor

Table 2- Unit cost for pavement treatment corresponding with pavement conditions

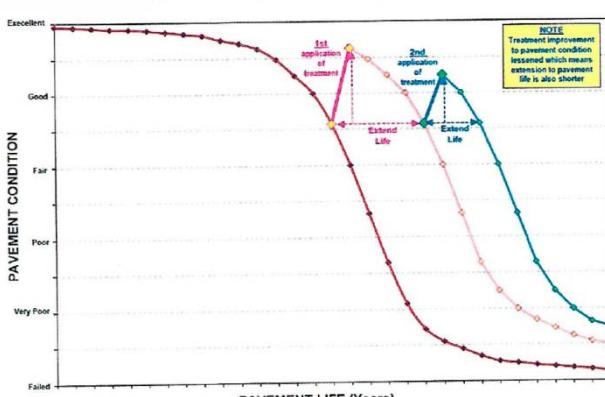


Table 3- Extension of Pavement by Condition

extension of the pavement life (See Table 3). This is the appropriate treatment for roads rated “good.”

The distribution of categories shows that only 12.3% (See Table 4) of Los Banos City roads are rated at “good” and qualify for the Fog Seal treatment (See Table 2).



Figure 12: Fog sealed and striped road rated at 19 PCI (very Poor condition) located on F St in Los Banos.

benefit of fog sealing roads is the cost and the fact that it can be done in-house rather than being contracted out. The cost to fog seal is \$0.25/sqft compared to other more expensive seal options (See Table 2). Although a less expensive option, it does not appear to provide a good return on investment when the roads are in “fair-poor,” “poor,” or “very poor” condition. The hundreds of thousands of dollars spent on fog sealing and repainting may be better invested in long-term repair of the roads in Los Banos.

The RD receives monies from Measure V, SB1 and the City budget for roads repairs. According to management, Measure V funds do not need to be spent each fiscal year but can be saved to do major repairs. SB1 funds come from the State,

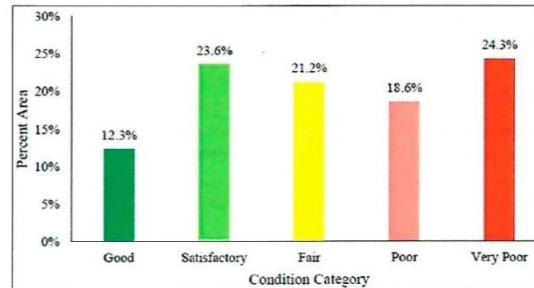


Table 4- distribution of Los Banos City pavement conditions

The PWD spent approximately \$332,000 on fog sealing roads and over \$28,000 on striping in 2019 and completed a total of 137 fog seal events and multiple striping and painting events, including roads rated as low as 20 on the PCI (See Figures 12, 13, 14 and 15). This procedure is indicated specifically for roads in good condition (PCI 86-100). Treatments such as slurry seal, cape seal and scrub seal are indicated to treat roads in “fair-poor” to “satisfactory” condition. The RD does not show any expense for these other sealing procedures in 2019.

According to management, the

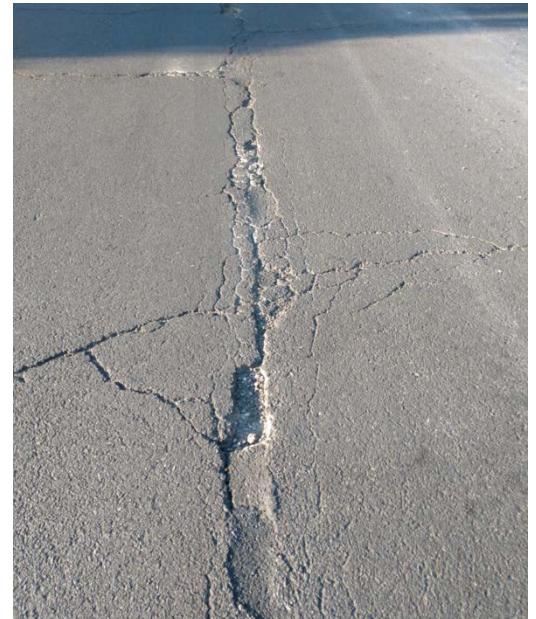


Figure 13: Fog sealed and striped road rated at 47 PCI (poor condition) located on 2nd Street in Los Banos.



