



COUNTY OF YOLO

Office of the County Administrator

Patrick S. Blacklock
County Administrator

625 Court Street, Room 202 Woodland, CA 95695
(530) 666-8150 FAX (530) 668-4029
www.yolocounty.org

September 28, 2010

Honorable Janet Gaard
Judge of the Superior Court
725 Court Street
Woodland, CA 95695

RE: 2009/2010 Grand Jury Final Report

Dear Judge Gaard:

The following is the response to the 2009/2010 Grand Jury Final Report from the Yolo County Board of Supervisors, the County Administrator, the Director of Human Resources, the Director of the Department of Employment & Social Services and the Chief Probation Officer.

For purposes of readability we have included the Grand Jury's Recommendations in italics.

Impact of Cache Creek Casino Resort on Yolo County

10-01 *"Improve traffic enforcement and warning signage along SR 16 and casino feeder roads."*

The recommendations regarding State Route 16 can be implemented by the State of California, but cannot be implemented by the County of Yolo.

State Route 16 is under the jurisdiction of the State of California, not the County of Yolo. The State authority for traffic enforcement is the California Highway Patrol. The State authority for signage is Caltrans. The County of Yolo does continue to have input in the analysis of State Route 16 needs through ongoing discussions with Caltrans and Yocha Dehe Wintun Nation.

The recommendations regarding feeder roads will be implemented.

The effects of casino traffic on County roads are a matter of ongoing review and analysis. Placement of signage is largely governed by state and federal guidelines and considered on a case-by-case basis by the Yolo County Department of Planning and Public Works. Traffic enforcement on County roads is performed by the Yolo County Sheriff's Department as conditions require and resources allow. The County of Yolo will

advocate for mitigation measures that address the impacts of proposed casino expansions on feeder roads in future negotiations.

- 10-02** *“Continue to work with Caltrans and the Yocha Dehe Wintun Nation to hasten plans for SR 16 relief between I-505 and Brooks, or identify alternate route(s) to alleviate traffic.”*

This recommendation is currently in the process of being implemented.

The County meets regularly with the Yocha Dehe Wintun Nation (Yocha Dehe Wintun Nation) and Caltrans to discuss traffic-related impacts.

- 10-03** *“Work with the Yocha Dehe Wintun Nation to establish an employee program to subsidize public transportation passes to help reduce the number of cars going to the casino.”*

This recommendation has been implemented.

The Cache Creek Casino Resort has partnered with the Yolo County Transportation District to provide subsidized bus passes to employees of the Resort and continues to refine the routes and schedules as dictated by need and conditions.

- 10-04** *“Pursue greater contribution from the Yocha Dehe Wintun Nation to eliminate the existing funding gap created by criminal activity attributed to the casino.”*

The State compact prevents this recommendation from being implemented as suggested.

The Compact requires the Yocha deHe Wintun Nation to negotiate with the County to mitigate off-reservation impacts of casino expansion projects. Currently the State compact does not provide a legal mechanism to renegotiate off-reservation impacts once an intergovernmental agreement is in place. In future negotiations the County of Yolo will advocate for funding to mitigate casino impacts on the criminal justice system.

- 10-05** *“Before more ACTM funds are granted, develop allocation guidelines that will ensure fairness, transparency, and accountability. Consult with financial and legal professionals within county government to assist in developing the guidelines.”*

This recommendation has been implemented.

We have ACTM evaluation guidelines which are used to make recommendations and ensure transparency and accountability. The Board of Supervisors retains final discretion on allocation of mitigation funds per the prior agreement.

- 10-06** *“The first priorities when mitigation funds become available again should be residents between I-505 and I-5 plus the City of Woodland, along with Valley communities that have not yet received attention.”*

This recommendation can be implemented to the extent it is consistent with the State compact

Section 10.8.1 of the amended State compact requires the Yocha Dehe Wintun Nation to prepare a Tribal Environmental Impact Report (TEIR) for a proposed casino project. The TEIR must clearly describe and identify all “direct and indirect significant effects on the off-reservation environment” of the proposed project and identify “feasible measures which could minimize significant adverse effects” The Board of Supervisors values all input related to distribution of mitigation funds and can consider the Grand Jury’s recommendation in future policy discussions. Per the 2002 intergovernmental agreement, the Board of Supervisors has the discretion to set policies and make final decisions on how current mitigation funds are allocated.

- 10-07** *“When meetings resume, initiate taking minutes at Tribe-Council 2 x 2 meeting to ensure accountability and transparency.”*

While implementation of this recommendation requires negotiation with the sovereign entity, Yocha Dehe Wintun Nation, the matter can be part of the future discussions.

