

DRAFT-TO BE ADDED TO BOARD LETTERHEAD UPON APPROVAL

September 01, 2026

Presiding Judge of Superior Court
Honorable Laura L. Krieg
c/o Court Executive Office
Tuolumne County Superior Court
12855 Justice Center Drive
Sonora, CA 95370

Via email to Shalom Rosenfelder, CEO srosenfelder@tuolumne.courts.ca.gov

Re: Response to 2025 – 2026 Grand Jury Report – **Governance Practices Impacting Public Trust dated June 26, 2026**

The following is submitted in response to the 2025-26 Grand Jury Report titled “Governance Practices Impacting Public Trust.” The Tuolumne County Board of Supervisors wish to extend their gratitude to the Grand Jury members for their time in preparing the final Grand Jury reports. Please accept this as our response to your carefully prepared report.

The County submits these responses under Penal Code section 933.05. As to each finding, the County states whether it agrees, partially disagrees, or wholly disagrees and provides the reasons for any disagreement. As to each recommendation, the County states whether the recommendation has been implemented, will be implemented, or will not be implemented because it is not warranted or not reasonable.

FINDINGS AND RECOMMENDATIONS

Ethical Behavior

Finding 1.

On May 5, 2025, Supervisor Holland participated in a debate and vote regarding mobile home park fees, despite having a conflict-of-interest on that item because he had a direct personal financial interest in the matter. Such violation undermines public confidence in the integrity of the decision-making process.

Response to Finding 1.

The County PARTIALLY AGREES and PARTIALLY DISAGREES with Finding 1.

The County PARTIALLY AGREES with Finding No. 1. The County agrees that on May 5, 2025, Supervisor Holland participated in a debate and vote regarding mobile home park fees.

The County PARTIALLY DISAGREES with Finding No. 1. Except as stated above, the County disagrees with

every other assertion in the finding. What the Grand Jury has not reported is that the matter was taken up again at the board meeting of May 20, 2025. Supervisor Holland did not participate (left the dias) and the matter was further debated and a vote was taken without the presence of Supervisor Holland. The Board unanimously approved the item at that time.

The County does not concede that Supervisor Holland had a disqualifying financial interest in the mobile home park fee matter on May 5, 2025. The County does not concede that his participation in the debate and vote violated the Political Reform Act or any other California law. The County does not concede that any harm to public confidence resulted from his participation.

The County acknowledges only the undisputed fact: that on May 5, 2025, Supervisor Holland participated in a debate and vote regarding mobile home park fees. Whether that participation was lawful, whether a disqualifying interest existed, and whether any violation occurred are legal questions that the civil grand jury lacks authority to resolve. Those questions remain open unless and until a legally authorized adjudicator—the FPPC, a court, or another competent tribunal—determines otherwise following a proceeding that affords Supervisor Holland the procedural protections to which he is entitled under California law.

The investigative and oversight powers of the Grand Jury do not include the authority to adjudicate whether a public official violated conflict-of-interest law, to determine as a matter of law that a disqualifying financial interest existed, or to declare that a legal violation occurred. The civil grand jury is not a court. It is not an administrative tribunal with adjudicatory authority over conflict-of-interest disputes. It is not the Fair Political Practices Commission. It cannot issue binding legal conclusions about whether the elements of a statutory violation have been satisfied.

The finding further asserts that the alleged violation "undermines public confidence in the integrity of the decision-making process." That statement is conclusory, unsupported, and prejudicial. It assumes a violation occurred when no legal determination of violation has been made. It asserts harm to public confidence without evidence. It conflates the Grand Jury's subjective opinion with a finding of fact.

Public confidence in county government is important. The County does not dispute that. But public confidence is not served by unsupported accusations of legal violations, by findings that exceed the Grand Jury's jurisdiction, or by reports that bypass the due process protections afforded to public officials under California law.

The County respectfully but firmly rejects the Grand Jury's finding that Supervisor Holland "had a conflict of interest" and committed a "violation." That finding exceeds the Grand Jury's statutory jurisdiction, usurps the role of the FPPC and other enforcement authorities, and improperly declares a legal conclusion without the factual analysis, procedural protections, or adjudicatory authority required by California law.

Recommendation 1-1.

Publicly elected county officials must complete training on the Political Reform Act of 1974, the Levine Act, Section 109018, and the Fair Political Practices Commission within 90 days of the publication of this report. Additionally, they must retake AB1234 ethics training within 90 days and within 6 months of taking office for any newly elected board members.

Response to Recommendation 1-1.

The County WILL NOT IMPLEMENT this recommendation by the arbitrary deadline that has been set by the Grand Jury.

The County respectfully objects to the Grand Jury's use of mandatory language and any implication that the Grand Jury may direct binding timelines for elected officials' training. The Separation of Powers does not permit the invasion of the Grand Jury into the Policymaking of the Board. The Grand Jury is a Judicial Body in the Judicial Branch. The Board is a Legislative Body in the Legislative Branch. The use of the word "MUST" by the Grand Jury exhibits either a fundamental misunderstanding of the Grand Jury's role or an intentional intrusion ("weaponization") of the Grand Jury for some political purpose.

