

Napa County
Grand Jury
2010-2011



Consolidated
FINAL REPORT

Napa County Grand Jury 2010-2011 Consolidated FINAL REPORT

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2010-2011 Napa County Grand Jury



(From left to right)

Seated: Ikeda Grayson, Judith Bernat, Forewoman; Harriet Goss, Joan Handrich Katz

Standing:

Front row: Brad Cohen, Hugh Linn, Melody Arevalo, Dorothy Glaros, Barbara Britton, John McBroom, Enid Gonzalez-Ramirez, Christine Talley

Standing:

Back row: Robert Boucher, Steve Ross, Kent Livingstone, Joanne Wegsten, Duane Wall, Ellen Gallagher, Betty Bortz

2010-2011 Napa County Grand Jury Roster

Judith Bernat, Forewoman	Napa
Hugh Linn, Foreperson Pro Tempore	Napa
Melody Arevalo	Napa
Betty Bortz	Napa
Robert Boucher	Napa
Barbara Britton	Yountville
Bradford Cohen	Napa
Ellen Gallagher	St. Helena
Dorothy Glaros	Napa
Enid Gonzalez-Ramirez	Napa
Harriet Goss	St. Helena
Ikeda Grayson	American Canyon
Joan Handrich Katz	Napa
Kent Livingstone	Napa
John McBroom	Napa
Steve Ross	Napa
Christine Talley	St. Helena
Duane Wall	Napa
Joanne Wegsten	St. Helena



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

June 30, 2011

The Honorable Stephen T. Kroyer
Presiding Judge, 2010
County of Napa
Superior Court of California
825 Brown Street
Napa, CA 94559

The Honorable Diane M. Price
Supervising Grand Jury Judge
County of Napa
Superior Court of California
825 Brown Street
Napa, CA 94559

Re: 2010-2011 Napa County Grand Jury Reports

Dear Judges Kroyer and Price:

The 2010-2011 Napa County Grand Jury is pleased to present this final report to the Presiding Judge and the Grand Jury's Supervising Judge of the Superior Court of California, County of Napa.

As our term ends, the members of the Grand Jury want to convey our appreciation for the opportunity we were provided to serve on the Grand Jury. We met in July 2010 and began our journey of in depth inquiries through interviews and research. We attended many meetings and produced eleven reports. While each member's experience differed in a number of ways, we all found the process to be rewarding and challenging. During our period of service we had the unique opportunity to investigate and observe many aspects of local government. We found the cooperation of those we dealt with to be excellent. More importantly, we discovered a wealth of dedicated, skilled, experienced and professional government employees. We received technical assistance from a number of people including Silva Darbinian of the County Counsel Office, Connie Brennan of the Court Executive Office, Ron Estes of the County Information Technology Services Department and Judge Diane M. Price. Judge Price was accessible and responsive to our needs. She was consistently prompt in her review of our reports and authorization of their release.

The County continues to provide rental space where the Grand Jury can meet and work. This space was invaluable. The computer, printer, and other equipment helped us all to work more efficiently and effectively. Here we were able to conduct interviews in a confidential manner and protect the identity of witnesses. We also appreciated the assistance of Sarah Simpson as a sworn assistant who provided editorial assistance to all of our committees at no cost.

The men and women of the 2010-2011 Grand Jury have tried to be constructive, informative, and cooperative. We have worked hard to earn the respect of the public servants in the County and we sincerely hope that we have contributed to a better Napa County community. We hope that we have been able to inform the public and provide thought provoking recommendations for the agencies to consider.

The 2010-2011 Napa County Grand Jury again thanks you for the support, the counsel and the opportunity to serve. It has been a privilege and an honor.

Very truly yours,

A handwritten signature in black ink that reads "Judith Bernat". The signature is written in a cursive style with a large, looping initial "J".

Judith Bernat

Forewoman

2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

June 30, 2011

To the Citizens of Napa County:

It is with pride and satisfaction that the 2010-2011 Grand Jury presents the final report of our investigations and the procedures used during our term of service on your behalf. This compilation includes the 11 reports we issued during our term and the responses to last year's Grand Jury report and to the report issued more than 90 days before the end of our term.

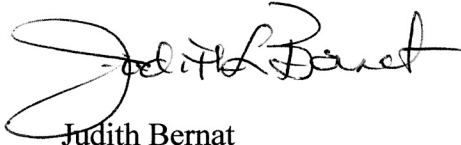
Nineteen members of this Grand Jury were sworn in July 1, 2010. We served under Presiding Judge Stephen T. Kroyer and Supervising Judge Diane M. Price. Judge Price's prompt and cooperative efforts on our behalf were very much appreciated and important to our accomplishments. All of the Judges of the Napa Superior Court and Connie Brennan of the Court Executive Office have been very helpful and supportive of our efforts.

Each member of this year's Grand Jury worked hard. Service on the Grand Jury is for a period of one year. Every member contributed their time and talents. The average time each juror spent averaged between 45 and 60 hours each month. We met or interviewed dozens of agency and departmental representative and employees as well as residents of the County. We read and reviewed thousands of pages of documents during our investigations. Finally, we prepared the reports contained in this *Final Report*. Our service was dedicated to providing oversight and transparency to County, City and District government and making findings and recommendations to improve local government in order to benefit you, the residents of Napa County.

As has been done in past years, our Grand Jury released reports as they were completed and approved by the entire panel, County Counsel and the Supervising Judge. These reports were then sent to the respondents and two days later were released to the public. Our first report was released in March 2011, and the 10 additional reports in succeeding months. Our report on red light camera enforcement resulted in press coverage in local and Bay area newspapers, a local radio station, and television stations in San Francisco and Sacramento which gave the report greater public impact.

We have been privileged and honored to serve you. It has been an interesting, educational and satisfying experience. We hope this Final Report will inspire more people to participate in this useful and exciting endeavor.

Very truly yours,

A handwritten signature in black ink, appearing to read "Judith Bernat". The signature is fluid and cursive, with a large initial "J" and "B".

Judith Bernat

Forewoman, on Behalf of all the Members of the
2010-1011 Napa County Grand Jury

ACKNOWLEDGEMENTS

The 2010-2011 Napa County grand jury wishes to acknowledge the assistance, cooperation and cordiality of the following people:

The Honorable Stephen T. Kroyer, Presiding Judge of the Napa Superior Court

The Honorable Diane M. Price, Supervising Judge to the Grand Jury, Napa Superior Court

Gary Lieberstein, Napa County District Attorney

Robert Westmeyer, Napa County Counsel

Silva Darbinian, Chief Deputy County Counsel

Janice Killion, Deputy County Counsel

Minh Tran, Deputy County Counsel

Richard Feldstein, Napa Superior Court, Court Executive Officer

Connie Brennan, Administrative Assistant to Court Executive Officer

Sarah Simpson, Administrative and Consulting Former Grand Juror

Joseph Peatman, President, Gasser Foundation

Terri Niles, Office Manager, Gasser Foundation

Nancy Watt, Napa County Executive Officer

Elizabeth Habkirk, Senior Management Analyst, Napa County Executive Office

Molly Rattigan, Senior Management Analyst, Napa County Executive Office

Ron Estes, Napa County Informational Technology Services Department

Pat Grisham, Executive Assistant, Napa County Executive Office

Michael Donnelly, Managing Editor, *Napa Valley Register*

News Staff, *Napa Valley Register*

Randy Guerrieri, owner, *The Copy Corner*

Napa Chapter, California Grand Jurors Association

The Supportive Families of the Grand Jury Families

INTRODUCTION

NAPA COUNTY GRAND JURY

The 2010-2011 Napa County Grand Jury served from July 1, 2010 to June 30, 2011. The following provides a broad overview of the Grand Jury, its history, what it is and how it functions.

HISTORY

The Grand Jury has its historical roots in the old English grand jury system, the purpose of which was to protect citizens from the arbitrary power of the Crown. The American system continues to retain the goal of protecting residents from abuse by local government. The Grand Jury is an arm of the court system rather than the District Attorney's office and is not a law enforcement agency.

DEFINITIONS

Section 888 of the California Penal Code provides that a Grand Jury be comprised of the required number of citizens charged and sworn to investigate into county matters of civil concern. Based upon its population, the required number of Grand Jurors for Napa County is 19.

FUNCTIONS

The Grand jury functions as one independent body. All matters discussed are kept private and confidential. It is the responsibility of the Grand Jury to examine all aspects of county and local government to ensure that they are being operated honestly and efficiently. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel and the State Attorney General can, and do, provide, advice, but they may not prevent the Grand Jury from acting within its jurisdiction except for legal cause.

A county Grand Jury does not have jurisdiction in state or federal matters and cannot investigate state or federal agencies, nor does it have any jurisdiction over the courts or a matter that is in litigation. For the most part, Grand Juries function as civil Grand Juries rather than criminal Grand Juries. The California Supreme Court has held that the Grand Jury does not have inherent powers to establish its own investigative apparatus for the detection of crime. Moreover, a Grand Jury does not engage in fishing expeditions, have hidden agendas, or meddle indiscriminately. Conflict must be avoided.

The scope of inquiry of a Grand Jury is limited to subjects founded upon knowledge which comes to the Grand Jury from the public, by information acquired from Grand Jury investigations or from individual Grand Jurors' own observations. For the most part, Grand Jurors are charged with investigating the operations, accounts and records of the officers and departments of local government and the method or system those officers and departments employ in performing their duties. In general, all non-State and non-Federal governmental agencies within Napa County, and events involving those agencies, can be investigated by the Grand Jury.

HOW INVESTIGATIONS ARE CONDUCTED

Grand Jury members initially meet with the management and staff of an agency. The various records and the physical facilities of the agency are inspected, and representative public meetings, if any, are attended. Leads that might provide additional information are followed. Eventually, proposed findings and recommendations for the agency are developed and approved by at least 12 of the 19 Grand Jurors.

Grand Jurors are expected to be fair, to show sound judgment, to maintain absolute confidentiality, and to serve as representatives of the public. Therefore, the Grand Jury is not the forum from which to express narrow political ideals or viewpoints, but is the organization which seeks to better the present local governmental agencies/organizations.

GRAND JURY FINAL REPORTS

The Grand Jury may choose to issue a final report on an investigation as it is completed. After the approval of the Presiding Judge and two working days prior to public release, the Grand Jury is required to provide a copy of the report to each affected agency or person. *No officer, agency, department, or governing body of a public agency shall disclose any contents of the Report prior to its public release.* Copies of the Grand jury final reports are maintained on file in the office of the Court Executive Officer and the Clerk of the Board of Supervisors, where they remain accessible to the public. Final reports are also available at County libraries, in local public newspapers and on the following website, www.napa.courts.ca.gov.

Agencies or elected officials are required to make responses in writing to the Presiding Judge of the Superior Court of California, Napa County, within 60 days and 90 days respectively after submittal of the report to them. The responses must be placed on file with the clerk of the investigated agency/department and at the office of the Court Executive Officer and may be accessed by the public at those locations. They may also be accessed on the following website, www.napa.courts.ca.gov. At the end of its term, the Grand Jury must publish a consolidated final report.

RESPONSE TO FINAL REPORT

The legal requirement for response to Grand Jury findings and recommendations are set forth in California Penal Code, Section 933.05. Each respondent needs to become familiar with those legal requirements and, if, in doubt, consult with legal counsel before responding. For the assistance of respondents, Section 933.05 of the Penal Code is summarized below.

How to Respond to Findings

The responding person or entity must respond in one of two ways:

- That they are in agreement with the finding or

- That they disagree, wholly or partially, with the finding. In which case, the respondent shall specify the portion of the finding that is disputed and shall include an explanation of the reasons for the disagreement.

How to Report Action Taken in Response to a Recommendation

Recommendations by the Grand Jury require action. The responding person or entity must report action on each recommendation in one of four ways:

- The recommendation has been implemented, with a summary of action(s) taken.
- The recommendation has not been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis. If a respondent replies in this manner, the law requires a detailed explanation of the analysis or study and a time frame not to exceed six months from the date of publication of the Grand Jury's final report by which time the recommendation will be discussed.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation as an explanation as to why it is not warranted or reasonable.

Budgetary or Personnel Recommendations

If a finding or recommendation deals with budgetary or personnel matters of a county department headed by an elected officer, both the elected officer and the Board of Supervisors shall respond, if the Grand Jury so requests. While the response of the Board of Supervisors may be somewhat limited, the response by the department head must address all aspects of the findings and the recommendations.

Time and to Whom to Respond

The Penal Code provides for two different response methods:

- Public Agency – The governing body (i.e. Board of Supervisors, a City Council, a Board of Directors, a Board of Governors of a Special District, a School Board, etc.) of the public agency must respond within 90 days of service of the final report. The response must be addressed to the Presiding Judge of the Superior Court.
- Elected officer or Agency Head – All elected officers or heads of agencies that are required to respond must do so within 60 days of service of the final report. The response must be addressed to the Presiding Judge of the Superior Court, with a copy to the Board of Supervisors.

REQUIREMENTS TO BECOME A NAPA COUNTY GRAND JUROR

Grand Jurors must meet the following legal qualifications:

- Be at least 18 years of age
- A citizen of the United States
- A resident of Napa County for at least one year prior to the next July

- In possession of natural faculties, be of ordinary intelligence, sound judgment and of fair character
- Possess sufficient knowledge of the English language
- Not discharged as a Grand Juror in any California court within one year prior to the next July
- Never convicted of malfeasance in office or any felony or other high crime
- Not currently serving as an elected public officer

TERM OF SERVICE

Each July, nineteen citizens of Napa County are sworn as Grand Jurors to serve for a period of twelve months. Grand Jury is considered to be, at minimum, a 20 hour per week commitment, with each Jury establishing its own work schedule. Everyone who is selected to serve must be fully cognizant of the time involved. Each prospective nominee should thoughtfully weigh any and all personal and business obligations before accepting the nomination.

The Superior Court Judges select persons who represent the cultural, ethnic and diverse life experience of residents of Napa County so that the Grand Jury may reflect the many interests and concerns of the citizens. In addition, the selection process for Grand Jurors involves a random choice of prospective jurors and alternates.

HOW TO APPLY FOR THE GRAND JURY

All residents of Napa County are offered the opportunity to volunteer to be a member of the Grand Jury by filing an application (www.napa.courts.ca.gov). Judges and friends of the courts may also nominate County residents. Each Grand Jury is impaneled for one year from July 1, through the following June 30. Up to ten members, in their initial term of service, may volunteer to hold over for an additional year.

Applications for the next Grand Jury may be submitted at any time during the year prior to April 15th. Apply for the Grand Jury by filling out and submitting an online questionnaire or by contacting the Napa County Superior Court Administrative Assistant at the address listed below.

CITIZEN COMPLAINTS AND LETTERS TO THE GRAND JURY

The Grand Jury is mandated by law to respond to letters of complaint by citizens and to inquire into the conditions of public detention facilities. Correspondence may be received from citizens expressing concern or requesting investigation of various city agencies, county agencies or special districts. Each complaint is reviewed by the Grand Jury and action is taken in one of the following ways:

- Investigate the matter and make a report
- Investigate the matter and make a decision not to follow up the complaint
- Make a decision not to follow up the complaint without investigation

It is desirable to submit a request at the beginning of the Jury's term so that the Grand Jury will have sufficient time to investigate the matter. Due to time constraints, a Grand Jury may refer a

complaint to the subsequent year's Grand Jury. A Citizen Complaint form can be found at the end of this report.

FOR AN APPLICATION, GENERAL QUESTIONS, COMMENTS, OR MORE INFORMATION, PLEASE WRITE, CALL OR EMAIL:

Connie Brennan, CCLS
Court Administrative Assistant
Superior Court of California
County of Napa
825 Brown Street
Napa, CA 94559
Telephone: (707) 259-8305
Fax: (707) 299-1250
E-mail: grandjury@napa.courts.ca.gov



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

CITY OF NAPA

**AUTOMATED RED LIGHT
ENFORCEMENT**

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

February 25, 2011

The Honorable Diane Price
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94459

RE: Final Report - Automated Red Light Enforcement

Dear Judge Price,

Pursuant to Sections 933(a) of the California Penal Code, the 2010 -2011 Napa County Grand Jury submits to you its Final Report on the Automated Red Light Enforcement. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the first in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and pleasure to work with them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith L. Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate local governmental agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Automated Red Light Enforcement systems (ARLEs) within the City of Napa.

The City of Napa Police Department currently oversees four ARLE intersections. Three of the four intersections operate effectively and without irregularities. The fourth intersection, the intersection at SH 29/12/121, exhibited a high volume of right turn citations during the first three months of operation.

After the yellow light timing interval was adjusted and the Napa Police Department informally adopted enforcement practices that strictly comply with the California Vehicle Code, the number of ARLE citations diminished and stabilized.

This Grand Jury has carefully investigated this matter and has developed a set of findings and recommendations with the objective of representing the public interest. One key recommendation is that the city refund fines and fees to drivers cited for right turn violations at the SH 29/12/121 intersection who would not have received a citation under the current enforcement practices.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933(a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov (follow the link to Grand Jury).

It is an honor and privilege to serve you during the 2010-2011 Grand Jury tenure.

We hope you find this report informative.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

NAPA ARLE INTERSECTIONS

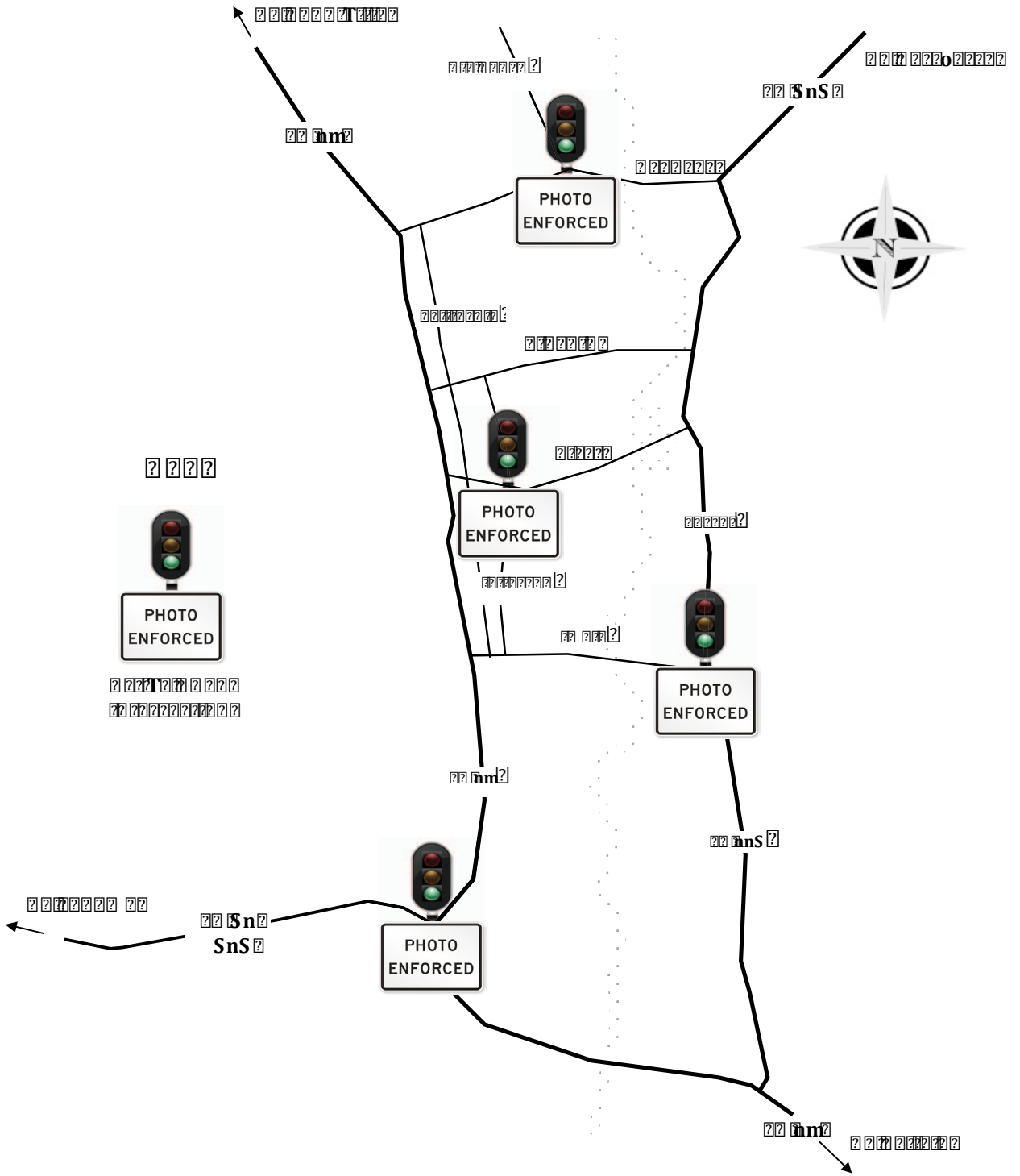


Figure 1

AUTOMATED RED LIGHT ENFORCEMENT

SUMMARY

The City of Napa operates Automated Red Light Enforcement systems (ARLEs) at four intersections (See Figure 1). The Napa Police Department (NPD) selected these intersections because of their accident histories. In installing these ARLE systems, the NPD adhered to the California legal requirements and California Department of Transportation (Caltrans) directives (See Appendix I). Despite the fact that the NPD was thorough in meeting the installation requirements, the SH 29/12/121 ARLE intersection has critical deficiencies. These deficiencies resulted in financial impacts to drivers who were cited for right turn violations. The Grand Jury report investigates the City's ARLE system and recommends remedies for the deficiencies at the SH 29/12/121 intersection.

The SH 29/12/121 ARLE intersection is within the state highway system. Caltrans does not allow work or improvements within the state highway without an encroachment permit. The NPD obtained an encroachment permit to complete the ARLE improvements by adhering to the instructions and guidance provided by Caltrans' staff.

This investigation found that Caltrans did not follow their own internal policy directives in issuing encroachment permits for the ARLE improvements within the state highway. Consequently, the ARLE system at SH 29/12/121 has the following deficiencies:

- Lack of an engineering study to address probable design deficiencies and/or alternative countermeasures.
- Lack of clarity as to the legal requirements for setting the yellow change intervals.
- Two right turn phase cycles that provide different and confusing yellow change interval times.

The cost of a red light violation is a minimum of \$475 which includes fine, fees, and court costs (See Table 1). Some of these fees are collected for the State for various purposes through a complex funding process set by the California Penal and Government Codes. There is questionable financial incentive for the City to employ an ARLE system due to loss of funds to our local economy. It is also relevant to note that the Redflex Traffic Systems, Inc. (Redflex or ARLE) contract with the City requires enforcement of right turns in order for Redflex to guarantee

cost neutrality. Cost neutrality is a guarantee that the ARLE system will generate enough money to pay for itself.

Considering the cost of a red light violation, it is essential that ARLE systems strictly comply with state law and that the law is clearly and consistently applied. The Grand Jury has determined that one aspect of ARLE law relating to setting yellow light change intervals is ambiguous and subject to interpretation. The Grand Jury has requested that the Napa County Counsel obtain an opinion from the California Attorney General regarding the California Vehicle Code Section 21455.7(CVC) so that ambiguities in the law are clarified.

The public must have confidence that ARLE systems meet their principal objective of improving traffic safety. This investigation includes an evaluation of the City of Napa accident statistics and ARLE citations (See Appendix VII). These statistics indicate that accidents have declined steadily over the last five years and the ARLE system has yet to demonstrate a significant reduction of accidents. The data also indicate that ARLE citations often occur for right turn movements which have very low incidents of accidents.

Based on the findings revealed in this investigation, the Grand Jury proposes several recommendations. One recommendation is that the City refund fines and fees to drivers who were issued citations at the SH 29/12/121 ARLE intersection during the first three months of operation who would not have received a citation under current enforcement practices.

BACKGROUND

In June of 2006, the City of Napa initiated a program to install red light cameras at critical intersections within the City. The focus of the program was to select intersections that have high incidents of violations and accidents. Overall, the goals of the City's ARLE systems are to:

- Reduce the number of fatalities, serious injuries and property damage that result from traffic collisions,
- Improve the safety of motorists and pedestrians at locations where cameras are in place,
- Improve overall motorist and pedestrian safety and awareness citywide through a coordinated outreach and educational effort.

The specific requirements for implementing an ARLE system are outlined in CVC Section 21455.5 (See Appendix II). Two of the ARLE intersections are

located on the State highway system. The NPD sought the assistance of a consultant and equipment vendor to implement the ARLE system.

City of Napa ARLE Implementation Timeline

The NPD followed the timeline below in implementing the ARLE system.

Date	City of Napa Action
7/18/2006	The City Council directed staff to pursue a red light photo enforcement program.
11/20/2007	City staff issued a Request for Proposal for red light photo enforcement services.
6/3/2008	The City Council held a public hearing and approved Resolution R2008 107 authorizing a contract for City staff and Redflex Traffic Systems, Inc. (Redflex or ARLE) to proceed.
6/13/2008	The NPD contracted with Redflex to furnish equipment, licenses, applications, enforcement monitoring and enforcement assistance.
4/29/2009	The ARLE intersections at First/Jefferson and Big Ranch/Trancas became operational and after the required 30 day warning period the City began issuing citations.
7/29/2009	The City of Napa submitted an encroachment permit to Caltrans to install ARLE systems at Soscol/Imola and SH 29/12/121.
11/2/2009	Caltrans issued an encroachment permit to the City.
1/10/2010	The ARLE at Soscol/Imola (SH 221/121) became operational and after the required 30 day warning period the City began issuing citations.
2/27/2010	The ARLE at SH 29/12/121 became operational. After the required 30 day warning period, the City began issuing citations.
4/13/2010	Caltrans increased the yellow change interval time on the southbound right turn lane at SH 29/12/121 from 3.2 to 3.8 seconds.

The length of time that was necessary to implement the ARLE system indicates the NPD made a thorough and meticulous effort to implement a successful program.

Existing ARLE System Implementation

As a result of the City's efforts, there are currently four operational ARLE intersections;

- Big Ranch/Trancas
- Soscol/Imola (SH 221/121)
- First Street/Jefferson
- State Highway 29/12/121

Figure 1 shows the locations of these intersections

The City monitors one approach at each of the ARLE intersections. Depending on the configuration of an intersection, each approach may have up to three turning movements. For example, the SH 29/12/121 is monitored in the southbound direction and the cameras identify violations on the through and right turn movements. The northbound and eastbound approaches of this intersection are not monitored by cameras. Failure to stop when traveling in the northbound or eastbound directions at the SH 29/12/121 intersection would not result in a photo enforced citation.

The effectiveness of ARLE systems relies on the public perception that approaches at numerous non-ARLE intersections throughout the City are photo monitored. Many drivers mistake the non-ARLE intersections with infrared signal override receivers and signs as photo enforced equipment. This condition is called the "halo" effect and is promoted by ARLE vendors such as Redflex and has the potential to influence driving behavior.

Red Light Citation Fine and Associated Costs

Failure to stop at a traffic light is a violation of CVC Sections 21453 (a) (c) (See Appendix II). The base fine for this violation is \$100.00. The actual cost is a minimum of \$475.00. The additional fees are a result of fines and penalties added on by the California Legislature (See Table 1). The Grand Jury acquired the fee schedule from the Napa County Superior Court in an attempt to develop a complete understanding of the fines and penalties associated with this citation.

After three attempts to clarify the fines with the Court, it became clear that the process of allocating fines associated with CVC Sections 21453 (a) (c) is extremely complex and not well understood by even the officials charged with collecting and distributing these funds. The Grand Jury encourages readers to

review the referenced sections of the Penal Code and Government Code for a greater appreciation of this complexity.

Table 1 represents the Grand Jury’s **best** assessment of the fines and penalties and their designated purposes:

DISTRIBUTION OF RED LIGHT CITATION FINES AND FEES WITH FUND RECIPIENTS AND PURPOSE			
Description	Amt.	Recipient	Purpose
Criminal Surcharge	\$20.00	State	General Fund
ICNA-State Court Facilities	\$39.20	State	Courthouse Construction
EMS	\$19.60	County	Emergency Services Fund
DNA P.A. GC76104.7-\$1	\$9.80	DOJ	DNA Lab Analysis
DNA P.A. GC76104.6	\$9.80	25% State 75% County	DNA Lab Analysis
State Court Construction	\$9.80	State	Courthouse Construction
State Penalty Assessment	\$68.60	State	General Fund
County Penalty Assessment	\$29.40	County	General Fund
Court Construction	\$39.20	County	Past Court Facility Projects
Jail Construction	\$9.80	County	Detention Facility Construction
Emergency Medical Services	\$19.60	County	Emergency Services Fund
VCF – City of Napa	\$78.40	City	General Fund
VCF - County of Napa	\$19.60	County	General Fund
State Automation Fund	\$7.60	State Courts	Automation of Court Functions
Security Surcharge	\$40.00	State Courts	Courthouse Security
ICNA-Conviction Assess-Inf	\$35.00	State	Courthouse Construction
DNA P.A. GC76104.7-\$2	\$19.60	State	DNA Lab Analysis
Total	\$475.00		

Table 1

Note: Table 1 provided by the Napa County Courts as of 12/10.

Table 1 includes application of California Penal Codes: 1463-1464, 1465.7.

Table 1 includes application of Government Codes: 70372 (a), 70373, 76100, 76101, 76104, 76104.6 & 7.

In addition to the above costs, persons cited for ARLE violations are subject to California DMV fees, driver training school fees, and potential costs associated with increases in insurance premiums. These additional costs are specific to individual circumstances and are not collected as part of the total fine for an offense.

Although the base fine of \$100.00 has remained the same over the last five years, the additional penalty assessments and fees have steadily increased. The following graph shows the increase in the Napa County Superior Court red light citation costs over the last five years.

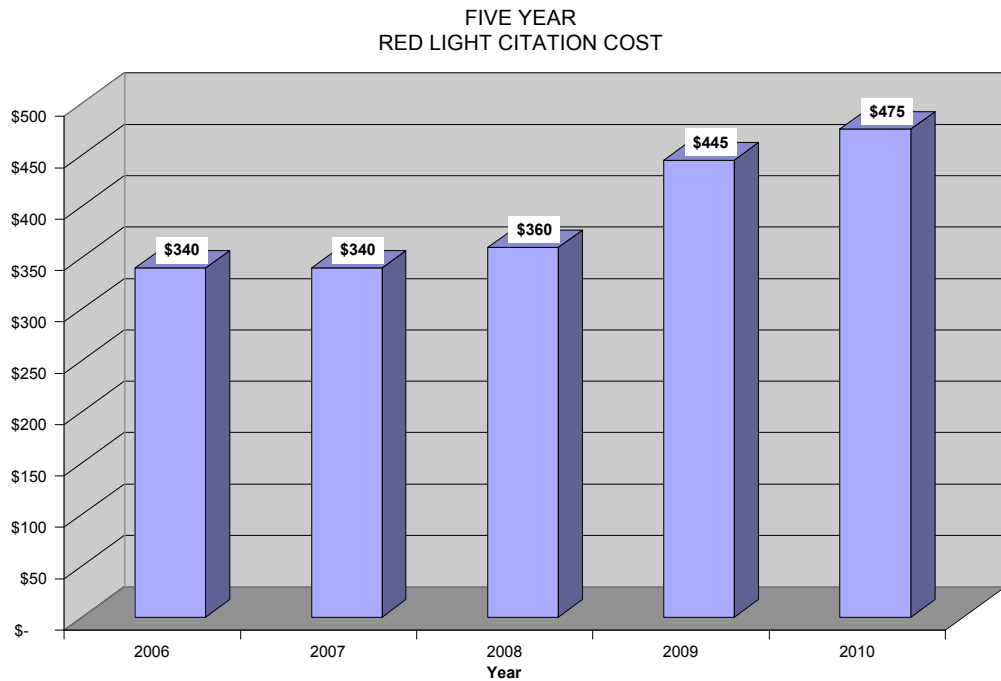


Figure 2

ARLE Citations Issued

The City provided the Grand Jury with an accounting of the ARLE red light citations issued between May 29, 2009 and September 30, 2010. Appendix III includes the raw data that was evaluated as part of this report. The following table summarizes the number of citations by movement type issued for each of the Napa ARLE intersections:

Intersection	Through	Right Turn	Total
Big Ranch/Trancas	801	0	801
First/Jefferson	2181	538	2719
Soscol/Imola	1615	0	1615
SH 29/12/121	892	3251	4143
Total	5489	3789	9278

Table 2

The number of right turn violations on the SH 29/12/121 is significant relative to the number of citations issued for through movements. Further evaluation also indicates inconsistent numbers of citations issued on a monthly basis. Figure 3 demonstrates the right turn citations issued at the SH 29/12/121 intersection over the first seven month period of operation.

SH 29/12/121 RIGHT TURN MONTHLY CITATIONS 2010

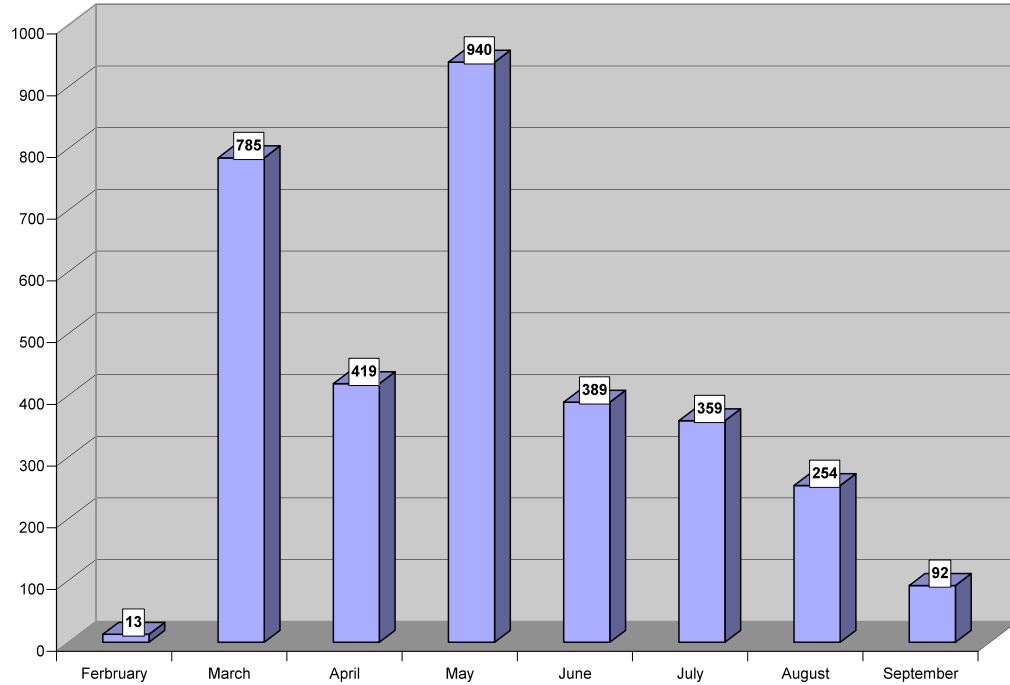


Figure 3

?

The high volume of right turn violations and the erratic number of monthly citations for the SH 29/12/121 intersection provides evidence of irregularities in the ARLE system at this intersection.

?

Yellow Light Change Intervals

Studies such as the 2007 report “Reducing Red Light Running Through Longer Yellow Signal Timing and Red Light Camera Enforcement: Results of Field Investigation” have shown that the number of seconds the yellow light (the yellow light change interval) is activated has a significant impact on the number of red light violations. The standards for setting the yellow change interval timing are contained in the California Manual of Uniform Traffic Control Devices (CA-MUTCD). The CA-MUTCD allows the engineer responsible for setting the timing to evaluate the movement, approach speed, and other factors to set the yellow change interval timing.

The SH 29/12/121 southbound right turn is especially complex from a yellow change interval timing perspective in that right turns are allowed on a green circular signal (unprotected turn) and a green arrow (protected turn). Prior to May 13, 2010, depending on the phase of the signal, a driver may have had a yellow change interval timing of either 3.2 seconds or 5.4 seconds.

On May 13, 2010, Caltrans modified the yellow light change interval timing for the protected right turn phase from 3.2 seconds to 3.8 seconds. The Caltrans engineer also advised the NPD that the newest version of the CA-MUTCD under review and pending adoption might not allow different yellow light change intervals for the same turning movement. The result of this new change would set the yellow light change interval for all the southbound right turn signal phases (protected and unprotected) to 5.4 seconds.

In light of this information, the NPD implemented a new, informal procedure to be used during the video review of ARLE violations occurring in the southbound right turn lane of SH 29/12/121. Even though the ARLE system may record a violation at a given intersection, a citation is not issued until a member of the NPD reviews the video and agrees with the evidence provided by the ARLE system. Under the informal review procedure, the ARLE system will trigger a violation when a driver enters the intersection from the right turn lane after a yellow change interval of 3.8 seconds. However, the NPD is adding an additional "grace amount" of 1.6 seconds for a total of 5.4 seconds. Drivers who enter the intersection under the 5.4 seconds maximum yellow change interval are currently not being issued citations. The exact date applying this informal procedure was not provided by the NPD.

Yellow Light Change Interval and California Law

The issue of yellow light change intervals and ARLE systems has been controversial in California. In an effort to adopt a consistent standard, the California Legislature adopted CVC Section 21455.7 (See Appendix II). This statute specifically cites approach speeds as the criteria for setting the minimum yellow light change interval times for all ARLE intersections.

Had Caltrans applied the approach speed as the criteria for setting the SH 29/12/121 signal, the southbound right turn yellow change interval would have been set at 5.4 seconds for all signal phases. Because Caltrans does not interpret the approach speed referenced in CVC Section 21455.7 as applying to right turns, the yellow light change for this movement at the SH 29/12/121 intersection was initially set to 3.2 seconds and later increased to 3.8 seconds.

Grand Juries have no authority to investigate state agencies. Therefore, this Grand Jury has requested County Counsel to seek an opinion from the California Attorney General regarding the interpretation of CVC Section 21455.7 (See Appendix V).

Right Turn Movements and Accidents

The primary goal of the ARLE system is to reduce accidents. The Grand Jury has investigated the right turn accident history for the SH 29/12/121 intersection. The Grand Jury specifically chose this intersection because right turn citations are responsible for over 1/3 of all citations issued. The Traffic Collision History Report (Appendix VII) provided by the City's Public Works Department for the SH 29/12/121 intersection dating from January 1, 2004 to December 31, 2008 reported 77 accidents. Only one accident in 77 was associated with a vehicle making a right turn.

Based on this accident history, the ARLE enforcement of right turn stops has limited direct benefit of reducing accidents. Vendors of ARLE systems argue that right turn enforcement has an indirect benefit of reducing accidents through the "halo effect." This effect is a result of drivers in a region becoming more attentive to signal control due to the ARLE systems and citations.

Caltrans ARLE Approval Process

As part of the standard process to install ARLE systems on state highways, Caltrans required that the City submit an encroachment permit. The City contacted Caltrans representatives and followed the procedures for preparing this permit. The permit was accompanied by a report prepared by a representative of the NPD modeled after an example encroachment permit that Caltrans provided.

As part of the investigation, the Grand Jury found that Caltrans has a policy directive for installation of ARLE systems on state highways. Caltrans Policy Directive 09-03 clearly outlines the scope of the engineering study that is required for a local agency to install an ARLE system. This scope includes:

- Analysis of collision history,
- Comparison of collision histories with similar intersections,
- Contact of law enforcement and maintenance personnel for opinion and recommendations,
- Field review of site conditions and observation of driver behavior,
- Evaluation of previous countermeasures to address collisions and driver behavior,

- Identification of possible countermeasures to address collision history and driver behavior,
- Documentation of the study and recommendations to install the ARLE system.

The intent of Policy Directive 09-03 is clear in that it requires a qualified licensed engineer to evaluate the intersection prior to the installation of an ARLE system. By not having a report prepared by a licensed professional for the SH 29/12/121 intersection, the yellow light change interval, existing driver behavior, and alternative countermeasures were not thoroughly considered. A full version of Caltrans' Policy Directive 09-03 is included in Appendix I.

The end result of Caltrans not following Policy Directive 09-03 is that the NPD issued citations for right turn violations before the yellow light interval was lengthened and the procedures for evaluating citations were reviewed and revised.

ARLE System Costs and Indirect Impacts

The ARLE system has both direct costs and indirect impacts to the City and its drivers. The following is a summary of these costs and impacts that the Grand Jury identified in this investigation:

- Redflex Traffic Systems, Inc. monthly cost is \$24,000 for four intersection approaches. Annual total costs for Redflex Traffic Systems, Inc. is \$288,000.
- ARLE-related court trials increased from eight trials per month prior to the ARLE system to 27 trials per month after the ARLE system was installed. (See Appendix VI for raw data provided to the Grand Jury by the Napa Superior Court.)
- Loss of an estimated 3.3 million dollars to the local economy per year. This amount was estimated from the total number of citations issued per year at a cost of \$475 per citation based on the 16 month period from May 2009 to September 2010 as reported in Appendix III. A portion of these funds is returned to the City and some funds are used to pay Redflex costs. The remainder is earmarked for Napa County and various State funds outlined in Table 1.

Benefits of ARLE Systems

Reduction of intersection accidents has multiple benefits including public safety, cost of resources required for response, cost of immediate and ongoing medical treatment, and cost of property loss. Early 2010 reports by the NPD show accidents through October 1, 2010, at 455 (See Appendix IV). To compare this data to prior years, the Grand Jury prorated the nine month data for 2010 to

represent a 12 month period. Figure 4 illustrates the trend in the City’s traffic accidents over four years.

