



# **NEVADA COUNTY GRAND JURY**

**Final Report  
with  
Responses  
2015 - 2016**





**GRAND JURY**  
**COUNTY OF NEVADA**  
**Eric Rood Administration Center**  
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November 1, 2016

The Honorable Thomas M. Anderson  
Presiding Judge of the Grand Jury  
Superior Court of Nevada County  
201 Church Street  
Nevada City, California 95959

Dear Judge Anderson:

It is my pleasure to forward to you the enclosed Consolidated Final Report from the 2015/16 Grand Jury. This Consolidated version includes all specific subject Reports issued by that Jury and all responses thereto. This Final Report completes our process of making Reports and Responses available to the public.

The Jury's review of the responses was limited to determining whether they complied with the requirements for responses in California Penal Code section 933.05. This review was conducted by the successor Jury due to the fact that the responses were received after the close of the 2015/16 Jury.

Copies of this Report will be placed on file with the Clerk of the Court, who will forward one copy to the California State Archivist. The Clerk of Nevada County will also receive copies. Additional copies will be placed on file in County libraries and made available to the media. The Report has been published on our website: <http://www.civilgrandjury.com> making it available to the public and government officials. The Jury will, as required, send one copy to the University of California, Government Studies Library, Berkely, California.

The Nevada County Grand Jury wishes to express their appreciation to you and your staff for your valuable assistance and support we have received throughout the year.

Respectfully submitted,

Thomas Achter, Foreman,  
2016 - 2017 Nevada County Grand Jury

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# MEMBERS OF THE NEVADA COUNTY GRAND JURY 2015 – 2016

Doug Wight  
Foreman

Mark Brown  
Foreman Pro Tem

Mary Rosenberg  
Administrative Secretary

JoAnn Marie  
Sergeant-at-Arms

Karen Schadel  
Business Manager

Thomas Achter  
David Anderson  
Brian Bishop  
Sharon Collins  
Judith Cowles

Gary Davis  
Kay Edmonds  
Alice Erickson  
Pamela Lehmann  
Gordon Mangel

Gary Morgan  
Keith Overbey  
Ronald Spiller  
Terence Young

## RESPONSE REQUIREMENTS

Following are the pertinent excerpts from the current California Penal Code concerning responses to a Grand Jury report:

“Section 933(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and

reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

“Section 933(d) As used in this section "agency" includes a department.

“Section 933.05(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (3) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

“Section 933.05(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

The penal code also requires that the Grand Jury be available to the respondents for 45 days to clarify the recommendations of its report.

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# **CITY GOVERNMENT**

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## **Body Worn Cameras**

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**Nevada County Grand Jury Report with Responses  
2015-2016**



# **BODY WORN CAMERAS**

## **SUMMARY**

The Nevada County Civil Grand Jury researched the expanding topic of audiovisual technology and inquired into the efforts of local law enforcement agencies to provide more transparency and public safety by recording their field activities using Body Worn Cameras.

There exist extensive studies and compelling results throughout California and the nation that provide convincing evidence of improved officer-to-citizen interaction and safety, less confrontation, reduced citizen complaints, and improved community relations through the use of Body Worn Cameras.

A leading expert in law enforcement, the Director of Police Practices of the American Civil Liberties Union, Peter Bibring, summarized his assessment that: “ ... with cameras on the scene to record the action, people behave better.”

The Nevada County Civil Grand Jury also researched causes of this phenomenon and affirmed the fallacy of eye witness testimony. Research shows that “our eyes deceive us” at a surprising rate. Differences in description of the occurrences, differing eye witness testimony, appearance of “cell phone video” that only recorded a portion of the incident, and the effects of chaos and crowd reaction have caused instantaneous breakdown of order and major threats to officers and citizens alike. The resulting turmoil has led to continuing confrontation between citizen and officer after the incident, causing significant community unrest and, in some instances, riot conditions, property damage, injury and even death. Nevada County is not immune to this turmoil.

The Nevada County Civil Grand Jury believes there is an effective way to improve our chances against such violence happening here.

Presently, within Nevada County, two law enforcement agencies, the Truckee and Nevada City police departments, have, at least partially, deployed Body Worn Cameras on their officers. The Nevada County Civil Grand Jury interviewed officers and agency management to assess what is known and what is yet to be determined about Body Worn Cameras.

In both cases, a strong sense of success elsewhere was evident in their research of the subject. The Truckee Police Department has shown the citizen complaint process was reduced significantly due to almost immediate resolutions of the complaints. A high ranking official of the Truckee Police Department stated: “The assertion of the ACLU is correct as far as I’m concerned. People, citizens and officers alike, do in fact behave

better. We have had fewer complaints and those we've received have been resolved almost immediately, instead of dragging on in an endless argument of 'he said-she said'." When asked if it put money back into the town treasury, he answered: "Not directly, but it did put a badge back on the street that would have been otherwise wrapped up in the complaint resolution process."

The Nevada County Civil Grand Jury believes the information on this subject is sufficient to proceed. The advantages of Body Worn Cameras outweigh the concerns and even the associated costs. The Nevada County Civil Grand Jury calls upon the Nevada County Board of Supervisors, the City/Town Councils of Grass Valley, Nevada City and Truckee, and the police and sheriff departments of Nevada County to actively promote full deployment of Body Worn Cameras.

## **GLOSSARY**

**ACLU** – American Civil Liberties Union  
**BPD** – Birmingham (Alabama) Police Department  
**BWC** – Body Worn Camera  
**COPS** – Office of Community Oriented Policing Services  
**GVPD** – Grass Valley Police Department  
**IACP** – International Association of Police Chiefs  
**Jury** – Nevada County Civil Grand Jury  
**LAPD** – Los Angeles Police Department  
**NCPD** – Nevada City Police Department  
**NCSO** – Nevada County Sheriff's Office  
**NIJ** – National Institute of Justice  
**POV** – Point-of-View  
**TPD** – Truckee Police Department

## **BACKGROUND**

In the 1980s, Mothers Against Drunk Drivers (MADD) brought a heightened awareness to the problem of drinking and driving. Because of their lobbying efforts, prosecutors put greater emphasis on obtaining convictions. Police began using cameras to document field sobriety tests and these recordings were found to be highly effective in supporting convictions. MADD initiated the purchase of in-car camera systems for law enforcement agencies to be used in apprehending drivers impaired by alcohol and drugs.

In March 1991, a bystander videotaped Rodney King being beaten by Los Angeles Police Department (LAPD) officers. The videotape incited public anger about police brutality and was used as evidence in the trial.

By 1999, allegations of racial profiling and brutality were being lodged against law enforcement agencies across the United States. At the same time, assaults on officers were on the increase. In response to these concerns, legislative bodies across the country began enacting laws that required law enforcement agencies to document details of traffic stops with the use of in-car cameras. While dashboard cameras are useful for capturing interactions during traffic stops, they have limited use due to their fixed focus.

Point-of-view cameras (POVs) have been available since the 1920s, providing an objective camera angle through the eyes of an unseen observer. They are widely used in airplanes, spacecraft, laparoscopic surgery, and extreme sports. Recently, a new class of miniature POV cameras that can be mounted on a law enforcement officer's uniform, hat, collar, or eyeglasses appeared on the market. These cameras, referred to as Body Worn Cameras (BWCs), allow officers to record outside of their cars. Any call that might involve entering a citizen's home or on remote areas of their property can be captured on video: domestic disputes, serving search warrants, parole checks, and street encounters with potential suspects. These cameras are now in wide use across the United States. Los Angeles is now issuing them to every officer on its force; San Francisco is soon to follow suit. Oakland has used this technology since 2010 and now has well over 600 cameras in operation.

Recently, a high ranking official of the LAPD said he was eager for his department to embrace this technology. He believes in a few more years body cameras will be standard issue for all public safety employees. Everyone "... police officers, firefighters, paramedics ... every public safety employee, will have them. I think it improves behavior on both sides of the camera, which is our goal."<sup>1</sup>

An incident caught on camera has an obvious benefit. The Director of Police Practices for the American Civil Liberties Union (ACLU), Peter Bibring, recently summarized his assessment that "... with cameras on the scene to record the action, people behave better."<sup>2</sup>

## **APPROACH**

In addition to existing literature reviewed on the Internet, the 2015-2016 Nevada County Civil Grand Jury (Jury) interviewed various personnel from law enforcement agencies in Nevada County. A survey form was also sent to agencies.

## **DISCUSSION**

On the first anniversary of the shooting and death of Michael Brown by Officer Darren Wilson of the Ferguson, Missouri Police Department, the August 9, 2015 headline of *The New York Times* read: "What Happened in Ferguson?" The story went on to tell of

multiple eye witnesses to the shooting who hardly agreed on any aspect of the event. Stories from eye witnesses ranged from the extreme – they cited heroic action by the officer – to a remorseless and brutal cold-blooded killing. The turmoil created by that event reverberated across the entire country, proving once again the flaws of eye witness testimony.

In a 2010 report from *Scientific American*, titled “Why Science Tells Us Not to Rely on Eyewitness Accounts”<sup>3</sup>, the Innocence Project researchers reported “ ... in the past 15 years, 73 percent of the 239 convictions overturned through DNA testing were based on eyewitness testimony.”

At the onset of a study of BWCs at the Rialto (California) Police Department, it was suggested that requiring officers to wear BWCs might have a “chilling effect” on the officers, meaning they would become less proactive and, as a result, less effective in dealing with crime. A high ranking official of the Rialto Police addressed this issue stating: “The thinking was that some officers wearing cameras might try to hide and not really do their job. We found the opposite. We actually had 3,000 more officer-citizen contacts during the year of the experiment.” Additionally, the official added “ ... in 2013, the number of formal complaints against officers had plunged 88% and officer ‘use of force’ incidents dropped by 59%.”<sup>4</sup> It is possible that this finding may be explained in part by changes in citizen behavior. Specifically, citizens may have altered their behavior during their encounters with officers who were wearing cameras, such as being more respectful and compliant, which led to fewer incidents in which officers needed to use force. Additionally, some have speculated that the officers wearing BWCs behave better because their actions are now subject to comprehensive review. Rialto city officials plan to expand its camera program.

The deployment of BWCs at the LAPD has continued in spite of the reality that the benefits of the use of video recording cameras are still empirically uncertain. However, anecdotal findings do support the thesis.<sup>1</sup> Additionally, evidence from the BWC evaluation at the Phoenix (Arizona) Police Department “ ... suggests the technology appears to have a ‘civilizing effect’ on citizens once they realize the camera is recording their behavior.”<sup>5</sup> While these data are still inconclusive, they do point to significant reductions in complaints toward the entire force and 65% fewer complaints regarding officer BWC users compared to non-BWC users.

Deployment of BWCs is not without significant cost. The cameras are only a small portion of the overall cost of a BWC system. Every officer must have access to at least one working camera. There must be backup cameras available to replace broken units or while a unit is recharging or otherwise offline. The biggest cost in a BWC system is for storage of the video recordings.

Birmingham, Alabama is one of the growing numbers of police departments to deploy BWCs. The Birmingham Police Department (BPD) purchased 319 BWCs from Taser International (Taser), costing about \$180,000, or \$564 per camera. BPD’s contract with Taser also included a hardware replacement warranty, cloud storage, and a file

management service to deal with the content the cameras produce. Total cost of the five-year contract will be \$889,000.<sup>6</sup>

Alabama law allows a citizen to file suit against the police as much as two years after an incident. As a result, the BPD must store a video for a minimum of two-and-a-half years in case it is needed for evidence in a trial. The initial contract included 5 terabytes (TB) of cloud storage. In the first two months, however, BPD had already used 1.5TB of its available storage. It is expected to exceed the 5TB limit by February 2016, only six months into the contract.<sup>6</sup>

An official of the BPD Technology Division, has said “In spite of the costs, if it stops one or two lawsuits, it’s paid for itself.”

Recent discussions with the Truckee (California) Police Department (TPD) revealed that they have instituted a strict classification coding system which identifies the severity of each incident/engagement and codes the resultant video data with that severity code. An incident/engagement categorized as “Code #1” would indicate the lowest severity, whereas “Code #10” would indicate higher severity. This has allowed the TPD to use the categories to determine the length of data storage required. Rather than storing the data from each incident for the same duration, they now use a duration scale from zero to 2 ½ years and properly store the data accordingly. Eliminating or lessening data storage duration in this way has the potential of significantly reducing the resultant costs of data storage.

An assessment of the use of BWCs within Nevada County by the Jury shows that two agencies, the Nevada City and Truckee police departments, have deployed BWCs, at least partially. The Jury was informed that the Grass Valley Police Department plans to deploy the use of BWCs, and has secured funding for this purpose. In an interview with Nevada County Sheriff’s Office (NCSO) management, it was disclosed that they were satisfied with their use of the fixed focus, in-car cameras at this time. The NCSO foresees a time when BWCs will be required by the Legislature for use by all law enforcement activities, but are not intending to pursue them at this time. They have identified a “working group” within the Sheriff’s Office that is discussing the matter. One of the Nevada County law enforcement officers interviewed by the Jury pointed out that their body cameras are manually turned on and off by the officer. An officer may forget or be unable to activate the camera at critical times. Although equipment can occasionally malfunction and batteries lose their charge, clear departmental policies mandating when and how these devices are to be used must be established. An unfortunate or unplanned incident at an inopportune time can cause negative setbacks, frustrate law enforcement efforts, and erode public confidence. Explicit policy guidance and specific procedural direction is essential. Officers should be trained to understand the use and utility of the body cameras they wear, and they must be called to account if they fail to follow departmental policy.

In September 2013, the US Department of Justice Office of Community Oriented Policing Services, in conjunction with the Police Executive Research Forum, hosted a

conference in which more than 200 police chiefs, sheriffs, scholars, and federal criminal justice officials shared their experiences and perspectives with BWCs. The conference issued a paper entitled *Implementing a Body-Worn Camera Program*<sup>7</sup> summarizing the results. The paper included recommended policies reflecting the promising practices and lessons that emerged from the conference. The Appendix of that paper listed 33 policy recommendations discussed in more detail in the paper. Some of them are listed below:

- General recommendations –
  - Policies should clearly state which personnel are assigned or permitted to wear BWCs and under which circumstances.
  - Policies should stipulate specific conditions under which an officer might be required to wear a BWC.
  - Officers should be required to articulate on camera or in writing their reasoning if they fail to record an activity that is required by department policy to be recorded.
- Recording protocols –
  - Officers should be required to activate their BWCs when responding to all calls for service and during all law-enforcement-related encounters that occur while an officer is on duty.
    - Policies and training materials should clearly define the definition of “law-enforcement-related encounters.”
  - Officers should be required to inform subjects when they are being recorded unless doing so would be unsafe, impractical, or impossible.
  - Once activated, the BWC should remain in recording mode until the conclusion of an incident/encounter, the officer has left the scene, or a supervisor has authorized (on camera) that a recording may cease.
  - Officers should have the discretion to keep their cameras turned off during conversations with crime witnesses and members of the community who wish to report or discuss criminal activity in their neighborhood.
    - Policies should provide clear guidance regarding the circumstances under which officers will be allowed to exercise said discretion.
  - Policies should clearly state types of recordings that are prohibited, such as
    - conversations with other agency personnel during routine, non-law-enforcement-related activities,
    - conversations with confidential informants and undercover officers,
    - places where a reasonable expectation of privacy exists (restrooms or locker rooms), or
    - strip searches.

- Download and storage policies –
  - Policies should designate the officer as the person responsible for downloading recorded data from his or her BWC.
    - In certain clearly identified circumstances (officer-involved shootings, in-custody deaths, other incidents that result in bodily harm or death), the officer’s supervisor should immediately take physical custody of the BWC and should be responsible for downloading the data.
    - Videos should be properly cataloged at the time they are downloaded.
  - Policies should include specific measures to prevent data tampering, deleting, and copying.
  - Policies should specifically state the length of time recorded data must be retained and where videos are to be stored.
- Recorded data access and review –
  - Officers should be permitted to review video of an incident in which they were involved prior to making a statement about the incident.
  - Policies should clearly describe the circumstances in which supervisors will be authorized to review a video.
  - The agency’s internal affairs unit, rather than the officer’s direct chain of command, should periodically conduct a random review of videos to monitor compliance.
  - Policies should explicitly forbid agency personnel from accessing video for personal use and include specific measures for preventing unauthorized access or release of recorded data.
- Training policies –
  - BWC training should be required for all agency personnel who may use or otherwise be involved with BWCs.
    - Training should take place before they are equipped with BWCs.
    - Agencies should require refresher training at least once per year.
  - A BWC manual should be created.
- Policy and program evaluation –
  - Agencies should conduct periodic reviews of their BWC policies and protocols.

It is critical for agencies to engage the community, policymakers, courts, oversight boards, unions, frontline officers, and other stakeholders in the planning of the BWC program. Open communication prior to and after BWC deployment can strengthen the legitimacy of the program, demonstrate agency transparency, and educate stakeholders about the realities of using BWCs.<sup>7</sup>

In *Program Evaluation and Recommendations – On-Officer Body Camera Systems*<sup>5</sup> of the Mesa (Arizona) Police Department study of the deployment of 50 Body Worn Cameras (October 2012 through October 2013), several unseen costs were explored.

When Public Records Act requests for video copies of BWC files were received, they usually required the Mesa Police Department to redact information that should not be released, such as personal biological information, juvenile faces, undercover officers, informants, nudity, and other sensitive information as determined by the Staff Attorney. The time to review each video, including the redacting process, was approximately 10 hours. In a large police force with continuing and multiple Public Record Act requests, this could constitute a considerable expense.

An information sheet provided by the National Institute of Justice,<sup>8</sup> documents that the use of BWCs can be a cost effective method of increasing officer safety and evidence collection while improving agency and officer integrity, but only if all aspects of implementation are considered. Typically, agencies need guidance and information to help them assess their needs, make cost-effective decisions, navigate the acquisition process, and manage video evidence.

Fortunately, such help does exist: the National Institute of Justice (NIJ), the International Association of Chiefs of Police (IACP), and the Office of Community Oriented Policing Services (COPS) have conducted national studies, amassed data from focus groups, interviews and surveys, and continue to gather information to implement and assess the value of BWCs to law enforcement agencies. This information is used to set nationally recognized procedures, standards, and specifications for such equipment. These organizations also provide funding through grants to law enforcement agencies all over the country.

Aggregate studies thus far show that BWCs provide substantial value to law enforcement agencies and involved citizens alike, such as:

- enhanced officer safety,
- de-escalation of situations that risk becoming confrontational,
- improved accountability and professionalism,
- reduction of time and legal expense in investigating complaints against officers,
- video identification of suspects,
- evidence for trial, and
- improved community and media perception.

These studies also include the following concerns regarding BWCs from officer and civilian alike:

- the system only records what is in view or within earshot;
- privacy and civil rights issues;
- equipment can malfunction or not be available at all times;
- some equipment can be manually disabled by the officer, creating suspicion as to the intention of the officer;
- maintenance and update costs;
- procurement and operating expenses; and
- officer concerns about being monitored.

Responsible deployment of BWCs must take these and other issues into consideration and develop comprehensive policies and procedures. NIJ, IACP, COPS and other organizations have developed generic procedures that adequately address most concerns.

## FINDINGS

- F1.** Body Worn Cameras have been shown to improve officer-to-citizen interaction and safety.
- F2.** Body Worn Cameras have been shown to reduce citizen complaints.
- F3.** Body Worn Cameras provide more clarification of contested incidents between officer and civilian.
- F4.** Body Worn Cameras appear to provide some measure of crowd control and mitigation.
- F5.** Body Worn Cameras reduce time and legal expense in investigating complaints against officers.
- F6.** In Nevada County, the Truckee and Nevada City police departments are presently using Body Worn Cameras.
- F7.** The Jury was informed that the Grass Valley Police Department plans to deploy the use of BWCs and has secured funding for this purpose.
- F8.** The Nevada County Sheriff's Office has expressed a desire not to deploy Body Worn Cameras at this time.
- F9.** Interagency communication concerning Body Worn Camera deployment, techniques, policies, and operating procedures has been shown to improve overall results.

## RECOMMENDATIONS

- R1.** The Nevada County Sheriff's Office should deploy and use Body Worn Cameras.
- R2.** The Nevada County Sheriff's Office should request funds from the Board of Supervisors for Body Worn Cameras and pursue other funds, grants and the like.
- R3.** Nevada County law enforcement should include the community, policymakers, courts, oversight boards, unions, frontline officers, and other stakeholders in the evolution of their Body Worn Camera programs.

## REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Nevada County Civil Grand Jury requests responses from the following:

- The Nevada County Sheriff's Office as to Findings F1-F5, Findings F8-F9, and Recommendation R1-R3.
- The Nevada County Board of Supervisors as to Recommendations R2-R3.

All responses are due by July 25, 2016.

## BIBLIOGRAPHY

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3. *Scientific American*, January, 2010: "Why Science Tells Us Not to Rely on Eyewitness Accounts" by Hal Arkowitz and Scott O. Lilienfeld.
4. *Journal of Quantitative Criminology*, September 2015 (published online November 2014): "The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial," by Barak Ariel, William A. Farrar, and Alex Sutherland.
5. *Program Evaluation and Recommendations – On-Officer Body Camera Systems* by Mesa (Arizona) Police Department, October 2012 through October 2013.
6. *Computerworld*, September, 2015: "As police move to adopt body cams, storage costs set to skyrocket" by Lucas Mearian.

7. US Department of Justice Office of Community Oriented Policing Services and the Police Executive Research Forum, September, 2013: *Implementing a Body-Worn Camera Program*.
8. National Institute of Justice Information Sheet: *Body Worn Camera Information Sheet* of September, 2011.

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**RESPONSE**



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**NEVADA COUNTY  
SHERIFF'S OFFICE**



**KEITH ROYAL**  
SHERIFF / CORONER  
PUBLIC ADMINISTRATOR

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July 14, 2016

The Honorable Thomas M. Anderson  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, CA 95959

JUL 26 2016

Reviewed  
7/20/16  
TKA

RE: Response to 2015-2016 Grand Jury Report on Body Worn Cameras

Dear Honorable Judge Anderson:

In response to the Grand Jury Report dated May 24, 2016 regarding Body Worn Cameras

**FINDINGS:**

1. Body Worn Cameras have been shown to improve officer-to-citizen interactions and safety.

**Agree**

2. Body Worn Cameras have been shown to reduce citizen complaints.

**Agree**

3. Body Worn Cameras provide more clarification of contested incidents between officer and civilian.

**Agree**

4. Body Worn Cameras appear to provide some measure of crowd control and mitigation.

**Agree**

5. Body Worn Cameras reduce time and legal expense in investigating complaints against officers.

**Agree**

8. The Nevada County Sheriff's Office has expressed a desire not to deploy Body Worn Cameras at this time.

**Agree**

9. Interagency communication concerning Body Worn Camera deployment, techniques, policies, and operating procedures has been shown to improve overall results.

