



**Board of Supervisors
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
EDDIE VALERO
District Four
DENNIS TOWNSEND
District Five

AGENDA DATE: July 23, 2019

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"/>
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: Samantha Ferrero PHONE: 559-636-5000		

SUBJECT: Grand Jury Response – Effects of Prop 64 in Legalizing Marijuana in Tulare County

REQUEST(S):

That the Board of Supervisors:

1. Consider, modify as needed, and approve the responses to the 2018/2019 Tulare County Grand Jury Final Report entitled: "Effects of Prop 64 in Legalizing Marijuana in Tulare County"; and
2. Authorize the Chairman to sign the response letter.

SUMMARY:

The 2018/2019 Tulare County Grand Jury Final Report requests a response from the Board of Supervisors regarding the report entitled: "Effects of Prop 64 in Legalizing Marijuana in Tulare County". A copy of the report is included with this agenda item.

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

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.

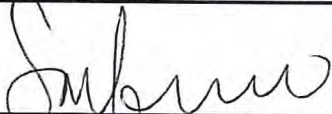
SUBJECT: Grand Jury Response – Effects of Prop 64 in Legalizing Marijuana in Tulare County

DATE: July 23, 2019

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 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:



Samantha Ferrero
Board Representative

cc: County Administrative Office

Attachment(s) Grand Jury Report – Effects of Prop 64 in Legalizing Marijuana in Tulare County
Draft Response Letter

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

IN THE MATTER OF GRAND JURY)
RESPONSE – EFFECTS OF PROP 64 ON) Resolution No. _____
LEGALIZING MARIJUANA IN TULARE) Agreement No. _____
COUNTY)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Considered, modified as needed, and approved the responses to the 2018/19 Tulare County Grand Jury Final Report entitled: "Effects of Prop 64 in Legalizing Marijuana in Tulare County;" and
2. Authorized the Chairman to sign the 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 Kuyler Crocker

AGENCY: Tulare County Board of Supervisors

ADDRESS: 2800 W. Burrel Avenue, 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 2018-2019 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 05/01/19.

YOU MUST SEND YOUR RESPONSE TO EACH OF THE FOLLOWING:

The Honorable Judge David Mathias
 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]

Date: 5/6/19

Report Name: Effects of Prop 64 in Legalizing Marijuana in T.C.

Response Due by: August 5, 2019

Delivered by: [Signature]

Date and Time: 5/6/2019 11:41 AM

Release Date: May 9, 2019

Ron White, Foreman 2018/2019 Tulare County Grand Jury

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 Party; 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.

EFFECTS OF PROP 64 IN LEGALIZING MARIJUANA IN TULARE COUNTY

BACKGROUND:

In November 1996, California voters approved Proposition 215, the initiative exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for medical purposes.

In November 2016, California voters passed Proposition 64, legalizing the recreational use of marijuana.

In January 2017, Tulare County Board of Supervisors passed Ordinance §3502, extending Ordinance §3500, temporarily establishing the regulations on the recreational use, cultivation and sales of marijuana in the unincorporated areas of the County.

Cities in Tulare County have the authority to institute their own regulations. As of this time, the cities of Woodlake and Farmersville allow the cultivation and distribution of marijuana or commercial cannabis. Tulare County has two licensed medicinal use marijuana co-ops.

Although non-medical marijuana possession, use, and sale have been decriminalized under state law, the federal government has not sanctioned the cultivation, sale, or possession of non-medical cannabis in any way.

REASON FOR INVESTIGATION:

While investigating the Resource Management Agency (RMA), the Tulare County Civil Grand Jury (TCCGJ) found that marijuana regulations and enforcement are complex and continually evolving. TCCGJ decided to inform the public on the rules and regulations involved in administering the county ordinances on marijuana.

METHOD OF INVESTIGATION:

1. Interviewed agency personnel
2. Reviewed relevant documents and data

FACTS:

1. Tulare County has the authority to investigate illegal marijuana growing and processing operations in the unincorporated areas.

