

## **Juvenile Detention Facility Investigation**

### **SUMMARY**

In response to a citizen complaint, the 2017-18 Yolo County Grand Jury (the Grand Jury) conducted a review of issues concerning the Juvenile Detention Facility (JDF) within the Yolo County Probation Department. The Grand Jury reviewed JDF policies, procedures, controls, employee training, human resource practices, and the reporting to the District Attorney of felonies committed by juvenile detainees while in the care of JDF. In addition, the Grand Jury assessed some of the benefits and risks to Yolo County of a program administered by the Probation Department under contract with the Federal Office of Refugee Resettlement (ORR).

The Grand Jury found that the JDF fails to consistently report potential felonies, committed by detainees, to the Yolo County District Attorney as required by law. There is a significant opportunity to improve the effectiveness of the JDF leadership by consistently reporting felonies to the District Attorney and also by addressing the following issues:

- Updating policy and procedures manual.
- Reviewing operational staffing levels to improve effectiveness and safety.
- Increasing effectiveness of employee training, especially for new employees, to reduce the risk of injury and lost time.
- Improving oversight and control of assets, including cash and property belonging to juvenile detainees.

The Grand Jury further recommends that the Yolo County Board of Supervisors weigh the benefits versus the risks of continuing the ORR program.

### **BACKGROUND**

California Penal Code Section 925 states: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, department, or functions of the county, including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts.”

The Grand Jury chose to investigate several aspects of the JDF, also commonly known as “Juvenile Hall.” According to its website (see Bibliography), “The Juvenile Detention Facility is a temporary detention and treatment facility for minors who have been charged with a violation of the law or who have violated conditions of probation.” “Mandates include that the detention facility shall not be operated as a jail, prison, or penal institution and shall be operated in all respects to model a homelike environment.”

Yolo County youths under the age of 18, and youths in the ORR program over the age of 14 and under the age of 18, may be housed at the JDF.

The facility shares with the adult detention facilities part of the county property near the intersection of County Road 102 and East Gibson Road in Woodland. However, it is operated separately from those facilities, which are defined as jails and are under the jurisdiction of the Yolo County Sheriff. Juvenile Detention is part of the Probation Department and, as such, reports to the Yolo County Board of Supervisors through the County Administrator. The facility is modern, completed in 2005, and has a capacity of 90 beds, divided into three units known as pods, each with 30 beds. Each pod has two classrooms, space for basic medical assessments, and an activity area.

## METHODOLOGY

The Grand Jury obtained information from the following sources:

- Interviews with multiple employees and administrators of the Yolo County Probation Department, including those of the JDF.
- Investigation reports from the Yolo County Sheriff's Department.
- Documents, records and Worker's Compensation reports from the Yolo County Human Resources Department.
- Financial documents and records pertaining to the JDF.
- Federal regulations and details pertaining to the ORR program from the administration of the Federal Office of Refugee Resettlement in Washington, D.C.
- Information and news articles involving the ORR program and Yolo County from the Yolo County website and other sources cited in the bibliography.
- California legal codes and definitions, as well as requirements for reporting assaults and other possible felonies, from the Yolo County District Attorney's Office.
- Audit reports from the JDF and the Yolo County Department of Financial Services.
- Tour of the JDF.
- Reports from the Vacaville Police Department and JDF regarding an escape of Yolo County detainees during transport.

## DISCUSSION

The Probation Department, which includes the JDF, has come under the scrutiny of the Grand Jury in the recent past. The 2011-2012 Yolo County Grand Jury (see Bibliography) investigated that department, focusing mainly on employee training. They found that the Probation Department "...Policy manual has not been fully revised and distributed since 1995, which has contributed to inconsistent direction of supervisors and staff, lowering productivity and morale." They also found that "There is no training in place for employees entering [Probation Department], which defines routine requirements and procedures..." That Grand Jury made several recommendations including a complete revision of the Probation Department Policy Manual and the creation of a position to oversee the training program (see Policies and Procedures, and Training below).

In 2008, Yolo County entered into an agreement with the Federal Office of Refugee Resettlement to provide care for immigrant youths between 14 and 18 years of age. These youths are considered to need a secure facility and staff who can control violent behavior. They are considered to pose a risk to themselves or others, or have been charged with committing a crime. For the year February 1, 2017 through January 31, 2018, the amount of the ORR grant to Yolo County was approximately \$2.9 million to house and provide needed services for up to 24 ORR youths. The ORR grant benefits Yolo County financially, but it also creates serious risks.

