

CLOSING THE LOOP: HOW YOLO COUNTY IMPLEMENTS ITS RESPONSES TO THE GRAND JURY

SUMMARY

The California Constitution requires that every county impanel a grand jury each year. The grand jury is an arm of the judicial system, but acts as an entirely independent body. Most people think of criminal indictments when they hear of a grand jury, but in California the grand jury's primary responsibility is to its' citizens under the "watchdog" function which is to review and investigate citizens' complaints and other civil matters. In Yolo County, the Superior Court impanels nineteen grand jurors and the District Attorney is the legal advisor to the grand jury.

California Penal Code, Title 4, 933 and 933.05 governs the release of the grand jury's Consolidated Final Reports and the required responses to each grand jury finding and recommendation. This report documents how the governing bodies of the local public agencies, elected county and/or city officers or agency department heads within Yolo County responded to and implemented past grand jury recommendations.

Nearly all local government entities have complied with requests to respond to recommendations, and the large majority of responses have been favorable to the results of the investigations and amenable to implementing the recommendations. A very small number of recommendations were responded to as needing further investigation, potentially problematic or otherwise not feasible or appropriate.

Overall, this analysis concludes that the recommendations made by the Yolo County Grand Jury (YCGJ) have improved local government efficiency and effectiveness, and that nearly all local government bodies and officials have complied with the recommendations. A large majority of recommendations resulting from YCGJ investigations have been responded to positively by local government officials and entities, and most responses indicate that recommendations will be implemented, either in full or in part.

The grand jury selected four reports to review, investigate and report on in detail the status of the implementation of the recommendations made in these reports. The reports selected were:

- Yolo County Probation Department: A Troubling Contract, Questionable Ethics (2012-13)
- Yolo County Finance: Tracking Changes (2012-13)
- Yolo County Promotion Practices: Need for Standards and Oversight (2013-14)
- Proposition 218 Protest Election Process: "The Yolo Way" (2013-14).

BACKGROUND

The 2012-13 YCGJ and the 2013-14 YCGJ each published seven reports. These 14 reports are the results of investigations of various city and county agencies. The reports evaluated government performance and made recommendations in accordance with YCGJ investigative findings. In accordance with California State law, these recommendations must be responded to

within either 60 or 90 days, depending on whether the respondent is an elected (60) or non-elected public official (90).

Each year's YCGJ publishes a consolidated final report by the end of its term on June 30. The next year's grand jury is impaneled in the first week of July. Due to this timing, if any recommendations have not been responded to prior to the end of the term, little or no follow up by the next grand jury typically occurs.

Without adequate follow up, it is difficult to identify, track and validate actions taken in response to YCGJ recommendations. Thus, it is difficult to link YCGJ investigations and findings to actual corrective action implemented by local government.

No formal mechanisms are currently in place within Yolo County government to track, report, or publicly review responses and actions taken as a result of YCGJ recommendations. Some counties in California do have such mechanisms in place. For example, San Francisco County's Administrative Code requires their Controller to report on the implementation of grand jury recommendations no later than one year following issuance of the report. The County Controller's Office personnel send out requests for updates regarding the actions taken in response to the recommendation. In addition, the Administrative Code requires the San Francisco Board of Supervisors to hold public hearings for final grand jury reports.

METHODOLOGY

The YCGJ interviewed representatives of the Board of Supervisors, County Administrator's Office (CAO), Department of Financial Services, and Human Resources (HR). During the investigation, the YCGJ reviewed the following items:

- The 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 YCGJ consolidated final reports and each related response;
- Review of Internal Controls over payroll and contracting at Yolo County Probation Department – February 19, 2013;
- County of Yolo, Administrative Policies and Procedures Manual, Contracting and Purchasing Policies, September 9, 2008;
- Department Process Contract Checklist – Revised May 2013;
- County of Yolo Administrative Policies and Procedures Manual, Code of Ethics – Standards of Ethical Conduct – December 17, 2013;
- County of Yolo Administrative Policies and Procedures Manual, Cost Recovery and Fees – June 7, 2011;
- County of Yolo Administrative Policies and Procedures Manual, Policy on Employee Timekeeping – August 2, 2011;
- Yolo County Financial Oversight Committee Application for Nomination and Affidavit of Understanding – no date;
- Announcement for county training: COSO 2013 Framework, Conducting Effective Assessments and/or Audits of Internal (Management) Controls – no date;

- Announcement for county training: Workshop on the New OMB “Super Circular”: What is the impact on the grant community?– no date;
- Various tracking sheets created and used to track grand jury findings and/or recommendations and follow-up activities.