The recommendation's directives and timelines exceed the Grand Jury's advisory role. Training frequency and deadlines for AB 1234 ethics training are governed by statute, specifically Government Code §§ 53234–53235.2, which establish the initial and continuing training requirements. The County will comply with those statutory requirements rather than arbitrary, ad hoc, across-the-board deadlines. Additionally, practical constraints, including course availability, external provider schedules, FPPC program updates, official calendars, and election-cycle onboarding, make a uniform 90-day post-publication deadline infeasible and potentially counterproductive.

Accordingly, because the recommendation directives and timelines exceed the Grand Jury's advisory role, fails to identify any actual deficiency in the County's existing practices, imposes unnecessary and significant administrative costs, reflects a policy preference rather than a legal or operational necessity, and the County receives training every six (6) months from the County Counsel's office on these exact areas of law and ethics, the County declines to implement the recommendation by an ultra-vires mandated deadline.

Clash of Duties or Loyalties

Finding 2.

The District 1 Supervisor holds potentially incompatible offices on the Board of Supervisors and the Sonora High School Board, which creates the appearance and opportunities for a clash of duties. The appearance of this conflict calls into question impartiality around budgeting, personnel, and governance.

Response to Finding 2.

The County PARTIALLY AGREES and PARTIALLY DISAGREES with Finding 2.

The County AGREES that the District 1 Supervisor, Michael Holland, was elected to the Sonora High School Board of Trustees in the November 8, 2022 general election. Mr. Holland's Term began in December 2022 at the board's organizational meeting and ends in December 2026 at the board's organizational meeting following the November 3, 2026 election. Additionally, Michael Holland was elected to represent District 1 on the Tuolumne County Board of Supervisors in the November 5, 2024 General Election. He was sworn into office on January 6, 2025.

Except as agreed above, the County DISAGREES with Finding 2. Finding 2 is based on speculation and

subjective assertions rather than the governing law. The finding repeatedly relies on the "appearance" of a conflict and "opportunities" for a clash of duties. Neither is the legal standard under California law.

The common law doctrine of incompatible offices, codified in Government Code section 1099, does not prohibit an individual from holding two public offices merely because an observer might perceive a conflict or because disagreements could theoretically arise. Rather, the doctrine applies only where the offices are legally incompatible as defined by statute and the applicable case law.

Finding 2 identifies no instance in which the District 1 Supervisor has participated in any decision that resulted in divided loyalties, exercised conflicting duties, or improperly influenced the affairs of either public entity. Nor does it identify any official act demonstrating that the Supervisor's judgment has been compromised. Instead, the finding rests entirely on conjecture that conflicts could arise in the future.

The Grand Jury's role is to make findings based upon substantial evidence, not to speculate regarding hypothetical circumstances. Assertions regarding the "appearance" of impropriety or the mere possibility of future conflicts are not evidence and do not establish that incompatible offices exist as a matter of law.

Moreover, if the offices are, in fact, legally incompatible under Government Code section 1099, California law already provides the exclusive legal consequence. The issue is resolved by operation of law and does not depend upon subjective assessments of appearances or perceived opportunities for conflict. If the offices are not legally incompatible, then the finding necessarily fails because speculation about potential disagreements cannot substitute for the statutory standard.

Accordingly, the Board rejects Finding 2 as unsupported by the applicable legal standard and unsupported by substantial evidence.

Recommendation 2-1.

County Counsel should submit the issue of Supervisor Holland's incompatible offices to the Attorney General's Office for evaluation within 90 days of the publication of this report for official guidance.

Response to Recommendation 2-1.

The Board WILL NOT IMPLEMENT Recommendation 2-1.

Recommendation 2-1 improperly presupposes that an unresolved legal issue exists when the Grand Jury has failed to establish any legal incompatibility in the first instance. The recommendation is premised entirely on the Grand Jury's unsupported legal conclusion rather than on any identified uncertainty requiring clarification.

The Attorney General's opinion process is intended to address unsettled questions of statewide public importance, not to serve as an appellate body to validate or investigate conclusions reached by a civil

grand jury. The Grand Jury cites no conflicting legal authorities, no ambiguity in Government Code section 1099, and no facts demonstrating an actual conflict between the offices held by Supervisor Holland. Instead, it relies upon speculation regarding the "appearance" of potential conflicts—a standard that has no application to the doctrine of incompatible offices.

Moreover, the recommendation improperly attempts to direct County Counsel to advocate for a legal position that has not been established by competent evidence or judicial determination. County Counsel's professional obligations require the exercise of independent legal judgment on behalf of the County, not the pursuit of advisory opinions simply because a grand jury disagrees with or questions an elected official's service.

Nothing in Government Code section 1099 requires a county to seek an Attorney General opinion whenever a grand jury speculates that two offices may be incompatible. Nor has the Grand Jury identified any action by Supervisor Holland demonstrating divided loyalties, conflicting duties, or an unlawful exercise of authority. Absent an actual legal controversy or a demonstrated uncertainty in the law, there is no basis for expending public resources to request an advisory opinion.

Finally, if the offices are legally incompatible, Government Code section 1099 already prescribes the legal consequence by operation of law. If they are not legally incompatible, an Attorney General opinion is unnecessary. In either circumstance, Recommendation 2-1 serves no legitimate governmental purpose and would merely expend public resources attempting to substantiate a conclusion the Grand Jury failed to support with competent legal analysis.

