

COURT WORK RELEASE PROGRAM

REASON FOR INVESTIGATION

The Nevada County Civil Grand Jury has the responsibility to review county departments and processes to determine if they are meeting the needs of the community. The Grand Jury wanted to insure that appropriate procedures and practices are in place to minimize county liability and insure participant safety in the court sponsored work release program, hereafter referred to as "program."

PROCEDURE FOLLOWED

The Grand Jury interviewed county personnel at several levels of county government, which included the Director of General Services/Purchasing, County Risk Manager, County Chief Probation Officer, and county employees that supervise program participants. The Grand Jury reviewed county documentation pertaining to the program.

FINDINGS

1. The program was established by the Board of Supervisors (BOS) as a constructive alternative sentencing to that of fines or incarceration (Ordinance No. 1144, March 1983).
2. The BOS established a fee in the amount of \$16.00 per day to be paid by each participant of the program (Resolution No. 92107, February 1992).
3. During calendar year 2000, 240 program participants performed 8,676 hours of service.
4. The program is administered by the County Probation Department and available to qualifying individuals.
5. The County Risk Manager is responsible for identifying potential sources of liability and monitoring accident reports.
6. Ordinance No. 1144 required that agencies providing work for program participants provide workers compensation insurance and adequate liability insurance. The BOS deleted the agency requirement for workers compensation insurance (Ordinance No. 2045, March 2001). Coverage is now provided through the county's workers compensation insurance program. Any additional cost incurred from losses sustained by the participants will be allocated to the County Probation Department. The agencies are still required to provide adequate liability insurance.
7. The county's Senior Building and Grounds Specialist is responsible for the daily maintenance of fifteen county buildings. He has no permanent county staff to perform the work and therefore relies almost exclusively on the program for workers. In 1999, 105 program participants were assigned to Buildings and Grounds.

8. Worksite supervisors of program participants receive little guidance as to what is an appropriate job assignment. Written guidelines are not provided to the supervisors who directly monitor and supervise the work. Not all county employees assigned as worksite supervisors were aware of the requirements for workmen's compensation and liability insurance.
9. Adequate safety equipment is provided to match the job assignment.
10. Nevada County has a low number of reported program participant accidents.
11. Some assignments may be considered dangerous and inappropriate to program participants (e.g. working at great heights and icy conditions).

CONCLUSIONS

1. Even though the program has a good safety record, there is a potential for serious county liability that could be mitigated with properly written guidelines for the worksite supervisors.
2. The ability of the Senior Building and Grounds Specialist to meet job assignments requires a continuing availability of program participants.

RECOMMENDATIONS

1. The County Administrator should create and fill a Grounds Keeper position to assist the Senior Building and Grounds Specialist.
2. The Risk Manager should establish written guidelines and procedures for program worksite supervisors that identify their responsibilities in insuring participant safety. These guidelines should include, and need not be limited to:
 - Identifying specific hazardous jobs not appropriate for participants.
 - Consulting with participants to match jobs to physical and mental limitations.
 - Procedures to be followed when an accident occurs on the job involving a participant.

REQUIRED RESPONSES

County Administrator – no later than 60 days
County Risk Manager – no later than 60 days
County Probation Officer – no later than 60 days

RESPONSES



COUNTY OF NEVADA
COUNTY ADMINISTRATOR

Eric Rood Administrative Center
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rec'd 8/31/01

August 29, 2001

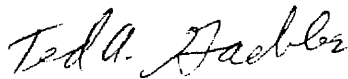
Honorable Kathleen Butz
Presiding Judge
Nevada County Superior Court
201 Church Street
Nevada City, CA 95959

Dear Judge Butz:

The following is in response to the Civil Grand Jury 2000-2001 reported dated June 29, 2001 as it pertains to the Court Work Release Program.

If I can be of further assistance in this matter please don't hesitate to call me.

Sincerely,



Ted A. Gaebler, CAO
Nevada County

TAG/gd

**2000-2001 CIVIL GRAND JURY FINAL REPORT
DATED AUGUST 29, 2001
RE: COURT WORK RELEASE PROGRAM**

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

A. GRAND JURY INVESTIGATION:

Court Work Release Program

B. RESPONSE TO FINDINGS:

- 1. Finding: The program was established by the Board of Supervisors (BOS) as a constructive alternative sentencing to that of fines or incarceration (Ordinance No.1144, March 1983).**

Respondent agrees with this finding.