The County does publicly notice Tribe-County 2x2 and other 2x2 meetings. No formal actions are taken at these discussions, therefore minutes are not required. This is the case at all 2x2s.

- 10-08** *“Monitor and participate in the national debate regarding fee-to-trust conversions with an eye toward ensuring that Yolo County maintains its tax base and enhances the rural, agrarian nature of Capay Valley.”*

Implementation of this recommendation is ongoing.

The County of Yolo is well represented in the national debate regarding fee-to-trust conversions and other tribal-related matters. Yolo County Supervisor Mike McGowan chairs the California State Association of Counties (CSAC) Indian Gaming Work Group and co-chairs the National Association of Counties (NACo) Native American Affairs Subcommittee.

Yolo County Department of Employment and Social Services

- F-1** *“The DESS “by exception” method of time keeping can engender fraud, either accidental or intentional.”*

The respondent agrees with the finding.

The County’s current voluntary system of time tracking does not prevent misrepresentation of time reporting. While no system is 100% accurate, the County has reviewed software which would minimize the amount of discrepancy between actual time worked and time reported. Funding for this system is being investigated.

There is no evidence to support that vacation and sick leave times were misrepresented. The Grand Jury was furnished with supporting documentation that explained the reporting procedures used when employees are on disability leave. Each pay period, employees earn leave time and are paid for that leave time. This is in accordance with County policies and procedures. The Grand Jury was provided with evidence that an

employee who was credited with working part-time, did in fact work part-time, based upon a modified duty release from the employee's doctor.

- F-2** *"If properly used and managed, the new electronic time keeping system should help to reduce misuse of time reporting."*

Auditor-Controller's response sent under separate cover August 2, 2010: We agree with this finding. The Auditor-Controller has always advocated the use of time sheets with supervisorial approval as a countywide timekeeping method. This system reduces abuse and errors in time reporting. However, certain county departments have chosen the less burdensome method of reporting time by exception, which is more prone to abuse and errors.

The electronic timekeeping system that the county was considering would help to reduce misuse of time. However, due to current severe budget constraints, this plan is on hold. As an alternative, the County Information Technology Department is developing and piloting an absence management program which may be useful to DESS.

- F-3** *"The arbitrary allowance of paid time for non-work related activities suggests favoritism and may be a misuse of public funds."*

The respondent disagrees with the finding.

There is no evidence that non-work-related activities were performed by non-exempt employees during paid time. Employees are entitled to perform purchasing activities during paid hours as long as purchases are work-related. While there is no evidence exempt employees took inordinately long lunch breaks, there is no restriction on the amount of time taken for lunch by an exempt employee. It is the acknowledged responsibility of department heads and managers to ensure that FLSA (Fair Labor Standards Act) exempt employees are performing their duties.

- F-4** *"The CAO and DESS have not enforced rules for the use of XTE, telecommuting, and cellular phone use."*

The respondents disagree with the finding.

For purposes of a response, it is assumed this finding relates to the County's Extra Time Off (XTO) program. This program allows employees to schedule unpaid time off.

There have been no reports or evidence of violations of County policies covering XTO, telecommuting or cellular phone use. The Department of Employment & Social Services (DESS) discontinued the use of the formal telecommuting program during the 2008/09 fiscal year.

The Fair Labor Standards Act (FLSA) governs these issues and would prevent the partial-day deduction of an exempt employee's wages. Requiring exempt employees to report hourly would be in violation of the FLSA. An exempt employee "telecommuting by cellular phone" would not be a violation of County policies and procedures for exempt employees so long as the employee is performing his or her required work.

- F-5** *“HR did not exercise due diligence regarding the MQ for newly-hired or transferring DESS employees.”*

The respondents disagree with the finding.

Human Resources (HR) is regularly audited by Merit System Services, a branch of the California Personnel Services Agency. Their audits have found no violations of the County's hiring or transfer practices for the Department of Employment & Social Services (DESS).

Auditor-Controller's response sent under separate cover August 2, 2010: This finding pertains to an area outside of the purview and expertise of the Auditor-Controller. The County Human Resources Department is responding to this finding.

- F-6** *“Proposed employee layoffs do not include written criteria and input from all ELT and the employee supervisors.”*

The respondents agree with the finding.