**Agree**

**RECOMMENDATIONS:**

1. The Nevada County Sheriff's Office should deploy and use Body Worn Cameras.

**The recommendation will not be implemented.**

While Body Worn Camera's (BWC's) can provide many potential benefits, they come at considerable financial cost. There is the initial purchase as well as the ongoing costs of infrastructure i.e., ongoing program administration, long-term maintenance and replacement costs, data storage technical support staff positions, data storage, backup and security costs, increased records staffing to process data requests as well as initial/continuing staff training. The Sheriff's Office has not received any funding for Body Worn Cameras for Fiscal Year 16/17.

There are no official guidelines in California regarding the use and data storage of BWC's. Of the almost 18,000 law enforcement agencies in the United States only a fraction currently use BWC's; most of those in urban or high crime areas. As a fledgling technology, the negative impacts of these programs has not been fully explored. While many of the agencies that have BWC programs report success, there has been little attention paid to possible drawbacks or legal ramifications.

Until legislation is in place that addresses data disclosure, privacy and general law enforcement policy questions, embarking on such a program would be a premature expenditure of public funds, staff time and resources. The Nevada County Sheriff's Office does use in-car video and audio recording and are satisfied with this equipment.

Additionally, the Nevada County Sheriff's Office has relatively few complaints regarding the interactions of our officers with the public. Complaints that are received are investigated and overwhelmingly determined to be unfounded.

2. The Nevada County Sheriff's Office should request funds from the Board of Supervisors for Body Worn Cameras and pursue other funds, grants and the like.

**The recommendation will not be implemented.**

The Nevada County Sheriff's Office budget for Fiscal Year 16-17 has already been approved. We feel it prudent to wait for state guidelines, analyze the experiences of similar law enforcement agencies regarding the benefits and drawbacks associated with the use of Body Worn Cameras before we make this a budget priority.

3. Nevada County law enforcement should include the community, policymakers, courts, oversight boards, unions, frontline officers and other stakeholders in the evolution of their Body Worn Camera Programs.

Grand Jury Response  
July 14, 2016

**The recommendation will not be implemented.**

This will not be implemented on the part of the Nevada County Sheriff's Office as we do not foresee implementing a Body Worn Camera Program at this time.

The Sheriff's Office would like to thank the members of the 2015-2016 Grand Jury for their participation and effort in preparing their reports. We are committed to providing the highest level of safety and security to our employees, the public, and inmates.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keith Royal", with a long horizontal flourish extending to the right.

Keith Royal  
Sheriff-Coroner

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**RESPONSE**



COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Reviewed  
8/16/16  
JMA

Nathan H. Beason, 1<sup>st</sup> District  
Edward C. Scofield, 2<sup>nd</sup> District  
Chair Dan Miller, 3<sup>rd</sup> District  
Vice-Chair Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District

Julie Patterson Hunter,  
Clerk of the Board

July 19, 2016

JUL 22 2016

The Honorable Thomas Anderson  
Presiding Judge of the Nevada County Grand Jury  
Nevada County Courthouse  
201 Church Street  
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2015-16 Nevada County Civil Grand Jury Report,  
*Body Worn Cameras.*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2015-16 Nevada County Civil Grand Jury Report, dated May 24<sup>th</sup>, 2016 entitled *Body Worn Cameras.*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on July 19<sup>th</sup>, 2016. The Responses are based on either personal knowledge, examination of official County records, information received from The Nevada County Sheriff's Office, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2015-16 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

Dan Miller, Chair  
Nevada County Board of Supervisors

cc: Thomas Achter, Foreman, Grand Jury  
Keith Royal, Nevada County Sheriff  
Rick Haffey, County Executive Officer

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NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO

2015-16 Nevada County Civil Grand Jury Report

Body Worn Cameras

DATED May 24<sup>th</sup>, 2016

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, the Nevada County Sheriff's Office or testimony from the Board of Supervisors and county staff members.

**A. RESPONSES TO FINDINGS**

None required

**B. RESPONSES TO RECOMMENDATIONS**

**R.2.** The Nevada County Sheriff's Office should request funds from the Board of Supervisors for Body Worn Cameras and pursue other funds, grants and the like.

**This recommendation will not be implemented.**

The Nevada County Sheriff's Office budget for Fiscal Year 16-17 has already been approved and no request for appropriations for body worn cameras was made. If a request is made it will be considered through the normal budget process.

**R.3.** Nevada County law enforcement should include the community, policymakers, courts, oversight boards, unions, frontline officers, and other stakeholders in the evolution of their Body Worn Camera programs.

**This recommendation will not be implemented.**

A Body Worn Camera Program will not be implemented for the Nevada County Sheriff's Office in the foreseeable future.

# **FINANCE AND MANAGEMENT**

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**A Better Board Member**

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**Nevada County Grand Jury Report with Responses  
2015-2016**



# A BETTER BOARD MEMBER

## SUMMARY

Members of Boards of Directors for local tax-supported agencies have a duty to ensure that their agencies are efficient, cost-effective, and responsive to the needs of the public they serve. To accomplish that task, they should be thoroughly familiar with the roles and responsibilities that govern their actions.

The Nevada County Civil Grand Jury has found that this familiarity is not always present in a Board of Directors. Indeed, the Nevada County Civil Grand Jury has found few examples of a Board in which every member is “the best they can be.”

Review of past Nevada County Civil Grand Jury reports reveal that the issue has been documented in at least one report in four of the past five years. Witness interviews conducted by the 2015-2016 Nevada County Civil Grand Jury have revealed that the problems still exist in Boards at all levels of county or city government, special districts, and other tax-supported organizations.

Past reports focused on issues with specific Boards of Directors. This report, however, takes a more general approach with the aim of pointing out problems seen over and over again. This report discusses the requirements Board members must know and follow, such as compliance with the Ralph M. Brown Act, California Government Code Sections 54950-54963, ethics and conflicts of interest rules, and financial responsibilities. It also provides a partial list of training available to Board members, locally and from state organizations.

This report lists all of the Findings from past Nevada County Civil Grand Jury reports followed by Findings discovered by the 2015-2016 Nevada County Civil Grand Jury. Frequent issues include:

- a lack of understanding or the complete disregard of the legal requirements established by the Ralph M. Brown Act, California Government Code 54950-54963;
- insufficient documented policies and procedures at both the Board level and for the organization as a whole;
- ignorance or disregard of ethical conduct;
- inability to understand financial reports and what they mean for the organization; and
- a general lack of training on how to be an effective Board member.

At the end of the report are seven Recommendations the Nevada County Civil Grand Jury encourages each Board member in Nevada County to consider carefully. Also, many of the points brought out by the report can be applied to agencies that are not tax-supported, such as boards for non-profit organizations. The 2015-2016 Nevada County Civil Grand Jury encourages those members to consider what is written here as well.

## GLOSSARY

**Agency** – county or city government, special districts, and other tax-supported organizations

**Board** – members of the Board of Directors/Trustees/Councils, etc. of an organization

**Brown Act** – Ralph M. Brown Act, California Government Code 54950-54963

**Director** – Executive Director, Chief Executive Officer, General Manager, Chief, etc.

**Ethics Education and Training** – California Assembly Bill 1234 (AB1234)

**Jury** – Nevada County Civil Grand Jury

**LAFCo** – Nevada County Local Agency Formation Commission

**Legislative body** –

1. The “governing body” of an Agency created by state or federal statute,
2. newly-elected members of such a body who have not yet assumed office,
3. appointed bodies created by formal action of the governing body, or
4. standing committees of a governing body with continuing jurisdiction or a meeting schedule fixed by formal action of the governing body.

**Observations** – Findings in 2010-2015 Nevada County Civil Grand Jury reports

## BACKGROUND

In California, each of the 58 counties empanels a Civil Grand Jury, whose function is to investigate the operations of the various officers, departments, and agencies of local government. A Jury may examine all aspects of county or city government, special districts, and other tax-supported organizations to ensure that the best interests of the citizens of the county are being served. The Jury reviews and evaluates procedures, operations, and systems utilized by local agencies to determine whether more effective methods may be employed.

Each Agency in Nevada County must have a Board. These Boards normally contain five or more members. A Board’s main purpose is to oversee and approve the operations of the Agency, leaving the day-to-day management to a Director. Smaller Agencies may combine the roles of Board member and Director.

To better fulfill their purpose, Board members have a responsibility to be as well-trained as possible, not only in the functions of the Agency but also in the rules and regulations governing their behavior. Over the past ten years, the Jury in Nevada County has encountered repeated examples of Board members who were less than effective in their positions. Usually, this ineffectiveness was a result of lack of training or understanding of the rules and regulations that govern their actions. Sometimes it has simply been caused by lack of attention. In some cases, ineffective Boards have been ignorant of, and therefore, complicit in apparently illegal actions on the part of the Agency’s Director.

Many Boards are staffed by well-intentioned and enthusiastic volunteers who may not have the training or knowledge of their responsibilities. The Agencies for which they volunteer should take measures to ensure that those volunteers are trained, understand, and accept those responsibilities.

This report summarizes some of the rules and responsibilities of a Board member. It is the Jury's hope it will be considered by all Board members in Nevada County, but it is especially directed toward those members who may not realize that their actions, through ignorance or inattention, can lead to a less effective organization.

## **APPROACH**

The Jury interviewed:

- members of the Nevada County Board of Supervisors,
- members of various Boards for Nevada County legislative bodies,
- members of economic development and business promotion agencies of various municipalities,
- a staff member from the Nevada County Local Area Formation Commission (LAFCo), and
- a member of the Office of the County Counsel for Nevada County.

The Jury also researched:

- Jury reports for the past ten years,
- websites of organizations providing training and guidance to Board members, and
- policies and procedures of various boards for Nevada County legislative bodies.

## **DISCUSSION**

If the top priority were to make it easy, an organization would hire a leader to make all of the decisions. When an organization has a multi-member board, however, it is instead seeking to gather a group of individuals with a variety of experiences, backgrounds, and viewpoints to make decisions.

Boards of Agencies have an added responsibility to keep the public informed of their actions. By law, the public must be allowed to participate in the decision-making process.

### **The Ralph M. Brown Act**

The Ralph M. Brown Act (Brown Act), or California Government Code 54950-54963, is an act of the California State Legislature, authored by Assembly member Ralph M. Brown and passed in 1953. The Brown Act guarantees the public's right to attend and participate in meetings of local legislative bodies.

The initial section of the Brown Act states the Legislature's intent:

*The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.*

The Brown Act covers members of every type of legislative body, elected or appointed, decision-making or advisory. Members are covered as soon as they are elected, even before they take office.

The Brown Act allows a Board to adopt practices that are more stringent than the law. A comprehensive public meeting and information policy, periodically reviewed, can serve an important role in improving public relations.

### Public right of access and participation

In addition to requiring public access to meetings, the Brown Act also gives the public the right to participate. Members of the public have the right to attend, record, broadcast, and participate in public meetings.

The public can speak to anything within the Board's jurisdiction, but the Board generally cannot act or discuss the item unless it is on the agenda. The Brown Act does allow members briefly to respond to comments or questions from the public, request staff to provide factual information, or request that an item be added to a future agenda.

Every agenda for an open meeting must allow members of the public to speak on any item of interest so long as the item is within the jurisdiction of the Board. The Board may adopt reasonable regulations, including time limits, on public comments. Such regulations must be enforced fairly and without regard for the speakers' viewpoints.

### What makes a meeting?

Meetings subject to the Brown Act are not limited to face-to-face meetings, especially in today's environment of electronic communications. Email, Internet chats, even Facebook and Twitter, if used to conduct the Board's business, can constitute a meeting. Members must be careful not to use such communication techniques to exclude public participation. On the other hand, video streaming over the Internet and videocasts over cable television can greatly expand public access.

The Brown Act defines a meeting as:

*... any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.*

Brown Act meetings include regular meetings, special meetings, emergency meetings, and adjourned meetings. There are six exceptions:

1. individual contacts other than as part of a series of meetings,
2. conferences,
3. community meetings,
4. attendance at another legislative body's meeting,
5. standing committees, and
6. social and ceremonial events.

None of these exceptions allow the majority of a Board to meet in advance for a collective briefing. Gatherings by a majority of a Board's members for retreats, study sessions, or workshops are also covered under the Brown Act.

#### What is not a meeting?

The Brown Act limits its definition of a meeting to when a majority of the members of a multi-member Board meet to discuss a subject relating to the agency's business. It does not apply to independent conduct of individual members. It does not apply to social, ceremonial, educational, or other gatherings as long as the members do not discuss issues related to agency business. Meetings of temporary advisory committees made up of less than a quorum are also not subject to Brown Act restrictions. The law does not apply to staff or employees unless they act as a conduit for discussion between Board members.

A serial meeting involves only a portion of a Board but eventually constitutes a meeting of a majority of the members. For example, if member A sends an email to member B of a five-member Board about a subject within the Board's jurisdiction, then member B forwards the message to member C, a "daisy-chain" serial meeting has occurred because three of the five members have participated. Another, probably more common example is a "hub-and-spoke" communication in which one member sends an email to all of the other members who then "reply all" to create a virtual serial meeting without public participation. Serial meetings can also be hallway or telephone conversations, and even the act of confirming a conversation with a third member could constitute a serial meeting. Serial meetings are expressly forbidden by the Brown Act.

Teleconferences are allowed by the Brown Act as long as a location and mechanism is provided for the public to participate. In Nevada County, a Skype teleconference between Board members

is possible as long as the public can access the conference using one or both of the Skype rooms at the Madelyn Helling library.

### Agendas and notices

Public access to meetings is enforced by the Brown Act's requirement that an agenda be posted in advance of meetings. Every regular Board meeting must be preceded by a posted agenda advising the public of the meeting and the subjects to be discussed.

The agenda for a regular meeting must be posted at least 72 hours before the meeting in a location "freely accessible to members of the public" (Brown Act, Section 54954.2(a)(1)). The California Attorney General has interpreted this to require posting in locations accessible to the public 24 hours a day, including weekends. Posting solely on the Agency's website or in the Agency's office is not considered adequate because not all members of the public have access to the Internet or the office during times when it is closed.

The agenda must state the date, time, and place of the meeting and must contain a "brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session" (Brown Act, Section 54954.2(a)(1)).

There is no agenda requirement for special meetings but the notice of the special meeting must serve as the agenda and limit the business that may be discussed. The notice must state the date, time, and place of the meeting, as well as all business to be discussed or acted upon. The special meeting notice must be posted at least 24 hours in advance in a location freely accessible to the public. The same notice requirements apply to emergency meetings, except that the 24-hour limit is waived.

The Brown Act prohibits items or discussion of subjects not listed on the agenda, except for three specific situations:

1. when there is an emergency situation needing immediate action,
2. when two-thirds of the members deem that immediate action is required and the need for such action came to the Board's attention after the agenda was posted but before the meeting, and
3. when an item is continued from a meeting held not more than five days earlier.

Except for privileged documents, the public has a right to review agendas and other documents distributed to the Board in connection with a matter to be discussed at a public meeting. Any recording of an open and public meeting is subject to the California Public Records Act. In addition, the public is allowed to make audio, photographic, or video recordings of an open meeting, unless the Board rules the act of making the recording is disruptive to the proceedings.

## Closed sessions

Private discussions between a majority of a Board's members is strictly prohibited unless expressly authorized by the Brown Act. It is not enough that a subject is sensitive, embarrassing, or controversial. Meetings are either fully open or fully closed – there is no middle ground. Closed sessions may involve only Board members, agency counsel, management and staff, and consultants necessary for consideration of the matter. Individuals without an official role must be excluded.

In general, the most common purpose of a closed session is to avoid revealing confidential information that may affect the legal or negotiating position of the Board or the privacy interests of employees. Other permissible reasons for a closed session are:

- license and permit determinations;
- real property negotiations;
- existing or anticipated litigation;
- liability claims;
- threats to security;
- public employee appointments, evaluations, and disciplines;
- labor negotiations;
- multi-jurisdictional drug cases;
- hospital boards of directors; or
- medical quality assurance committees.

Closed session items must be described on the posted agenda and the description must identify the reason for the exception to an open meeting. Following a closed session, the Board must provide a report on actions taken and the vote of every member present. The duty of maintaining confidentiality must give way to the obligation to disclose improper matters or discussions that may come up. The Brown Act exempts from its prohibition disclosure of closed session information to the district attorney or the grand jury to a perceived violation of law or legality of actions taken in closed session (Brown Act, Section 54953.1(e)(1)).

## **Roles and Responsibilities**

As the governing body of a legislative body, the Board fulfills a variety of roles and responsibilities. Among its many duties, the Board:

- oversees the financial operations of the legislative body,
- maintains the legal and ethical standing of the body and its staff,
- provides leadership and strategic direction,
- serves as a guardian of the public trust,
- ensures that the body remains accountable to the public,
- determines the body's mission and scope,
- supports and evaluates the Director in relation to the goals, and

- determines which of the body’s programs are consistent with its mission and monitors the effectiveness of those programs.

The Board is ultimately responsible for the performance of the organization in all areas of its work. In addition to the duties of the group listed above, individual Board members are required to:

- attend all Board and committee meetings and functions;
- stay informed about the organization’s mission, services, policies, and programs;
- review agenda and supporting materials prior to Board and committee meetings;
- follow conflict of interest and confidentiality policies; and
- assist the Board in carrying out its financial responsibilities, such as reviewing the organization’s financial statements.

### **Ethics and Conflicts of Interest**

The public is strongly supportive of public officials who follow their sense of “what is the right thing to do.” There are a number of sources for guidance, including the law itself. The law, however, only sets a minimum standard for ethical conduct. Just because an action is legal does not mean that it is ethical or that it reflects the member’s or the public’s values. Ethics laws set minimum standards; ethics is “what we ought to do, not just what we have to do.” An official who acts ethically will often go beyond the minimum legal requirements.

Some considerations for ethical conduct follow.

- Remember that your role is to serve the community.
- Be truthful.
- Avoid actions that would cause the public to question if your decisions are based on personal interests.
- Do not use your public position for personal gain.
- Carefully consider promises you make ... and then keep them.

What does it mean to be fair?

- Make decisions based on the merits.
- Apply agency policies consistently.
- Support the public’s right to know.
- Be impartial.
- Excuse yourself from decisions where your financial interests may be affected.

Any elected or appointed official who is compensated for their service or reimbursed for their expenses must complete mandatory ethics training prescribed by the California Assembly Bill 1234 (AB1234) every two years. When an official completes the training he/she is given proof of participation that must be maintained as a public record for at least five years. Local agencies

must provide covered officials with a list of options for satisfying this requirement at least once a year.

Training can be taken in person, online, or in a self-study course ending in a test. A variety of organizations offer training in Nevada County, including LAFCo. In addition, self-study materials are available from the Institute for Local Government and the California Fair Political Practices Commission.

Training must cover general ethical principles relating to public service, including:

- laws relating to personal financial gain;
- laws relating to “office-holder perks,” such as gifts and travel, personal and political use of public resources, and gifts of public funds;
- governmental transparency laws, including financial disclosure requirements and open government laws; and
- laws relating to fair processes.

Because of the extent of the subjects covered, the training cannot teach the law in every situation. Instead, the training encourages local officials to understand there are laws governing their behavior and to motivate them to comply.

The Political Reform Act restricts receipt of gifts, travel payments, and prohibits receipt of honoraria by public officials and certain employees of local government agencies. Currently, public officials, including family members, may not accept gifts from a single source that totals more than \$460 in a calendar year. Gifts totaling more than \$460 could disqualify the official from making a decision affecting the party who made the gift. Gifts totaling more than \$50 must be disclosed on a Statement of Economic Interests (Form 700). Campaign contributions are not considered gifts by the law.

## **Training and Education**

In addition to the ethics training discussed above, many training opportunities exist for Board members to learn about their roles, duties, and responsibilities. Some of the organizations that offer training to Board members are listed below along with a few of their offerings.

- Associated California Hospital Districts
  - Leadership Academy
- California Association of Local Agency Formation Commissions (CALAFCo)
  - CALAFCo University
- California League of Cities
  - New Mayors and Council Members Academy
  - Public Works Officers Institute
  - Municipal Finance Institute
- California School Boards Association
  - Governance U

- Webinar Training for Board Members
- Institute for New and First-Term Board Members
- The Brown Act
- Board Presidents Workshop
- Masters in Governance
- California Special Districts Association
  - Special District Leadership Academy
  - How to be an Effective Board Member
  - Better Board Agendas
  - Dialog – The Heartbeat of Board Meetings
  - Are You Making a Difference on Your Board?
  - The Risk and Reward of Transparency
  - Integrating New Board Members into the Organization
  - Truth is Truth, Whether We See It or Not
  - General Manager Evaluations
  - Good Governance
  - Introduction to Special District Finances
  - Required Ethics Compliance Training – AB1234
  - Fraud Detection and Prevention
  - Strategic Planning for Special Districts
  - The Essential Guide to the Brown Act
  - Understanding the Brown Act – Beyond the Basics
  - What Every Member Should Know
- California State Association of Counties (CSAC)
  - CSAC Institute for Excellence in County Government
- Nevada County Community Leadership Institute
- Nevada County LAFCo
  - Ethics Workshop
  - Best Management Practices for Small District Boards

## **Financial Responsibilities**

One of the main responsibilities of Board members is to maintain financial accountability to the public. Board members must exercise due diligence to oversee that the legislative body is well managed and that its financial situation remains sound. It is essential to understand basic terminology, be familiar with financial statements and judge their soundness, and recognize warning signs that might indicate a change in the overall health of the body.

Having the proper tools to monitor and evaluate financial performance strengthens the Board's capacity to judge the health of the organization. Board members should agree on general guidelines and standards. Appropriate policies should be in place to guide Board and Director decision making. Clear job descriptions and responsibilities, financial and accounting procedures, conflict of interest policies, and regular reports to the Board are all examples of financial responsibility.

## **OBSERVATIONS FROM PREVIOUS GRAND JURY REPORTS**

Review of past Nevada County Civil Grand Jury reports reveal that these issues have been documented in at least one report in four of the past five years.

Many Observations could be listed in multiple categories.

NOTE: superscripts refer the reader to Findings from previous Jury reports as listed in the Bibliography at the end of the report.