- 2. Finding: The BOS established a fee in the amount of \$16.00 per day to be paid by each participant of the program (Resolution No. 92107, February 1992).**

Respondent agrees with this finding.

- 3. Finding: During calendar year 2000, 240 program participants performed 8,676 hours of service.**

Respondent agrees with this finding.

- 4. Finding: The program is administered by the County Probation Department and available to qualifying individuals.**

Respondent agrees with this finding.

- 5. Finding: The County Risk Manager is responsible for identifying potential sources of liability and monitoring accident reports.**

Respondent agrees with this finding.

- 6. Finding: Ordinance No. 1144 required that agencies providing work for program participants provide workers compensation insurance and adequate liability insurance. The BOS deleted the agency requirement for workers compensation insurance (Ordinance No. 2045, March 2001). Coverage is now**

provided through the county's workers compensation insurance program. Any additional cost incurred from losses sustained by the participants will be allocated to the County Probation Department. The agencies are still required to provide adequate liability insurance.

Respondent agrees with findings.

7. **Finding: The County's Senior Building and Grounds Specialist is responsible for the daily maintenance of fifteen county buildings. He has no permanent county staff to perform the work and therefore relies almost exclusively on the program for workers. In 1999, 105 program participants were assigned to Buildings and Grounds.**

Respondent disagrees partially with findings. In 1992/93, based on severe funding issues the Board reduced the number of Building and Grounds Specialists from 2FTE to 1FTE. In 1995/96 through this year, the department has requested 1000 hours of temporary time to support the Senior Building and Grounds Specialist. The temporary person has been utilized during the seasons when most of the work occurs. This is predominantly in the Spring, Summer and Fall before the grounds go dormant. In addition the General Services Director has worked with the Wayne Brown Correctional Facility to use inmates to do the grounds maintenance in front of their building. The General Services Director who has a person assigned to the facility oversees the work of the trustees with the assistance of a member of the Sheriff staff. This has allowed the County to work more efficiently in the ongoing financial constraints the Board works under.

8. **Finding: Worksite supervisors of program participants received little guidance as to what is an appropriate job assignment. Written guidelines are not provided to the supervisors who directly monitor and supervise the work. Not all county employees assigned as worksite supervisors were aware of the requirements for workmen's compensation and liability insurance.**

The respondent partially disagrees with the findings. Both the Probation Department and the Risk Manager have responded to the concerns raised in some depth. Adequate management is provided by the Probation Department through the MOU agreements which both internal and external agencies have to sign. Also, oversight supervision and consultation is provided by the departments liaison who works with the entities requesting workers.

9. **Finding: Adequate safety equipment is provided to match the job assignment.**

Respondent disagrees with a portion of this finding based on reviewing the input provided by the Probation Department. We are in concurrence with the input provided by the Probation Department.

9. Finding: Adequate safety equipment is provided to match the job assignment.

Respondent disagrees with a portion of this finding based on reviewing the input provided by the Probation Department. We are in concurrence with the input provided by the Probation Department.

10. Finding: Nevada County has a low number of reported program participant accidents.

The respondent agrees with the findings.

11. Finding: Some assignments may be considered dangerous and inappropriate to program participants (e.g. working at great heights and icy conditions).

The respondent disagrees with a portion of the findings based on reviewing the information provided by the Probation Department and the referenced attachments.

C. RESPONSE TO RECOMMENDATIONS:

1. Recommendation: The County Administrator should create and fill a Grounds Keeper position to assist the Senior Building and Grounds Specialist.

The respondent partially disagrees with the findings. As stated under finding #7, while the Board initially pared back staffing in the grounds operations, they have from FY 95/96 increased staffing by increasing temporary hours and hired a part time person to work up to 1000 hours (.5FTE) to support the Senior Building and Grounds Specialist. In addition, General Services have made arrangements with the Sheriff's Department to address their grounds issues in front of the Wayne Brown Correctional Facility. This has thereby reduced the need for two FTE positions. Last, staff has used the temporary person during peak seasons to maximize our limited resources. This office will continue to monitor this issue on an annual basis to determine if the existing staffing pattern is established at the appropriate level. We will work with the General Services Director in order to maintain the proper balance.