A sample of ten California counties’ grand jury reports were reviewed to determine what percentage were publishing continuity reports or other analysis of responses to findings or investigations. It was found that all ten grand juries publish responses, but only two published an analysis of the responses. This appears to be an evolving best practice in California grand juries; however the five previous YCGJ bodies have not done so.

The YCGJ evaluated the status of recommendations made as part of two investigations each conducted by the 2012-13 and the 2013-14 grand juries. This year’s YCGJ focused only on reviewing the status and performance regarding recommendations that Yolo County agencies and elected officials agreed to implement. This portion of the investigation relied on interviews with Yolo County officials and supporting information provided to the grand jury. Unfortunately, supporting information requested from the Board of Supervisors was not provided and in turn, could not be considered in the investigation.

DISCUSSION

Statistics

Responses to grand jury reports can be invited or required to either findings, recommendations or both. It was found that although many reports from the 2012-13 and 2013-14 Yolo County Grand Juries requested responses to recommendations only, many agencies responded minimally to the findings as well.

Respondents are asked to state whether they agree or disagree with the findings and to respond to specific recommendations. They are also asked whether or not a recommendation will be implemented or if the recommendation is not warranted or is unreasonable. Without a request or invitation for a detailed response to the finding, one may not be provided. For this reason, it is generally considered a good practice in grand jury reports to request responses to both findings and recommendations. Because of the timing of this investigation, the 2014-15 YCGJ did not generally adopt this practice, but suggests that future grand juries consider doing so to increase the strength of their investigations and recommendations.

Table 1 below summarizes the responses and disposition of recommendations for each investigation. The response rate received for all investigations was near 100%. Eighty recommendations to address 114 findings were identified in the fourteen investigations that were reviewed. Over 80% of those recommendations were acted upon in whole or in part by at least one local government agency or official, according to the responses received. Table 2 summarizes the responses by requested responder’s job title or agency. Most responders agreed to implement recommendations either in full or in part. Seventy percent of other responses that did not agree to implement were because further analysis or consideration would be needed, the prescribed time could not be met, or for other reasons. The remaining 30% were because the responder did not consider the recommendation either warranted or reasonable.

Table 1: Summary of Responses per Recommendation

Report Year	Investigation Title (Shortened)	# Findings	# Recommendations			
			# Recommendations Identified	Implemented in Whole or Part	# Responses Requested	# Responses Received
2012-2013	Probation Dept: Troubling Contract	18	9	7	61	61
	Finance: Tracking Changes	13	14	13	21	21
	Detention Center: Challenges	5	3	3	3	3
	Probation Dept: Recidivism	5	4	4	5	5
	Probation Dept: Slow Response	13	6	6	9	9
	Adult Services: Protecting	7	7	7	8	8
	Oversight of Charter Schools	3	2	1	3	2
2013-2014	Promotion Practices	10	6	6	9	9
	Major Changes in Education	2	1	1	1	1
	Coroner's Division	7	6	5	15	15
	Woodland Real Estate Lendor	5	4	0	6	0
	Mental Health Crisis Services	7	5	4	15	15
	Proposition 218	5	4	4	5	5
	Sheriff Leadership Practices	14	9	5	16	12

Table 2: Summary of Responses by Responder Role or Organization

Official or Body	# of Requested Responses	# Received Responses	Percent Will Implement Full or Partially	Will Implement Fully	Will Implement Partially	Needs Further Analysis or Consideration	Will Not Implement (Not Warranted or Reasonable)	Will Not Implement (in Proscribed Time)	Will Not Implement (Other Reason)
Elected Officials or Governmental Bodies									
County Board of Supervisors	20	20	85%	17	1	2			
Auditor-Controller / Treasurer	14	14	86%	12		2			
County Board of Supervisors Audit Committee	5	5	100%	5					
County Superintendent of Schools	3	3	67%	2			1		
Woodland City Council	2	0	0%						
County Sheriff	6	6	17%	1			5		
County District Attorney	1	0	0%						
Non-Elected Public Servants, Departments or Agencies									
County CAO	22	22	91%	20		2			
County Counsel	12	12	83%	10		2			
County HR Department	31	31	81%	24	1	2	1		3
County Chief Probation Officer	16	16	88%	12	2	2			
County Assistant Chief Probation Officer	9	9	78%	7		2			
County Community Corrections Partnership Executive Committee	1	1	100%	1					
County Director, Department of Employment and Social Services	7	7	86%	6				1	
County Director, Department of Planning and Public Works	2	2	100%	2					
Sheriff - Coroner's Office	6	6	83%	5		1			
Woodland City Manager	4	0	0%						
Chief of Police, Woodland	2	2	100%	2					
Chief of Police, Winters	2	2	50%	1			1		
Chief of Police, Davis	2	2	50%	1			1		
Chief of Police, West Sacramento	2	2	100%	2					
Director, Department of Alcohol, Drugs and Mental Health (ADMH)	3	3	67%	2				1	
County Clerk/Recorder	1	0	0%						
County Public Guardian	1	0	0%						
County Assessor	1	0	0%						
Director, Department of Health	1	1	0%					1	
Non-Public Persons or Bodies									
Woodland Polytech Academy Principal	1	0	0%						

