

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF GRAND JURY )  
RESPONSE – PAY UP AND RECOVER ) Resolution No. 2018-0614  
)

UPON MOTION OF SUPERVISOR ENNIS, SECONDED BY SUPERVISOR SHUKLIAN, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JULY 17, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY,  
AND ENNIS  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE



ATTEST: MICHAEL C. SPATA  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: Mary Ronello  
Deputy Clerk

\*\*\*\*\*

1. Considered, modified as needed, and approved the responses to the 2017/2018 Tulare County Grand Jury Final Report entitled: "Pay Up and Recover."
2. Authorized the Chairman to sign the response letter.



# Board of Supervisors COUNTY OF TULARE AGENDA ITEM

## BOARD OF SUPERVISORS

KUYLER CROCKER  
District One

PETE VANDER POEL  
District Two

AMY SHUKLIAN  
District Three

J. STEVEN WORTHLEY  
District Four

MIKE ENNIS  
District Five

**AGENDA DATE:** July 17, 2018

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

CONTACT PERSON: Julieta Martinez    PHONE: 559.636.5000

**SUBJECT:** Grand Jury Response – Pay Up and Recover

**REQUEST(S):**

That the Board of Supervisors:

1. Consider, modify as needed, and approve the responses to the 2017/2018 Tulare County Grand Jury Final Report entitled: "Pay Up and Recover."
2. Authorize the Chairman to sign the response letter.

**SUMMARY:**

The 2017/2018 Tulare County Grand Jury Final Report requests response from the Board of Supervisors regarding the report entitled: "Pay Up and Recover" (See attached copies of the reports).

The Board is required to provide comments to the Presiding Judge of the Superior Court within 90 days the report being filed.

The draft response to the report is attached for consideration. It is requested the Board modify the draft, as needed, approve the response to the Grand Jury, and authorize the Chairman to sign the Response Letter.

**FISCAL IMPACT/FINANCING:**

There is no Fiscal Impact associated with the response to this request.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's Strategic Plan includes the Organizational Performance Initiative, which provides for the objective evaluation and measurement of County program

**SUBJECT:** Grand Jury Response – Pay Up and Recover  
**DATE:** July 17, 2018

performance. The Board's approval of the Grand Jury Final Report responses assist in the fulfillment of this initiative by ensuring accurate information is available to all residents.

**ADMINISTRATIVE SIGN-OFF:**

A handwritten signature in blue ink, appearing to read 'J. Martinez', is written over a horizontal line.

Julieta Martinez  
Chief of Staff

cc: County Administrative Office

Attachment(s) Grand Jury Report – Pay Up and Recover  
Draft Response Letter



**TULARE COUNTY GRAND JURY**  
 5963 S Mooney Boulevard Visalia, CA 93277  
 PHONE: (559) 624-7295  
 FAX: (559) 733-6078  
 E-MAIL: grnd\_jury@co.tulare.ca.us  
 WEB: <http://tularecounty.ca.gov/grandjury/>



ATTENTION: Chairman Steve Worthley  
 AGENCY: Tulare County Board of Supervisors  
 ADDRESS: 2800 W. Burrel Ave., Visalia, CA 93291

California Penal Code §933.05 (f) mandates that the Tulare County Grand Jury provide a copy of the portion of the final Report that affects that agency or person of that agency two working days prior to its public release. Advance release or disclosure of a Grand Jury Report is prohibited prior to its public release.

Attached is a copy of your portion of the 2017-2018 Tulare County Grand Jury Final Report.

California Penal Code §933(c) requires a response to said document. Depending on the type of respondent you are, a written response is required as follows:

- PUBLIC AGENCY:** The governing body of any public agency that is required to respond must do so within NINETY (90) DAYS from the date this report was approved as final by the Presiding Judge.
- ELECTIVE OFFICER OR AGENCY HEAD:** All elected officers or heads of agencies that are required to respond must do so within SIXTY (60) DAYS from the date this report was approved as final by the Presiding Judge.

Please be advised, this portion of the final report was approved as final by the Presiding Judge on 4/27/18.

**YOU MUST SEND YOUR RESPONSE TO EACH OF THE FOLLOWING:**

The Honorable Judge Brett Alldredge  
 County Civic Center, Room 303  
 221 S Mooney Blvd  
 Visalia, CA 93291

**Tulare County Grand Jury**  
 5963 S Mooney Blvd  
 Visalia, CA 93277

**Tulare County Board of Supervisors**  
 2800 W. Burrel Ave  
 Visalia, CA 93291  
 (For County Agencies Only)

Received by: [Signature]  
 Report Name: Pay Up and Recover  
 Delivered by: [Signature]  
 Release Date: May 4, 2018

Date: 5-1-18  
 Response Due by: July 30, 2018  
 Date and Time: 5/1/18

Howard Stroman, Foreman 2017/2018 Tulare County Grand Jury

11:10  
A.M

PREPARE A SEPARATE RESPONSE FOR EACH REPORT

California Penal Code §933.05 mandates the manner in which responses are to be answered.