2. Recommendation: The Risk Manager should establish written guidelines and procedures for program worksite supervisors that identify their responsibilities in insuring participant safety. These guidelines should include, and need not be limited to:

- **Identifying specific hazardous jobs not appropriate for participants**
- **consulting with participants to match jobs to physical and mental limitations**
- **procedures to be followed when an accident occurs on the job involving a participant**

The respondent partially disagrees with findings. The Probation Department and the Risk Manager have responded in depth to the issues raised by the Grand Jury. These are sufficient safeguards in place to address the safety of the participants. This is addressed through the MOU's that are established with agencies both internal and external who use the participants. In addition, our Risk Manager is in the process of updating the County's Injury and Illness Prevention Program in order to ensure managers and supervisors are updated and trained in workplace safety. This will improve the overall safety for County employees and participants who participate in this program.

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**RISK MANAGER'S RESPONSES TO
2000-2001 CIVIL GRAND JURY FINAL REPORT
DATED JUNE 29, 2001
RE: COURT WORK RELEASE PROGRAM**

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

A. GRAND JURY INVESTIGATION:

Court Work Release Program

B. RESPONSE TO FINDINGS:

- 1. Finding: The program was established by the Board of Supervisors (BOS) as a constructive alternative sentencing to that of fines or incarceration (Ordinance No. 1144, March 1983).**

Respondent agrees with this Finding.

- 2. Finding: The BOS established a fee in the amount of \$16.00 per day to be paid by each participant of the program (Resolution No. 92107, February 1992).**

Respondent agrees with this Finding.

- 3. Finding: During calendar year 2000, 240 program participants performed 8,676 hours of service.**

Respondent agrees with this Finding.

- 4. Finding: The program is administered by the County Probation Department and available to qualifying individuals.**

Respondent agrees with this Finding.

- 5. Finding: The County Risk Manager is responsible for identifying potential sources of liability and monitoring accident reports.**

Respondent agrees with this Finding.

- 6. Finding: Ordinance No. 1144 required that agencies providing work for program participants provide workers compensation insurance and adequate liability insurance. The BOS deleted the agency requirement for workers compensation insurance (Ordinance No. 2045, March 2001). Coverage is now provided through the county's workers compensation insurance program. Any additional cost**

incurred from losses sustained by the participants will be allocated to the County Probation Department. The agencies are still required to provide adequate liability insurance.

Respondent agrees with this Finding.

- 7. Finding: The county's Senior Building and Grounds Specialist is responsible for the daily maintenance of fifteen county buildings. He has no permanent county staff to perform the work and therefore relies almost exclusively on the program for workers. In 1999, 105 program participants were assigned to Buildings and Grounds.**

Respondent agrees with this Finding.

- 8. Finding: Worksite supervisors of program participants receive little guidance as to what is an appropriate job assignment. Written guidelines are not provided to the supervisors who directly monitor and supervise the work. Not all county employees assigned as worksite supervisors were aware of the requirements for workmen's compensation and liability insurance.**

Respondent partially disagrees with this Finding. Under the department's Program policies, a Probation Department Work Release Officer coordinates with a liaison from the participating agency to determine required labor needs. The agency liaison is responsible for providing tools, direction and expertise relative to the work performed, and the agency's Liaison Work Crew Supervisor is responsible for the supervision of program participants. Although general guidelines are provided by the Department to the participating agency's liaison, the Department would have no way of determining if the guidelines are communicated by the agency's liaison to the agency's work crew supervisor.

Agencies participating in the Work Release program are required to sign a Memorandum of Understanding ("MOU"), which provides general guidelines regarding job assignments. The MOU states, "Workers will not be assigned to dangerous or hazardous work assignments. They will not be harassed or given demeaning work assignments while under supervision of the user department or agency." These guidelines are provided to the agency's liaison. It is the liaison's responsibility to communicate the provisions in the guidelines to the work supervisors.