### **Observations related to the Brown Act:**

- Ob1.** During an open, public meeting, a Board member referred to the Brown Act as “a roadblock to getting anything done.”<sup>5</sup>
- Ob2.** The Board ... would not report the vote [from a closed session] in open session.<sup>5</sup>
- Ob3.** The Board has failed to follow or has knowingly chosen to ignore the various ... rules, ordinances, and regulations, as well as California’s open meeting laws.<sup>5</sup>
- Ob4.** There are no agendas ... of any scheduled regular meeting or special meeting of the full Board ...<sup>5</sup>
- Ob5.** The [Board] does not schedule regular meetings.<sup>4</sup>
- Ob6.** The Vice-Chair of the Board invited two members of the public, identified as the two top vote-getters in the election, into the closed session ... staff, citing provisions of the Brown Act, cautioned the Board not to invite the two members of the public into the closed session. The Vice-Chair publicly disagreed with ... staff and continued to insist the two members of the public be included in the closed session.<sup>5</sup>
- Ob7.** The Board is required to meet in regular sessions with an agenda posted in a location with community access per the Brown Act. It appears that no specific person is responsible for posting agendas.<sup>8</sup>
- Ob8.** ... the Board Chair sent an email to all Board members stating that he and two Board members, acting as an ad-hoc committee ... would deal with the issue ...<sup>5</sup>
- Ob9.** Public posting of regular Board meetings has not been consistent.<sup>8</sup>
- Ob10.** ... the Board Chair spoke to all Board members individually by telephone regarding the [issue].<sup>5</sup>
- Ob11.** A majority of the Board members stated they responded to the Board Chairman’s email ...<sup>5</sup>

### **Observations related to Board roles and responsibilities:**

- Ob12.** The lack of education and training of the Board members in their roles and responsibilities contributed to insufficient oversight and lack of control of the actions and activities of the District.<sup>1</sup>
- Ob13.** ... the Board showed a lack of engagement and responsiveness by failing to address the issues ...<sup>3</sup>
- Ob14.** A Board member ... [stated] “The bylaws do not say the Board has to vote on it.”<sup>5</sup>

- Ob15.** Many of the codes, bylaws, policies, rules, procedures, resolutions, and ordinances promulgated by the Board and administration ... are inadequate, vague, and in conflict.<sup>5</sup>
- Ob16.** The [agency] does not have a comprehensive policy and procedures manual.<sup>5</sup>
- Ob17.** The Board does not have bylaws.<sup>6</sup>
- Ob18.** The bylaws adopted by the Board are generic and do not include any reference to the District ...<sup>8</sup>
- Ob19.** The Board failed to require written job descriptions or to otherwise document the job duties and responsibilities ...<sup>2</sup>
- Ob20.** The bylaws are incomplete.<sup>4</sup>
- Ob21.** The Board has lacked consistency and continuity due to ... lack of written policies and procedures and [the] absence of regularly scheduled meetings.<sup>4</sup>
- Ob22.** The [Board] bylaws are generic ...<sup>4</sup>
- Ob23.** Many of the policies, procedures, rules, and regulations stated in the ... Handbook are outdated.<sup>6</sup>

**Observations specifically related to Board financial responsibilities:**

- Ob24.** None of the Board members recalled discussing, granting, and/or voting on the [Director's] salary increase ...<sup>2</sup>
- Ob25.** The only mention of Finance Committee responsibilities in the ... Policies and Procedures [Manual] states “ ... two members as selected by the Board to attend designated finance meetings to review the check register and sign checks ... ”<sup>1</sup>
- Ob26.** The failure by the Board to reconcile the salaries approved by the Board with the salaries actually being paid ...<sup>2</sup>
- Ob27.** The Board does not have a policies and procedures manual that includes the financial responsibilities and requirements to run the District.<sup>8</sup>
- Ob28.** The [Board] has no specific policies, procedures, nor internal controls for financial processes ...<sup>4</sup>
- Ob29.** The Board did not vote to enter into a contract with the independent contractor for ... services.<sup>5</sup>
- Ob30.** Some Board members stated they do not understand the budget ...<sup>8</sup>
- Ob31.** The Board failed to exercise financial responsibility ...<sup>2</sup>

**Observations related to Board training and education:**

- Ob32.** Board members were not fully familiar with the District bylaws.<sup>7</sup>
- Ob33.** Nothing is provided to [Board members] as to what is expected of them while performing their Board duties.<sup>7</sup>
- Ob34.** The Board members' lack of education and training in their roles has contributed to insufficient oversight and lack of control ...<sup>4</sup>
- Ob35.** The California School Boards Association offers training seminars, but attendance is not mandatory ...<sup>7</sup>
- Ob36.** Members of the Board did not complete formal education and training on their roles and responsibilities as Board members.<sup>1</sup>

- Ob37.** The Board members ... stated they were not aware of the requirement to complete ethics training and have not completed the required training.<sup>7</sup>
- Ob38.** The Board has not taken advantage of training available from the Special Districts Association or LAFCo.<sup>8</sup>
- Ob39.** Some members of the Board stated they knew of other educational and training opportunities but chose not to attend.<sup>1</sup>
- Ob40.** Not all Board members have completed available training on their roles and responsibilities.<sup>4</sup>

## FACTS

Witness interviews conducted by the 2015-2016 Nevada County Civil Grand Jury have revealed that the problems still exist in Boards at all levels of county and city government, special districts, and other tax-supported organizations. The Facts listed below reference violations of the Brown Act, Board members' roles and responsibilities, ethics and conflicts of interest, financial responsibilities, and lack of training and education.

- Fa1.** A Board member declined to answer any questions regarding closed session, on advice of Board counsel.
- Fa2.** A Board member told the Jury that the Board was developing a policy and procedures manual on the recommendation of a financial auditor. The Board did not have one before the recommendation.
- Fa3.** A Supervisor did not know if the policy and procedures manual contained a section on conflict of interest.
- Fa4.** A Board member told the Jury that the Board only receives annual financial reports from the Director.
- Fa5.** Two Boards are recovering from a period in which they appear to have not paid enough attention to financial controls. Both are working very hard to correct the situation.
- Fa6.** A Board member told the Jury that the Board's policy and procedures manual did not contain a section on finance.
- Fa7.** A Board member told the Jury that the Board received no financial training because of an assumption that all of the members were familiar with the subject.
- Fa8.** A Supervisor told the Jury that training is an informal walkthrough by the CEO. New members are asked to attend training provided by the California State Association of Counties but it is not required.
- Fa9.** A Board officer was not aware of training provided by LAFCo or the California Special Districts Association (CSDA) until the Jury informed him.

- Fa10.** A Supervisor told the Jury that Board member training “seemed not worth the cost.” Another Supervisor told the Jury that CSAC training had “mixed value” and may not pass a cost/benefit analysis.
- Fa11.** Directors have personally benefited from a lack of due diligence and financial oversight by their respective Boards. Two of them prompted investigations by the Office of the District Attorney.

## **FINDINGS**

This report lists all of the Observations found in past Jury reports as well as Facts discovered by the 2015-2016 Jury. Findings as a result of these Observations and Facts are:

- F1.** A lack of understanding or complete disregard of the legal requirements established by the Ralph M. Brown Act was evident. (Ob1-Ob11, Fa1)
- F2.** Insufficient documented policies and procedures exist, at both the Board level and for the organization as a whole, to define roles and responsibilities. (Ob12-Ob23, Ob25, Ob27-Ob29, Ob31, Ob34, Ob36, Ob40, Fa2, Fa3, Fa5-Fa7, Fa11)
- F3.** There is an ignorance or disregard of ethical training and conduct. (Ob33, Ob37, Fa3)
- F4.** The inability to understand financial reports and what they mean for the organization greatly affects a Board’s effectiveness. (Ob24-Ob31, Fa2, Fa4-Fa7, Fa11)
- F5.** There is a general lack of training on how to be an effective Board member. (Ob32-Ob40, Fa8-Fa10)

## **RECOMMENDATIONS**

- R1.** Board members and prospective Board members of any legislative body should be thoroughly familiar with all aspects of the Brown Act. (F1)
- R2.** Board members should carefully develop, document, and implement their roles and responsibilities and those of their Director in writing. (F2)
- R3.** Board members should comply with the tenets learned in the required ethics and conflict-of-interest training. (F3)
- R4.** Board members should know their financial responsibilities and be familiar with financial statements. (F4)
- R5.** Board members should seek out education and training so they can provide oversight from a position of understanding instead of relying on their Director. (F5)

- R6.** Board members should actively seek out and attend training opportunities. (F5)
- R7.** Boards should add discussion of this report to an agenda of a future meeting. (F1-F5)

### **REQUEST FOR RESPONSES**

The Nevada County Grand Jury only asks that current and potential Board members carefully consider the topics covered in this report. No responses are requested.

### **BIBLIOGRAPHY**

- AB1234 Local Ethics Training** – Fair Political Practices Commission  
**A Guide to the Ralph M. Brown Act** – League of California Cities, 2010  
**California Government Code Sections 53234-53235.2** – Ethics Training  
**California Government Code Sections 54950-54963** – The Ralph M. Brown Act, 1953  
**California Government Code Section 81000-81016** – Political Reform Act of 1974  
**Nevada County Civil Grand Jury Reports** – as listed below:
1. Truckee Fire Protection District Board of Directors, 2010
  2. Grass Valley School District Superintendent and Board of Trustees, 2012
  3. Truckee Donner Public Utility District, 2012
  4. Mystic Mine Road Community Services District, 2013
  5. Nevada County Consolidated Fire District Board of Directors, 2013
  6. Truckee Donner Recreation and Park District, 2013
  7. Nevada Joint Union High School District Board of Trustees, 2014
  8. Washington County Water District, 2015
- Open, Ethical Leadership: AB1234 Compliance Training for Special Districts** – California Special Districts Association, Special District Risk Management Authority

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**NO  
RESPONSE  
REQUIRED**



# **FINANCE AND MANAGEMENT**

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**The Value of Transparency in the  
Nevada County Board of Supervisors**

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**Nevada County Grand Jury Report with Responses  
2015-2016**



# THE VALUE OF TRANSPARENCY IN THE NEVADA COUNTY BOARD OF SUPERVISORS

## SUMMARY

The Nevada County Board of Supervisors is the legislative and executive body of Nevada County government. Legislative and executive activities of the Nevada County Board of Supervisors are performed at public meetings with certain personnel and legal matters discussed in closed session. Meetings are conducted in accordance with the Ralph M. Brown Act (California Government Code sections 54950 et seq.) and the *Order and Decorum* adopted by the Nevada County Board of Supervisors each year.

The Nevada County Civil Grand Jury interviewed four current members of the Nevada County Board of Supervisors and one past member. Additionally, the Nevada County Civil Grand Jury interviewed Nevada County staff and reviewed documentation from the California Government Code, the Nevada County Board of Supervisors and the California Fair Political Practices Commission.

The Nevada County Civil Grand Jury noted variances in personal decisions by Supervisors as to their recusal from discussion or voting on various issues before the Nevada County Board of Supervisors.

Annually, the Supervisors adopt the *Order and Decorum* which defines their roles and how business should be conducted by the Nevada County Board of Supervisors and its appointed committees.

The *Order and Decorum* allows for any Supervisor to abstain or recuse from discussing and voting on any matter if the Supervisor has a **legal** conflict on any matter. Any Supervisor disqualifying him/herself must state the reason, shall completely abstain from participating in discussion on the matter and shall leave the room until the Nevada County Board of Supervisors has completed its discussion and acted on that matter.

However, the *Order and Decorum* does not specify conditions for which abstention and/or disqualification should occur.

Section 84308(b) of the California Government Code states, in summary, that an officer of an agency shall not accept a contribution of more than two hundred fifty dollars (\$250) from any party, nor from any participant, while an issue is pending before the agency and for three months following the date a final decision is rendered in the proceeding. But California Government Code section 84308(b) **does not** apply to elected officials, including elected members of the Nevada County Board of Supervisors.

The Nevada County Civil Grand Jury then asked the question, “Is there a difference between a legal conflict and an ethical conflict?”

The California Fair Political Practices Commission requires Supervisors receive ethics training every two years. In their training materials, the following comments are made:

*California has a complex array of laws relating to ethics in public service. The law, however, only sets a **minimum** [emphasis added] standard for ethical conduct. Just because an action is legal doesn't mean that it is ethical or that it reflects the elected official's values or the public's values.*

*In short, public service ethics is not only about doing the right thing, but also about the public's confidence that indeed the right thing has been done. Public servants must maintain a high standard of ethical conduct that promotes public confidence that public officials' actions are motivated solely by the public's interests.*

The Nevada County Civil Grand Jury finds the citizens of Nevada County expect and deserve that its elected officials serve the public's interests, not private or political interests. Values are very important to the public. The public is strongly supportive of public officials following their sense of what is the right thing to do in making government decisions.

The Nevada County Civil Grand Jury finds that while a lack of a recusal by a Supervisor on an issue pending before the Nevada County Board of Supervisors may be legal, in the strict sense of law, it may give the public the perception of unethical behavior.

The Nevada County Civil Grand Jury recommends that the Nevada County Board of Supervisors augment and improve the existing *Order and Decorum*, particularly in the area of public transparency of relationships between a Supervisor and parties with business before the Nevada County Board of Supervisors.

The Nevada County Civil Grand Jury also recommends that members of the Nevada County Board of Supervisors raise their awareness of the importance of public transparency in making the public aware of relationships between the Supervisor and parties with business before them.

## GLOSSARY

**Board** – Nevada County Board of Supervisors

**Brown Act** – Ralph M. Brown Act, California Government Code 54950-54963

**Jury** – Nevada County Civil Grand Jury

**County** – Nevada County

**GC** – California Government Code

**FPPC** – California Fair Political Practices Commission

## BACKGROUND

California Penal Code section 925 states, in part: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county ... “

The Nevada County Board of Supervisors (Board) is the legislative and executive body of Nevada County (County) government. In addition, members of the Board represent the County on numerous intergovernmental bodies.

In its legislative duties the Board adopts ordinances, resolutions and rules within the limits prescribed by State law and is responsible for seeing that all Federal- and State-mandated functions are properly discharged.

As an executive body, the Board:

- determines annual budget allocation;
- approves contracts for public improvement projects and other specialized services;
- conducts public hearings on matters such as zoning appeals and planning issues;
- provides for the compensation of all County officials and employees;
- creates offices, boards and commissions as needed, appointing members and fixing the terms of office;
- directs an annual audit of all County accounts, books and records;
- provides policy direction to the County Executive Officer for the operation and administration of County departments; and
- exercises executive authority for the provision of local government services to County residents including:
  - roads,
  - Health and Welfare programs,
  - Public Defender, and
  - jail facilities/law enforcement.

Legislative and executive activities of the Board are performed at public meetings. Meeting conduct is to be in accordance with the Ralph M. Brown Act (Brown Act), California Government Code (GC) sections 54950 et seq., and the Board’s *Order and Decorum*. Certain personnel and legal matters are discussed in closed sessions as provided by the Brown Act.

The five members of the Board are elected on a non-partisan basis to serve four-year terms. Each is elected from one of the five Supervisorial districts of the County. Supervisors from District 3 and 4 are elected in gubernatorial election years (2014, 2018, etc.) while Supervisors from Districts 1, 2 and 5 are elected in presidential years (2012, 2016, etc.). Supervisorial district boundaries are adjusted after each federal census to equalize district population as closely as possible.

## APPROACH

The Nevada County Civil Grand Jury (Jury), in conducting this inquiry:

- interviewed current and past members of the Board,
- interviewed staff employed by the County, and
- reviewed documents from the following sources:
  - the California Government Code (GC),
  - the Board, and
  - the California Fair Political Practices Commission (FPPC).

## DISCUSSION

The Board is the legislative and executive body of County government. In addition, members of the Board represent the County on numerous intergovernmental bodies. The five members of the Board are elected on a non-partisan basis to serve four-year terms.

Legislative and executive activities of the Board are performed at public meetings. Meeting conduct is to be in accordance with the Brown Act and the Board's *Order and Decorum*. Certain personnel and legal matters are discussed in closed sessions as provided by the Brown Act.

In interviews with current and former Supervisors and County staff, the Jury noted differences in personal decisions made by Supervisors as to recusal of themselves from discussion or from voting on various issues before them.

The *Order and Decorum* for the Board defines the roles of the Supervisors and how business should be conducted by the Board and its appointed committees.

Specifically, section 13 of the *Order and Decorum* allows for any Supervisor to abstain or recuse from discussing and voting on any matter if the Supervisor has a **legal** conflict on any matter. Any Supervisor disqualifying him/herself may state the reason, shall completely abstain from participating in discussion on the matter and shall leave the room until the Board has completed its discussion and acted on that matter.

However, the *Order and Decorum* does not specify other conditions for which abstention and/or disqualification should occur.

GC Section 84308(b) states, in summary, that an officer of an agency shall not accept a contribution of more than two hundred fifty dollars (\$250) from any party, or from any participant, while an issue is pending before the agency and for three months following the date a final decision is rendered in the proceeding.

However, GC section 84308(b) specifically **exempts** elected officials, which would include the Board.

In one instance cited by more than one witness, an issue was before the Board regarding land use for a parcel owned by a private party. A Supervisor had previously received a campaign contribution from an involved party.

The Supervisor made a public statement, in an open session of the Board, advising the public of the contribution. The Supervisor also stated he felt that the receiving of the contribution would not affect his vote on the merits of the issue at hand. The Supervisor then participated in discussion on the issue and did vote on the issue in open session.

In a second instance cited by numerous witnesses, an issue was pending before the Board regarding a legal action taken against the County. While this issue was pending, a Supervisor received a campaign contribution from an involved party.

The pending issue was discussed and voted on in closed sessions of the Board. Witnesses told the Jury that the Supervisor did not notify the other Supervisors of the contribution, participated in the discussion and voted on the issue. When the vote was reported out in open session, the Supervisor did not disclose the contribution publicly.

Statements of witnesses were supported by review of the agendas and minutes of the meetings of the Board. There is no record of recusal on the pending issue by any Supervisor.

In interviews with the current and former Supervisors, most believed ethics referred to the Statements of Economic Interests - *Form 700* filings required from elected officials each year by the FPPC.

The FPPC requires certain public officials and all elected officials, including members of the Board, to receive two hours of ethics training every two years. Public officials may take the training course online or in a classroom setting. Also, the Nevada County Local Agency Formation Commission provides ethics training in a classroom setting in January of each year.

The course training is promulgated by the FPPC. In those training materials, the following comments are made:

*California has a complex array of laws relating to ethics in public service. The law, however, only sets a **minimum** [emphasis added] standard for ethical conduct. Just because an action is legal doesn't mean that it is ethical or that it reflects the elected official's values or the public's values.*

*In short, public service ethics is not only about doing the right thing, but also about the public's confidence that indeed the right thing has been done. Public servants must maintain a high standard of ethical conduct that promotes confidence that public officials' actions are motivated solely by the public's interests.*

The citizens of Nevada County expect and deserve that their elected officials serve the public's interests, not private or political interests. Values are very important to the public. The public is strongly supportive of public officials following their sense of *what is the right thing to do* in making government decisions.

## FINDINGS

- F1. The Supervisors receive two hours of ethics training on a bi-annual basis.
- F2. The citizens of Nevada County expect and deserve that their elected officials serve the public's interests, not private or political interests.
- F3. While legal requirements are specific, ethical decisions are personal and have significant influence on perceptions of the public when evaluating Supervisor actions and transparency.
- F4. The Supervisors are ethical people who conduct their business with good intent.
- F5. Most of the Supervisors believe ethics refers to the *Form 700* filings required from elected officials each year by the FPPC.
- F6. While a lack of public recusal by a Supervisor on an issue pending before the Board may be legal in the strict sense of law, it may give the public the perception of unethical behavior.
- F7. The *Order and Decorum* lacks sufficient guidance to Supervisors in assisting them in their personal decision making on questions of recusal.

## RECOMMENDATIONS

- R1. Seek additional training and information to understand the difference between legal requirements and ethical considerations.
- R2. Develop and implement guidelines to assist the Nevada County Board of Supervisors in its decisions as to whether recusal is appropriate on a particular issue.
- R3. Augment the *Order and Decorum* document, particularly in the area of public transparency of relationships between a Supervisor and parties with business before the Nevada County Board of Supervisors.
- R4. Increase personal awareness of the need for public transparency between the Supervisors and parties with business before the Nevada County Board of Supervisors.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Nevada County Civil Grand Jury requests responses as follows:

From the following:

Nevada County Board of Supervisors, by June 30, 2016.

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

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**RESPONSE**



COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Nathan H. Beason, 1<sup>st</sup> District  
Edward C. Scofield, 2<sup>nd</sup> District  
Chair Dan Miller, 3<sup>rd</sup> District  
Vice-Chair Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District

Julie Patterson Hunter,  
Clerk of the Board

*Reviewed  
8/26/16  
JPA*

June 14, 2016

The Honorable Thomas Anderson  
Presiding Judge of the Nevada County Grand Jury  
Nevada County Courthouse  
201 Church Street  
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2015-16 Nevada County Civil Grand Jury Report,  
*The Value of Transparency in the Nevada County Board of Supervisors*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2015-16 Nevada County Civil Grand Jury Report, dated April 26, 2016 entitled *The Value of Transparency in the Nevada County Board of Supervisors*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on June 14, 2016 . The Responses are based on either personal knowledge, examination of official County records, and/or information received from the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2015-16 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

Dan Miller, Chairman  
Nevada County Board of Supervisors

cc: Douglas M. Wight, Foreman, Grand Jury  
Rick Haffey, County Executive Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
phone: 530.265.1480 | fax: 530.265.9836 | toll free: 888.785.1480 | email: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
website: <http://www.mynevadacounty.com/nc/bos>

NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO

2015-16 Nevada County Civil Grand Jury Report

*The Value of Transparency in the Nevada County Board of Supervisors*

Dated April 26, 2016

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer and County Counsel, and/or testimony from the Board of Supervisors and county staff members.

RESPONSES TO FINDINGS

- F1. The Supervisors receive two hours of ethics training on a bi-annual basis.**

Agree.

- F2. The citizens of Nevada County expect and deserve that their elected officials serve the public's interests, not private or political interests.**

Agree.

- F3. While legal requirements are specific, ethical decisions are personal and have significant influence on perceptions of the public when evaluating Supervisor actions and transparency.**

Agree.

- F4. The Supervisors are ethical people who conduct their business with good intent.**

Agree.

- F5. Most of the Supervisors believe ethics refers to the Form 700 filings required from elected officials each year by the FPPC.**

Disagree. The annual Form 700 filing is required by the California Government Code Section 87200 as a means for judicial, elected and appointed officials to publicly disclose certain economic interests. The Board understands that ethics laws extend beyond the Form 700 to encompass a comprehensive and complex array of issues ranging from Open Meetings Law (the "Brown Act"), public contracting, due process, perquisites and other official acts to codes of conduct when we are off-duty as well.