Figure 14: Fog sealed and striped road rated at 71 PCI (fair condition) located on 2nd Street in Los Banos.

through a gas tax, and are not required to be spent each year. The City submits a project list before receiving the funds and then reports projects actually completed. All unspent funds including Measure V, SB1, and the City budget can roll over into the following year.

Residents are not aware of road repair projects, and questions regarding the efficacy of the protocols utilized by the RD have been posed. The current website is difficult to find and offers minimal explanation and a hard-to-access map. The MCCGJ believes the chasm between the RD and

the public would be closed with more comprehensive communication about road repair procedures and schedules.

According to management, when a resident has a complaint about a needed road repair, there is no form to fill out. The resident must call the PWD and the information is either filed or sent out to a crew, but there are no online or physical systems to handle complaints.



Figure 15: Fog sealed and striped road rated at 81 PCI (satisfactory condition) located on F Street in Los Banos.

FINDING(S):

- F1: That 64% of roads in Los Banos fall below a “satisfactory” rating and need more than a fog seal for preservation.
- F2: That the money spent fog sealing and restriping roads below “good” rating is not an effective means of long-term maintenance.
- F3: That the website does not provide relevant or current information for the public regarding RD activities and schedules.
- F4: That the RD does not have a central system for submitting and tracking public complaints.

RECOMMENDATION(S):

- R1: That the RD budget more money toward road improvement instead of putting it into fog sealing and striping roads with ratings below “satisfactory” in the 2021-2022 fiscal year budget.
- R2: That the RD update their website and make it more user friendly by January 1, 2021.
- R3: That the RD create a pamphlet or newsletter to provide information to the public regarding procedures and road maintenance schedules by January 1, 2021.
- R4: That the City create a centralized online system to report road problems by January 1, 2021.

REQUEST FOR RESPONSES

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

From the following individuals:

- Los Banos Public Works Roads Division responds to F1, F2, F3, F4, R1, R2, R3 and R4 within 60 days.

From the following governing bodies:

- Los Banos City Council responds to F1, F2, F3, F4, R1, R2, R3 and R4 within 90 days.

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

WHO HOLDS THE KEYS TO CASTLE?

SUMMARY

Castle Airport and Development Center (CADC), located at the former Castle Air Force Base (CAFAB), is a business center and airport located in Atwater, California. There is great potential for revenues and new businesses for Merced County at the site but the space is largely underutilized. This property is owned and managed by the County of Merced. The 2019-2020 Merced County Civil Grand Jury (MCCGJ) looked into the current activity at CADC and found that information regarding current business operations and planned developments for CADC are not readily available to the public.

BACKGROUND

CAFAB, located in Atwater, California, was a United States Air Force (USAF) base from 1941 through 1995. Control over the site was passed on to Castle Joint Powers Authority (CJPA) until Merced County assumed ownership in 2006. After closing the military base, the USAF remained involved only with the cleanup and monitoring of contamination that remained due to previous military activities.

The 2019-2020 MCCGJ was concerned with the lack of public information regarding the use of, and revenues generated by CADC. The MCCGJ had additional concerns with the contamination of water and soil at the site.

METHODOLOGY

The MCCGJ conducted interviews with Merced County Administrative staff and Castle Airport Commerce Center (CACC) Administrative staff. Members of the MCCGJ toured the facilities and grounds at CADC. County websites, independent blogs regarding the history of the site, published newspaper articles, and individual business websites of companies in residence at CADC were reviewed. Airport Land Use Commission (ALUC) documents, including minutes, were reviewed.