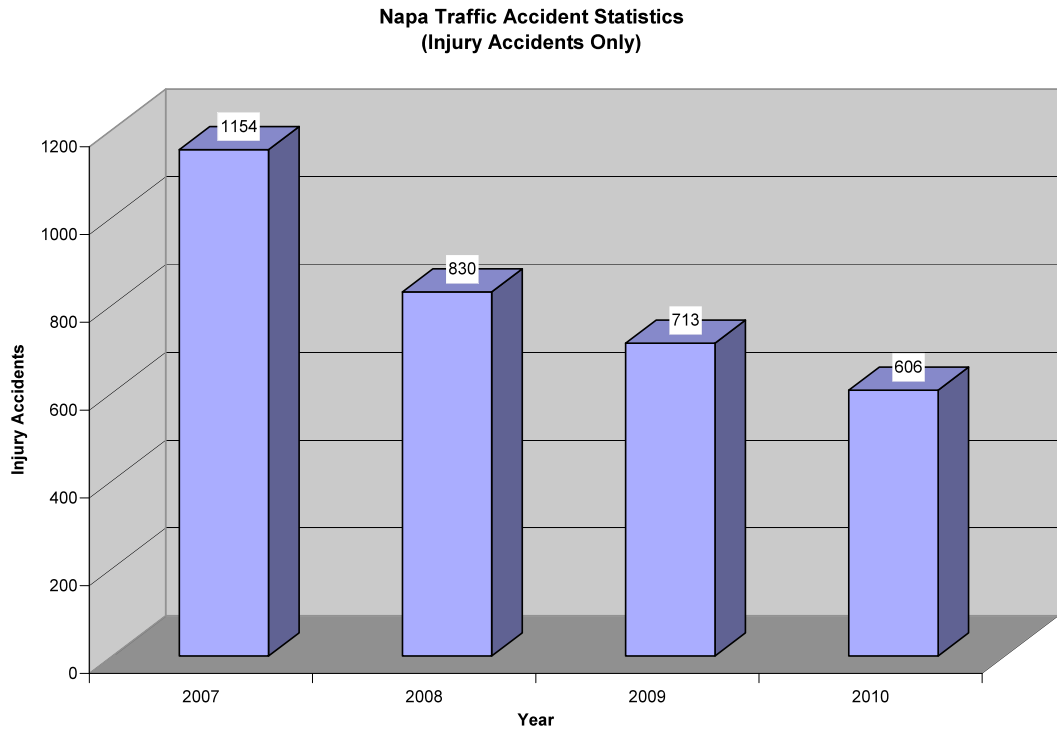


Figure 4

The first ARLE intersection was activated on April 29, 2009. The premise that the ARLE system has resulted in a significant reduction in accidents is yet to be supported. The data more clearly shows that the incidents of injury accidents have been on a steady decline since 2007 with the highest level of decline occurring between 2007 and 2008 prior to the installation of the ARLE system.

DISCUSSION

Enforcement Clarity and Consistency

The City of Napa followed a careful process of selecting ARLE vendors, evaluating intersections, and conforming to the legal requirements in implementing their ARLE system. Three of the four ARLE intersections were not identified as having deficiencies. These intersections have posted approach speeds of less than 40 MPH.

The fourth intersection at SH 29/12/121 had early deficiencies. These deficiencies are primarily associated with the posted 60 MPH approach speed, lack of engineering study as is required by Caltrans Policy Directive 09-03, and Caltrans' interpretation of CVC Section 21455.7.

After several months of operation and citations, the deficiencies were identified at the SH 29/12/121. The yellow change interval time for one signal phase of the right turn was increased from 3.2 seconds to 3.8 seconds. The NPD also implemented an informal procedure of citing only drivers that would not have stopped even if the yellow change interval was 5.4 seconds.

The basis for the enforcement change was that Caltrans was in the process of reviewing its standards so that all phases of the right turn would have the same yellow change interval timing. If Caltrans had strictly followed CVC Section 21455.7 and based the timing on approach speed, all phases of the right turn would have had a 5.4 second yellow change interval.

Following the change in yellow interval time and enforcement procedures, the average number of right turn citations dropped significantly. To verify that the change in citations was not a result of effectiveness of the ARLE system's ability to modify driver behavior, the Grand Jury also evaluated the right turn citations at the First/Jefferson intersection (See Table 2). The Grand Jury found that the number of right turn citations remained relatively steady over the first eight months of operation at this intersection. There is circumstantial evidence supporting a conclusion that the increase in the yellow light change interval and enforcement procedures reduced the number of ARLE citations at the SH 29/12/121 intersection.

Reasonableness of Compliance

Although the Grand Jury recognizes the NPD's efforts to correct the situation on the SH 29/12/121 intersection, we find it particularly concerning that the yellow light change interval timing is so readily subject to interpretation. Traffic rules require consistency and clarity. How are drivers expected to comply with the law when the experts responsible for the traffic signal timing and enforcement must incrementally make adjustments to "get it right"? The strict application of the CVC for all ARLE intersections in California that bases the yellow change interval time on the posted approach speed would provide the clarity and consistency to allow a responsible driver to understand and comply with the law.

The two yellow timing intervals for the right turn phases at the SH 29/12/121 signal compromise the reasonableness of the ARLE system. In the protected mode (right turn green arrow) the yellow change interval is 3.8 seconds and in the unprotected mode (right turn green circular signal) the yellow change interval is

5.4 seconds. Should the average driver have the detailed knowledge of the CA-MUTCD to know that they need to change driving behavior when approaching the intersection to make a right turn based on the signal phase?

Public Safety and ARLE Enforcement

It is also relevant to note that the Redflex Traffic Systems, Inc. contract with the City requires enforcement of right turns in order for Redflex to guarantee cost neutrality. The fact that traffic accident statistics demonstrate a minimal occurrence of collisions on the right turn movement on the SH 29/12/121 prior to ARLE system is important. Cost neutrality is a guarantee that the ARLE system will generate enough money to pay for itself.

Rather than locating automated enforcement on turning movements that will generate a large number of citations, the public interest may be better served by locating the automated enforcement system on the turning movements that have the greatest occurrence and severity of accidents. The Traffic Collision History Report produced by the City of Napa Public Works Department is an excellent tool for evaluating which movements have accidents and which turning movements are good candidates for ARLE systems (See Appendix VII).

Fines, Penalties and Fees

The Grand Jury has two concerns regarding the cost of an ARLE citation. The first is that right turn penalties do not match the risk of the violation. The second is that the fine has increased and is used to fund ancillary government services.

The total cost of a red light violation is the same whether a driver slowly rolls through a red light for a right turn or whether a driver recklessly drives straight through a red light at a high rate of speed. A total cost of \$475 appears excessive for failing to stop at a relatively safe right turn.

California Assemblyman Jerry Hill who sponsored AB 909 shares this concern. AB 909 would have lowered the cost of a right turn violations at ARLE intersections to \$250. AB 909 was passed by the California Legislature but was not signed by former Governor Schwarzenegger.

The Grand Jury's second concern is the way the total cost of the fine is determined. Tacking on additional penalties and fees to fund other government functions does not provide transparency. It creates a complex accounting and funding process that requires additional resources to manage.

Will the California drivers one day see ARLE traffic violations costing thousands of dollars to supplement other government services? What happens to drivers

who cannot afford to pay these high fees? Do these drivers end up ultimately losing their license and falling into a downward spiral of penalties and court costs? These questions are beyond the scope of the Grand Jury's investigation but are important considerations for City officials when evaluating the continuation of the current ARLE program.

Refunds of Citations

Based upon the Grand Jury's research, the SH 29/12/121 intersection had problems in its first full three months of operation, March, April, and May of 2007 (See Appendix III). During that period, 2,144 citations were issued for right turns on red. Once the yellow light change interval was increased from 3.2 seconds to 3.8 seconds and the City applied an informal enforcement policy of allowing 5.4 seconds, the number of citations dropped. Over the next three month period 1,002 citations were issued.

Based on these statistics, it is conceivable that 1000 drivers received tickets because the yellow change interval timing was set by Caltrans in accordance with the CA-MUTCD rather than the CVC requirements for ARLE intersections. These drivers may not have received citations had the current signal settings and enforcement procedures been in place.

The drivers who were issued tickets during the first full three months of ARLE operation at this intersection deserve a refund because the initial requirements were neither clear nor consistent and the right turn movement has not been shown to cause an increase in the number of accidents. These drivers would no longer be issued citations under current enforcement practices.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. The City's ARLE system was established to reduce accidents.
- F2. A disproportionate number of the City's citations are issued for failure to stop on right turns.
- F3. Accidents rarely occur on right turn movements.
- F4. More severe and frequent accidents occur due to drivers failing to stop when traveling straight through intersections.
- F5. The SH 29/12/121 ARLE signal falls under Caltrans' jurisdiction; the City has no authority to set signal timing at this intersection.

- F6. The SH 29/12/121 ARLE system was not studied by a licensed engineer in accordance with Caltrans' Policy Directive 09-03 prior to the installation of the ARLE system.
- F7. The yellow light change interval timing has an effect on the number of citations issued on ARLE intersections.
- F8. CVC Section 21455.7 (b) specifically references approach speed as the criteria for setting minimum yellow light interval times.
- F9. Caltrans did not use approach speeds to set the SH 29/12/121 right turn yellow light change interval time.
- F10. The City and Caltrans recognized deficiencies at the SH 29/12/121 ARLE system.
- F11. The City made enforcement changes in an attempt to correct these deficiencies at the SH 29/12/121 ARLE system.
- F12. Caltrans made adjustments to signal timing in an attempt to correct these deficiencies at the SH 29/12/121 ARLE system.
- F13. Drivers were cited for illegal right turns at SH 29/12/121 prior to the recognition of deficiencies in the yellow light interval timing and prior to the adjustments of enforcement practices.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that the:

- R1. City immediately issue a moratorium on ARLE right turn citations at the SH 29/12/121 intersection until such time as the legal requirements for yellow light interval times are firmly established and in place.
- R2. City prepare a traffic engineering study at SH 29/12/121 in accordance with Caltrans' Policy Directive 09-03, within 6 months after the release of this report, to determine if alternative countermeasures or intersection improvements would address driver behavior patterns as an alternative to ARLE.
- R3. NPD review and evaluate all SH 29/12/121 ARLE right turn citations, within 90 days after the release of this report, and determine if a citation would have occurred under the most current enforcement practices.
- R4. City issue refunds, within 6 months after the release of this report, to drivers cited for right turn violations at SH 29/12/121 who would not have been cited if the current enforcement practices were in place.

- R5. City immediately limits, after the release of this report, future applications of ARLE systems to turning movements that have a clear history of poor safety and excessive accidents.
- R6. City monitors and evaluates the ARLE system for its benefits in reducing accidents and within 6 months after the release of this report publishes its findings in all Napa County newspapers.
- R7. City continues the ARLE program if it clearly and substantially demonstrates that the program economically reduces accidents.
- R8. City issues a letter to drivers, within 6 months after the release of this report, specifying that the moving violation has been rescinded for those drivers cited for right turn violations at SH 29/12/121 who would not have been cited if the current enforcement practices were in place.

REQUEST FOR RESPONSES

Pursuant to Penal Code, Section 933.05, the 2010-2011 Grand Jury requests responses from the following individuals:

- The Police Chief of the City of Napa: F1, F2, F3, F4, F5, F7, F10, F11, F12, F13; R1, R2, R3, R6, R7, R8.
- The Mayor of the City of Napa: F1, F2, F5, F10, F13; R1, R4, R5, R7, R8.
- The City of Napa Public Works Director: F5, F6, F8, F9, F12, F13; R2

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

COMMENDATION

The Grand Jury greatly appreciates the City of Napa's cooperation and assistance with this investigation.

GLOSSARY

AB – Assembly Bill

Alternative Countermeasures: Improvements aside from ARLE that will modify driver behavior to conform to the CVC (e.g. signs, flashing lights, replacement of stop control with yields)

ARLE - Automated Red Light Enforcement System

CA - MUTCD – California Manual of Uniform Traffic Control Devices

Caltrans – California Department of Transportation

CVC – California Vehicle Code

DMV – California Department of Motor Vehicles

Halo effect –drivers in a region become more attentive to signal controls due to the ARLE systems and citations issued.

NPD – City of Napa Police Department

Policy Directive 09-03 – Traffic Operations Policy directive 09-03 (See Appendix I)

Protected left turn – A signalized left turn movement allowed by a green arrow

Protected right turn – A signalized right turn movement allowed by a green arrow

Right angle collisions – a collision where one vehicle strikes the side of another (T-bone).

SB – Senate Bill

SH - State Highway

Yellow Change Interval Time - The time, measured in seconds and tenths of seconds, a traffic light is displaying a yellow light; the interval time begins when

the traffic light changes from green to yellow, and ends when the traffic light changes from yellow to red.

METHODOLOGY

Information for this investigation was gathered through numerous interviews with City employees, citizens, document analysis, and internet research. The Grand Jury researched relevant California Vehicle, Government and Penal Codes. In addition, the Grand Jury also took a field trip to the NPD to see how photos of red light violations are reviewed and tickets are issued. This information was used to compile questions for interviews as well as to clarify information learned from interviews.

Interviews conducted with City employees included personnel from:

- City of Napa Police Department
- City of Napa Public Works
- Napa County Superior Court

Websites and Documents reviewed:

- “Red-Light Cameras in Texas, A Status Report.” House Research Organization, Texas House of Representatives, July 31, 2006
- “Reducing Red Light Running Through Longer Yellow Signal Timing and Red Light Camera Enforcement: Results of Field Investigation”, January 2007
- 2009-2010 San Mateo County Grand Jury Report: “Effectiveness of Red Light Traffic Camera Enforcement”
- AB #1022, Chapter 511
- AB #909, August 25, 2010
- Agreement between the City of Napa and Redflex Traffic Systems, Inc. for Automated Photo Enforcement Cameras, June 13, 2008
- CA Department of Transportation
- CA Government Codes: 70372(a), 70373, 76100, 76101, 76104, 76104.6 and 7
- CA MUTCD, Section 4D.10 & Section 4D.26 Part 4
- CA Penal Code Sections 1464, 1465.7

- Caltrans Policy Directive 09-03
- City of Napa, RFP #0701, Red Light Camera System
- CVC Sections 21455.5 – 21455.7, 40518, 40520
- House Research Organization, Texas House of Representatives, Focus Report, July 31, 2006, “Red-Light Cameras in Texas: A Status Report”
- Napa City Council Meeting Summary of Council Actions for June 3, 2008
- Napa City Council, Public Hearing Calendar, Agenda Item No. 16A, June 3, 2008
- Public Hearing Calendar, City of Napa, Agenda Item #16A, June 3, 2008
- Red Light Photo Enforcement Program, Business Rules, Doc No. 3130-001-V1.2, City of Napa
- SB 667 (specifications for official traffic control devices)
- The Gazette, Colorado Springs, Colorado, “What You Need to Know About Red-Light Cameras,” October 10, 2010
- Traffic Infraction Fixed Penalty Schedule provided by the Court
- U. S. Department of Transportation “Red Light Camera Systems: Operational Guidelines,” January 2005
- www.bsa.ca.gov
- www.cityofnapa.org
- www.countyofnapa.org
- www.napavalleyregister.com

APPENDIX

- I. Caltrans Traffic Operations Policy Directive 09-03
- II. California Vehicle Code Sections 21453 (a)(c), 21455.5, and 21455.7
- III. Customer Management Report (Napa) Redlight Incidents 29-May 2009 to 30 Sep-2010 by Redflex Traffic Systems, Inc.
- IV. Napa Police Department Reports 2010 – Traffic Accident Statistics
- V. Napa County Counsel’s letter to the California Attorney General
- VI. Red Light Trial Statistics from Napa County Superior Court
- VII. City of Napa Traffic Collision History Report

POLICY DIRECTIVE

TR-0011 (REV 9/2006)

APPENDIX I

TRAFFIC OPERATIONS POLICY DIRECTIVE	NUMBER: 09-03	PAGE: 1 of 6
ROBERT COPP, DIVISION CHIEF (Signature) 	DATE ISSUED: 06/15/09	EFFECTIVE DATE: 06/15/09
SUBJECT: Use of Automated Red Light Enforcement Systems on the State Highway System.	DISTRIBUTION <input checked="" type="checkbox"/> All District Directors <input checked="" type="checkbox"/> All Deputy District Directors - Traffic Operations <input checked="" type="checkbox"/> All Deputy District Directors - Maintenance <input checked="" type="checkbox"/> All Deputy District Directors - Construction <input checked="" type="checkbox"/> All Deputy District Directors - Design <input type="checkbox"/> All Deputy District Directors - Transportation Planning <input type="checkbox"/> Chief, Division of Engineering Services <input checked="" type="checkbox"/> Chief Counsel, Legal Division <input type="checkbox"/> Publications (California MUTCD Website) www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/ca_mutcd.htm <input type="checkbox"/> Headquarters Division Chiefs for:	
DOES THIS DIRECTIVE AFFECT OR SUPERSEDE ANOTHER DOCUMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE Traffic Operations Policy Directive 00-01 Automated Red-Light Enforcement Systems - Dated July 7, 2000	
WILL THIS DIRECTIVE BE INCORPORATED IN THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, DESCRIBE	

DIRECTIVE

Automated red light enforcement (ARLE) systems may be used at signalized intersections upon a State highway, if such a system meets the requirements contained herein. **The need for an ARLE system shall be determined by a traffic engineering study initiated by either the California Department of Transportation (Department) or by a local agency requesting to install an ARLE on the State highway under an encroachment permit.**

IMPLEMENTATION

This directive contains the requirements for: 1) Installation of ARLE systems on State highways to improve operational efficiency and safety performance at intersections and 2) The encroachment permit process for instances when a local agency wishes to install and manage the operation of an ARLE system at an intersection of a State highway and local road.

The installation of ARLE systems shall be in cooperation with the appropriate law enforcement agency, as they would be responsible for administering the data and issuing traffic citations. The installation of ARLE systems shall be in cooperation with the appropriate local agency when being initiated by the State and the intersection includes a local roadway.

The encroachment permit process allows the evaluation of the proposed system that would be installed on the State highway and provides assurance that the system will not interfere with the operation of the signal. When all the requirements for site approval are met, the local agency shall then prepare and submit the installation documents as required prior to the final approval of the permit. The final approval of the permit shall not be considered until all requirements are met.

GENERAL REQUIREMENTS

1. ARLE systems may be installed, operated, and maintained by either the State or by the local agency. The local agency will operate and maintain the system when installed under an encroachment permit. Administration of the data and issuance of citations generated by observed violations by the ARLE system shall be the responsibility of the appropriate law enforcement agency.
2. The installation of the ARLE system shall be in accordance with California Vehicle Code Section 21455.5.
3. If installed on a State highway by a local agency under an encroachment permit, the following criteria must be met:
 - a. The ARLE system shall be operated independently of Department equipment and systems;
 - b. The traffic signal cabinets shall not be accessed without the presence of a representative from the Department's Traffic Signal Operations or Electrical Maintenance staff;
 - c. Maintenance of the ARLE system must be coordinated with the Department's Electrical Maintenance and/or Traffic Signal Operations staff;
 - d. In the event of future modifications to the traffic signal system by the Department, the local agency is responsible for all relocation and modifications to the ARLE system;
 - e. The Department will provide initial yellow interval information to the local agency installing the ARLE system upon request. Any subsequent need for verification of the yellow intervals will be the responsibility of the local agency.

IMPLEMENTATION (cont'd)**REQUIREMENTS FOR SITE APPROVAL**

1. Signal maintenance will be the responsibility of the owner of the roadway, unless otherwise dictated by specific maintenance agreement or permit. If an ARLE system is proposed on a State highway by a local agency under an encroachment permit, a rider to an existing traffic signal maintenance agreement or a new agreement must be executed between the Department and the local agency, which clearly defines the maintenance responsibilities and liability for the ARLE system.
2. A traffic engineering study to determine the need for an ARLE system shall be done by the owner of the roadway or by their agent. If an ARLE system is proposed on a State highway by a local agency under an encroachment permit, a traffic engineering study shall be conducted by the local agency and submitted to the Department. The appropriate district unit shall review the study and make its recommendation to the District Permit Engineer regarding site approval.

The traffic engineering study should consider the following steps:

- Consideration of the original signal warrant (if available) that precipitated the installation of the signal as outlined in the California Manual on Uniform Traffic Control Devices Chapter 4C, Traffic Control Signal Needs Studies
- Analysis of collision data and identification of collision patterns
- Comparison of collision frequency and rates to other similar type intersections in the area
- Contacting parties familiar with the intersection, including law enforcement and maintenance personnel, and determine their observations and comments regarding the collisions
- Field review to observe site conditions and observe drivers to determine their behavior patterns
- Evaluation of previous countermeasure(s) implemented to address collision or driver behavior patterns
- Identification and evaluation of possible countermeasure(s) to address collision or driver behavior patterns
- Documentation of the study and recommendation to install the ARLE system

For additional information regarding the installation of an ARLE system refer to the Federal Highway Administrations Red Light Camera Systems Operational Guidelines, dated January 2005, which can be found at the following web link: http://safety.fhwa.dot.gov/intersections/rlc_guide/index.htm

In all applications of this policy, engineering judgment must be exercised. The objective is to provide uniform applications of ARLE on the State Highway System. If there are any questions regarding implementation, districts should consult with the Headquarters Traffic Operations Liaison

IMPLEMENTATION (cont'd)**REQUIREMENTS FOR INSTALLATION APPROVAL BY LOCAL AGENCIES**

If an ARLE system is proposed on a State highway by a local agency under an encroachment permit, upon meeting the requirements for site approval, a complete set of design drawings and installation plans shall be submitted for review by the Department. These plans shall include the following:

1. All electrical, electronic, civil, and mechanical work pertaining to the ARLE system.
2. All electrical connections must be optically or inductively isolated, per the Department's direction, emanating from the 332/Intelligent Transportation System cabinets.
3. If the existing detection system doesn't meet the requirements for the ARLE system, an independent detection system must be used and installed by the local agency. The detection system specifications shall be provided as part of the complete set of drawings submitted to the Department for site approval.
4. The Department will not provide electrical power to these systems.
5. The system will be installed in separate conduit with distinctively marked pull boxes.

DELEGATION

No new delegations of authority are created under this policy.

BACKGROUND

Automated red light enforcement (ARLE) systems can be an effective tool for reducing the intentional running of red lights and decreasing collisions related to red light running.

Per the Texas Transportation Institute, there are more than 100,000 collisions per year in the United States of America involving drivers running a red light resulting in 90,000 injuries and 1,000 fatalities annually. Over half of red light running fatalities are pedestrians and occupants in other vehicles who are hit by red light runners.

Per the National Cooperative Highway Research Program Synthesis 310, California has more local agencies utilizing ARLE systems to enforce red light running violations than any other state.

Various studies have shown that ARLE systems can be an effective tool at reducing intentional running of red lights and decreasing collisions related to red light running. The Insurance Institute of Highway Safety evaluated an ARLE system in the City of Oxnard, California. Based on the Oxnard data, the study concluded that ARLE systems could reduce the risk of motor vehicle crashes, in particular injury crashes, at intersections with traffic signals.

A 2005 Orange County, California government report found that one year after ARLE installation, collisions dropped by 46.7 percent in Garden Grove, 28.2 percent in Costa Mesa, 16.2 percent in Santa Ana, 12.1 percent in San Juan Capistrano and 5.7 percent in Fullerton. "<http://www.stopredlightrunning.com/html/research.htm>"

A 2005 U.S. Federal Highway Administration funded study estimated total societal cost reductions from red light camera programs in seven U.S. cities to be over \$14 million per year, or over \$38,000 for each studied red light camera location, *Safety Evaluation of Red-Light Cameras, FHWA-HRT-05-048*.

Prior to this policy, ARLE systems were installed on the State Highway System only by encroachment permit and administered by others. This policy institutionalizes the use of ARLE systems on State highways by both the State and local agency.

This policy will be retired when it is revised or incorporated into other documentation within the Department.

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 653-3657 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS89, Sacramento, CA 95814.

DEFINITIONS

When used in this Traffic Operations Policy Directive, the text shall be defined as follows:

- 1) **Standard** – a statement of required, mandatory or specifically prohibited practice. All standards text appears in **bold** type. The verb **shall** is typically used. Standards are sometimes modified by Options.
- 2) Guidance – a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. All Guidance statements text appears in underline type. The verb should is typically used. Guidance statements are sometime modified by Options.
- 3) Option – a statement of practice that is a permissive condition and carries no requirement or recommendation. Options may contain allowable modifications to a Standard or Guidance. All Option statements text appears in normal type. The verb may is typically used.
- 4) Support – an informational statement that does not convey any degree pf mandate, recommendation, authorization, prohibition, or enforceable condition. Support statements text appears in normal type. The verbs shall, should and may are not used in Support statements.

ATTACHMENTS

None

VEHICLE CODE**SECTION 21453, 21455.5, .6, & .7**

21453. (a) A driver facing a steady circular red signal alone shall stop at a marked limit line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain stopped until an indication to proceed is shown, except as provided in subdivision (b).

(b) Except when a sign is in place prohibiting a turn, a driver, after stopping as required by subdivision (a), facing a steady circular red signal, may turn right, or turn left from a one-way street onto a one-way street. A driver making that turn shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to any vehicle that has approached or is approaching so closely as to constitute an immediate hazard to the driver, and shall continue to yield the right-of-way to that vehicle until the driver can proceed with reasonable safety.

(c) A driver facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked limit line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain stopped until an indication permitting movement is shown.

(d) Unless otherwise directed by a pedestrian control signal as provided in Section 21456, a pedestrian facing a steady circular red or red arrow signal shall not enter the roadway.

21455.5. (a) The limit line, the intersection, or a place designated in Section 21455, where a driver is required to stop, may be equipped with an automated enforcement system if the governmental agency utilizing the system meets all of the following requirements:

(1) Identifies the system by signs that clearly indicate the system's presence and are visible to traffic approaching from all directions, or posts signs at all major entrances to the city, including, at a minimum, freeways, bridges, and state highway routes.

(2) If it locates the system at an intersection, and ensures that the system meets the criteria specified in Section 21455.7.

(b) Prior to issuing citations under this section, a local jurisdiction utilizing an automated traffic enforcement system shall commence a program to issue only warning notices for 30 days. The local jurisdiction shall also make a public announcement of the automated traffic enforcement system at least 30 days prior to the commencement of the enforcement program.

(c) Only a governmental agency, in cooperation with a law enforcement agency, may operate an automated enforcement system. As used in this subdivision, "operate" includes all of the following activities:

(1) Developing uniform guidelines for screening and issuing violations and for the processing and storage of confidential information, and establishing procedures to ensure compliance with those guidelines.

(2) Performing administrative functions and day-to-day functions,

including, but not limited to, all of the following:

- (A) Establishing guidelines for selection of location.
- (B) Ensuring that the equipment is regularly inspected.
- (C) Certifying that the equipment is properly installed and calibrated, and is operating properly.
- (D) Regularly inspecting and maintaining warning signs placed under paragraph (1) of subdivision (a).
- (E) Overseeing the establishment or change of signal phases and the timing thereof.
- (F) Maintaining controls necessary to assure that only those citations that have been reviewed and approved by law enforcement are delivered to violators.

(d) The activities listed in subdivision (c) that relate to the operation of the system may be contracted out by the governmental agency, if it maintains overall control and supervision of the system. However, the activities listed in paragraph (1) of, and subparagraphs (A), (D), (E), and (F) of paragraph (2) of, subdivision (c) may not be contracted out to the manufacturer or supplier of the automated enforcement system.

(e) (1) Notwithstanding Section 6253 of the Government Code, or any other provision of law, photographic records made by an automated enforcement system shall be confidential, and shall be made available only to governmental agencies and law enforcement agencies and only for the purposes of this article.

(2) Confidential information obtained from the Department of Motor Vehicles for the administration or enforcement of this article shall be held confidential, and may not be used for any other purpose.

(3) Except for court records described in Section 68152 of the Government Code, the confidential records and information described in paragraphs (1) and (2) may be retained for up to six months from the date the information was first obtained, or until final disposition of the citation, whichever date is later, after which time the information shall be destroyed in a manner that will preserve the confidentiality of any person included in the record or information.

(f) Notwithstanding subdivision (e), the registered owner or any individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation shall be permitted to review the photographic evidence of the alleged violation.

(g) (1) A contract between a governmental agency and a manufacturer or supplier of automated enforcement equipment may not include provision for the payment or compensation to the manufacturer or supplier based on the number of citations generated, or as a percentage of the revenue generated, as a result of the use of the equipment authorized under this section.

(2) Paragraph (1) does not apply to a contract that was entered into by a governmental agency and a manufacturer or supplier of automated enforcement equipment before January 1, 2004, unless that contract is renewed, extended, or amended on or after January 1, 2004.

21455.6. (a) A city council or county board of supervisors shall conduct a public hearing on the proposed use of an automated enforcement system authorized under Section 21455.5 prior to authorizing the city or county to enter into a contract for the use of the system.

APPENDIX II

(b) (1) The activities listed in subdivision (c) of Section 21455.5 that relate to the operation of an automated enforcement system may be contracted out by the city or county, except that the activities listed in paragraph (1) of, and subparagraphs (A), (D), (E), or (F) of paragraph (2) of, subdivision (c) of Section 21455.5 may not be contracted out to the manufacturer or supplier of the automated enforcement system.

(2) Paragraph (1) does not apply to a contract that was entered into by a city or county and a manufacturer or supplier of automated enforcement equipment before January 1, 2004, unless that contract is renewed, extended, or amended on or after January 1, 2004.

(c) The authorization in Section 21455.5 to use automated enforcement systems does not authorize the use of photo radar for speed enforcement purposes by any jurisdiction.

21455.7. (a) At an intersection at which there is an automated enforcement system in operation, the minimum yellow light change interval shall be established in accordance with the Traffic Manual of the Department of Transportation.

(b) For purposes of subdivision (a), the minimum yellow light change intervals relating to designated approach speeds provided in the Traffic Manual of the Department of Transportation are mandatory minimum yellow light intervals.

(c) A yellow light change interval may exceed the minimum interval established pursuant to subdivision (a).

Customer Management Report (Napa) Redlight Incidents

29-May-2009 to 30-Sep-2010

Operator Id: %

APPENDIX III

	NPA-1212-01	NPA-BRTR-01	NPA-JEFI-01	NPA-SOIM-01	TOTAL
Total Violations	8057	1145	3191	2101	14494
Less Uncontrollable Factors					
Obstruction	1329	37	51	130	1547
Driver Obstruction/Duckers					
Motor Cycle Helmet	13	1	1	2	17
Plate Obstruction	236	47	49	60	392
Vehicle Obstruction	31	5	7	30	73
Police Rejects					
Driver ID - Poor Driver Image -	8	2	2	6	18
Driver ID - Poor Driver Image -	11	1	1	3	16
Driver ID - Poor Driver Image -	1	0	0	0	1
Emergency Vehicle Responding	13	105	21	7	146
Invalid Offense	168	7	4	15	194
Non Violation - Green Light	4	0	0	1	5
Non Violation -Vehicle Behind	41	2	4	16	63
On or Passed the Stop Bar (PD).	2	1	0	2	5
Plate Unidentifiable	4	0	2	1	7
Police Discretion	804	19	62	30	915
Safe Turn On Red	753	0	77	0	830
Weather Conditions	1	1	2	0	4
Policy/Weather					
Extended Vehicle	104	50	54	61	269
Sun Glare	219	47	71	90	427
Weather/Nature	18	3	4	1	26
Yellow with Red Light	4	2	0	0	6
Registration Issues					
Out of Country Plate	8	0	2	2	12
Paper Plates	142	14	58	29	243
Total	3914	344	472	486	5216
Sub Total Violations	4143	801	2719	1615	9278

95

Less Rejects

Camera Malfunction	1-00%	7-01%	7-00%	0-00%	15-00%
Face Camera Flash	79-02%	0-00%	0-00%	3-00%	82-01%
Face Camera Focus Blurry	1-00%	6-01%	0-00%	0-00%	7-00%
Face Camera No Flash	86-02%	1-00%	3-00%	15-01%	105-01%
Face Not in Frame	0-00%	1-00%	12-00%	0-00%	13-00%
Image Missing	91-02%	7-01%	39-01%	7-00%	144-02%
Misc Camera Issue	13-00%	1-00%	23-01%	0-00%	37-00%
Plate Burn Out	8-00%	0-00%	0-00%	8-00%	16-00%
Plate Not in Frame	43-01%	6-01%	3-00%	4-00%	56-01%
Rear Plate Camera Blurry	2-00%	0-00%	4-00%	3-00%	9-00%
Rear Plate Flash Inappropriate	1-00%	0-00%	0-00%	5-00%	6-00%
Rear Plate No Flash	0-00%	0-00%	1-00%	0-00%	1-00%
Scene Image Flash Inappropriate	1-00%	0-00%	0-00%	7-00%	8-00%
Scene Image No Flash	57-01%	2-00%	7-00%	1-00%	67-01%
Driver Unidentifiable images poor	13-00%	0-00%	0-00%	3-00%	16-00%
Incorrect Speed	0-00%	0-00%	0-00%	2-00%	2-00%
No Images	0-00%	0-00%	0-00%	1-00%	1-00%
No Video	1-00%	0-00%	1-00%	0-00%	2-00%
Plate Unclear	0-00%	11-01%	3-00%	0-00%	14-00%
Red-light not visible in	10-00%	0-00%	8-00%	10-01%	28-00%
Too Old	407-10%	42-05%	111-04%	69-04%	629-07%
Process Issues	3736-90%	759-95%	2607-96%	1546-96%	8648-93%
Total					

Notices Printed

RIGHT TURN ON RED CITATIONS

Approach	Month	Count
NPA-1212-01		
	February	13
	March	785
	April	419
	May	940
	June	389
	July	359
	August	254
	September	92
NPA-1212-01 Total		3251
NPA-JEFI-01		
	January	44
	February	51
	March	73
	April	69
	May	75
	June	80
	July	53
	August	72
	September	21
NPA-JEFI-01 Total		538
Grand Total		3789

*Note January through September 13, 2010

Napa Police Department
Traffic Accident Statistics
Break Down by Involvement Type and Injury Class
(Injury Accidents Only)

Involvement Type	2010 Thru 10/1*	2009	2008	2007
Year to Date Total	455*	713	830	1154
Pedestrian & Motor Vehicle	29	39	39	30
Fatal Injury	0	1	1	1
Severe Injury	2	3	4	3
Complaint of Pain	18	24	16	14
Other Visible Injury	9	13	14	10
No Injury	32	47	44	40
Total Number of Occupants	86	126	119	93
Accident (Hit & Run)	3	9	10	7
Accident Involving Drinking Drivers	1	2	1	3
Other Vehicle & Motor Vehicle (motorcycle, moped)	18	25	42	43
Fatal Injury	0	0	0	0
Severe Injury	2	1	4	3
Complaint of Pain	5	10	14	13
Other Visible Injury	10	11	22	19
No Injury	21	28	47	52
Total Number of Occupants	42	56	90	94
Accident (Hit & Run)	4	4	7	7
Accident Involving Drinking Drivers	0	1	2	0
Motor Vehicle & Fixed Object	62	102	117	127
Fatal Injury	0	1	1	1
Severe Injury	2	8	4	4
Complaint of Pain	9	14	21	18
Other Visible Injury	7	9	14	17
No Injury	48	87	75	94
Total Number of Occupants	79	143	155	168
Accident (Hit & Run)	21	36	49	52
Accident Involving Drinking Drivers	16	31	23	25
Motor Vehicle Only	346	547	632	954
Fatal Injury	1	0	1	1
Severe Injury	4	6	6	11
Complaint of Pain	155	238	312	333
Other Visible Injury	36	70	91	91
No Injury	419	735	884	1547
Total Number of Occupants	714	1241	1514	2274
Accident (Hit & Run)	142	259	275	301
Accident Involving Drinking Drivers	32	59	51	73
Totals for All Accidents	455	713	830	1154
Fatal Injury	1	2	3	3
Severe Injury	10	18	18	21
Complaint of Pain	187	286	363	378
Other Visible Injury	62	103	141	137
No Injury	520	897	1050	1733
Total Number of Occupants	921	1566	1878	2629
Accident (Hit & Run)	170	308	341	367
Accident Involving Drinking Drivers	49	93	77	101



A Tradition of Stewardship

ROBERT WESTMEYER
County Counsel

+

MINH C. TRAN
Assistant County Counsel

+

SILVA DARBINIAN
Chief Deputy

+

LAURA J. ANDERSON
JACQUELINE M. GONG
ROBERT C. MARTIN
ROBERT W. PAUL
JENNIFER YASUMOTO
ARRIE R. GALLAGHER
CHRIS R.Y. APALLAS
SUSAN B. ALTMAN
THOMAS CAPRIOLA

PATRICIA L. TYRRELL
JAYNE HERMAN
SUSAN McGUIGAN

Deputies

+

CHERI HUBER
Privacy Officer

+

LINDA McSWEENEY
Office Manager

+

SUSAN M. INGALLS
SORA O'DOHERTY
Paralegals

195 THIRD STREET
SUITE 301
NAPA, CALIFORNIA
94559

+

TELEPHONE:
707-253-4521

+

FAX:
707-259-8220

+

WWW.CO.NAPA.CA.US

APPENDIX V

COUNTY of NAPA

OFFICE OF COUNTY COUNSEL

November 3, 2010

Susan Lee, Supervising Deputy Attorney General
Opinion Unit
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

Re: *Request for Attorney General Opinion- Vehicle Code 21455.7*

Dear Ms. Lee:

This office respectfully requests a formal opinion from the Attorney General's Office on the following questions:

Question 1: Does Vehicle Code Section 21455.7 require that Caltrans and local agencies base minimum yellow cycle times on designated approach speeds?

Question 2: Does Vehicle Code Section 21455.7 allow Caltrans and local agencies to interpret minimum yellow cycle times based on other provisions of the Manual of Uniform Traffic Control Devices such as turning movement and type of signal mode that may change over time?

The questions posed involve questions of law and will not require the Attorney General's Office to determine questions of fact. Resolution of these questions is of statewide concern.

Set forth below is a brief discussion of the questions presented and relevant authorities this office believes bear on the issue.

Traffic signal yellow cycle times can have a significant impact on the number of violations issued under automated red light enforcement (ARLE) systems. Controversies related to ARLE systems have existed since their application in California. These controversies prompted the California Legislature to enact section 21455.7 of the California Vehicle Code, which states that yellow lights cannot be shorter than those provided in the Caltrans Traffic Manual. In particular, Vehicle Code section 21455.7 provides:

(a) At an intersection at which there is an automated enforcement system in operation, the minimum yellow light change interval shall be established in accordance with the Traffic Manual of the Department of Transportation.

Susan Lee

Re: *Request for Attorney General Opinion*

Page 2 of 2

(b) For purposes of subdivision (a), the minimum yellow light change intervals relating to designated approach speeds provided in the Traffic Manual of the Department of Transportation are mandatory minimum yellow light intervals.

(c) A yellow light change interval may exceed the minimum interval established pursuant to subdivision (a).

A small change in the length of the yellow light can have a significant effect on the number of violations. Under the current Uniform Manual of Traffic Control Devices, the minimum yellow light change interval for a left or right turn phase is 3 seconds, regardless of how high the posted speed limit is. Caltrans has determined that a 3 second yellow change interval is applicable because the movement in question is a "protected phase" movement. This interpretation is based on the opinion that subsection (b) of California Vehicle Code 21455.7 only applies to "through" movements and that the Manual of Uniform Traffic Control Devices specifies a minimum interval of 3 seconds for a "protected phase" right turn movement. This interpretation results in an extraordinary high number of citations for left turns and right turns. Additionally, in disregarding the posted speed limit and applying a blanket minimum 3 second interval, Caltrans does not take into account the speed at which a vehicle is traveling and the time it would take for that vehicle to stop or slow down.

Please feel free to contact me at (707) 259-8250 if I can be of further assistance or offer further clarification of this issue. Thank you in advance for your attention to this matter.