See reverse for Penal Code §933.05 information.

**§933.05. Response to Grand Jury Recommendations--Content Requirements; Personal Appearance by Responding Parry; Grand Jury Report to Affected Agency**

(a) For purposes of subdivision (b) of §933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For purposes of subdivision (b) of §933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore:

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the finding of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

# PAY UP AND RECOVER

## BACKGROUND:

In 2000, Proposition 36 was passed by California voters allowing qualifying defendants convicted of non-violent drug possession offenses to receive probation in lieu of incarceration. As a condition of probation, defendants are required to complete a licensed and/or certified community drug treatment program.

In 2014, Proposition 47 was passed by California voters reducing certain drug possession and non-violent felonies to misdemeanors. Proposition 47 was designed to help keep offenders out of prison and jail.

One Tulare County Probation Officer qualified 226 defendants this year for the Tulare County Recovery Court drug rehabilitation program under Proposition 36 Subdivision (b) of §1210.1 of the California Penal Code.

Approximately 30,000 Adult and Juvenile Probation Court defendant cases were actively being billed or were in collections under the Tulare County Probation Accounting and Collections Department (TCPACD) as of January 2018.

Nearly \$9.4 million in Adult Probation Court ordered restitution and fines in Tulare County remain unpaid as of January of 2018.

Only \$19,273.63 of the \$9.4 million (.002%) was collected on Adult Probation Restitution and Fines as of January 2018.

## REASON FOR INVESTIGATION:

The 2017-2018 Tulare County Grand Jury (TCGJ) received a citizen complaint regarding the application of payments for Adult Probation Court to the TCPACD.

There were concerns with random drug testing frequency, economic disparities, and low-income offenders with financial hardships.

## METHOD OF INVESTIGATION:

1. Interviewed Tulare County agency personnel.
2. Interviewed complainant.
3. Reviewed on-line information.
4. Reviewed agency administration policies, procedures, and best practices.

## FACTS:

1. Proposition 36, known as the Substance Abuse and Crime Prevention Act of 2000, was passed by California voters on November 7, 2000.

2. Proposition 47, known as the Criminal Sentences, Misdemeanor Penalties Initiative Statute, and/or the Safe Neighborhoods and Schools Act, was passed by California voters on November 4, 2014.
3. The jurisdiction of the Tulare County Probation Department includes, but is not limited to, Adult Recovery Court and Adult Drug Court.
4. Drug testing is 100% random. Testing and the collecting of \$10.00 drug testing fees are conducted by Averhealth.
5. The TCPACD is managing approximately 30,000 cases. Of those, 20,000 cases are delinquent accounts that total nearly \$49 million dollars of Adult & Juvenile Probation Court Ordered restitutions and fines.

## **FINDINGS:**

- F1. With the passage of Proposition 36, the Tulare County Recovery Court program was implemented in 2001 by the Tulare County Probation Department. This measure allowed non-violent drug possession offenders to qualify for probation in lieu of incarceration. Under this measure, if the defendant fails to complete this program or violates any conditions of probation, then probation can be revoked. The defendant may be required to serve jail time.
- F2. The passage of Proposition 47 in 2014 required that money saved as a result of this measure be spent on school truancy and dropout prevention, victim services, mental health, drug abuse treatments, and other programs designed to keep offenders out of prison and jail. This measure classifies petty theft, receiving stolen property and forging or writing bad checks of \$950 or less as a misdemeanor offense.
- F3. Tulare County Probation Department and the Recovery Court:
  - A. Tulare County Recovery Court is a 16 week outpatient drug rehabilitation program. Medi-Cal covers the \$900 - \$1000 outpatient drug rehabilitation program costs, while the defendant pays approximately \$70 - \$90 a month in drug testing for 16 weeks. The defendant then transitions to After Care and the costs for drug testing are approximately \$50-\$70 a month. If a defendant returns to drug rehabilitation for 16 weeks on a first or second probation violation, monthly drug testing frequency and costs will increase from 5-7 drug tests to 7-9 drug tests.
  - B. Tulare County Recovery Court has 200-226 probationers at any one time.
  - C. The Recovery Court Judge has the discretion on a third probation violation to allow a defendant to stay in Recovery Court, or to send the defendant to the more expensive Drug Court program.
  - D. The Cost of Supervision for the Recovery Court program is a \$20 per month fee, for each qualifying defendant.
- F4. Random Drug Testing and the third-party testing facilities:

- A. The Tulare County Probation Officer can check drug test results online through the AverHealth Drug Testing system.
  - B. Probation violations include a missed test recorded as Failure To Appear (FTA).
  - C. A positive drug test is a violation of probation.
  - D. Drug testing is done every Friday at 8:30 a.m. in Visalia and on Thursday's in Porterville at the AverHealth testing facilities.
- F5. Tulare County Probation Accounting and Collections Department:
- A. There are five Probation Claim Investigators, three Accounting Clerks, and one Supervisor in the TCPACD. They worked on approximately 30,000 accounts for fiscal year 2018 including both juvenile and adult probation cases. Approximately 20,000 were delinquent accounts. Approximately \$9.4 million is attributed to unpaid adult probation obligations.
  - B. Approximately one percent of debt obligations will be collected by the California Franchise Tax Board (CFTB). The CFTB collects by way of liens on defendant property, checking account or wage garnishments. There are two Probation programs serviced by the CFTB for Tulare County:
    - a. Intercept Program including amounts more than \$10 delinquent and no payments made in 30 days.
    - b. Court Ordered Debt Collections including amounts of \$100 or more delinquent and no payments made in 90 days.
  - C. In Recovery Court, the defendant has two financial payment options:
    - 1. Make a one- time payment of all court ordered restitution and other administrative costs, including any prior offenses.
    - 2. Pay in installments.
  - D. A defendant who claims he/she does not have the ability to pay monthly installment payments must complete the Financial Evaluation Form with TCPACD. A financial assessment will be completed which may modify an installment payment plan.
  - E. TCPACD makes daily calls to defendants who are delinquent in their payments. They advise them that the case may be sent to the CFTB and wage garnishments and tax liens may be pursued. They do not advise defendants that delinquencies will be reported to the major credit bureaus.
  - F. California state procedures are followed by the TCPACD to verify information and to apply monies on named accounts.

## **CONCLUSION:**

TCPACD is meeting California State and local procedures pertaining to the collection of delinquent court ordered debts, restitutions, and fines.



## **RECOMMENDATIONS:**

- R1. Inform probationers that the TCPACD will report delinquent accounts to the national credit bureaus
- R2. TCPACD should conduct a feasibility study to determine what amount a single collector is able to recoup, and if additional collectors would increase collection rates.

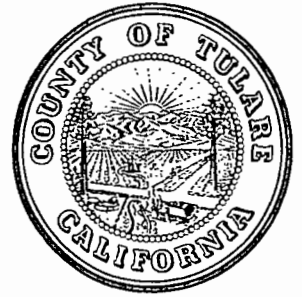
## **REQUIRED RESPONSES:**

1. Tulare County Probation Department.
2. Tulare County Board of Supervisors.

### **Disclaimer**

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

COUNTY OF TULARE  
BOARD OF SUPERVISORS



**J. STEVEN WORTHLEY**

Chairman of the Board

July 17, 2018

The Honorable Bret Alldredge  
Tulare County Superior Court  
County Civic Center, Room 303  
221 South Mooney Boulevard  
Visalia, CA 93291

RE: Grand Jury Report: "Pay Up and Recover"

Dear Judge Alldredge:

On behalf of the Board of Supervisors, the following are the Board's responses to the findings and recommendations included in the 2017/2018 Tulare County Grand Jury Report titled "Pay Up and Recover" The Board of Supervisors has consulted with the Tulare County Probation Department to assist with these responses.

**Findings and Board Responses**

**Finding 1**

*With the passage of Proposition 36, the Tulare County Recovery Court program was implemented in 2001 by the Tulare County Probation Department. This measure allowed non-violent drug possession offenders to qualify for probation in lieu of incarceration. Under this measure, if the defendant fails to complete this program or violates any conditions of probation, then probation can be revoked. The defendant may be required to serve jail time.*

**Response:** The Board agrees with this finding.

**Finding 2**

*The passage of Proposition 47 in 2014 required that money saved as a result of this measure be spent on school truancy and dropout prevention, victim services, mental health, drug abuse treatments, and other programs designed to keep offenders out of prison and jail. This measure classifies petty theft, receiving stolen property and forging or writing bad checks of \$950 or less as a misdemeanor offense.*

**Response:** The Board agrees with this finding.

### **Finding 3**

*Tulare County Probation Department and the Recovery Court:*

A. *Tulare County Recovery Court is a 16 week outpatient drug rehabilitation program. Medi-Cal covers the \$900 - \$1000 outpatient drug rehabilitation program costs, while the defendant pays approximately \$70 - \$90 a month in drug testing for 16 weeks. The defendant then transitions to After Care and the costs for drug testing are approximately \$50-\$70 a month. If a defendant returns to drug rehabilitation for 16 weeks on a first or second probation violation, monthly drug testing frequency and costs will increase from 5-7 drug tests to 7-9 drug tests.*

**Response:** Although this finding is not within the purview of the Board, the Board partially agrees with this finding. The Probation Department only charges clients \$20 for each drug test regardless of which program they participate in.