Figure 16: Castle Airport Commerce Center Entrance

DISCUSSION

Businesses located at CADC include Castle Airport, Merced County Animal Shelter, MFA Medical Group, Castle Family Health Centers, Merced Adult School Atwater Campus, Waymo (Google affiliated), Blaker Brewery, University of California Merced Center, Big Creek Lumber, Mackey & Sons, Inc., Merced Union High School District Supply Warehouse, Astra Incorporated, and Merced County Human Services Agency. CADC encompasses 8.2 million square feet of industrial development potential and generates \$2.2 million in lease revenues



annually for the Castle Airport and Development Center. The majority of land is undeveloped or contains buildings unfit for use for various reasons (See Figure 13).

In addition, Sierra Academy of Aeronautics operates a flight school which includes dormitories and flight facilities. Castle Air Museum RV Park offers visitor space rentals year-round (See Figure 14). The Castle Airport Museum is a separate entity supported by donations and community volunteers. Most of these businesses have made information about their presence in Merced County accessible online through private websites. Only a few are linked through county websites.

Figure 10- Example of building unfit for use on Castle grounds

In 2005, the Merced County Redevelopment Agency proposed a Castle Airport Aviation and Development Center Redevelopment Plan to the Merced County Board of Supervisors. The Castle Airport Master Plan (CAMP), was later adopted by the Merced County Board of Supervisors in 2011. The CAMP details projections and plans for the reuse of the airport. Information regarding airport business is easily accessed through the airport website, County of Merced website, and the Community and Economic Development website.

The MCCGJ had difficulty locating links to other plans for future use and development of CADC. During a presentation by Merced County Administration, the MCCGJ learned of economic development and investment opportunities at the CADC location including a Mid-California International Trade District, California Auto-Tech Testing and Development Center, Castle Rail District/Inland Port in relationship with the Port of Los Angeles, and the Atwater-Merced Expressway



Figure 11- Year round RV park located on Castle grounds

Technology Corridor. The geographic location of CADC makes it a prime location for multiple commerce opportunities, promotes market competition, and provides unique logistic-enabled advantages.

According to officials, to enable future projects, CADC sites must be readied for development. Preparation of areas and renovation of buildings at CADC is costly due to remaining contamination and presence of toxic chemicals. The MCCGJ reviewed documents related to environmental reporting and spoke to administration regarding soil and water contamination at the CADC site and found that they are at safe levels in developed areas, but clean-up is ongoing. Dilapidated buildings which present safety and health issues need to be removed. Additionally, infrastructure needs to be put in place including improved roads and parking areas with handicap spaces clearly marked.

The MCCGJ was impressed with the presentation and vision for CADC. It appears a lot of effort is being done to market CADC as a business center and to bring in outside investors; however, there is little to no effort at local marketing. The local community has limited access to information about what is happening at the CADC site currently or future plans for redevelopment.

Local community interest and community involvement in development at CADC has the potential to fast track clean-up and redevelopment. Community pride in local resources is only possible when the community is aware of those resources. An optimistic vision is a powerful marketing tool and has the potential to entice businesses to explore CADC as a future home. Knowing what currently exists at CADC will help generate ideas for what is still needed to fill the needs of Merced County residents. The first step is access to up-to-date information for the community.

A clear picture of the present situation including the condition of land, water, redevelopment costs, health and safety issues, investment opportunities and businesses located at CADC should be easily accessible in a central location for both local and outside investors as well as community members. CADC has a wealth of untapped potential and revenues that are important to Merced County. An increased online presence and local marketing is needed. The public should have information available on a consolidated, comprehensive, and well-maintained website and social media platforms.

FINDING(S)

- F1: That the majority of CADC is undeveloped and underutilized.
- F2: That no central online website location with information about present and future development at CADC exists.
- F3: That CADC is actively seeking business opportunities and investments for increased interconnectivity of commerce and commercial business that extend beyond the County.

RECOMMENDATION(S)

- R1: That an informative and up-to-date website and social media presence be developed and presented to the public to convey current pertinent information about the CADC redevelopment project by December 31, 2020.
- R2: That the website be maintained with up-to-date information regarding CADC business development progress.