Very truly yours,



Silva Darbinian
Chief Deputy County Counsel

**RED LIGHT TRIAL STATISTICS
FROM NAPA COUNTY SUPERIOR COURT**

	Statute starts with (VC21453)		
#1	Number of cites 2 years prior to Photo Red Light	1469	6-4-07 to 6-3-09
#2	Number of Photo Red Light to date	6616	Total
#3	Number of non-photo Red Light since implementation	737	Since 6-4-09
#4	Number of trials for Red Light 2 years prior to implementation of Photo Red Light	199	Cases filed 6-4-07 to 6-3-09
#5	Number of Photo Red Light trials held to date (Total)	326	Cases filed 6-4-09 to 9-15-10
	Dismissed/Acquitted	33	
	Convicted	293	
#6	Number of non-Photo Red Light trials heard since implementation	97	Cases filed 6-4-09 to 9-15-10

**City of Napa, Public Works Dept
Transportation Engineering Division**

APPENDIX VII

Traffic Collision History Report

11/15/2010
Page 1

**Location: Rt 121 / Rt 29 (1)
Date Range Reported: 1/1/2004 - 12/31/2008**

Report No.	Date	Time	Dist.	Dir.	Type of Collision	Motor Veh. Involved With	Direct. of Travel 1	Movement Prec. Coll. 1	Direct. of Travel 2	Movement Prec. Coll. 2	PCF	Inj.	Kil
1254517	1/25/04	14:39	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	1	0
1264573	2/10/04	16:28	30	South	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	1	0
1295410	2/26/04	16:17	10	South	Rear-End	Other Motor Vehicle	North	Slowing/Stopping	North	Stopped in Road	Unsafe Speed	0	0
1345047	3/18/04	09:28	0	In Int.	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	1	0
1335166	3/23/04	22:22	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	East	Proceeding Straight	Traffic Signals and Signs	0	0
1335163	3/25/04	05:33	0	In Int.	Broadside	Other Motor Vehicle	West	Making Left Turn	South	Proceeding Straight	Auto R/W Violation	0	0
1376884	4/16/04	16:02	12	South	Rear-End	Other Motor Vehicle	South	Stopped in Road	South	Slowing/Stopping	Unsafe Speed	0	0
1384484	4/19/04	08:33	20	North	Rear-End	Other Motor Vehicle	South	Slowing/Stopping	South	Slowing/Stopping	Following Too Closely	0	0
1462240	6/3/04	16:52	8	West	Rear-End	Other Motor Vehicle	East	Proceeding Straight	East	Stopped in Road	Unsafe Speed	2	0
1536589	6/22/04	11:05	0	In Int.	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Other	0	0
1505276	6/25/04	08:05	0	In Int.	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Following Too Closely	0	0
1687041	8/3/04	12:49	10	South	Rear-End	Other Motor Vehicle	North	Slowing/Stopping	North	Slowing/Stopping	Unsafe Speed	0	0
1565703	8/6/04	17:27	0	In Int.	Broadside	Other Motor Vehicle	North	Making Left Turn	East	Proceeding Straight	Auto R/W Violation	0	0
1924885	9/4/04	11:31	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	East	Proceeding Straight	Traffic Signals and Signs	0	1

**City of Napa, Public Works Dept
Transportation Engineering Division
Traffic Collision History Report**

APPENDIX VII

11/15/2010
Page 2

Location: Rt 121 / Rt 29 (1)
Date Range Reported: 1/1/2004 - 12/31/2008

Report No.	Date	Time	Dist.	Dir.	Type of Collision	Motor Veh. Involved With	Direct. of Travel 1	Movement Prec. Coll. 1	Direct. of Travel 2	Movement Prec. Coll. 2	PCF	Inj.	Kil
1664726	9/16/04	10:13	1	South	Hit Object	Fixed Object	North	Slowing/Stopping			Other Than Driver or Ped	0	0
1641244	9/19/04	10:50	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	0	0
1641228	9/25/04	14:59	0	In Int.	Rear-End	Other Motor Vehicle	North	Slowing/Stopping	North	Stopped in Road	Unsafe Speed	0	0
1678444	10/10/04	14:39	30	South	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	4	0
1678468	10/11/04	13:50	15	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	0	0
1723127	11/10/04	08:43	15	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	1	0
1756340	12/4/04	19:11	12	West	Rear-End	Other Motor Vehicle	East	Proceeding Straight	East	Stopped in Road	Unsafe Speed	0	0
1847082	1/24/05	10:04	10	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	0	0
1847070	1/27/05	19:12	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Slowing/Stopping	Unsafe Speed	0	0
1861504	2/1/05	07:37	60	West	Rear-End	Other Motor Vehicle	East	Slowing/Stopping	East	Stopped in Road	Unsafe Speed	1	0
1906441	2/27/05	15:47	50	North	Hit Object	Fixed Object	North	Ran Off Road			Unsafe Speed	0	0
1916356	3/6/05	16:13	0	In Int.	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	2	0
1916352	3/6/05	18:49	0	In Int.	Rear-End	Not Stated	North	Making Left Turn	North	Making Left Turn	Unsafe Speed	1	0
1924203	3/15/05	13:22	20	South	Rear-End	Other Motor Vehicle	North	Slowing/Stopping	North	Slowing/Stopping	Following Too Closely	0	0

**City of Napa, Public Works Dept
Transportation Engineering Division
Traffic Collision History Report**

APPENDIX VII

11/15/2010
Page 3

Location: Rt 121 / Rt 29 (1)
Date Range Reported: 1/1/2004 - 12/31/2008

Report No.	Date	Time	Dist.	Dir.	Type of Collision	Motor Veh. Involved With	Direct. of Travel 1	Movement Prec. Coll. 1	Direct. of Travel 2	Movement Prec. Coll. 2	PCF	Inj.	Kil
1944594	3/24/05	20:25	0	In Int.	Head-On	Other Motor Vehicle	North	Making Left Turn	East	Stopped in Road	Auto R/W Violation	0	0
1946714	3/25/05	13:20	20	North	Rear-End	Other Motor Vehicle	North	Stopped in Road	North	Proceeding Straight	Unsafe Speed	0	0
1944590	3/25/05	16:42	15	North	Rear-End	Other Motor Vehicle	South	Slowing/Stopping	South	Stopped in Road	Unsafe Speed	0	0
1997858	4/8/05	09:11	0	In Int.	Overtaken	Non-Collision	North	Slowing/Stopping			Unsafe Speed	1	0
1995105	4/29/05	07:22	0	In Int.	Rear-End	Other Motor Vehicle	East	Proceeding Straight	East	Slowing/Stopping	Unsafe Speed	1	0
2001037	5/4/05	17:43	0	In Int.	Sideswipe	Other Motor Vehicle	East	Proceeding Straight	East	Slowing/Stopping	Unsafe Lane Change	1	0
2069191	6/1/05	13:01	0	In Int.	Head-On	Other Motor Vehicle	South	Proceeding Straight	North	Making Left Turn	Other Hazardous Movement	0	0
2123452	6/29/05	16:19	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	East	Making Left Turn	Traffic Signals and Signs	0	0
2188175	8/5/05	11:18	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	1	0
2211352	8/25/05	14:49	0	In Int.	Rear-End	Other Motor Vehicle	North	Slowing/Stopping	North	Stopped in Road	Unsafe Speed	1	0
2242773	8/27/05	11:36	150	South	Rear-End	Other Motor Vehicle	North	Changing Lanes	North	Stopped in Road	Unsafe Speed	0	0
2229954	9/2/05	22:10	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	Not Stated	Making Left Turn	Traffic Signals and Signs	0	0
2242679	9/17/05	16:15	75	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	1	0
2262795	9/23/05	23:01	0	In Int.	Sideswipe	Other Motor Vehicle	South	Proceeding Straight	East	Making Left Turn	Traffic Signals and Signs	2	0

**City of Napa, Public Works Dept
Transportation Engineering Division**

APPENDIX VII

Traffic Collision History Report

11/15/2010
Page 4

**Location: Rt 121 / Rt 29 (1)
Date Range Reported: 1/1/2004 - 12/31/2008**

Report No.	Date	Time	Dist.	Dir.	Type of Collision	Motor Veh. Involved With	Direct. of Travel 1	Movement Prec. Coll. 1	Direct. of Travel 2	Movement Prec. Coll. 2	PCF	Inj.	Kil
2262742	9/26/05	15:45	0	In Int.	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	0	0
2262763	9/29/05	16:45	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	East	Stopped in Road	Driving Under Influence	2	0
2271943	10/10/05	15:53	0	In Int.	Rear-End	Other Motor Vehicle	East	Merging	East	Stopped in Road	Unsafe Speed	0	0
2301493	10/26/05	10:32	15	South	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	0	0
2301441	10/31/05	13:33	40	South	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Other	0	0
2319723	11/6/05	14:39	0	In Int.	Hit Object	Fixed Object	West	Making Right Turn			Unsafe Speed	0	0
2353728	12/1/05	16:50	0	In Int.	Rear-End	Other Motor Vehicle	South	Slowing/Stopping	South	Slowing/Stopping	Unsafe Speed	1	0
2390548	12/9/05	10:30	0	In Int.	Broadside	Other Motor Vehicle	North	Proceeding Straight	North	Proceeding Straight	Other	2	0
2390484	12/13/05	13:53	0	In Int.	Sideswipe	Other Motor Vehicle	East	Making Left Turn	East	Making Left Turn	Wrong Side of Road	0	0
2390585	12/14/05	14:42	30	South	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	2	0
2407626	12/23/05	11:44	0	In Int.	Rear-End	Motor Vehicle on Other	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	0	0
2540688	2/27/06	16:15	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	East	Making Left Turn	Traffic Signals and Signs	0	0
2556122	3/23/06	10:04	0	In Int.	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Proceeding Straight	Following Too Closely	0	0
2559757	3/28/06	11:29	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	1	0

**City of Napa, Public Works Dept
Transportation Engineering Division
Traffic Collision History Report**

APPENDIX VII

11/15/2010
Page 5

Location: Rt 121 / Rt 29 (1)
Date Range Reported: 1/1/2004 - 12/31/2008

Report No.	Date	Time	Dist.	Dir.	Type of Collision	Motor Veh. Involved With	Direct. of Travel 1	Movement Prec. Coll. 1	Direct. of Travel 2	Movement Prec. Coll. 2	PCF	Inj.	Kil
2559705	4/7/06	21:50	10	South	Rear-End	Other Motor Vehicle	North	Slowing/Stopping	North	Stopped in Road	Unsafe Speed	0	0
2629618	5/8/06	17:31	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	0	0
2689525	6/10/06	22:21	0	In Int.	Sideswipe	Other Motor Vehicle	Not Stated	Proceeding Straight	East	Making Left Turn	Traffic Signals and Signs	2	0
2696862	6/18/06	07:03	0	In Int.	Overtaken	Non-Collision	North	Proceeding Straight	North	Wrong Side of Road	Wrong Side of Road	1	0
2689468	6/19/06	08:56	0	In Int.	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	1	0
2696817	7/3/06	19:36	0	In Int.	Sideswipe	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	1	0
2716608	7/7/06	11:19	20	South	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unknown	0	0
2732656	7/23/06	12:37	30	South	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	2	0
2874959	10/25/06	15:38	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	East	Making Left Turn	Traffic Signals and Signs	2	0
2927482	11/17/06	18:00	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	0	0
2935238	12/12/06	09:05	20	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Slowing/Stopping	Unsafe Speed	1	0
3049510	2/26/07	13:11	0	In Int.	Hit Object	Fixed Object	South	Other Unsafe Turning	South	Stopped in Road	Unsafe Speed	0	0
3112256	3/16/07	09:15	50	South	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	0	0
3174326	4/16/07	16:17	0	In Int.	Broadside	Other Motor Vehicle	South	Proceeding Straight	East	Proceeding Straight	Unknown	1	0

**City of Napa, Public Works Dept
Transportation Engineering Division
Traffic Collision History Report**

APPENDIX VII

11/15/2010
Page 6

**Location: Rt 121 / Rt 29 (1)
Date Range Reported: 1/1/2004 - 12/31/2008**

Report No.	Date	Time	Dist.	Dir.	Type of Collision	Motor Veh. Involved With	Direct. of Travel 1	Movement Prec. Coll. 1	Direct. of Travel 2	Movement Prec. Coll. 2	PCF	Inj.	Kil
3176258	5/8/07	13:15	15	North	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	2	0
3202563	5/23/07	13:03	20	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	1	0
3226052	6/13/07	18:49	20	South	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Stopped in Road	Unsafe Speed	1	0
3263281	6/24/07	13:32	10	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	2	0
3449717	10/28/07	15:35	0	In Int.	Rear-End	Other Motor Vehicle	North	Proceeding Straight	North	Slowing/Stopping	Unsafe Speed	1	0
3753403	4/10/08	15:49	6	North	Rear-End	Other Motor Vehicle	South	Proceeding Straight	South	Stopped in Road	Unsafe Speed	0	0
3918598	9/27/08	22:38	0	In Int.	Broadside	Other Motor Vehicle	South	Changing Lanes	East	Stopped in Road	Unsafe Speed	4	0

City of Napa, Public Works Dept
 Transportation Engineering Division
 Traffic Collision History Report

Location: Rt 121 / Rt 29 (1)
 Date Range Reported: 1/1/2004 - 12/31/2008

Report No.	Date	Time	Dist.	Dir.	Type of Collision	Motor Veh. Involved With	Direct. of Travel 1	Movement Prec. Coll. 1	Direct. of Travel 2	Movement Prec. Coll. 2	PCF	Inj.	Kil
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Total Number of Collisions: 77

Settings Used For Query

<u>Parameter</u>	<u>Setting</u>
Street Name	Rt 121
Cross Street	Rt 29 (1)
Starting Date	1/1/2004
Ending Date	12/31/2008
Intersection	Intersection Related



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

**PESTICIDE USE IN NAPA
COUNTY**

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

April 27, 2011

The Honorable Stephen T. Kroyer
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94459

Re: 2010-2011 Napa County Grand Jury Final Report: Pesticide Use in Napa County

Dear Judge Kroyer,

Pursuant to Sections 933 (a) of the California Penal Code, the 2010 -2011 Napa County Grand Jury submits to you its final report on Pesticide Use in Napa County. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the second in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and pleasure to work with them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated pesticide use in Napa County.

In 2009, 1,542,059 pounds of pesticides were used in Napa County. Because of the significant amount of pesticide use, this Grand Jury investigated the Agricultural Commissioner's Office (ACO) and interviewed a grape grower, a soil specialist, a representative from a pesticide company, a farmer committed to sustainable farming practices and ACO personnel.

After careful investigation and research this Grand Jury found that the ACO successfully monitors pesticide use throughout the County and that pesticide use in the County has declined steadily over the last decade. This decline is, in part, attributed to integrated pest management and increasing trends towards more organic and sustainable farming practices.

The Grand Jury found that although the ACO interfaces extensively with vineyard management, the general public has limited access to information about pesticide use, violations, restrictions and related fines. One key recommendation is that the ACO prepare an annual notice to be posted on the County website and also send it to the local newspapers, to inform the general public about these issues.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

PESTICIDE USE IN NAPA COUNTY

SUMMARY

In order to fulfill the Grand Jury's mandate to investigate all Napa County government agencies to assure they are being administered efficiently, honestly and in the best interest of Napa County's residents, the 2010-2011 Grand Jury investigated the Agricultural Commissioner's Office (ACO) to determine if pesticide use is being managed effectively and regulations are being adequately enforced.

In 2009 1,542,059 pounds of pesticides were used in Napa County. Because of the significant amount of pesticide use, the Grand Jury investigated the ACO and interviewed a grape grower, a soil specialist, a representative from a pesticide company, a farmer committed to sustainable farming practices and ACO personnel. After conducting interviews and research, the Grand Jury found that pesticide use in the County has declined steadily over the last decade. This decline is, in part, attributed to integrated pest management (IPM) and increasing trends towards more organic and sustainable farming practices.

Overall, the Grand Jury found that the ACO successfully manages and monitors pesticide use. The ACO also offers effective educational programs for the use and application of pesticides.

Although the ACO interfaces extensively with vineyard management, the general public has limited access to information about pesticide use, violations, restrictions and related fines. The Grand Jury recommends that the ACO prepare a notice to be posted on the County website and also send it to the local newspapers, to inform the general public about these issues.

BACKGROUND

There are currently 33 people employed in the ACO. The 2010-2011 annual budget for the ACO is \$4,175,885. This amount includes an additional \$600,000 increase due primarily to a State-funded initiative to deal with the eradication of the European Grapevine Moth infestation recently discovered in Napa County. The 2009-2010 budget was \$3,581,609 and the 2008-2009 budget was \$3,435,824.

The ACO enforces agricultural laws and regulations. This agency has not been reviewed by the Grand Jury since 2001-2002. No complaints have been received by the Grand Jury, but because of the quantity of pesticides used every year in vineyards and the possible impacts on the environment and residents' health, the Grand Jury's investigation was conducted to determine if pesticide use is being managed effectively and regulations are being properly enforced.

In 2009, 1,542,059 pounds of pesticides were used in Napa County vineyards (See Appendix I). Pesticide use is reported by active ingredients and is reported every other year as indicated in Appendix I.

The Director of the California Department of Pesticide Regulation (CDPR) as well as the County Agricultural Commissioner are responsible for regulating pesticide use, sales, and protecting public health and the environment from any adverse effects that may occur from the legal use of pesticides. The Napa County ACO acts under the direction and authority of the CDPR.

Other state and federal agencies involved in cooperative enforcement with the CDPR and the county agricultural commissioners include:

- California Department of Consumer Affairs, Structural Pest Control Board (SPCB)
- U. S. Environmental Protection Agency (EPA)
- U. S. Food and Drug Administration (FDA)

The principle users of pesticides in the County are:

- public agencies - for road and street defoliation
- vineyard
- residential
- other non-vineyard crops

By definition, a pesticide is any substance which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest. A program that is in place to help manage pesticide use in Napa County is the Pesticide Use Enforcement (PUE) program. This program is one of many that the ACO has the authority to enforce. Under the guidance and direction of the CDPR, the ACO administers the PUE program with jurisdiction over the use of pesticides in all settings in the County. These settings include production agriculture, structural pest control, landscape maintenance, golf courses and applications by public agencies. Through training and outreach, the ACO strives to educate pesticide users about their legal responsibilities.

Through a process of inspections and investigations, levels of compliance are determined. Compliance and enforcement actions are taken when corrective measures are necessary.

DISCUSSION

Pesticide use has changed over the last few decades. Historically, pesticides were broad-spectrum applications used to kill the intended pest as well as most other beneficial insects. With no beneficial insects present, the targeted pest would rebound and the broad-spectrum pesticide would need to be reapplied. This cycle was repeated throughout the growing season.

With the introduction of narrow-spectrum, or selective pesticides, the intended pest is eliminated without disruption of the beneficial insects. An example is the pesticide that targets the mite population. This category of pesticides kills the destructive mites, but leaves the beneficial mites and all the other beneficial insects that keep the insect balance in the vineyard. Once the destructive mites are eliminated, or significantly reduced with the narrow-spectrum application, the beneficial population that was not eliminated is strong enough to keep the destructive mites under control. This results in a balanced environment.

The use of selective pesticides has resulted in a major reduction in the volume of pesticides applied per acre, less volume per application, and fewer applications.

Pesticide Control and Application

The ACO performs a number of activities throughout the year to ensure that growers, pest control businesses, government agencies and others are meeting health and safety guidelines. These activities include: inspections, investigations, compliance and enforcement actions, operator identification numbers and restricted materials permits, pesticide use reports, business registrations, and private applicator certifications which are essential in protecting our health and environment. The Grand Jury investigated how these activities and practices ensure that pesticides are managed safely to protect our health and environment. Summaries of these activities appear below.

Inspections

The ACO conducts a variety of inspections to assure that pesticide users are meeting legal requirements. The primary goal during inspections is to ensure that workers and the environment are appropriately protected from any possible adverse impacts from pesticides. Proper licensing and registration of pest control

businesses, pest control advisors, pest control dealers and farm labor contractors are also assessed during inspections. If non-compliance issues are discovered during inspections, appropriate follow-up steps are taken.

Investigations

The ACO performs various types of pesticide-related investigations. When there is the possibility that someone has become ill or injured due to an exposure to a pesticide, an investigation is conducted to determine if any violations have occurred. Other types of investigations include cases where pesticides are suspected to have caused environmental and/or property damage. All pesticide-related complaints from the public are investigated and documented.

Compliance and Enforcement Actions

Various levels of follow-up actions are employed when non-compliance matters are discovered during inspections and investigations. The ACO encourages compliance by educating the regulated community on its responsibilities under the laws and regulations. If a case involves serious worker safety violations or environmental or property damage, an enforcement action may be warranted. Under civil law when an enforcement action is initiated, a Notice of Proposed Action (NOPA) is drafted that outlines the violations, and a fine is proposed. Those who are issued a NOPA are afforded due process rights.

Operator Identification Numbers and Restricted Materials Permits

Each year, prior to the purchase or use of pesticides, growers, businesses and others must obtain or renew an operator identification number (OP ID) or restricted materials permit (RMP). Contact information, sites, and pesticide usage are reviewed and updated on OP IDs and RMPs. Maps are checked for accuracy and crop statistics are reviewed. Prior to renewing their permit, growers and businesses are informed about changes in regulations and current issues.

Pesticide Use Reports

Pesticide use reports are required to be submitted to the ACO by the tenth day of the month following the month in which the pesticide was applied.

Business Registrations

The Commissioner's office registers different types of pest control businesses and farm labor contractors.

Applicators

Federally restricted-use pesticides or California restricted materials can only be used by, or under the supervision of, a certified commercial or private applicator, unless the label specifies otherwise. The certified applicator responsible for this supervision must be aware of the conditions at the site of application and be available to direct and control the manner in which applications are made by noncertified applicators.

Other Measures to Enforce and Manage Regulations

In addition to the above activities, there are other U.S. and California laws and regulations that the ACO monitors and regulates. The California Department of Pesticide Regulation specifies the following:

- Pesticide registration, wherein manufacturers must register pesticides with the EPA and CDPR before anyone can buy or use them in California. These agencies register individual pesticide products, not generic pesticides. The registration procedure protects people and the environment from ineffective or harmful chemicals. The sale of unregistered pesticides is illegal. To complete registration, manufacturers supply labels meeting all federal and state requirements. These labels become legal documents and contain important information for users.
- Licensing of the Product (Certificate of Registration), which is required for each pesticide product. When CDPR issues the Certificate of Registration, the accepted label becomes the registered label. The pesticide must be used according to the registered label and according to any regulatory restrictions. The pesticide label on the product sold must match the registered label, or the sale is illegal.
- If the product's registration lapses, the registrant can no longer sell the product in California. There are two ways that a product's registration may expire: (1) if the manufacturer does not renew the registration and allows it to lapse, or (2) if a suspension or cancellation has occurred for the product by CDPR or EPA.
- Pesticide applicators must be certified. Uncertified applicators may buy, possess, use, or supervise the use of general use pesticides that have not been designated by CDPR as "restricted materials." However, only

certified pesticide applicators can buy, possess, use, or supervise the use of California restricted materials, and with few exceptions, they must obtain a permit from the ACO to do so.

- Regulations set the format for pesticide labels and prescribe the information they must contain. The labels contain mandatory and permissive statements for requirements and information. Mandatory statements must be followed. Also, any document referred to on the label becomes part of the label. The pesticide label or labels, including the documents referred to, must be at the use site at the time of use.

Training and Outreach

Prior to handling any pesticides by California certified commercial or private applicators, all employees must be trained annually. The training must be documented and cover specific topics listed in Title 3, California Code of Regulations, Section 6724. The program used to train employees must be in writing and describe the materials and information used. Fieldworkers must be trained every five years.

In order to meet the State training regulations, the ACO sponsors three continuing education classes annually. The training sessions provide credits for private applicator certificate holders. In January 2005 the ACO began offering Spanish language sessions. State licensees can also earn credits at continuing education sessions.

The ACO writes and publishes the *Ag Rag*, an annual newsletter, containing articles on various PUE issues as well as information on pests and diseases of concern in Napa County. In order to keep growers and other pesticide users informed, trainings and informative mailings are provided when new regulations are implemented.

OTHER CURRENT PRACTICES

Trends in Pesticide Use

For the last two decades, growers have been under pressure from constantly changing and ever tightening regulatory policies. Many pesticides have been phased out over the years. The top five most used pesticides in Napa County in 2009 were sulfur, refined petroleum distillates, mineral oil, glyphosate/isopropylamine salt and lime-sulfur. Pesticide use in Napa County has been declining steadily over the last several years. Other trends that have

contributed to the decrease in pesticide use are IPM and increased organic and sustainable farming practices.

Organic Farming

Organic farming refers to agricultural production systems used to produce food and fiber. Organic farming management relies on developing biological diversity in the field to disrupt habitat for pest organisms, and the purposeful maintenance and replenishment of soil fertility. Organic farmers are allowed to use certain botanical or non-synthetic pesticides.

The objective and motivations for shifting from chemical farming to organic farming include:

- concern for protecting soil, human, and animal health from the potential hazards of pesticides
- the desire for lower production inputs (e.g. composting, water conservation, use of natural resources)
- concern for the environment
- protection of soil resources

As a result, pesticide use is lower because many organic farmers have developed innovative methods of organic recycling and pest control in their crop production sequences.

Organic farming does not prevent the use of pesticides. Under the National Organic Program Rule, growers are required to use sanitation and cultural practices first before they can resort to applying a material to control a weed, pest or disease problem. Use of these materials in organic production is regulated, strictly monitored, and documented. As a last resort, certain botanical or other non-synthetic pesticides may be applied.

Sustainable Agriculture

The objective of sustainable agriculture is to integrate three main goals:

- environmental health
- economic profitability
- economic equity

A variety of philosophies, policies and practices have contributed to these goals. In the practice of sustainable agriculture, stewardship of both natural and human

resources is of prime importance. Stewardship of human resources includes consideration of social responsibilities such as working and living conditions of laborers, the needs of rural communities, and consumer health and safety both now and in the future. Stewardship of land and natural resources involves maintaining or enhancing these resources.

Sustainable production practices involve a variety of approaches. Specific strategies must take into account topography, soil characteristics, climate, pests, local availability of resources and the individual grower's goals. Despite the site-specific and individual nature of sustainable agriculture, several general principles can be applied to help growers select appropriate management practices:

- selection of species and varieties that are well suited to the site and to conditions on the land
- diversification of crops (including livestock) and cultural practices to enhance the biological and economic stability of the land
- management of the soil to enhance and protect soil quality
- efficient use of resources (such as water)
- consideration of farmers' goals and lifestyle choices

These practices all result in a net reduction of pesticide use.

Integrated Pest Management

Integrated Pest Management (IPM) is another trend. IPM provides an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment.

The IPM approach can be applied to both agricultural and non-agricultural settings, such as the home, garden, and workplace. IPM takes advantage of all appropriate pest management options including, but not limited to, the judicious use of pesticides. In contrast, organic food production applies many of the same concepts as IPM but limits the use of pesticides to those that are produced from natural sources, as opposed to synthetic chemicals.

Napa County ACO's diligent efforts to prevent and eradicate harmful species, such as the Glassy Wing Sharpshooter and the European Grapevine Moth before they become established, are prime examples of IPM and how it can help protect crops while still reducing pesticide use.

The tables below detail 10 years of trends for pesticide use and winegrape acreage in Napa County (See Appendix I). The tables were derived from the latest available statistics provided by the ACO. Pesticides are used primarily on winegrapes in Napa County. As depicted in Appendix I, overall pesticide use has decreased over the past 10 years. The use of some specific pesticides increased, but the overall total pounds used has decreased.

Napa County Pesticide Use Reported in Pounds of Active Ingredient

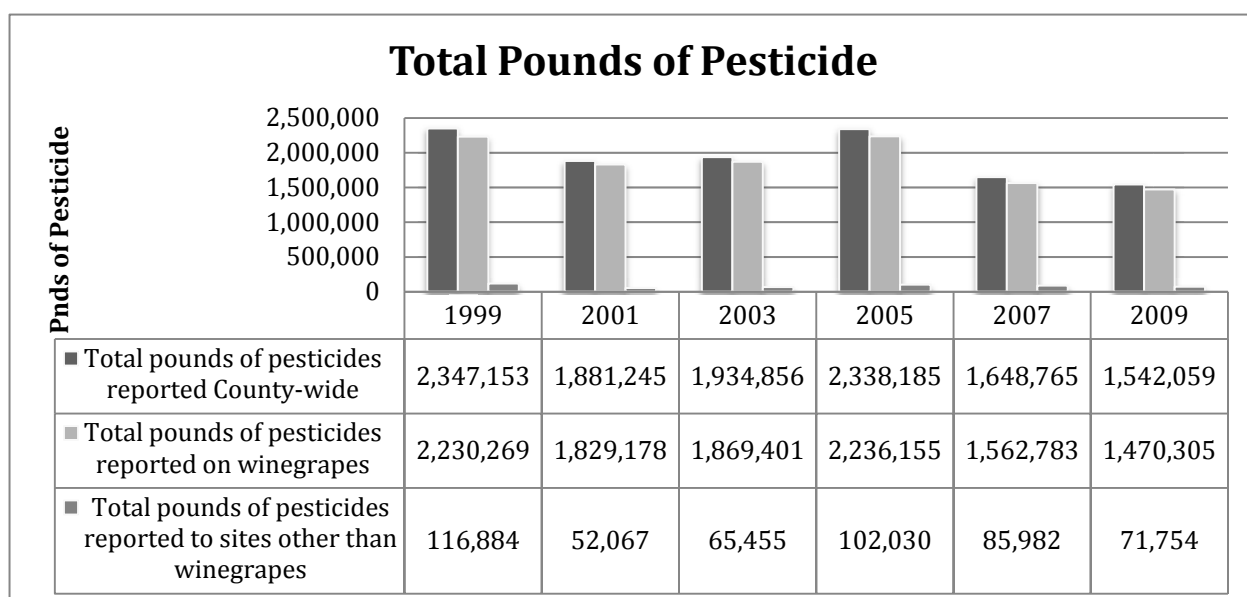


Table 1: Total pesticide use in Napa County in pounds of active ingredient

Napa County Total Winegrape Acreage

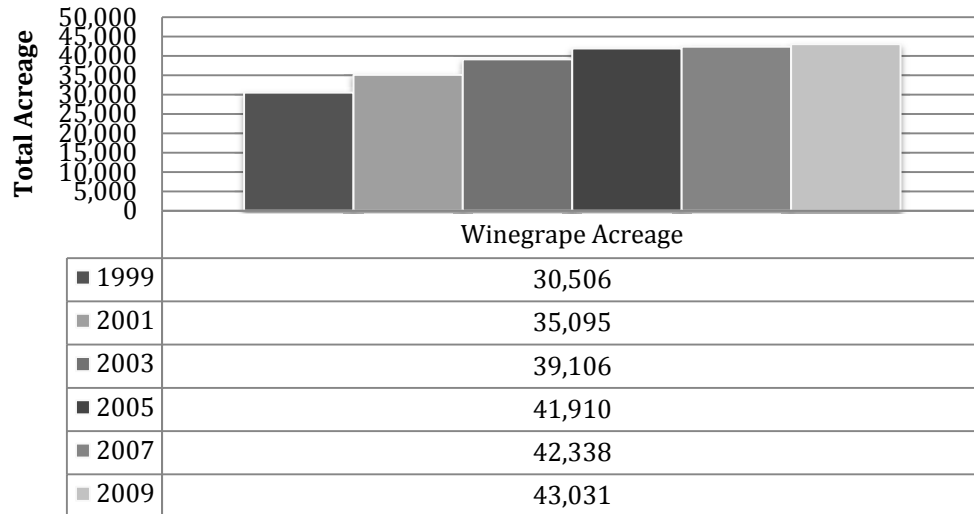


Table 2: Napa County Total Winegrape Acreage

Pounds Per Winegrape Acre

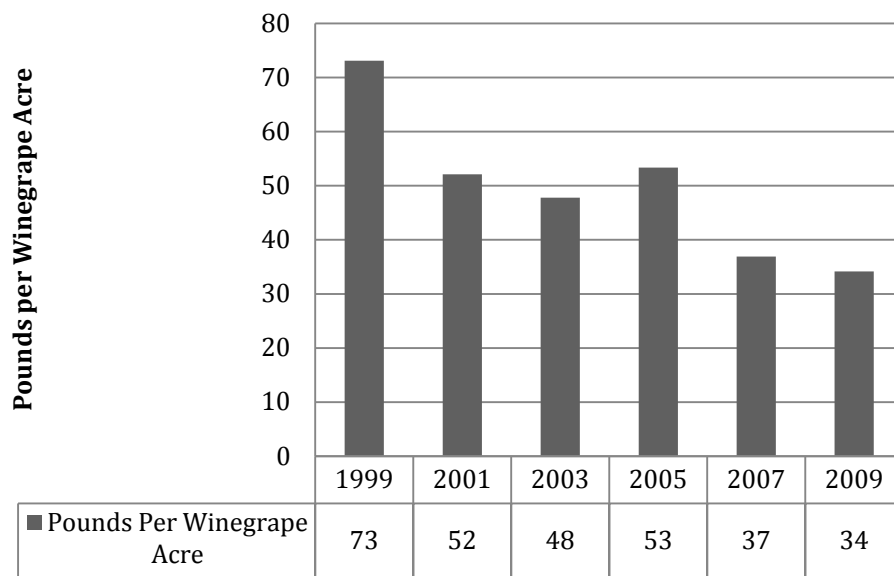


Table 3: Pounds of pesticide use per winegrape acre in Napa County

The above three tables show a declining trend in pesticide use in winegrape acreage over a 10 year period. Pounds per winegrape acre of pesticides used went from 73 pounds per acre in 1999 to 34 pounds per acre in 2009 which is a decline of more than 50%. This decline can be attributed to a number of factors such as variability in rainfall, climate, weather, pest and disease cycles, economics and newly identified invasive species. These factors, combined with increasing trends in IPM, organic and sustainable agriculture practices have all contributed to the decrease in pesticide use in Napa County.

The ACO's website (countyofnapa.org/AgCom/) has comprehensive information about farming in Napa County. Pesticide use, regulations, forms and general information for all residents is available. Growers, vineyard managers, and vineyard owners have access to current pest threats and current regulations. Licensing requirements, forms and newsletters, are posted.

The website also lists upcoming ACO sponsored training events for pesticide application safety procedures and pesticide use. The *Ag Rag*, a yearly newsletter discusses new regulations, restricted pesticides and other grower related information relevant to the everyday business of farming in Napa County.

The Grand Jury requested five years of statistical information from the ACO regarding pesticide use violations, violators, warnings, and fines in Napa County. This information was provided promptly and completely (See Appendix II). The charts in the appendix support and parallel the decrease in pesticide use over the last five years as depicted in Tables one to three. Integrated Pest Management, increasing trends toward more organic and sustainable farming, along with better and fewer pesticides used are evidenced by the reduction in the number of violators and violations for pesticide use. In 2006 the ACO assessed ten fines for pesticide use violations. However, in 2009 and 2010 there were only two fines issued each year.

While the ACO staff was forthcoming and the statistical information was useful, the Grand Jury found it is only available to the general public upon request. The information regarding pesticide use, restrictions, violations and related fines should be available on the ACO website and updated annually. In addition, an annual notice with the same information could be prepared and sent to the local newspapers.

FINDINGS

The 2010-2011 Grand Jury finds that the:

F1. Ongoing ACO efforts and industry trends (IPM, organic and sustainable farming) have resulted in a substantial and steady reduction in pounds of active ingredients in pesticides applied.

F2. ACO does not adequately inform the general public about pesticide violation enforcement statistics.

RECOMMENDATION

The 2010-2011 Grand Jury recommends that:

R1. By January 2012, the Agricultural Commissioner post for the general public, on the County website, statistics on pesticide use, violations, fines and restrictions and update the information on an annual basis.

R2. By January 2012, the Agricultural Commissioner annually prepare and send a notice, to the local newspapers for them to publish, which will give the general public the statistics on pesticide use, violations, fines and restrictions.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the following individual:

- The Agricultural Commissioner of Napa County: F1, F2; R1, R2

COMMENDATION

The Agricultural Commissioner's enthusiastic and consistent efforts in managing pesticide use in Napa County have resulted in a better quality of life in our community.

GLOSSARY

Active ingredient – is the part of the product that kills or inhibits the target pest.

ACO – Agricultural Commissioner’s Office

Applicator – anyone who applies a pesticide

Chemical – the elements or ingredients used to formulate a pesticide.

CDPR - California Department of Pesticide Regulation

EPA – Environmental Protection Agency

IPM – Integrated Pest Management

OP ID – Operator Identification

Pesticide - a pesticide is any substance that is intended for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest.

PUE – Pesticide Use Enforcement

RMP – Restricted Materials Permit

Signal words – See Appendix I. Labels use three signal words: caution, warning or danger, to show a product’s potential for making you sick if it is not used correctly. “Caution” appears on products that are least harmful to you. “Warning” means a product is more harmful than the one with a “Caution” label. “Danger” means a product is poisonous or corrosive and should be used with extreme care.

SPCB – Structural Pest Control Board

METHODOLOGY

Information for this investigation was gathered through numerous interviews, document analyses and Internet research.

Interviews Conducted:

- Agricultural Commissioner’s Office personnel
- Experts from sustainable farming, organic farming, soil science and pesticide sales.

Documents and Websites Reviewed:

- Annual Pesticide Use Reports Data: Napa County Indexed by Chemical
- Napa County Community Health Needs Assessment, “Identifying Priority Health Needs,” Barbara Aved Associates, 2010
- Various articles from the Napa Register
- www.cdpr.ca.gov
- www.epa.gov/pesticides
- www.imp.ucdavis.edu
- www.ofrf.org
- www.pw.ucr.edu
- www.sarep.ucdavis.edu/concept.htm

APPENDIX

- I. Pesticide Use Reported in Pounds of Active Ingredients – Napa County
- II. County of Napa Pesticide Violation Enforcement Statistics 2006-201

APPENDIX I: PESTICIDE USE REPORTED IN POUNDS OF ACTIVE INGREDIENT-NAPA COUNTY

Active Ingredient	Common Name ¹	Pesticide Type	Signal Word	1999	2001	2003	2005	2007	2009
Benomyl	Benlate	Fungicide	Warning	1,659	1,500	846	35	2	0
Chlorpyrifos²	Lorsban	Insecticide	Warning	679	207	368	4,002	2,507	4,925
Glyphosate	Roundup	Herbicide	Caution	32,350	30,052	45,352	19,646	21,048	31,360
Lime Sulfur³	Lime sulfur	Fungicide	Danger	5,239	3,861	7,255	10,405	39,192	21,403
Methyl bromide	Terr-O-Gas	Fumigant	Danger	180,900	14,947	7,134	23,020	11,936	3,410
Myclobutanil	Rally	Fungicide	Caution	2,832	2,640	2,430	2,948	2,539	1,185
Oryzalin⁴	Surflan	Herbicide	Caution	10,020	1,127	9,408	7,927	4,122	2,349
Oxyfluorfen	Goal	Herbicide	Warning	8,286	6,250	9,667	8,588	4,788	6,482
Paraquat	Gramoxone	Herbicide	Danger	777	318	855	1,163	58	31
Petroleum distillates (refined)⁵	various	Adjuvants Fungicides Insecticides	various	7,472	2,738	24,932	97,965	144,335	115,296
Potassium bicarbonate	Kaligreen	Fungicide	Caution	9,230	13,787	38,955	32,906	9,078	12,673
Simazine⁶	Princep	Herbicide	Caution	10,969	6,114	7,799	5,078	1,783	2,259
Sodium tetrathiocarbonate	Enzone	Nematicide	Danger	17,228	1,170	553	1,303	2,838	1,691
Sulfur	Sulfur Dust	Fungicide	Caution	1,973,323	1,633,323	1,600,672	1,864,577	1,162,160	1,051,267
Total pounds of pesticides reported County-wide				2,347,153	1,881,245	1,934,856	2,338,185	1,648,765	1,542,059
Total pounds of pesticides reported on winegrapes				2,230,269	1,829,178	1,869,401	2,236,155	1,562,783	1,470,305
Total pounds of pesticides reported to sites other than winegrapes⁷				116,884	52,067	65,455	102,030	85,982	71,754
Winegrape acreage⁸				30,506	35,095	39,106	41,910	42,338	43,031

Footnotes

- 1 There may be more than one formulated (common name) for any one active ingredient.
- 2 Chlorpyrifos use in vineyards increased due to the discovery of a new invasive mealybug specie, Vine mealybug. A prevention program has been established to minimize the spread to new vineyards and a control program developed to reduce the need for this insecticide.
- 3 University of California scientists have recommended the application of this dormant season fungicide to knock back the powdery mildew spores prior to bud break.
- 4 Use of preemergent herbicides such as Oryzalin have been decreasing as growers rely more on contact herbicides that are only active in plant tissues such as Glyphosate.
- 5 University of California scientists have recommended the application of Stylet Oil (petroleum distillate-based) for powdery mildew control. Growers have substituted Stylet Oil for some of their sulfur dust applications which may account for the slight trend of reduction in sulfur use.
- 6 Same comment as footnote number 4.
- 7 Applications associated with minor crops, structural pest control, landscape maintenance, rights-of-way, etc.
- 8 While there has been an increase of 12,500 acres of winegrape plantings from 1999 to 2009, the pounds of pesticide reported used has decreased substantially over that same time period.

**APPENDIX II: COUNTY OF NAPA
PESTICIDE VIOLATION ENFORCEMENT STATISTICS
2006-2010**

Number of Compliance and Enforcement Actions by Type					
<i>Action Type</i>	<i>2010</i>	<i>2009</i>	<i>2008</i>	<i>2007</i>	<i>2006</i>
I. Letter of Warning / Notice of Violation	32	43	39	65	77
II. Documented Compliance Interview	0	0	1	4	1
III. Stop Work Order	3	2	0	3	0
IV. Administrative Civil Penalty	2	2	6	7	10

I. Letter Of Warnings / Notice Of Violation Numbers by Violation Type					
<i>Violation Type</i>	<i>2010</i>	<i>2009</i>	<i>2008</i>	<i>2007</i>	<i>2006</i>
Late pesticide use report submittal	17	15	15	21	30
Decontamination facilities	2	1	3	9	13
Applying pesticides before renewing	5	5	5	12	10
Personal protective equipment	1	1	0	5	5
Worker training	1	2	1	3	3
Business license and registration	1	4	7	9	8
Hazard communication	1	1	0	3	3
Pesticide label violation	1	1	2	3	2
Emergency medical care planning	0	2	0	1	3
Equipment issues	0	0	0	1	2
Pesticide container issues	0	2	0	2	4
Respiratory protection program	2	2	0	0	0
General standards of care	0	0	0	1	1
Restricted material permit violation	0	0	0	1	1

II. Documented Compliance Interviews		
<i>Year</i>	<i>Business Type</i>	<i>Violation Type</i>
2010	-----	
2009	-----	
2008	Vineyard Company	Safety training and personal protective equipment
2007	Vineyard Company	Pesticide use report submittal
	Vineyard Company	Supervision and record keeping related to field fumigation
	Ag Pest Control Bus.	Improper soil preparation prior to field fumigation
	Vineyard Mgt. Co.	Pesticide label availability, emergency medical care plan, decontamination facility
2006	Vineyard Company	Pesticide drift, general standards of care

**COUNTY OF NAPA
PESTICIDE VIOLATION ENFORCEMENT STATISTICS
2006-2010**

III. Stop Work Orders		
<i>Year</i>	<i>Business Type</i>	<i>Violation Type</i>
2010	Unlicensed Maintenance Gardener	Licensing, personal protective equipment, training
	Unlicensed Maintenance Gardener	Licensing
	Unlicensed Maintenance Gardener	Licensing
2009	Unlicensed Maintenance Gardener	Licensing
	Unlicensed Maintenance Gardener	Licensing
2007	Unlicensed Maintenance Gardener	Licensing, pesticide label
	Unlicensed Maintenance Gardener.	Licensing
	Unlicensed Ag Pest Control Business	Licensing

**COUNTY OF NAPA
PESTICIDE VIOLATION ENFORCEMENT STATISTICS
2006-2010**

IV. Administrative Civil Penalties			
<i>Year</i>	<i>Business Type</i>	<i>Violation Type</i>	<i>Fine Amount</i>
2010	Vineyard Management Co.	Improper storage of pesticides	\$400
	Vineyard Management Co.	Personal protective equipment	\$400
2009	Vineyard Company	Respiratory protection program	\$250
	Vineyard Management Co.	Pesticide use reporting	\$300
2008	Vineyard Company	Training, personal protective equipment	\$1,000
	Restaurant / Inn	Pesticide label violation	\$700
	Vineyard Company	General standards of care	\$2,200
	Vineyard Company	Improper storage of pesticides	\$250
	Vineyard Company	Pesticides stored / dispensed from food containers	\$500
	Vineyard Management Co.	Decontamination facilities	\$700
2007	Vineyard Company	Pesticide use reporting	\$150
	Vineyard Management Co.	Pesticide use reporting	\$150
	Vineyard Management Co.	Decontamination facilities	\$500
	Vineyard Company	Decontamination facilities	\$500
	Vineyard Management Co.	Decontamination facilities	\$500
	Vineyard Management Co.	Decontamination facilities	\$500
	Vineyard Management Co.	Pesticide use reporting	\$150
2006	Restaurant / Inn	Pesticide label violation	\$2,000
	Vineyard Management Co.	Pesticide use reporting, decon. facilities	\$700
	Vineyard Management Co.	Decontamination facilities	\$500
	Pesticide dealer	Sale of pesticide without proper permit	\$400
	Vineyard Management Co.	Closed mixing system	\$400
	Vineyard Management Co.	Decontamination facilities	\$500
	Unlicensed Maintenance Gardener	Violation of cease and desist order, licensing, PPE, pesticide use reporting,	\$2,200
	Unlicensed Maintenance Gardener	Licensing, PPE, pesticide use reporting	\$1,150
	Vineyard Company	Failure to submit notice of intent for restricted material use, pesticide use report	\$400
	Vineyard Management Co.	Worker training	\$250



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NAPA COUNTY GRAND JURY

2010-2011

Final Report on

NAPA COUNTY JUVENILE HALL

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A Tradition of Stewardship
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NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

April 27, 2011

The Honorable Stephen T. Kroyer
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94459

Re: 2010-2011 Grand Jury Final Report on the Napa County Juvenile Hall

Dear Judge Kroyer,

Pursuant to Sections 933 (a) of the California Penal Code, the 2010 -2011 Napa County Grand Jury submits to you its final report on the Napa County Juvenile Hall. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the third in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and pleasure to work with them.