Of the 166 received responses to recommendations, only nine of the responses (5% of the total) indicated that the recommendation was either not warranted or unreasonable. Of those nine negative responses, five (56%) were from the County Sheriff. Four of those pertained to the investigation into the Sheriff's leadership practices.

Investigative Study

On February 26, 2013, Yolo County provided an updated response to the 2012-13 Grand Jury Report entitled "Yolo County Probation Department: A Troubling Contract, Questionable Ethics." The original responses were provided to the Superior Court and the grand jury in November and December of 2012. The grand jury found this updated response to be very informative, complete and reflected timely action by the appropriate county departments and individuals.

The grand jury focused its investigation on the follow-up and implementation of the recommendations in four reports; two from 2012-13 and two from 2013-14 Yolo County Grand Jury reports. The grand jury further narrowed the scope of the investigation to the recommendations where follow-up and/or implementation was reasonably expected.

Yolo County Probation Department: A Troubling Contract, Questionable Ethics (2012-13)

The recommendations in this report that were reviewed by the grand jury included:

- reviewing the Assessments.com (ADC) contract to determine operational fitness and financial viability and audit payments to ADC;
- reviewing the scheduling of Motivational Interviewing Technique (MIT) training days for a potential Memorandum of Understanding (MOU) violation,
- conducting an audit of the MIT trainers timesheets, review to ensure that all payments and agreements with MIT trainers are compliant with all Yolo County financial policies and procedures, and
- Yolo County Probation Department should be closely monitored to ensure no dual relationships exist between employees and outside contractors, and that no manager should have sole authority over the development or implementation of a contract or vendor.

ADC Contract

The last active contract between the County and ADC expired on January 1, 2013. While ADC apparently remained operationally and financially viable and had recently merged with another company, Probation management determined that alternative risk assessment and case management software tools were available. The Ohio Risk Tool is currently being used for adults. Both adult and juvenile Probation Officers have been trained on use of the Ohio Risk Tool. Positive Achievement Change Tool (PACT) assessment, an ADC tool, is still being used for juveniles. However, Probation is in the process of transitioning over to Ohio Risk Tool for juveniles as well and will no longer be associated with ADC. Based on the audit and the additional review of the contract performance, there appear to be no funds that need to be recouped from ADC.

Scheduling MIT training days

The County's review into the scheduling of MIT training on days not at work was implemented in conjunction with the audit of payroll practices at the Probation Department at the end of December 2012. The audit of payroll practices determined that the MIT compensation package exceeded what was required by the Probation MOU and such an extensive change in the way hourly employees were paid should have been negotiated by Human Resources. Although the practice employed by the former Chief Probation Officer created confusion and morale problems among Probation employees, it did not violate the terms of the MOU. Under both state and federal law, and the terms of the Probation MOU dealing with when overtime is payable, an hourly employee performing work beyond what is required in that employee's job description, as requested and authorized by a manager, is entitled to compensation including overtime, if applicable. The audit has disclosed a few instances in which confusion may have resulted in erroneous timesheets being completed by employees and approved by Probation management.

MIT Timesheets

The audit of payroll practices identified a few instances where possible over and underpayments may have occurred. The County's audit determined that any variances resulted from the confusion caused by the overly complex MIT compensation plan and not as a result of any intent to defraud the County. The identified overpayments were reported as "not large". The Auditor-Controller's Office (currently Yolo County Financial Services) assisted the Human Resources Department and made the necessary corrections that included a minimal amount of repayments and corrections to leave balances.

Payments and Agreements

It was recommended that any agreements and/or payments for reimbursement for MIT training from other counties should be reviewed for compliance with Yolo County's financial policies and procedures. An updated response in February 2013 stated "The Auditor's audits did find some purchase agreements and contracts related to this recommendation. The Auditor notes, however, that the County does not have clear guidance on shared service agreement authority and recommends developing supporting policies. The County Administrator's Office will work with department heads to develop draft policy for Board consideration in 2013."