Budget decisions are the responsibility of the Director of the Department making recommendations to the County Administrator who then makes recommendations to the Board of Supervisors. These recommendations are used in making final budgetary determinations. Once the allocated positions are reduced in order to meet budgetary constraints, the Human Resources department implements layoffs based upon the written criteria outlined in bargaining unit contracts. Written criteria include a process for appeal; they do not include a process whereby a supervisor has any discretion or provides input as to which employees should be laid off. It is primarily by seniority in classification.

- F-7** *“Within the department, there is a perception of favoritism concerning job and client assignments.”*

The respondents agree that employee perceptions present ongoing management challenges.

Supervisors have the authority to set employee workloads and assignments and due to employee layoffs, adjustments have been necessary. The County has a process in place for reporting disparate treatment. No reported problems have been brought to the attention of the Department. Workload and efficiency are areas of paramount interest and ongoing analysis and evaluation.

- F-8** *“At the time of the interviews, the policy regarding listing of at-will employees had not been followed.”*

The respondents disagree with the finding.

All Department of Employment & Social Services (DESS) at-will positions were included in the Board-approved At-Will Resolution for all of 2009/10. There were no changes made during the period of layoff and there have been no changes for DESS classifications for the past three years.

F-9 *“DESS has not followed its written policy regarding employee performance evaluations.”*

The respondent disagrees with the finding.

Please see the response to 10-15 for additional evidence that the Department of Employment & Social Services (DESS) policy for evaluations has in fact been substantially followed.

F-10 *“Copies of the evaluations are not readily available to the employee.”*

The respondent disagrees with the finding.

Copies of evaluations are readily available in each employee's official personnel file in Human Resources. Employees are given copies of their evaluation and any employee who wishes an additional copy may contact Human Resources. Departments are not required to maintain a separate file with extra copies of evaluations. Human Resources reports there have been no requests for copies of evaluations which they were unable to grant.

10-9 *“Follow proper procedures for recording XTE and XTO.”*

The recommendation has been implemented.

County employees request and are subsequently granted a specified quantity of unpaid time off, i.e. XTO. The County has found no evidence of improper recording of XTO. XTO is recorded in the same manner as any other available leave. No errors in recording the use of this leave in the Department of Employment & Social Services have been identified to date. Should an error be discovered by either an employee or an auditor, the remedy will be to immediately rectify the employee record and adjust the employee work schedule accordingly.

10-10 *“Conduct an audit regarding DESS use of XTE.”*

<p>Auditor-Controller's response sent under separate cover August 2, 2010: We agree with this recommendation and have added this audit task to the countywide payroll audit which is in progress and scheduled to be completed in September 2010.</p>
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10-11 *“Stop allowing paid work time for non-work activities.”*

The recommendation has been implemented.

Employees are allowed work-related purchase time and are not paid work time for non-work activities.

10-12 *“Enforce the written rules for cellular phone use and telecommuting.”*

The recommendation will be implemented.

The Department of Employment & Social Services discontinued the use of the telecommuting program during the 2008/09 fiscal year.

Auditor-Controller's response sent under separate cover August 2, 2010: This recommendation pertains to an area outside of the purview and expertise of the Auditor-Controller. The County Administrator is responding to this recommendation.

10-13 *"Enforce HR and BOS policy listing at-will employees."*

The recommendation has been implemented.

The Board of Supervisors will continue the review and publication of all at-will employee positions.

10-14 *"Enforce MQ requirements listed in county job descriptions before approving the hiring of employees (whether new hires, transfers, or promotions). HR should not allow individual departments to make changes to the requirements without BOS approval."*

The recommendation has been implemented.

Human Resources (HR) strictly enforces adherence to the minimum qualifications (MQ) requirements of a classification for all new hires. Every two years, HR policies and procedures are audited by Merit System Services and there have been no adverse audit findings. Departments are not allowed to make changes to the MQ requirements of a classification. In the past, departments were able to approve transfer requests without the involvement of HR. That is no longer part of the promotion process. In reviewing incumbents in management positions at the Department of Employment & Social Services, there are no incumbents who did not meet the MQs at the time of appointment to their position whether from promotion or new hire.

10-15 *"Conduct employee performance evaluations as required by County policy."*

The recommendation has been implemented and the Department will strive for 100% compliance.

Employee performance evaluations are conducted in accordance with County policy. A listing of the evaluations for Department of Employment & Social Services employees shows there are less than 1% of employee evaluations past due and no evaluations are more than one year past due.

The County strives to have all evaluations delivered in a timely manner. Transfers and employee leaves can often delay delivery of evaluations. Evaluations are not part of the layoff process. The lack of an evaluation would have no bearing on a layoff, transfer, demotion or promotion.