Respectfully submitted,

A handwritten signature in black ink that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



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A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa County Juvenile Hall (NCJH).

California Penal Code Sections 919 (a) and 919 (b) mandate the Grand Jury to annually inspect detention facilities within the County. The 2010-2011 Grand Jury found the Napa County Juvenile Hall (NCJH) to be secure, and extremely well maintained with a dedicated and professional staff, who encourage young offenders to make better life choices. The NCJH and its programs are designed to motivate and support juvenile rehabilitation.

During the site inspection, the Grand Jury received several complaints from resident juveniles that the drinking water in the facility had a bad taste. Jurors drank the water and detected a distinctive metallic taste. Two samples of water were tested for copper; a sample from within NCJH and a control sample from an adjacent building. The water from within NCJH was deemed safe for consumption, as it met the California Department of Public Health's secondary drinking water standards; however, it did contain an elevated concentration of copper.

The Grand Jury made two recommendations. The first recommends that the County Public Works Department and the NCJH staff develop and implement a plan to eliminate the metallic taste in the water in NCJH. The second recommends that the NCJH provide palatable water within NCJH until such plan can be implemented.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

NAPA COUNTY JUVENILE HALL

SUMMARY

As mandated by State law, the Napa County Grand Jury must physically inspect all jail and detention facilities within the County on an annual basis. The 2010-2011 Napa County Grand Jury inspected the Napa County Juvenile Hall (NCJH) in October 2010 and found the facility clean, secure, orderly, and well maintained. The NCJH counselors, supervisors, teachers, and managers who were on duty were cooperative, professional, dedicated, and enthusiastic. The Napa County Chief Probation Officer serves as the Director of NCJH and has held the position since October 2002.

The facility and programs are all designed to engage and rehabilitate juveniles. The staff is knowledgeable, maintains discipline and a strict regimen of activities. The juveniles are treated with respect and courtesy by the staff.

The Grand Jury investigated a medical incident which occurred in January 2011. The nurse on duty who handled this medical incident was well informed as to appropriate procedures to meet the immediate medical needs of the injured juvenile.

During the site inspection, several resident juveniles stated that the water in the facility “tastes bad” and they avoid drinking it. Jurors drank the water and noticed a distinctive metallic taste. The Grand Jury sent a sample of the water to Caltest Analytical Laboratory (Caltest), a certified laboratory that found elevated concentrations of copper. The tested concentration of copper met the California Department of Public Health’s (CDPH) secondary drinking water standards and deemed safe for consumption.

Further investigation discovered that water quality was a concern when the new NCJH facility opened in 2005. Initial water tests by the Napa County Public Works Department (NCPWD) determined that the water did not meet the CDPH secondary drinking water standards for copper. The NCPWD began testing and making corrections until the water met the secondary drinking water standards.

The juveniles, most of whom are teenagers, are at a critical period of maturation and have specific hydration needs. The Grand Jury recommends that the NCPWD develop and implement a plan to address the unacceptable taste in the

facility's drinking fountains to increase the juveniles' ability to stay properly hydrated.

BACKGROUND

As mandated by State law, the Napa County Grand Jury must physically inspect all jail and detention facilities within the County on an annual basis. The Grand Jury inspected the NCJH facility located at 212 Walnut Street, Napa on October 14, 2010.

NCJH has two detention units, Merit and Prospect, with a total capacity for 60 minors. Due to staffing limitations, the facility operates under a self-imposed capacity of 50. The Napa County Office of Education (NCOE) operates the Crossroads school onsite. The California Forensics Medical Group, a medical services contractor for the County, provides an attending nurse.

The NCJH counselors, supervisors, teachers, and managers who were on duty during the Grand Jury's site inspection were cooperative, professional, and dedicated. The facility is clean, orderly, and well maintained. It has meeting rooms, a modern kitchen and two classrooms. The administration collaborates with non-governmental youth organizations and treatment facilities, such as the Wolfe Center, to provide intervention and prevention programs. Although the juveniles detained at the NCJH facility have varying needs and challenges, the Juvenile Hall staff strives to offer supportive programs in a secure and safe environment.

The Court orders some juveniles to be sent to one of the youth camps, run by the Division of Juvenile Justice, formerly known as the California Youth Authority, rather than being held at the NCJH. A juvenile is ordered to a youth camp depending on the severity of the crime or because the juvenile has been unsuccessful at lower levels of intervention in Napa. These camps are for juveniles who need to be separated from their current community. In the fiscal year (FY) 2009-2010, NCJH had 28 juveniles sent to youth camps, a much lower number than in previous years. It is projected that approximately 15 juveniles may be ordered to a youth camp this fiscal year.

When placed on probation, the juvenile is assigned a probation officer who meets monthly with the juvenile, their family and their school. Currently there are about 500 juveniles on probation within Napa County. The juveniles in NCJH who are under 18 years of age must attend Crossroads School, the onsite school administered by NCOE.

The NCJH budget in the fiscal year (FY) 2008-2009 was \$4,577,704, FY 2009-2010 was \$4,583,161 and for the FY 2010-2011 the budget is \$4,804,745. This department's budget has remained stable.

DISCUSSION

The NCJH Facility and Staff

The Napa County Grand Jury's site inspection led by the County's Chief Probation Officer, the Juvenile Hall Superintendent, and Assistant Superintendent began with an overview of the facility operations and challenges. The administrators identified the following issues the staff commonly encounters with the juveniles:

- gang affiliations
- mental health issues
- drug and/or alcohol addiction
- school truancy
- physical, sexual and emotional abuse
- anger and aggression

A merit system based on earned points encourages good behavior. As juveniles demonstrate they can adhere to the NCJH rules and follow the counselors' directions, they are allowed privileges such as:

- making a phone call during designated phone times
- earning the opportunity to watch movies on movie night until their bedtime
- working in the kitchen or garden with staff supervision
- an extra half hour with lights on or radio listening on after their regular "lights out"

The Grand Jury's inspection included a comprehensive walk-through of the facility including observations of:

- visitor lobby
- administrative offices
- intake area
- control room
- nurses' office
- counselors' office
- classrooms

- common area
- locked bedrooms
- outdoor recreation area
- safety cell
- locked holding rooms
- kitchen
- bathrooms and shower rooms

In addition to the site inspection, the Grand Jury reviewed grievances filed by the juveniles since NCJH opened in 2005. Most of the issues consisted of the typical teenage complaints. The Grand Jury did investigate one particular incident involving a broken arm which occurred in late 2010. The investigation found the attending nurse and doctor on call used appropriate procedures to meet the immediate medical needs of the juvenile. The incident did not occur as a result of unsafe conditions within NCJH.

When juveniles enter they receive an assessment of their medical and mental health needs. It is estimated that 50% of these juveniles suffer from drug or alcohol abuse with a similar percentage experiencing mental health issues. Over the past two years, the administration and staff have noticed an increase in the level of violence displayed by the juvenile offenders entering NCJH. This behavior carries over into the day-to-day life within NCJH.

Drinking Water

The site inspection included two separate groups of Grand Jurors. Each had lunch with the juveniles in either the Prospect or Merit detention units.

During lunch some of the juveniles mentioned that they avoid drinking water from the drinking fountains in the common areas and in their bedrooms because of an unpleasant taste.

Jurors sampled the water and noticed a distinctive metallic taste that lasted several hours. The Grand Jury obtained a sample of water from a drinking fountain in the Prospect detention unit of NCJH and a second sample from a faucet located in a different building adjacent to NCJH.

The Grand Jury sent the water sample to Caltest, a certified laboratory that tested both samples for copper. Copper is a common element responsible for a metallic taste in water.

The sample taken from within the facility had a copper concentration more than four times that of the control sample taken from the adjacent building. Table 1 shows the results of the Napa County Grand Jury water test.

CDPH Secondary Drinking Water Standard	1,000 ug/L
Juvenile Hall Fountain Sample	621 ug/L
Control Sample Adjacent Building	146 ug/L

Less than 1,000 ug/L is acceptable

The copper concentrations found by Caltest met the CDPH secondary drinking water standards. Copper concentrations in excess of the CDPH's secondary drinking water standards may pose possible health problems.

Jurors questioned the NCJH administration about the water condition and were advised that the water had been tested by the NCPWD and met the minimum drinking water requirements. NCPWD is responsible for the construction, operation, and maintenance of the NCJH.

The Grand Jury contacted the NCPWD and obtained copies of past water tests of the facility. When the facility opened in 2005, the NCPWD tests demonstrated that copper concentrations in the facility were above the CDPH secondary drinking water standards. After a period of testing and system corrections, the copper concentrations dropped below 1,000 ug/L, thus meeting the CDPH's secondary drinking water standards, and the NCPWD discontinued testing.

Access to Water

The juveniles do not have access to water sources other than the drinking fountains in the common areas of the two detention units and in their bedrooms. If juveniles avoid drinking water, then milk which is served with meals, is their only source of hydration.

Until such time that palatable water is available through the drinking fountains, jugs of water should be available throughout the detention units.

Juveniles residing at NCJH are minors at a critical period of maturation requiring specific hydration needs. Some are on medications which may require hydration. Because of these conditions, the Grand Jury considers the current drinking water within the two detention units at the NCJH unacceptable.

FINDINGS

The 2010-2011 Grand Jury finds that the:

- F1 Juveniles in NCJH do not have access to water sources other than the drinking fountains.
- F2 Drinking fountain water in the NCJH has a metallic taste.
- F3 Juveniles in the NCJH avoid drinking the water due to the metallic taste.
- F4 Water in the NCJH facility currently meets the CDPH's secondary drinking standard for copper.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that:

- R1. Within six months of this report the NCPWD and the NCJH staff develop a plan to eliminate the metallic taste in the water in NCJH.
- R2. No later than February 2012 the NCPWD implement the above plan that will eliminate the metallic taste in the water in NCJH.
- R3. The NCJH provide palatable water within NCJH until the plan to eliminate the metallic taste has been implemented.
- R4. Once palatable water is available from the water fountains in NCJH, that NCPWD conduct regular water taste tests.

REQUEST FOR RESPONSES

Pursuant to California Penal Code section 933.05, the 2010-2011 Grand Jury requests responses from the following individuals:

- Director of Napa County Public Works Department: F2, F4; R1, R2, R4
- Chief Probation Officer of Napa County Juvenile Hall: F1, F2, F3; R3

GLOSSARY

Caltest – California Analytical Laboratory

CDPH - California Department of Public Health

FY – Fiscal Year

NCJH - Napa County Juvenile Hall

NCOE - Napa County Office of Education

NCPD - Napa County Probation Department

NCPWD - Napa County Public Works Department

ug/L - micrograms per liter – a measure of concentration (acceptable level is less than 1,000 ug/L)

Primary Drinking Water Regulations are mandatory. The legally enforced water quality standards for drinking water contaminants were established by the U. S. Environmental Protection Agency. The enforceable standards are based on a maximum contaminant level.

Secondary Drinking Water Regulations are non-mandatory. The legally unenforceable water quality standards for 15 contaminants were established by the U. S. Environmental Protection Agency. These secondary maximum contaminant levels were established as guidelines in the management for aesthetics (taste, color and odor) in public drinking water systems. These contaminants are not considered to present a risk to human health at the secondary maximum contaminant levels.

METHODOLOGY

The Grand Jury conducted an on-site inspection of NCJH that included lunch with the juveniles in the detention areas.

Interviews Conducted:

- California Forensics Medical Group personnel
- Napa County Juvenile Hall personnel

- Napa County Office of Education personnel
- Napa County Probation Department personnel
- Napa County Public Works Department personnel
- Residents of Napa County Juvenile Hall

Documents Reviewed:

- Water Quality Report prepared by Caltest Analytical Laboratory
- Napa County Juvenile Hall Minor Orientation Packet
- Napa County Juvenile Hall Budgets
- 2005 through January 2011, NCJH Juvenile Grievance files
- 2010 California Corrections Standard Authority Biennial Inspection Report



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NAPA COUNTY GRAND JURY

2010-2011

Final Report on the

**NAPA VALLEY UNIFIED SCHOOL
DISTRICT
TRANSPORTATION DEPARTMENT**

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

May 11, 2011

The Honorable Stephen T. Kroyer
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94459

Re: 2010-2011 Grand Jury Final Report on the NVUSD's Transportation
Department

Dear Judge Kroyer,

Pursuant to Sections 933 (a) of the California Penal Code, the 2010 -2011 Napa County Grand Jury submits to you its final report on the Napa Valley Unified School District's Transportation Department. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the fourth in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and pleasure to work with them.

Respectfully submitted,

A handwritten signature in black ink that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa Valley Unified School District's (NVUSD) Transportation Department.

The Grand Jury has carefully investigated this matter and developed a set of findings and recommendations with the objective of representing the public interest.

The Grand Jury has made two recommendations. The first recommends that the NVUSD Board of Trustees evaluate and revise the maximum walking distances in Administration Regulation (AR) 3541 to be consistent with current practices and available financial resources.

The second recommends that the NVUSD Transportation Department use computerized routing tools and a graphic information system to determine if current transportation services are efficient and meet the NVUSD regulations with respect to AR 3541.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

NAPA VALLEY UNIFIED SCHOOL DISTRICT TRANSPORTATION DEPARTMENT

SUMMARY

In order to fulfill the Grand Jury's mandate to investigate Napa County government agencies to assure they are being administered efficiently, honestly and in the best interest of Napa County's residents, the 2010-2011 Grand Jury investigated the Napa Valley Unified School District's (NVUSD) Transportation Department (TD). The focus of this investigation was to determine if school busing services are provided in a safe and efficient manner. The Grand Jury also reviewed applicable state and district policies, codes, and regulations to determine if they are currently followed.

The Grand Jury found that the TD follows safe and responsible training, operation, and inspection practices. The TD is a leader in using alternative fuels which has allowed the NVUSD to acquire vehicles and equipment through Bay Area Air Quality Management District (BAAQMD) grant programs.

The TD provides services to two rider types: Severely Disabled/Orthopedically Injured (SD/OI) and Home to School (H2S). The TD also provides services to students on school related trips. The TD's current challenge is continuing to provide services with a shrinking budget. Because of a legislative requirement to provide services to SD/OI students, H2S and transportation for school related trips are at the greatest risk of a reduction in services.

In anticipation of financial cutbacks, the NVUSD has conducted an internal and external review and is evaluating the recommendations. The Grand Jury recommends that the NVUSD re-evaluate its board policies relative to these recommendations.

BACKGROUND

On an average 2009/10 school day, the TD transported 1,923 students to and from school. In June of 2010, the budget for the TD was reported as \$3,294,180. Over

the same year, the actual expenditures were reported as \$3,175,508. This investigation evaluated the efficiency and safety of these services.

School Transportation Services

California school districts are required by law to provide transportation services to SD/OI students, regardless of annual budget constraints. SD/OI students have special needs and require special accommodations which are addressed through specific legislation and funding. Many SD/OI students have an Individualized Education Program that includes specific transportation accommodations provided at no cost to their parents or guardians.

H2S riders, unlike SD/OI students, do not require special accommodations. The NVUSD is under no legal obligation to provide transportation services to H2S students. However, NVUSD may provide such services, and has chosen to do so.

The NVUSD has discretion to provide transportation services to H2S students. Bus routes may be based on maximum walking distances, safety of walking routes, or both. The maximum walking distance from a student's home school is defined by a school board regulation. The following are current maximum walking distances adopted by the NVUSD's Administration Regulation (AR) 3541:

- grades K-6: 1.25 miles
- grades 7-8: 3 miles
- grades 9-12: 4.25 miles

Routes and Schedules

The NVUSD prepares transportation routes annually for H2S and SD/OI riders. The routing is typically updated at the beginning of each school year and adjusted as needed to address changing needs. There are numerous factors that can influence routing including:

- safety of students and pedestrians
- school bell schedules
- home school boundaries
- number of students a route can service
- funding available for transportation
- school closures

SD/OI routes evolve with the changing conditions and needs of the students. SD/OI vehicles are typically vans or passenger cars and carry fewer riders than

H2S buses. The SD/OI routes require close daily monitoring and the attention of a dispatcher to adjust the routes to fit students' needs.

H2S routes and schedules change less frequently. The bus routes and schedules are established at the beginning of the school year to fit the bell schedules of each school within the district. These routes will typically remain unchanged through the school year.

Methods of Providing Transportation Services

School districts have two options for providing transportation services. The first option is to own and maintain a fleet of vehicles and employ and train qualified drivers. The second option is to contract with a vendor for the necessary equipment and services. The NVUSD owns, operates, and maintains its own fleet and equipment.

School Transportation Safety

School transportation safety is specifically addressed in the California Education Code and District Policies. The Grand Jury has reviewed the codes, policies, and procedures and has identified the following as essential elements of a successful safety plan:

- driver training
- driver certification
- regular vehicle maintenance
- regular vehicle inspection by bus drivers
- annual vehicle inspection by the CHP

The Grand Jury's investigation discovered that NVUSD is a model of how to implement a successful safety plan. This determination is based on driver testimony, evaluation of CHP inspection reports, verification of certifications, and review of the NVUSD training program. The Grand Jury also attributes the success of the safety plan to an uncompromising culture of putting safety first. This culture is a result of ongoing efforts from the transportation supervisor, training instructors, school bus drivers, dispatcher, and shop supervisor.

Alternative Fuel Vehicles and Grant Funding

The NVUSD owns and maintains a fleet of vehicles to provide transportation services. This fleet is comprised of:

- transit buses

- conventional buses
- vans
- passenger vehicles

A noteworthy aspect of the NVUSD's fleet is the emphasis on using alternative fuels. Through grant funding from the BAAQMD's Lower Emissions School Bus Program, the District has funded acquisition of vehicles that run on compressed natural gas and the District is also a pioneer in the use of electric school buses.

DISCUSSION

The transportation services provided within the County serve economically and physically disadvantaged students. School busing reduces congestion and improves air quality by lowering the number of vehicles on the road at peak travel times. These benefits are currently at risk due to funding cutbacks. The ongoing state budget crisis requires NVUSD to find ways to provide services more efficiently or reduce the level of services.

Improving Transportation Efficiency

During the course of the Grand Jury's investigation, two reviews of the TD were conducted. One review was completed internally by the TD, and the other was completed externally by an outside consultant commissioned by the NVUSD. The objective of the reviews was to produce a list of recommendations to more efficiently deliver transportation services. These reviews resulted in the following recommendations:

Summary of Internal Recommendations by the TD

- Change operations and procedures to reduce opportunities for drivers to accumulate overtime hours and meal allowances.
- Evaluate field trips on a case-by-case basis to determine if charter companies can provide transportation services more economically.
- Evaluate walking distances, bell times, safety, and ridership on all routes to consolidate trips and remove buses from service.
- Match the number of TD shop personnel to the current maintenance and service needs based on age of fleet and annual mileage.
- Consolidate and reassign TD staff responsibilities to reduce the number of required positions.

- Evaluate other opportunities to realize savings such as leasing equipment, lengthening frequency of fleet washing, cutting in supervisor's salaries, and implementing more efficient time tracking and time sheet management systems.

Summary of Recommendations by External Transportation Consultant

- Evaluate the abilities of TD transportation staff to perform duties in a more effective and efficient manner.
- Provide training to staff and replace personnel not able to carry out their assigned duties.
- Train and license additional drivers to provide substitute drivers to reduce overtime.
- Use modern computerized tools to develop more efficient routes.
- Develop accounting procedures to determine true costs of providing services to other NVUSD departments other than TD.

The external and internal reviews have resulted in numerous recommendations to improve efficiency. Regardless of the selected approach to reduce costs, there is a high probability that current services will realize a significant reduction. Such reduction must be accomplished without jeopardizing the safety of the students.

Financial Trends in School Transportation

The NVUSD receives restricted and unrestricted revenues from the State. Unrestricted revenues represent about 70% of the funds received by most districts. Restricted revenues are dedicated to a specific category of activities or type of students.

H2S transportation services typically rely on unrestricted funds and compete for funding with other educational needs. Districts may discontinue H2S services at their discretion. SD/OI services rely on restricted revenues. Districts are required to provide these services by law. Only a change in law would allow a district to reduce these services.

The NVUSD reports annual financial results. The Grand Jury acquired the Unaudited Actual Annual Report of Pupil Transportation for the previous five years from the NVUSD to evaluate the financial trends. Figures 1, 2, and 3 compare the trends in expenditures for H2S and SD/OI services.

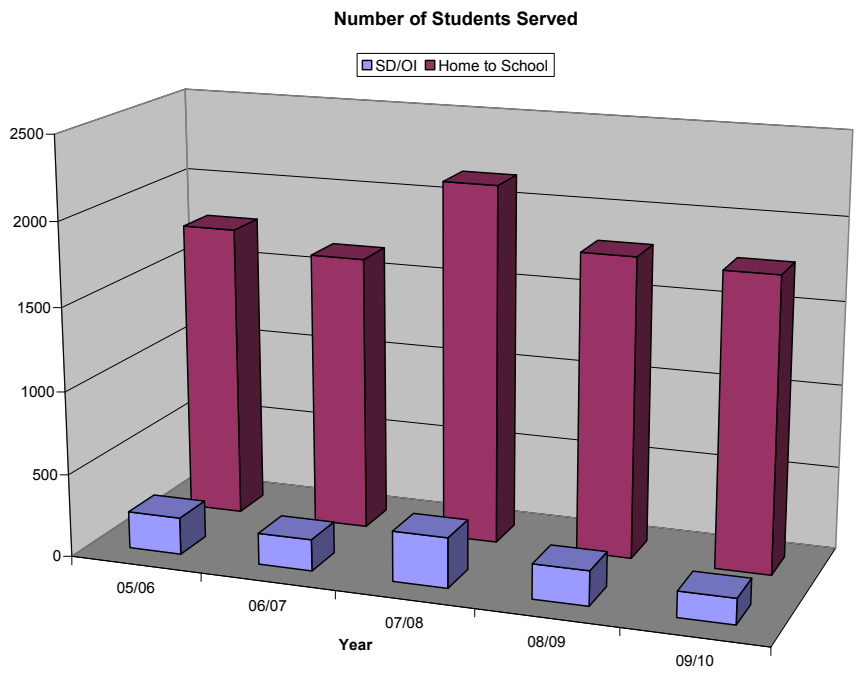


Figure 1

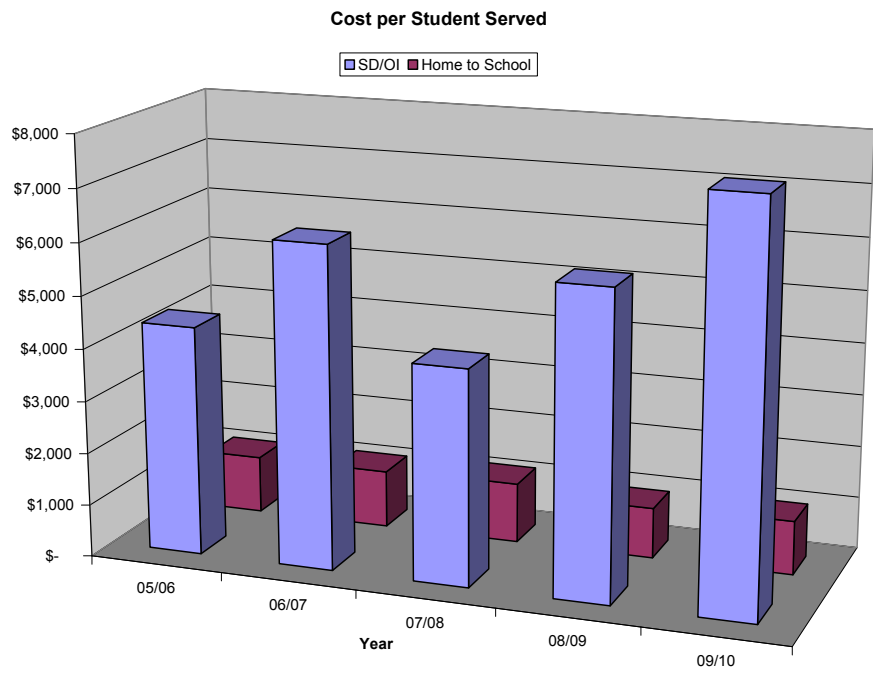


Figure 2

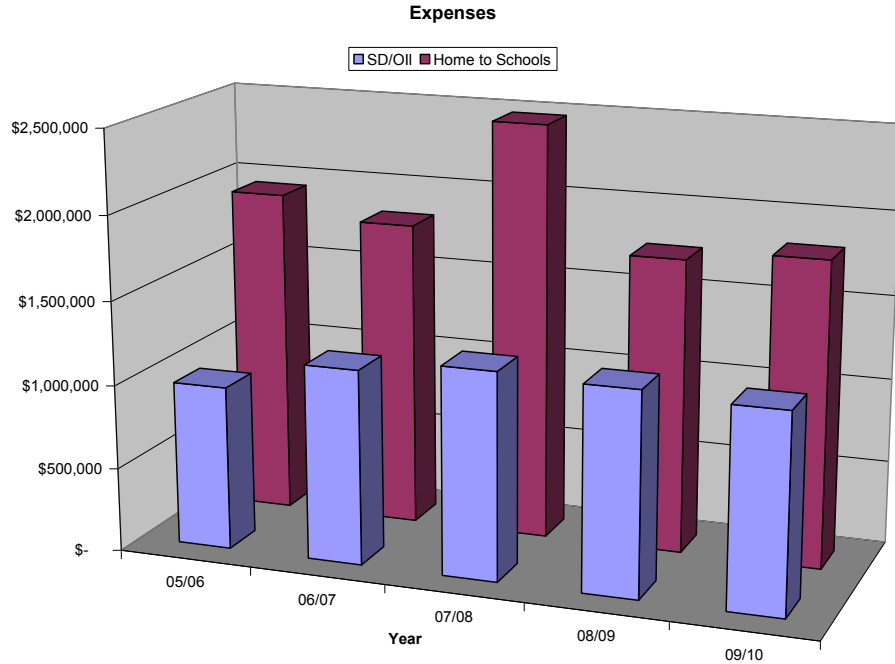


Figure 3

Based on the above financial reporting, the facts and trends in school transportation services are:

- SD/OI serves far fewer students than H2S.
- The number of SD/OI and H2S students served has remained relatively constant over the last five years.
- The cost to provide SD/OI transportation services per student shows an upward trend.

Alignment of Governing Board Policies and Transportation Operations

During this investigation, the Grand Jury found that the operation of the TD relies heavily on the experience and knowledge of a few individuals who develop routes and schedules. The current process of developing routes does not include a means for the TD management or anyone outside of the department to evaluate how well the routes meet the maximum walking distance requirements outlined in AR 3541.

The Grand Jury attempted to compare the maximum walking distances in AR 3541, adopted by the NVUSD on December 19, 1996, with the current services provided to H2S students. In order to make this comparison, the Grand Jury requested a map of school boundaries and the locations of the students who attend each school. This map is not available.

Each school year, the process for setting bus routes is dictated by school bell schedules. The final bus route schedule is published showing the bus stop locations and times. The end result of this process does not provide adequate information for the general public, NVUSD management, or the NVUSD Superintendent to determine if the Board's regulations and goals are being met.

During the Grand Jury's investigation, the NVUSD School Board announced that they plan to cut the 2011-2012 school year budget by as much as \$6.2M. If the NVUSD School Board is considering cutbacks in the TD costs of transportation services, the NVUSD School Board may need to re-evaluate the walking distances relative to the actual services that the district can afford to provide. In order to do this effectively, the District would benefit from an evaluation from the TD about how well services meet the current policies and regulations adopted by the District in AR 3541.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. The NVUSD provides safe transportation services to its students.
- F2. The TD has completed an internal and external review and has developed recommendations to operate more effectively and efficiently.
- F3. The TD does not use computerized routing systems.
- F4. The NVUSD Transportation Department would not provide the necessary information to determine if AR 3541 requirements are met relative to maximum walking distances.
- F5. A substantial portion of NVUSD transportation funds goes to providing services to SD/OI students. Thirty-nine percent (39%) of the TD 2009/10 budget is expended on nine percent (9%) of the students.
- F6. The cost to provide transportation services to SD/OI students on a per student basis shows a rising trend.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that the:

- R1. NVUSD Board of Trustees evaluates and revises the maximum walking distances in AR 3541 to be consistent with current practices and available financial resources.
- R2. Transportation Department uses computerized routing tools and a graphic information system to determine if current transportation services are efficient and meet the NVUSD regulations with respect to AR 3541.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from as follows:

From the following individuals:

- Napa Valley Unified School District Superintendent of Schools: F2, F3, F4, F5, F6; R2
- Napa Valley Unified School District Administrator of General Services: F1, F2, F3, F4, F5, F6; R1

From the following governing bodies:

- Napa Valley Unified School District Board of Education: F1, F2, F4, F5, F6; R1, R2

GLOSSARY

AR – Administration Regulation

BAAQMD – Bay Area Air Quality Management District

CHP – California Highway Patrol

H2S – Home to School excluding SD/OI

NVUSD – Napa Valley Unified School District

SD/OI – Severely Disabled/Orthopedically Injured

TD – Napa Valley Unified School District Transportation Department

METHODOLOGY

Interviews Conducted:

- NVUSD General Services and Operation Department Personnel
- NVUSD Transportation Department Personnel
- NVUSD School Bus Drivers

Documents and Websites Reviewed:

- Bjerke, Joseph K., Transportation Consultant's Report, February 19, 2011
- California Education Code – Section 39800-39809.5 and Section 39830-39842
- Collective Bargaining Agreement between the Board of Education NVUSD and the California School Employees Association, Napa Chapter No. 184
- Department of California Highway Patrol, Inspection letter, September 20, 2010
- NVUSD AR 3541 Transportation Routes and Services, September 20, 2010
- NVUSD AR 3541.1 Transportation for School Related Trips, September 20, 2010
- NVUSD AR 3542 School Bus Drivers, September 20, 2010
- NVUSD AR 3543 Transportation Safety and Emergencies, September 20, 2010
- NVUSD AR 5131.1 Bus Conduct, September 20, 2010
- NVUSD BP 3541.2 Transportation for Students with Disabilities, September 20, 2010
- NVUSD BP 6153 School Sponsored Trips, September 20, 2010

- NVUSD, Budget Information as of June 30, 2010
- NVUSD, Employee Drug Test List, October 1, 2010
- NVUSD, Employee Classifications and Organizational Chart
- NVUSD Map, Prepared by Napa County GIS, May 13, 2003
- NVUSD, Transportation Department, Transportation Efficiency Plan, February 14, 2011
- Various grant documents
- www.baaqmd.gov
- www.cde.ca.gov
- www.nvusd.k12.ca.us



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

**KEEPING TRACK OF NAPA
COUNTY NON-TRADITIONAL OR
ALTERNATIVE HIGH SCHOOL
STUDENTS**

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

May 11, 2011

The Honorable Stephen T. Kroyer
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94459

Re: Keeping Track of Napa County Non-Traditional or Alternative High School Students

Dear Judge Kroyer,

Pursuant to Sections 933(a) of the California Penal Code, the 2010 -2011 Napa County Grand Jury submits to you its final report on the Juvenile Court and Community School options in Napa County. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the fifth in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and pleasure to work with them.

Respectfully submitted,

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa County Office of Education Juvenile Court and Community Schools, sometimes known as alternative schools or non-traditional schools.

The Grand Jury has carefully investigated this matter and developed a set of findings and recommendations with the objective of representing the public interest.

The first is that Napa County school districts provide alternative educational options for high school students. The second finding is that individual schools within a district, as well as the Napa County Office of Education only have access to their own district's databases of student records.

Recommendation number one of the Grand Jury is for all school districts in Napa County provide the Napa County Office of Education with "read only" access to their individual on-line student database. The second recommendation is for the Napa County Office of Education provides "read only" access to all school districts in Napa County to their on-lines student databases.

This would provide a cost effective and efficient way for the schools to find out where a student is in his classroom work without the student losing time and falling behind academically.

The Napa County Office of County Counsel has reviewed this final report and the Napa County Superior Court Presiding Judge has certified the report complies with Title 4 of the California Penal Code. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

Keeping Track of Napa County Non-Traditional or Alternative High School Students

SUMMARY

A small percentage of Napa County public high school students attend Napa County Office of Education (NCOE) Juvenile Court and Community Schools (JCCS). A student who is expelled from his original high school or convicted of a crime outside of school hours will be required to attend one of these schools. Other students may choose to attend an alternative school due to their individual needs. The Grand Jury report investigates whether or not students who attend JCCS are monitored until they achieve a Certificate of Completion (COC) or a High School Diploma (HSD).

The Grand Jury has found that the students are adequately monitored and recommends that all school districts in Napa County provide each other with “read only” access to their student’s on-line academic records when they transfer into another school within the County.

BACKGROUND

California law mandates that students under the age of 18 attend school unless they graduate early. Expelled students or students placed under the jurisdiction of the Court are required to attend school. The NCOE and Napa County school districts provide numerous alternative school options for these students. There are multiple schools and districts that coordinate with NCOE in order to provide alternative educational programs. However, a student’s school of residence maintains responsibility for developing a rehabilitation plan and monitors the student’s progress toward a COC or HSD. The school refers a student to an appropriate educational setting and ensures that an educational program is provided that meets their needs. The NCOE, through its JCCS program, is the provider of educational services for most of the expelled students in Napa County.

The following are NCOE administered alternative schools:

- Community Schools: Liberty High School; Chamberlain High School (operated cooperatively by the NCOE and Juvenile Probation Department)
- Court Schools: Crossroads School (located in Juvenile Hall and serves youth incarcerated in Juvenile Hall); Creekside Middle School (not included in this report).
- Wolfe High School
- Independent Study

The following are other alternative school options:

Napa Valley Unified School District

- Valley Oak High School
- Independent Study

Calistoga Joint Unified School District

- Palisades High School

DISCUSSION

The four school districts, including the NCOE and multiple high schools in Napa County provide a wide range of educational opportunities for high school students. It is critical that educators and administrators communicate efficiently with each other so students have immediate continuation of curriculum when transfers occur.

The Grand Jury examined a relatively small segment of high school students who have been expelled or who have chosen an alternative program to complete their high school education. When students show unacceptable behaviors or poor academic performance, they sometimes need alternative programs and settings to help them complete their high school education. In addition, students under the jurisdiction of the Court will attend one of these schools.

Crossroads School, located in the Napa County Juvenile Hall (NCJH) serves youth under the age of 18, who are incarcerated in NCJH. Some students in NCJH are permitted to leave to attend classes at their school of residence and then return to NCJH at the end of the school day. The decision to allow students to attend their school of residence is based on the seriousness of the student's crime and their behavior while at NCJH. NCJH administrators, supervisors and probation officers make this decision.

Expelled students are sometimes placed in an NCOE Independent Study Program (ISP) while waiting for space to open at an NCOE alternative school. In the past, this program was overcrowded. When NVUSD informally altered its expulsion policy, fewer students were expelled and therefore the number of students in the NCOE Independent Study Program decreased significantly. The ISP is an individualized learning contract between students, their parents, and the District. The school of residence continues to maintain responsibility for developing an educational plan for expelled students.

Napa County Office of Education's Juvenile Court and Community Schools provide individualized, self-contained classroom settings. Students are evaluated upon admission and learning plans are written based on the student's academic placement, behavior, social or emotional needs.

There is considerable student turnover in alternative schools. In order for a student to return to his school of residence, he must meet certain educational and behavioral criteria in the prior semester. Expelled students must present pertinent evidence to the School Board to have their expulsion lifted. Students who are close to graduation or students who are functioning better in NCOE schools may be allowed to stay in the alternative school setting.

NCOE requires fewer credits to graduate because electives are not offered. Students graduating from an NCOE school can receive a Certificate of Completion or a high school diploma. If they earn the required credits and pass the California High School Exit Exam (CAHSEE), they receive a high school diploma. NCOE reported an 80-85% graduation rate for their students.

KEEPING TRACK OF STUDENTS

Statewide Student Identifier Numbers

Since 2003-2004, NVUSD has been assigning a unique Statewide Student Identifier (SSID) number, also known as a CALPADS number, supplied by the State, in addition to a unique internal student ID number for every student. The SSID number is permanent and follows a student throughout any California school enrollment.

When an NVUSD student transfers from one school within NVUSD to another, the receiving school requests the student's NVUSD identification number and all academic and personal records from their previous school. The receiving school must request that student's SSID number from the California Department of Education (CDOE).

Initially students entering kindergarten, transferring from a private school, or enrolling from out of State, the District is required to request a new and unique SSID number from the CDOE for that student.

Incoming students to NVUSD from another district in California are assigned an NVUSD identification number at the time of registration. In addition, the District is responsible for acquiring the student's SSID number from the CDOE. To eliminate confusion concerning identification, the State sends a list of matching names that NVUSD reviews to ascertain the correct SSID number for the student.

When a student transfers to an NCOE Juvenile Court or Community School or to any other school district in the State, the same process is initiated by the receiving school. Upon registering in an alternative school, a copy of the student's transcript is sent to the alternative school to enable a smooth transition into the new school.

If a student leaves the District and enrolls in another district in California, the SSID number follows the student. Any student who previously attended NVUSD, but moved away and then re-enters NVUSD, will use their previously assigned NVUSD identification number.

The SSID number is supposed to enable districts to access a student's profile, language status, special program participation status, test results, and personal information.

Each district in Napa County maintains individual student databases through programs known as *Aeries* or *PowerSchool*. Calistoga is the only district that uses *PowerSchool*. The student databases contain comprehensive information about each student. It is an integrated web portal used by students, parents, teachers and administrators. Within each district each school has its own database unique to that school. School administrators or parents may not access any other schools' database. Therefore, when a student transfers to a new school, the registrar must request transcripts by phone, letter or email. NCOE uses the *Aeries* program for all of its juvenile court and community schools. The juvenile court school has access to NCOE's database.

Our educational system is responsible for preparing our children for success and leadership. It is essential that NCOE and the other school districts in Napa County work together to ensure educational excellence for all students.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. Napa County school districts provide alternative educational options for high school students.
- F2. Individual schools within a district, as well as NCOE, only have access to their own district's on-line databases of student records.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that:

- R1. All school districts in Napa County provide NCOE with "read-only" access to their individual on-line student databases.
- R2. NCOE provide "read only" access to all school districts in Napa County to their on-line student databases.

REQUEST FOR RESPONSES

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

From the following individuals:

- Superintendent, Napa County Office of Education F1, F2; R2
- Superintendent, Calistoga Joint Unified School District F1, F2, R1
- Superintendent, Napa Valley Unified School District F1, F2; R1
- Superintendent, St. Helena Unified School District F1, F2, R1

GLOSSARY

Alternative schools – In the context of this report, “alternative” is used in a broad way to describe any non-traditional school environment and not a reference to a specific school.

Aeries – The *Aeries Student Information System* is a fully integrated web portal for teachers, parents, students, and school administrators. It provides secure web access to student information, including attendance, grades, assignments, test scores, assessment standards, and more.

CAHSEE – California High School Exit Exam

CALPADS – The California Longitudinal Pupil Achievement Data System is used to maintain individual-level data including student demographics, course data, discipline, assessments, staff assignments, and other data for state and federal reporting.

CDOE – California Department of Education

COC - Certificate of Completion – Indicates completion of the required credits, but failed the CASHEE test

Expulsion – The process of removing a student from a school, usually due to disciplinary actions or truancy.

HSD - High School Diploma – Awarded to students who complete the State of California required credits and pass the State of California High School Exit Exam.

ISP - Independent Study Program– Independent study students work independently, according to a written agreement and under the general supervision of a credentialed teacher or teachers. While independent study students follow the district-adopted curriculum and meet the district graduation requirements, independent study offers flexibility to meet individual student needs, interests, and styles of learning.

JCCS - Juvenile Court and Community Schools – Schools run by the Napa County Office of Education

Monitor – To oversee, follow, or track

NCJH – Napa County Juvenile Hall

NCOE – Napa County Office of Education

NVUSD – Napa Valley Unified School District

PowerSchool – The *PowerSchool Student Information System* is a fully integrated web portal for teachers, parents, students, and school administrators. It provides secure web access to student information, including attendance, grades, assignments, test scores, assessment standards, and more.

School of Residence – The school assigned to a student upon enrolling in the district, also known as the home school.

SSID – Statewide Student Identification

Student databases – informational programs that contain pertinent academic information

METHODOLOGY

Information for this investigation was gathered through numerous interviews, document analysis, Internet research, e-mail communications, and on-site visits. Documentation was obtained from several interviewees.

Interviews Conducted:

- Napa County Office of Education personnel
- Napa Valley Unified School District personnel

Documents and Websites Reviewed:

- CALPADS Background/History
- Napa County Plan for Serving Expelled Youth, July 1, 2009 -2012
- NCOE Action Plan: Juvenile Court and Community Schools, December 1, 2009
- NCOE Independent Contracts

- NCOE Juvenile Court and Community Schools Goals, Accomplishments and Challenges
- NCOE Juvenile Court and Community Schools; Juvenile Hall – Crossroads School, Yearly Report for 2009-2010
- NCOE Organizational Chart
- NCOE: Criteria to Return NVUSD Student to NVUSD
- NCOE Suspension Policy and Use of the Time-Out Room
- NCOE Suspension Reports, October 1, 2010 – November 4, 2010
- NVUSD: Criteria to for NCOE to Return NVUSD Student to District
- NVUSD High School Action To Be Taken Re Behavior
- www.cde.ca.gov
- www.ncoe.k12.ca.us
- www.nvUSD.k12.ca.us



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

**NAPA COUNTY'S FINANCIAL
GATEKEEPER
THE AUDITOR-CONTROLLER**

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

May 25, 2011

The Honorable Stephen T. Kroyer
Presiding Judge
Superior Court of the State Of California
County of Napa
825 Brown Street
Napa, CA 94559

Re: 2010-2011 Napa County Grand Jury Final Report on the Napa County Auditor-Controller's Department

Dear Judge Kroyer:

Pursuant to Section 933(a) of the California Penal Code, the 2010-2011 Napa County Grand Jury submits to you its final report on the Napa County Auditor-Controller's Department. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the sixth in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and a pleasure to work with them.