REQUEST FOR RESPONSES

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

From the following individuals:

- Merced County Department of Community and Economic Development respond to F2, F3, R1 and R2 within 60 days.

From the following governing bodies within 90 days:

- Merced County Board of Supervisors responds to F2, F3, R1 and R2 within 90 days.

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



MERCED COUNTY CIVIL GRAND JURY CONTINUITY REPORT

**A Follow up for the
2018-2019 Report**



MERCED COUNTY CIVIL GRAND JURY COMPLIANCE AND CONTINUITY REPORTS

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

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

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

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

Included in this report are the investigations conducted by the 2018-2019 Merced County Civil Grand Jury (MCCGJ). A brief summary of each report is provided, along with findings and recommendations of the MCCGJ. Verbatim responses to the reports from the government agencies or departments are also provided.

MANDATED INSPECTIONS OF JAIL FACILITIES

2018-2019

Per California Penal Code (CPC) Section 919(b) Merced County Grand Jury (MCCGJ) conducted inspections of the jails within Merced County. During the year, the MCCGJ inspected the following facilities:

- Merced County Sheriff's Department Main Jail
- Merced County Sheriff's Department John Latorraca Correctional Facility (JLCF)
- Merced Superior Court Holding Facility

The Grand Jury inspected all three facilities but decided not to write reports on the Merced County Sheriff's Department Main Jail and Merced Superior Court Holding Facility.

JOHN LATORRACA CORRECTIONAL FACILITY

FINDING(S)

- F1:** That the JLCF is in an advanced state of decay.
- F2:** That the county has received a \$40 million grant in 2015 for the phase one (1) upgrading of the facility and the County has allocated \$5 million in funds to upgrade the facility.
- F3:** That no funds have been released to begin the project based on unfulfilled conditions of approval.
- F4:** That no sources have been identified for the implementation of phase 2 providing for the replacement of the Main Jail and facilities at JLCF.
- F5:** That the County has new, or modified, contracts for the commissary and medical services.

RECOMMENDATION(S)

- R1:** That the maintenance staff be increased to maintain the facility and address issues in a timely manner.
- R2:** That the County put the highest priority on completing the grant requirements needed for release of the funding so construction can begin on Phase one (1).
- R3** That the Board of Supervisors identify funding sources for the implementation of Phase two (2). Phase two (2) will replace jail facilities at both the JLCF and the Main Jail in downtown Merced.

REQUEST FOR RESPONSE(S)

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

- Merced County Board of Supervisors respond to F1, F2, F3, F4, R1, R2 and R3 within 90 days.
- Merced County Sheriff Vernon Warnke respond to F1, F2, F3, F4, R1, R2, and R3 within 60 days.

RESPONSE(S)

F1 Requested Response

The John Latorraca Correctional Center opened in 1990 as a mostly minimum-security work farm and was not intended to house medium and maximum-security inmates as it mostly houses now. The original construction consisted of drywall separating the dormitories that has proven to be problematic with the current classification of inmates occupying the dorms. The Grand Jury Report states in part: *"The JLCC has been updated over the years to accommodate the growing prison population but is showing a great deal of decay not related to vandalism."* Although most of the plumbing issues are due to the poor area water quality and inadequate water treatment, the majority of the structural issues including holes in the walls, damaged electrical wiring and fixtures, broken sinks, showers and toilets are almost all due to vandalism inflicted by the inmates and this vandalism is well documented. Regardless of the cause, there is no doubt the facility is in an advance state of decay.

F2 Requested Response

In late 2015, the County of Merced in fact did receive an award of \$40 million along with \$5 million in matching county funds under SB863 for the remodel of the JLCC and the construction of a medical building, programs building, booking office and new administration building.

F3 Requested Response

The County of Merced and our partners at CGL (our 5B863 Project/Construction Managing Team) have worked diligently on this project to ensure compliance with all of the 5B863 requirements. Ordinarily, the Real Estate Due Diligence (REDD) process averages 3 months from start to finish. Due to admitted staffing shortages at the state level associated offices, the REDD process alone for our project (and others) has taken over a year to complete. The BSCC has informed us that they and the other offices underwent reorganization and staffing reductions which have adversely affected all of the jail construction projects, not only the County of Merced's project. Currently, the County of Merced is working through an issue involving liens on the JLCC due to county solar projects and energy upgrades. To date, this lien issue is the only issue on the part of the County of Merced that has delayed the release of the funds.