Clarification is needed regarding the Finding that not all county employees assigned as worksite supervisors were aware of the requirements for workmen's compensation and liability insurance. The MOU requires participating agencies to provide evidence of liability insurance. Workers' compensation insurance is provided by the County, so participating agencies do not need to provide proof of this coverage. Evidence of liability coverage must be provided by the participating agency, unless the agency is a County department, in which case liability insurance is also provided by the County. Worksite

supervisors would not provide evidence of liability insurance because this must be provided by the agency's liaison to the Department at the time the MOU is signed.

9. Finding: Adequate safety equipment is provided to match the job assignment.

Respondent disagrees partially with this Finding. Once a program participant is released to a participating non-County agency, there would be no way of verifying whether safety equipment is provided or is adequate for a job assignment. However, under the MOU and the department's Program policies, participating agencies are required to provide hearing and eye protection for workers operating power equipment, and all workers must wear orange safety vests when working outdoors. In addition, the non-County agency's Liaison Work Crew Supervisor must monitor workers for safe usage of all tools and equipment.

10. Finding: Nevada County has a low number of reported program participant accidents.

Respondent agrees with this Finding.

11. Finding: Some assignments may be considered dangerous and inappropriate to program participants (e.g. working at great heights and icy conditions).

Respondent disagrees partially with this Finding. An assignment of working at great heights under icy conditions would be dangerous and inappropriate for program participants. Clarification is needed as to what other assignments were found to be dangerous and inappropriate. The MOU prohibits assigning workers to dangerous or hazardous work.

C. RESPONSE TO RECOMMENDATIONS:

1. Recommendation: The County Administrator should create and fill a Grounds Keeper position to assist the Senior Building and Grounds Specialist.

This Recommendation does not apply to this Respondent.

2. Recommendation: The Risk Manager should establish written guidelines and procedures for program worksite supervisors that identify their responsibilities in insuring participant safety. These guidelines should include, and need not be limited to:

- **Identifying specific hazardous jobs not appropriate for participants**
- **Consulting with participants to match jobs to physical and mental limitations**
- **Procedures to be followed when an accident occurs on the job involving a participant**

This recommendation will not be fully implemented because it is not warranted. Responsibility for establishing written guidelines and procedures has been delegated by

the Board of Supervisors to the County Probation Department (General Code sec. G-VI 1.18). The Risk Manager is available and ready to assist in this responsibility when necessary or requested to do so. Guidelines and procedures for the program have been established and implemented by the Probation department. It is the responsibility of the participating agency to provide written guidelines and procedures to worksite supervisors identifying their responsibilities in insuring participant safety.

If the participating agency is a County department, the Program Administrator for the County's Injury and Illness Prevention Program ("IIPP") is responsible for ensuring that managers and supervisors are trained in workplace safety and are familiar with the safety and health hazards to which employees under their immediate direction or control may be exposed. The IIPP has recently undergone extensive revision. The revised IIPP will be presented to the Board of Supervisor for adoption in September. Under the revised IIPP, the department supervisors and managers are responsible for developing and implementing standard operating procedures on safety.

The recommendation that the County's guidelines should identify specific hazardous jobs that are not appropriate for participants will not be implemented because it is not reasonable. It would be impossible to list every hazardous job that is inappropriate for participants. The Department's MOU prohibits assigning workers to dangerous or hazardous work assignments.

The recommendation that the County's guidelines include consulting with participants to match jobs to physical and mental limitations will not be implemented because it is not reasonable. It would be overly burdensome to require participating agencies to provide complete job descriptions of proposed assignments or to require the County to conduct pre-employment examinations of participants to determine limitations. The Probation Department screens participants to determine suitability for the program, including an assessment of the condition of the worker's mental and physical health. Participants with permanent disabilities are referred to a placement that does not require manual labor beyond their abilities. However, ultimately it is the responsibility of the employing agency to make a determination whether program participants have the mental and physical capacity for the agency's work assignments.

The recommendation that the County's guidelines include procedures to be followed when an accident involving a participant occurs on the job has been implemented. The Program policies and MOU provide procedures for responding to and reporting on-the-job injuries or illness involving a participant.