Respectfully submitted,

A handwritten signature in black ink that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa County Auditor-Controller's office.

California Penal Code Sections 919 (a) and 919 (b) mandate the Grand Jury to annually inspect detention facilities within the County. The 2010-2011 Grand Jury found that the Napa County Auditor-Controller's Department (A-C) demonstrates commendable diligence in maintaining complete accounting records of all departments within Napa County. The independent audit process is in place and working effectively. The Grand Jury recognizes the professionalism of this County department. The strict use by the A-C of federal and state guidelines, together with continuing training programs, assures the public of well-managed and secure controls.

The Grand Jury made five recommendations. The first recommends that the County departments use the Cal-Card. The second recommends that the Peoplesoft© "Procure to Pay" process be fully configured and implemented for use by all County Departments by the end of the 2011/2012 fiscal year. The third recommendation is the Auditor-Controller's Department consolidates the chart of accounts to 500 or less. The fourth and fifth recommendations are the Auditor-Controller's Department publish an annual printed summary providing a brief overview of the County's financial condition and include it on the County's website.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

NAPA COUNTY'S FINANCIAL GATEKEEPER THE AUDITOR-CONTROLLER

SUMMARY

California Penal Code Section 925 authorizes the Grand Jury to investigate and report on the operations, accounts, and records of the officers, departments, and functions of a county. The 2010-2011 Napa County Grand Jury, as a function of its charge to investigate and report to the residents of Napa County regarding their local government departments and entities, conducted an investigation of the Napa County Auditor-Controller's Department (A-C). The last investigative report of the A-C was published by the 2003-2004 Grand Jury.

Because the A-C is required to maintain the financial integrity of Napa County, the Grand Jury reviewed the department's policies, systems and procedures. Areas of investigation included interviews with personnel from the A-C, the Purchasing Department, and the Information Technology Services Department (ITS), as well as an ITS tour of the area housing the County's computer mainframe. Additional information was provided by researching other counties' use of CAL-CARD, a state sponsored credit card used for County purchases and services. The Grand Jury also interviewed and received information from the independent auditor who is contracted by the Board of Supervisors (BOS).

The Grand Jury's review found that the A-C demonstrates commendable diligence in maintaining complete accounting records of all departments within Napa County. The independent audit process is in place and working effectively. The Grand Jury recognizes the professionalism of this County department. The strict use by the A-C of federal and state guidelines, together with continuing training programs, assures the public of well-managed and secure controls.

BACKGROUND

The 2010-2011 Napa County Grand Jury investigated the A-C. The 2003-2004 Grand Jury's investigative report found that the A-C staff did not have the necessary training to implement the new version of the PeopleSoft® software. The 2010-2011 Grand Jury discovered that staff training on PeopleSoft® is adequate, but there are still processes of the PeopleSoft® software which are not being fully utilized. One under-utilized process is "Procure to Pay" which streamlines the operations of the A-C and the Purchasing Manager.

The A-C's statutory mandates are found in the California Government Code beginning with Sections 26900. The Auditor-Controller is the elected chief financial officer of the County and is responsible for maintaining the accounts of County government, Joint Powers Authorities (JPAs) and various Special Districts. The Auditor-Controller has described the mandate of that office as follows:

To maintain the financial integrity of Napa County by effectively providing oversight through accounting policies, procedures, systems, internal audits for the benefit of County Departments, JPAs, Special Districts, and the residents of Napa County. Those responsibilities include:

- allocating property taxes;
- processing payments and payroll for the County, JPAs, and Special Districts;
- managing County bond issuances;
- maintaining County financial records and ensuring compliance with Generally Accepted Accounting Principles;
- preparing financial reports for the County, State, and Federal authorities;
- compiling and monitoring the County's budgeted revenues and appropriations;
- performing internal audits of County departments; and
- providing accounting services and support to JPAs and Special Districts.

There are approximately 20 accounting personnel staffing the A-C office (See Appendix I). The last three A-C operating budgets were as follows:

- 2008-2009 \$2,765,703
- 2009-2010 \$2,632,807
- 2010-2011 \$2,601,348

DISCUSSION

The A-C receives, enters, processes, tracks, accounts for, and publishes a large amount of data for each County department and other County entities in its course of daily activities.

Department Policies and Procedures

Periodic internal audits are conducted by the A-C in order to provide oversight for the management of Napa County's financial policies and procedures. Each year a Comprehensive Annual Financial Report (CAFR) is prepared and made available to the public.

As required by law, an independent auditor is also contracted by the Napa County BOS to provide an annual audit. The County contracts with an auditor for a three-year contract which allows for two extensions, one year each. At the end of the contract a new request for proposal is put out to bid. A report is subsequently presented to the BOS for approval. The independent auditor's report becomes part of the CAFR and also provides the County with a Single Audit Report concerning federal awards. The auditor uses government auditing standards which are the same as those used for private business audits. The Auditing Standards Board, a unit of the American Institute of Certified Public Accountants, issues these auditing standards.

All County departments are reviewed by the independent auditor. Specific departments are then chosen to be audited in more detail. In addition, the A-C can request this auditor to audit other entities within the A-C accounting purview, e.g., JPAs and Special Districts. Examples of some recent independent audits of other entities chosen by the A-C include:

- Napa County Flood Protection and Watershed Authority
- Napa County Flood Control District
- Napa In-Home Support Services
- Napa Local Area Formation Commission (LAFCO)
- Napa-Vallejo Waste Management Authority
- Upper Valley Waste Management Authority
- Napa Parks District
- Napa Sanitation District

There are approximately 3500 accounts in the A-C's chart of accounts. The Chart of Accounts includes, but is not limited to, customers, vendors, accounts payable, accounts receivable, payroll and expenses. A review and consolidation to reduce the number of accounts is being performed with a goal of reaching less than 500 accounts.

Grant Procedures of the County

The State of California is the source of most grants and most of those funds originate from the federal government. County department heads initiate the process by completing a proposed Grant Application which is submitted to the County Executive Office (CEO) for review and preliminary approval. Upon preliminary approval each department head submits the application to County Counsel and the Auditor-Controller for their approval before resubmitting to the CEO.

Once the grant application is approved by the CEO, County Counsel and the Auditor-Controller, the department head submits the completed application to the appropriate agency. When the granting agency notifies the department that the grant has been approved for funding, the department head requests that the item be put on the next possible BOS agenda for approval of the proposed contract. After the BOS approval, the Clerk of the Board of Supervisors processes the appropriate contractual documents.

The County does not offer grant application writing and procedure training. No formal training is available and County employees must rely on on-the-job training at the County level or from private seminars. However, there usually is someone within each department with some grant writing experience who can write the application or provide assistance. If necessary, assistance can be requested from the A-C. The granting agency prioritizes the grants requested based on the written narrative, how the grant will be used, and the critical needs of the department.

During the independent audit of the various grant fund records of the A-C, findings of items that need correction in order to be in compliance with the government regulations are listed. If a finding is not corrected, it will be repeated in the next annual Single Audit Report. The independent audit process is in place and working effectively.

American Recovery and Reinvestment Act

As reported by the 2009-2010 Grand Jury, funds received by Napa County through the American Recovery and Reinvestment Act of 2009 (ARRA) are processed by the A-C. The ARRA program (also called the federal stimulus program) is ongoing in Napa County in 2011. Some of these projects include the following County entities: Lake Berryessa Resort Improvement District, Public Works, Health and Human Services, Alcohol and Drug Services. The 2010-2011 Grand Jury learned that these federally funded grant projects are expected to be completed by the end of 2011 or shortly thereafter. Updates are provided on the

County website <http://www.countyofnapa.org/Auditor/> on a quarterly basis (See Appendix II).

Computer Software

The County uses PeopleSoft® software, a computer accounting program, for most of its data processing functions. This system is heavily engaged in the everyday operations of financial controls including travel and expense management, asset life cycle management, timekeeping and payroll procedures, chart of accounts, and accounts payables. PeopleSoft® was designed to provide comprehensive business solutions to increase productivity, accelerate performance, and lower the cost of doing County business. This system allows access to all business functions. Although this is a comprehensive program, Human Resources uses different software which is not part of the PeopleSoft® program. The other software program is more user friendly for the Human Resources' personnel.

Computer Mainframe Location

The Grand Jury investigation discovered that both the County's mainframe computer and the A-C are located in the lower level of the County Administration building on Third Street in Napa. A concern by staff about flooding of this lower level area was eliminated by examination of flood maps, including the City of Napa's New Flood Hazard Map, which shows this county building is not in the flood plain or floodway (See Appendix III).

Methods and Procedures of Purchasing

The Grand Jury's investigation of purchasing practices within the County departments revealed that personal credit cards are used for purchases. A State sponsored credit card program, CAL-CARD, is used by other counties throughout the State to acquire goods and services. Using the CAL-CARD would effectively save the County time and money by tracking department and vendor purchases.

CAL-CARD can be used as a supplemental tool for approved departmental expenses which are more efficiently acquired by credit card, or as a tool to do business with vendors that do not accept purchase orders. The CAL-CARD program would require a County assigned Agency Program Administrator (APA) to coordinate the program with US Bank that issues the card (VISA). The APA would oversee the issuance of the CAL-CARDS, the credit amount allowed on each card, and monitor the program to ensure County policies relating to the card are being followed.

Although the County A-C is responsible for paying and accounting for the County's financial obligations, it is the CEO who is responsible for authorizing

and controlling the County's expenditures. Some department heads would like the County to begin using CAL-CARD. Until recently, the CEO has been slow to facilitate the implementation of this card for County purchases. However, currently the policies and procedures for the use of the CAL-CARD are being developed and will be brought to the BOS for approval. The A-C's goal is to have a pilot program in place by the end of the calendar year 2011.

In January 2011, the BOS adopted a new Purchasing Policy Manual to be used by County departments. A summary of information from that manual is shown as Appendix IV.

"Procure to Pay"

The Grand Jury's investigation found County departments have the "Procure to Pay" process available in the PeopleSoft® software. Substantial parts of this process are not being used. This process facilitates the entire procurement procedure from issuing a requisition and obtaining approval, to issuing the purchase order, verifying receipt of the order and issuing payment electronically. This is accomplished by what is termed "electronic approval routing" with the assistance of document imaging. All documents, approvals, and procedures are accomplished and retained in the County computer. This process eliminates the requirement to "go find the document in a file cabinet" by having it electronically available on demand, saving time, money and paper. This process also incorporates electronic fund transfers as a significant means of paying vendors.

To make the "Procure to Pay" process operational, personnel from Purchasing, CEO, ITS, and A-C must design requisition workflows to fit the County's purchasing policy and procedures. The process then can be configured for local operations.

Once this "Procure to Pay" process is fully operational, which is anticipated to be sometime in 2012, it would facilitate purchasing in all County departments and would simplify the A-C's accounting process. Until the process is adopted in its entirety and all department personnel are trained in its function, a purchase order form has been developed and implemented for all purchases of less than \$1000. Early in the Grand Jury's investigation, department purchases for less than \$1,000 were processed without uniformity or clear account tracking.

Published Accounting Reports

Two current financial documents for Napa County are the Final Budget for 2010-2011 (810 pages) and the CAFR for June 30, 2010 (203 pages). These reports and other documents can be found on the County's website:

<http://www.countyofnapa.org/Auditor/> under the title “Current Financial Information.”

A brief publication summarizing current Napa County's budget, financial conditions, and issues of importance would provide the public with a quick source of information. Examples of possible summary topics are: county services, financial summary, financial trends, county revenues, debt rating, county expenditures by function, and budget review. A summary such as this is published by a neighboring county auditor-controller for the residents of that county.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. The County does not provide formal training for grant procedures and application writing.
- F2. The A-C is using an excessive number of accounts (about 3500) in its chart of accounts.
- F3. Personal credit cards are being used for some purchases by Napa County employees.
- F4. The County is not using CAL-CARD.
- F5. The “Procure to Pay” process of PeopleSoft® is under-utilized.
- F6. The A-C does not publish a brief summary of the County’s financial condition.
- F7. The Napa County Administration Building on Third Street is not in the current flood plain.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that:

- R1. County departments start to use Cal-CARD.
- R2. The PeopleSoft® “Procure to Pay” process be fully configured and implemented for use by all County Departments by the end of the fiscal year 2011-2012.
- R3. The A-C implement a consolidated chart of accounts of 500 or less within one year.

- R4. The A-C publish an annual printed summary providing a brief overview of the County’s financial condition within one year.
- R5. The A-C include on the County’s website an annual summary providing a brief overview of the County’s financial condition within one year.

REQUEST FOR RESPONSES

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

- The Auditor-Controller of the County of Napa: F1, F2, F3, F4, F5, F6; R1, R2, R3, R4, R5.
- The Executive Officer of the County of Napa: F1, F3, F4; R1.
- The Director of the Information Technology Services Department of the County of Napa: F5; R2.
- The Director of the Public Works Department of the County of Napa: F7.
- The Purchasing Manager of the County of Napa: F3, F4, F5; R1, R2.

COMMENDATION

The A-C demonstrates commendable diligence in maintaining complete accounting records of all departments within Napa County. The Grand Jury also recognizes the talents and professionalism of this County department.

GLOSSARY

A-C – County of Napa Auditor-Controller’s Department

APA – Agency Program Administrator

ARRA – American Recovery and Reinvestment Act

CAFR – Comprehensive Annual Financial Report

CEO – County Executive Office

ITS – Information Technology Services

JPA – Joint Powers Authority

PeopleSoft® – software used by County departments

"Procure to Pay" – a process in PeopleSoft® used for purchasing

METHODOLOGY

Information for this investigation was gathered through numerous interviews, document analysis and Internet research.

Interviews conducted included personnel from:

- County of Contra Costa, Purchasing Department
- County of Napa, A-C Department
- County of Napa, ITS Department
- County of Napa, Purchasing Department
- County of Sonoma, A-C Department
- Gallina LLP, Certified Public Accountants, independent auditor

Field trip taken:

- ITS personnel provided the Grand Jurors with a tour of the site housing the County's computer mainframe equipment.

Documents and Websites reviewed:

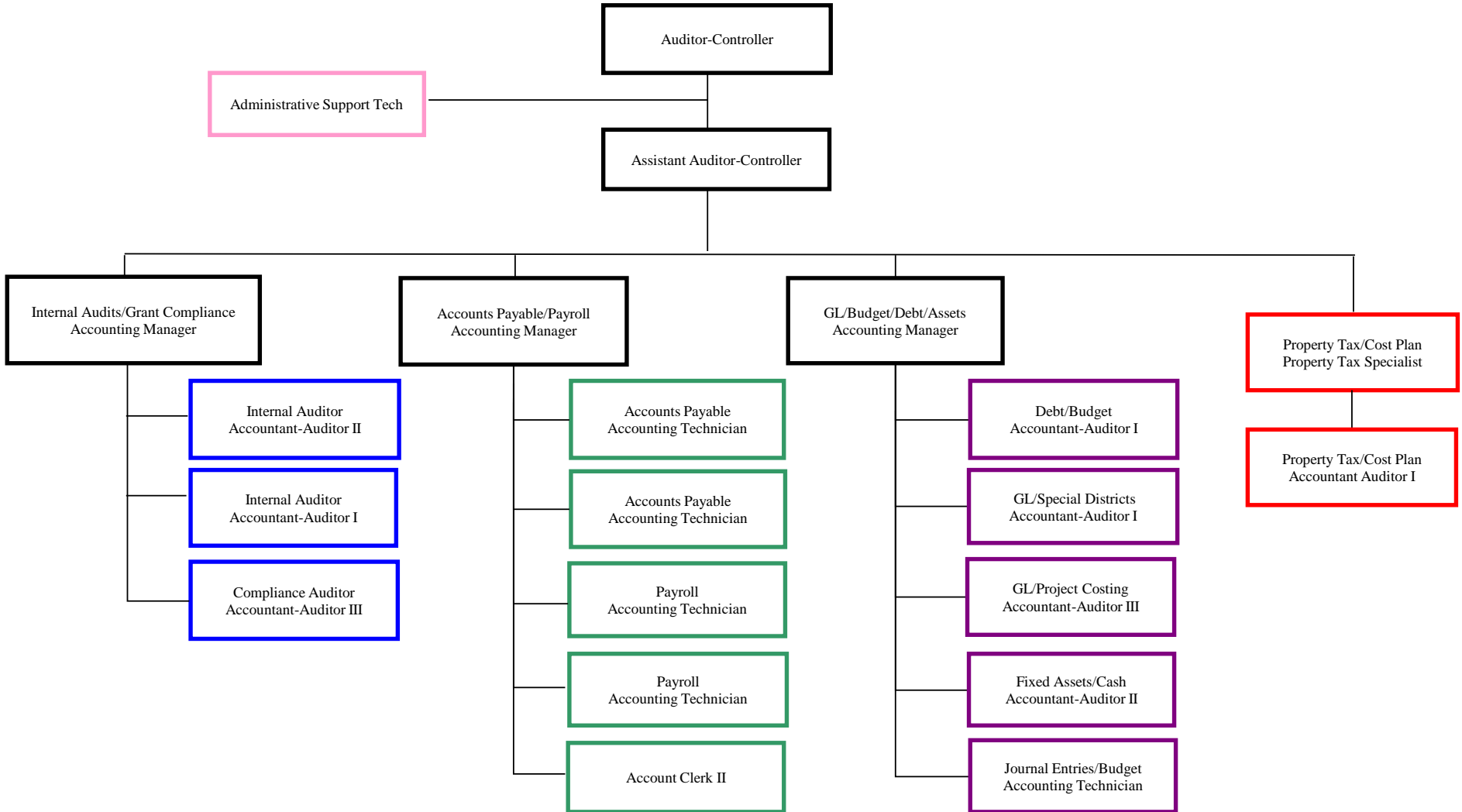
- American Recovery and Reinvestment Act Funding Award
- California Government Code, Sections 26900
- California Penal Code, Section 925
- City of Napa's New Flood Hazard Map
- County of Contra Costa, Procurement Card Program
- County of Napa, A-C Department Organizational Chart
- County of Napa, Agreement No. 7239, Professional Services Agreement, for Audit
- County of Napa, Final Budget, Fiscal Years 2008/09, 2009/10, 2010/11
- County of Napa, Purchasing Policy Manual, January 13, 2011
- County of Napa, Request For Proposals for Professional Auditing Services, March 2, 2011
- County of Sonoma, CAL-CARD Program

- County of Sonoma, “Citizens’ Report,” a financial information brochure
- Gallina LLP, Certified Public Accountants, CAFR, Independent Auditor's Report 2010-2011
- Gallina LLP, Certified Public Accountants, County of Napa Single Audit Reports for fiscal years 2009/10 and 2010/11
- www.countyofnapa.org
- www.recovery.gov
- www.sonoma-county.org

APPENDIX

- I. Napa County, A-C Organizational Chart, 2010
- II. Napa County, ARRA Report, December 31, 2010
- III. City of Napa, New Flood Hazard Map
- IV. Summary from Napa County Purchasing Policy Manual, January 13, 2011

NAPA COUNTY AUDITOR-CONTROLLER'S DEPARTMENT
Effective May 17, 2010



- Support Staff
- Internal Audits/Grant Compliance
- Accounts Payable/Payroll
- Accounting/Financial Reporting/Budgeting
- Property Tax/Cost Plan
- Management

NAPA COUNTY - AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING AWARDED **UPDATED: 12/31/2010**

ID	Department	Program Name	Project Description	Awarded *	Payments Received **	Project Status
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REIMBURSABLE GRANTS

Reimbursable grants are those which the County receives payment after the expenditures have been incurred and claimed to the State.

1.1	Lake Berryessa Resort Improvement District	Safe Drinking Water State Revolving Fund: Water Treatment Plant Project	Replacement of the District's water treatment plant to maintain compliance with safe drinking water standards.	\$ 1,737,957	\$ 596,852	In progress
1.2	District Attorney's Office	Violence Against Women Vertical Prosecution	The Napa County District Attorney's Office is vested with the responsibility of county-wide criminal prosecution. Within that agency, a unit devoted to the vertical prosecution of adult sexual assault, domestic violence, and stalking will be created. The unit comprising a full-time prosecutor, two part-time DA investigators, a full-time legal secretary, and a full-time victim's advocate, will service the population of the County, specifically victims of adult sexual assault, domestic violence, and stalking. A County match of \$75,000 is required with this agreement.	225,000	142,573	Grant Closed Out - Awaiting final payment.
1.3	Public Works	Clean Water State Revolving Fund : Napa River Restoration - Rutherford Reaches 1 & 2	Generally consists of a river rehabilitation project on 1.3 miles of the Napa River on agricultural land. It is the first phase of implementation of a 4.5 mile ongoing project. This project will address the Total Maximum Daily Load identified problems of sedimentation due to channel incision and bank erosion, restore channel complexity and habitat diversity, and reconnect historic side channels.	977,307	635,693	In progress
1.4	Public Works	Silverado Trail Overlay Tier I	Road pavement overlay along Silverado Trail extending from Glass Mountain Road to Bale Lane and from Howell Mountain Road extending 3,000 ft North.	725,000	585,916	Project & Payments Complete
1.5	Public Works	Atlas Peak Overlay	Road pavement overlay along Hardman Avenue from Silverado Trail to Atlas Peak Road; and from Atlas Peak Road from Hardman Avenue to Monticello Road (SR 121).	775,000	471,070	Project & Payments Complete
1.6	Public Works	Silverado Trail Overlay Tier II	Road pavement overlay along Silverado Trail from 3,000 ft North of Howell Mountain Road to Deer Park Road.	380,000	-	Project Complete - Awaiting final payment
1.7	Health & Human Services	Workforce Investment Act (WIA) Formula Grants	Workforce Investment Act formula grants have been received in the Adult, Youth, Dislocated Worker and Rapid Response programs. Services are provided through One Stop Career Centers and are designed to provide quality training and employment services to assist eligible individuals in finding and qualifying for meaningful employment. Rapid Response services are provided for those employees who are expected to lose their jobs as a result of company closings and mass layoffs. The Youth Program is intended to serve eligible low income youth, ages 14-21, who face barriers to employment.	901,024	670,451	In progress
1.8	Health & Human Services	WIA Green Regional Education and Employment in the North Bay	A collaboration among the four Workforce Investment Boards (WIBs) of Sonoma, Solano, Napa, and Marin Counties has managed funding for the benefit of employers and consumers of the workforce development system. The WIB group has received this grant to provide Green Regional Education and Employment services in the North Bay to respond to the need for qualified workers in "green" industries (energy efficiency, water, and renewable energy). The County of Sonoma serves as the administrative entity responsible for distributing the funding and monitoring outcomes. Napa County was awarded \$221,577, which will be used to train and certify unemployed construction workers interested in becoming Green Building Professionals, Building Performance Evaluators, or Water/Energy Auditors. A County match is required.	221,577	31,061	In progress

* Awards are for the entire term of the grant and can span multiple fiscal years.

** Payments received are to date and are not indicative of the fiscal year received.

NAPA COUNTY - AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING AWARDED **UPDATED: 12/31/2010**

ID	Department	Program Name	Project Description	Awarded *	Payments Received **	Project Status
1.9	Alcohol & Drug Services	Substance Abuse Treatment Program	JAG funding will be used exclusively for PC 1210 (Proposition 36) clients to enhance treatment services; increase the percentage of clients who remain in, and complete, treatment; reduce delays in access to treatment; and implement a Drug Court model for these non-violent offenders.	\$ 250,773	\$ 63,980	In progress
1.10	Probation	Evidence Based Probation Supervision	The Probation Department will institute a new evidence-based supervision caseload utilizing a newly funded limited term Probation Officer to provide comprehensive, evidence-based case management to serve Napa County resident transitional age youth who have been convicted of a felony and placed on adult probation and are medium to high risk offenders.	177,841	16,752	In progress
1.11	District Attorney's Office	Anti-Drug Abuse (ADA) Enforcement Team Program	To enhance the on-going ADA Enforcement Team efforts through targeted multiple annual narcotics warrant sweeps and probation searches by prioritizing the highest risk offenders and holding them accountable through arrest and prosecution. Additionally, to cover overtime expenses of Child Protective Services to assess and protect drug-endangered children encountered in warrant arrests and probation sweeps. To enhance prevention and intervention efforts to reduce substance abuse of juveniles through use of evidence based diversion and community programs.	336,123	5,868	In progress
1.12	Public Works	Silverado Trail Overlay Tier III	Road pavement overlay along Silverado Trail from Larkmead to Bale Lane.	433,757	-	In progress
SUB TOTAL REIMBURSABLE				\$ 7,141,359	\$ 3,220,216	

ADVANCE BASIS GRANT

Advance basis grants are those which the County receives payment in advance before the expenditures have been incurred. Expenditures reports are submitted to the State quarterly.

2.1	Health & Human Services	Homelessness Prevention and Rapid Re-housing	This grant is intended to provide a variety of short-term support services that link participants to community resources to prevent housing instability. Specifically, this program will be used to provide financial assistance to prevent families or individuals from becoming homeless, and assist those who are homeless to be quickly re-housed.	\$ 1,600,000	\$ 800,000	In progress
SUB TOTAL ADVANCES				\$ 1,600,000	\$ 800,000	

ALLOCATIONS/ENHANCED REIMBURSEMENT

The funding sources below are either allocated amounts to the County or an increase in the federal participation reimbursement rate. Accordingly, there is no "Award" amount as in a typical grant. The amount that appears in the "Award" column is instead an amount that the County estimates will be received over the term of ARRA. Amounts reported are the gross ARRA payment. However, in response to the increase in federal funding, the State has reduced their assistance payment in certain circumstances. Where this has occurred, the net payment has been highlighted.

3.1	Health & Human Services	Emergency Contingency Fund for Temporary Assistance for Needy Families (TANF) Program	The Emergency Contingency Fund provides for 80% federal match on increased expenditures for strategies designed to meet a family's basic needs or increase their engagement in work. Napa County has developed a plan to implement a subsidized employment component in the CalWORKs Welfare to Work program and a nonrecurring benefits program aimed at serving CalWORKs families and/or families that are below 200% of the federal poverty level.	\$ 506,813	242,052	In progress
3.2	Health & Human Services	Supplemental Nutrition Assistance Program (Administration) ¹	Provides federal financial aid to agencies for the costs incurred to operate the Supplemental Nutrition Assistance Program. Formally, known as the Food Stamp Program.	27,166	27,166	Payments Complete
				Net \$4,075	Net \$4,075	
3.3	Health & Human Services	Foster Care Assistance Enhanced Federal Medical Assistance Percentage (FMAP)	The Federal Medical Assistance Percentage is 50%. The American Recovery and Reinvestment Act has provided a temporary increase to 56.2%.	228,812	203,732	In progress
				Net \$137,650	Net \$122,602	
3.4	Health & Human Services	Adoptions Assistance Enhanced Federal Medical Assistance Percentage (FMAP)	The Federal Medical Assistance Percentage is 50%. The American Recovery and Reinvestment Act has provided a temporary increase to 56.2%.	161,006	147,314	In progress
				Net \$45,160	Net \$36,944	

* Awards are for the entire term of the grant and can span multiple fiscal years.

** Payments received are to date and are not indicative of the fiscal year received.

NAPA COUNTY - AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING AWARDED

UPDATED: 12/31/2010

ID	Department	Program Name	Project Description	Awarded *	Payments Received **	Project Status
3.5	Health & Human Services	In-Home Supportive Services (IHSS) Provider Payments Enhanced Federal Medical Assistance Percentage (FMAP)	The Federal Medical Assistance Percentage is 50%. The American Recovery and Reinvestment Act has provided a temporary increase to 61.59%.	\$ 311,681	\$ 311,681	Payments Complete
3.6	Health & Human Services	In-Home Supportive Services (IHSS) Provider Benefits Enhanced Federal Medical Assistance Percentage (FMAP)	The Federal Medical Assistance Percentage is 50%. The American Recovery and Reinvestment Act has provided a temporary increase to 61.59%.	149,591	98,646	In progress
				Net \$52,552	Net \$34,705	
3.7	Health & Human Services	Mental Health Enhanced Federal Medical Assistance Percentage (FMAP) ²	The Federal Medical Assistance Percentage is 50%. The American Recovery and Reinvestment Act has provided a temporary increase to 61.59%.	1,718,201	901,182	In progress
				Net \$1,130,056	Net \$602,822	
3.8	Health & Human Services	Public Health Enhanced Federal Medical Assistance Percentage (FMAP)	The Federal Medical Assistance Percentage is 50%. The American Recovery and Reinvestment Act has provided a temporary increase to 61.59%.	170,499	103,058	In progress
3.9	Child Support Services	Administration for Children and Families ³	The Recovery Act temporarily allows states to receive federal matching funds for program costs paid for with federal incentive payments. This affects only the County mix of federal/state funding.	934,902	879,848	In progress
SUB TOTAL ALLOCATION/ENHANCEMENTS				\$ 4,208,671	\$ 2,914,679	
GRAND TOTAL				\$ 12,950,030	\$ 6,934,895	

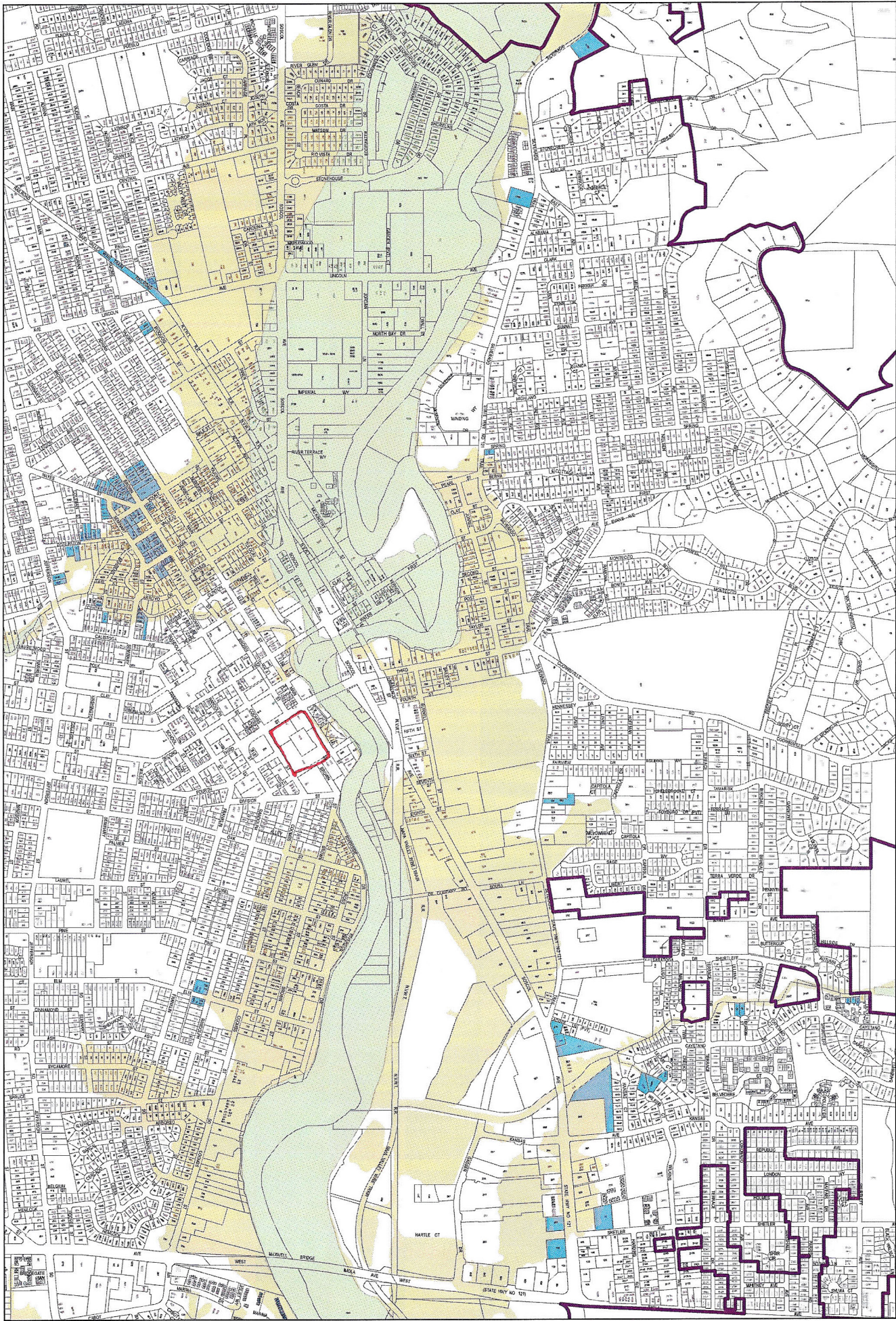
* Awards are for the entire term of the grant and can span multiple fiscal years.

** Payments received are to date and are not indicative of the fiscal year received.

1 The State remits invoices to the County for the County's share of Provider Payments. Since ARRA increased the federal funding for this program, the State reimbursed the County for previous payments made in which the ARRA increase had applied. Going forward, the State invoices the County the net amount. No additional payments are expected to be received.

2 The Mental Health Federal Medical Assistance Percentage is provisionally billed to the state and is not final at this time. The State has three years to make adjustments to these billings. For this reason, the amount received represents the payments estimated to be received by the County.

3 There is no net increase in payment to the County, only a change to the ratio of federal/state funding.



- Legend**
- Areas with Flood Damage
 - Floodway
 - Road Plan
 - City Boundary
 - Parks



**City of Napa
New Flood Hazard Map
Floodway & Flood Plain**



APPENDIX IV

Summary from the Napa County Purchasing Policy Manual

In January 2011, the County Board of Supervisors adopted a new purchasing policy manual to be used by County departments. This manual includes the following information:

- The County Executive Officer shall be the chief County Purchasing Agent.
- The Purchasing Agent heads the Purchasing department, which is a division of the County Executive's office.
- The Purchasing Agent may delegate purchasing authority, in writing and to what extent, to appropriate department heads.
- A copy of the Purchasing Policy manual shall be available to the public during regular business hours at the Purchasing Agent's office.
- All purchases of goods and services shall be through open, competitive bidding to the extent possible as determined by the Purchasing Agent or his/her designee.
- Unauthorized purchases are not the financial obligation of the County and any individual making such purchases is personally liable for that cost.
- County employees, officers, or officials shall not be entitled for special consideration in their personal business from vendors or merchants.
- Purchase of goods, materials, supplies, and equipment under \$1000 per transaction does not require competitive bidding, however at least two comparative quotes should be received prior to purchase.
- Purchase of fixed assets, defined as equipment costing \$5000 or more, must be approved by the County Board of Supervisors.
- A local vendor price preference of five percent shall be given by the Purchasing Agent when receiving bids for good, materials, supplies, equipment, and vehicles.
- California Government Code requires all requisitions and related purchasing documents to be kept by the County for not less than three years.



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

**NAPA COUNTY ANIMAL CONTROL
SERVICES**

WHO LET THE DOG'S OUT?

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

June 6, 2011

The Honorable Diane M. Price
Presiding Judge
Superior Court of the State Of California
County of Napa
825 Brown Street
Napa, CA 94559

Re: 2010-2011 Grand Jury Final Report on the Napa County Animal Services
Department

Dear Judge Price:

Pursuant to Section 933(a) of the California Penal Code, the 2010-2011 Napa County Grand Jury submits to you its final report on the Napa County Animal Services Department. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the seventh in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and a pleasure to work with them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith L. Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa County Animal Services Department.

The Grand Jury has carefully investigated this matter and developed a set of findings and recommendations with the objective of representing the public interest.

The Grand Jury has made seven recommendations. The first recommends that the Napa County Sheriff's Animal Services, working in conjunction with the Napa Police Department, provide the community with a single phone number for reporting animal problems. The second recommends that the phone numbers for reporting emergency and non-emergency animal problems appear printed in bold at the beginning of both the City and County phone directory listings. The third recommendation is that the Sheriff Department's Animal Services, working in conjunction with the Napa Police Department, educates the community about the best procedure for reporting vicious animal attacks and other animal problems. The fourth recommendation is that the Sheriff's Animal Services, in conjunction with the Napa Police Department, prepare a report evaluating the feasibility of placing Animal Control Dispatch services under the City of Napa Police Department. The fifth recommends that the Sheriff present the feasibility report to the Board of Supervisors and the sixth recommends that the Chief of Police for the City of Napa present the feasibility report to the Napa City Council. The seventh recommends that the Sheriff's Department discontinue the contract with Direct Line, a 24 hour a day answering service.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

WHO LET THE DOGS OUT?

Difficulty in Reporting Animal Problems

SUMMARY

Two pit bull dogs were euthanized at the Napa County Animal Shelter on March 12, 2010. Concerns and questions arose about whether or not Napa Municipal Code, Napa County Code, and Napa County Sheriff's Office Policies were properly followed. The pit bulls in question were not leashed and were off their property when they attacked and bit a leashed dog and its owner walking nearby. An Animal Services Officer (ASO) responded to the emergency calls. Following procedures defined and outlined in the Napa Municipal Code, he deemed the dogs to be "potentially dangerous and vicious" and had them transported to the Animal Shelter where they remained for 14 days until they were euthanized. The owner of the dogs did not respond to written or verbal notices and did not attempt to retrieve the dogs. Napa Municipal Code, Napa County Code, and Animal Services Procedures were followed.

The investigation found the current process for reporting a vicious dog or animal service problem to be confusing and frustrating. Who should be called? Should a person call 911? Where in the telephone directory can the appropriate phone number be found? Sometimes the caller gets a recorded message, is asked to call another number, connects with a dispatcher, or encounters an answering service. The Grand Jury investigated the possible overlapping of responsibilities, duplication of cost, as well as the cost of the county's contract with Direct Line, an answering service located in Berkeley.

BACKGROUND

In response to a citizen's complaint, the 2010-2011 Grand Jury, under its authorization to investigate topics brought to its attention by citizens of the County of Napa, investigated allegations that Napa Municipal Code and Napa County Code were not properly followed during the quarantine period and the subsequent euthanasia of two pit bulls in March 2010.

During the Grand Jury's investigation, it became apparent that citizens experienced frustration and delays when they tried to report problems or concerns about animals. Who do you call? Where does one find the appropriate phone number? Should you call 911? Many residents are not aware that Animal Services is part of the Napa County Sheriff's Department.

The City of Napa (City) contracts with the County to provide animal control and licensing services for the City. The Napa Animal Shelter becomes involved when a potentially dangerous and vicious animal needs to be confined on an interim basis. (Napa Municipal Code, Title 6, Section 6.05.030) The Animal Shelter does not have responsibility for responding to emergency calls for transporting animals.

DISCUSSION

Pit Bull Dogs Attack

On February 25, 2010 a Napa resident was walking his leashed pit bull dog in a downtown Napa neighborhood. The Case Report Narrative from the Napa County Sheriff's Department states the victim and his dog were charged by two unrestrained, unsupervised and unleashed pit bulls. He and his dog crossed the street in order to avoid the two pit bulls. The larger of the pit bulls attacked the leashed dog by biting it and locking down on the dog with its jaws. The owner of the leashed dog tried to wrestle his dog free by prying open the jaws of the attacking pit bull and was knocked to the ground in the scuffle that ensued. Law enforcement was called. Minutes later, the Napa County Sheriff Department's Animal Services arrived along with Napa Police and the Napa Fire Department. According to the ASO on the scene, the leashed dog sustained two puncture wounds on its leg, a bloody puncture under the right side of its jaw, and a bloody puncture on its right eye. The owner of the dog sustained puncture wounds on his left forearm, as well and numerous scrapes on his elbows and knees.

The pit bulls' attack on the man and his leashed dog was unprovoked. The responding ASO deemed the dogs to be "dangerous and vicious" as per Napa Municipal Code, Title 6, Section 6.05.020 and 6.05.040. He also obtained "written and/or verbal statements from available witnesses to the conduct and previous history of the behavior of the animals."

An Accident Waiting to Happen

Prior to this February 25, 2010 incident, the Sheriff Department's Animal Services officers had documented numerous complaints, including bites, leash law violations, property damage, and other vicious behaviors by the same two pit bulls. Residents had filed Incident Reports describing vicious behavior, off-leash violations, and bites dating back to 2007. According to the Case Report Narrative, there were six separate occasions reported since May 21, 2007 when the pit bulls were reported being loose, unsupervised, and unrestrained or when they displayed aggressive behavior which resulted in the need for defensive action by others. The owners and caregiver had been warned and had been given ample

opportunity to resolve the issue of the dogs' aggressive behavior. They failed to comply with Animal Services' regulations.

Neighbors expressed that the dogs had been a constant threat to the neighborhood for several years. A neighborhood watch group was formed and neighborhood schools were notified about the danger. Dispatch logs and incident reports verify approximately 34 calls about these dogs since May 2007.

Prior to the attack, Direct Line answering service also received two calls reporting these pit bull dogs. Direct Line's print log indicates both messages were "URGENT" and recorded:

- February 16, 2010, 5:49 p.m. message: "There are two pit bulls wandering the neighborhood."
- February 20, 2010, 12:19 p.m. message: "2 pit bulls are wandering around. They have attacked before."

After the February 25th attack, the two pit bulls were taken to the Napa County Animal Shelter. They were placed in quarantine, housed separately, and held for 10 days prior to a determination to euthanize them. There was no record of vaccinations or licenses for either dog. The owner was notified that the dogs would be held at the shelter for 10 days. However, they were actually kept an additional four days. The owner was mailed the Animal Shelter bill with the standard fees. He was notified personally, over the phone, and by mail. The owner still did not come forward to retrieve the dogs and pay the fees.

Pursuant to the Napa County Sheriff's *Animal Services Procedures and Policies* dangerous dogs may be released from the Animal Shelter if certain specific conditions are met including, but not limited to, the following:

- dogs must be kept locked in an approved kennel
- dogs must be on a leash and wear a muzzle when outside
- owners must take training courses with a licensed dog trainer
- owners must take out dog insurance policy
- owners must agree to microchip dog
- owners must reimburse victims for medical expenses

The Animal Shelter determined the dogs could not be put up for adoption because they were deemed dangerous. Following Animal Shelter procedures, the Animal Shelter Supervisor made the decision to euthanize the dogs.

How Do You Report an Animal Problem?

During the investigation into the attack by the pit bull dogs, it became clear to the committee that residents do not know who to call to report an animal problem.