For all of these reasons, the Board declines to implement Recommendation 2-1.

Recommendation 2-2.

All publicly elected county officials and the CAO must certify they have read the governance manual, within 60 days of the publication of this report. All future new Board Members must attend the California State of Association of Counties (CSAC) New Supervisors Institute, run through the CSAC William "Bill" Chiat Institute for Excellence in County Government, or equivalent training within 90 days of taking office. Any current Board members who have not completed an equivalent of this training should do so within 90 days of this report.

Response to Recommendation 2-2.

The County WILL NOT IMPLEMENT this Recommendation.

This Recommendation will not be implemented because it exceeds the proper scope of the Grand Jury's authority, is unsupported by the findings, and would unnecessarily interfere with the discretion of independently elected officials.

Recommendation 2-2 is predicated on the unsupported assumption that the County's elected officials lack sufficient knowledge of governance principles. The Grand Jury identifies no evidence that any elected official or the County Administrative Officer has failed to understand or comply with applicable law, the County's Governance Manual, or established ethical obligations. Instead, the recommendation appears to substitute the Grand Jury's policy preferences for evidence-based findings.

The recommendation also exceeds the proper role of a civil grand jury by attempting to prescribe mandatory training requirements and certification obligations for independently elected constitutional officers. The Grand Jury possesses neither legislative nor executive authority to establish qualifications, continuing education requirements, or mandatory certifications for elected officials beyond those imposed by state law.

Further, the recommendation arbitrarily designates a particular training program offered by the California State Association of Counties as the preferred educational vehicle without demonstrating that such training is legally required, uniquely qualified, or necessary to address any identified deficiency. While CSAC training may be valuable and is often encouraged, participation remains a matter of individual judgment unless otherwise mandated by law. The Grand Jury has identified no statutory authority requiring attendance, nor has it demonstrated that completion of such training would have prevented or corrected any conduct identified in its report.

Likewise, requiring all publicly elected county officials and the County Administrative Officer to certify that they have read the County's Governance Manual bears no rational relationship to Findings 2 and 3. The report cites no evidence that any issue discussed therein resulted from an official's failure to read the manual. Recommendations should address demonstrated causes of identified problems, not impose symbolic compliance measures unsupported by the factual record.

Finally, the recommendation would expend public resources to implement requirements unsupported by evidence and unnecessary to ensure lawful governance. Public officials are already bound by their constitutional oaths of office, applicable statutes, ethical obligations, and continuing legal responsibilities. The Grand Jury has failed to establish that additional mandatory certifications or prescribed training are either necessary or reasonably related to any substantiated finding.

For these reasons, the Board declines to implement Recommendation 2-2.

Procedural Understanding

Finding 3.

Members of the Board of Supervisors demonstrated an inconsistent and incomplete understanding of their legal obligations when responding to Grand Jury inquiries involving closed session matters, hindering the investigation, delaying conclusions, and creating unnecessary barriers to lawful oversight.

Response to Finding 3.

The County DISAGREES with Finding 3.

The assertion that members “demonstrated an inconsistent and incomplete understanding” of legal obligations concerning closed session matters is inaccurate and unfair. The Board’s responses to grand jury inquiries were timely and made in good faith to the extent permitted by law, and any limitations were the product of mandatory legal duties, not misunderstanding or obstruction.

The Board's legal obligations regarding closed session matters are well established and actively observed. When the Board convenes in closed session under the Brown Act, it must protect the confidentiality of privileged and sensitive information, including attorney-client communications, litigation strategy and assessments, labor negotiations, real property negotiations, and certain personnel matters. Those confidentiality requirements exist to preserve legal privileges, safeguard the County's interests, protect individual privacy, and ensure the integrity of ongoing proceedings.

Consistent with these duties, any limits on disclosure in response to grand jury inquiries were driven by statutory confidentiality, the attorney-client privilege, the litigation privilege, applicable personnel privacy protections, and the considered advice of County Counsel. Where questions implicated privileged or closed-session content, the Board followed Counsel's guidance to provide as much information as could lawfully be shared, while declining to disclose privileged or confidential details that the law does not permit to be revealed.

The finding does not identify specific statements, requests, or dates demonstrating the alleged "inconsistent and incomplete understanding," nor does it cite concrete examples where the Board's responses supposedly hindered the investigation or delayed conclusions. Without particularized instances, the characterization lacks sufficient basis for meaningful evaluation or correction. The Board requests that the grand jury identify the specific communications or meetings, the precise information sought, and how any asserted deficiency impeded the investigation, so that the Board can address those points directly and, if appropriate, provide further clarification consistent with applicable law.

The Board remains committed to transparency and to lawful, good-faith cooperation with the grand jury. Within the limits of confidentiality and privilege, the Board will continue to respond promptly and substantively to inquiries, and to work with the grand jury to facilitate efficient oversight.

Accordingly, the Board rejects Finding 3 as unsupported by the applicable legal standard and unsupported by substantial evidence.

Recommendation 3.

County Counsel should provide formal training to the Board of Supervisors on Government Code section 54963 and its exceptions, with specific emphasis on cooperation with Civil Grand Jury investigations and the distinction between confidential and non-confidential information no later than December 31, 2026.

Response to Recommendation 3.