- F6. While a lack of public recusal by a Supervisor on an issue pending before the Board may be legal in the strict sense of law, it may give the public the perception of unethical behavior.**

Agree.

- F7. The Order and Decorum lacks sufficient guidance to Supervisors in assisting them in their personal decision making on questions of recusal.**

Partially agree. Because the Board members receive focused ethics training that meets the legal requirements of AB 1234, the Order and Decorum is not intended for that purpose. Instead, it is designed to provide general guidance on the conduct of meetings. However, item #13 of the Order and Decorum does seek to address the matter of abstention and recusal. As indicated in Responses R2 and R3 below, the Board will consider revisions to this document during its annual workshop in January 2017.

## **RESPONSES TO RECOMMENDATIONS**

- R1. Seek additional training and information to understand the difference between legal requirements and ethical considerations.**

The recommendation is being implemented. These matters are covered comprehensively in the Ethics training the Supervisors receive that meets the requirements of AB 1234, and in the New Supervisor orientation every Supervisor receives through the California State Association of Counties. This training must meet requirements of State law and therefore is provided separately by a qualified legal expert. In addition, the Board members are regularly advised by County Counsel as issues arise, and members are encouraged to seek assistance from County Counsel if there is ever a question on how to proceed.

- R2. Develop and implement guidelines to assist the Nevada County Board of Supervisors in its decisions as to whether recusal is appropriate on a particular issue.**

The recommendation has not yet been implemented, but will be implemented by March 1, 2017. Although such guidelines are covered comprehensively in the AB 1234 Ethics training and in the New Supervisor orientation every Supervisor receives through the California State Association of Counties, the Board will consider revisions to strengthen and clarify the Order and Decorum document at its annual workshop in January 2017. Whatever amendments are agreed to at the workshop will be implemented at a subsequent Board meeting in February, 2017.

- R3. Augment the *Order and Decorum* document, particularly in the area of public transparency of relationships between a Supervisor and parties with business before the Nevada County Board of Supervisors.**

The recommendation has not yet been implemented but will be implemented by March 1, 2017. The Board will consider revisions to strengthen and clarify the Order and Decorum document at its annual workshop in January 2017. Whatever amendments are agreed to at the workshop will be implemented at a subsequent Board meeting in February, 2017.

- R4. Increase personal awareness of the need for public transparency between the Supervisors and parties with business before the Nevada County Board of Supervisors.**

The recommendation has been implemented. These matters are covered in the Ethics training the Supervisors receive that meets the requirements of AB 1234, and in the New Supervisor orientation through the California State Association of Counties. Supervisors are made aware of and provided additional training opportunities as they may arise. Supervisors and County staff are encouraged to seek assistance from County Counsel if there is ever a question on how to proceed.

# **HEALTH AND ENVIRONMENT**

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## **Environmental Impact of Marijuana Cultivation in Nevada County**

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**Nevada County Grand Jury Report with Responses  
2015-2016**



# **Environmental Impact of Marijuana Cultivation in Nevada County**

## **SUMMARY**

Marijuana, also known as cannabis and by numerous other names, is a preparation of the cannabis plant intended for use as a psychoactive drug or medicine. Marijuana is used in a variety of methods, including, smoking, ingestion and topical application.

The Nevada County Civil Grand Jury recognizes the current discussion in Nevada County regarding the legality of marijuana cultivation. However, it is not the intent of the Nevada County Civil Grand Jury to address the legal issues of marijuana cultivation.

It has been widely reported in the local media of proliferation in the cultivation of marijuana in Nevada County in recent years. The Nevada County Civil Grand Jury chose to write this report to educate the community on the environmental impact this increase is having in Nevada County. In addition, how the effects of irresponsible cultivation is having on public safety. The Nevada County Civil Grand Jury also inquired as to what actions were being taken by officials of Nevada County to prevent ongoing environmental damage to the land, flora and fauna of Nevada County by some cultivators and to provide public safety.

The Nevada County Civil Grand Jury recognizes that many marijuana cultivators use eco-friendly, sustainable and safe agriculture practices in their operations. However, the Nevada County Civil Grand Jury also finds there are some cultivators who are not conforming to these practices.

The Nevada County Civil Grand Jury interviewed staff from state and local agencies. During these interviews, the review of documentation and the review of photographs, the Nevada County Civil Grand Jury learned of environmental impact caused by irresponsible cultivation of marijuana. Some examples of this environmental impact include:

- the discharge of contaminants into the watershed and surrounding areas., including chemicals contained in fertilizers and pesticides;
- the discharge of human waste, waste water, trash and garbage onto local lands;
- the use of improper/illegal animal poisons, resulting in death to protected wildlife;
- wildfires caused by open campfires or from improper electrical wiring;
- improper clearing of woodlands and grading practices resulting in erosion damage to the land;

- the improper and illegal diversion of water from rivers, creeks, streams, irrigation sources and water storage facilities; and
- offensive odors.

The Nevada County Civil Grand Jury interviewed staff from state and local public safety agencies. The Nevada County Civil Grand Jury learned that in addition to the potential danger from the environmental impact there is also danger to public safety, including:

- trespassing on public and private lands;
- improvised security devices surrounding cultivation areas;
- theft of resources, including water and electricity; and
- increased violent crimes, such as home-invasions, armed robbery and theft.

During interviews with Nevada County staff, the Nevada County Civil Grand Jury was consistently told that enforcement of ordinances pertaining to marijuana cultivation was the responsibility of the Nevada County Sheriff's Office. If the Nevada County Sheriff's Office receives a public complaint, they investigate and if the marijuana cultivation is non-compliant, the Nevada County Sheriff's Office refers the issue to the proper department. Each Nevada County department keeps track of their own services; **no interdepartmental tracking is done.**

There are no written protocols, policies or procedures regarding the referral of code non-compliance issues to the appropriate authority within the County. Nevada County Sheriff's Office staff is unaware of any protocol requiring other county departments to report marijuana cultivation to the Nevada County Sheriff's Office.

## GLOSSARY

**ASA** - Americans for Safe Access  
**CCD** - Nevada County Code Compliance Division  
**CDA** - Nevada County Community Development Agency  
**CDFW**- California Department of Fish and Wildlife  
**CEO** - Nevada County Executive Office  
**CGA** - California Growers Association  
**County**- County of Nevada  
**CWQCB** - California Water Quality Control Board, Central Valley Region  
**ESA** - Emerald Growers Association  
**Jury** - Nevada County Civil Grand Jury  
**NCSO** - Nevada County Sheriff's Office  
**NID** - Nevada Irrigation District

**SYRCL** - South Yuba River Citizens League  
**USFS** - United States Forest Service

## **BACKGROUND**

California Penal Code section 925 states, in part: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county...”

Marijuana, also known as cannabis and by numerous other names, is a preparation of the cannabis plant intended for use as a psychoactive drug or medicine. Marijuana, in various forms, is used in a variety of methods, including, smoking, ingestion and topical application.

The Nevada County Civil Grand Jury (Jury) recognizes the current discussion in the County of Nevada (County) regarding the legality of marijuana cultivation. However, it is not the intent of this Grand Jury report to address the legal issues of marijuana cultivation.

The Jury chose to write this report to educate the community on the environmental impact irresponsible cultivation is having on the land, the effects on public health and safety of the residents of the County. The Jury inquired into the availability of education on proper conservation techniques to cultivators from the County and other private agencies. The Jury questioned what actions were being taken by the County to prevent potential environmental damage to the land, flora and fauna by irresponsible cultivators and to provide for public health and safety.

## **APPROACH**

The Jury, in conducting this inquiry:

- interviewed staff from these public agencies:
  - Nevada County Sheriff’s Office
  - Nevada Irrigation District
  - California Department of Fish and Wildlife
  - California Water Quality Control Board, Central Valley Region
  - Butte County Code Enforcement Division
  - Nevada County Agricultural Commissioner
  - Nevada County Department of Environmental Health
  - Nevada County Code Compliance Division
  - Nevada County Community Development Agency
  - Nevada County Office of the County Executive
  
- interviewed staff from these private organizations:

- California Growers Association
  - South Yuba River Citizens League
  - Nevada County Resource Conservation District
- reviewed documents and photographs from the following sources:
    - California Department of Fish and Wildlife
    - California Water Quality Control Board, Central Valley Region
    - Butte County Department of Development Services, Code Enforcement Division
    - California Growers Association
    - California Fish and Game Code
    - California Water Code
    - South Yuba River Citizens League
    - County of Nevada
    - Nevada Irrigation District

## **DISCUSSION**

The proliferation of the cultivation of marijuana in Nevada County has been widely reported in the local media in recent years. The Jury chose to write this report to educate the community on the environmental impact irresponsible cultivation is having on the land, and the effects on public safety of the residents of the County. The Jury questioned what actions were being taken by the County to prevent potential environmental impact to the land, flora and fauna by irresponsible cultivators and to provide for public safety.

The Jury recognizes that many marijuana cultivators practice eco-friendly, sustainable and safe agriculture practices in their business. However, the Jury found there are irresponsible cultivators who are not interested in complying with these practices.

### **Environmental Concerns**

The Jury interviewed staff from several state and local agencies. Through these interviews, as well as the review of documents and photographs, the Jury learned of environmental impact from the irresponsible cultivation of marijuana in the County.

In interviews with staff from the California Water Quality Control Board, Central Valley Region (CWQCB) and the California Department of Fish and Wildlife (CDFW), officials as well as a representative of South Yuba River Citizens League (SYRCL) offered the Jury verbal, documented and photographic evidence of the discharge of both legal and illegal chemicals into the watershed of local rivers, streams and creeks and the results thereof. These discharges result from the use of fertilizers, pesticides and rodenticides in the cultivation of marijuana. Some discharges are from fuels used in the generation of electrical

power and for cooking stoves. Many of the chemicals used are not legal for use in California, but continue to be used by irresponsible cultivators.

The Jury also learned that small wildlife will ingest these chemicals, with deadly results. Then, larger wildlife will feed upon the carcasses of these smaller animals, resulting in the same deadly results, with death being caused by the ingestion of the original toxins. This chain of death can run from the smallest creatures, such as birds, squirrels and rodents to larger animals, such as bears.

In interviews with staff from the CWQCB and the Nevada Irrigation District (NID), the Jury learned of damage to local waterways resulting from run-off into rivers and streams of these chemicals, with results such as abnormal vegetation growth. Additionally, the Jury learned of damage to vegetation and wildlife downstream because of unpermitted diversions of water from rivers, streams and irrigation ditches by irresponsible growers.

Interviews with the CWQCB, the NID, the CDFW and the Nevada County Sheriff's Office (NCSO), presented evidence of increased danger caused by illegal camping and open campfires in and near cultivation sites by irresponsible cultivators. Staff from the above agencies has witnessed clear-cutting of property, leakage and spillage of pesticides, fertilizers, rodenticides, and fuels, such as diesel, on properties, and human trash and waste left on properties by irresponsible growers. They also have evidence of the death of wildlife, resulting from the ingestion of contaminants.

Staff indicated in the past year, there had been wildfires associated with marijuana cultivations. Many cultivations have hoop-style greenhouses with lights used to stimulate the growth of marijuana plants within these structures. Many times power to these lights is supplied by extension cords stretched across dry grass in violation of code.

Staff also stated that explosions and fires have been associated with honey oil laboratories. The environmental damage from such an explosion includes an uninhabitable dwelling, butane canisters and chemical spillage leaching into the ground. In addition, a large number of discarded butane canisters were found in local waters.

Evidence was also provided showing the impact of unpermitted "clear-cutting" of wooded lands and the terracing of hillside slopes to provide areas for marijuana cultivation. By not using proper techniques, the irresponsible cultivators cause erosion of lands due to clear-cutting and terracing.

Interviews indicated there were complaints by neighboring property owners near marijuana cultivations regarding the noxious odors emitted from cultivation areas during certain periods of the growing season.

## **Education and Outreach**

California Growers Association (CGA) is a trade association for marijuana cultivation in California offering information on “best practices.” CGA is working to address the issues of illegal grading, land use, fertilizer runoff, illegal water diversion and theft. CGA has conducted educational workshops for cultivators on various subjects, including watershed issues in cultivating marijuana, water conservation, energy conservation, soil health and drip irrigation. The CGA continues to provide outreach and education to the marijuana cultivators of the County.

CGA representatives have met with three of the five members of the Nevada County Board of Supervisors. CGA also invited Supervisors to a policy summit held by CGA in December 2015. CGA staff stated they had received a response to this invitation from only one of the Supervisors. A CGA representative stated they brought up several environmental issues to the County staff but received no response. Additionally, the representative stated there is no partnership with the County on the marijuana cultivation issue.

In contrast, the CGA representative indicated they have an ongoing relationship with state and federal agencies including, but not limited to the CDFW and United States Forest Service (USFS).

The Jury interviewed personnel from SYRCL. SYRCL is an advocate for the preservation of the South Yuba River and its watershed, and also offers educational workshops in conjunction with CGA on “best practices.”

SYRCL staff told the Jury that the negative environmental impacts of irresponsible marijuana cultivation range from water diversions, water pollution, the poisoning of wildlife, litter, vegetation removal, and erosion. In California, the environmental impacts of marijuana cultivation have been further exacerbated by drought conditions.

SYRCL is partnering with Nevada County local chapters of The Emerald Growers Association (ESA) and Americans for Safe Access (ASA) to educate cultivators by presenting a series of workshops entitled *Best Management Practices*.

SYRCL has not invited the County to be a partner in these workshops. Staff told the Jury that SYRCL has not reached out to the County and the County has not reached out to SYRCL to open a dialogue. In addition, staff added that the County did not contact SYRCL regarding the development of Ordinance No. 2405.

SYRCL is also working with the USFS to develop *Best Management Practices* and monitoring protocols for remediating large, illegal grows throughout the Yuba River watershed. The focus of this project is to conduct:

- clean-up of sites for safety and hazardous materials, fuels, trash, and chemicals;
- restoration of water diversions, terracing, trails/roads, trash pits/holes, and vegetation management; and

- monitoring of water quality, fuel spills, and soil testing.

While only a limited number of scientific studies have been produced, there are hundreds of news articles on the topic, many of them highlighting the impacts of irresponsible marijuana cultivation on water and wildlife. It is estimated that the water demand to grow cannabis from both illegal and legal grow operations exceeds the amount of available surface water in many watersheds. The use of rodenticides to deter wildlife from grazing on marijuana plants has poisoned wildlife.

### **Public Health and Safety Concerns**

In addition to the environmental damage from the irresponsible cultivation of marijuana, there is also potential danger to the public safety of residents of the County.

Many irresponsible cultivators grow on lands they do not own, both public property and private property owned by others. Often, the owners of the private property may not have knowledge of the cultivation and illegal camping occurring on their property. Home-made security devices, commonly known as “booby-traps” or “trip wires” may be deployed around the cultivation area creating a potential safety hazard.

There were thefts from the water storage tanks at the North San Juan Fire Department and the Grizzly Hill School, both in North San Juan. The theft from the fire department compromised their ability to combat wildfire in the area. There is also the theft of water from NID irrigation ditches.

Electrical power has been stolen from neighboring buildings or other sources. The theft of power may also result in an increased danger of wildfire by the use of improper, inadequate electrical wiring and connections.

### **Response by the County**

The Jury asked the question: “What is being done by the County to address the issues of environmental damage and the threat to public safety?”

Since 2012 the County has had Ordinance No. 2349 which places limitations on the cultivation of marijuana in the county and bans any business from dispensing marijuana, in any form, to the public. In January 2016, the County enacted Ordinance No. 2405 which bans all outdoor cultivation of marijuana and places limitations on the indoor cultivation of marijuana. The ban on dispensaries remains.

The Jury interviewed officials and staff from various County departments and agencies. The Jury also reviewed various ordinances pertaining to land use, building, agriculture and

nuisance. In review and interviews with County staff, the Jury learned that many of these ordinances are applicable to marijuana cultivation.

During interviews with County staff, the Jury was consistently told that enforcement of ordinances pertaining to marijuana cultivation was the responsibility of the NCSO. The NCSO staff estimated that marijuana cultivation in the County has increased tenfold since 2006. Staff stated that marijuana cultivation is found in both rural and populated areas.

Yuba County has enacted a ban on outdoor marijuana cultivation and Butte County enforces significant fines for out of compliance marijuana cultivation. As a result, many growers, including irresponsible growers, have moved their operations to Nevada County, increasing marijuana cultivation locally.

County staff reported that a property owner must give a tenant permission to cultivate marijuana. However, there are growers who cultivate marijuana without property owner knowledge or permission.

If the NCSO receives a public complaint, they have stated they investigate and if the marijuana cultivation is non-compliant, the NCSO refers the issue to the proper department. Each County department allegedly keeps track of their own services; no interagency tracking is done.

However, on Jury request, NCSO staff was unable to provide to the Jury documentation as to the number of referrals made by the NCSO to other County departments regarding possible code violations found at marijuana cultivations. Also, NCSO staff was unable to provide documentation as to the number of referrals from other County departments, regarding possible code violations of marijuana cultivations.

There are no written protocols, policies or procedures regarding the referral of code non-compliance issues to the appropriate authority within the County. NCSO staff is unaware of any protocol requiring other county departments to report marijuana cultivation to the NCSO.

Nevada County Code Compliance Division (CCD) staff indicated to the Jury that CCD does no enforcement of the current county marijuana ordinance and that CCD staff “is not in the marijuana ordinance enforcing business.” CCD comes under the authority of the Nevada County Community Development Agency (CDA) and that a past CDA director had given a verbal directive that the CCD is not to be “the eyes and ears for the Sheriff’s Department.”

As an example, a CCD director stated that if a CCD staff member was on a property, on a complaint unrelated to marijuana and sighted a marijuana cultivation that was obviously out of compliance, the staff would not issue a citation or refer the matter to the NCSO. On request of the Jury, the CCD could not provide any written order, memorandum or document which makes this statement. Staff said this directive came to a director of the CDA from either the Nevada County Executive Officer (CEO) or the Nevada County Board of Supervisors. Staff again stated they had never seen this information in a written format.

If the CCD receives a direct complaint regarding a potentially out of ordinance marijuana grow, they will direct the complainant to contact the NCSO. The CCD will not take the information and does not forward the information to the NCSO. The number of these complaints are not recorded or tracked by the CCD.

As an example, the CCD will receive a complaint regarding a possible unpermitted deck being built. If a code compliance officer investigates the issue and sees a marijuana grow, they will not refer the matter to the NCSO. CCD staff estimated the CCD receives approximately 50 such complaints a year.

On request of the Jury, the CCD could not provide any written policy regarding the referral or the receipt of referrals from other agencies regarding possible code violations at marijuana cultivations. Also, on request, the CCD could not provide any documentation regarding the actual number of referrals the CCD forwarded to the NCSO each year.

## **FINDINGS**

- F1.** The cultivation of marijuana in Nevada County has grown exponentially in the past ten years.
- F2.** There is public knowledge of the growth of marijuana cultivation in Nevada County.
- F3.** Many cultivators of marijuana do and want to follow proper environmental practices in cultivation.
- F4.** Irresponsible cultivators of marijuana have caused significant environmental damage.
- F5.** Irresponsible cultivators of marijuana are a threat to public safety in Nevada County.
- F6.** Nevada County has numerous ordinances, rules and regulations pertaining to land use.
- F7.** The Jury received contradictory information as to the application of ordinances, rules and regulations in Nevada County.
- F8.** Many of these ordinances, rules and regulations should be applied to the practice of marijuana cultivation.
- F9.** The Jury was unable to find evidence that any records are being maintained regarding interdepartmental cooperation of marijuana grow referrals.

- F10.** One consistent theme received by the Jury from County staff, was that any and all enforcement of any ordinances, rules and regulations that pertained to the cultivation of marijuana was the sole responsibility of the Nevada County Sheriff's Office.

## **RECOMMENDATIONS**

The Nevada County Civil Grand Jury recommends that the Nevada County Board of Supervisors direct the Nevada County Executive Officer, in conjunction with the Nevada County Sheriff's Office, to:

- R1.** Empanel an interdepartmental working group to coordinate all information pertaining to environmental dangers and public safety issues caused by marijuana cultivations.
- R2.** Develop policies and procedures defining the responsibilities of each department as it pertains to environmental issues surrounding marijuana cultivation.
- R3.** Document and track interdepartmental referrals pertaining to marijuana cultivation violations.
- R4.** Enforce the legal application of existing land use ordinances.

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code Section 933.05, the Jury requests responses to all recommendations from the Nevada County Board of Supervisors by September 14, 2016.

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.
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**RESPONSE**



COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Nathan H. Beason, 1<sup>st</sup> District  
Edward C. Scofield, 2<sup>nd</sup> District  
Chair Dan Miller, 3<sup>rd</sup> District  
Vice-Chair Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District

Julie Patterson Hunter,  
Clerk of the Board

August 23, 2016

The Honorable Thomas Anderson  
Presiding Judge of the Nevada County Grand Jury  
Nevada County Courthouse  
201 Church Street  
Nevada City, CA 95959

SEP 08 2016

Re: Board of Supervisors' Responses to the 2015-2016 Nevada County Civil Grand Jury Report, *Environmental Impact of Marijuana Cultivation in Nevada County*.

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2015-2016 Nevada County Civil Grand Jury Report, dated June 15, 2016 entitled *Environmental Impact of Marijuana Cultivation in Nevada County*.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on August 16, 2016. The Responses are based on either personal knowledge, examination of official County records, information received from the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2015-2016 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

Dan Miller, Chairman  
Nevada County Board of Supervisors

cc: Doug Wight, Foreman, Grand Jury  
Rick Haffey, County Executive Officer

Letter & Response  
Reviewed  
8/23/16 MJA

NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO

2015-16 Nevada County Civil Grand Jury Report

Marijuana Cultivation - Environmental Impacts

DATED August 16, 2016

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, the Nevada County Sheriff's Office or testimony from the Board of Supervisors and county staff members.

**A. RESPONSES TO FINDINGS**

**None required**

**B. RESPONSES TO RECOMMENDATIONS**

**R1.** Empanel an interdepartmental working group to coordinate all information pertaining to environmental dangers and public safety issues caused by marijuana cultivations.

**This recommendation is partially implemented.**

Nevada County recognizes that some marijuana cultivators use eco-friendly, sustainable and safe agriculture practices but there are also some cultivators who are not conforming to these practices. Nevada County also recognizes the potential danger to public safety with cultivation that is best address by the Nevada County Sheriff's Office. This recommendation is partially implemented and continues to evolve as part of the Board of Supervisors' process to address cultivation ordinances in a comprehensive manner.

The Board of Supervisors agrees that marijuana cultivation in Nevada County has the potential for profound degradation of our environment and overall quality of life, including potential health and safety hazards to our residents. The Board will continue to utilize all appropriate county resources in this effort and will continue to integrate to the maximum extent possible agencies that have environmentally-oriented missions and enforcement authority.