The current process is confusing and frustrating for residents. Searching two different Napa phone directories for the number to call to report vicious animal attacks or other animal problems revealed just how many different places someone might possibly look for the number to call:

The July 2010 *Napa Valley AT & T Real Yellow Pages* phone book

Napa City Of:

- no listing for **Animal Services** alphabetically under “A”
- no listing for **Animal Services** under the heading **Police Department**
- **Police Department** lists a non-emergency number (257-9223)

Napa County Of:

- alphabetically under “A” is a listing for **Animal Field Services**, see **Sheriff’s Department** (no number given there)
- **Animal Shelter** listed alphabetically (253-4382 and 253-4381-voicemail)
- under **Sheriff’s Department, Animal Services** (253-4517)

Business section:

- **Animal Shelter** listed under “A” (253-4381-voicemail)

The 2010-2011 Napa Valley Phone Book

- **Quickfinder Guide** in front of directory lists **Animal Control**, see **Community Services** in the yellow pages
- **Community Services, Animal Control** is listed alphabetically with two phone numbers: Napa County (707-253-4517 or 877-279-2982 - no indication which number should be called)

Napa City Of:

- neither **Animal Services** nor **Animal Control** is listed alphabetically
- neither **Animal Services** nor **Animal Control** is listed under **Police Department**; the non-emergency number is listed (257-9223)

Napa County Of:

- no listing for **Animal Services** alphabetically under “A”
- **Animal Shelter** is listed alphabetically with two numbers (253-4382 and 253-4381-voicemail)
- **Animal Services** listed under **Sheriff’s Department** (253-4517)

Business section:

- **Animal Shelter** listed under “A” (253-4381-voicemail)

People often call 911 when it is not a life or death emergency. After reaching 911, the caller may be told to call 253-4451, a police number that is staffed 24 hours a day and is to be used for non-life threatening emergencies. The process is confusing and unnecessarily uses 911 operators' time. All the phone directory lists are long and in very fine print.

Depending on what phone number is called, the time of day, and the nature of the call, citizens calling to report an incident involving an animal may be routed to one of the following: the Napa Sheriff's Department Dispatch, the Napa Police Dispatch call center, or an answering service located in Berkeley.

Who's Answering the Call?

The Napa County Sheriff Department's Animal Services Officers are responsible for enforcing animal control laws and for responding to the calls about potentially dangerous and vicious animals. And while responding to these calls is their responsibility, calls to Animal Services are sometimes routed to Direct Line, a 24-hour answering service located in Berkeley. The calls are routed to Direct Line after 5 p.m., on the weekends, holidays, and when the call taker is not available. The Grand Jury's review of Direct Line's phone logs for two months revealed an average of fewer than 10 animal service calls received and relayed per day. The monthly invoices from Direct Line to the County range from \$445 to \$ 1,292 per month. The County paid \$16,586 to Direct Line for receiving Animal Services dispatch calls during the 2009-2010 fiscal year. (See Appendix I)

The Grand Jury reviewed two months of call logs from the Sheriff Department's Animal Services. The number of weekday calls received by the Sheriff Department's call taker averages fewer than 10 calls per day during working hours, Monday through Friday.

When a person calls 911 to report an animal problem/incident, the call may be re-routed, depending on the nature and urgency of the call. The City of Napa police 911 dispatcher may have a police officer respond to the problem. The City of Napa 911 Dispatch between April 14, 2010 and April 14, 2011 received approximately 163 calls for services dealing with dogs.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. The Napa Municipal Codes were properly followed in the euthanization of two dangerous pit bull dogs.
- F2. The Napa County Ordinances were properly followed in the euthanization of two dangerous pit bull dogs.

- F3. The Napa County Sheriff Department's Animal Services and the Napa Police Department followed proper procedures regarding dangerous and vicious dog ordinances.
- F4. The pit bulls were euthanized following the humane standard practices of the Napa County Animal Shelter.
- F5. The current process for calling in to report vicious dog attacks or other animal problems is confusing and frustrating for residents.
- F6. For the fiscal year 2009-2010, the County paid \$16,586 for the contract with Direct Line answering service.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that the:

- R1. Napa County Sheriff Department's Animal Services, working in conjunction with the Napa Police Department, provides the community with a single phone number for reporting animal problems by the publication deadline of the next phonebook.
- R2. Phone numbers for reporting emergency and non-emergency animal problems appear printed in bold at the beginning of both the City and County phone directory listings.
- R3. Napa County Sheriff Department's Animal Services, working in conjunction with the Napa Police Department, educates the community about the best procedure for reporting vicious animal attacks and other animal problems.
- R4. Napa County Sheriff Department's Animal Services, in conjunction with the Napa Police Department, prepares a report evaluating the feasibility of placing Animal Control Dispatch services under the City of Napa Police Department.
- R5. Napa County Sheriff presents this evaluation report to the Board of Supervisors.
- R6. Napa Police Chief presents this evaluation report to the Napa City Council.
- R7. Napa County Sheriff's Department discontinues the Animal Services contract with Direct Line.

REQUEST FOR RESPONSES

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

From the following individuals:

- Napa County Sheriff: F1, F2, F3, F4, F5; R1, R2, R3, R4, R5, R7
- Napa Police Chief: F1, F4; R1, R2, R3, R4, R6

GLOSSARY

ASO - Animal Service Officers

Potentially dangerous animal - “any animal which, when unprovoked, engages in aggressive conduct prompting or resulting in defensive action by any person to avoid bodily injury.” (Napa Municipal Code Section 6.05.020)

Unprovoked - “conduct which is not (1) In response to physical attack, taunting, or harassment upon the animal, its owner and/or keeper or other temporary attendant.” (Napa Municipal Code Section 6.05.020)

Vicious animal - “(1) any animal seized under Section 599a of the California Penal Code and upon the sustaining of a conviction of the owner under subdivision (a) of Section 597.5 of the California Penal Code, or (2) Any animal which, when unprovoked, inflicts or causes injury to or kills a human being or domestic animal.” (Napa Municipal Code Section 6.05.020)

METHODOLOGY

Information for this investigation was gathered through interviews, document analysis, and Internet research.

Interviews Conducted:

- City of Napa resident
- City of Napa Police Central Dispatch personnel
- Napa County Animal Shelter personnel
- Napa County Environmental Management personnel
- Napa County Sheriff’s Department personnel

Documents and Websites Reviewed:

- Contract with Direct Line Tele Response and Dispatch Logs
- Citizen emails and letters, 2007, 2010
- Dispatch Logs from Napa County Sheriff Department
- Dispatch logs from Napa Police Department
- Napa County Code, Chapter 6.16, Potentially Dangerous and Vicious Animals
- Napa County Sheriff's Department - Animal Services. Animal Reports, 2007, 2008, 2010
- Napa County Sheriff's Department-Animal Services, Case Report Narratives, 2008, 2010
- Napa County Sheriff's Department - Animal Services, Incident Reports, 2007, 2008, 2010
- Napa County Sheriff's Office, Animal Services Procedures, Policy 820
- Napa County Sheriff's Department, Declaration/Statement Forms, 2010
- Napa Municipal Code, Title 6, Animals, Chapter 6.04 Animal Control Regulations, and Chapter 6.05 Potentially Dangerous and Vicious Dogs
- Napa Superior Court, Restraining Order
- Napa Valley Register articles: "Pit bull attack sparks fear, outrage", March 1, 2010; "Dogs face death after attack on man", March 9, 2010
- Various Napa County telephone directories
- www.cityofnapa.org
- www.countyofnapa.org

APPENDIX I

Invoice from Direct Line

DETAILED PAYMENT HISTORY BY VENDOR

From: 01.Jul.2009 To: 30.Jun.2010

Remit Vendor: NAPA 35473
Payment Currency: USD

Bank Account: WFB 4945059392

Payment Ref	Date	Handling	Status	Remit to	Voucher ID	Invoice ID	Invoice Date	Pay Cycle	Seq	Discount Taken	Payment Amount	Document Sequence
421772	23.Jul.2009	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00705106	090701888101	15.Jul.2009	APNAPA	1,317	0.00 USD	445.00 USD	445.00USD
422794	04.Aug.2009	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00706124	090701422101	15.Jul.2009	APNAPA	1,323	0.00 USD	1,292.12 USD	1,292.12USD
423881	18.Aug.2009	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00708149	090801888101	15.Aug.2009	APNAPA	1,328	0.00 USD	445.00 USD	445.00USD
424614	25.Aug.2009	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00708913	090801422101	15.Aug.2009	APNAPA	1,331	0.00 USD	989.72 USD	989.72USD

DETAILED PAYMENT HISTORY BY VENDOR

From: 01.Jul.2009 To: 30.Jun.2010

Remit Vendor: NAPA 35473

Payment Currency: USD

Bank Account: WFB 4945059392

Payment Ref	Date	Handling	Status	Remit to	Voucher ID	Invoice ID	Invoice Date	Pay Cycle	Seq	Discount Taken	Payment Amount	Document Sequence
427348	24.Sep.2009	MR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00713158	09091422101	15.Sep.2009	APNAPA	1,340	0.00 USD	1,156.76 USD	1,156.76USD
428422	06.Oct.2009	MR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00714806	090901888101	15.Sep.2009	APNAPA	1,345	0.00 USD	445.00 USD	445.00USD
430072	22.Oct.2009	MR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00716988 00717059	091001422101 091001888101	15.Oct.2009 15.Oct.2009	APNAPA	1,352	0.00 USD 0.00 USD	1,340.64 USD	895.64USD 445.00USD
432926	24.Nov.2009	MR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00721420 00721513	091101888101 091101422101	15.Nov.2009 15.Nov.2009	APNAPA	1,363	0.00 USD 0.00 USD	1,260.00 USD	445.00USD 815.00USD



DETAILED PAYMENT HISTORY BY VENDOR

From: 01.Jul.2009 To: 30.Jun.2010

Remit Vendor: NAPA 35473

Payment Currency: USD

Bank Account: WFB 4945059392

Payment Ref	Date	Unit	Handling	Status	Voucher ID	Invoice ID	Remit to	Invoice Date	Pay Cycle	Seq	Discount Taken	Payment Amount	Document Sequence
436174	05.Jan.2010	NAPA	MR	Paid	00726075	091201888101	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	15.Dec.2009	APNAPA	1,375	0.00 USD	445.00 USD	445.00USD
436746	12.Jan.2010	NAPA	MR	Paid	00726900	091201422101	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	15.Dec.2009	APNAPA	1,377	0.00 USD	815.00 USD	815.00USD
439373	09.Feb.2010	NAPA	MR	Paid	00730475	100101888101	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	15.Jan.2010	APNAPA	1,387	0.00 USD	445.00 USD	445.00USD
440136	18.Feb.2010	NAPA	MR	Paid	00731545	100201888101	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	15.Feb.2010	APNAPA	1,391	0.00 USD	445.00 USD	445.00USD

DETAILED PAYMENT HISTORY BY VENDOR

From: 01.Jul.2009 To: 30.Jun.2010

Remit Vendor: NAPA 35473

Payment Currency: USD

Bank Account: WFB 4945059392

Payment Ref	Date	Unit	Handling	Status	Remit to	Voucher ID	Invoice ID	Pay Cycle	Seq	Payment Amount	Document Sequence
441200	02.Mar.2010	NAPA	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00733298 00733303	100201422101 100101422101	APNAPA	1,394	1,842.96 USD	825.00USD 1,017.96USD
443307	25.Mar.2010	NAPA	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00736189	100301422101	APNAPA	1,402	815.00 USD	815.00USD
443688	30.Mar.2010	NAPA	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00736982	100301888101	APNAPA	1,403	445.00 USD	445.00USD
445746	22.Apr.2010	NAPA	MIR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00740044 00740045	100401888101 100401422101	APNAPA	1,415	1,344.48 USD	445.00USD 899.48USD



DETAILED PAYMENT HISTORY BY VENDOR

From: 01.Jul.2009 To: 30.Jun.2010

Remit Vendor: NAPA 35473

Payment Currency: USD

Bank Account: WFB 494508392

Payment Ref	Date	Unit	Handling	Status	Remit to	Voucher ID	Invoice ID	Invoice Date	Pay Cycle	Seq	Discount Taken	Payment Amount	Document Sequence	Paid Amount
448945	27.May.2010	MR	MR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00744793	100501888101	15.May.2010	APNAPA	1,428	0.00 USD	445.00 USD		445.00USD
450190	10.Jun.2010	MR	MR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00746609	100501422101	15.May.2010	APNAPA	1,432	0.00 USD	999.32 USD		999.32USD
451452	22.Jun.2010	MR	MR	Paid	DIRECT LINE TELE RESPONSE 2847 SHATTUCK AVENUE BERKELEY CA 94705 United States	00748134	100601422101	15.Jun.2010	APNAPA	1,436	0.00 USD	1,170.22 USD		1,170.22USD
<p>Total for Check Payments 16,586.22 USD</p> <p>Total for Bank Account: 16,586.22 USD</p> <p>Total For Currency 16,586.22 USD</p>														



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

**NAPA COUNTY CHILD WELFARE
SERVICES**

TOO MANY KIDS, NOT ENOUGH HELP

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

June 12, 2011

The Honorable Diane M. Price
Presiding Judge
Superior Court of the State Of California
County of Napa
825 Brown Street
Napa, CA 94559

Re: 2010-2011 Grand Jury Final Report on Child Welfare Services Division

Dear Judge Price,

Pursuant to Sections 933 (a) of the California Penal Code, the 2010 -2011 Napa County Grand Jury submits to you its final report on the Napa County Health and Human Services' Child Welfare Services Division. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the eighth in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and pleasure to work with them.

Respectfully submitted,

A handwritten signature in black ink that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



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P.O. BOX 5397

NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa County Health and Human Services' Child Welfare Services Division.

The Grand Jury has carefully investigated this matter and developed a set of findings and recommendations with the objective of representing the public interest.

The Grand Jury found that eight caseworkers employed by Napa County Health and Human Services carries an average caseload of 25 to 30. This is approximately a 40% increase in caseload size within the past two years.

It was also discovered that the Merit System Services, currently used by Napa County Child Welfare Services for its hiring process, is outdated and rigid.

The Grand Jury recommends that bilingual caseworkers be given priority when considering new hires; Child Welfare Services explore how community groups can help promote awareness of the need for foster homes; that Child Welfare Services work with the Napa County Human Resources Department to replace the Merit System Services with the Napa County Human Resources system; and that a program is made available to foster parents providing intervals of respite in conjunction with Child Welfare Services.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

NAPA COUNTY CHILD WELFARE SERVICES

Too Many Kids, Not Enough Help

SUMMARY

As mandated by California Penal Code Section 925, the Napa County Grand Jury investigated Child Welfare Services (CWS), a division of Health and Human Services (HHS). This vital division was last reviewed by the Grand Jury in fiscal year (FY) 1986-87. A number of the same challenges facing CWS some 25 years ago still exist today. For the purposes of this report, “Child Welfare Services” and “Foster Care” are used interchangeably.

While the population in general, and the Hispanic population in particular, has increased over time, the number of both foster homes and CWS caseworkers has declined. The case load has increased from 115 in December 2008 to 187 in December 2010. (See Appendix I) This equates to 25-30 cases for each caseworker versus 12-18 cases per caseworker a few years ago. This workload is made more difficult due to the high percentage of children and parents who are Spanish speaking. Two caseworkers are certified bilingual and three foster homes out of 40-45 include bilingual parents.

The respite program, which provides relief to foster parents, is inadequate. A more robust program would help current foster parents cope with their arduous task as well as aide in the recruitment of new foster parents.

Because of the shortage of foster care homes available in Napa County, roughly 20% of foster children are placed outside of Napa County. However, CWS is making a concerted effort to place them with extended family members and is having some success with this endeavor.

Training and better communication among management, supervisors and staff at CWS will make an already professional division better able to handle its difficult job and would improve morale.

The County’s utilization of Merit System Services (MSS), a state-wide employment service, has proven to be a hindrance to the hiring process. The rigid and outdated methods of the MSS have blocked HHS’s efforts to recruit the best qualified candidates for open positions.

BACKGROUND

Child Welfare Services consists of a director, assistant director, and supervisors responsible for the following sections:

- Foster Care Licensing/Guardianship
- Emergency Response Services
- Dependency Investigators/Visitation
- Continuing Services/Family Preservation
- Clerical Support
- Analysts/Independent Living Program

The Grand Jury last reported on Child Welfare Services in fiscal year (FY) 1986-87. In subsequent years the number of CWS caseworkers declined. The number of foster homes and parents fell roughly 40% while the number of children needing foster care increased significantly. The economic downturn of the past few years and inadequate time devoted to recruitment of foster parents have also contributed to this decline. Of the approximate 140 children in foster care, approximately 20% are currently being placed out of the County due to the lack of foster homes and parents.

The 2010-2011 Grand Jury found managers, supervisors, and caseworkers to be well educated and committed to their work. However, there are several other areas of concern that have persisted since the last Grand Jury report. The respite program is inadequate, caseworkers believe there is a lack of support from management, and the training programs are underdeveloped.

DISCUSSION

Lost in Translation

According to the May 2009 State of California, Department of Finance, E-3 Race/Ethnicity statistics for Napa County, between 2000 and 2007 the Hispanic population of Napa County increased by approximately 50%. There are roughly 20 staff members of the Child Welfare Services “line staff,” of which only two caseworkers are certified as bilingual. Clerical workers with the Foster Care Division are regularly called upon to assist non-Spanish speaking caseworkers with translation. Although these clerical workers may have working knowledge of the situations that present themselves to caseworkers, they lack the specialized training necessary to professionally translate between parents who are solely Spanish speaking and caseworkers.

Of the 40-45 foster care families currently in the County, only three are bilingual. Approximately 50% of all foster children are Hispanic, most of whom are bilingual. It is the parents, rather than the children, who tend to only speak Spanish. A social worker’s

(SW) or child protective services worker's job is difficult and complex enough without having the additional barriers of language and culture limiting communication.

A Chronic Shortage

The FY 1986-87 Grand Jury report stated that there were 72 foster homes. Twenty-five years later that figure has fallen to the low 40s. The current number of available foster homes is even lower. Concurrently, the number of foster children increased from the low 70s in 2008 to approximately 140 in 2010. This situation has been exacerbated by the downturn in the economy. Child Welfare Services presently has only one SW who has responsibility for the recruiting and licensing process of the foster homes.

There are not enough foster parents and foster homes in Napa County. A consensus among both management and staff is that active foster parents make the best recruiters. However, coordination and focus on this on-going problem must come from CWS itself. More attention needs to be given to the recruitment process. Child Welfare Services could look to community groups to aid them with this task. This would address one of several concerns that has been present since the 1986-87 Grand Jury report.

Foster parents themselves need additional assistance. There is no formal respite program to provide relief during stressful times. Such a program would allow breaks for foster parents from their parenting duties, whether for personal errands or for a much needed day off. Trained volunteers could provide transportation, tutor foster children, or provide child care.

Child Welfare Services is making a concerted effort to place foster children with extended family members. The rate of placement has risen from 5% to 30% in recent years. Over the past two years the number of children placed in foster homes has almost doubled. Each caseworker now carries an average caseload of 25-30 cases whereas a few years ago the caseload was 12-18 cases per caseworker. As a result of this increased caseload, individual children may receive less attention. Over time, caseworker morale is affected and fatigue sets in. Compounding the current situation is the fact that three social workers have left CWS this year. Although management is actively pursuing replacements, this is a lengthy process and it will take the new hires time to gain an understanding of local policies and procedures (P&P).

Merit System Services Hiring Procedures

In the Grand Jury's investigation into the lengthy and elaborate hiring process, it was found that the primary hindrance to a smooth and efficient procedure is Merit System Services. Merit System Services is a state-wide personnel recruiting system used by many California counties. Some Napa County agencies rely on federal funding that requires the State to develop and maintain a Merit System that adheres to Federal employment policies as a condition of funding. Therefore, some classifications/positions

within HHS are subject to these government rules and regulations. Merit System Services, overseen by the State Personnel Board, includes hiring, training, discipline, appeal, grievance, and other human resources rules, processes and regulations that are separate and distinct from the County's personnel rules. When the mandated Merit System Services came into being for certain employee classifications, counties were given the option of creating and administering their own Merit System, with State approval and audit, or piggybacking on the State's program. Opting out of the State administration would require additional County Human Resources personnel to create and administer the Merit System at the County level.

All caseworker positions in CWS fall into this group of classifications and are therefore hired under MSS. The only role Napa County Human Resources (NCHR) plays in hiring caseworkers is to post position announcements on the County website with instructions for candidates to apply through Merit System Services. If MSS has an existing list of eligible social workers, those names are forwarded without opening the position to new recruitments. A qualified and/or local candidate who is not on the MSS list submitted to HHS is not "eligible" to be interviewed by CWS.

If MSS does not have an existing list of applicants, a recruitment list is opened, although often for only one to four days or until 30 applicants apply. Merit System Services reviews the applications for minimum qualifications, schedules a written exam, provides a list of questions for the oral exam, ranks the candidates, and then forwards only the first 10 names to HHS administration for final interviews and selection.

Napa County Human Resources provides recruitment and hiring services for all other Napa County agencies and departments. Since MSS doesn't advertise positions, that function is done by NCHR. The County is maintaining two different hiring systems with two different sets of rules. It was expressed that HHS would benefit by receiving a wider range of candidates if all hiring could be done by NCHR.

At first it appears that MSS, at a cost to Napa County of \$2,000 per year, is a bargain. However MSS has put an undue burden on CWS's effort to fill current vacancies within the division. Its antiquated employment processes and lack of flexibility hinder finding the best candidates for open positions. In addition, the length of the applicant screening process is mandated by MSS and adds two to three months time to the hiring process.

The Grand Jury recommends that the County appeal to the State Personnel Board to begin the process to remove Napa County from MSS.

Staff Training and Communication

While access to policies and procedures and other training tools has improved with the implementation of the SharePoint Services program [see glossary], there is a need for a formal, continuing educational program for both current and newly hired staff. No formal orientation process specific to Napa County P&P exists for CWS workers.

Highly educated, articulate and committed to their jobs, caseworkers often feel they lack proper guidelines about how to proceed in a given situation. Although management, supervisors and staff meet on a regular basis, a formal and focused agenda devoted to open communication and ongoing education of CWS personnel is lacking. Employees need to be updated on a regular basis and attendance at continuing education programs would not only be helpful as related to their caseloads, but if required could then be documented in personnel files.

Another issue that continues to be a problem centers around communication within CWS. The Grand Jury found, through its interviews with both managers and employees, a high degree of knowledge and devotion to the complex and important work that they do. Moreover, the supervisory staff, who oversee the different sections of CWS, have gained a degree of experience and competence over the last three to four years. However, the Child Welfare Services overall performance has been and still is affected by a chasm that exists between management and staff. A number of caseworkers believe that management and supervisors alike are not supportive enough in their day-to-day guidance. Often when confronting difficult situations requiring supervisor guidance, caseworkers believe they are left on their own.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. There are eight caseworkers employed by Napa County Health and Human Services carrying an average caseload of 25-30. This is approximately a 40% increase in caseload size within the past two years.
- F2. The number of foster homes has declined by 40% since the late 1980s.
- F3. There are two caseworkers certified as bilingual.
- F4. The recruiting and licensing process for new foster care homes and parents is assigned to one social worker.
- F5. The Merit System Services, currently used by Napa County Health and Human Services for its hiring process, is outdated and rigid.
- F6. A timeframe of three to six months is required to complete the hiring process for a new caseworker.
- F7. Although improved from previous years, communication and trust between caseworkers, their supervisors and management continues to be insufficient.

- F8. There is no formal respite program to provide intervals of relief for foster care parents.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that:

- R1. The Health and Human Services continue their efforts to hire qualified bilingual caseworkers.
- R2. The Child Welfare Services explore how community groups can help promote awareness of the need for foster homes and develop programs to reach out to these groups.
- R3. A program be made available to foster parents providing intervals of respite in conjunction with Child Welfare Services.
- R4. The Health and Human Services Agency work with the Napa County Human Resources Department to replace Merit System Services with the Napa County Human Resources Department.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses to as follows from the following:

Individuals:

- Health and Human Services Director: F6, F7, F8; R1, R2, R3, R4
- Child Welfare Services Director: F1, F2, F3, F4, F5, F6, F7, F8; R1, R2, R3, R4
- Napa County Human Resources Director: F5; R2, R4

GLOSSARY

case - one or more children

caseworker - includes social worker or child protective services worker

CWS - Child Welfare Services

Foster Care - a term used interchangeably with Child Welfare Services (in this report)

HHS - Health and Human Services

MSS - Merit System Services, a state-wide employment service

NCHR - Napa County Human Resources

P & P- policies and procedures

respite – an interval of rest or relief for foster parents

SharePoint Services – software program that enables CWS workers to share information, manage documents and publish reports

SW - social worker

METHODOLOGY

Information for this investigation was gathered through interviews, document analysis, and Internet research.

Interviews Conducted:

- Napa County Child Welfare Services personnel
- Napa County Human Resources personnel
- Napa County foster parent

Documents and Websites Reviewed:

- Child Welfare Services Budget, 2010-2011
- Child Welfare Services Caseload Summary, December 2008-2010
- Child Welfare Services Organization Chart, March 2011
- Foster Care Program, Napa County Grand Jury Report, 1986-87
- Letter from Shared Vision, November 2008, delineating recommendations from the organizational development assessment.
- Napa County Health and Human Services Agency, Policies and Procedures
- SEIU Local 1021, October 2008 letter to the Director of Health and Human Services regarding union members' concerns.
- Social Worker Orientation and Training binder

- State of California, Department of Finance, E-3 Race/Ethnicity Totals in Napa County, May 2009
- www.countyofnapa.org
- www.mss.ca.gov

APPENDIX

- I. Case Load Summary, December 2008-2010
- II. Child Welfare Services Organizational Chart, March 2011
- III. California Government Code Sections 19800-19810

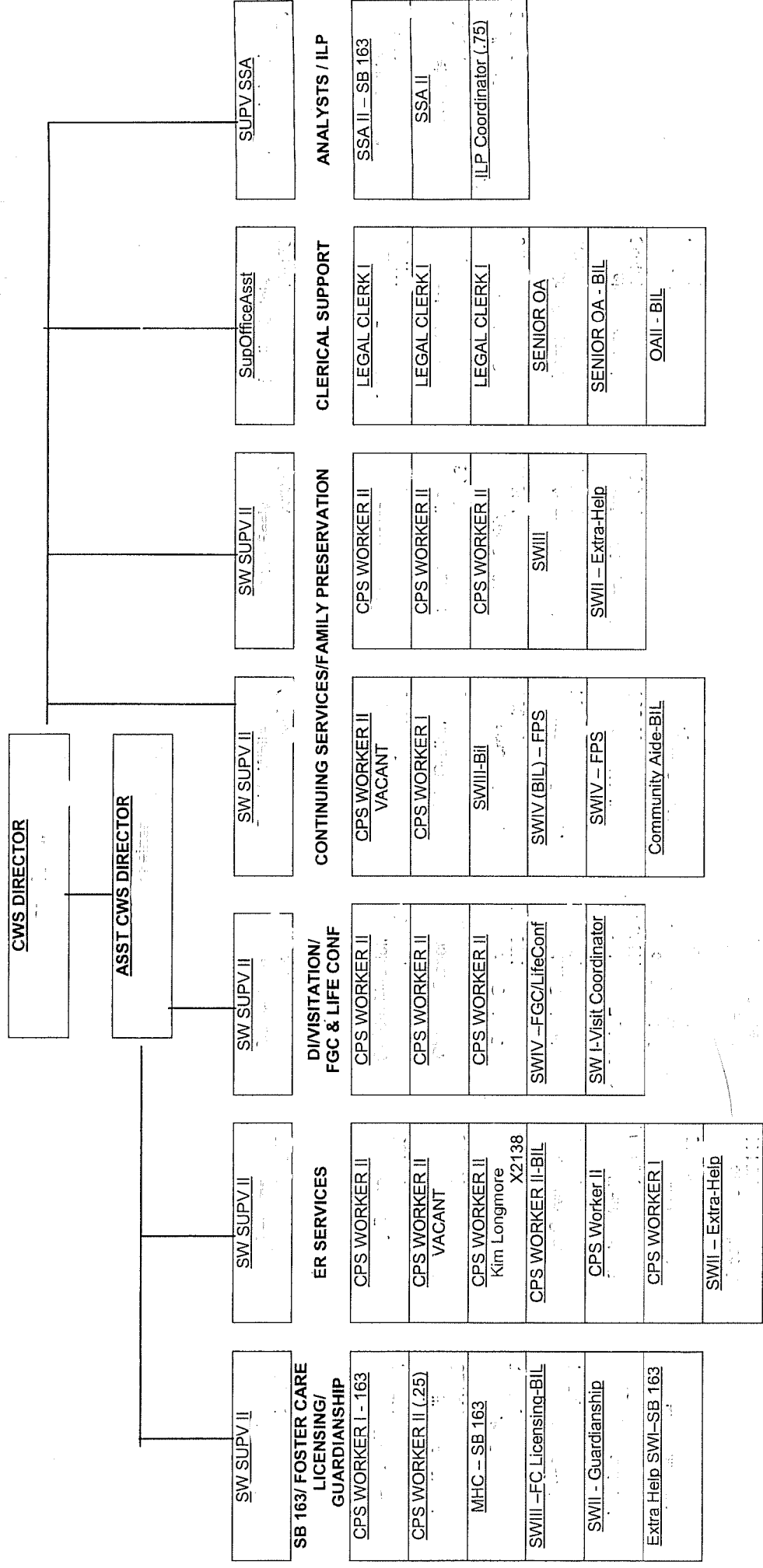
FosterCare

Caseload Summary

December 30, 2010

	ER Investigation	ER Cases	ER Totals	FM Cases	FR Cases	PP Cases	OHC Totals	Ongoing Totals
December 2010	19	6	25	46	84	57	141	187
November	17	1	18	46	79	59	138	184
October	27	2	29	42	83	59	142	184
September	34	3	37	42	73	58	131	173
August	20	2	22	42	69	52	121	163
July	9	1	11	49	72	50	122	171
June	17	1	18	49	75	48	123	172
May	34	2	36	45	73	55	128	173
April	27	2	29	51	67	54	121	172
March	57	0	57	60	61	51	112	172
February	39	1	40	51	56	53	109	160
January 2010	32	0	32	60	50	51	101	161
December 2009	29	1	30	56	49	51	100	156
November	27	2	29	58	47	48	95	153
October	21	3	24	53	49	48	97	150
September	41	3	44	50	47	49	96	146
August	30	3	33	46	48	50	98	144
July	13	2	15	42	52	52	104	146
June	29	8	37	32	55	53	108	140
May	29	2	27	27	75	49	124	151
April	39	6	40	28	59	50	109	137
March	45	0	45	32	48	51	99	131
February	31	0	31	36	42	50	92	128
January 2009	45	0	45	37	32	52	84	121
December 2008	29	2	31	37	28	50	78	115

CHILD WELFARE SERVICES



California Government Code Sections 19800-19810

Section 19800

The State Personnel Board is hereby vested with the jurisdiction and responsibility of establishing and maintaining personnel standards on a merit basis and administering merit systems for local government agencies where such merit systems of employment are required by statute as a condition of a state-funded program or a federal grant-in-aid program established under the following federal laws: Social Security Act, as amended; the Public Health Service Act; and the Federal Civil Defense Act, as amended.

Section 19801

For the purposes of administration of state or federally supported programs under Section 19800, the State Personnel Board shall, by regulation, establish and maintain personnel standards on a merit basis for local agencies (including therein standards of qualifications, competency, education, experience, tenure, and compensation) necessary for proper and efficient administration, and to assure state conformity with applicable federal requirements.

Section 19802

Nothing in this chapter shall prevent any local agency from establishing its own merit system and determining thereunder the personnel standards to be applicable to its employees, but as to employees engaged in administering state and federally supported programs under Section 19800, such local systems and standards shall be subject to approval and review by the board to the extent necessary to qualify for federal funds.

Section 19802.5

Notwithstanding the provisions of Sections 19801 and 19803, and after the State Personnel Board approves the memorandum of understanding standards, the State Personnel Board may waive administration of all or part of a local agency merit system where administration of merit system standards, including, but not limited to, certification, appointment and other transactions, layoff and reinstatement, position classifications, compensation standards, and disciplinary action are established pursuant to a legally binding memorandum of understanding negotiated between the local agency governing board and an employee organization recognized pursuant to applicable law representing employees engaged in federally supported programs under Section 19800. Upon request of the local agency governing board and the recognized employee organization, such

waivers shall be granted on any or all standards following determination by the State Personnel Board that the provisions of the memorandum of understanding maintain merit system standards to the extent necessary to qualify for federal funds. All merit system standards waivers shall be subject to periodic audit, approval, or revocation by the State Personnel Board. Upon revocation of a waiver, the State Personnel Board may require any additional information as a condition of waiver reinstatement.

Section 19803

The merit system for employees engaged in administering programs under Section 19800 in a local agency not administering its own merit system approved under this chapter shall be administered by the board. This may include, but is not limited to, recruitment, examination, certification, appointment and other transactions, position classification, compensation standards, and disciplinary actions. As part of such administration, the board shall hear and decide appeals of any applicant for employment or officer or employee from the decision of a local agency or the board's executive officer affecting the employment rights of such persons. Any decision rendered in such an appeal shall be binding upon the local agency.

The board may bill the state departments having responsibility for the overall administration of grant-in-aid programs for the costs incurred in conducting hearings involving employees of local agencies not administering their own merit systems pursuant to this chapter.

Section 19804

In the exercise of functions under this chapter, the board shall exercise no authority with respect to the selection, tenure of office and compensation of any individual employed in accordance with established standards.

Section 19805

The board shall by regulation, establish and administer procedures, including provisions for investigations and hearings, to determine whether a particular merit system is in conformity with the standards established or approved by the board pursuant to Section 19801. In conducting any hearing provided by such procedures, or in conducting an appeal hearing under Section 19803, the board shall have the same authority as it does in conducting hearings pursuant to Sections 18671 to 18680, inclusive, of this code.

Section 19806

When the board, after hearing, determines that a local merit system is not in conformity with the established standards, it shall notify such local agency and appropriate state officer in writing of its decision. If the governing body of the local agency does not bring the system into conformity within 60 days of notification of the board's decision, or within such longer period as the board determines, the board shall certify to the state officer having responsibility for the overall administration of the program, pursuant to which the grant-in-aid requiring such merit system was made, that the particular merit system is not in conformity with established standards.

Section 19807

Notwithstanding any other provisions of law, upon receiving certification of the board, pursuant to Section 19806, the appropriate state officer shall take such action against the local agency as permitted by law or as necessary to obtain compliance without an additional administrative hearing being held by such officer.

Section 19808

Local agencies shall provide such information and reports relating to merit system administration as are required by the board.

Section 19809

State departments having responsibility for the overall administration of grant-in-aid programs under Section 19800 shall reimburse the board for all costs incurred by the board in administering this chapter. The board may equitably prorate such costs among such departments.

Section 19810

As used in this chapter, "local agency" means any city, county, city and county, district, or other subdivision of the state, or any independent instrumentality thereof.



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

**NAPA COUNTY DEPARTMENT OF
CORRECTIONS/COUNTY JAIL**

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

June 15, 2011

The Honorable Diane M. Price
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94459

Re: 2010-2011 Napa County Grand Jury Final Report on the Napa County
Department of Corrections/County Jail

Dear Judge Price,

Pursuant to Sections 933(a) of the California Penal Code, the 2010 -2011 Napa County Grand Jury submits to you its final report on the Napa County Department of Corrections/County Jail. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury, to protect the interests of the residents of Napa County.

This is the ninth in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and pleasure to work with them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa County Department of Corrections (NCDOC).

The Grand Jury has carefully investigated this matter and developed a set of findings and recommendations with the objective of representing the public interest.

The Grand Jury has made 3 recommendations. The first recommends that the NCDOC prepare and present a report to the Board of Supervisors that evaluates the safety measures in place that protect the Jail staff from the actions of Napa State Hospital patients.

The second recommends that the NCDOC prepare and present a report to the Board of Supervisors that evaluates the feasibility, benefits and cost savings of having the Department of Corrections re-organize under the Napa County Sheriff.

The third recommends that the Board of Supervisors encourage Senator Evans to amend Senate Bill 60 to include payment of the County from the State for the time Napa State Hospital patients are held in the Jail.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

Napa County Department of Corrections/County Jail

SUMMARY

As mandated by law, the Grand Jury must complete a physical inspection of all jail facilities within the County. The 2010-2011 Napa County Grand Jury inspected the Napa County Jail (NCJ) in October 2010. The Napa County Department of Corrections (NCDOC) oversees the operations of the facility and staff. The Grand Jury found the facility well maintained and managed, though the older portion of the jail facility shows considerable wear and tear. The Grand Jury found the staff well trained and performing their duties in a professional manner.

In response to the increase in violent crime occurring at the Napa State Hospital (NSH) Senator Noreen Evans has submitted Senate Bill 60.

State Senate Bill 60 is intended to protect the employees of NSH. Senate Bill 60 would require the California Department of Corrections and Rehabilitation (CDCR) to make regular assessment of inmates/patients and would authorize the CDCR to petition the Court for the return of the patient to NSH, if the CDCR determines that the individual is not a threat to self or others. Due to the need for such an assessment, as proposed, the number of days that former NSH patients spend in the Jail would increase. This in turn would increase the monies needed to run the Jail.

BACKGROUND

The Jail was completed in 1975 as a secure facility for the detention and incarceration of both pre-sentenced and sentenced inmates. Maximum capacity at the jail is 264 inmates. Napa County Jail is managed by the Director of Corrections under the authority of the BOS with a \$3.9M budget in fiscal year (FY) 2010/11. Napa County is one of two counties in the State with this model; all other county jails are managed by County Sheriff Departments. The NCDOC contracts with the California Forensics Medical Group (CFMG), whose corporate office is located in Monterey, California. This medical group provides medical, dental, and mental health services to the inmates.

Napa State Hospital patients who are accused of committing a felony at NSH, regardless of their county of residence, are transferred to NCJ. Some offenders may become violent and pose a safety risk to both NCJ staff and other inmates.

All costs associated with these additional out-of-county inmates are a financial burden on Napa County taxpayers.

DISCUSSION

The Jail is a secure facility housing male and female detainees and inmates, including those awaiting arraignment/bail hearings or trial, convicted inmates awaiting sentencing, sentenced inmates awaiting transfer to state prison and inmates sentenced to NCJ. The male and female inmates are separated into different areas. These areas include:

- observation cells
- work furlough
- general population
- administrative
- segregation
- protective custody
- maximum security
- a medical unit

The NCDOC staff is responsible for the coordination of all programs and services within the Jail. These include institutional punishment, care, treatment, rehabilitation, intake screening, diagnosis, classification, and alternative sentencing programs.

The NCDOC has a total staff of 82 full-time employees to operate and maintain the facility. This number includes 55 correction officers organized into four teams. Each team works twelve-hour shifts, three days on and four days off. All corrections officers (COs) have completed the required *Standards and Training for Corrections Program*.

The current Director of NCDOC has held this position since August 2008. Numerous changes to operations and programs within the NCDOC have been implemented by the Director including a:

- classification team
- formal grievance policy
- critical incident review team
- new jail library and literacy program
- hiring of extra staff to reduce overtime
- Memorandum of Understanding (MOU) with the Napa County Sheriff's Department

A MOU was written in August 2009 to create a position for a Sheriff's Lieutenant to be permanently assigned to the jail. This change was made to bring the NCDOC into compliance with Penal Code Sections 830.1 and 831.5(d). Penal

Code Section 831.5 (d) states “that at any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.” The Lieutenant’s duties include:

- liaison to the NCDOC and other criminal justice agencies
- providing training assistance
- supervising NCDOC’s strip search and use of force procedures
- conducting internal affairs investigations
- working closely with management to identify and address a variety of security issues

The Grand Jury inspection found the facility well maintained and managed, although the older portion of the Jail facility shows considerable wear and tear. The staff is well trained and performs their duties in a professional manner. The Grand Jury identified the following areas of concern:

- Jail population occasionally exceeds maximum capacity.
- After a CO’s initial physical examination at the time of hire, the CO is not required to have periodic physicals as part of their continued employment.
- COs are not required to take periodic drug and alcohol tests as part of their continued employment.
- COs do not take a sworn law enforcement oath.
- Individuals who are charged with a felony while institutionalized at NSH, are transferred to NCJ and remain there while awaiting trial in Napa County.

Mental Health Issues

The Department of Corrections currently contracts with the CFMG to provide inmates with medical, dental, and mental health needs. One mental health worker from Health and Human Services (HHS) is assigned to NCJ forty hours per week during normal business hours. A medical staff member from HHS Crisis Center is available 24/7 to respond to any after-hour mental health emergency.

Staff expressed concern over the incarceration of mentally ill inmates at NCJ. Patients from NSH are brought to the Jail to await trial for violent crimes committed on NSH property.

Counseling services for all inmates are limited to only three hours per week via closed circuit television with a psychiatrist located in Monterey County. Both staff and inmates often refer to the closed circuit television type of therapy as “doc in a box.” These inmates are typically not taking the medications that they would be forced to take if they were at NSH. The mental health needs of this population may not be best served by psychiatric services via closed circuit television versus face to face counseling where the psychiatrist can see how the inmate interacts with the COs, other inmates and the medical personnel.

The staff interviewed by the Grand Jury stated that a better method is needed for holding inmates with mental health issues, particularly those from NSH. The administration and staff are concerned that the NCJ facility does not adequately provide the housing and psychiatric treatment appropriate for the number of mentally ill individuals incarcerated at NCJ.

The staff does not have the authority to force medicate mental health patients. When these individuals refuse to take their medication, there is an increased risk of injury to themselves, other inmates and NCDOC staff.

A recent example involved an incident in March of this year when an inmate, who had been transferred from NSH, set himself on fire, causing property damage, and potential risk to inmates and staff. The full medical costs to date, to treat this inmate are \$1.6M. The County is responsible for approximately \$400,000 of the \$1.6M. A second incident occurred in October 2010 when a patient allegedly killed a psychiatric technician on the NSH campus. The patient is now an inmate in the NCJ awaiting trial and can refuse to take medications.

Inmates affiliated with gangs must be segregated from rival gangs. Inmates with mental health issues must be separated for their own protection. The Jail has limited capacity to segregate inmates by the type of crime.

The cost to house a non-NSH inmate at NCJ is approximately \$77 per day. The cost to house an inmate from NSH is significantly higher, as they have more mental health and medical needs than the general housing inmates. The average number of NSH inmates incarcerated at NCJ per year is 23. Each of these 23 inmates serves an average of 83 days in the Jail. These inmates use more staff time, require frequent observation and supervision.