F4 Requested Response

The Merced County CEO's Office in conjunction with the Sheriff's Office are currently exploring options to fund the Phase II project (replacement of the Main Jail). The County of Merced has contracted with a consulting firm in order to explore the feasibility of a ballot measure for the funding of the Phase II project. If the ballot measure is determined to be feasible and if approved, it is anticipated that the ballot measure will be on the 2020 Federal Election voting cycle.

R1 Requested Response

The Sheriff's Office has no control over the staffing of the Merced County Public Works Department (DPW). The DPW in the past been responsive to the Sheriff's Office requests for facility repairs and the normal staffing for the JLCC is two maintenance workers. The DPW experienced staff turnover due to promotions and other issues and they replaced vacancies as soon as they possibly could.

R2 Requested Response

As previously stated in Finding 3, the County of Merced has completed its due diligence in regards to the SB863 project and the County has been in routine contact with the BSCC for status updates on the State of California's portion of the project. The release of the SB863 funds currently is and always has been a high priority issue for the County of Merced Board of Supervisors, the CEO's Office and the Sheriff's Office.

R: Requested Response

To clarify, the Phase II project is solely a replacement project for the Merced County Main Jail and it will not replace any facilities at the JLCC. The SB863 Project (Phase I) focuses on the remodel, hardening and addition of programming and medical spaces at JLCC. The Board of Supervisors has already authorized the contract with the consulting firm to explore the ballot measure feasibility.

(Merced County Sheriff's Office, July 30, 2019)

POLICE DEPARTMENTS WITHIN MERCED COUNTY

Only a few police departments in Merced County contain jail facilities, but the 2018-2019 Merced County Civil Grand Jury (MCCGJ) chose to visit all departments in the County with a focus on policies regarding the growing homeless population. The MCCGJ understands that our police officers are an integral part of the safety network in Merced County.

LOS BANOS POLICE DEPARTMENT

FINDINGS

- F1:** That the Department has plans to break ground on a new \$25 million, 30,000 square foot facility in 2020 with completion anticipated in 2023.
- F2:** That the Department has policies in place to assist homeless and mentally ill residents.
- F3:** That the Department's growing Police Activities League (PAL) program continues to work toward reducing crime, violence and substance abuse among youth through positive interaction.
- F4:** That the officers are not provided overdose reversal drug applicators as standard issue equipment.
- F5:** That dispatch has camera surveillance of the City at approximately twelve (12) strategic points but has no direct camera surveillance of the fifteen (15) schools in Los Banos.

RECOMMENDATION(S)

- R1:** That the Department include overdose reversal drug applicators to every officer as standard equipment and provide training. (F4)
- R2:** That existing school video surveillance be connected to the dispatch network system. (F5)

REQUEST FOR RESPONSE(S) Pursuant to Penal Code Section 933.05, the following responses are requested.

- Los Banos City Council respond to F4, F5, R1, and R2 within 90 days.
- Los Banos Police Department respond to F4, F5, R1, and R2 within 60 days.

FINDINGS

Finding F4:

That the officers are not provided overdose reversal drug applicators as standard issue equipment.

The City appreciates the finding. Police Department staff is currently working with a qualified vendor to acquire the necessary training and equipment to address this finding.

Finding F5:

That dispatch has camera surveillance of the City at approximately twelve (12) strategic points but has no direct camera surveillance of the fifteen (15) schools in Los Banos.

The City Council agrees with this finding. Communications between the local school district and City Information Technology (IT) Departments are ongoing. The end goal is to successfully address this finding.

RECOMMENDATIONS

Recommendation R1:

That the Department include overdose reversal drug applicators to every office as standard equipment and provide training

.

The City thanks the Grand Jury for its recommendation.