Based on a recent citizen complaint, many alleged deficiencies of the JDF were brought to the attention of the Grand Jury. During the current investigation, the Grand Jury found the following to be true:

### **Reporting Felonies**

- The JDF has failed to report a number of potential felonies, such as assault (see Glossary) and escape, to the Yolo County District Attorney for consideration for prosecution, as required by law. Leadership at the JDF did not identify this deficiency or did not have policies and procedures in place to guarantee that all felonies were reported to the District Attorney.
  - According to the California Welfare and Institutions Code section 653.5, if it appears to a probation officer that a minor who is at least 14 years of age has committed an offense that qualifies as a felony, the case shall be referred to the prosecuting attorney. The word "shall," as used here in the legal sense, is a command, meaning "must" or "is required to."
  - Inconsistent document flow, related to injuries caused by juvenile detainees, has resulted in potentially felonious assaults on detention officers not consistently being reported to the District Attorney's office for possible prosecution of the responsible juveniles.
  - According to California Welfare and Institutions Code section 725(b) and section 602, if any person who is under 18 years of age (which includes most

ORR youths) when a crime is committed violates any law of the country, this state, or any city or county within this state, "...the youth is within the jurisdiction of the juvenile court, which may adjudge such a person to be a ward of the court." Some employees interviewed by the Grand Jury perceive that this is the reason why ORR youths are not consistently prosecuted for crimes committed while in the custody of JDF. The ORR juveniles would become wards of the court, under the jurisdiction of Yolo County, and no longer under the jurisdiction of the ORR program. They could then become a financial burden on Yolo County, as well as a safety risk for the community.

- o Assault upon a correctional officer, under California law, is a wobbler offense (see Glossary). Thus, it can be prosecuted as either a misdemeanor (see Glossary) or a felony. Discretion is given to the prosecuting attorney and to the court.
- o During 2017, ORR youths were responsible for more assaults on JDF staff than were Yolo detainees. In that year, there were at least 10 assaults on staff and one escape, all of which could be prosecuted as felonies. For this Grand Jury analysis of assaults, youth-on-youth assault was not included. Some of the assaults resulted in injuries to staff. By the end of 2017, only one of these potential felonies had been reported to the District Attorney.

### **Policies and Procedures, and Training**

- The Probation Policy manual as it applies to the JDF is still inadequate. The updating of the Policy manual is not yet complete even though revisions were recommended by the 2011-2012 Grand Jury. Efforts have been made to complete the task, but disputes and interference from administrators have effectively thwarted the process.
- Training of JDF staff is not adequate. According to testimony from multiple interviews, training of extra help, i.e. temporary employees hired to fill in during staff shortages and absences, is not adequate. Extra-help staff often undertake tasks, such as overseeing unruly detainees, in which the danger of bodily harm is very real, and where proper training is especially important.

### **Escape by ORR Detainees**

- According to witness testimony, internal Probation Department reports and a report provided by the Vacaville Police Department, there was an escape by two ORR youths on Jan. 9, 2017. This escape occurred during transport from Federal Court in San Francisco back to the JDF. The JDF leadership failed to communicate this escape as a felony to the District Attorney. Some of the deficiencies of the JDF are illustrated by that event. While being driven through Vacaville, one of the five youths returning from a court appearance feigned or experienced an actual medical emergency. Contrary to policies and procedures, the driver of the transport van pulled off the highway and into a parking lot so that he or she could assist the ill youth. While the van door was open, two other youths jumped out of the van and ran away. They had apparently managed somehow to

cut their “soft restraints.” So-called soft restraints, such as those made of plastic and/or fabric, are required under ORR regulations. Hard restraints, such as metal handcuffs or chains, may be used on Yolo County youths. If proper procedures had been followed, the van would have been opened only in a secured area such as a police station or secure prisoner entrance to a courthouse. The driver was a trained and experienced transportation officer. The second, and only other officer present, was assigned to that transport because of a shortage of personnel on that day. The second officer was not trained in proper procedures for transport of detainees. The second officer was ordered to pursue the escapees, leaving only one officer with the remaining three youths, another violation of policy. The escaped youths jumped a fence and hid in the backyard of a local residence while the resident was at home. Fortunately, the escaped youths were eventually detained by the Vacaville Police Department, preventing the incident from escalating into an event that could have endangered the wellbeing of the detainees, the involved officers, or residents of the surrounding area.

- o According to California Penal Code section 4532, any person who escapes or attempts to escape from the custody of any officer or person in whose lawful custody he or she is maintained, is guilty of a felony.
- o According to California Penal Code 4532, the escape mentioned above should have been reported to the District Attorney for possible prosecution as a felony. It never was.