The County WILL NOT IMPLEMENT this Recommendation according to the arbitrary deadline set by the Grand Jury.

The Board of Supervisors respectfully disagrees with any implicit finding that its members lack adequate understanding of their legal obligations under Government Code section 54963. Each Supervisor has received training on the Ralph M. Brown Act, including the confidentiality provisions codified in section 54963, and continues to comply with those requirements in the execution of their duties.

Furthermore, the Recommendation improperly conflates confidentiality obligations with Grand Jury

cooperation duties. The County takes strong exception to the recommendation's linkage of Government Code section 54963 training with "cooperation with Civil Grand Jury investigations." These are distinct legal frameworks that should not be conflated.

Government Code section 54963 governs the confidentiality of closed-session communications under the Brown Act. Its exceptions expressly permit Board members to make confidential inquiries or complaints to a district attorney or grand jury concerning perceived violations of law, to express opinions concerning the propriety or legality of actions taken in closed session, and to disclose non-confidential information acquired in closed sessions. Nothing in section 54963 imposes affirmative cooperation obligations with grand jury investigations beyond those already established by other law.

The civil grand jury's authority to investigate county government matters derives from California Penal Code sections 888, 925, and related provisions. The grand jury is empowered to "investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county" and to "inquire into county matters of civil concern." However, this investigative power does not override legal privileges, confidentiality protections, or the attorney-client relationship.

The County fully cooperates with lawful grand jury investigations within the bounds of applicable law. However, such cooperation must be balanced against the County's obligation to protect legally privileged communications, including attorney-client communications protected under California Evidence Code section 954 and attorney work product protected under California Code of Civil Procedure section 2018.030.

The County emphasizes that this response does not constitute an admission that any Board member has violated Government Code section 54963 or failed to cooperate appropriately with grand jury investigations. The Board has consistently maintained the confidentiality of closed-session communications as required by law and has provided appropriate cooperation with the civil grand jury consistent with its statutory duties and legal constraints.

To the extent the Grand Jury's recommendation implies otherwise, the County respectfully disagrees. No evidence of unauthorized disclosure has been presented, and the County is unaware of any instance in which a Board member disclosed confidential information in violation of section 54963. The protections afforded by Government Code section 54963(e) expressly permit communications with the grand jury concerning perceived legal violations, and Board members have properly exercised those rights. Cal Gov Code § 54963

Similarly, any suggestion that the Board has improperly withheld non-confidential information from the grand jury is unsupported. The distinction between confidential and non-confidential information is fact-intensive and context-dependent, and the County has applied the statutory standard in good faith. Where information has been withheld, it has been based on legal privilege, statutory confidentiality protections, or County Counsel advice—not arbitrary refusal to cooperate.

Once again, this recommendation also exceeds the proper role of a civil grand jury by attempting to

prescribe mandatory training requirements for independently elected constitutional officers. The Grand Jury possesses neither legislative nor executive authority to establish qualifications, continuing education requirements, or mandatory certifications for elected officials beyond those imposed by state law.

For these reasons, the Board declines to implement Recommendation 3.

Transparency and Accountability

Finding 4.

The District 1 Supervisor hindered a Grand Jury interview based on demands to remove two jurors for alleged bias, demonstrating a misunderstanding of the Grand Jury's statutory oversight role and conflict of interest law.

Response to Finding 4.

The County DISAGREES with Finding 4.

The County wholly disagrees with this finding. The Grand Jury's characterization of the District 1 Supervisor's conduct is factually inaccurate and legally unfounded. The Supervisor did not make "demands" to remove jurors. The Supervisor did not refuse to be interviewed. The Supervisor did not refuse to cooperate. What the Supervisor did was raise a legitimate question about potential bias affecting two members of the grand jury panel and ask whether those jurors should recuse themselves to ensure a fair and impartial investigation. This inquiry was made in good faith based on specific facts suggesting a conflict of interest or bias that could compromise the objectivity of the proceeding.

Characterizing a good-faith inquiry about potential bias as a "demand" is misleading. Characterizing such an inquiry as hindering an interview is wrong. Any reasonable person in similar circumstances would raise the same concern. The fact that the Supervisor took the grand jury process seriously enough to seek to preserve its integrity should not be twisted into an accusation of obstruction.

The Civil Grand Jury has broad investigative authority over county operations. It can investigate and report on the operations, accounts, and records of county officers, departments, and functions. The District 1 Supervisor understands this perfectly well. The Supervisor has never disputed the grand jury's authority to conduct investigations or to request interviews with county officials. The Supervisor has consistently recognized the importance of the grand jury's oversight role and has been willing to participate in that process.

What the Supervisor also understands—and what the Grand Jury appears to have overlooked—is that the grand jury's broad investigative authority does not eliminate the requirement that its proceedings be conducted fairly and impartially. The fact that the grand jury possesses statutory oversight authority does not immunize its members from recusal when bias or conflict of interest exists. The fact that the grand jury may investigate county officers does not mean that those officers forfeit the right to raise concerns about procedural fairness or to ask whether compromised jurors should step aside.

In fact, the Civil Grand Jurors' Association of California specifically answers this question in its Frequently Asked Questions stating:

“Grand jurors must recuse themselves if a reasonable person would conclude that the juror’s relationship to or experience with the entity or any of its officials results in a real or perceived bias for or against the entity or the official.”