10-16 *"Perform a cost-benefit analysis regarding fraud amount exclusions and amend the MOU to establish policy."*

The recommendation has been implemented.

For many years prior to 2009, the Department of Employment & Social Services (DESS) had funded a dedicated prosecutor within the District Attorney's (DA) office that handled all welfare fraud cases regardless of the dollar amount of the loss. Since 2009, DESS has been unable to fund a dedicated welfare fraud prosecutor. As a result, all potential fraud cases are now referred to the general prosecution unit in the DA's office. Due to limited staff and resources, the DA set a loss threshold to limit the number of cases that actually resulted in prosecution. The threshold was set at an amount that was/is consistent with other District Attorney offices.

On average, it takes approximately 15 hours to investigate an alleged fraud at an employee cost of \$1,015. The average time it takes to review the case, file charges and prosecute can be as low as five hours or as high as 120 hours which would represent an employee cost of \$9,900. These are strictly the costs of the main employee contact for investigating or prosecuting. It does not include supplies, overhead or support staff. Based on these expenses, the cost benefit analysis demonstrated that it is generally not reasonable to pursue lower-dollar-amount fraud cases.

Currently the DA and the Director of DESS maintain the flexibility to address issues of fraud regardless of the dollar amount. The approach to date has been reasonable and has provided the maximum amount of flexibility.

Yolo County Juvenile Detention Facility

10-23 *"Provide mesh wash sacks to detainees so they may keep track of clothing originally allocated to them, and to give the detainee a sense of ownership and self respect."*

The recommendation can not be implemented due to safety and resource concerns. (Note: separate response previously provided by F. Ray Simmons, Superintendent, Juvenile Detention Facility under separate cover dated August 3, 2010)

While maintaining a sense of ownership of clothing is a legitimate concern for minor detainees, the recommendation is not practical in Yolo County largely due to the fact that the clothing of minors is laundered by jail inmates at the jail. The use of mesh sacks would not ensure the same clothing returns to the minors. Further, because all clothing has to be thoroughly searched upon return from the jail laundry facility, use of mesh wash sacks would significantly increase the time spent opening each individual bag to search and replace clothing.

Monroe Detention Center

10-24 *"The county should pursue additional federal and state funding for jail expansion to keep up with the county's population growth."*

This recommendation has been implemented and the County continues to pursue additional funding.

In 2008, Yolo County applied for Assembly Bill 900 funding to expand the jail. \$30 million was awarded contingent upon siting of a re-entry facility for those leaving state prison and returning to Yolo County. Ultimately, the siting agreement with the State was

revoked due to considerable obstacles associated with the chosen site and the significant possibility that the County wouldn't receive the awarded \$30 million due to the State's budget situation at the time.

The County may continue to seek funding for a jail expansion, but at this time, budget constraints make it prohibitive to staff an expanded jail. The County's current population and the recent decrease in criminal activity in the county do not support a near-term jail expansion.

However, potential State budget actions which may increase the number of prisoners serving time at the local level will certainly require re-evaluation.

- 10-25** *"To reduce recidivism the county should consider seeking partnerships to provide additional educational and training programs for inmates."*

This recommendation has been implemented.

Currently inmates are offered a variety of education and training programs intended to reduce recidivism, many through partnerships with other agencies. Most programs are funded through the Inmate Welfare Fund. The General Education Diploma program is offered to inmates in partnership with the Woodland Public Library's literacy program. Inmates also have training opportunities in the kitchen and laundry and with the facility maintenance and landscape crews.

Anger management and parenting programs are offered through an independent contractor. Drug and alcohol treatment is offered by the Yolo County Department of Alcohol, Drug & Mental Health as well as through Narcotics Anonymous, Alcoholics Anonymous and various religious organizations. The Sexual Assault and Domestic Violence Center provides domestic violence training. Lastly, through the jail medical program contract, relaxation therapy and administrative segregation socialization programs are provided to inmates.

Further expansions of programs to reduce recidivism could be possible should additional resources become available.

RESPONSE TO GRAND JURY REPORT

The governance of responses to the Grand Jury Final Report is contained in Penal Code §933 and §933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days, governing bodies (for example, the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Advising Judge and the Grand Jury Foreperson.

Report Title: JUVENILE DETENTION FACILITY Report Date: 8/3/2010

Response by: F. RAY SIMMONS Title: SUPERINTENDENT

FINDINGS

I (we) agree with the findings numbered:

I (we) disagree wholly or partially with the findings numbered:

RECOMMENDATIONS

Recommendations numbered: _____
have been implemented (attach a summary describing the implemented actions).