In response to the increase in violent crime occurring at NSH, State Senate Bill 60 (Evans) has been introduced and reads in part as follows:

This bill would prohibit a person who was transferred because he or she, while housed in the state hospital, committed an act that resulted in the death, rape, or life threatening injury of another patient or a staff member of the state hospital, from being returned to the state hospital until a court has determined in a hearing that the person does not represent a substantial risk of harm to himself, herself, or others. The bill would require the [California] Department of Corrections and Rehabilitation to make regular assessments of these persons and would authorize the Department to petition the court for the return of the patient to a state hospital, as specified, if the Department determines that the person is not a threat to himself, herself, or others.

At the time the Grand Jury published this report, Senate Bill 60 as currently written, would not reduce the financial burden to the County. This bill will exacerbate the problems the Grand Jury identified at NCJ.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. The Napa County Jail is one of two remaining county jails operating with a Director of Corrections under the authority of the Board of Supervisors rather than the Sheriff.
- F2. Correction Officers do not take a sworn law enforcement oath and are not required to take periodic drug and alcohol tests.
- F3. The Jail staff does not have the authority to force medicate inmates.
- F4. The cost of housing the individuals transferred from Napa State Hospital to the Jail is a financial burden to County taxpayers.
- F5. Senate Bill 60 (Evans), unless amended, will not pay County costs for the time Napa State Hospital patients held in the Jail.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that:

- R1. The Department of Corrections Director prepare and present a report to the Board of Supervisors that evaluates the safety measures in place that protect the Jail staff from the actions of the Napa State Hospital patients.
- R2. The Department of Corrections Director prepare and present a report to the Board of Supervisors that evaluates the feasibility, benefits and cost savings of having the Department of Corrections re-organize under the Napa County Sheriff.
- R3. The Board of Supervisors encourage Senator Evans to amend Senate Bill 60 to include payment to the County from the State for the time Napa State Hospital patients are held in the Jail.

REQUEST FOR RESPONSES

The 2010-2011 Grand Jury requests responses pursuant to the California Penal Code section 933.05, as follows:

From the following individuals:

- Director of the Napa County Department of Corrections: F1, F2, F3, F4, F5; R1, R2

- Napa County Sheriff: F1; R2

From the following governing bodies:

- Napa County Board of Supervisors: F4, F5; R1, R2, R3

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

GLOSSARY

BOS – Board of Supervisors

CDCR – California Department of Corrections and Rehabilitation

CFMG – California Forensic Medical Group

CO – Corrections Officer

NCDOC – Napa County Department of Corrections

MOU – Memorandum of Understanding

NCJ – Napa County Jail

NSH – Napa State Hospital

SB – Senate Bill

METHODOLOGY

Interviews conducted included:

- Napa County Department of Corrections personnel
- Napa County Sheriff's Department personnel
- California Forensic Medical Group personnel

Napa County Jail Physical Inspection:

- initial booking area
- holding cells
- sally port entry
- receiving area
- dress out room
- male and female inmate cells
- protective custody unit

- visitation area
- staff dining area
- laundry
- kitchen
- control room
- nurse's station

Documents and Websites Reviewed:

- NCDOC Budget FY 2010/11
- NCDOC Policy and Procedures Manual
- NCDOC Inmate Handbook
- NCDOC Organizational Chart
- Prior Napa County Grand Jury Reports
- www.countyofnapa.org/Corrections



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

Final Report on

NAPA COUNTY

**LAKE BERRYESSA RESORT
IMPROVEMENT DISTRICT**

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A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

June 22, 2011

The Honorable Diane M. Price
Presiding Judge
Superior Court of the State Of California
County of Napa
825 Brown Street
Napa, CA 94559

Re: 2010-2011 Napa County Grand Jury Final Report on the Lake Berryessa
Resort Improvement District

Dear Judge Price:

Pursuant to Section 933(a) of the California Penal Code, the 2010-2011 Napa County Grand Jury submits to you its final report on Lake Berryessa Resort Improvement District. Our investigation of this subject was conducted in a manner consistent with the California Penal Code, this Court's Charge, and the historic role of the Grand Jury to protect the interests of the residents of Napa County.

This is the tenth in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and a pleasure to work with them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Lake Berryessa Resort Improvement District.

The Grand Jury has carefully investigated this matter and developed a set of findings and recommendations with the objective of representing the public interest.

The Grand Jury made seven recommendations. Some of the recommendations made are that the Board of Supervisors pass a formal resolution forming a Board of Directors for LBRID; that the Board of Supervisors bring the composition of the LBRID Board of Directors into compliance with State law through the election of at least four members who reside in the District to replace the four supervisors who do not reside in the District; that the LBRID Board of Directors include in future rate calculations a formula to provide for the establishment and maintenance of a reserve balance.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT

SUMMARY

The 2010-2011 Napa County Grand Jury is mandated to investigate and report to the residents of Napa County about their local government agencies and districts. The Grand Jury conducted an investigation of the Lake Berryessa Resort Improvement District (LBRID) after receiving approximately 150 complaints from LBRID residents. This District was last reported about by the Grand Jury in fiscal year (FY) 1996/97.

In 1965 LBRID was organized as a resort improvement district, governed by the County Board of Supervisors (BOS) pursuant to California Public Resources Code (CPRC) Section (§)13031. The original intent was for the District to provide a full range of municipal services to support the planned development of Berryessa Estates, an unincorporated community located along the northwestern shoreline of Lake Berryessa (the Lake). In 1971 LBRID was limited to provide only sewer and water services to the District.

The County Public Works (CPW) Director serves as District Manager and Engineer and is responsible for overseeing daily operations. The County's Auditor-Controller and the Treasurer-Tax Collector provide financial services; County Counsel provides legal services to LBRID.

LBRID has a history of water and sewer problems due to aging facilities and infrastructure. Deficiencies with the sewer system have been persistent and have resulted in repeated sewage spills into the Lake. The Regional Water Quality Control Board (RWQCB) fined LBRID \$400,000 in 2005, and \$375,000 in 2010, for repeated sewage spills.

Since 2000 LBRID has experienced a persistent financial imbalance. This resulted from a combination of increasing service costs, new regulatory requirements, the small number of parcels, and the reluctance to increase service rates.

In 2010 the District received a \$1.7M American Recovery and Reinvestment Act of 2009 (ARRA) grant for infrastructure improvements.

From approximately 1965 through the present, the supervisors acted in all respects as if they had formed a BOD, except for holding an election by district residents. They

created agendas, held meetings, produced minutes, and passed resolutions, all in the name of the BOD. These documents identify the five supervisors as the members of the BOD.

No election of an independent board by the residents of LBRID was ever held pursuant to §13034. All five members of the BOS still serve as the BOD.

To clarify matters, the BOS ought to pass a resolution and hold an election; or cease meeting and acting in the name of the BOD.

A BOD elected by LBRID residents would be more responsive to their needs. The four supervisors who do not represent the District have no political obligation to consider the interests of LBRID residents when in conflict with the interests of their own supervisorial constituents.

BACKGROUND

Outdated and failing infrastructure has created on-going water and sewer problems at LBRID which have resulted in management issues and financial burdens for LBRID residents and the County. The County has subsidized the District for many years through discretionary loans, and questions of responsibility remain.

LBRID Chronology

1965

- LBRID formed to provide municipal services for the planned development of Berryessa Estates.
- LBRID authorized \$875,000 in general obligation bonds to finance the construction of water and sewer systems for the second phase of development.
- Individual members of the BOS became LBRID's Board of Directors.

1967

- Water treatment facility constructed to disinfect and filter water from Lake Berryessa.
- Labry Corporation canceled remaining project development.

1969

- Water and sewer rate charges established.

Early 1970's

- Labry Corporation who developed Berryessa Estates filed for bankruptcy and ceased operation.

1971

- State amendment to the California Resort Improvement District Act limited LBRID to providing only water and sewer services.

1975

- Napa County sued Labry Corporation.
 - Labry Corporation agreed to build a marina and adjoining campground for Berryessa Estates as part of a legal settlement after the County sued Labry Corporation for false advertising.
- 1991
- LBRID approved first water and sewer charge increases.
- 1995
- LBRID began experiencing difficulties with its water and sewage facilities.
 - Raw sewage spill of 50,000 gallons. RWQCB filed an Administrative Civil Liability Complaint against LBRID which was withdrawn in January 1996 following submission of a revised compliance schedule.
- 1996
- LBRID was issued a Cease and Desist Order (CDO) from the RWQCB after allowing 50,000 gallons of raw sewage to spill into Putah Creek.
 - LBRID responded by preparing a facility status report of a financial plan required by RWQCB which concluded both water and sewer systems needed extensive improvements to replace worn and failing equipment.
- 1998
- LBRID voters approved the first parcel tax (T-1) to offset operating costs and minor capital improvements.
- 2000
- LBRID voters approved a second parcel tax (T-2000) to offset operating costs and minor capital improvements.
- 2005
- State Attorney General sued LBRID for an additional \$1.2M for failure to make necessary and timely improvements to sewer system over the prior 10-year period.
 - LBRID received first fine of \$400,000 from RWQCB in March 2005, for repeated illegal spills, to be paid over a 10-year period beginning in 2009.
- 2006
- LBRID voters approved bonds of \$4,755,841 which were issued to fund capital improvements. Each property owner was assessed \$15,442. The tax could be paid up front or an annual tax of \$1,100 could be added to their property tax bills. The bond must be paid off in 2037.
- 2007
- The loan from the County for \$100,000 used for trucking excess wastewater to Napa Sanitation was repaid.
- 2008
- LBRID received and repaid a County loan of \$400,000.
 - T-1 parcel tax was paid off.
 - A loan of \$95,000 for operating shortfall was repaid.
- 2009
- LBRID received a \$1.7M ARRA grant for system improvements including a new water treatment plant to be completed by May 2011.

- In May, the property tax delinquency rate was 16.17% (59 parcels), up 1.40% (6 parcels) from the end of May 2008 causing revenue loss to the District.
- LBRID received \$590,250 in loans from the County, which covered a \$90,250 operating shortfall and \$500,000 for the repair of sewer pipelines, installing electrical power to the pond, purchase and installation of additional evaporation equipment and minor facility upgrades.
- RWQCB fined LBRID \$375,000 for repeated sewage spills over the past three years that totaled more than 3.8 million gallons of wastewater. LBRID is negotiating a settlement with RWQCB.
- T-2000 property owner Oversight Committee was formed to approve use of funds for projects beyond the initial projects listed in the original bond document.
- First \$40,000 payment paid for the 2005 RWQCB fine.
- LBRID approved water and sewer rate increases effective July 1st.

2011

- LBRID received \$345,000 in loans from the County to cover an operating shortfall.
- \$533,699 in total projected revenue budgeted for LBRID water and sewer rates.

2012

- LBRID required to re-pay the County \$500,000 loan LBRID received in 2009.

DISCUSSION

Development of Berryessa Estates

LBRID was created in 1965 as a resort improvement district. It was anticipated that LBRID would eventually consist of approximately 2,000 residential units and a population of 5,000, with over 40,000 annual visitors. Currently LBRID has 188 developed lots and an estimated population of 475 residents. Of the 188 developed lots, eight are served by wells and septic systems so they do not contribute to the revenue.

In the early 1970s, the Labry Corporation, developers of Berryessa Estates, went bankrupt and ceased operation. The first increase to LBRID's water and sewer rates did not occur until 1991. In 1995, after damaging winter storms, the necessary repairs to the water and sewer facilities depleted financial reserves.

Aging facilities and infrastructure are at the center of LBRID's problems. Providing clean drinking water and sewer services to current 180 houses and 475 residents became challenging as the equipment deteriorated, failed, and needed replacing. Due to insufficient reserves, equipment and facilities have not been sufficiently maintained. Until the new plant is working, risk of spills resulting in emergency spending will continue to exist. These problems caused emergency trucking of wastewater to Napa Sanitation at a cost of \$100,000.

The \$1.7M ARRA grant was used to replace the failed wastewater treatment plant. Napa County Public Works anticipates construction will be completed in May 2011. The donation of land for additional spray fields combined with the new wastewater plant will help curtail spillage.

Drinking Water

LBRID's drinking water treatment facility, constructed in 1968, disinfects and filters water conveyed from Putah Creek, a tributary of Lake Berryessa. The water supply is sufficient to accommodate current use and projected growth. LBRID's growth is expected to remain stagnant.

Sewer System

In the 1990s LBRID experienced illegal sewage spills into the Lake, leading the RWQCB to issue notices of violation and CDOs between 1995 and 2010. Until 1995, the escalating infrastructure problems "weren't on anyone's radar." By late 2003 the RWQCB tightened its regulations and restrictions, therefore becoming more of an enforcement agency than a regulatory body. The RWQCB will not allow discharge into the creeks or the Lake, even though, according to County Public Works (CPW) engineers, the treated discharge is cleaner than the Lake.

There are three components to LBRID's sewer system: 1) the collection system, consisting of approximately 6.5 miles of the original clay pipes, which carries raw waste from the subdivision, 2) the treatment system, which provides treatment through a series of three to four ponds, and 3) the disposal system which consists of spray fields and wastewater evaporators and four ponds for storage in times when the spray fields and evaporators are non-operational. There are a total of seven ponds, the first five are original construction and the last two were constructed in the early 2000s.

All run-off from the spray fields is re-collected in pond seven and re-sprayed on the hillsides. LBRID uses four wastewater evaporation units that spray water directly into the air to enhance the natural evaporation of the wastewater, and ultimately decreases the amount of wastewater which needs to be sprayed into the spray fields. In the winter, during periods of heavy rainfall disposal and storage limits exceed capacity. Inflow and infiltration collection system, become overwhelmed by storm water runoff, and direct rainfall into the ponds. This inability to dispose of and store water during the winter violates the District permit.

The causes of the overflow and runoff can be attributed to many things, such as:

- mechanical failures at pump stations

- blockages or breaks in pipelines
- a high volume of inflow and infiltration
- rain falling on the ponds
- inadequate disposal in the summer months
- backwash wastewater from cleaning the filters at the water treatment plant
- storm water runoff into the ponds

Originally, the overflow from the LBRID treatment pond system was considered to be a combination of excessive storm water infiltration and inflow into the collection system, inadequate disposal in the summer months, and excessive water treatment plant backwash water that overwhelmed the system causing discharges in the winter months. During major storms, the capacity to capture additional water decreases rapidly. Once the system exceeds its limitations, there is no choice but to discharge the excess water.

There have been major improvements to the collection system and summer disposal. The new water treatment plant will produce significantly less backwash wastewater. More accurate wastewater flow information is being analyzed for better management of the existing pond system.

Management

The BOS, acting as LBRID's Board of Directors, provides operational and administrative services. The CPW Director serves as District Manager and Engineer and is responsible for overseeing day-to-day operations. The CPW's engineers assigned to LBRID and Napa Berryessa Resort Improvement District (NBRID), which is located on the southwest shore of the Lake, spend 95% of their time managing both Districts, leaving insufficient time for their other assignments.

Public Works assigns a full-time onsite licensed operator who divides his time between NBRID and LBRID, a 40/60 split respectively. Other administrative duties performed by CPW include budgeting, purchasing, billing, contracting and customer service. The offices of County Counsel, County Auditor-Controller and Treasurer-Tax Collector provide LBRID's legal and financial services.

A [NBRID] Board Agenda Letter dated March 2, 2010 from CPW reminded the BOD that "All services currently being provided by Napa County to NBRID and LBRID have been continuously provided without benefit of a formal agreement between the parties." It further states "Counsel for the District and Counsel for the County have recommended that the relationship between each District and County be formalized to reflect the separate status of the entities. . . the legal status of the two parties is that they are separate and distinct governmental entities."

A copy of a Master Facilities Plan with a timeline and cost analysis for future infrastructure, maintenance and replacement plans was requested by the Grand Jury. LBRID does not have an up-to-date Master Facilities Plan. The BOS could authorize the County Public Works Director to prepare an up-to-date Master Facilities Plan. This plan could map the infrastructure and financial needs of the District. The District would be well served to consider a 25-year plan which they review and update every five years.

Financial

The Grand Jury learned that it is very difficult to estimate the cost of operating LBRID. Although the BOS, BOD, and some residents are aware that there are financial problems with the District, the extent to which the County has been subsidizing the operation is difficult to ascertain. Historically, the total number of hours worked on behalf of LBRID has never been adequately tracked.

The Grand Jury found that some County staff costs from various departments might not have been fully captured in the expenses of the District in past years. There has been a concerted effort in recent years to thoroughly track time spent in managing the District. The FY 2011/12 budget is expected to accurately track staff time spent for administration, engineering and accounting.

Ongoing challenges of increasing service costs tied to new regulatory requirements, plus the small number of parcels and a reluctance to increase service rates, resulted in LBRID experiencing a financial imbalance by the early 2000s. Operating reserves were depleted after LBRID made numerous repairs to its water and sewer facilities following a series of damaging winter storms in 1995. Without adequate emergency reserves the District continues to experience revenue shortfalls and negative cash balance. Emergency repairs create a continuing shortfall. The new wastewater treatment plant, coupled with new spray fields, is designed to prevent future emergency situations.

The FY 2009/10 annual report includes audited financial statements for LBRID showing an increase in net assets of \$496,527 over the previous year. LBRID had operating losses of \$293,222 in FY 2009/10 and \$175,292 in FY 2008/09. Repair and maintenance costs have been increasing each of the last three years. The new wastewater treatment plant will cause these expenses to decrease and level off in future years.

County Loans to LBRID

FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11
\$0.00	\$0.00	\$100,000 ¹ Paid back FY 07/08	\$95,000 Paid back FY 08/09	\$590,250 ²	\$345,000 ³

¹Loan for emergency trucking of wastewater

²Loan for inflow and infiltration improvements and \$90,250 to cover operating shortfall.

³Loan to cover operating shortfall.

LBRID Total Revenue from LBRID Water and Sewer Rates

FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY10/11
\$401,354	\$543,517	\$446,722	\$517,297	\$566,054	\$533,699 ¹

¹Budgeted amount

This revenue does not include the ARRA funds which were restricted to the replacement of the wastewater treatment plant.

Water and sewer rates are operating revenues. ARRA and bond monies are restricted to specific improvements. The ARRA award and the 2007 bond revenue are not reflected in the chart above.

Bonds

The 2007 voter approved bond is a Limited Obligation Improvement Bond. The original bond document specifies the parameters of the capital improvements, including upgrades, replacements and repairs to the District's water and sewer system. These monies may not be used for operating costs or any operating shortfalls. Bond principal and interest are paid from the property tax assessments. The initial bond reserve account has been drawn on to help pay the principal and interest due to property tax delinquencies in the past two years.

LBRID 2011 and Beyond

LBRID's existing financial instability remains the critical issue going forward. LBRID has experienced a steep decline in its unrestricted assets over the last five fiscal years from \$140,105 to a negative \$725,020 due to persistent operating shortfalls. These shortfalls have required that LBRID request and receive discretionary loans from the County over the last few years to maintain operations. County staff estimates that additional loans will be required to meet budgeted operating costs in the coming years. The CPW staff has proposed a water and sewer rate increase to address some of the operating revenue shortfall problems. The ARRA funding of the new wastewater treatment plant has made money available from the 2007 bond assessment for other improvements that will help the District stay compliant with the RWQCB requirements. The continuing delinquencies and current economical environment coupled with increased costs will further exacerbate the District's financial problems.

The Grand Jury recommends the establishment of a plan to adjust the rate calculation each year to include a formula designed to establish and maintain a reserve balance. This reserve can then be depended upon to cover emergencies and ongoing repair and maintenance. Weather is uncertain and so too are emergencies. A healthy reserve balance that is continually replenished will move the District toward solvency.

Governance

LBRID operates under the California Public Resources Code (CPRC) Sections 13000-13233, which is known as the “Resort Improvement District Law.” The California Legislature passed this law to facilitate development of resorts similar to Squaw Valley in Placer County, California.

Law

The legal framework concerning the governance of a resort improvement district is set forth in CPRC Sections 13031 through 13034. The BOS is the governing body of the district (§13031). If deemed advisable by the BOS, a BOD for the district may be formed (§13032). Section 13032 does not specify by what means a BOS can create a BOD. There is no language in §13032 requiring a formal resolution by the BOS to form a BOD. The BOS may from time to time give the BOD any powers of the BOS (§13033).

Once a BOD is formed, §13034 requires an election by residents to fill the BOD with four residents from the district, to sit with the fifth member who is the supervisor who represents the district. The BOD may then, by unanimous vote, replace the supervisor on the BOD with another resident.

Facts

LBRID was organized in 1965.

From approximately 1965 through the present, the supervisors acted in all respects as if they had formed a BOD, except for holding an election by district residents. They created agendas, held meetings, produced minutes, and passed resolutions, all in the name of the BOD. These documents identify the five supervisors as the members of the BOD.

No election of an independent board by the residents of LBRID was ever held pursuant to §13034. All five members of the BOS still serve as the BOD.

The Grand Jury has asked for documentary evidence that the BOS has ever passed a formal resolution creating the BOD. To date, no one has produced any evidence showing that formal action was taken by the BOS.

Discussion

In light of these facts, the question is whether the BOS “formed” a board of directors under §13032, thereby requiring an election under §13034.

On the one hand, by creating agendas, holding meetings, producing minutes and passing resolutions, all in the name of the LBRID Board of Directors, the BOS acts as if it had created a BOD. On the evidence -- if it looks like a duck, swims like a duck, quacks like a duck, then it is probably a duck -- the actions of the supervisors amount to forming a BOD pursuant to §13032. If so, then the failure to hold an election is a violation of §13034.

On the other hand, if the BOS can form a BOD only through a formal action, an additional issue must be addressed. If a formal action was taken, then the BOD was formed and an election is required. If no formal action was taken, then the BOD was never formed and no election is required.

However, if the BOD was never formed and therefore has no legal existence, then holding meetings and passing resolutions in the name of the BOD causes confusion. Even the supervisors themselves are confused, as members of the Grand Jury personally observed during meetings of the BOD. In practice, the supervisors wear a two-billed cap -- with BOS on one bill and BOD on the opposite bill -- turning the cap when they believe it is appropriate.

This confusing situation is the result of the fact that a succession of Napa County Boards of Supervisors acted as if they had formed a BOD but did not need to hold an election. If these supervisors meant to function as LBRID’s governing body and not delegate any powers to an independent board elected by LBRID residents, then they should have never acted in the name of LBRID’s BOD.

Conclusion

To clarify matters, the BOS ought to pass a resolution forming a BOD and hold an election or cease meeting and acting in the name of the BOD.

A BOD elected by LBRID residents would be more responsive to their needs. The four supervisors who do not represent the District have no political obligation to consider the interests of LBRID residents when in conflict with the interests of their own supervisorial constituents.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. LBRID's water and sewer problems were due to aging infrastructure and deferred maintenance.
- F2. Between 1995 and 2010 the RWQCB issued notices of violation and a Cease and Desist Order to the LBRID Board of Directors.
- F3. LBRID water and sewer rate increases have been insufficient to cover operating expenses.
- F4. LBRID does not have an up-to-date Master Facilities Plan.
- F5. Adequate reserves have not been set aside to address ongoing infrastructure needs and emergencies.
- F6. For the past two years current revenues have not been sufficient to cover operating expenses.
- F7. The LBRID Board of Directors has requested loans from the County to cover operating shortfalls.
- F8. The LBRID Board of Directors has requested a loan of \$345,000 to balance the FY 2010/11 budget.
- F9. LBRID does not have a rate calculation in place to establish and maintain a reserve balance for emergencies and ongoing repair maintenance.
- F10. By their actions the Board of Supervisors formed a Board of Directors for LBRID within the meaning of CPRC §13032.
- F11. The composition of the LBRID Board of Directors is not in compliance with CPRC §13034, since the members are not elected by the residents of the District.
- F12. The LBRID Board of Directors has no legal existence.
- F13. Since the LBRID Board of Directors does not legally exist, meetings and resolutions in its name can be legally challenged on that ground.
- F14. The Board of Supervisors causes public confusion by acting in the name of a board of directors that has no formal legal foundation.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that the:

- R1. LBRID Board of Directors meets quarterly with LBRID property owners in Lake Berryessa Resort to update them on District issues and the Master Facilities Plan.
- R2. Board of Supervisors authorizes the County Public Works Director to prepare a Master Facilities Plan with a timeline and cost analysis for future infrastructure, maintenance and replacement plans.
- R3. County Public Works Director presents the newly formulated Master Facilities Plan to the property owners and the LBRID Board of Directors.
- R4. LBRID Board of Directors includes in future rate calculations a formula to provide for the establishment and maintenance of a reserve balance.
- R5. Board of Supervisors brings the composition of the LBRID Board of Directors into compliance with State law through the election of least four members who reside in the District to replace the four supervisors who do not reside in the District.
- R6. Board of Supervisors passes a formal resolution forming a Board of Directors for LBRID.
- R7. Board of Supervisors ceases meeting and acting in the name of the LBRID Board of Directors.

REQUEST FOR RESPONSES

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

From the following individuals:

- Napa County Public Works Director: F1, F2, F3, F4; R2, R3

From the following governing bodies:

- Lake Berryessa Resort Improvement District Board of Directors: F1, F2, F3, F4, F5, F6, F7, F8, F9, F11, F12; R1, R4
- Napa County Board of Supervisors: F10, F11, F12, F13, F14; R2, R5, R6, R7

GLOSSARY

ARRA - American Recovery and Reinvestment Act of 2009

BOD - Board of Directors of LBRID

BOS - Napa County Board of Supervisors

CDO - Cease and Desist Order

CPWD - County Public Works Department

LAFCO - Local Area Formation Commission

LBRID - Lake Berryessa Resort Improvement District

NBRID – Napa Berryessa Resort Improvement District

the Lake – Lake Berryessa

RWQCB - Regional Water Quality Control Board

§ - Section

METHODOLOGY

Information for this investigation was gathered through numerous interviews, document analysis, Internet research, on-site visit, in-person and video attendance of LBRID Board of Directors' meetings.

Interviews Conducted:

- LBRID residents
- LBRID Board of Directors
- Napa County Auditor-Controller Office personnel
- Napa County Board of Supervisors
- Napa County Department of Public Works personnel
- Napa County Executive Office personnel

Documents and Websites Reviewed:

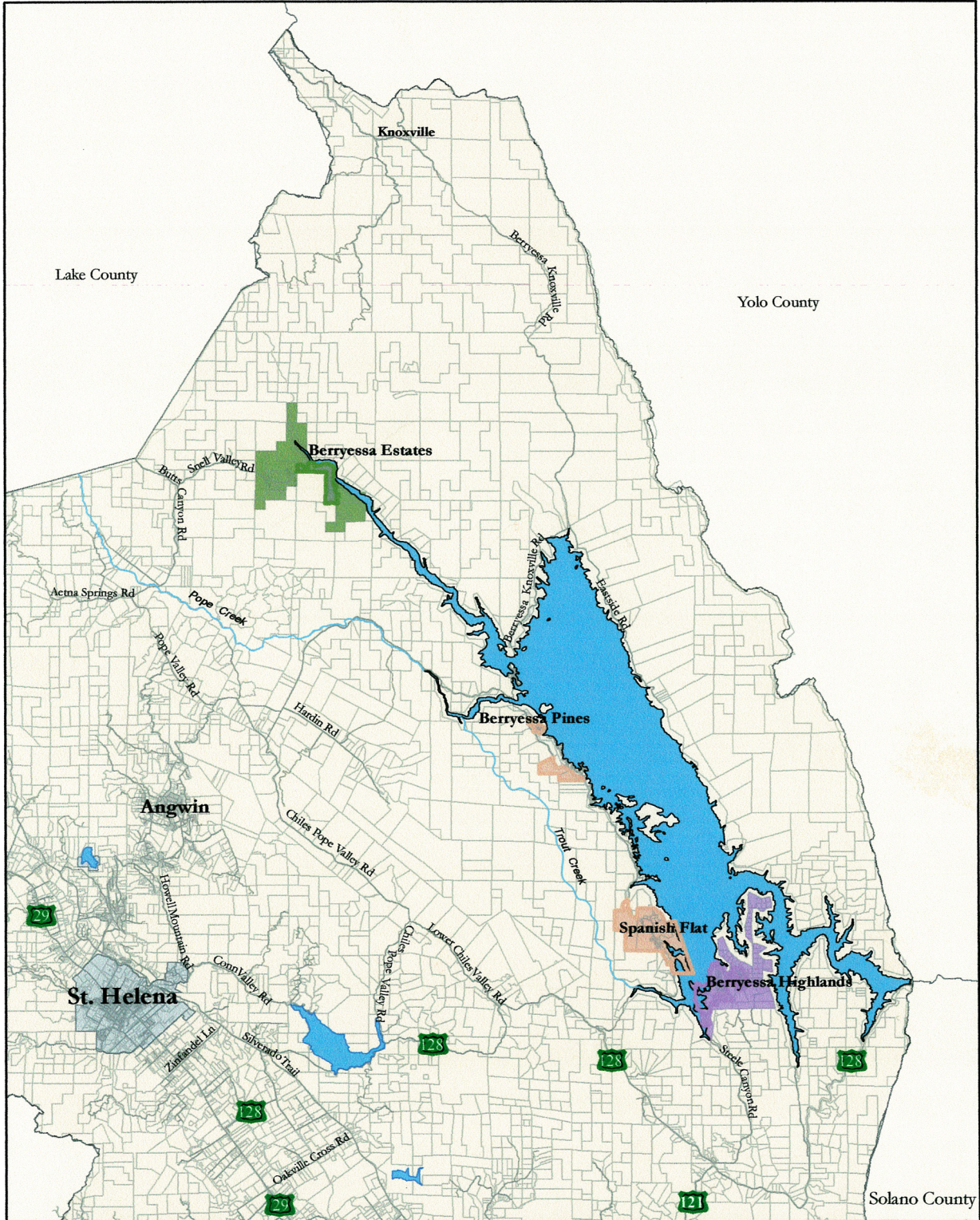
- California Public Resources Code Sections 13031 - 13034

- California Regional Water Control Board documents
- Agendas of Meetings of LBRID Board of Directors
- Board Agenda Letters of LBRID Board of Directors
- LAFCO Reports
- LBRID Annual Disclosure FY 2010
- LBRID Assessment District 2006-01 Limited Obligation Improvement Bonds 2007 Series A; July 24, 2007
- LBRID Budgets FYs 2006/07, 2007/08, 2008/09, 2009/10, 2010/11
- Letters between LBRID BOD and Pensus
- Minutes of Meetings of LBRID Board of Directors
- Napa County Public Works Staff Reports
- Napa Valley Register articles
- www.countyofnapa.org
- www.napavalleyregister.com
- www.swrcb.ca.gov

APPENDIX I

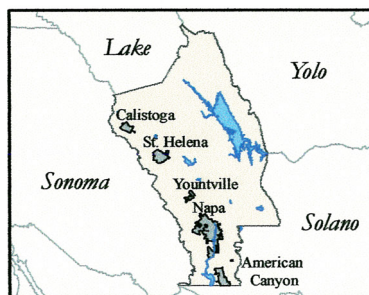
Lake Berryessa Region Municipal Service Review Map

Lake Berryessa Region Municipal Service Review



Affected Local Agencies

- Lake Berryessa Resort Improvement District
- Sphere of Influence
- Napa-Berryessa Resort Improvement District
- Sphere of Influence
- Spanish Flat Water District
- Sphere of Influence



0 10 20 Miles



LAFCO of Napa County
1700 Second Street, Suite 268
Napa, California 94559
<http://napa.lafco.ca.gov>



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This is the eleventh in a series of final reports we will be issuing before the term ends. I would like to acknowledge the hard work and dedication of the Grand Jurors, which our report reflects. It is a privilege and a pleasure to work with them.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith Bernat".

Judith Bernat
Forewoman
2010-2011 Napa County Grand Jury



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY
P.O. BOX 5397
NAPA, CALIFORNIA 94581

To the Residents of Napa County:

In order to fulfill the Grand Jury's mandate to investigate all local government agencies, to assure they are being administered efficiently, honestly, and in the best interest of Napa County residents, the 2010-2011 Grand Jury investigated the Napa Berryessa Resort Improvement District.

The Grand Jury has carefully investigated this matter and developed a set of findings and recommendations with the objective of representing the public interest.

The Grand Jury made eight recommendations. Some of the recommendations made are that the NBRID Board of Directors facilitate the formation of a transition committee to serve until conversion to an independent community service district is complete; that the Board of Supervisors pass a formal resolution forming a Board of Directors for NBRID; that the Board of Supervisors bring the composition of the NBRID Board of Directors into compliance with State law through the election of at least four members who reside in the District to replace the four supervisors who do not reside in the District; that the NBRID Board of Directors include in future rate calculations a formula to provide for the establishment and maintenance of a reserve balance.

The Napa County Office of County Counsel has reviewed this final report. The Napa County Superior Court Presiding Judge, pursuant to California Penal Code Section 933 (a), has found that this report complies with California Penal Code Part 2 Title 4. This report has been accepted and filed as a public document by the County Clerk.

Copies of this report are available for review in the Napa City-County Library and online at www.napa.courts.ca.gov. Follow the link to Grand Jury.

We hope you find this report informative.

It is an honor and privilege to serve on the 2010-2011 Grand Jury.

Respectfully submitted,

The 2010-2011 Napa County Grand Jury

NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT

SUMMARY

The 2010-2011 Napa County Grand Jury is mandated to investigate and report to the residents of Napa County about their local government agencies and districts. The Grand Jury conducted an investigation of the Napa Berryessa Resort Improvement District (NBRID). This District was last reported about by the Grand Jury in fiscal year (FY) 1996/97.

In 1965 NBRID was organized as a resort improvement district, governed by the County Board of Supervisors (BOS) pursuant to California Public Resources Code (CPRC) Section (§)13031. The original intent was for the District to provide a full range of municipal services to support the planned development of Berryessa Highlands, an unincorporated community located along the southwestern shoreline of Lake Berryessa (the Lake). In 1971 NBRID was limited to provide only sewer and water services to the District.

The County Public Works (CPW) Director serves as District Manager and Engineer and is responsible for overseeing daily operations. The County's Auditor-Controller and the Treasurer-Tax Collector provide financial services; County Counsel provides legal services to NBRID.

Berryessa Highlands was projected to become a development of approximately 4,000 residential units and to include various commercial and recreational uses. This anticipated development never occurred. Currently there are 350 water connections, and 351 sewer connections serving 358 houses and approximately 920 residents.

NBRID has a history of water and sewer problems due to aging facilities and infrastructure. Deficiencies with the sewer system have been persistent and have resulted in repeated sewage spills into the Lake. This caused the Regional Water Quality Control Board (RWQCB) to issue several notices of violation and three Cease and Desist Orders (CDO) between 1995 and 2010. RWQCB also placed restrictions on adding new sewer connections until specific improvements are made.

In February 2011 the NBRID Board of Directors met for the first time in Cappell Valley with the NBRID residents to discuss District issues. The residents of NBRID approved, in February 2011, a water rate increase for fiscal year 2010-2011. The NBRID residents have expressed interest in severing ties with the

County by becoming an independent community service district. The BOS submitted a letter to the County's Local Agency Formation Commission (LAFCO) requesting that the District be converted to an independent district. If NBRID reorganizes into an independent community service district, NBRID would assume sole responsibility for all assets and liabilities associated with its operations, including the levying of rates for District services.

From approximately 1965 through the present, the supervisors acted in all respects as if they had formed a BOD, except for holding an election by district residents. They created agendas, held meetings, produced minutes, and passed resolutions, all in the name of the BOD. These documents identify the five supervisors as the members of the BOD.

No election of an independent board by the residents of NBRID was ever held pursuant to §13034. All five members of the BOS still serve as the BOD.

To clarify matters, the BOS ought to pass a resolution and hold an election; or cease meeting and acting in the name of the BOD.

A BOD elected by NBRID residents would be more responsive to their needs. The four supervisors who do not represent the District have no political obligation to consider the interests of NBRID residents when in conflict with the interests of their own supervisorial constituents.

BACKGROUND

Outdated and failing infrastructure has created on-going water and sewer problems at NBRID which have resulted in management and financial burdens for NBRID residents and for the County. The County has subsidized the District for many years through discretionary loans, and questions of responsibility remain as the District goes forward with its efforts to become an independent community service district.

NBRID Chronology

1965

- NBRID formed to provide municipal services for the planned development of Berryessa Highlands.
- Individual members of the BOS became NBRID's Board of Directors.
- Development was slow at Berryessa Highlands and Steele Park Resort.

1967

- A bond was issued for \$900,000 to help finance the construction of water and sewer facilities.

- 1968
- Water treatment facility constructed to disinfect and filter water from Lake Berryessa.
- 1969
- Water and sewer rate charges were established.
- Early 1970s
- Labry Corporation who developed Berryessa Highlands filed for bankruptcy and ceased operation.
- 1971
- State amendment to the California Resort Improvement District Act limited NBRID to providing only water and sewer services.
- 1975
- Napa County and Labry Corporation settled lawsuit for failure to complete development.
- 1991
- NBRID approved the first increase in water and sewer rates.
- 1995
- NBRID's operating expenses depleted after making repairs during winter storms.
 - Outside consulting firm completed a Master Facilities Plan to evaluate the water treatment and sewer treatment plants and pinpointed a number of areas of noncompliance at the sewer plant.
 - RWQCB issued notices of violation and first CDO for repeatedly spilling treated sewage into the Lake. No fine was levied.
- 1996
- NBRID developed a five-year financial plan. The plan was never implemented because NBRID was denied a state grant and a low interest federal loan because the median income of residents was too high. NBRID raised \$56,000.
- 1997
- NBRID voters rejected a parcel tax that would have replenished operating reserves.
- 2003
- Residents had no water for several days due to pipeline and mechanical failures.
- 2004
- Again, residents had no water for several days due to pipeline and mechanical failures.
 - RWQCB implemented stricter regulations.
- 2005
- A 35% increase went into effect for both water and sewer rates.
 - Outside engineering firm hired to develop a Master Facilities Plan.
- 2006

- RWQCB issued a second CDO which established and expanded restrictions on adding new sewer connections until specific improvements are made.
- 2007
- \$13.9M bond measure to fund specific capital improvements approved by NBRID voters. No bonds have been sold or issued to date.
 - BOD and a private water service company discussed privatizing NBRID.
- 2008
- Negotiations fell through with private water service.
- 2009
- NBRID voters rejected water and sewer rate increases.
 - NBRID received \$474,000 in loans from the County to cover operating costs.
- 2010
- RWQCB issued third CDO for allowing treated sewage to spill into the Lake.
 - NBRID received \$395,000 in loans from the County to cover operating costs.
 - The County requested that LAFCO reorganize NBRID from a dependent to an independent community service district.
 - Required inflow and infiltration assessment submitted to RWQCB.
 - After a string of winter storms, NBRID began a discharge of treated sewage that allowed thousands of gallons to enter a tributary of the Lake.
- 2011
- In February, voters approved an almost 70% rate increase for the remainder of the fiscal year.
 - In March, BOS contacted LAFCO regarding formation of independent community service district.
 - NBRID received \$205,000 in loans from the County to cover operating costs.
- 2015
- RWQCB requires completing construction of a “new or improved wastewater treatment facility.”

DISCUSSION

Development of Napa Berryessa Highlands

NBRID was created in 1965 as a resort improvement district. It was anticipated that NBRID would eventually consist of approximately 4,000 residential units. In the early 1970s, the Labry Corporation, developers of Berryessa Highlands, went bankrupt and ceased operation. Development remained slow with only 71 lots

built on by 1980. The first increase to NBRID's water and sewer rates did not occur until 1991. In 1995, after damaging winter storms, the necessary repairs made to water and sewer facilities depleted fiscal reserves.

Aging facilities and infrastructure are at the center of NBRID's problems. Providing clean drinking water and sewer services to the current 358 houses and 920 residents is challenging as the equipment deteriorates, fails, and needs replacing. Equipment and facilities have not been maintained because of insufficient funds.

Drinking Water

NBRID's drinking water treatment facility, constructed in 1968, disinfects and filters water conveyed from Lake Berryessa. The water supply is sufficient to accommodate current use and projected growth. NBRID's growth is expected to remain stagnant over the next several years and not expected to generate the need for additional storage and treatment capacities. The possible development of Lupin Shores (formerly Steele Park Resort) may trigger the need for additional storage and treatment capacity.

Sewer System

In the 1990s NBRID experienced several illegal sewage spills into the Lake, leading the RWQCB to issue notices of violation and CDOs between 1995 and 2010. Until 1995 the escalating infrastructure problems "weren't on anyone's radar." By late 2003 the RWQCB tightened its regulations and restrictions, therefore becoming more of an enforcement agency than a regulatory body. The RWQCB will not allow discharge into the creeks or the Lake, even though, according to County Public Works (CPW) engineers, the treated discharge is cleaner than the Lake.

The last two CDOs issued in 2006 and 2010 established and further restricted adding new sewer connections until specific improvements are made. These include submitting an inflow and infiltration assessment for RWQCB review by November 2011 and completing construction on a "new or improved wastewater treatment facility" before the end of 2015.

There are three components to the NBRID sewer system: 1) the collection system, which carries raw waste from the subdivision, 2) the treatment system, which provides treatment through a series of ponds, and 3) the disposal system which consists of spray fields and one collection pond used for both collection and storage when the spray fields are non-operational. If runoff does occur, it can be collected in the pond and then pumped back up to the tank for reapplication onto the spray fields. With winter rain, disposal and storage capacity become

overwhelmed. This inability to dispose of and store treated water during the winter violates the District permit.

Disposal is a major problem at NBRID. The approximately 60 acres of spray fields are not sufficient to handle all the treated sewage during winter rains. The RWQCB will not permit NBRID to operate the spray fields when it rains, but NBRID has no place to store the sewage. Storm water seeping into the deteriorating clay pipes, along with drainage deficiencies at the spray fields, causes uncontrolled runoff and the overflow. The RWQCB will not allow discharge into the creeks or the Lake, even though, according to County Public Works (CPW) engineers, the treated discharge is cleaner than the Lake water.

Management

The BOS, acting as NBRID's Board of Directors, provides operational and administrative services. The CPW's Director serves as District Manager and Engineer and is responsible for overseeing day-to-day operations. The CPW's engineers assigned to NBRID and to Lake Berryessa Resort Improvement District (LBRID), which is located on the northwest shore of the Lake, spend 95% of their time managing both Districts, leaving insufficient time for their other assignments.

Public Works assigns a full-time onsite licensed operator who divides his time between NBRID and LBRID, a 40/60 split respectively. Other administrative duties performed by CPW include budgeting, purchasing, billing, contracting and customer service. The offices of County Counsel, County Auditor-Controller and County Treasurer-Tax Collector provide NBRID's legal and financial services.