Moreover, such a Finding may well constitute a direct violation of Grand Juror’s oaths. The Grand Jury, and each of its members swore an oath to keep the confidentiality of the Grand Jury proceedings. (Penal Code section 911). It is a misdemeanor for a juror to violate grand jury secrecy (Penal code section 924.1) The grand juror’s oath of secrecy is for life. To have broken confidence to selectively reveal Supervisor Holland’s concerns with some of the grand jurors on the panel is a direct violation of the oath of secrecy. To turn around and publish such matters in the Grand Jury report takes that to a whole new level of violation.

The Supervisor’s question about potential bias reflects a sophisticated understanding of both the grand jury’s role and the limits on that role. It demonstrates respect for the process and a desire to ensure that the investigation is conducted with integrity. Far from demonstrating a misunderstanding, the Supervisor’s conduct reflects a proper understanding of the balance between the grand jury’s investigative authority and the requirements of fairness and impartiality that govern all governmental proceedings.

The Grand Jury’s assertion that the Supervisor demonstrated a misunderstanding of conflict-of-interest law is equally unfounded and reflects the Grand Jury’s own confusion about the scope and application of conflict-of-interest principles. Conflict-of-interest law in California includes statutory provisions governing financial interests under the Political Reform Act, common-law doctrines governing bias and impartiality, and constitutional due process requirements applicable to adjudicatory and quasi-adjudicatory proceedings. The District 1 Supervisor’s concern about potential bias on the part of two grand jurors implicates these principles directly.

While the Political Reform Act governs financial conflicts of interest for public officials in making governmental decisions, the broader principle that decision-makers must be impartial applies with equal force to grand jury investigations. A grand juror who has a personal interest in the outcome of an investigation, who has demonstrated animus toward a witness, or who has a preexisting relationship with parties affected by the investigation may need to recuse themselves to preserve the integrity and perceived fairness of the process.

The District 1 Supervisor’s invocation of conflict-of-interest concerns in connection with the recusal inquiry was appropriate and legally sound. The Supervisor identified specific facts suggesting that two jurors had interests or biases that could compromise their impartiality. Whether those facts ultimately justified recusal is a separate question, but the legal framework the Supervisor applied was correct, and the inquiry itself was well within the bounds of lawful advocacy for a fair process.

The County takes strong exception to the implicit premise underlying the Grand Jury’s finding: that cooperation with a grand jury investigation requires a witness to proceed under any and all conditions the grand jury dictates, without question, without raising concerns about bias or procedural irregularity, and without seeking to ensure that the investigation is conducted fairly. That is not what cooperation means under California law.

Cooperation does not mean capitulation. We live in a free society where we believe in fundamental fairness and due process. Cooperation does not require a witness to waive legitimate concerns or to participate in a proceeding the witness reasonably believes is compromised by bias. Cooperation means providing truthful, responsive information in response to lawful inquiries, within the bounds of applicable legal privileges and protections. It does not mean surrendering the right to ask whether biased decision-makers should recuse themselves or abandoning concerns about the integrity of the process.

The District 1 Supervisor cooperated and was willing to continue cooperating. The Supervisor simply asked a reasonable question about whether jurors with apparent conflicts of interest should step aside. This is not obstruction. This is not hindering. This is the exercise of rights that any witness in any proceeding is entitled to exercise.

If the Grand Jury's position is that any question about recusal, any concern about the composition of the panel, or any inquiry about bias hindering the investigation, is not allowed then the Grand Jury has adopted a standard that is inconsistent with basic principles of fairness and due process. This standard of "do not even raise the question of whether we can be fair" when coupled with the Grand Jury's self-congratulatory "However, instead of pursuing this refusal to be treated as contempt under California Penal Code section 1331, the Grand Jury accommodated Supervisor Holland . . ." and characterization of his request as a "demand" has the aura of a modern day "Star Chamber."¹ Such a standard is inimical to our free society, to our basic civil rights, and would chill the willingness of witnesses to raise legitimate concerns and would undermine public confidence in the grand jury process.

Moreover, the Grand Jury's finding is conclusory. It provides no citation to legal authority establishing that an inquiry about recusal constitutes hindering a grand jury interview. It provides no analysis of the specific facts underlying the District 1 Supervisor's concern about bias. It does not explain why the Supervisor's question was unreasonable or improper. It does not cite any provision of the Penal Code, the Government Code, or California case law that prohibits a witness from asking whether allegedly biased jurors should recuse themselves.

The absence of legal and factual support for the finding is fatal. A grand jury finding must be based on competent evidence and sound legal reasoning. A finding that rests on unsupported characterizations, misrepresents a question as a demand, ignores the witness's perspective, and fails to engage with the legal framework governing recusal and impartiality is not entitled to deference.

The County respectfully submits that the Grand Jury's finding should be disregarded. It reflects neither a fair assessment of the facts nor a sound understanding of the law governing grand jury proceedings, cooperation obligations, or conflict of interest principles. The District 1 Supervisor acted appropriately, lawfully, and in good faith in raising concerns about potential bias and asking whether recusal was appropriate. The Supervisor's conduct reflects a sophisticated and accurate understanding of the legal principles governing grand jury investigations, cooperation obligations, and the requirements of fairness and impartiality. The Grand Jury's characterization of this conduct as hindering is factually wrong, legally erroneous, and inconsistent with law and with basic principles of due process.