JOHN M. WARDELL
Chief Probation Officer

NEVADA COUNTY

PROBATION DEPARTMENT

109 ½ North Pine Street
Nevada City, California 95959-2504
(530) 265-1200
Fax: (530) 265-1556

August 20, 2001

McD
AUG 27 2001

Honorable Kathleen Butz
Presiding Judge
Nevada County Superior Court
201 Church Street
Nevada City, CA 95959

Dear Judge Butz:

The following is in response to the Civil Grand Jury 2000-2001 report dated June 29, 2001 as it pertains to the Court Work Release Program.

Pursuant to Section 933(c).

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the findings, in which case the respondent shall specify the portion of the findings that is disputed and shall include an explanation of the reasons therefor

Section 933.05(b) For the purpose 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 analyses, with an explanation and the scope and parameters of an analysis or 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. The timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

FINDINGS

1. This Respondent agrees with this finding.
2. This Respondent agrees with this finding.
3. This Respondent agrees with this finding.
4. This Respondent agrees with this finding.
5. This Respondent agrees with this finding.
6. This Respondent agrees with this finding.
7. This Respondent agrees with this finding.
8. This Respondent disagrees with a portion of this finding. Further clarification is necessary. General guidance is given to all participants on the Work Programs administered by the Probation Department as reflected within our MOU. Item 7 of the MOU states: "Workers will not be assigned to dangerous or hazardous work assignments. They will not be harassed or given demeaning work assignments while under the supervision of the user department or agency." The MOU has been left general with discretion being left up to that user agency as providing the job assignment as not being "dangerous, hazardous or demeaning".

Each outside County agency signs a copy of the attached MOU with the Probation Department. By doing so, each agency supervisor should be aware of written guidelines concerning the Program. It is unknown if all agency supervisors are making program participants aware of the written and signed MOU content.

The Probation Department Work Program is Court ordered. It is not a program clients are referred to by another outside agency, like the jail. If a defendant were placed with Buildings and Grounds they would have a signed MOU with the Probation Department (see attached) similar to any other agency within or outside the County. My conclusion is drawn from the statement in the Civil Grand Jury report that states: "county employees assigned as worksite supervisors". When clients are placed with a County agency, such as Buildings and Grounds they are covered by the County Workman's compensation and liability insurance. Further because Buildings and Grounds is a County agency they would be aware of mandates and guidelines for the filling out of accident reports in the event of any injury as reflected in the Probation Department's MOU.

9. This Respondent disagrees with a portion of this finding as it pertains to the Probation Department Work Program. Further clarification is provided. Refer to Probation Department MOU. Although such MOU does not cover specific job tasks and safety equipment, in general it is the responsibility of the user agency to provide for such as spelled out within the MOU. However, Client referred by the Court to the Probation Department Court Work Program is supplied with the necessary safety equipment and instruction on its use, by the program coordinator. In addition, if it is a County agency using the labor as provided (such as Buildings and Grounds) it would be the responsibility of that agency to provide safety equipment and training as indicated in their own policy and procedures manual, office policy or as generally stated in the Probation Department MOU.
10. This Respondent agrees with this finding.
11. This Respondent disagrees with a portion of this finding. As referenced in the attached Probation Department MOU, agencies where clients are placed, as indicated under item #7 "workers will not be assigned to dangerous or hazardous work assignments".

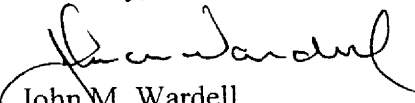
RECOMMENDATIONS

Pursuant to Section 933(c) of the California Penal Code, this respondent agrees with the findings of the Grand Jury with the above clarifications.

Clarification to Recommendation:

1. This recommendation does not apply to this Respondent.
2. This Respondent disagrees with a portion of the Recommendation: a) Each user agency should have a policy or MOU in place addressing each issue presented by the Civil Grand Jury concerning safety or hazardous work. b) I can only speak to the Probation Department's Work Program where participants are matched with a job taking in to account both physical and/or mental limitation through an interview process conducted by the Work Program Coordinator. c) It is each Department Head's responsibility to insure all local, state, and federal laws pertaining to accident reporting and response to an accident are followed.

Sincerely,


John M. Wardell
Chief Probation Officer