B. *Tulare County Recovery Court has 200-226 probationers at any one time.*

**Response:** The Board agrees with this finding.

C. *The Recovery Court Judge has the discretion on a third probation violation to allow a defendant to stay in Recovery Court, or to send the defendant to the more expensive Drug Court program.*

**Response:** The Board agrees with this finding.

D. *The Cost of Supervision for the Recovery Court program is a \$20 per month fee, for each qualifying defendant.*

**Response:** The Board agrees with this finding.

### **Finding 4**

*Random Drug Testing and the third-party testing facilities:*

A. *The Tulare County Probation Officer can check drug test results online through the AverHealth Drug Testing system.*

**Response:** The Board agrees with this finding.

B. *Probation violations include a missed test recorded as Failure To Appear (FTA).*

**Response:** The Board agrees with this finding.

C. *A positive drug test is a violation of probation.*

**Response:** The Board agrees with this finding.

*D. Drug testing is done every Friday at 8:30 a.m. in Visalia and on Thursdays in Porterville at the AverHealth testing facilities.*

**Response:** The Board partially agrees with this finding. As informed by the Probation Department, random drug testing is done every day.

### **Finding 5**

*Tulare County Probation Accounting and Collections Department:*

*A. There are five Probation Claim Investigators, three Accounting Clerks, and one Supervisor in the TCPACD. They worked on approximately 30,000 accounts for fiscal year 2018 including both juvenile and adult probation cases. Approximately 20,000 were delinquent accounts. Approximately \$9.4 million is attributed to unpaid adult probation obligations.*

**Response:** The Board partially agrees with this finding as not all positions listed are currently filled.

*B. Approximately one percent of debt obligations will be collected by the California Franchise Tax Board (CFTB). The CFTB collects by way of liens on defendant property, checking account or wage garnishments. There are two Probation programs serviced by the CFTB for Tulare County:*

- a. Intercept Program including amounts more than \$10 delinquent and no payments made in 30 days.*
- b. Court Ordered Debt Collections including amounts of \$100 or more delinquent and no payments made in 90 days.*

**Response:** The Board agrees with this finding.

*C. In Recovery Court, the defendant has two financial payment options:*

- 1. Make a one-time payment of all court ordered restitution and other administrative costs, including any prior offenses.*
- 2. Pay in installments.*

**Response:** The Board agrees with this finding.

*D. A defendant who claims he/she does not have the ability to pay monthly installment payments must complete the Financial Evaluation Form with TCPACD. A financial assessment will be completed which may modify an installment payment plan.*

**Response:** The Board agrees with this finding.

*E. TCPACD makes daily calls to defendants who are delinquent in their payments. They advise them that the case may be sent to the CFTB and wage garnishments and tax liens may be pursued. They do not advise defendants that delinquencies will be reported to the major credit bureaus.*

**Response:** The Board agrees with this finding.

*F. California state procedures are followed by the TCPACD to verify information and to apply monies on named accounts.*

**Response:** The Board agrees with this finding.

**Recommendations and Board Responses**

**Recommendation 1**

*Inform probationers that the TCPACD will report delinquent accounts to the national credit bureaus.*

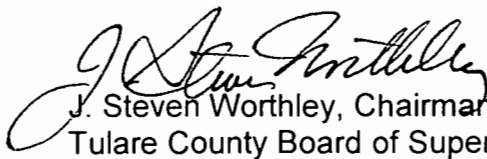
**Response:** The recommendation requires further analysis. The Probation Department must determine if there are legal requirements to inform probationers of such reports. They will make a determination within 6 months.

**Recommendation 2**

*TCPACD should conduct a feasibility study to determine what amount a single collector is able to recoup, and if additional collectors would increase collection rates.*

**Response:** The recommendation has been implemented by the Probation Department. They will require their Probation Collections Investigators (PCI) to do a one-month time study to determine the average amount a PCI is able to collect in a month.

Sincerely,

  
J. Steven Worthley, Chairman  
Tulare County Board of Supervisors

cc: Tulare County Grand Jury  
Tulare County Probation Department