Recommendation R2

That existing school video surveillance be connected to the dispatch network system.

The City is pleased to report that in addition to ongoing discussions between the District and the Police Department to accomplish this recommendation, it is worth noting that the City is in the process of completing the installation of a pilot surveillance camera project to further increase our goal of making Los Banos the safest community in the central valley.

(Los Banos City Council, August 21, 2019)

FINDINGS

Finding F4

That the officers are not provided overdose reversal drug applicators as standard issue equipment.

Los Banos Police training staff are communicating with qualified vendors adequately satisfy this finding.

Finding F5

That dispatch has camera surveillance of the City at approximately twelve (12) strategic points but has no direct camera surveillance of the fifteen (15) schools in Los Banos.

The Department agrees with this finding and we are communicating with school district staff to successfully address this finding.

RECOMMENDATIONS

Recommendation R1

That the Department include overdose reversal drug applicators to every officer as standard equipment and provide training.

The Department is currently pursuing the required training to provide overdose reversal drug applicators as standard issue equipment to every officer.

Recommendation R2

That existing school video surveillance be connected to the dispatch network system. (F5)

The Department is communicating with local school district officials to successfully address this finding.

(Los Banos Police Department)

MERCED POLICE DEPARTMENT

FINDING(S)

- F1.** That the facilities are inadequate for efficiently running and managing the Department.
- F2.** That some restroom stalls are not large enough to accommodate wheelchairs.
- F3.** The MCCGJ is impressed with the great work the Department does with the Citizens Police Academy program and believes they should make it more widely publicized.

RECOMMENDATION(S)

- R1.** That the City find funding for a new building as soon as possible. (F1)
- R2.** That the main Police Department make the restrooms accessible to wheelchairs. (F2)
- R3.** That the Department publicize their Citizen's Police Academy more widely. (F3)

REQUEST FOR RESPONSE(S)

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

- City of Merced respond to F1, F2 and R1 and R2 within ninety (90) days
- Merced Police Department respond to F3 and R3 within 60 days.

GRAND JURY FINDING:

- F3:** The MCCGJ is impressed with the great work the Department does with the Citizens Police Academy program and believes they should make it more widely publicized.

MPD RESPONSE:

Agreed.

GRAND JURY RECOMMENDATION:

R3: That the Department publicize their Citizen's Police Academy more widely. (F3)

MPD RESPONSE:

Agreed. The Department will immediately work to further incorporate the Citizens Police Academy into our public outreach program, including through social media and with printed materials at the MPD booths during scheduled public events.

(Merced City Police Department, July 30, 2019)

IRIS GARRETT JUVENILE JUSTICE CORRECTIONAL COMPLEX

FINDING(S)

- F1.** That the facility, including cells and classrooms, was clean and orderly.
- F2.** That the youth appeared well nourished, well-groomed and were wearing clean clothes.
- F3.** That the Bear Creek Academy Program provides a well-rounded program that includes both academic and personal growth opportunities as well as community interaction.
- F4.** That the facility has changed the choices of their meal packages and the increase in cost has resulted in a decrease of quantity and some students report they are still hungry.

RECOMMENDATION(S)

- R1.** That the Probation Department reevaluate the portion size of the meals provided for the youth and make increases as needed. (F4)

REQUEST FOR RESPONSE(S)

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

- Merced County Board of Supervisors respond to F4 and R1 within 90 days.
- Merced County Probation Department respond to F4 and R1 within 60 days.

I have received and reviewed the Civil Grand Jury Report with regard the inspection of the Iris Garrett Juvenile Justice Correctional Complex (IGJCC). Overall, the inspection was positive, pointing out many areas that Probation staff are improving the lives of the youth we serve. There were no corrective issues that need to be addressed.

The Grand Jury has recommended the Probation Department “reevaluate the portion size of the meals provided for the youth and make increases as needed.”

The meals provided to the youth at the IGJJCC are in compliance with the National School Lunch Program and Title 15 regulations, which dictate nutritional values and total caloric intake. In addition, the Probation Department contracts annually with a nutritionist to evaluate the food that will be served to the youth in custody.