1. ¹ The "Star Chamber" was an English court of civil and criminal jurisdiction that developed in the late 15th century, trying especially those cases affecting the interests of the Crown. It was noted for its arbitrary and oppressive judgements and was abolished in 1641.

Accordingly, the Board rejects Finding 4 as unsupported by the applicable legal standard and unsupported by substantial evidence.

Recommendation 4.

County Counsel should coordinate with CSAC or other qualified governmental ethics and governance training providers to provide training to the Board of Supervisors regarding the authority and oversight role of the Civil Grand Jury, including witness obligations and cooperation with Grand Jury investigations and interviews, no later than December 31, 2026.

Response to Recommendation 4.

The County WILL NOT IMPLEMENT this Recommendation.

The County disagrees with this recommendation because it is unsupported by the record, exceeds the proper role of the Civil Grand Jury, and addresses a problem that has not been demonstrated to exist.

The recommendation presumes, without factual support, that the Board of Supervisors lacks an understanding of the Civil Grand Jury's constitutional and statutory authority or that County Counsel has failed to advise the Board regarding its legal obligations. The County categorically rejects any such implication. The report identifies no evidence establishing either proposition. The County takes strong exception to the premise underlying this recommendation. The Board of Supervisors already possesses a thorough and accurate understanding of the civil grand jury's statutory oversight role, witness obligations, and the scope of cooperation required under California law.

County Counsel routinely advises the Board of Supervisors regarding its legal duties under California law, including compliance with investigations conducted by the Civil Grand Jury. Supervisors, as elected constitutional officers, are already subject to extensive legal and ethics training through organizations such as CSAC, the California Lawyers Association, and other governmental educational programs. The Grand Jury identifies no instance in which the Board refused to cooperate with a lawful investigation, ignored a legal obligation, or otherwise acted contrary to law because of a lack of training.

Moreover, the recommendation improperly suggests that disagreement with the Grand Jury's findings or criticism of its process demonstrates a lack of understanding of the Grand Jury's authority. It does not. Public officials are entitled to question the accuracy, fairness, or conclusions of a Grand Jury report without thereby failing to recognize the Grand Jury's statutory authority. Likewise, exercising legal rights, requesting clarification, or challenging factual assertions is not evidence of non-cooperation.

The recommendation is also based on speculation rather than documented deficiencies. The report identifies no statutory violation, no refusal by any Supervisor to appear when legally required, no failure to produce records required by law, and no finding by any court that the Board or County Counsel impeded a Grand Jury investigation. Absent such evidence, mandating additional training serves no demonstrable governmental purpose.

What the Board also understands—and what this recommendation appears to overlook—is that the grand jury's investigative authority operates within a framework of legal limitations. Cooperation with grand jury investigations does not require witnesses to waive legal privileges, disclose attorney-client communications, abandon concerns about bias or procedural fairness, or proceed under conditions they reasonably believe compromise the integrity of the investigation. Cooperation means providing

truthful, responsive information in response to lawful inquiries, while preserving protections established by statute, common law, and the Constitution.

The County has consistently cooperated with the civil grand jury within these lawful boundaries. Where the County has withheld information or raised procedural concerns, it has done so based on legal privilege, statutory confidentiality protections, or legitimate questions about the fairness of the process—not arbitrary refusal to cooperate. Any suggestion that the Board has improperly obstructed grand jury investigations is factually unsupported and legally erroneous.

Finally, the recommendation risks creating the erroneous impression that the Civil Grand Jury possesses supervisory authority over elected officials beyond that provided by the California Constitution and applicable statutes. While the Grand Jury performs an important oversight function, it is not a policymaking body, nor does it direct the legal education of independently elected officials absent a demonstrated legal deficiency.

Accordingly, because the recommendation is unsupported by factual findings, identifies no legal noncompliance, and proposes a remedy for a problem that has not been shown to exist, and furthermore is duplicative to training the County Counsel already provides, the County declines to implement the recommendation.

Finding 5. The County's 90-day email deletion policy hinders Grand Jury investigative efforts, access of public records and undermines public accountability and transparency.

Response to Finding 5.

The County DISAGREES with Finding 5.

The statement is overbroad, unsupported, and unfairly implies that the County's email retention practice is designed or used to hide public records or frustrate Grand Jury oversight. The County rejects that implication.

A 90-day email deletion policy does not, by itself, hinder Grand Jury investigations, block access to public records, or undermine transparency. California law does not require every email sent or received by a county employee to be preserved forever. The Public Records Act gives the public access to public records that exist and are in the County's possession; it is not a command that every routine, temporary, duplicative, or transitory email be retained indefinitely. Treating every email as a permanent government record would be legally unnecessary, operationally burdensome, expensive, and counterproductive.

The finding also fails to recognize the basic distinction between emails that are public records requiring retention and emails that are merely transitory communications. Some emails document official County action, decisions, approvals, contracts, policies, financial matters, or other business that must be retained under applicable retention rules. Those records must be preserved as required by law and County policy. Other emails are temporary scheduling messages, duplicates, informal reminders, courtesy copies, or short-lived administrative communications that do not need to be retained permanently. A lawful records management system may treat those categories differently.