Recommendations numbered: _____
require further analysis (attach an explanation of the analysis or study, and the time frame for the matter to be prepared by the officer or director of the agency or department being investigated or reviewed, including the governing body where applicable. The time frame shall not exceed six (6) months from the date of the Grand Jury Report).

Recommendations numbered: 10-23
will not be implemented because they are not warranted and/or are not reasonable (attach an explanation).

Date: 8-4-10 Signed: 

Total number of pages attached 3 Total (Including this page.)



County of Yolo

JUVENILE DETENTION FACILITY
2880 EAST GIBSON ROAD
WOODLAND, CA 95776
PHONE: (530) 406-5300
FAX: (530) 669-5802

ALTERNATIVE SENTENCING
PROGRAM/TRANSPORTATION
45 MATMOR ROAD
WOODLAND, CA 95776
PHONE: (530) 669-2331
FAX: (530) 669-6622



COMMUNITY CORRECTIONS

MARJORIE RIST
CHIEF PROBATION OFFICER

F. RAY SIMMONS
SUPERINTENDENT
PHONE: (530) 406-5306 FAX: (530) 669-3639
Email: ray.simmons@yolocounty.org

BRYAN HOSKINS
ASSISTANT SUPERINTENDENT
PHONE: (530) 669-2333 FAX: (530) 669-6622
Email: bryan.hoskins@yolocounty.org

August 3, 2010

Honorable Janet Gaard
Judge of the Superior Court
Department 15
1100 Main Street, Suite 300
Woodland, CA 95776

RE: Response to Grand Jury Report – 2009/2010
Recommendations 10-23 and Findings F-1

Dear Judge Gaard:

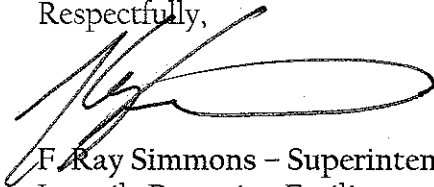
This is in response to the 2009/2010 Grand Jury report Recommendation 10-23, "Provide mesh wash sacks to detainees so they may keep track of clothing originally allocated to them, and to give the detainee a sense of ownership and self respect." This will not be implemented because they are not warranted and/or are not reasonable for the following reasons:

1. The Yolo County Juvenile Detention Facilities is compliant with Title 15, Minimum Standards for Juvenile Facilities, for Clothing Exchange. Outer garments which include pants, sweaters, and shorts are exchanged on a minimum of a weekly basis or as needed if sooner. Undergarments to include underwear, sports bras, T-shirts, and socks are exchanged on a daily basis during showers or on an as needed basis if needed sooner. All clothing items are inspected regularly for stains and discarded if necessary. The detention facility outsources all its clothing laundering to the Yolo County Sheriff's Department (Monroe Detention Center) with the exception of female minors' underclothing which is laundered daily at the Juvenile Detention Facility in appropriate temperature and detergent. Careful inspection is made on all underclothings to check for stains and soiling in order to ensure removal from circulation and then discarded.
2. All clothing items issued to the minors are based on a collection of sized for the minor during the initial booking process. A clothing roster is kept in order to maintain adequate sizes for the minors when clothing is issued. All clothing rolls are prepared by staff that is familiar with the minors and are able to make

appropriate judgment regarding minors clothing sizes that are to be issued. All clothing shower rolls are individually labeled with each minor's name on it and is distributed to them during shower time on a daily basis. The clothing shower rolls consist of one towel, socks, undergarments, sports bra, a T-shirt and outer clothing. Minors are not given the option of selecting clothing items from a bulk pile of clothing as suggested in the Grand Jury Report Findings (F1). If a minor is unhappy with the fitting, condition, or has other issues with the clothing that was assigned to them, staff make reasonable efforts to provide the minor with an appropriate exchange within a reasonable timeframe. (In most cases minors request clothing which would be considered ill fitting such as extremely oversized clothing or extremely tight clothing. This is not appropriate dressing for the detention facility.)

If you would like additional information or would like to discuss this matter further, please do not hesitate to contact me at (530) 406-5306. Thank you.

Respectfully,



F. Ray Simmons – Superintendent
Juvenile Detention Facility

cc: Marjorie Rist, Chief Probation Officer
Bryan Hoskins, Assistant Superintendent
Grand-jury@sbcglobal.net via electronic mail
JDF Grand Jury Reports File