It was later reported to the grand jury that the County made a final determination that the existing policy was clear and no further supporting policies were approved by the Board.

Contracting Practices

The contracting practices of Yolo County were part of the audit conducted in 2012 and County Counsel found no evidence of a prior fiscal relationship, although in light of the personal friendship that existed between the former Chief Probation Officer and the president of ADC, it would have been a far better management practice to involve other personnel in the ultimate approval of payment of invoices for services provided by ADC.

A conflict of interest check list has been developed and is to be filled out by department managers or other personnel dealing with outside contractors in which the County managers or employees are queried on whether they have a personal or financial relationship with entities contracting with their department.

No Sole Authority

Regarding sole responsibility over the development and implementation of a contract or vendor, the County initially responded that under the current policies and procedures, although department heads have ultimate responsibility for selection of vendors and the award of contracts within their department, the contracting process usually involves fiscal staff in the department, the County Purchasing Officer, and in many cases, Board of Supervisors approval. Larger contracts usually involve a Request for Proposal (RFP) or bidding process with many individuals in the decision process. Similarly, the payment approval process, in addition to authorization from the department head or designee, passes through the County Auditor-Controller's Office for verification of the existence of a contract or other payment obligation to ensure funds are available to be encumbered for payment.

There were a number of concurrent events involving the procurement procedure. In addition to moving the procurement process to the Financial Services Division and the audit of procurement practices, the County added conflict of interest disclosure to a procurement checklist. As for the audit, it was reported that all of the recommendations identified in the audit mentioned were implemented. A review of the "Probation Audit Report – Final" dated February 19, 2013 included recommendations involving Compensation Arrangements, MI Trainers Time and Attendance, Documentation of Employee Training, Shared Services with other county Probation Departments, Contract Terms and Provisions, Contractors Performance and Conflict of Interest, and Payment of Invoices.

Yolo County Finance: Tracking Changes (2012-13)

The recommendations reviewed include:

- reviewing and regulating internal controls for payroll,
- establishing deadlines for closing bank reconciliations and financial statements,
- assignment of a finance staff member to assist with departmental finance employees with training, coaching and motivation, and
- the Auditor-Controller to approve and sign-off on financial off-line adjustments.

Internal Controls for Payroll

The County conducted an audit of payroll timekeeping in segments. There were no substantial findings. It was recognized that different departments use different systems to track timekeeping and payroll which is creating difficulty merging into one system. The audit reports are currently being reviewed and a consolidated report is anticipated to be released by June 30, 2015.

Deadlines

This recommendation was immediately implemented. The deadline for the monthly bank reconciliations has been set as the end of the following month; and the deadline for issuing financial statements has been set as December 31.

It was reported that there was an improvement and reconciliations were only one month behind in 2013. Since then, a new financial system was acquired and staff has been reassigned to getting the new system complete and operational. Currently, the reconciliations are averaging approximately three months behind.

Training and Support

In the past, the Auditor-Controller's Office had three managers assigned to stay in touch with finance staff at the departments to answer their questions and provide the necessary training. Increased workloads and a hiring freeze caused this practice to be temporarily discontinued. Since then, additional resources were requested to allow this practice to resume. This request was supported and an addition of an internal audit manager allowed for some training to begin.

More recently, staff has been brought together in teams by the acquisition of, and preparation for, the new financial system. Through this team interaction, the staff in other departments have begun to collaborate.

Off-line adjustments

This recommendation was implemented immediately. The grand jury inquired into this practice and learned that there is approval criteria established based on the amount and nature of the adjustment.

Yolo County Promotion Practices: Need for Standards and Oversight (2013-14)

The recommendations reviewed from this grand jury report were:

- a survey should be conducted to assess strengths and weaknesses of each department's promotional practices,
- a unified selection policy should be adopted as part of Human Resources' Personnel Rules and Regulations that create minimum standards for department promotions,
- Human Resources should work with the Yolo County Roads Division to create minimum guidelines covering department promotions and hiring and to provide training to hiring managers and interview panelists,
- courses recently added to the Yolo Training Academy which address how to properly conduct hiring or promotional interviews be made permanent curriculum,
- HR should develop and publicize a process by which complaints regarding promotional practices can be reviewed, evaluated, and acted upon, and
- HR should complete the Personnel Rules and Regulations and develop a timeline for review by employee union groups and adoption by the Board of Supervisors.

Survey Yolo County Department's Promotional Practices

HR completed a survey of Yolo County departments and has identified hiring and promotional practices that differ between departments. In response, HR has developed forms that departments can utilize for the promotion process and is now participating more frequently on interview panels. However, HR has indicated a capacity issue based on HR staff availability and number of interviews conducted by Yolo County.