### **Appearance of Favoritism**

- During the Grand Jury investigation, it was confirmed by several witnesses that a personal relationship existed between a Probation Department senior leader and another supervisory employee in the same department.
  - o The Yolo County Probation Department has a policy on “Nepotism and Conflicting Relationships” (Policy 750). It defines a “Personal Relationship” to include “marriage, cohabitation, dating or any other intimate relationship beyond friendship.” Its purpose is to “ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism...” It prohibits employees “...from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee...with whom they are involved in a personal or business relationship.”
  - o A potential violation of Policy 750 existed despite a change to the Organization Chart of the Probation Department to avoid the appearance of a supervisor and subordinate workplace relationship. This policy was violated and there was an inappropriate interactive environment.
  - o According to many witnesses interviewed by the Grand Jury, significant frustration and the perception of favoritism existed among many Probation Department employees, related to hiring and workplace behavior, because of this inappropriate workplace relationship.

- During this investigation, it was learned by the Grand Jury that a significant reorganization of the management of the Probation Department would take place.

### **Theft and Asset Controls**

- According to Probation Department and other internal county reports as well as witness statements, during 2017 two thefts of ORR youths' money occurred at the JDF. The money, in the form of cash, was being held for them by the Probation Department during their incarceration at the JDF. After the first theft, it was assumed by the administration that the money had been misplaced. However, a short time later another ORR youth's money was found to be missing. After the second theft, the administration concluded that the money had been stolen each time by an unknown Probation Department employee. Because of the amounts that were stolen, \$1540 and \$1681, both thefts were felonies. Yolo County is liable for reimbursing both ORR youths.
  - After the second theft, and only then, the Sheriff's Department was called in to investigate. The investigation is still in progress.
  - Many deficiencies have since been found by Yolo County auditors, one of which was failure to use an available safe. According to the audit findings, "There does not appear to be any oversight over any expenditures in regard to any funds" at the Probation Department.

### **The ORR Program**

- According to the Federal Register, "The Unaccompanied Children Programs are directly responsible for providing services to unaccompanied children who are referred to ORR for care pending immigration status, or identified as victims of trafficking" (see Bibliography).
- On April 25, 2017, the Yolo County Board of Supervisors received an update from the Probation Department, "ORR Grant Notice of Award & Program Update" (see Bibliography).
  - Yolo County applied for and accepted an award from the federal Department of Health and Human Services Administration for Children and Families Office of Refugee Resettlement to continue to provide "secure placement" for up to 24 unaccompanied alien children.
  - The grant was not to exceed \$2,973,724 for a one-year period from February 1, 2017, through January 31, 2018, plus two one-year optional extension periods.
  - Fewer than 2% of all unaccompanied alien children are placed in secure care. JDF is one of only two secure placements for ORR youths in the country. The other ORR facility is in Virginia.
  - Factors used by ORR in considering placement in secure facilities include: history of committing or threatening violence to others, committing or threatening self-harm, past adjudication as a delinquent or conviction of a

crime as an adult, having been charged with a crime, or needing further assessment for admitted violent criminal history.

- o Youth, including ORR youth in custody of JDF, receive education and access to literacy services; medical, dental, and mental health services; and various behavioral support programs.
- Recently the ORR program has come to the attention of the citizens of Yolo County via the news media:
  - o Anita Chabria reported in the Sacramento Bee that the federal government has failed to provide evidence of gang-affiliation by undocumented ORR youths, leaving Yolo County without just cause to hold them in its high-security facility (see Bibliography).
  - o Hans Peter reported in the *Woodland Daily Democrat* that “The county’s Juvenile Detention Facility marks one of only two high-security centers in the U.S., often accepting children from all over the nation before more appropriate care is found...the secure facility may be taking in youth that have no business being shipped across the country in the first place” (see Bibliography.)
  - o The *Davis Enterprise* reported that “Yolo County named in lawsuit alleging minors illegally detained.” “The American Civil Liberties Union and ACLU of Northern California filed a lawsuit...accusing the federal government of using unsubstantiated claims of gang affiliation to illegally detain teenagers in ‘jail-like’ facilities in California – including Yolo County” (see Bibliography).

### **Benefits of The ORR Program to Yolo County**

- The County of Yolo receives funding from a federal grant of approximately \$2.9 million annually to house up to 24 juveniles.
- The grant pays the salaries of many personnel at the JDF who would probably be laid off without continued funding of the grant.
- The grant is used in part to pay for JDF improvements, which potentially benefit Yolo County detainees.
- The grant contributes to JDF fixed expenses.
- There is a potential to share ORR-funded staff and programs with Yolo County detainees.