The Board recognizes the need to implement policies that are compatible with the California Environmental Quality Act (CEQA). CEQA will continue be a key element in developing long-term policies on marijuana cultivation. Other than criminal statutes, the county's marijuana cultivation policies are based on land use policy and on conformance with CEQA. The Board of Supervisors is mindful of the potential legal difficulties that could ensue from any policies that are not crafted without careful consideration of environmental law, in terms of individual cases as well as the cumulative effects of cultivation in Nevada County.

The Nevada County Board of Supervisors is working on a long term policy to address cultivation ordinances, rules and regulations. Interdepartmental cooperation is constant and ongoing regarding cultivation as the County continues to work on this issue. Environmental issues surrounding cultivation are being reported by the Nevada County Sheriff's Office to the appropriate agencies. The Nevada County Sheriff's Office and Community Development Agency are working together, sharing resources, and exchanging information on cultivation sites.

The interdepartmental working group will continue to implement policies as they are adopted by the Nevada County Board of Supervisors. The county is continuing to develop countywide policies and procedures defining the responsibilities of each department as the Board develops the long term policy for cultivation. The County Sheriff's office will continue to be the lead agency in those circumstances where there is potential for endangerment of county personnel or public safety in general, as is the case with marijuana cultivation complaint.

**R2.** Develop policies and procedures defining the responsibilities of each department as it pertains to environmental issues surrounding marijuana cultivation.

**This recommendation is partially implemented.**

Nevada County policy is that enforcement of ordinances pertaining to marijuana cultivation is the responsibility of the Nevada County Sheriff's Office. This policy is built around employee safety and potential criminal activity that may occur with cultivation. Other departments refer complaints to the Sheriff's Office which is appropriately equipped to handle such referrals. The Sheriff's Office has the training and resources to safely address field interaction with cultivators. If the Nevada County Sheriff's Office receives a public complaint, they investigate and if the cultivation is non-compliant, takes appropriate action with citations and/or abatement. The Sheriff's Office regularly requests and receives assistance from other departments as necessary if they witness other issues including land use and environmental concerns.

The Sheriff's Office has the training and resources to address safely interactions with cultivators in the field. The Sheriff's Department regularly requests and receives assistance from other departments, as necessary, when they observe other potential issues, including land use policy violations and damage to environmental quality. The Nevada County Sheriff's Office makes regular referrals to Code Compliance when they witness other non-cultivation violations regarding building, safety, and environmental damage. The cooperation between Sheriff's Office and Code Compliance is working well with recurring interdepartmental cooperation. If County staff witnesses an immediate health and safety issue that may cause imminent danger to public safety, they will respond and notify the proper public agency.

According to the Nevada County Sheriff's Office, there is no shortage of complaints regarding cultivation and any member of the public can call the tip line and make an anonymous complaint. If the public or any organization has any information regarding

illegal drug or narcotic activity, or information regarding environmental damage created by marijuana cultivation, they should contact the confidential Narcotic Tip Hotline at (530) 265-1699.

**R3.** Document and track interdepartmental referrals pertaining to marijuana cultivation violations.

**This recommendation is implemented.**

The Nevada County Sheriff's Office is the centralized referral system for referrals pertaining to marijuana cultivation violations. If another department, including Code Compliance, receives a direct complaint regarding marijuana cultivation, they will transfer the complainant to the Nevada County Sheriff's Office. The Sheriff's Office takes the complaint and documents the complaint as appropriate.

Documenting and tracking interdepartmental referrals Countywide pertaining to marijuana cultivation creates confidentiality and privacy issues with the complaint process and should be received and processed by one department, specifically the Nevada County Sheriff's Office. Requiring other county departments to report or track referrals pertaining to marijuana cultivation as this would be redundant with a centralized reporting system in the Nevada County Sheriff's Office and would make the complaint process more cumbersome by requiring complainants to provide repetitive information to multiple departments even when the department is not in a position to respond to the issue.

**R4.** Enforce the legal application of existing land use ordinances.

**This recommendation is implemented.**

The County enforces existing and adopted land use ordinance code through Code Compliance with support of multiple County departments.

# **LAW ENFORCEMENT**

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**Can the Benefits of Washington Ridge  
Conservation Camp Survive  
Prison Realignment**

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**Nevada County Grand Jury Report with Responses  
2015-2016**



# **CAN THE BENEFITS OF WASHINGTON RIDGE CONSERVATION CAMP SURVIVE PRISON REALIGNMENT**

## **SUMMARY**

Forest fires are our worst nightmares and, especially here in the foothills, among the most expensive public disasters we face. Since July 1, 2015, California has spent close to \$300 million fighting forest fires. Locally, the Lowell Fire during the summer of 2015 is estimated to have cost in excess of \$8 million. An important asset for firefighting, and an invaluable one for keeping the costs of firefighting down, sits in the heart of our community, five miles from Nevada City. The Washington Ridge Conservation Camp, operated jointly by the California Department of Corrections and Rehabilitation and the California Department of Forestry and Fire Protection, provides five firefighting crews to operate on the front lines of forest fires in Nevada County and all over the State. It is one of 43 conservation camps maintained by the California Department of Corrections and Rehabilitation and the California Department of Forestry and Fire Protection. The inmate crews are available year round and have become California's front line forces in fighting wildfires and other public emergencies. All of the major disasters over the last few years have had the conservation camp crews present.

Washington Ridge Conservation Camp provides Nevada County and neighboring counties with tens of thousands of man-hours of service annually, including fire prevention, suppression and ground maintenance. They also work on numerous community service projects when they are not fighting fires. The California Department of Corrections and Rehabilitation estimates that the use of inmates in these camps saves the State as much as \$100 million per year responding to fires and providing other community services.

The existence of Washington Ridge Conservation Camp and other conservation camps is threatened by the implementation of the California Public Safety Realignment Act of 2011, also known as Assembly Bill 109. This bill has changed the sentencing guidelines for "low risk" inmates, moving them from state prisons, where they might be available for the conservation camps, to county jails, where, for the most part, they are not.

With the passage of the California Public Safety Realignment Act of 2011, conservation camps, including Washington Ridge Conservation Camp, have had to re-evaluate their programs. While the California Public Safety Realignment Act of 2011 has brought the state prisons into compliance with Federal District Court rulings condemning overcrowded prisons, it has had the unintended consequence of reducing the inmate population from which the conservation camps can draw inmates to keep the camps at full effectiveness. Moreover, the reimbursement provisions of the conservation camps make it unlikely that many county sheriffs will send their inmates to the camps. However, some of the funds received by the

County to implement Assembly Bill 109 could be used to move eligible inmate volunteers into the conservation camps.

The implementation of the California Public Safety Realignment Act of 2011 was appropriately designed to engage the counties to take responsibility for the inmates who will be remanded to their local authorities. The mechanism of this implementation is the establishment of community corrections partnerships in each county. The California Department of Corrections and Rehabilitation and California Department of Forestry and Fire Protection, should work together with Community Corrections Partnerships to solve the unintended consequence of losing firefighter/inmates as a result of Assembly Bill 109 realignment.

## **GLOSSARY**

**AB109** - The California Public Safety Realignment Act of 2011

**CAL-FIRE** - California Department of Forestry and Fire Prevention

**CCP** - Community Corrections Partnership

**CDCR** - California Department of Corrections and Rehabilitation

**Jury** - Nevada County Civil Grand Jury

**Washington Ridge** - Washington Ridge Conservation Camp

## **BACKGROUND**

The California Constitution of 1849 provided in Section 23 of Article 1 that a grand jury “be drawn and summoned at least once a year in each county.” Accordingly, each of the 58 counties in the State yearly impanels a civil grand jury, whose function is to investigate the operation of the various officers, departments, and agencies of local government. A civil grand jury may examine all aspects of county and city government, special districts, and other tax-supported organizations to ensure that the best interests of the citizens of the county are being served. The civil grand jury reviews and evaluates procedures, operations, and systems utilized by local agencies to determine whether more effective methods may be employed.

Moreover, California Penal Code Section 919(b) requires each county’s civil grand jury to inquire annually into the condition and management of the public prisons within each county. Washington Ridge Conservation Camp (Washington Ridge) is a public prison located within Nevada County.

## APPROACH

The Nevada County Civil Grand Jury (Jury) interviewed:

- regional California Department of Forestry and Fire Prevention (CAL-FIRE) administrators,
- California Department of Corrections and Rehabilitation (CDCR) conservation camp administrators,
- key staff members associated with Washington Ridge,
- inmates working as firefighters at Washington Ridge,
- key Nevada County Community Corrections Partnership (CCP) personnel, and
- also toured Washington Ridge on two occasions.

The Jury also researched:

- past Jury reports,
- the California Public Safety Realignment Act of 2011 (AB109),
- AB109 Response Plan Overview,
- a report by Headwaters Economics entitled *The Rising Cost of Wildfire Protection on the rising costs of wildland fires in the west*,
- local news media reports on the Lowell Fire,
- CDCR reports on conservation camps, and
- CAL-FIRE reports on conservation camps.

## DISCUSSION

Forest fires are our worst nightmares and, especially here in the foothills, among the most expensive public disasters we face. Since July 1, 2015, California has spent close to \$300 million fighting forest fires. Locally, the Lowell Fire during the summer of 2015 is estimated to have cost in excess of \$8 million. An important asset for firefighting, and an invaluable one for keeping the costs of firefighting down, sits in the heart of our community, five miles from Nevada City. Washington Ridge, operated jointly by CDCR and CAL-FIRE, provides five firefighting crews to operate on the front lines of forest fires in Nevada County and all over the State. It is one of 43 conservation camps maintained by CDCR and CAL-FIRE. The inmate crews are available year round and have become California's front line forces in fighting wildfires and responding to other public emergencies. According to CAL-FIRE, all of the major disasters over the last few years have had the conservation camp crews present.

Washington Ridge was originally a California Youth Authority camp for juvenile correction. In 2005 it was converted into Washington Ridge. At this time there are approximately 13 CAL-FIRE employees and 10 CDCR correctional officers who run Washington Ridge. The unique cooperation between these two state agencies is very noticeable in the seamless manner in which they work together.

Washington Ridge houses 106 inmates at full capacity. At the time of the Jury's visit the count was 85. There are currently five fire crews working out of Washington Ridge with 13-17 members on each crew. The Jury was told that these crews can be assembled, outfitted, and on the road to an emergency within 30 minutes of a call. Washington Ridge has five unique response vehicles that are each equipped with all the necessary tools, provisions, and inmate seats for non-replenished deployment of up to 500 miles. The crews are managed by a CAL-FIRE crew captain who is required to conduct periodic inmate counts for the CDCR group and verify by facial recognition that all inmates are accounted for. When extended deployment is foreseen, CDCR personnel follow the crews and are present at base camps to ensure inmates are continuously monitored in accordance with CDCR policy.

Washington Ridge is also considered a base camp for large disasters. When this happens, up to one thousand more inmates and personnel can be brought in from other conservation camps. They all can be fed and housed on the grounds.

The recidivism rate from conservation camps is lower than that of the general prison and county jail population. Since this type of time in custody is considered better than being in a state prison, there have been few attempts to escape. In fact, there have only been two attempts in the past four years. One of those attempts was in February of 2016. It should be noted that, because of the system in place to handle escapes, the inmate was caught and sent to Wayne Brown Correctional Facility in less than twenty-four hours. Because of his escape, that inmate will no longer be eligible for conservation camp duty.

These fire crews are all volunteer inmates. In order to be eligible for fire camps, inmates cannot have any convictions for arson, escape, sex related offenses or show a tendency towards violence. Once they have been vetted and determined eligible for assignment they are put through very intense training at High Desert State Prison in Susanville. The training includes two weeks of classroom courses and another two weeks in the field. Once the inmates are assigned to a camp they are required to complete four hours per week of intense training in all aspects of fire suppression.

When not actively training or fighting fires, crews are used for community and Washington Ridge projects. Non-profit organizations and/or government agencies can use a full crew of inmates for a daily rate of \$225. They also provide other agencies with a labor force to perform public works service on projects pursuant to Public Resources Code Section 4951 et seq.

Washington Ridge provides Nevada County and neighboring counties with tens of thousands of man-hours of community service annually, including fire prevention/suppression and ground maintenance. CDCR estimates that the use of conservation camp firefighters saves the State as much as \$100 million per year responding to fires and providing other community services.

In 2015, Washington Ridge provided 94.5 crew-hours of service for the County of Nevada for a total cost of \$21,262. The Jury has been advised that the going rate for those same services from an outside contractor would have been \$148,212. This saved the County of

Nevada \$126,950. In the same year, Washington Ridge provided 192.5 crew-hours of service for other organizations at a cost of \$43,312. The cost of outside contractors would have been \$301,840. The savings to these organizations amounted to \$258,528. Those services were provided to:

- Deer Creek School evacuation site preparation,
- Nevada County Fairgrounds,
- Pleasant Ridge Union School District,
- United States Forest Service - Pioneer Trail,
- Nevada City Public Works, and
- City of Grass Valley.

When not on fire projects and back at Washington Ridge the inmates have numerous opportunities to better their position in life.

In a tour of the facility that included dormitories, recreational room, shops, and kitchen, the Jury observed that the inmates are able to learn many different trades and skills that may benefit them upon release. The inmates work on all their equipment under supervision. They repair the chain saws used in firefighting, which serves to extend their usefulness. They have a sawmill where they cut their own wood for repairs and sale. They currently are making durable tables and benches for sale or trade with other organizations for needed equipment and supplies. They can also learn culinary, landscaping, and equipment maintenance skills. These skills give them a much greater chance to become a productive working part of society.

The camp is self-contained. It has an area for visitation including a playground. Religious services are available. Counseling is provided for alcohol and drug addiction.

While interviewing inmates at Washington Ridge, the Jury ascertained that the inmates feel they are treated fairly and given a chance to learn while performing their assigned jobs, which in turn allows them the opportunity to be promoted to better jobs within the camp with higher pay. They appreciated the chance to learn trades and better themselves. By working and learning together they have more of a chance to find employment and avoid falling back into old life styles after release. While some inmates interviewed had been at other camps, they felt that Washington Ridge was by far the best. The inmates stated that there is no fear of violence from other inmates as there is in state prison.

The passage of AB109 changed the sentencing guidelines for many “low risk” inmates, moving them from state prisons, where they might be available for conservation camps, to county jails or probation, where, for the most part, they are not. CDCR is willing to accept inmates from county jails for service in conservation camps. However, it requires reimbursement of costs. Hence, if a county jail is at or over capacity, a sheriff might be willing to pay the additional charge to relieve the capacity problem. However, when the county jail is not at capacity, as is the case in Nevada County, there is no incentive for the sheriff to incur the additional expense associated with sending inmates to conservation

camps. Some of the funds received by the County to implement AB109 might be used to move eligible inmate volunteers into conservation camps.

Based on the numbers provided, if AB109 realignment is fully implemented, approximately 50% of the 4,300 current inmates assigned to conservation camp programs would be returned to jails in the counties from which they came or be placed on parole. The consequence, according to information supplied by Washington Ridge administrators, could be the closure of approximately 13 conservation camps throughout the State. That means the State **could lose as many as 90 fire crews**. Both CAL-FIRE and CDCR are struggling to find solutions to this reduced source of inmates to staff the camps.

The implementation of AB109 was appropriately designed to engage the counties to take responsibility for the inmates who will be remanded back to their local authorities. The mechanism of this implementation is the establishment of community corrections partnerships (CCPs) in each county. The funding for AB109 implementation, made available from the State to the counties, is administered by the CCPs. The funding provided to the CCP might be used as a resource to design the process for assignment of county inmates to the conservation camps. It also should be noted that, for security reasons, inmates cannot be assigned to conservation camps in their own county. These and other issues, such as screening the inmates as they are remanded back to the County jail, placement in training facilities, security, transportation, training locations and other pressing issues would have to be addressed. The Jury recommends that CDCR and CAL-FIRE connect with the Nevada County CCP to explore the possibility of utilizing Nevada County Jail inmates who can pass the rigors of qualification as a source of volunteer candidates for conservation camps statewide and as a model to the State to remedy the unintended consequences of AB109 realignment.

## FINDINGS

The following are findings made by the Jury during the current investigation through testimony from witnesses, including inmates, and tours of Washington Ridge.

- F1.** Washington Ridge supplies fire suppression crews in and around Nevada County at significant savings to Nevada County and the State.
- F2.** Washington Ridge supplies low cost labor for non-profit organizations and government agencies.
- F3.** Washington Ridge teaches life skills along with job training and promotes rehabilitation to reduce recidivism.
- F4.** Washington Ridge is well maintained and managed by CAL-FIRE and CDCR.

- F5.** An unintended consequence of AB109 implementation is that the number of “low risk” inmates at California State Correctional Facilities has declined and assignment to conservation camps has decreased.
- F6.** Full implementation of AB109 could result in closure of approximately 13 conservation camps.
- F7.** CDCR needs to find a source of qualified inmates to staff conservation camps.
- F8.** Conservation camps save the State as much as \$100 million a year.
- F9.** The recidivism rate from conservation camps is lower than that of general prison and county jail population.
- F10.** Washington Ridge saved the County of Nevada and other local agencies \$385,478 in 2015.
- F11.** CDCR and CAL-FIRE along with CCPs, working with AB109 funds, could work together to solve the unintended loss of firefighter/inmates caused by AB109.

## **RECOMMENDATIONS**

- R1.** California Department of Corrections and Rehabilitation should continue working with California counties in searching for a plan to keep the conservation camps fully staffed.
- R2.** California Department of Forestry and Fire Prevention should continue working with California counties in searching for a plan to keep the conservation camps open.
- R3.** Local agencies and the County of Nevada should continue working with Washington Ridge Conservation Camp to save money.
- R4.** California Department of Corrections and Rehabilitation and California Department of Forestry and Fire Prevention, should work together with CCPs to solve the unintended consequence of losing firefighter/inmates as a result of AB109 realignment.

## **REQUIRED RESPONSES**

None required nor requested.

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.

**NO  
RESPONSE  
REQUIRED**



# **LAW ENFORCEMENT**

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## **Law Enforcement Evidence Handling Units**

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**Nevada County Grand Jury Report with Responses  
2015-2016**



# LAW ENFORCEMENT EVIDENCE HANDLING UNITS

## SUMMARY

The proper collection and retention of evidence is a foundational element of our judicial system. While most commonly associated with the prosecution of criminal acts, properly maintained evidence can also be of vital importance in the exoneration of the innocent. The 2015-2016 Nevada County Civil Grand Jury undertook to examine all law enforcement agency evidence handling facilities within Nevada County to determine compliance with policies, procedures and best practices recommended by recognized evidence handling advisory organizations, and with the Nevada County law enforcement agencies' own internal policies.

The Nevada County Civil Grand Jury inspected evidence handling facilities and interviewed evidence technicians and management from the Nevada County Sheriff's Property Unit, the Grass Valley Police Department Evidence Handling Unit, the Nevada City Police Department Evidence Handling Unit and the Truckee Police Department Evidence Handling Unit. It also reviewed the written policies of each law enforcement agency and the recommended policies, procedures and best practices of evidence handling advisory organizations.

The Nevada County Civil Grand Jury reviewed five primary elements of each law enforcement agency's evidence handling function: the adequacy of the physical plant; staff training and competence; maintenance of and adherence to policies, procedures and best practices; conduct of inspections and audits; and purging of unneeded evidence.

**Physical Plant:** All four of the Nevada County evidence handling units appear to have enough space and the proper supplies and equipment to properly conduct the evidence handling function, although the city police property handling units are all near capacity. All three are considering alternatives that will provide more space and are engaged in careful purging of unneeded evidence to provide more space. The consolidation of the Nevada City Police Department Evidence Handling Unit with the Grass Valley Police Evidence Handling Unit could reduce costs and duplication within both agencies.

**Staffing:** All four Nevada County evidence handling units are adequately staffed. All evidence technicians are well-trained, enthusiastic and diligent in their work. Only two issues arose in connection with staffing. First, the technician with the most experience within the Nevada County Sheriff's Property Unit may soon retire and needs to be replaced. Second, the assignment of sworn officers as evidence technicians at the Nevada City Police Department Evidence Handling Unit, although expedient, reduces the time the officers can devote to their primary responsibilities.

**Policies and Procedures:** Clear, concise and up-to-date written policies and procedures are essential to the proper operation of an evidence handling unit. Such procedures provide guidance to evidence technicians and ensure a seamless transition when new technicians are hired. All three of the County police departments subscribe to Lexipol; a service that provides policy manuals, including manuals for evidence handling units, with ongoing amendments to reflect changes in the law and in best practices.

The Nevada County Sheriff's Office has subscribed to Lexipol in the past but does not intend to renew that subscription. In fact, it is not clear if the Lexipol evidence handling unit manuals were ever used by the Nevada County Sheriff's Property Unit. The current Property and Evidence Manual that serves as the Nevada County Sheriff's Property Unit's written manual is dated August 1, 1993 and was last revised in December 2006. As with the Lexipol manual, it is not clear that this outdated manual is used by the Sheriff's Property Unit technicians. Those technicians have been working on a "Desk Manual" describing their actual procedures but it is not complete. Hence, the success of the Nevada County Sheriff's Property Unit appears to be due solely to the training and skills of the current technicians, the most senior of whom is about to retire.

**Audits and Inventories:** Best practices in evidence handling encourage that regular audits and inventories be performed and recorded to determine if appropriate and timely policies and procedures are in place and being adhered to. Model policies from Lexipol and California's Commission on Peace Officer Standards and Training advise frequent internal audits by evidence handling unit supervisors, regular internal audits by law enforcement personnel not associated with the evidence handling function and biennial audits by outside auditors. They also advise complete inventories when there is a change in personnel.

The biennial external audits encouraged by best practices are more often ignored than observed in Nevada County. The Nevada County Sheriff's Property Unit's last external audit was conducted nine years ago in July 2007. The Nevada County police departments are in rough compliance with recommended biennial audits. The Nevada City Police Department Evidence Handling Unit was audited in August 2013, the Grass Valley Police Department Evidence Handling Unit in March 2014, and the Truckee Police Department Evidence Handling Unit in March 2012. All three police evidence handling units are due for an external audit. The Nevada County Sheriff's Property Unit is distressingly overdue.

**Purging:** When evidence is no longer needed to be retained, it must be purged from the evidence handling unit to prevent the unit from being overwhelmed by the continuous addition of new evidence. Purging is a complex and time-consuming process. It requires a review of the status of any legal proceedings related to the evidence and to statutes of limitations that might apply to actual or potential proceedings. All four Nevada County law enforcement agencies have appropriate processes for the disposal of evidence and property including special requirements for the disposal of firearms and narcotics. While the Nevada County Civil Grand Jury heard a concern from three agencies regarding the timeliness of the District Attorney's Office authorizations for the disposal of evidence, the District Attorney recently has declared a new policy to speed up the process.