The Probation Department remains in compliance with the National School Lunch Program and continues to follow the recommendations of a nutritionist as it relates to the food served to the youth at the IGJJCC.

We will provide the recommendation of the Grand Jury to our nutritionist at the next evaluation to determine if changes can be made.

(Merced County Probation Department, August 20, 2019)

MERCED COUNTY PUBLIC ROADS FUNDING REPORT

The MCCGJ received an inquiry questioning the condition of County roads and the funds used to build and maintain County roads. The original complaint asked about the placement and maintenance of road signs and the sources, use and non-payment of funds for road maintenance throughout Merced County.

FINDING(S)

- F1.** That the County in the future will have an increase in funds to use for road maintenance due to the increase in state funds generated by the increase in gas taxes. The (SB 1) fees forwarded to the County, along with other resources, will provide an increase from ten (10) miles to fifty (50) miles of improvement to the 1,754 miles of County roads.
- F2.** That the County has adopted a Capital Improvement Plan and Pavement Management Plan guiding the allocation of funds on a yearly basis as a part of the County's budget process.
- F3.** That based on the documents provided, the County may be owed as much as \$400,000.00 in Road Impact Fees.
- F4.** That any Road Impact Fees collected are being combined with overall County Road Maintenance Fees and not assigned or used for the mitigation of specific projects as required by individual contracts.
- F5.** That the County has not increased individual Road Impact Fees by the construction cost index as published in the Engineering News Record as allowed by the contracts.
- F6.** That no one person has been accountable for the tracking of road impact fees for at least six (6) years. This accounts for the lack of documentation and accurate record keeping by the County Roads Department.

RECOMMENDATION(S)

- R1.** That an Audit of all County Road Impact Contracts and Funds be made within six months. (F1, F2, F4, F5)

- R2.** That separate trust fund accounts be established for the tracking of the collections fees and use of fees from Road Impact Fee Contracts. (F2, F4)
- R3.** That the Roads Department establish a specific set of yearly procedures for the collection and use of Road Impact Fees along with collecting all past due fees. The procedures should be overseen by one (1) department member and the Auditor's Office. (F1, F2, F6)
- R4.** That the Roads Department establish procedures for the expenditure of Road Impact fees in accordance with the approved Road Impact Fees Contracts on a yearly basis. (F2, F4)
- R5.** That the Road Department review all Road Impact Fees to determine if increases are warranted based on the construction cost index as published in the Engineering News Record as allowed by each contract and attempt collection for any delinquent accounts. (F5)

REQUEST FOR RESPONSE(S)

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

From the following individuals:

- Merced County Public Works Director/Roads Commissioner respond to F3, F4, F5, F6, R1, R2, R3, R4, and R5 within 60 days.

From the following governing bodies:

- Merced County Board of Supervisors respond to F3, F4, F5, F6, R1, R2, R3, R4, and R5 within 90 days.

Findings:

F3: That based on the documents provided, the County may be owed as much as \$400,000.00 in Road Impact Fees.

Response: The Department of Public Works agrees that the County is owed Road Impact Fees and will be verifying the amount. In response to the Grand Jury's inquiry, the Department of

Public Works is revising its procedures and has created an accounts receivable system for tracking Impact Fee payments. The Roads Division will be responsible for sending out the request for payment letters to the applicants and will follow up with those who do not respond. The Roads Division sent out notices to delinquent accounts on May 3, 2019, and sent out a second notice to the accounts that did not respond on June 28, 2019. As of the date of this letter, the Department of Public Works has received \$48,688.90 in past due Road Impact Fees.

F4: That any Road Impact Fees collected are being combined with overall County Road Maintenance Fees and not assigned or used for the mitigation of specific projects as required by individual contracts.