Unified Selection Policy

This recommendation has been addressed, in part, through enhanced training opportunities made available to Yolo County staff. Training of interviewers is now required at least once every two years.

Yolo County Roads Division

HR has worked with the Yolo County Roads Division with the goal of improving the division's hiring and promotional practices, and believes that they have had a successful impact. HR also believes that the intent of the recommendation has been met by implementing the recommendations for the Unified Selection Policy.

Yolo Training Academy Courses

Although a grand jury review of the Yolo Training Academy course list did not indicate that courses addressing hiring and promotions were part of the academy's permanent curriculum, HR staff indicated that the training remained available and an online training module would be offered to staff in the summer of 2015. HR has also indicated that it will provide specialized on-site training when requested by a department.

Complaint Process

Yolo County believes the "AVENUES" program provides an adequate process for Yolo County employees to anonymously register complaints or concerns with the Yolo County Public Agency Risk Management Insurance Authority regarding hiring and promotion practices. Yolo County employees are notified of the existence of the program through normal county-to-employee channels. Also, if the employee is comfortable making the complaint in-person, they can speak directly to their supervisor, CAO, or the HR Department; or call a dedicated phone-line to the Employee Assistance Program provider. Although the county makes options available to file anonymous complaints, it has been reported that these methods are not being utilized. The county continues to maintain these options at a cost.

Personnel Rules & Regulations

The Personnel Rules and Regulations have been completed and cleared through County Counsel; however, they have not gone through the mandatory meet-and-confer process with the employee bargaining units. Adoption of the personnel rules and regulations has not occurred, partly due to the county recruiting for a new HR Director, and partly due to the bargaining units' resistance to joint negotiations. Yolo County HR has acknowledged that the goal of implementing this grand jury recommendation by December 1, 2014 has passed and is in the process of hiring additional staff to assist in completing the regulations.

Proposition 218 Protest Election Process: "The Yolo Way" (2013-14)

The grand jury looked into all four of the recommendations in this report which included developing a set of procedures for a Proposition 218 election, developing guidelines for the preparation of a Proposition 218 Public Notice, consideration of including a protest form in the public notice, and identification of the appropriate department to maintain and make accessible Proposition 218 election records.

The Yolo County Proposition 218 Procedures and Checklists, provided to the grand jury, includes an outline of procedures for standardizing the Proposition 218 election process, outlines the timeframe for and requirements of the public notice, includes a protest ballot that will be mailed to the residents affected by the Proposition 218 process and establishes the Yolo County

Clerk of the Board as the Office of Record. The ballots will also be scanned and included in the County's electronic archive system (SIRE).

FINDINGS

- F1. A large majority of recommendations resulting from YCGJ investigations have been responded to positively by local government officials and entities, and most responses indicate that recommendations will be implemented, either in full or in part.
- F2. No formal mechanisms are currently in place within local government to track, report, or publicly review responses and actions taken as result of YCGJ recommendations.

RECOMMENDATIONS

- R1. By December 1, 2015, the Yolo County CAO shall work with the Yolo County Counsel to develop a single tracking system for grand jury findings, recommendations, responses and the ongoing status of each item. During the development of this system, consideration should be given to the future ability to release this information in a public document on an annual basis.

INVITED RESPONSES

Pursuant to Penal Code section 933.05, the grand jury invites responses as follows:

- County Administrative Officer: F1, F2, and R1
- County Counsel: F1, F2, and R1

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

BIBLIOGRAPHY

Additional internal documents viewed during investigation:

- COSO 2013 FRAMEWORK: Conducting Effective Assessments and/or Audits of Internal (Management) Controls
- Workshop on the New OMB "Super Circular" Omni-Circular: What is the impact on the grant community?
- Notes taken at a Department Head Meeting on April 10, 2013
- Excel Spreadsheet maintained in CAO and Finance offices regarding 2012-13 and 2013-14 Grand Jury Report Responses and Follow up Schedule
- County of Yolo Administrative Policies and Procedures Manual: Contracting and Purchasing Policies (September 9, 2008), Cost Recovery and Fees (June 7, 2011), Policy

on Employee Timekeeping (August 2, 2011), Code of Ethics—Standards of Ethical Conduct (December 17, 2013)

- Department Process Contract Checklist (rev. May 2013)
- Internal Memo: Review of Internal Controls over Payroll and Contracting at Yolo County Probation Department (February 19, 2013)
- Probation Department Internal Control Review (Payroll and Contracting) Payroll Adjustments (February 19, 2013)
- Yolo County Proposition 218 Procedures and Checklists (undated)