**Consolidation:** Finally, the Nevada County Civil Grand Jury noted that inefficiencies exist in the maintenance of separate evidence handling units in the Nevada City Police Department and the Grass Valley Police Department. It appears that consolidation of the Nevada City Police Department Evidence Handling Unit with the Grass Valley Police Department Evidence Handling Unit was in recent years determined to be mutually beneficial and should be considered again based on cost savings and better use of sworn personnel resources.

## **GLOSSARY**

**CALEA** - Commission on Accreditation for Law Enforcement Agencies

**CAPE** - California Association for Property and Evidence

**EHU** - Evidence Handling Unit

**GVPD** - Grass Valley Police Department

**Jury** - Nevada County Civil Grand Jury

**Lexipol** - Lexipol, LLC

**NCPD** - Nevada City Police Department

**NCSO** - Nevada County Sheriff's Office

**POST** - California Commission on Peace Officer Standards and Training

**PS.Net/RMS** - Public Safety Software Records Management System Module

**SPU** - Nevada County Sheriff's Property Unit

**TPD** - Truckee Police Department

## **BACKGROUND**

In California, each of the 58 counties empanels a civil grand jury, whose function is to investigate the operations of the various officers, departments, and agencies of local government. A civil grand jury may examine all aspects of county or city government, special districts, and other tax-supported organizations to ensure that the best interests of the citizens of the county are being served. The civil grand jury reviews and evaluates procedures, operations, and systems utilized by local agencies to determine whether more effective methods may be employed.

The 2015-2016 Nevada County Civil Grand Jury (Jury) undertook to examine all Nevada County law enforcement agency evidence handling facilities. The facilities examined were the Nevada County Sheriff's Property Unit (SPU), the Grass Valley Police Department (GVPD) Evidence Handling Unit (EHU), the Nevada City Police Department (NCPD) EHU and the Truckee Police Department (TPD) EHU. The objective was to determine compliance with recommended policies, procedures and best practices of recognized property and evidence training organizations as well as with the law enforcement agencies' own internal policies and procedures.

## APPROACH

In order to determine whether the law enforcement agencies in Nevada County comply with best practices and procedures for the security, control and maintenance of evidence, the Jury:

- reviewed the *Property and Evidence System Audit Guide* written by the California Commission on Peace Officer Standards and Training (POST). POST was established in 1959 to set minimum selection and training standards for California law enforcement;
- reviewed *Policy 804, Property and Evidence* by Lexipol, LLC (Lexipol), a provider of risk management resources for public safety organizations including guidance on evidence handling policies;
- reviewed the *Property and Control Standard 84.1.6* of the Commission on Accreditation for Law Enforcement Agencies (CALEA). CALEA was created in 1979 as a credentialing authority for law enforcement personnel;
- interviewed a consultant who specializes in the evaluation and auditing of evidence handling units throughout California;
- reviewed each Nevada County law enforcement agency's internal policies and procedures concerning evidence handling;
- conducted on-site inspections of each Nevada County law enforcement agency's evidence room to determine compliance with the POST and Lexipol audit and safety best practices and guidelines and each law enforcement agency's own policies and procedures;
- conducted interviews with evidence room representatives and management from each law enforcement agency; and
- reviewed each law enforcement agency's most recent evidence handling unit audit reports and available records of inventories conducted.

## DISCUSSION

### Overview

In its review of Nevada County law enforcement agencies' evidence handling policies and procedures, the Jury focused on five areas of concern: 1) physical plant, 2) staffing and training, 3) written policies and procedures, 4) audits and inventories, and 5) purging and disposal. This report first reviews general evidence room management practices in those

areas and then reviews the results of the Jury's inspection and analysis of each agency's evidence practices and procedures.

In addition to storing evidence of crimes, evidence rooms store found property, property for safekeeping, contraband, and property for destruction. While there are many similarities in the procedures for handling evidence and non-evidentiary property, the primary focus of this report is on the handling of evidence of crimes. Such evidence must be collected, packaged and properly stored while the legal proceeding it is related to makes its way through the courts. Precise documentation is required to track the evidence from initial collection through the entire judicial process. Storage and handling is a complex process due to the variety of evidence that must be maintained: firearms, ammunition, controlled substances, alcohol and other liquids, DNA, fingerprint records, bodily fluids, and other materials requiring refrigeration to name but a few. Finally, when the evidence is no longer needed, it must be returned to its owner, sold at auction or destroyed.

Hence, the proper and efficient operation of an evidence handling unit requires well trained staff, clear and concise procedures for identification and storage and well-defined disposal policies and procedures.

### **Staffing and Training**

Evidence technicians are the backbone of the evidence handling function. They must initially be trained in the complexities of evidence gathering, retention and disposal and then receive ongoing training to remain current with changes in evidence case law and evolving best practices. Evidence technicians must learn how to apply the special handling that is required for many types of evidence. Some evidence, for example, must be kept under refrigeration, sometimes for years. Other evidence, such as firearms, DNA, controlled substances and cash, require unique special handling. Both initial and on-going training is available in California through the California Association for Property and Evidence (CAPE), the International Association for Property and Evidence, Inc. (IAPE) and POST.

### **Policies and Procedures**

An essential element of effective training is adherence to evidence room policies, procedures and best practices. Careful attention to the maintenance and review of policies and procedures ensures that the evidence handling function conforms to best practices and that the transition to a new evidence technician can be seamless. A new technician can rely on written policies, procedures and documentation to determine what evidence is on hand, where it is, and how it is to be preserved and maintained. Thus, creating, maintaining and following clear policies and procedures are essential to ensure effective performance by evidence room technicians and to document their compliance with best practices. Model policies are available from several sources, including POST. All law enforcement agencies in Nevada County have adopted the policies and procedures of POST and are eligible to receive its services and benefits including training programs and management counseling through its Management Counseling Services Bureau.

Lexipol is another source of model policies. Lexipol monitors legislation and law enforcement agencies' policies to ensure that the guidance that it provides are up to date. The Jury's review of each Nevada County law enforcement agency's policies relating to evidence room management revealed that the GVPD, NCPD and TPD have subscribed to and adopted or are in final draft review of evidence handling policies provided by Lexipol. However, the Jury has been informed that the Nevada County Sheriff's Office's (NCSO) subscription to Lexipol is slated to expire in May 2016 and will not be renewed. Moreover, it appears that the SPU did not use the Lexipol evidence handling module when it was available.

Modern computer technology makes the maintenance of accurate and complete records of evidence possible. In Nevada County, documentation of evidence gathered by all four law enforcement agencies is maintained using the Executive Information Services Public Safety Software Records Management System Module (PS.Net/RMS). Using barcode technology, this software creates a database containing a detailed custody history from the receipt of an item of evidence through its release or disposal.

The PS.Net/RMS property module may not be the best system available for evidence documentation and has had many training and upgrade problems in recent years. All Nevada County law enforcement agencies use the PS.Net/RMS software to enable integration with the Countywide Coordinated Dispatch Center that uses the same software for mobile digital communications. A law enforcement representative stated that the training and conversion costs associated with changing to a new system make its continued use likely.

### **Inspections of the Evidence Handling Units**

Inspections, comprised of audits and inventories, are essential to ensure that records of the evidence room are accurate and to ensure compliance with internal policies, procedures and good practice. According to POST *Property and Evidence System Audit Guide* (Audit Guide), periodic audits and inventories are required to enhance safekeeping of evidence and to minimize mismanagement that can lead to cases not being filed, loss of public confidence, litigation and financial loss. The Audit Guide goes on to recommend that audits should ensure that: the evidence room is clean and tidy; the integrity of evidence is being maintained; policies are being followed; evidence is protected from deterioration; evidence is stored safely; and evidence of no further value is being disposed of promptly.

Inventories involve the creation of a complete list of evidence on hand to ensure that documentation clearly identifies such evidence and its location.

Proper timing of inspections is also vital to the proper operation of an evidence room. Lexipol advises regular and detailed inspections:

*804.8 Inspections of the Evidence Room*  
*(a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.*

*(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by a Designated Officer.*

*(c) An annual audit of evidence held by the department shall be conducted by a Designated Officer not routinely or directly connected with evidence control.*

*(d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual(s) not associated to the property room or function to ensure that records are correct and all evidence/property is accounted for. [underlining added for emphasis]*

Such inspections can vary in complexity. A spot inventory may review the information available on a limited number of pieces of evidence or may concentrate on certain types of evidence, such as firearms or controlled substances, to ensure that they are present and secure. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. More detailed inventories can be conducted by internal personnel or by external inspectors. A complete inventory also should be performed at set intervals, for example, biennially, or when there is a change in personnel.

Best practices advise an external audit biennially. POST provides management guides to encourage agencies to conduct periodic self-assessments and audits. POST also conducts audits of evidence handling facilities on request. Moreover, there are consultants, such as those used by GVPD and TPD that conduct performance audits.

### **Purging Process**

An essential aspect of maintaining an evidence room is purging what is no longer needed. Each Nevada County agency has a limited amount of space and staff. Management does not know from day-to-day how much new evidence will arrive. Some evidence, for example the evidence from a marijuana seizure, can take up an inordinate amount of space. In addition, the length of time that evidence must be maintained varies widely. Certain evidence, such as that from a homicide, may be required to be kept indefinitely while other evidence may be discarded after all relevant statutes of limitations have expired. If a conviction is appealed, evidence may be required to be held while the appeal is pending.

Hence, the decisions involved in the purging process can be complicated and time-consuming. Normally, the District Attorney must approve of disposal. If each case is not reviewed properly, prosecution or exoneration of a person may be jeopardized if evidence has been improperly destroyed. In some instances a court order must be obtained prior to the return or disposal of evidence. An additional complication is that disposal of property can occur in several ways. Property may be auctioned or returned to its owner but in some cases property such as firearms and narcotics must be destroyed.

In response to concerns expressed by several Nevada County law enforcement agencies that the Nevada County District Attorney did not make evidence disposal a priority, the District Attorney's office has recently created a "streamlined system of purging evidence . . . once it has left the Courts and returned to the [EHU]." Nevertheless, the process to determine if

evidence can properly be destroyed is still complex. The Jury was informed that the process of purging evidence can take as much as 90% of an evidence technician's time.

## **Coordination**

As described below, the sizes of evidence handling facilities in Nevada County vary widely. SPU is by far the largest operation and NCPD EHU the smallest. GVPD has a somewhat larger EHU than Nevada City and has been able to assign a dedicated staff member to manage the evidence handling function. Regardless of the size of the EHUs, each must purchase and maintain equipment and materials required to identify and preserve evidence that has been collected.

The Jury learned through its investigation that, in 2012, GVPD and NCPD considered consolidating their separate EHUs into one central evidence handling unit. At the time, it was determined by both departments that consolidation would potentially increase the efficiency of operations and reduce costs. The Jury finds that such consolidation could increase efficiency in both departments and reduce costs. It should be considered again.

## **Evidence Handling Unit Reports**

As stated above, the Jury visited the evidence and property units of each Nevada County law enforcement agency and reviewed each agency's policies and procedures. The results of those inspections and reviews are described below.

### Nevada City Police Department Evidence Handling Unit:

The NCPD EHU is located in the City Hall of Nevada City and is somewhat rudimentary but in compliance with evidence and property handling standards. The NCPD EHU is quite small in conformance with the size of the NCPD and the limited volume of evidence and property processed by the NCPD. It includes an evidence and property check-in area. Once evidence is properly described and packaged by the submitting officer it is placed in locked wooden drawers. The key to those drawers is dropped into a slot in another drawer to be accessed by an evidence technician. Access to the NCPD EHU is by mechanical key locks with the keys issued only to the evidence technicians. The space is small but tidy and appears adequate for the volume of evidence generated by the NCPD. It is properly alarmed.

The NCPD EHU staff consists of two sworn officers as collateral duties. They have been trained and certified. One of those officers is the only K-9 officer in western Nevada County and frequently is called upon to support other law enforcement agencies. There is an effort underway to assign and train a Community Services Officer to handle evidence and property on a part time basis. The use of sworn officers to perform evidence handling duties reduces the available patrol time of the NCPD.

The NCPD EHU has a Property and Evidence Policy Manual and is in compliance with POST and Lexipol standards. The PS.Net/RMS system is used for inventory control and evidence bar code marking.

The most recent POST Management Study of the NCPD EHU was conducted in August 2013, so a current biennial audit is overdue. Audit spot checks are conducted monthly and recorded. Inventory policies are followed and records are maintained. Evidence purging is conducted as necessary to ensure that space is available for new arrivals.

Truckee Police Department Evidence Handling Unit:

The TPD EHU is located in the TPD main offices adjacent to the Truckee Airport. The evidence room is small but enhanced by the use of moveable shelving. The TPD EHU also has additional large item storage in a secure area at the Public Works compound about five minutes away. The room is not alarmed but is secured with a keyed deadbolt. Keys are held only by the evidence technician and supervisor. The large item storage area is alarmed. Plans are in place for a new dedicated TPD EHU at the Public Works compound. Adjacent to the evidence room is the room where evidence and property is checked into one-way lockers before it is processed by the technician.

Personnel for the evidence room consist of an experienced and qualified evidence technician supervised by a Sergeant. The evidence technician has been trained through POST and has also taken CAPE courses. The technician is also cross-trained in crime scene investigation, evidence gathering and storage procedures.

Lexipol procedures have been adopted and are in use. Moreover, inspection and inventory policies are adhered to and accurate records are maintained on the PS.Net/RMS system.

The last audit was conducted in 2012 when the new Chief of Police assumed command so a new biennial audit is due. Random checks and mini-audits are conducted and logged. A protocol for purging unneeded evidence is in place.

Grass Valley Police Department Evidence Handling Unit:

The GVPD EHU, located in the GVPD headquarters, is a two-story room comprising approximately 1,200 square feet. Although somewhat crowded, it is tidy and well organized. Adjacent to the evidence holding area is a room where evidence is processed for check in through one-way lockers. In the evidence holding area, the evidence technician can retrieve the evidence from the lockers and process it into the PS.Net/RMS system. The evidence room is equipped with refrigerators for perishables and locked storage for drugs and firearms. The area is alarmed and access is controlled by a fingerprint reader. There is some concern about a need for more space and alternative storage is being considered.

The GVPD EHU is staffed by an evidence technician who works four days a week. That technician is slated for mandatory training leading to certification as an evidence technician. That technician is also scheduled to attend the next session of the Evidence Technician Association meeting. The unit is led by a Lieutenant as a collateral duty and supplemented by a Sergeant, also as a collateral duty. The Lieutenant and Sergeant provide coverage during the technician's absence and also conduct random spot checks. Only these three personnel have unrestricted access to the evidence holding area. Others, as authorized, must

be accompanied by one of these unrestricted access personnel and signed in and out. The staff appears stable with no near term departures planned.

The GVPD EHU maintains a Property and Evidence Policy Manual and is in compliance with POST and Lexipol standards. The property module of PS.Net/RMS is used for inventory control and evidence bar code marking. The most recent performance audit of the evidence unit was conducted in March 2014 by an independent consultant. The unit received an overall rating of "Above Standard (-)." The report stated: "I would rate the current operation of the GVPD Property Unit in the top 5-10 percent of law enforcement property rooms in California, and one with the clear potential to improve to an even higher performance level." As the current evidence technician is new, a complete inventory is required to be conducted in the near future. Moreover, POST guidelines recommend that an audit be conducted biennially. With the last audit having been performed in March 2014, GVPD EHU is now due for an audit.

The GVPD EHU is also in compliance with other guidelines. For example, safety policies appear to be in compliance with POST guidelines and inspection, inventory policies are followed and records are maintained carefully. An aggressive purge policy is in place to ensure that the facility is not overloaded with evidence no longer required to be held. Evidence purging procedures are in compliance with POST recommended procedures.

#### Nevada County Sheriff's Property Unit:

The SPU is housed in what previously served as the County's juvenile hall. It comprises a 7,500 square foot building and a fenced holding yard. It includes refrigerators for perishables and locked rooms for drugs, firearms and other evidence that requires doubly secure storage. An officer submits evidence or property in a controlled-access room adjacent to a gate-controlled yard. The officer enters information about the submitted evidence into the PS.Net/RMS system and places the evidence in a one-way locker from which it can be retrieved by evidence technicians to process it into the SPU inventory system. Upon retrieval, the evidence technician examines and categorizes the evidence and places it in an appropriate location in the storage area.

Two evidence technicians staff the SPU. Both have completed the POST Basic Evidence Handling courses and have received advanced training from POST on other topics such as latent fingerprints and DNA. One has extensive experience and training but, unfortunately, has submitted a notice of intent to retire. The NCSO has started to search for a replacement. The second technician is a former law enforcement officer who has been at the facility for over two years. An Administrative Sergeant oversees the SPU and is charged with performing random audits.

The computer inventory system is the PS.Net/RMS system described above. Records are also maintained on paper in three-ring binders as a back-up. The PS.Net/RMS system produces bar code tags for each item of evidence describing the item, date of receipt, ownership, location, dates of access by others, purging status, and other relevant information.

The only written operating policies and procedures in place are a POST Property and Evidence Manual dated 2008. It does not appear that that manual is used. As mentioned above, the NCSO has decided not to spend the \$20,000 to \$30,000 it would cost to maintain a subscription to the latest Lexipol Automated Policy and Procedures system including the property handling module. The Jury has been informed that the SPU technicians have been creating a “Desk Manual” to document the actual procedures of the SPU but after three years it is not complete and may not provide a comprehensive description of SPU operations. Thus, the operational success of the SPU in the absence of a written manual may be attributed solely to the skills and training of the technicians, the more senior one of whom plans to retire.

The most recent written audit of the SPU was a POST Management Study dated July 30, 2007. It included numerous recommendations for change, only some of which have been adopted. No records of any subsequent inspections were found even though POST and the SPU’s Property and Evidence Manual recommend biennial external audits. Additionally, the SPU Manual requires a complete inventory upon any change of SPU personnel. No records of any such audits were available. Upon a recent turnover of the Administrative Captain in charge of the SPU no inventory was conducted. POST and the SPU Manual also call for quarterly and random spot audits. Although it was claimed that spot audits have been conducted there are no written records of them. The Jury concludes that management oversight of the SPU’s policies and procedures is lacking. Because there has been no documented loss of evidence, upper management has stated that there are no procedural problems.

The SPU evidence technicians have undertaken an aggressive purging effort in recent years and have been successful in maintaining availability of storage within the SPU.

## **FINDINGS**

Following are findings based on site visits, interviews and review of documentation provided to the Nevada County Civil Grand Jury.

- F1.** The physical facilities of all four evidence handling units are adequate and, where needed, extra space is being considered.
- F2.** The staff at all four evidence handling units appear to be well-trained and capable. The use of sworn officers in the Nevada City Police Department Evidence Handling Unit removes patrol officers from their primary duties to the detriment of efficient law enforcement. The Nevada City Police Department is seeking to replace the sworn officers performing evidence handling duties with a non-sworn employee or volunteer.
- F3.** Three of the evidence handling units have adopted and follow written policies and procedures that are in line with recommended best practices. The Nevada County

Sheriff's Office's written policies and procedures are out-of-date and its actual policies and procedures are adequate only because of well-trained and skillful evidence technicians. The most experienced of those technicians is about to retire.

- F4.** The police department evidence handling units are marginally in compliance with their own policies and procedures and with best practices concerning audits and inventories of the evidence handling units although they all are due or overdue for biennial external audits.
- F5.** The Nevada County Sheriff's Office's Sheriff's Property Unit has not been subjected to an external audit since 2007 and there are no written records of any internal audits, inventories or inspections since that time. Hence, the Nevada County Sheriff's Office's Sheriff's Property Unit is out of compliance with its own written policies and procedures and with best practices concerning audits and inventories of evidence handling units.
- F6.** Best practices dictate that all agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum.
- F7.** All four evidence handling units spend considerable time in purging and disposing of evidence that is no longer needed.
- F8.** Three evidence handling units expressed concerns about the timeliness of evidence disposition authorization from the Nevada County District Attorney's office. Such delays adversely affect the ability to purge evidence in a timely fashion.
- F9.** Given the size of the Nevada City Police Department, maintaining its own evidence handling unit creates a burden in terms of space, manpower and cost. In the past, the Grass Valley Police Department and the Nevada City Police Department considered consolidating their separate evidence handling units into one central evidence handling unit.

## **RECOMMENDATIONS**

- R1.** Consolidation of the Grass Valley Police Department and the Nevada City Police Department evidence handling units should be considered again. [F8]
- R2.** Alternatively, the Nevada City Police Department should expedite its efforts to obtain and train a non-sworn evidence technician to reduce personnel costs and to free sworn officers for their primary duties. [F8]

- R3.** The Nevada County Sheriff's Department should draft and adopt written policies and procedures for its Sheriff's Property Unit that accurately reflect the current actual practice of its evidence technicians and that are in compliance with the current state of the law and best practices as recommended by POST and Lexipol. [F3]
- R4.** The Nevada County Sheriff's Department should immediately arrange for a complete external audit of its Sheriff's Property Unit. [F5]
- R5.** The Nevada County Sheriff's Department should conduct a complete inventory of its Sheriff's Property Unit upon the retirement of its senior evidence technician. [F3 & F5]
- R6.** The Nevada County Sheriff's Department should require that there be periodic spot inventories of its Sheriff's Property Unit and should require that written records of those spot inventories be maintained. [F5]
- R7.** All agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum. [F3]
- R8.** The Nevada County District Attorney should continue to develop and improve its process for authorizing the disposal of evidence. [F7]

## **REQUEST FOR RESPONSES**

Pursuant to Penal Code Section 933.05, the Nevada County Civil Grand Jury requests responses from the following individuals:

Nevada County District Attorney: Findings #6 and #8, Recommendation #8.

Nevada County Sheriff: Findings #3, #5, and #6; Recommendations #3, #4, #5, #6, and #7.

Both responses must be received by: August 15, 2016.

Nevada City Chief of Police: Findings #2, #4, #6, and #9; Recommendations #1, #2, and #7.

Truckee Chief of Police: Findings #4 and #6, Recommendation #7.

Grass Valley Chief of Police: Findings #4 and #6; Recommendation #7.

All responses must be received by: September 13, 2016.

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.