Response: The Department of Public Works partially agrees with the finding. The funds collected from Road Impact Fees are deposited into the Road Funds and are used in accordance with the provisions of each agreement. Some Roadway Impact Agreements require the Applicant to either pay a fee for each loaded truck or a fixed fee (usually payable over five years) to cover the increased maintenance costs resulting from the project's impacts to County roads. These funds are used for basic maintenance services such as patching potholes, signs and markings and shoulder maintenance on the various roads impacted by these projects. There are also agreements where the County requires a fixed fee for specific improvements related to the proposed project. These fixed fees generally only cover a portion of the total cost of the improvements and these improvements are completed when the County has sufficient funds to pay for its share of the project. While the funds for both types of fees may not be deposited into project-specific accounts, the amount of fees collected is accounted for on a project-specific basis, and that amount is then spent on the roads impacted by these projects. Any revenue deposited in the Road Fund must, by law, be spent on road related work. The County contracts with the State of California to prepare the annual Road Report which identifies how all road funds are used. In addition, the Department will now be utilizing the Road Master Program in the Department Public Works Cost Accounting Management System (CAMS) to track maintenance costs on all County Maintained Roads. The Department of Public Works agrees that impact fees paid for specified improvements should be identified and tracked separately in the Road Fund.

F5: The County has not increased the individual Road Impact Fees by the Construction Cost Index as published in the Engineering News Record (ENR) as allowed by the contracts.

Response: Department of Public Works agrees with the finding. The majority of County of Merced Roadway Impact Agreements that require the Applicant to pay a fee for each loaded truck provide that the impact fee may be adjusted. Generally, the fee may be adjusted a maximum of once every five years based on the Construction Cost Index as published in the ENR. As of the date of this response, the County has not adjusted the fee on any of these impact agreements. The Department of Public Works will be reviewing each agreement to determine if a rate adjustment is allowed and if one is warranted.

F6: That no one person has been accountable for the tracking of road impact fees for at least six (6) years. This accounts for the lack of documentation and accurate record keeping by the County Roads Department.

Response: The Department of Public Works agrees with the finding. The Senior Associate Engineer that was assigned the responsibility of tracking the Road Impact Agreements retired and the work was not reassigned to other staff. The Department of Public Works is revising its procedures for collection of road impact fees and will be reassigning responsibility for tracking Road Impact Agreements to other staff.

Recommendations:

R1: Audit of all County Impact Contracts and Funds be made within 6 months

Response: The Department of Public Works agrees with the recommendation and will work with the County Auditor to have an audit of all active County Road Impact Contracts and Funds within six (6) months.

R2: That separate trust fund accounts be established for the tracking of the collection of fees and use of fees from Road Impact Fee Contracts. (F2, F4)

Response: The Department of Public Works partially disagrees with this recommendation. The majority of Roadway Impact Fees collected are intended to offset basic road maintenance costs associated with the project. These funds are placed in the road fund and are used to pay for basic roadway maintenance. The Department of Public Works disagrees with the recommendation that those types of funds be placed in separate trust fund accounts. Some of the agreements, however, require an impact fee for a specific improvement as mitigation for a project's impacts. The Department of Public Works will work with the County Auditor and the California State Controller's Office to determine the feasibility of creating individual trust funds for impact fees collected for specific improvements.

R3: That the Roads Department establish a specific set of yearly procedures for the collection and use of Road Impact Fees along with collecting all past due fees. The procedures should be overseen by one (1) department member and the Auditor's Office.

Response: The Department of Public Works agrees with the finding and will revise its procedures for the collection and use of Road Impact Fees within the next six months.

R4: That the Roads Department establish procedures for the expenditure of Road Impact Fees in accordance with the approved Road Impact Fees Contracts on a yearly basis.

Response: The Department of Public Works agrees with the finding and will establish revised procedures for the expenditure of Road Impact Fees within the next six (6) months.

R5: That the Road Department review all Road Impact Fee's to determine if increases are warranted based on the Construction Cost Index as published in the Engineering News Record as allowed by each contract and attempt collection for any delinquent accounts.

Response: The Department of Public Works agrees with the recommendation and will review all Road Impact Agreements to determine if the agreement allows for a cost increase based on the ENR Construction Cost Index and determine if an increase is warranted.

(Merced County Department of Public Works, August 6, 2019)