2. RMA has only one dedicated full time marijuana code enforcement inspector. In 2018, RMA had a total of 296 medical marijuana complaints. Of these, 155 complaints resulted in the assessment of fines and fees.
3. In 2018, Tulare County Sheriff's Office (TCSO) served 100 search warrants for RMA to abate the growth of illegal marijuana groves.
4. In 2015, TCSO received 350 citizens' complaints regarding marijuana cultivation. If there are 100 or more plants, TCSO investigates and works with the District Attorney to decide if criminal charges may be filed. Smaller groves and non-criminal violations are referred to RMA.
5. Under the Medical Marijuana Regulation and Safety Act, there are 17 different types of State licenses that govern all manner of marijuana production and sales.
6. There are four focuses of marijuana licensing in the State of California.
 - a. Growing and cultivation
 - b. Delivery
 - c. Transportation
 - d. Laboratory testing

7. In the event of noncompliance, RMA assesses fines and fees.
8. Under Tulare County Ordinance §3502, there are six plants per private residence allowed indoors for personal use, and 12 plants allowed for a licensed co-op. The cultivation of cannabis outdoors is prohibited.
9. Law enforcement officials have found that in places where recreational marijuana has been decriminalized, some individuals use state marijuana laws as a cover for illicit grow operations. The District Attorney has the discretion to prosecute marijuana violations.
10. RMA code enforcement, upon verification of an illegal grove, issues a 10 day notice to eradicate the plants. If the plants are not abated, they will be re-inspected and a search warrant may be issued. If there is still no owner response, they will issue a 30 day notice to eradicate. In 2005, 46 illegal marijuana groves were known to exist by TCSO. By 2015, this number has increased to over 1000 groves.
11. RMA reported there are not enough certified inspectors to perform code enforcement duties.

FINDINGS:

- F1. RMA assesses fees and/or fines with the focus to abate illegal marijuana. A property lien may be placed to recover the costs of investigation, eradication, and search warrants. Tulare County cannot collect on a tax lien until the property is sold, transferred, or refinanced.
- F2. Despite being illegal, some code violators have been known to pay fines assessed, then turn around and harvest the crop at considerable profit.
- F3. With 296 marijuana complaints and more than 1000 illegal groves, there has been an increase in the workload for RMA staff.

CONCLUSION:

Decriminalization of recreational marijuana in portions of Tulare County has not necessarily resulted in a reduction in the number of plants eradicated.

RECOMMENDATION:

- R1. Tulare County RMA should hire additional certified code enforcement inspectors for the marijuana program.

REQUIRED RESPONSE:

1. Tulare County Board of Supervisors Finding F1 Recommendation R1

INVITED RESPONSE:

1. Tulare County Resource Management Agency Finding F3 Recommendation R1

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).

June 26, 2019

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

RE: Grand Jury Report: "Effects of Prop 64 in Legalizing Marijuana in Tulare County"

Dear Judge Mathias:

On behalf of the Board of Supervisors, the following are the Board's responses to the findings and recommendations included in the 2018/2019 Tulare County Grand Jury Report titled "Effects of Prop 64 in Legalizing Marijuana in Tulare County." The Board of Supervisors has consulted with the Resource Management Agency to assist with these responses.

Findings and Board Responses

Finding 1

The Resource Management Agency assesses fees and/or fines with the focus to abate illegal marijuana. A property lien may be placed to recover the costs of investigation, eradication, and search warrants. Tulare County cannot collect on a tax lien until the property is sold, transferred, or refinanced.

Response: The Board agrees with this finding.

Recommendations and Board Responses

Recommendation 1

Tulare County Resource Management Agency should hire additional certified code enforcement inspectors for the marijuana program.

Response: The Board agrees with this finding. On May 21, 2019, the Board of Supervisors approved a personnel resolution to add two Building and Zoning Inspectors I-III for the 2019-2020 fiscal year, per resolution number 2019-0417 and 4018.

Sincerely,

Kuyler Crocker, Chairman
Tulare County Board of Supervisors

cc: Tulare County Grand Jury
Resource Management Agency