**RESPONSE**





OFFICE OF THE  
DISTRICT ATTORNEY  
COUNTY OF NEVADA



**CLIFFORD H. NEWELL**

DISTRICT ATTORNEY

July 15, 2016

Mr. Douglas Wight  
Honorable Grand Jury Foreman and Members  
Eric Rood Administration Center  
950 Maidu Avenue  
Nevada City, California 95959

*Reviewed  
8/16/16  
JMA*

**JOE ALEXANDER**  
ASSISTANT DISTRICT ATTORNEY

**RANDALL BILLINGSLEY**  
CHIEF INVESTIGATOR

**RE: Law Enforcement Evidence Handling Units Report**

Dear Foreman Wight;

Thank you for the opportunity to participate in the Grand Jury's Law Enforcement Evidence Handling Units report. My office appreciates the feedback and suggestions offered within the report. Efficient and effective handling of evidence through the life of a prosecution case is a critical component of our job. We understand the need for the allied agencies to dispose of the old evidence in a timely manner to maintain the integrity of their evidence lockers. As noted below we have made some adjustments on our end to better facilitate that process.

**FINDINGS:**

**F6.** Best practices dictate that all agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on a biennial basis at a minimum.

**Agree.** It should be noted that in the ten years as the District Attorney we have had only two occasions where evidence was an issue and we still obtained convictions in those cases.

**F8.** Three evidence handling units expressed concerns about the timeliness of evidence disposition authorization from the Nevada County District Attorney's Office. Such delays adversely affect the ability to purge evidence in a timely fashion.

**Agree. (See below recommendation response for detail)**

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201 COMMERCIAL STREET, NEVADA CITY, CALIFORNIA 95959

PHONE: (530) 265-1301

FAX: (530) 478-1871

**RECOMMENDATIONS:**

**R8. The recommendation has been implemented**

On January 6, 2016, District Attorney changed the internal policy as it relates to evidence disposition forms in completed cases. Previously, staff would wait until the appellate period in an individual case had run then would route the file back to the Deputy District Attorney (DDA) handling the case who would then determine how and what evidence to authorize release. The DDA would review file, determine if appeal had been filed, then fill out the form and route it back to the agency through their secretary. Upon review of this process it was determined to be inefficient and cumbersome, in few cases review was not being done at all due to misrouted or non-existing release form. In January this year the process was modified to require the DDA handling the case at sentencing to fill in the evidence disposition form, calculate the appellate period, add 30 days and route it back to the agency with directions to check with court and, if no appeal has been filed, dispose of the evidence per agency policy. This process reduces the amount of times DA staff handle the file and promptly puts the agency in control of the evidence.

Thank you for the Grand Jury's feedback on this important issue. I believe our modified process will alleviate most, if not all of the delays noted by the participating agencies. If any further clarification or information is needed please feel free to contact me or Assistant DA Joe Alexander.

Sincerely,

Cliff Newell

**RESPONSE**



**NEVADA COUNTY  
SHERIFF'S OFFICE**



**KEITH ROYAL**  
SHERIFF/CORONER  
PUBLIC ADMINISTRATOR

August 5, 2016

Honorable Judge Tom Anderson  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, Ca. 95959

RE: Response to 2015-2016 Law Enforcement Evidence Handling Units Grand Jury Report

Dear Honorable Judge Anderson:

In response to the Grand Jury Report dated June 9, 2016 on the Nevada County Law Enforcement Evidence Handling Units.

**FINDINGS:**

3. Three of the evidence handling units have adopted and follow written policies and procedures that are in line with recommended best practices. The Nevada County Sheriff's Office's written policies and procedures are out-of-date and its actual policies and procedures are adequate only because of well-trained and skillful evidence technicians. The most experienced of those technicians is about to retire.

**Partially Agree**

**At the time of the Grand Jury review one of our senior evidence technicians had a planned retirement. Our written policies did need an update, although the majority of the policy was in keeping with recommended best practices and was being followed by staff.**

5. The Nevada County Sheriff's Office's Sheriff's Property Unit has not been subjected to an external audit since 2007 and there are no written records of any internal audits, inventories or inspections since that time. Hence, the Nevada County Sheriff's Office's Sheriff's Property Unit is out of compliance with its own policies and procedures and with best practices concerning audits and inventories of evidence handling units.

**Agree**

6. Best practices dictate that all agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum.

### **Partially Agree**

**All agencies should adhere to POST guidelines and best practices, including external audits. It is not always possible to achieve 100% adherence to the guidelines, so to say something “must” be done could set us up for failure. For example, all of the agencies reviewed were out of compliance with a biennial outside audit, as recommended by POST. There should be some flexibility in timelines for audits and inventories at the property unit due to unforeseen circumstances such as staffing shortages or major work load events.**

### **RECOMMENDATIONS:**

3. The Nevada County Sheriff's Department should draft and adopt written policies and procedures for its Sheriff's Property Unit that accurately reflect the current actual practice of its evidence technicians and that are in compliance with the current state of the law and best practices as recommended by POST and Lexipol.

***This recommendation has been partially implemented***

**The Sheriff's Office is in the process of updating and adopting updated policies and procedures regarding the processing of evidence into the Sheriff's Property Unit and expect to have this completed by September 1, 2016.**

4. The Nevada County Sheriff's Department should immediately arrange for a complete external audit of its Sheriff's Property Unit.

***This recommendation has been partially implemented***

**The Sheriff's Office has requested an external audit to be done by POST but was told that they do not have sufficient staffing and cannot accommodate our request. We are currently researching the availability and cost of a third party vendor to conduct an audit prior to the end of 2016.**

5. The Nevada County Sheriff's Department should immediately arrange for a complete inventory of its Sheriff's Property Unit upon retirement of its senior evidence technician.

***This recommendation has been partially implemented***

**The Sheriff's Office began a complete inventory upon the retirement of one of our evidence technicians and is still in the process of the inventory. The inventory should be complete by the end of 2016.**

6. The Nevada County Sheriff's Department should require that there be periodic spot inventories of its Sheriff's Property Unit and should require that written records of those spot inventories be maintained.

***This recommendation has been partially implemented***

**The Sheriff's Office always has conducted periodic spot inventories but has not maintained a record. Updated policies will require written record of the spot inventories be maintained. The updated policies will be in place by September 1, 2016.**

7. All agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum.

***This recommendation will be partially implemented.***

**To my knowledge, the Nevada County Sheriff's Property Unit has never lost an item of evidence. Every time an item of evidence is requested for court, or to be returned to an individual, the item has been located. Each and every one of these instances acts as a spot inventory. This is not to say that scheduled inventories and audits are not needed, just that the urgency is not apparent. Supervisors have and will continue to make spot inventories of the inventory at the Property Unit. Additionally, we will update our policy to require the spot inventory results to be documented. We expect the updated policies to be in place by September 1, 2016. We will request an outside audit be performed prior to the end of 2016. We are currently in process of completing a complete inventory, a process that was begun right after the retirement of one of our evidence technicians. It is not reasonable to conduct a complete inventory upon change of every supervisor, as the supervisors do not perform the function of the evidence technicians.**

The Sheriff's Office would like to thank the members of the 2015-2016 Grand Jury for their participation and effort in preparing their reports. We committed to providing the highest level of safety and security to our employees, the public, and inmates.

Sincerely,



Keith Royal  
Sheriff-Coroner

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**RESPONSE**





# City of Nevada City

## Nevada City Police Department

Records Received  
8/30/16  
TMA

August 15, 2016

The Honorable Tom Anderson

Presiding Judge of the Grand Jury

201 Church St.

Nevada City, Ca 95959

SEP 08 2016

Honorable Tom Anderson,

Below is my response for the Nevada City Police Department to the Findings and Recommendations of the Civil Grand Jury of Nevada County's report on the "Law Enforcement Evidence Handling Units." I was requested as the Nevada City Chief of Police to respond to the following Findings and recommendations; Findings #2, #4, #6, and #9; Recommendations #1, #2, and #7.

### **Findings**

**F2.** The staff at all four evidence handling units appear to be well trained and capable. The use of sworn officers in the Nevada City Police Department Evidence Handling Unit removes patrol officers from their primary duties to the detriment of efficient law enforcement. The Nevada City Police Department is seeking to replace the sworn officers performing evidence handling duties with a nonsworn employee or volunteer.

### **Agree**

**F4.** The police department evidence handling units are marginally in compliance with their own policies and procedures and with best practices concerning audits and inventories of the evidence handling units although they all are due or overdue for biennial external audits.

### **Partially Agree:**

**The NCPD Evidence Handling Unit is in compliance with POST and Lexipol standards as indicated on page 8 of the report. There is a need for a biennial external audit.**

**F6.** Best practices dictate that all agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum.

**Partially Agree:**

**The NCPD does conduct monthly Audit Spot Checks (see page 9 of report) which are recorded. Inventory policies are followed and records are maintained. Evidence purging is conducted as necessary to ensure that space is available for new arrivals. There is a need for a biennial external audit.**

**F9.** Given the size of the Nevada City Police Department, maintaining its own evidence handling unit creates a burden in terms of space, manpower and cost. In the past, the Grass Valley Police Department and the Nevada City Police Department considered consolidating their separate evidence handling units into one central evidence handling unit.

**Partially Agree:**

**The NCPD and GVPD will continue to explore the possibility consolidating the Evidence Handling Unit to determine if consolidation is beneficial.**

**RECOMMENDATIONS**

**R1.** Consolidation of the Grass Valley Police Department and the Nevada City Police Department evidence handling units should be considered again. [F8]

**The recommendation will not be implemented at this time**

**The NCPD and GVPD will continue to explore the possibility consolidating the Evidence Handling Unit to determine if consolidation is beneficial.**

**R2.** Alternatively, the Nevada City Police Department should expedite its efforts to obtain and train a non-sworn evidence technician to reduce personnel costs and to free sworn officers for their primary duties. [F8]

**The recommendation is in the process of being implemented**

**The NCPD has hired and is currently training a part time civilian CSO to be assigned to the Evidence Handling Unit.**

**R7.** All agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must

be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum. [F3]

**The recommendation is in the process of being implemented**

**The NCPD currently conducts monthly Audit Spot Checks which are recorded. Inventory policies are followed and records are maintained. Evidence purging is conducted as necessary to ensure that space is available for new arrivals. There is a need for a biennial external audit which will be scheduled before the end of the year.**

Respectfully,



Timothy A. Foley

Chief of Police

Nevada City, Ca.

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**RESPONSE**

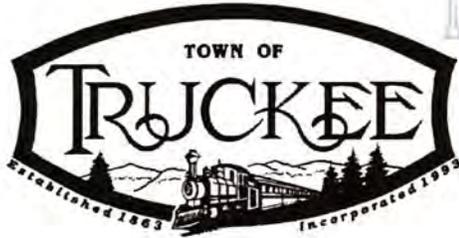


Town Council

Joan deRyk Jones, Mayor

Morgan Goodwin, Vice Mayor

Carolyn Wallace Dee, Council Member  
Patrick Flora, Council Member  
Alicia Barr, Council Member



RECEIVED  
AUG 28 2016

Department Heads

BY: HB  
Tony Lashbrook, Town Manager  
Andy Morris, Town Attorney  
Adam McGill, Chief of Police  
John McLaughlin, Community Development Director  
Kim Szczurek, Administrative Services Director  
Judy Price, Town Clerk  
Daniel Wilkins, Public Works Director/Town Engineer

Reviewed  
9/18/16  
JMS

August 23, 2016

The Honorable Tom Anderson  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, CA 95959

Re: Town of Truckee Response to 2015/16 County of Nevada Grand Jury Report on Law Enforcement Evidence Handling Units

Honorable Judge Anderson:

The Town of Truckee Police Department was included in the 2015/16 County of Nevada Grand Jury report release on June 13, 2016 regarding law enforcement evidence handling units. Although the Grand Jury requested a response from the Truckee Chief of Police regarding Finding #4 and #6 and Recommendation #7, Penal Code Section 933(c) requires the Town's response to come from its "governing body", i.e. the Town Council. The Town Council has reviewed and approved this letter. Please find the Town's responses outlined below.

Finding #4

*"The police department evidence handling units are marginally in compliance with their own policies and procedures and with best practices concerning audits and inventories of the evidence handling units although they all are due or overdue for biennial external audits."*

Town of Truckee Response:

**Disagree**

The recommendation of the biennial audit will not be implemented because it is not warranted. The POST Law Enforcement Evidence & Property Management Guide 2013 (latest edition), recommends the following, "Audits should be conducted on both a routine and random basis. Audits should be conducted when information is received that the integrity of the systems or facility is in question, when there is a change in the agency head, or when there is a change in evidence/property personnel." Since none of these situations have occurred, the Truckee Police Department believes that a biennial audit is not required at this time. Routine and random selective audits occur throughout each year to maintain accountability.

Tahoe/Truckee



10183 Truckee Airport Road, Truckee, CA 96161-3306

[www.townoftruckee.com](http://www.townoftruckee.com)

Administration: 530-582-7700 / Fax: 530-582-7710 / email: [truckee@townoftruckee.com](mailto:truckee@townoftruckee.com)

Community Development: 530-582-7820 / Fax: 530-582-7889 / email: [cdd@townoftruckee.com](mailto:cdd@townoftruckee.com)

Animal Services 530-582-7830 / Fax: 530-582-1103 / email: [animalservices@townoftruckee.com](mailto:animalservices@townoftruckee.com)

Police Department: 530-550-2323 / Fax: 530-582-7771 / email: [policedepartment@townoftruckee.com](mailto:policedepartment@townoftruckee.com)

Printed on recycled paper.

## Finding #6

*"Best practices dictate that all agencies should rigorously adhere to the requirement for a complete inventory upon change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics, and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum."*

Town of Truckee Response:

### **Disagree**

The Truckee Police Department currently complies with the recommendation to conduct complete inventories when there is a change in evidence personnel or change of agency head as well as the recommended spot inventories. However, as stated above, we believe that the biennial audit is not required by the POST Law Enforcement Evidence & Property Management Guide.

## Recommendation #7

*"All agencies should rigorously adhere to the requirement for a complete inventory upon change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics, and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum. [F3]"*

Town of Truckee Response:

### **The recommendation has been partially implemented but will not be fully implemented.**

As indicated in Finding #6, the Truckee Police Department currently complies with the recommendation to conduct complete inventories when there is a change in evidence personnel or agency head as well as the recommended random spot inventories and inventories of firearms, narcotics and money on a regular basis. To that extent, this recommendation was implemented prior to the Grand Jury's review. However, as stated above, the recommendation to conduct biennial external audits will not be implemented. Pursuant to California Penal Code Section 933.05(b)(4), this aspect of the Grand Jury's recommendation "is not warranted...[and] is not reasonable..." Biennial audits are not required by the POST Law Enforcement Evidence & Property Management Guide. POST is part of the government of the State of California, and the POST Guide is considered to represent best practices for evidence handling and property management. As such, biennial audits would represent an additional expense and administrative burden without a corresponding benefit, and the Town of Truckee declines to implement this aspect of the Grand Jury's recommendation.

---

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Administration: 530-582-7700 / Fax: 530-582-7710 / email: [truckee@townoftruckee.com](mailto:truckee@townoftruckee.com)

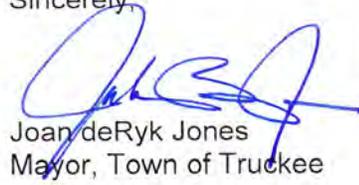
Community Development: 530-582-7820 / Fax: 530-582-7889 / email: [cdd@townoftruckee.com](mailto:cdd@townoftruckee.com)

Animal Control/Vehicle Abatement: 530-582-7830 / Fax: 530-582-7889 / email: [animalcontrol@townoftruckee.com](mailto:animalcontrol@townoftruckee.com)

Police Department: 530-550-2328 / Fax: 530-550-2326 / email: [policedepartment@townoftruckee.com](mailto:policedepartment@townoftruckee.com)

Please do not hesitate to contact Truckee's Chief of Police, Adam McGill, if you have any questions or comments.

Sincerely,



Joan deRyk Jones  
Mayor, Town of Truckee

---

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**[www.townoftruckee.com](http://www.townoftruckee.com)**

Administration: 530-582-7700 / Fax: 530-582-7710 / email: [truckee@townoftruckee.com](mailto:truckee@townoftruckee.com)  
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Animal Control/Vehicle Abatement: 530-582-7830 / Fax: 530-582-7889 / email: [animalcontrol@townoftruckee.com](mailto:animalcontrol@townoftruckee.com)  
Police Department: 530-550-2328 / Fax: 530-550-2326 / email: [policedepartment@townoftruckee.com](mailto:policedepartment@townoftruckee.com)

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**RESPONSE**





# GRASS VALLEY POLICE DEPARTMENT

129 S. Auburn Street • Grass Valley, CA 95945  
(530) 477-4600 main • (530) 274-4329 fax

RECEIVED  
AUG 25 2016  
BY: .....

August 24, 2016

The Honorable Tom Anderson  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, CA 95959

SEP 08 2016

RE: Response to the June 13, 2016 Grand Jury Report - Law Enforcement Evidence Handling Units

Your Honor,

This letter is a response to the June 13, 2016 Grand Jury Report regarding Law Enforcement Evidence Handling Units. The Grand Jury's interest in this topic is appreciated.

As you know, the Grand Jury conducted an investigation on this topic and the findings, conclusions and recommendations of their report are sometimes specific to a particular agency and other times more general in nature and applicable to multiple agencies. Grass Valley Police Chief Alex Gammelgard and staff were directed to review and respond to the Grand Jury's report.

Thus, the following are our responses to the Grand Jury Report's findings and recommendations related to the Grass Valley Police Department's Evidence and Property Unit:

## FINDINGS:

### Finding #4:

**The police department evidence handling units are marginally in compliance with their own policies and procedures and with best practices concerning audits and inventories of the evidence handling units although they all are due or overdue for biennial external audits.**

### Response:

**Agree** with the finding -

We appreciate that the Grand Jury has found the Grass Valley Police Department to be in compliance with our policies and procedures and with best practices concerning audits and inventories of the evidence handling unit.

Since 2007, the Grass Valley Police Department has been diligent in contracting with an independent agency to conduct external audits of our property and evidence room. Audits have been performed by DB Consulting, a professional evidence and property unit auditing firm that has performed these specialized audits throughout the state for over 16 years. DB Consulting has performed the following audits of our property and evidence room:

*Received + Renewed  
8/30/16  
JMS*

<b>January 2007:</b>	Overall Rating: "Meets Standard"
<b>February 2010:</b>	Overall rating of "Above Standard (-)"
<b>May 2012:</b>	Overall rating of "Above Standard (-)"
<b>February 2014:</b>	Overall rating of "Above Standard (-)"
<b>April 2015:</b>	Overall rating of "Above Standard (-)"
<b>May 2016:</b>	Audit covering a 100% inventory of firearms, money, and narcotics. All of the items of property and evidence (firearms, money, and narcotics) were promptly located and/or properly accounted for.

GVPD is committed to continuing to have comprehensive external audits performed on a biennial basis by an independent auditing firm. We anticipate scheduling the next comprehensive audit in the second quarter of 2017.

\*\*\*

**Finding #6:**

Best practices dictate that all agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum.

**Response:**

*Agree* with the finding

**RECOMMENDATIONS:**

**Recommendation #7:**

All agencies should rigorously adhere to the requirement for a complete inventory upon a change of evidence technician or supervisor. Additionally, random spot inventories need to be performed and documented. Inventories of firearms, narcotics and money must be conducted on at least a quarterly basis. Finally, external audits must be conducted on a biennial basis at a minimum.

**Reported Action:**

The recommendation has been *implemented*.

There are 4 components to recommendation 7. The following describes our implemented actions related to each of them.

- 1. Adherence to the requirement for a complete inventory upon a change of evidence technician or supervisor:**

The Grass Valley Police Department has and will continue to adhere to this requirement. Audits will be diligently scheduled upon the change of an evidence technician or evidence supervisor. These

audits will include a 100% inventory of all firearms, money, and narcotics. These audits were performed in 2012 and 2015 upon the change of evidence technicians, and again in 2016 upon the appointment of a new Chief of Police.

**2. Random spot inventories need to be performed and documented:**

Although random "spot inventories" are performed on a regular basis by the evidence sergeant and Captain, they have not been consistently documented. GVPD has initiated a protocol for capturing and documenting these spot inventories. The evidence sergeant will keep and maintain the records of his audit and inventory activity and it will be available to the Captain, Chief of Police, or an independent auditor upon request.

**3. Inventories of firearms, narcotics, and money must be conducted on at least a quarterly basis:**

The random spot inventories conducted by the evidence sergeant and captain have and will continue to include checking of firearms, narcotics and money. These random spot inventories will be conducted quarterly at a minimum.

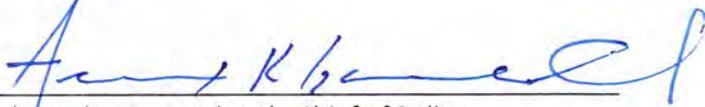
**4. External audits must be conducted on a biennial basis at a minimum:**

External audits have been and will continue to be conducted on a biennial basis.

\*\*\*

This response was reviewed and approved by City Council at its August 23, 2016 meeting. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alexander Gammelgard".

Alexander Gammelgard - Chief of Police  
Grass Valley Police Department

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# **LAW ENFORCEMENT**

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## **Carl F. Bryan II Regional Juvenile Hall Is It Worth the Cost?**

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**Nevada County Grand Jury Report with Responses  
2015-2016**



# **Carl F. Bryan II Regional Juvenile Hall Is It Worth the Cost?**

## **SUMMARY**

On visiting the Carl F. Bryan II Regional Juvenile Hall in August 2015, the Nevada County Grand Jury was impressed with the facility, the attitude of the staff and the multitude of programs offered to the young people detained there. There is no question that Carl F. Bryan II Regional Juvenile Hall is a jail: a challenging, secure, controlled facility. However, the educational and work opportunities offered to the detainees and the positive supportive attitudes of the staff help to transform a demanding experience into an opportunity to improve. Notwithstanding all these positives, there is a concern that this excellent package comes at too high a price.

Nevada County has experienced a significant decline in juvenile detention since the Carl F. Bryan II Regional Juvenile Hall was built. In fact, there has occurred a nationwide paradigm shift away from juvenile incarceration. Courts and probation officers increasingly are using alternatives to detention; a trend that substantially has decreased the number of juvenile detainees.

Nevada County recognized this decline and took steps to reduce the operating cost of the underutilized facility by closing off 50% of the building. Despite this reduction in capacity, the 2015-2016 budget for the Carl F. Bryan II Regional Juvenile Hall continues to be approximately \$3,100,000. Because the number of local youth offenders has decreased, Nevada County has contracted over the past several years to house youth detainees from Tuolumne, Calaveras, Amador, Plumas and Sierra Counties. Unfortunately, while Nevada County receives \$90 per day reimbursement for out-of-county juvenile detainees, Nevada County's Average Daily Cost per detainee averages \$377 per day and a yearly cost of \$137,481 per detainee. Even this small income from detaining juveniles from other counties may soon disappear. Tuolumne County, the primary source of out-of-county detainees, in collaboration with Calaveras and Amador Counties, currently is completing the Mother Lode Juvenile Facility, slated to open late in 2016, thereby further reducing the number of youth detainees in the Carl F. Bryan II Regional Juvenile Hall.