### **Risks of the ORR Program to Yolo County**

- Based on analysis of injury reports, there is greater risk of injury to JDF staff from ORR violent detainees as contrasted to Yolo County youths.
- ORR youths, if prosecuted for felonies committed at the JDF, might become wards of Yolo County, increasing the financial burden to the county.
- There are potential risks to residents of Yolo County and surrounding areas from escapees if incidents of escape should reoccur.
- According to testimony, ORR youths pose a greater risk to JDF staff due to behavior problems. This may be related to the expectation of different treatment or lack of punishment compared to Yolo youths. For example, hard restraints may not be used on ORR youths and, based on multiple felony assaults on Detention Officers by ORR youths not being filed with the DA, there is a reluctance to have ORR youths become wards of Yolo County.

### **FINDINGS**

- F1. Some administrators, supervisors, and staff do not have clear directions concerning what is required of them within the Probation Department, and specifically within the JDF. This is similar to the finding of the 2011-12 Grand Jury. The lack of an updated policy and procedure manual results in inconsistent direction from supervisors and reduced department effectiveness.
- F2. There is insufficient training for routine and safety-related requirements and procedures for new and extra-help JDF employees.
- F3. Assaults and other potential felonies are not consistently reported to the District Attorney in a timely manner.
- F4. Inadequate operational staffing increases the risk of injuries to JDF staff caused by detainees. Many of these injuries result in lost work time and productivity.
- F5. Oversight and accountability is lacking over any funds, including cash and property of detainees, due to lack of controls, policies and procedures, or failure to adhere to them.
- F6. The ORR program, which is administered in Yolo County by the JDF, presents benefits and risks to the county.

### **RECOMMENDATIONS**

- R1. By December 31, 2018, the Probation Department should update and complete the policies and procedure manual pertaining to the JDF. Provisions should be put in place to guarantee continuing updates as needed.
- R2. By December 31, 2018, a strict and formal training curriculum for JDF personnel should be put in place, together with proper record keeping and review to assure

that training is comprehensive and effective. Records should include subject, actual hours of in-person training, date of completion and signatures of trainee and trainer.

- R3. By December 31, 2018, audits of training records should be made annually by the Yolo County Human Resources Department. It should be assured that no staff member can be assigned to duties for which he or she is not trained.
- R4. By October 31, 2018, the JDF should convene an advisory committee of staff members, chosen by rank-and-file staff, who are experienced in interacting with juvenile detainees. This committee should work with management to resolve problems with training, staffing, injuries, and lost time.
- R5. Beginning in the first quarter of 2019, the Yolo County Department of Financial Services should audit, at least annually, the effectiveness of the updated procedures related to the control of assets, including money and other property of detainees.
- R6. Effective immediately, the JDF should report all potential felonies committed by juvenile detainees to the Yolo County District Attorney as required by California law and Probation Department policies and procedures.
- R7. By October 31, 2018, the Yolo County Board of Supervisors should review the ORR program, weighing the benefits and risks, and consider whether to continue the program in Yolo County or not.

#### REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows.

From the following governing body:

- Yolo County Board of Supervisors - F1, F2, F3, F4, F5, F6, R1, R2, R3, R4, R5, R6, R7

From the following individual:

- District Attorney of Yolo County - F3, R6

#### INVITED RESPONSES

From the following individuals:

- County Administrator of Yolo County - F1, F2, F3, F4, F5, F6, R1, R2, R3, R4, R5, R6, R7.
- Chief Probation Officer of Yolo County - F1, F2, F3, F4, F5, F6, R1, R2, R3, R4, R5, R6, R7.

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to notice, agenda, and open meeting requirements of the Brown Act.

## GLOSSARY

- **Assault** is defined by California law (California Penal Code 240) as an attempt to commit a violent injury on someone else. Simple assault is a misdemeanor under California's criminal laws (California Penal Code 240). Assault on a peace officer is a wobbler (California Penal Code 241(c)), (See “Wobbler” below).
- **Felony** is a crime that carries a sentence of death, or imprisonment in a state prison or a local county jail (California Penal Code 17(a)). Thus, it is defined by the severity of the sentence.
- **Misdemeanor** is a crime for which the maximum sentence is no more than six months in county jail (California Penal Code 19). Thus, as with a felony, it is defined by the severity of the sentence.
- **Wobbler** is a crime that can be charged as a misdemeanor or a felony, depending on the facts of the case and the criminal history of the defendant. Wobbler crimes are those for which punishment is either up to one year in county jail or imprisonment. Discretion lies with the prosecutor and the court. Assault with a deadly weapon or by means of force to inflict bodily injury is a wobbler in California.

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Reports issued by the Civil 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 Civil Grand Jury.
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