The County does not dispute that it must preserve records when a legal obligation applies. If an email is subject to an active Public Records Act request, litigation hold, subpoena, audit, investigation, or other

legal retention requirement, it must not be destroyed simply because a general deletion period exists. The County acknowledges and follows that obligation. A general 90-day deletion policy cannot override a specific legal duty to preserve records.

The Grand Jury's finding assumes that shorter email retention automatically equals reduced transparency. That is wrong. Transparency depends on whether the County properly identifies, preserves, and produces records that are required to be retained and disclosed. It does not depend on stockpiling every electronic message regardless of value, legal significance, or retention status.

The County also strongly disputes the suggestion that its policy hinders Grand Jury investigative efforts. The Grand Jury is entitled to seek records that exist and are within the County's lawful possession, custody, or control. The County is obligated to cooperate with lawful requests and to produce non-privileged, non-exempt records that are available. But the Grand Jury is not entitled to transform ordinary records management into an accusation of obstruction merely because some temporary emails are not retained forever.

The County remains committed to public accountability and transparency. At the same time, the County has a responsibility to manage public resources efficiently, protect privileged and confidential information, comply with applicable retention laws, and avoid unnecessary accumulation of low-value electronic communications. The County is mindful of the proliferation of massive data centers that have the potential to be harmful to the environment, and this policy is one small step to reduce data storage for the benefit of the environment and the common good. Those goals are not inconsistent with transparency; they are part of responsible government administration.

Accordingly, the County disagrees with the finding as stated. The County will continue to preserve emails and other records when required by law, including records subject to pending requests, investigations, litigation holds, subpoenas, or retention schedules. The County will also continue to distinguish between substantive public records and transitory communications. But the County rejects the unsupported conclusion that a 90-day email deletion policy, standing alone, hinders the Grand Jury, denies public access, or undermines accountability.

Recommendation 5.

The County should comply with state laws to retain potential public records for a two-year period by amending the automatic email deletion policy or creating policy requirements regarding employee and official retention of emails to comply with state law, beginning no later than December 31, 2026.

Response to Recommendation 5.

The County WILL NOT IMPLEMENT Recommendation 5.

The County disagrees with this recommendation because it is based on an incorrect statement of California law, is unsupported by the factual record, and improperly assumes that all emails constitute public records subject to a mandatory two-year retention period.

The recommendation incorrectly asserts that California law requires counties to retain all potential public records, including emails, for a minimum of two years. No such blanket statutory requirement exists. The Grand Jury cites no statute imposing a universal two-year retention period for all emails, nor does the report identify any legal authority requiring a county to abandon its existing records management practices

in favor of indefinite electronic storage.

Assuming, for the sake of the argument, that the Grand Jury meant to cite the county records statute found at Government Code section 26202. That is not what the cited California statute says. The county records statute says the Board “may authorize the destruction or disposition” of certain records that are more than two years old; it does not say every email, every duplicate, every transitory message, or every “potential” public record must be kept for two years.

That distinction matters. A statute that authorizes destruction of certain county records after two years is not the same thing as a statute imposing a blanket two-year retention mandate on every email in the County’s system. The Grand Jury’s recommendation collapses that distinction and turns a permissive destruction statute into an across-the-board retention command. The County rejects that interpretation.

California law distinguishes between an email and a public record, and between a public record and a record that must be retained for a prescribed period. Whether an email constitutes a public record depends upon its content and purpose—not merely the fact that it exists in electronic form. Likewise, records retention requirements vary depending upon the nature of the record and the governing statutory or regulatory retention schedule. The recommendation ignores these fundamental legal distinctions.

The report further assumes, without evidence, that the County’s automatic email deletion policy results in the unlawful destruction of records. It identifies no instance in which a record required by law to be retained was destroyed because of the policy. Nor does it identify a single Public Records Act request, lawsuit, audit, Grand Jury investigation, or other legal proceeding in which responsive records were unavailable because of routine email deletion.

Routine deletion of transitory electronic communications pursuant to an adopted records management policy is not only lawful but is a widely accepted governmental records management practice. California law expressly recognizes that public agencies may adopt records retention schedules that provide for the routine destruction of records after the expiration of their applicable retention periods. Nothing in California law requires the permanent preservation of every email generated by every public employee or elected official.

The recommendation also fails to recognize that the County’s preservation obligations change when litigation, claims, audits, Public Records Act requests, or Grand Jury investigations arise. When a legal duty to preserve records exists, applicable preservation requirements supersede routine deletion practices. The Grand Jury cites no evidence that the County failed to comply with such obligations in any specific instance.

Ultimately, this recommendation reflects a policy preference rather than a legal requirement. The Grand Jury is authorized to recommend improvements to county operations, but those recommendations should be grounded in accurate statements of law and supported by evidence demonstrating an actual deficiency. Here, the report does neither. Instead, it advances a legal conclusion unsupported by statutory authority and proposes a remedy for a problem it never establishes exists.

Because the recommendation is predicated on an incorrect interpretation of California law, fails to identify

any instance of actual legal noncompliance, provides no factual basis demonstrating that the County's existing records management practices have resulted in the unlawful destruction of records, and simply states a policy preference, the County declines to implement the recommendation.

Finding 6.