There are few ways to reduce the costs of maintaining any juvenile hall. Title 15 of the California Code of Regulations mandates strict staffing and programming to assure safety, security, education, rehabilitation and healthcare in juvenile facilities. Accordingly, most juvenile halls' operating costs are fixed. Thus, as detentions decline, overall costs remain relatively the same and costs per detainee increase. In closing half of the facility, Nevada County has already achieved the biggest cost reduction. Additional cost reductions of equal significance are not foreseen.

The Nevada County taxpayers are now paying approximately \$2.0 million each year simply to keep the facility open. Adding more detainees from other jurisdictions does not remedy this problem. Lake County, California, recently found itself in a similar situation. In 2015 it opted to contract housing of its juvenile detainees with a neighboring county. In doing so, it reduced its cost of juvenile detention by more than 70%.

In light of the decreasing numbers of local detainees, the high cost of staffing mandated by Title 15 of the California Code of Regulations and an impending decrease in out-of-county detainees, the Nevada County Grand Jury recommends that the Nevada County Board of Supervisors and the Nevada County Probation Department should undertake to close the Carl F. Bryan II Regional Juvenile Hall and negotiate a contract for juvenile detention services with a neighboring county at a reduced cost leading to a substantial cost savings for Nevada County. The Grand Jury also recommends that the Nevada County Board of Supervisors consider other uses for the Carl F. Bryan II Regional Juvenile Hall facility.

## **GLOSSARY**

**ADC** - Average Daily Cost

**ADP** - Average Daily Population

**FY** - Fiscal Year

**Jury** - Nevada County Civil Grand Jury

**Juvenile Hall** - Carl F. Bryan II Regional Juvenile Hall

**Probation Department** - Nevada County Probation Department

**Title 15** - Title 15 of the California Code of Regulations

## **BACKGROUND**

The original California Constitution of 1849 provided in Section 23 of Article 1 that a grand jury "be drawn and summoned at least once a year in each county." Accordingly, each of the 58 counties in the State yearly impanels a civil grand jury, whose function is to investigate the operations of the various officers, departments, and agencies of local government. A civil grand jury may examine all aspects of county or city government, special districts, and other tax-supported organizations to ensure that the best interests of the citizens of the county are being served. The civil grand jury reviews and evaluates procedures, operations, and systems utilized by local agencies to determine whether more effective methods may be employed.

Moreover, California Penal Code section 919(b) requires each county's civil grand jury to inquire annually into the condition and management of the public prisons within each county.

Carl F. Bryan II Regional Juvenile Hall (Juvenile Hall) is a public prison located within Nevada County.

On August 13, 2015, in order to comply with its mandated responsibility, the Nevada County Civil Grand Jury (Jury) visited and inspected the Juvenile Hall and interviewed members of staff on duty at that time. The facility was clean, well run and appeared to provide an excellent level of safety, security, education, rehabilitation and healthcare to the detainees. However, the Jury observed on that day that there were only 16 detainees in a facility originally designed to accommodate 60 detainees. Of the 16 detainees, 12 were from other counties. Only four detainees that day were in-county residents. Even though half of the facility had previously been shut down, reducing capacity to 30 detainees and reducing mandated staff and expenses, the staffing and programming requirements of Title 15 of the California Code of Regulations (Title 15) made these disparities in numbers of detainees and associated costs difficult if not impossible to control given the size of the facility. As a result, the Jury decided to investigate the expense of maintaining this excellent but underutilized facility.

## **APPROACH**

A physical inspection of Juvenile Hall was conducted, involving observations and interviews with Juvenile Hall staff. The Jury also interviewed key Juvenile Hall and Nevada County Probation Department (Probation Department) management and staff members and Tuolumne and Placer Counties' juvenile unit staff.

The Jury also researched, reviewed and analyzed:

- articles related to juvenile justice trends and practices in California,
- the minimum standards for local juvenile detention facilities set forth in Title 15,
- current and prior year Probation Department budgets and other statistical reports provided by the Probation Department to the State,
- Nevada County Board of Supervisors' resolutions and agreements with other counties,
- past Jury reports,
- Board of State and Community Corrections Juvenile Detention Profile Survey data,
- articles and documents on juvenile justice trends nationally,

- California Department of Education School Accountability Report Cards, and
- SB1004 – Transitional Diversion Programs (2015-2016).

## DISCUSSION

Pursuant to Section 602(a) of the California Welfare and Institutions Code, persons subject to the jurisdiction of the juvenile court and detention in juvenile hall include “any person who is under 18 years of age when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state . . .” The function of a juvenile hall is to provide a safe and secure environment for the protection of the public, the detainees and the staff.

Juvenile Hall was built in 2002. Its maximum capacity is 60 detainees but half of the facility has been made inactive reducing capacity to 30. It is currently staffed for the 30-detainee capacity. Current staffing is one Program Manager, four Senior Group Supervisors, 18 Group Supervisors, two Cooks, and one Office Assistant. Additionally there are ten temporary on-call personnel available to cover fluctuations in staff, emergencies, or detainee occupancy growth.

At the time of the Jury’s visit and inspection, there were 16 detainees (12 male and four female) of which only four were from Nevada County.

In addition to serving as a detention facility, Juvenile Hall provides rehabilitation services and programs to meet the physical, emotional and educational needs of the detainees. A list of services currently provided by the Juvenile Hall comprises sixteen different evidence-based programs and services including Drug Education, Life Skills, Yoga, Fine Arts and Mindfulness.

Moreover, the Nevada County Office of Education manages and operates the Sugarloaf Mountain School at the Juvenile Hall (Sugarloaf). Sugarloaf’s goals are to assist detainees in earning their high school diplomas, if they have not already done so, and to prepare them for state-mandated exit exams. The Nevada County Superintendent of Schools Program 2014-2015 cost for Sugarloaf was \$283,968. The January 28, 2016 California Department of Education School Accountability Report Card of 2014-2015 for Sugarloaf indicated that the total expenditures per student were \$14,152 and the student enrollment was seven students. Although these costs are not reflected as part of the Probation Department budget for Juvenile Hall, they are a taxpayer expense through the Nevada County Superintendent of Schools’ budget.

To provide for detainees' physical, emotional, and mental health, Juvenile Hall contracts with the California Forensic Medical Group to provide medical services.

A recent article in *The Los Angeles Times* ([latimes.com/local/countygovernment/la-me-probation-sticker-shock](http://latimes.com/local/countygovernment/la-me-probation-sticker-shock)) pointed out that "Los Angeles County spends more than \$233,000 a year to hold each youth in juvenile lockup." The causes are many. The solutions are few. In short, the article cited:

- Los Angeles juvenile detention system was designed in an era when youth crime was on the rise;
- youth crime in Los Angeles County has significantly declined since the mid-1990s;
- juvenile inmates incarcerated in Los Angeles County's juvenile detention system, at its height in the 1990s, has also declined from a daily average of 2000, to the present daily juvenile inmate population of 621; and
- juvenile arrests in Los Angeles County have dropped an additional 30% since 2012 alone, indicating a continuation of this trend.

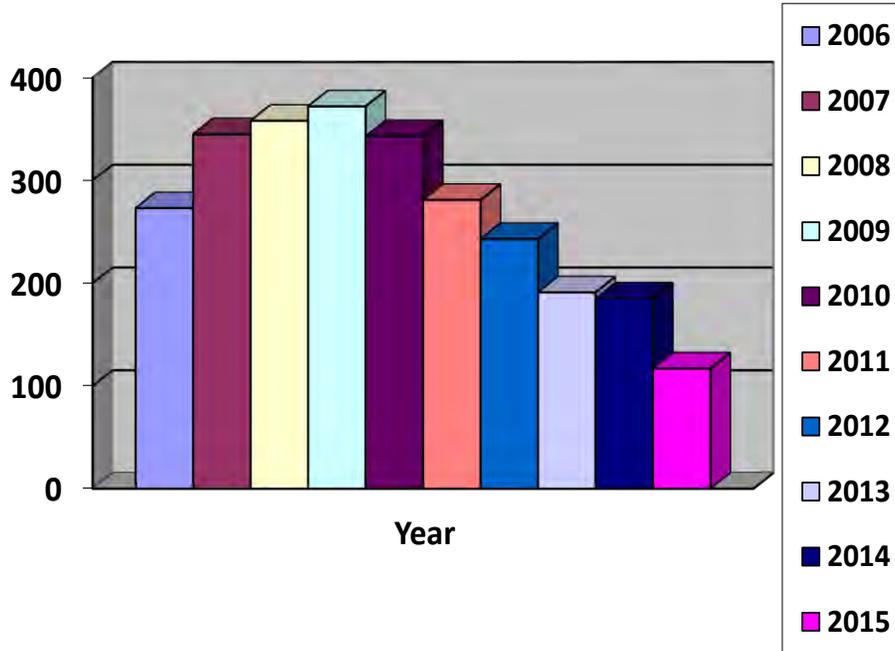
Los Angeles County is not alone in this experience. In fact, there has occurred a major nationwide paradigm shift away from incarceration. Nationwide, courts and probation officers increasingly are using alternatives to detention, including release on recognizance, release on bond, community support and formal evidence-based monitoring programs. This trend has substantially decreased the number of juvenile detainees both nationwide and in Nevada County.

In October 2015, Lake County Board of Supervisors approved the closure of Lake County Juvenile Hall and transferred its dwindling number of detainees to Mendocino County Juvenile Hall. Lake County Juvenile Hall had costs of \$190,000 per minor annually, which equates to \$520 per day to provide all necessary services. With the move to Mendocino County Juvenile Hall, the cost of a Lake County juvenile detainee dropped to \$150 per day for the 12-bed minimum agreed upon between the two counties, cutting the annual average cost to less than a third of the \$54,750 per minor. Any additional beds will be billed at a reduced price of \$120 per day.

Lake County officials estimated that Lake County would save about \$764,000 annually during the term of the two-year contract with a minimum yearly payment of \$657,000. In addition to the closure of Lake County Juvenile Hall, the Jury was informed that Inyo County is currently evaluating the closure of its Juvenile Hall.

Nevada County also has experienced a significant decline in juvenile arrest and detention since the Juvenile Hall was constructed. The chart below indicates the decline in annual bookings from 2006 through 2015 for Nevada County juvenile offenders.

### ANNUAL BOOKINGS



From 2011 through 2015, the Average Daily Population (ADP) at Juvenile Hall never exceeded 25 detainees in a facility built to accommodate 60, with a current capacity of 30. The Juvenile Hall currently staffs 26 authorized positions to maintain the Title 15 mandated staffing levels required for all full-service juvenile halls regardless of the number of detainees actually housed. Maintaining a full-service juvenile hall requires administrative, counseling, custodial, educational, healthcare, kitchen and other staff; food, clothing, medical and other supplies; schooling, programming, medical and mental health services; and maintenance and transportation.

All of this comes at a substantial cost. The Probation Department tracks and reports both total expense and Net County Cost to operate Juvenile Hall for every Fiscal Year (FY). Net County Cost is total expense minus state allocated revenues. In Table 1 below, Net County Cost is displayed as the annual General Fund costs.

TABLE 1. Nevada County Historical Juvenile Hall Costs\*

FISCAL YEAR	2011-12	2012-13	2013-14	2014-15
TOTAL EXPENSES	\$2,923,617	\$2,765,657	\$2,813,627	\$2,944,383
GENERAL FUND	\$1,901,252	\$1,821,841	\$1,835,710	\$1,964,719
SALARY/BENEFITS	\$2,332,927	\$2,219,689	\$2,151,806	\$2,339,355
% of TOTAL EXPENSES	79%	80%	76%	80%
AVG DAILY POP**	18.83	13.92	22.67	21.42
AVG. DAILY COST***	\$425	\$544	\$340	\$377

\*Data from Nevada County Probation Department

\*\*Based on calendar year (includes out-of-county detainees)

\*\*\*Avg. Daily Cost = Total Expenses/ (Avg Daily Pop x 365)

Total Expenses and General Fund costs remain relatively fixed, due to staffing levels mandated by Title 15. The increases of ADP were caused by an influx of out-of-county juvenile detainees.

The Probation Department has sought to increase Juvenile Hall utilization and reduce the Average Daily Cost (ADC) by contracting to detain and house juvenile detainees from other counties including Tuolumne, Amador, Calaveras, Plumas and Sierra Counties. However, the contracts to provide housing and transportation for out-of-county detainees are based on a market rate of only \$90 per day per detainee from Tuolumne, Amador, Calaveras, and Plumas Counties. It is to be noted that the individual funding contribution from these out-of-county detainees was 76% less than the cost borne by Nevada County to detain juveniles from Nevada County. It costs Nevada County more to incarcerate its detainees than Nevada County receives in providing the same service to other counties. The yearly income from housing out-of-county detainees demonstrates that such housing has a minimal impact on the costs of maintaining Juvenile Hall.

TABLE 2. Revenue received for housing out-of-county juveniles for the last five years.

FISCAL YR	SIERRA	TUOLUMNE	AMADOR	CALAVERAS	PLUMAS
FY 14-15	\$1,440	\$158,580	\$4,320	\$46,170	\$6,930
FY 13-14	0	\$136,800	\$80	\$52,020	\$7,020
FY 12-13	0	\$ 4,800	0	\$0	0
FY 11-12	\$2,080	\$ 21,500	0	\$0	0
FY 10-11	0	\$ 16,100	\$1,440	\$19,250	0
TOTAL	\$3,520	\$337,780	\$5,840	\$117,440	\$13,950

Moreover, even this small offset to expense will soon come to an end. On May 30, 2015, Tuolumne, Calaveras and Amador Counties broke ground for an 18,000 sq. ft. Mother Lode Juvenile Facility with room for 30 detainees. It is expected to be completed in November

2016. The opening of the Mother Lode Juvenile Facility will reduce the number of out-of-county detainees in Juvenile Hall, further reducing utilization and increasing ADC. The Jury has concluded that adding more detainees from other jurisdictions to Juvenile Hall does not appropriately remedy the diminishing utilization of Juvenile Hall.

The Jury has also been made aware of and has reviewed proposed legislation currently in the California State Senate to expand the protections of juvenile offenders to certain adult offenders between the ages of 18 and 21, potentially adding more detainees to the Juvenile Hall facility, but at the additional cost of continuing the age separation of youth and adult inmates. Accordingly, it appears to result in added expense to the levels dictated by Title 15 without additional State appropriation of funds to the County. This proposed legislation, entitled: “SB1004 – Transitional Youth Diversion Program” (SB1004), would be a three year pilot program to be established by the counties of Alameda, Butte, Napa, Nevada and Santa Clara to accomplish the following:

*This bill would authorize specified counties to establish a pilot program to operate a transitional youth diversion program for eligible defendants. The bill would authorize a defendant to participate in the diversion program within the county’s juvenile hall if that person is charged with committing an offense, except as specified, he or she pleads guilty to the charge or charges, and the probation department determines that the person meets specified requirements, including that the defendant is 18 years of age or older, but under 21 years of age on the date the offense was committed, is suitable for the program, and shows the ability to benefit from services generally reserved for delinquents. The bill would require the probation department to develop a plan for reentry services.*

The Probation Department estimates that there are approximately 12 of 72 Wayne Brown Correctional Facility inmates in the 18-21 years old category who might qualify under this program but cannot be housed with Juvenile Hall inmates under 18. It is likely that the housing of SB1004 inmates would require the re-opening of the portion of Juvenile Hall that is currently closed, thus increasing costs. However, at the time of this report, SB1004 is not law and the fiscal impact is unknown.

Assuming the \$90 per day reimbursement figure to represent a market rate, substantial Nevada County taxpayer savings could be realized if Nevada County contracted with a neighboring county to cover its minimal juvenile detention needs. Placer County, for example, has a 78-bed facility in Auburn that currently houses approximately 18 detainees.

The possible cost savings projected by placing detainees in a neighboring county’s facility are substantial. The cost of housing Nevada County’s 2014-2015 ADP of 21.42 detainees for a contract market rate of \$90 per day (365 days) would have been \$703,647 as compared to the actual cost of \$2,944,383. The total annual savings attained by diverting Nevada County juvenile offenders to another, less costly, facility would have been \$2,240,736. Nevada County costs alone would have been reduced by over 65%.

## FINDINGS

The following are Findings discovered during the investigation from a site visit, interviews, and review of documentation provided to the Jury.

- F1.** The Average Daily Cost of housing detainees in Juvenile Hall for Fiscal Year 2014-2015 averaged \$377 per day or \$137,481 per year, per detainee.
- F2.** Decreasing numbers of local detainees are housed in the facility.
- F3.** Regardless of the decreasing number of detainees, overall costs of Juvenile Hall are not commensurably reduced because of the high cost of Title 15 mandated staffing.
- F4.** Contracting for Nevada County's juvenile detention needs with a neighboring county juvenile facility is estimated to be approximately 65% less expensive than maintaining a full service juvenile hall in Nevada County.
- F5.** Substantial savings for the County General Fund would be achieved by closing Juvenile Hall and contracting with a neighboring county for detention of Nevada County detainees.

## RECOMMENDATIONS

- R1.** By the end of Fiscal Year 2016-2017, the Nevada County Board of Supervisors and the Nevada County Probation Department, in collaboration with the Nevada County Superior Court and other stakeholders, should negotiate a contract at the lowest rate possible for all of Nevada County's juvenile detention needs with neighboring county juvenile facilities to reduce Nevada County's General Fund costs.
- R2.** Once favorable contracting arrangements with neighboring county juvenile facilities are secured, the Nevada County Board of Supervisors and the Nevada County Probation Department, in collaboration with the Nevada County Superior Court and all other stakeholders, should study and determine the cost effectiveness of alternative uses for the current Carl F. Bryan II Regional Juvenile Hall and repurpose all of the facility for other public programs and services.

## REQUIRED RESPONSES

Pursuant to Penal Code Section 933.05, the Nevada County Civil Grand Jury requests responses as follows:

Nevada County Board of Supervisors: All Findings and Recommendations by September 6, 2016

The Jury also invites, but does not require, responses as follows:

Chief Probation Officer of the Nevada County Probation Department: All Findings and Recommendations.

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.

**RESPONSE**



COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Nathan H. Beason, 1<sup>st</sup> District  
Edward C. Scofield, 2<sup>nd</sup> District  
Chair Dan Miller, 3<sup>rd</sup> District  
Vice-Chair Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District

Julie Patterson Hunter,  
Clerk of the Board

August 9, 2016

The Honorable Thomas Anderson  
Presiding Judge of the Nevada County Grand Jury  
Nevada County Courthouse  
201 Church Street  
Nevada City, CA 95959

Rec'd + Reviewed  
8/11/16  
TMA

Re: Board of Supervisors' Responses to the 2015-16 Nevada County Civil Grand Jury Report, *Carl F. Bryan II Regional Juvenile Hall, Is It Worth the Cost?*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2015-16 Nevada County Civil Grand Jury Report, dated July 20, 2016 entitled *Carl F. Bryan II Regional Juvenile Hall, Is It Worth the Cost?*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on August 9, 2016. The Responses are based on either personal knowledge, examination of official County records, and information received from the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2015-16 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

Dan Miller, Chairman  
Nevada County Board of Supervisors

cc: Douglas M. Wight, Foreman, Grand Jury  
Rick Haffey, County Executive Officer  
Michael Ertola, Chief Probation Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
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website: <http://www.mynevadacounty.com/nc/bos>

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO**

**2016/2017 Nevada County Civil Grand Jury Report**

**Carl F. Bryan II Regional Juvenile Hall  
Is It Worth the Cost?**

**DATED: 07/20/2016**

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, Chief Probation Officer, or testimony from the Board of Supervisors and county staff members.

**A. RESPONSES TO FINDINGS**

**F1.** The average daily cost of housing detainees in Juvenile Hall for Fiscal Year 2014-15 averaged \$377 per day or \$137,481 per year, per detainee.

**Agree**

**F2.** Decreasing numbers of local detainees are housed in the facility.

**Agree**

**F3.** Regardless of the decreasing number of detainees, overall costs of Juvenile Hall are not commensurably reduced because of the high cost of Title 15 mandated staffing.

**Agree**

**F4.** Contracting for Nevada County's juvenile detention needs with a neighboring county juvenile facility is estimated to be approximately 65% less expensive maintaining a full service juvenile hall in Nevada County.

**Partially Agree**

Statement F4 does not take into account the cost and impact to the overall budget of the probation department to pay for a Deputy Probation Officer to transport to and from the neighboring county facility at time of booking and for scheduled court appearances. Added, the cost of staff time for Deputy Probation Officers to travel to and from neighboring county facilities to interview youth.

- F5. Substantial savings for the county general fund would be achieved by closing Juvenile Hall and contracting with a neighboring county for detention of Nevada County detainees.

Agree

## B. RESPONSES TO RECOMMENDATIONS

- R1. By the end of Fiscal Year 2016-17, the Nevada County Board of Supervisors and the Nevada County Probation Department, in collaboration with the Nevada County Superior Court and other stakeholders, should negotiate a contract at the lowest rate possible for all of Nevada County's juvenile detention needs with neighboring county juvenile facilities to reduce Nevada County's general fund costs.

The recommendation will not be implemented at the present time.

The County believes the benefit to house Nevada County youth locally in our therapeutic rich and proven environment compared to neighboring facilities that do not value such a rehabilitative vision supersedes the cost benefit philosophy.

Resolution No. 00-427, dated September 5, 2000, passed by the Nevada County Board of Supervisors, to receive the Construction Grants Program Grant Contract between the State Board of Corrections and County of Nevada, funding to build the Carl F. Bryan II Juvenile Hall stipulates in Exhibit D, page 1 of 4, "The Grantee assures and certifies that it: will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site or facilities, or lease the facility for operation by other entities, without permission and instructions from the Office of Juvenile Programs, U.S. Department of Justice."

- R2. Once favorable contract arrangements with neighboring county juvenile facilities are secured, the Nevada County Board of Supervisors and the Nevada County Probation Department, in collaboration with the Nevada County Superior Court and all other stakeholders, should study and determine the cost effectiveness of alternative uses for the current Carl F. Bryan II Regional Juvenile Hall and repurpose all of the facility for other public programs and services.

The recommendation will not be implemented at the present time.

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operation by other entities, without permission and instructions from the Office of Juvenile Programs, U.S. Department of Justice.”





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