The lack of readily available, accessible, and comprehensive records of County Board of Supervisors meetings imposes a burden on the public seeking to engage local government and hold officials accountable.

Response to Finding 6.

The County DISAGREES with the finding.

The finding rests on a flawed premise. The Board keeps the records required by law. The Grand Jury appears to assume that the Board must maintain a written transcript of each Board proceeding before its records can be considered readily available, accessible, or comprehensive. That is not California law.

California law requires the Clerk of the Board to attend Board sessions and keep a minute book containing a full and complete record of the Board's proceedings at regular and special meetings, including resolutions, decisions on the allowance of accounts, and the vote of each member on every question. It does not say the Clerk must prepare a verbatim transcript of every comment, exchange, staff presentation, public statement, or deliberative discussion at every meeting.

The Brown Act likewise requires public notice, public access, and public availability of key meeting materials; it does not impose a universal transcript requirement. At least 72 hours before a regular meeting, the Board must post an agenda identifying the time and location of the meeting and briefly describing each item of business to be discussed or acted on.

The Grand Jury may prefer broader record creation than the law requires, but preference is not a legal standard.

The finding also improperly converts a policy preference into an accusation. The Board may choose to provide greater access than the minimum standards required by the Brown Act. But the fact that a local agency may voluntarily go beyond the law does not mean it has failed the public when it complies with the law as written. The Grand Jury is free to recommend improvements, but it should not characterize lawful compliance as a lack of accountability.

The Board maintains the records required by California law, provides public access required by California law, and conducts its meetings under the open-meeting rules imposed by California law. The County rejects the unsupported implication that public accountability requires a written transcript of every Board proceeding. California law requires transparency, access, agendas, minutes, and preservation of required records; it does not require the County to create a verbatim transcript simply because the Grand Jury believes one would be preferable.

Accordingly, the Board rejects Finding 6 as unsupported by the applicable legal standard and unsupported by substantial evidence.

Recommendation 6.

Tuolumne County should publish full transcripts of all open Board of Supervisor meetings, on the county agenda website, within 90 days of the publication of this report. Third party sites (Access Tuolumne), resolution summaries, or videos alone do not satisfy this recommendation.

Response to Recommendation 6.

The County WILL NOT IMPLEMENT this recommendation.

It is unsupported by California law, exceeds the requirements imposed on local agencies, and fails to demonstrate any deficiency in the County's existing practices. The recommendation presumes that the publication of verbatim transcripts of every open meeting of the Board of Supervisors is necessary to ensure transparency and public access. That premise is unsupported by law and by the factual record developed in the report.

Neither the Ralph M. Brown Act nor any other provision of California law requires counties to prepare or publish verbatim transcripts of open meetings of their legislative bodies. California law requires that meetings be open and public, that agendas and supporting materials be made available as required by statute, and that actions taken by the legislative body be accurately reflected in the official minutes. The County complies with those statutory obligations. The Grand Jury cites no legal authority imposing a duty to create and publish full transcripts of every meeting.

The recommendation likewise fails to identify any instance in which the public was denied access to Board proceedings because transcripts were unavailable. The report contains no evidence that citizens were unable to observe meetings, review official actions, or understand Board decisions through the County's existing agenda materials, official minutes, recordings, or other publicly available resources. Instead, the recommendation simply substitutes the Grand Jury's preferred method of disseminating information for the methods authorized by California law.

The assertion that videos, official minutes, or other existing resources are categorically insufficient is entirely conclusory. A complete video recording of a public meeting provides a more accurate and comprehensive account of the proceedings than a transcript alone because it captures tone, context, visual presentations, demonstrations, and public interactions that cannot be fully conveyed through text. The Grand Jury provides no evidence demonstrating that transcripts would materially improve public access or governmental accountability.

The recommendation also disregards the significant fiscal and administrative burden associated with producing, reviewing, correcting, and publishing verbatim transcripts of every Board meeting. Such an undertaking would require substantial staff time or outside transcription services, diverting public resources without any corresponding statutory requirement or demonstrated public benefit. The Grand Jury offers no cost analysis, funding source, or explanation as to why this expenditure of taxpayer resources would represent a prudent use of County funds.

Moreover, the recommendation improperly attempts to dictate the specific manner in which the County communicates with the public. The Grand Jury is empowered to investigate county operations and recommend improvements, but it is not authorized to prescribe operational preferences that exceed statutory requirements absent evidence that the County's current practices are unlawful, inadequate, or have resulted in demonstrable harm.

The County remains committed to transparency and public access. However, transparency is measured by compliance with applicable law and by meaningful public access to governmental proceedings—not by adherence to a particular format preferred by the Grand Jury. The report identifies no violation of the Brown Act, no failure to maintain official records, no denial of public access, and no evidence that the County's existing practices have impaired the public's ability to observe or understand Board proceedings.

Accordingly, because the recommendation is unsupported by California law, fails to identify any actual deficiency in the County's existing practices, imposes unnecessary and significant administrative costs, and reflects a policy preference rather than a legal or operational necessity, the County declines to implement the recommendation.

We appreciate the opportunity to respond to the above findings and recommendations and trust that the Grand Jury will carefully consider our responses and desist from exceeding its jurisdiction in the future.

Respectfully,

Stephen A. Grier
Chair, County of Tuolumne Board of Supervisors