An NBRID Board Agenda Letter dated March 2, 2010 from CPW reminded the BOD that "All services currently being provided by Napa County to NBRID and LBRID have been continuously provided without benefit of a formal agreement between the parties." It further states "Counsel for the District and Counsel for the County have recommended that the relationship between each District and County be formalized to reflect the separate status of the entities. ...the legal status of the two parties is that they are separate and distinct governmental entities."

A copy of a Master Facilities Plan with a timeline and cost analysis for future infrastructure, maintenance, and replacement plans was requested by the Grand Jury. NBRID does not have an up-to-date Master Facilities Plan. The BOS could authorize the County Public Works Director to prepare an up-to-date Master Facilities Plan, in the event NBRID does not become an independent community service district. This plan could map the infrastructure and financial needs of the District. The District would be well served to consider a 25-year plan which they review and update every five years.

Financial

The Grand Jury learned that it is very difficult to estimate the cost of operating NBRID. Although the BOS, BOD, and some residents are aware that there are financial problems, the extent to which the County has been subsidizing the operation is difficult to ascertain. Historically, the total number of hours worked on behalf of NBRID has never been adequately tracked.

The Grand Jury found that some County staff costs from various departments might not have been fully captured in the expenses of the District in past years. However, there has been a concerted effort in recent years to thoroughly track time spent in managing the District. The FY 2012 budget is expected to accurately track staff time spent for administration, engineering and accounting.

NBRID has requested a loan from the County in the amount of \$205,000 to cover current year operating cost shortfalls (per NBRID Agenda dated May 3, 2011). The continuing property tax delinquencies and current economic environment coupled with increased costs will further exacerbate the District's financial problems.

Loans to NBRID from the County

FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11
\$0.00	\$0.00	\$460,000 ¹ Repaid FY 07/08	\$480,000 Repaid FY 08/09	\$869,000 ²	\$205,000 ³

¹ For design services for a proposed bond project

² \$200,000 - operating expenses; \$195,000 - safety improvements; \$474,000 – repay prior year loan – Total \$869,000

³ Requested at Board of Supervisor's meeting on May 3, 2011.

The Grand Jury recommends the establishment of a plan to adjust the rate calculation each year to include a formula designed to establish and maintain a reserve balance. This reserve can then be depended upon to cover emergencies and ongoing repair and maintenance. Weather is uncertain and so too are emergencies. A healthy reserve balance that is continually replenished will move the District toward solvency.

Revenue from Water and Sewer Rates/Proposition 218

FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11
\$533,672	\$389,059	\$627,018	\$619,520	\$519,467	\$716,684 ¹

¹Budgeted amount

The 2007 Bond

NBRID voters in 2007 approved a \$13.9M bond measure to make expansive improvements to the water and sewer infrastructure. The lack of commitment from the Pensus Group, the concessionaires for Lupin Shores, regarding their construction plans to redevelop the concession site has added to NBRID's financial problems by delaying the issuing of the bonds approved in 2007 by the NBRID property owners. To date, no bonds have been issued or sold.

Current Decisions and Reorganization

While the problems at NBRID are ongoing, complex, and frustrating for everyone involved, the District and the County both want to resolve the dilemma.

There is a strong desire among landowners and residents of NBRID to reorganize the District to become independent from the County, i.e., to become an independent community service district. The BOS submitted a letter in November 2010 to LAFCO asking that the District be converted to an independent community service district. If approved, the Napa Berryessa community would assume the sole responsibility of all assets and liabilities associated with its operations, including the levying of rates for District services. They would elect five property owners to serve as their board of directors. Addressing NBRID's existing financial instability remains the critical issue going forward regardless of whether or not the District remains dependent or becomes an independent community service district.

In its February 2011 Resolution No. 2011-01, the current BOD recommended to the BOS that they begin "negotiations with a new Board of Directors, prior to their installation, regarding the outstanding loans from the County to the District and other disputed charges ...with the object of reaching financial stability for the District." This Resolution stipulates that CPW continue under contract to meet the requirements of the CDOs and Waste Discharge Requirements Order "for a period of time sufficient to insure that these orders have been amended or satisfied or until...a contract operator assumes operations of the water and wastewater facilities." The BOD will also explore employing "a public private partnership process for the selection of a contractor or contractors to manage District operations on a long term basis, and to determine whether it is in the best interest of the District to contract for the design, building, operation and financing...of the District facilities."

Lupin Shores -- In or Out?

NBRID's current ability to fund needed capital improvements for its water and sewer systems has been adversely affected by the uncertainties associated with the United States Bureau of Reclamation's redevelopment plans for Steele Park, now

known as Lupin Shores, which has been left undeveloped since May 2008. A \$13.9M bond measure to fund specific capital improvements was approved by NBRID voters in 2007. However, the bond was not implemented due to the expiration of the contract with the Steele Park which accounted for approximately one third of the total bond assessment. Pensus, the new contractor may be responsible for approximately \$4.6M of the \$13.9M bond. Recently, Pensus has suggested that the development of the resort site will be smaller in scale than previously calculated.

Governance

NBRID operates under the California Public Resources Code (CPRC) Sections 13000-13233, which is known as the “Resort Improvement District Law.” The California Legislature passed this law to facilitate development of resorts similar to Squaw Valley in Placer County, California.

Law

The legal framework concerning the governance of a resort improvement district is set forth in CPRC Sections 13031 through 13034. The BOS is the governing body of the district (§13031). If deemed advisable by the BOS, a BOD for the district may be formed (§13032). Section 13032 does not specify by what means a BOS can create a BOD. There is no language in §13032 requiring a formal resolution by the BOS to form a BOD. The BOS may from time to time give the BOD any powers of the BOS (§13033).

Once a BOD is formed, §13034 requires an election by residents to fill the BOD with four residents from the district, to sit with the fifth member who is the supervisor who represents the district. The BOD may then, by unanimous vote, replace the supervisor on the BOD with another resident.

Facts

NBRID was organized in 1965.

From approximately 1965 through the present, the supervisors acted in all respects as if they had formed a BOD, except for holding an election by district residents. They created agendas, held meetings, produced minutes, and passed resolutions, all in the name of the BOD. These documents identify the five supervisors as the members of the BOD.

No election of an independent board by the residents of NBRID was ever held pursuant to §13034. All five members of the BOS still serve as the BOD.

The Grand Jury has asked for documentary evidence that the BOS has ever passed a formal resolution creating the BOD. To date, no one has produced any evidence showing that formal action was taken by the BOS.

Discussion

In light of these facts, the question is whether the BOS “formed” a board of directors under §13032, thereby requiring an election §13034.

On the one hand, by creating agendas, holding meetings, producing minutes and passing resolutions, all in the name of the NBRID Board of Directors, the BOS acts as if it had created a BOD. On the evidence -- if it looks like a duck, swims like a duck, quacks like a duck, then it is probably a duck -- the actions of the supervisors amount to forming a BOD pursuant to §13032. If so, then the failure to hold an election is a violation of §13034.

On the other hand, if the BOS can form a BOD only through a formal action, an additional issue must be addressed. If a formal action was taken, then the BOD was formed and an election is required. If no formal action was taken, then the BOD was never formed and no election is required.

However, if the BOD was never formed and therefore has no legal existence, then holding meetings and passing resolutions in the name of the BOD causes confusion. Even the supervisors themselves are confused, as members of the Grand Jury personally observed during meetings of the BOD. In practice, the supervisors wear a two-billed cap -- with BOS on one bill and BOD on the opposite bill -- turning the cap when they believe it is appropriate.

This confusing situation is the result of the fact that a succession of Napa County Boards of Supervisors acted as if they had formed a BOD but did not need to hold an election. If these supervisors meant to function as NBRID’s governing body and not delegate any powers to an independent board elected by NBRID residents, then they should have never acted in the name of NBRID’s BOD.

Conclusion

To clarify matters, the BOS ought to pass a resolution forming a BOD and hold an election or cease meeting and acting in the name of the BOD.

A BOD elected by NBRID residents would be more responsive to their needs. The four supervisors who do not represent the District have no political obligation to consider the interests of NBRID residents when in conflict with the interests of their own supervisorial constituents.

FINDINGS

The 2010-2011 Grand Jury finds that:

- F1. The NBRID Board of Directors has only met once in Cappell Valley with NBRID residents and property owners to update them on District issues.
- F2. NBRID's continuing water and sewer problems are due to aging infrastructure and deferred maintenance.
- F3. Between 1995 and 2010 the RWQCB issued several notices of violations and three Cease and Desist Orders to the NBRID Board of Directors.
- F4. NBRID does not have an up-to-date Master Plan.
- F5. Adequate reserves have not been set aside to address ongoing infrastructure needs to keep facilities up-to-date.
- F6. For the past two years current revenues have not been sufficient to cover operating expenses.
- F7. The NBRID residents have expressed interest in converting to an independent community services district and would like to be part of a transition committee.
- F8. The NBRID Board of Directors has requested loans from the County to cover operating shortfalls.
- F9. The NBRID Board of Directors received a loan of \$205,000 from the County to balance the FY 2010/11 budget.
- F10. NBRID does not have a rate calculation in place to establish and maintain a reserve balance for emergencies and ongoing repair maintenance.
- F11. By their actions the Board of Supervisors formed a Board of Directors for NBRID within the meaning of CPRC §13032.
- F12. The composition of the NBRID Board of Directors is not in compliance with CPRC §13034, because the members are not elected by the residents of the District.
- F13. The NBRID Board of Directors has no legal existence.

F14. Since the NBRID Board of Directors does not legally exist, meetings and resolutions in its name can be legally challenged on that ground.

F15. The Board of Supervisors causes public confusion by acting in the name of a board of directors that has no formal legal foundation.

RECOMMENDATIONS

The 2010-2011 Grand Jury recommends that the:

- R1. NBRID Board of Directors meets quarterly in Cappell Valley with NBRID residents and property owners to update them on District issues.
- R2. NBRID Board of Directors facilitates the formation of a transition committee to serve until conversion to an independent community service district is complete.
- R3. Board of Supervisors authorizes the County Public Works Director to prepare an up-to-date Master Facilities Plan with a timeline and cost analysis for future infrastructure, maintenance, and replacement plans in the event that NBRID does not become a community service district.
- R4. County Public Works Director presents the newly formulated Master Facilities Plan to the property owners and the NBRID Board of Directors.
- R5. NBRID Board of Directors includes in future rate calculations a formula that will provide for the establishment and maintenance of a reserve balance.
- R6. Board of Supervisors brings the composition of the NBRID Board of Directors into compliance with State law through the election of at least four members who reside in the District to replace the four supervisors who do not reside in the District.
- R7. Board of Supervisors passes a formal resolution forming a Board of Directors for NBRID.
- R8. Board of Supervisors ceases meeting and acting in the name of the NBRID Board of Directors.

REQUEST FOR RESPONSES

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

From the following individuals:

- Napa County Public Works Director: F2, F3; R3, R4

From the following governing bodies:

- NBRID Board of Directors: F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11, F12, F13, F14; R1, R2, R5,
- Napa County Board of Supervisors: F10, F11, F12, F13, F14, F15; R3, R6, R7, R8

GLOSSARY

BOD - Board of Directors of NBRID

BOS- Napa County Board of Supervisors

CDO - Cease and Desist Order

Community Service Districts consist of two types of districts independent and dependent. An independent district is a unit of local government established by the residents of an area to provide some service not provided by the county or city. An independent district operates under a locally elected, independent board of directors. A dependent district operates under the control of a county board of supervisors or a city council. On a statewide basis, 34 percent of the special districts are dependent in their governing structure. Most of these dependent districts are governed by boards of supervisors. City councils and county supervisors often appoint local advisory boards to assist and advise them in governing dependent districts.

CPWD - County Public Works Department

LAFCO - Local Area Formation Commission

LBRID - Lake Berryessa Resort Improvement District

Lupin Shores sometimes spelled Lupine Shores

NBRID - Napa Berryessa Resort Improvement District

the Lake – Lake Berryessa

RWQCB - Regional Water Quality Control Board

§ - Section

METHODOLOGY

Information for this investigation was gathered through numerous interviews, document analysis, Internet research, on-site visit, in-person and video attendance at NBRID Board of Director's meetings.

Interviews Conducted:

- Napa County Auditor-Controller Office personnel
- NBRID Board of Directors
- Napa County Board of Supervisors
- Napa County Department of Public Works personnel
- Napa County Executive Office personnel

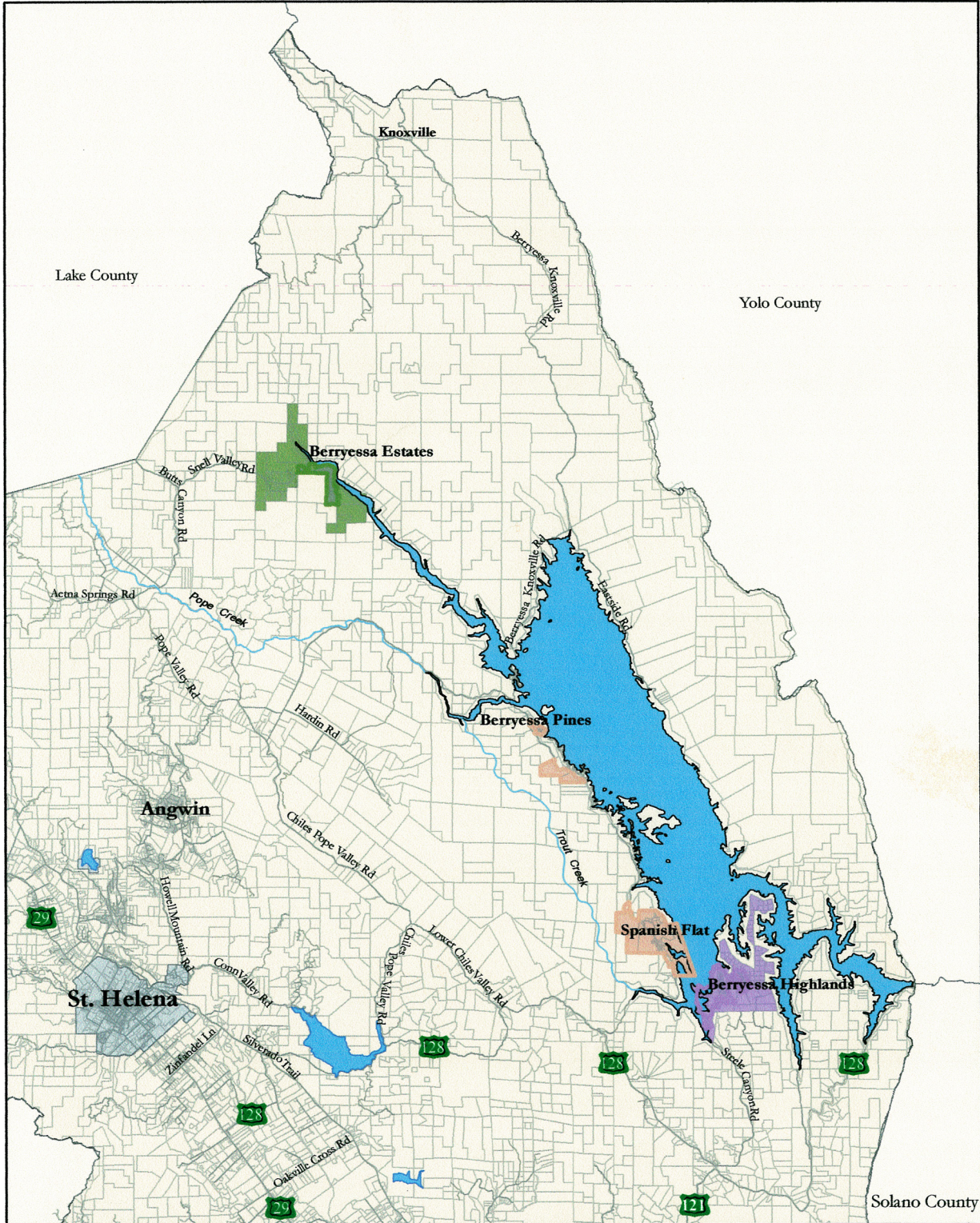
Documents and Websites Reviewed:

- California Public Resources Code Sections 13031-13034
- California Regional Water Control Board documents
- County of Napa Combining Statement of Fund Net Assets Non Major Enterprise Funds, June 30, 2009
- Agendas of Meetings of NBRID Board of Directors
- Board Agenda Letters of NBRID Board of Directors
- LAFCO Reports
- Minutes of Meetings of NBRID Board of Directors
- NBRID Budgets FYs 2006/07, 2007/08, 2008/09, 2009/10, 2010/11
- Napa County Grand Jury Reports, NBRID, FY1981/82; FY1996/97
- Napa County Public Works Staff reports
- Napa Valley Register articles
- Timetoast Timelines, The History of Berryessa Special Districts
- www.countyofnapa.org
- www.napavalleyregister.com
- www.swrcb.ca.gov

APPENDIX I

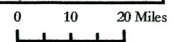
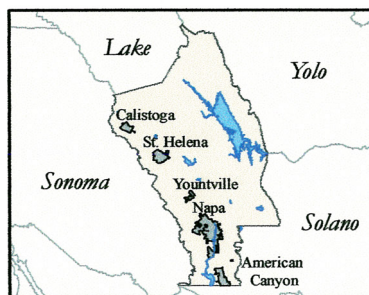
Lake Berryessa Region Municipal Service Review Map

Lake Berryessa Region Municipal Service Review



Affected Local Agencies

- Lake Berryessa Resort Improvement District
- Sphere of Influence
- Napa-Berryessa Resort Improvement District
- Sphere of Influence
- Spanish Flat Water District
- Sphere of Influence



LAFCO of Napa County
 1700 Second Street, Suite 268
 Napa, California 94559
<http://napa.lafco.ca.gov>



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2010-2011

RESPONSES TO THE 2009-2010 GRAND JURY FINAL REPORTS

RESPONSES TO THE 2009-2010 GRAND JURY FINAL REPORTS

SUMMARY

Upon completion of its one-year term, the 2009-2010 Grand Jury issued a Final Consolidated Report in June 2010. The Final Consolidated Report contained nine individual Final Reports on local government agencies and departments throughout Napa County. All reports were released and made public individually prior to the publication of the Final Consolidated Report.

The Grand Jury requested responses to the 2009-2010 Grand Jury Recommendations from the appropriate government agencies and departments. In accordance with California Penal Code Section 933, elected officials are required to respond within sixty days of public release of the Grand Jury's report. Government agencies are required to respond within ninety days, with all responses addressed to the Presiding Judge of the Napa County Superior Court. Although Grand Jury statutes require responses to Findings, as well as Recommendations, it has not been the policy of recent Napa County Grand Juries to specify or require responses to the Findings issued in any Final Report.

The 2010-2011 Grand Jury decided that the Findings from the 2009-2010 Grand Jury reports should be responded to by the government agencies as the statutes require. Therefore each agency was sent a letter with the Findings they were to respond to which were returned to this year's Grand Jury.

The 2010-2011 Grand Jury reviewed all responses provided by the various government agencies, departments, and officials as requested by the prior Grand Jury in its nine Final Reports. Throughout its term of office, the current Grand Jury requested that some responses be clarified, supplemented and/or updated. If a response indicated that a Recommendation would be implemented or needed study, an updated response was requested six months from the original date of publication.

GRAND JURY COMMENTS

The 2010-2011 Grand Jury has entered each response to the findings and recommendations as they were submitted to the Presiding Judge. In some cases you may find errors in punctuation, grammar and some misspellings. The Grand Jury may not make corrections to any responses submitted.

It should be noted that some respondents took exception to some of the Findings and Recommendations contained in the 2009-2010 Final Reports, citing them as untrue, misleading, or incorrect. To this, the 2010-2011 Grand Jury responds as follows:

The Grand Jury acknowledges and understands that there will always be honest disagreement with Findings and Recommendations published in its final reports, especially should those Findings and Recommendations reflect negatively on their agency or department. However, those same agencies and departments, as well as all residents of Napa County, should be aware that the information and Findings set forth in the Grand Jury's final reports are based solely on factual knowledge gathered in the course of its investigations. This information is compiled during the Grand Jury's term by means of general research, review of pertinent documents, and oral interviews. All interviews are attended by at least two Grand Jury members, with all information triangulated (confirmed by three or more sources) whenever possible.

It should also be noted that due to the confidential nature of the Grand Jury interview process, persons being interviewed might sometimes reveal facts and information in confidence to the Grand Jury that they might not otherwise be willing to disclose in the public arena.

BACKGROUND

State law requires at least one organization/agency or official to submit a written response to the Presiding Judge of the Napa Superior Court for every Finding and Recommendation in a Grand Jury Final Report pertaining to matters under the control of the organization/agency or official. The sitting Grand Jury reviews these responses to assure each response was submitted within the time frame and meets the statutory requirements set forth in California Penal Code Section 933. Each finding in a Grand Jury report requires substantiation by written documents and/or oral testimony. At least two Grand Jurors must be present for oral testimony to be considered. Each recommendation must be supported by at least one finding. As most recommendations usually suggest some shortcoming and call for some sort of change, the Grand Jury Recommendations are not always well received by agencies, departments, and officials of city and county

government. The Grand Jury acknowledges that Recommendations are subjective and that honest disagreement may exist. The Grand Jury accepts this fact and will continue to be the voice of the people and continue to be the voice of the people.

METHODOLOGY

The 2010-2011 Grand Jury evaluated the responses to the 2009-2010 Grand Jury's Findings and Recommendations. The following criteria were considered to ensure compliance with the statutory requirements of California Penal Code Section 933.05:

- Were the responses received by the Presiding Judge, in accordance with the statutory time frame of ninety days for an agency or department head or sixty days for an elected official?
- Did the Respondent's responses indicate agreement or disagreement with the Finding, either in whole or in part? The disputed portion is specified, along with the reasons for the dispute.
- If a Recommendation was implemented did the respondent provide a summary of the implemented action?
- If a Recommendation was not implemented would it be within six months, and did the respondent provide a timeline for implementation.
- If a Recommendation required further analysis or study, did the respondent provide an explanation and timeline (not to exceed six months from the date of publication of the Report)?
- If a Recommendation is not to be implemented because it is not warranted or unreasonable, did the respondent provide an explanation?

Responses that failed to meet one or more of the above criteria can be subject to re-investigation. Throughout the term of the 2010-2011 Grand Jury, requests for clarification and/or updated responses were sent to various respondents.

DISCUSSION

FINAL REPORTS

NAPA COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES Involuntary Mental Health Evaluations

The 2009-2010 Grand Jury published its final report on Involuntary Mental Health Evaluations on April 29, 2010.

Responses were received from the following:

- Napa County Director of Health and Human Services
- Napa County Director of Mental Health
- Napa County Board of Supervisors

The 2009-2010 Grand Jury did not ask the respondents to respond to findings, as the law requires. A request to respond to the findings was made by the 2010-2011 Grand Jury. The respondents did respond to the findings.

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are each of the responses of each respondent who was asked to respond to the specific finding and recommendation.

The responses to the following findings and recommendations were found to meet statutory requirements.

FINDINGS

The 2009-2010 Napa County Grand Jury found the following:

Finding 1. No BOS or HHS documents relating to identification of facilities subsequent to 1996 were located. The list of facilities currently in use does not correspond to BOS actions in documents reviewed.

Response, Director of Health and Human Services:

We agree partially with the finding. All but one of the facilities currently in regular use by HHSA for the placement of persons involuntarily

detained pursuant to §5150 of the Welfare and Institutions Code are among the dozen or more such facilities designated by the Board of Supervisors in the various actions referred to by the Grand Jury in its report. HHSA subsequently began making occasional use of Napa State Hospital for this purpose but failed to request formal designation by the Board of Supervisors.

Finding 2. There is no documentation of BOS actions designating Napa County personnel having authority to administer a 5150 hold, although such action was mandated by the LPS Act.

Response, Director of Health and Human Services:

We agree partially with the finding. It is correct that HHSA has never requested formal action by the Board of Supervisors to designate personnel with this authority. There do exist a number of policies and procedures duly accepted within HHSA relating to the operation of the overall program within which 5150 holds are administered. From these, it is readily apparent that the Crisis Response Unit within the Mental Health Division of HHSA was assigned responsibility for administration of 5150 holds on behalf of the County. There are many state mandates that are carried out administratively at the department level without formal board action, however, HHSA defers to the Grand Jury's interpretation of Section 5150 and accepts its recommendation that the statute be implemented by the formal adoption of a resolution by the Board of Supervisors.

Finding 3. ERP is a memorandum of understanding among the involved agencies and is not an adopted official policy of the participating government agencies or health care facilities.

Response, Director of Health and Human Services:

We agree with the finding. The document was developed at the service unit level to improve coordination and facilitate training among various public and private agencies with separate responsibilities as regards the 5150 process. Involvement in the 5150 process is mandatory for some agencies and voluntary for others. Participation in the ERP is voluntary for all agencies.

Finding 4. Among members of the ESORC, as well as other staff members of HHS Mental Health Department, there is an inconsistent understanding of the of the ERP and the roles of participating staff and organizations.

Response, Director of Health and Human Services:

We agree with the finding. The ERP was developed to address the inconsistent understanding of the overall 5150 process among the various

affected agencies. The ERP is a “living document” that has been revisited and revised from time to time to address both new and ongoing issues and it is accurate to conclude that additional work is necessary.

Finding 5. Meetings of all participating County staff involved in the administration of the WIC Section 5150-5157 are held on an ad hoc basis.

Response, Director of Health and Human Services:

We agree with the finding. It is true that meetings involving all such staff are extremely rare, due in part to the fact the Crisis Response Unit is a 24 hour service. It would be inaccurate to say that staff do not meet or that they are not provided with training or supervision. However, HHSA agrees that increased coordination and training among affected staff will improve the service.

Finding 6. There is no current signed contract between the County and NSH to receive individuals referred for a 5150 hold. The FY 2008-2009 contract was signed by the County on February 23, 2010, and is awaiting State signature; the FY 2009-2010 contract has not been received from the State, consequently services and payment are taking place under a “term sheet” and without an approved contract.

Response, Director of Health and Human Services:

We agree partially with this finding. The State executed the contract for FY 2008-2009 was signed on April 15, 2010, and has since returned an executed counterpart to HHSA. The primary risk of the delay in contracting would appear to be to the State’s ability to collect payments, rather than the County’s ability to obtain this necessary service.

Finding 7. Although the City of Napa has 75 percent of the County’s population, it utilizes 87 percent of the County’s mental health services.

Response, Director of Health and Human Services:

See response to Recommendation 8.

Finding 8. The ESORC does not include any Calistoga or St. Helena public safety members or St. Helena Hospital staff members.

Response, Director of Health and Human Services:

We agree with the finding. The ESORC grew out of several informal meetings in 2005 involving representatives of HHSA, Queen of the Valley Hospital, the Napa Police Department, the Napa County Sheriff’s Department, and the District Attorney’s Office. The discussion was

originally focused on operational issues relating to the specific agencies at the table. The scope gradually broadened to encompass the 5150 process across the County.

Finding 9. HHS policies and procedures the Grand Jury reviewed are not consistently numbered nor is there a document history showing that annual reviews have been performed according to HHS policy. One policy dates from 2000 without evidence of review or updating.

Response, Director of Health and Human Services:

See response to Recommendation 9.

Finding 10. HHS Involuntary Detention Data for fiscal years 2005-2006 and 2006-2007 reported to DMH does not correspond to internal data for these involuntary detentions.

Response, Director of Health and Human Services:

See response to Recommendation 10.

Finding 11. HHS has prepared a “Treatment Team” protocol to enhance coordination and delivery of mental services.

Response, Director of Health and Human Services:

We agree with this finding. HHSA has committed to a pilot project that will create a treatment team to share responsibility for the coordination and provision of care to an assigned group of clients. Planning is underway and the team should begin formal service this fall. Policies and procedures for the functioning of the team are currently in development and will comprise the “protocol” for the team’s operation.

RECOMMENDATIONS

The 2009-2010 Grand Jury recommended that:

Recommendation 1. The BOS update and issue the list of County personnel authorized to sign a 5150 hold.

Response, Director of Health and Human Services:

HHSA agrees with the Grand Jury’s recommendation. The recommendation has not yet been implemented, but will be in the future.

HHSA will prepare a resolution for submission to the Board of Supervisors setting forth the professional classifications within the Mental

Health Division authorized a “hold” under Section 5150 of the Welfare and Institutions Code. HHSA intends to submit the resolution to the Board for approval by September 30, 2010.

Response, Napa County Board of Supervisors:

The BOS concurs with the response of the Director of Health and Human Services

Recommendation 2. The BOS establish a procedure which requires periodic review and update of the list of County personnel authorized to issue a 5150 hold.

Response, Director of Health and Human Services:

HHSA agrees in part and disagrees in part with this recommendation. To the extent HHSA agrees with this recommendation, it has not yet been implemented but will in the future.

HHSA agrees with the recommendation that a policy and procedure be adopted to govern the designation of employees authorized to initiate holds under Section 5150 of the Welfare and Institutions Code. However, such a policy, like other policies governing the general administration of the agency and its mental health programs, should be promulgated by the Mental Health Director with the approval of the HHSA Director. The designation procedure will be integrated into HHSA’s professional credentialing system, which verifies and tracks the currency of the licenses and certifications held by agency staff. The policy and procedure should be adopted and implemented by October 31, 2010.

Response, Napa County Board of Supervisors:

The BOS concurs with the response of the Director of Health and Human Services.

Recommendation 3. The BOS update and issue the list of agencies authorized to perform a 5150 psychiatric evaluation.

Response, Director of Mental Health and Director of Health and Human Services:

As set forth in the Grand Jury’s report, between 1978 and 1996, HHSA requested, and the Board of Supervisors granted, approval for a number of acute psychiatric hospitals to be designated as facilities to administer, evaluate, and treat persons being held under Section 5150. Subsequent to 1996, HHSA began to occasionally utilize Napa State Hospital for this

purpose and the report correctly notes that the hospital was not submitted to the Board of Supervisors for inclusion on the list of designated facilities. HHSA intends to submit to the Board of Supervisors a resolution to update the list to reflect the addition of this facility by August 31, 2010.

Response, Napa County Board of Supervisors:

The BOS concurs with the response of the Director of Mental Health and Director of Health and Human Services

Recommendation 4. The BOS establish a procedure which requires periodic review and update of the list of agencies authorized to perform a 5150 psychiatric evaluation.

Response, Director of Health and Human Services:

HHSA agrees in part and disagrees in part with this recommendation. To the extent HHSA agrees with this recommendation, it has not yet been implemented but will be in the future.

HHSA agrees with the recommendation that a policy and procedure be adopted to govern the designation of acute psychiatric facilities to administer, evaluate, and treat persons being held under Section 5150. However, such a policy, like other policies governing the general administration of the agency and its mental health programs, should be promulgated by the Mental Health Director with the approval of the HHSA Director. The policy will, of course, provide for the actual designation to occur by action of the Board of Supervisors. The policy and procedure should be adopted and implemented by October 31, 2010.

Response, Napa County Board of Supervisors:

The BOS concurs with the response of the Director of Health and Human Services.

Recommendation 5. HHS adopt the Mental Health Director's protocol for a "Treatment Team" approach to coordinate delivery of mental health services to its clients, including those who are evaluated as 5150 candidates for further evaluation and treatment.

Response, Director of Health and Human Services:

HHSA agrees with the Grand Jury's recommendation. The recommendation has not yet been implemented, but will be in the future.

HHSA has been enthusiastically supportive of this initiative from its inception. The pilot program has been endorsed by agency administration in planning meetings. Planning activities have been underway for several months and staff is currently working to develop clear, instructional guidelines to address the treatment planning conference structure and documentation requirements. To the extent further action is necessary to “adopt the Mental Health Director’s protocol,” it is anticipated that policies and procedures will be developed by the Mental Health Director to govern the day-to-day operations of the pilot and that the agency Director will indeed approve them. Actual implementation of the new team model in an outpatient setting is expected to commence in September, 2010.

Recommendation 6. The BOS execute contracts or other appropriate agreements with agencies designated to perform 5150 psychiatric evaluations.

Response, Chairperson, Emergency Response Oversight Review Committee and Director of Health and Human Services:

HHSA agrees with the Grand Jury’s recommendation. The recommendation has been implemented in the case of all agencies utilized for this purpose other than Napa State Hospital. The recommendation as it regards to Napa State Hospital will be implemented in the future, assuming the State of California eventually completes its current round of contract negotiations.

County contracts currently exist with the several facilities where individuals held under Section 5150 are normally referred for evaluation and treatment, with the exception of Napa State Hospital. With this exception, this recommendation is generally met on an ongoing basis in the normal course of business.

The State of California is consistently late in processing contracts for services in its mental hospitals. Like virtually all counties in the State, Napa County contracts with the State for services both at the acute and skilled nursing levels of care. The Mental Health Director contacts the State Department of Mental Health regularly to track the status of Napa County’s contract. The contract is processed promptly upon its receipt from the State. The contract for the fiscal year 2008-2009, which ended on June 30, 2009, was not executed by the State and returned to Napa County until April 15, 2010. Representatives of the Department of Mental Health report that the contract for 2009-2010 is still being processed in their department and declined to offer a timeline on when it will be forwarded to Napa County for processing and approval – which must occur before the State will finally sign it themselves.

HHSA does not make a large number of 5150 referrals to Napa State Hospital. However, for some individuals, the hospital's services are significantly better suited to meet the individuals' needs than any alternative facility. While HHSA would prefer to have the contract in place prior to referring any client, assuring the safety and wellbeing of certain clients occasionally makes it necessary to refer notwithstanding the State's slow contract process.

Response, Napa County Board of Supervisors:

The BOS concurs with the response of the Emergency Response Oversight Review Committee and the Director of Health and Human Services.

Recommendation 7. The BOS review the ERP and adopt it as a formal policy for the implementation of WIC Section 5150 in Napa County.

Response, Director of Mental Health and Director of Health and Human Services:

HHSA disagrees with the Grand Jury's recommendation. The recommendation will not be implemented because it is not reasonable.

HHSA agrees with Recommendations 1 and 3, which represent the extent to which Section 5150 expressly requires the direct involvement of the Board of Supervisors in the involuntary detention process. Beyond that, like most of the approximately 100 programs operated by HHSA, the agency is responsible to the Board for the planning, administration, and ongoing operation of the Emergency Response service.

The purpose of the Emergency Response Protocol (ERP) is to clarify the existing roles and responsibilities of agencies interested in the 5150 process and establish a framework for increased collaboration in connection with emergency mental health services. The ERP is technically what is referred to as a "protocol; Memorandum of Understanding," which refers to documents that do not create any new obligation or undertakings on the part of any participant, an instead only serve to coordinate or memorialize existing obligations. The ERP process is intended to be responsive to operational "issues on the ground." It is intended to encourage the development of creative solutions by the people directly engaged in the provision of services – hence its regular updating since it was initiated in 2005.

Many of the agencies involved in the ERP process are neither county departments nor even governmental agencies. Board "adoption" of the ERP to implement Section 5150 could have the effect of conferring authority over the County's delivery of mandatory and extremely sensitive mental health services on the various governmental and non-governmental

organizations currently collaborating under the ERP. Similarly, the Board of Supervisors does not have authority over those organizations and would hence lack the ability to enforce the ERP if it were adopted by the Board.

HHSA does strongly endorse the ERP as a means of strengthening the voluntary collaboration, coordination, and communication among the various agencies affected by the 5150 process in Napa County. Once actions have been taken to respond to the various recommendations of the Grand Jury relating to the designation of 5150 personnel and facilities, HHSA will be proposing to the other agencies revisions to the protocol to reflect these actions.

Response, Napa County Board of Supervisors:

The BOS concurs with the response of the Director of Mental Health Services and the Director of Health and Human Services.

Recommendation 8. HHS establish satellite Centers to provide better access to services in the up valley communities and in American Canyon.

Response, Director of Mental Health and Director of Health and Human Services:

HHSA agrees in part and disagrees in part with this recommendation. Some actions have been taken which further this recommendation; other actions have not been taken but will be in the future.

This recommendation is unclear. If it is a recommendation that HHSA establish branch offices in up valley communities and in American Canyon for the specific purpose of conducting crisis mental health services, including the determination of holds under Section 5250, it is impracticable to undertake such an expansion of the mental health system at the present time. As the result of the State budget crisis, funding for county mental health services has been reduced and further reductions appear likely. Unlike most neighboring counties, the County of Napa Board of Supervisors has succeeded in maintaining a steady level of county funding for these services through the financial downturn, however, it is unlikely that the County could increase funding at this time.

Maintaining a 24 hour response capability at HHSA's campus in the City of Napa is a huge commitment of resources, given the number of crisis service units provided each year. The creation of other crisis response centers would further increase this disparity between staffing and service volumes and would require additional cuts to other mental health services beyond those resulting from reductions in State funding.

The Mental Health Division has been working to develop “mobile response” capability that would allow mental health staff to respond to more calls in the community – that is, at people’s homes, at hospital emergency rooms, and at other locations – rather than requiring people to come to the agency’s facilities. It is intended that this service will extend to responses at locations up-valley and in American Canyon, sparing both the individuals and local law enforcement the inconvenience, expense, and in some cases emotional impact of travel to our campus.

This recommendation may instead relate to the Grand Jury’s observation in its report that only 75% of the county’s population resides in the city of Napa, while Napa residents utilize 87% of the mental health services provided by HHS. The geographic availability of services is almost certainly one factor contributing to this disparity².

For the past several years, HHS has been working to make its services more accessible to persons living outside the City of Napa. With approximately 100 separate programs, it is not possible to establish formal, dedicated branch locations for each of them, however, the agency has so far partnered with community based organizations in Calistoga, St. Helena, and American Canyon to make some services available through “co-location.” This involves agency staff being physically present at another agency’s offices on an established schedule to either provide services or link persons with services. Mental health services are among those being offered through these co location arrangements. Negotiations are also underway between Napa County and the City of American Canyon for the County to lease space within American Canyon City Hall for the creation of a small HHS branch office. It is currently anticipated that the branch office will open this fall and that the Mental Health Division will offer limited follow-up and support services there on a part-time basis.

Recommendation 9. HHS implement a procedure whereby all policies and procedures are numbered and their review and revision history becomes an integral part of the policy or procedure.

Response, Director of Mental Health and Director of Health and Human Services:

HHS agrees with the Grand Jury’s recommendation to the extent it has not already occurred. The recommendation requires further analysis to determine if additional measures will be required to ensure full implementation.

The Mental health Division has a formally adopted policy and procedure in place that provides for the adoption, numbering, and tracking of policies and procedures.

However, the findings and recommendation do raise subsidiary issues relating to the development of certain unit-specific program manuals which were intended to supplant policies and procedures but did not expressly provide for their repeal; and the administration of these manuals, which can function in the same manner as policies and procedures and may also require a procedure for formal tracking and, when appropriate, retirement.

The Mental Health Division's Policy Committee will be asked to review known unit-based manuals and see to their repeal or formal integration into the Division's policy and procedures system. This review will be completed and the results reported to the HHS Director by December 31, 2010.

HHS's current policy and procedure governing the administration of policies and procedures requires each division to maintain a numbering system for the cataloging of its policies and procedures; and the inclusion of a review and revision history at the end of each policy and procedure. That policy for the administration of P&P became effective in March, 2009.

HHS will review the current status of policy and procedures across the agency and make any necessary changes in systems to ensure that they are being appropriately cataloged, designated, and tracked as required under current guidelines. The review will also assess the question of whether older policies and procedures are coming within the new system through the requirement that all policies and procedures be reviewed and re-adopted every two years. This review will be completed and the results reported to the HHS Director by December 31, 2010.

Recommendation 10. HHS modify the reporting of involuntary detentions statistics to Department of Mental Health to ensure these data accurately reflect the 5150 holds administered by the County.

Response, Director of Mental Health and Director of Health and Human Services:

HHS agree in part and disagrees in part with this recommendation. Some actions have been taken which further this recommendation; other actions have not been taken but will be in the future.

HHS is unable to directly implement this recommendation because it involves State systems that are outside the control of Napa County.

The data being collected by the Mental Health Division for its own analysis and use are different than the data required to be submitted local mental health facilities to the State Department of Mental Health. In

addition, Napa County does not have control over the criteria for data submitted to the State or the manner in which those data are utilized and reported by the State.

This situation is further muddled by the fact that the State changed the types of facilities that were required to report information to the Department of Mental Health. It is suspected that this change resulted in a change in the utilization reported by the State.

The Mental Health Division will endeavor to confer with officials at the State Department of Mental Health to confirm the application of State guidelines to information being reported by mental health facilities in Napa County. Division staff will contact these local facilities to relay any guidance provided by the State. The Division will endeavor to complete this process by December 31, 2010 however, its ability to do so is dependent on the ability of the Department of Mental Health to respond.

HHSA has the need to collect and maintain data relating to the 5150 process that is different than the data being collected through the State system. This includes the need for more detailed data, including information on cases which may not have resulted in hospitalization, to allow for better analysis of trends and the effectiveness of services being provided by the Emergency Response Unit. HHSA will endeavor to more clearly distinguish this data collection effort from its activities in connection with the State mandated data collection process.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 Funds Awarded to Napa County

The 2009-2010 Grand Jury published its final report on Funds Awarded to Napa County through the American Recovery and Reinvestment Act of 2009 on April 29, 2010.

Responses were received from the following:

- Napa County Auditor-Controller
- Napa County Chief Executive Officer
- Napa County Director of Community and Intergovernmental Affairs
- Napa County Board of Supervisors

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are the responses of each

respondent who was asked to respond to the specific finding and recommendation.

The responses to the following findings and recommendations were found to meet statutory requirements.

FINDINGS

The 2009-2010 Napa County Grand Jury found the following:

Finding 1. Napa County was awarded \$10,628,707 in ARRA grants.

Response, Board of Supervisors and County Auditor-Controller:

The Board of Supervisors agrees with this finding for the amount at the time of the original report. For additional clarification, of this total, \$7,852,950 represented grant awards and \$2,775,757 represented the amount of allocations and enhanced Federal Medical Assistance Percentage for certain programs that county staff estimated would be received over the term of ARRA. As of 9/30/10, the County has been awarded \$8,739,543 in ARRA grants and expects to receive approximately \$3,741,038 from the aforementioned allocations and enhancements due to ARRA. Please see the full ARRA report on the County's website for more information.

Finding 2. ARRA tracking, grant compliance, and reporting procedures were implemented.

Response, County Auditor-Controller:

The Auditor-Controller agrees with this finding.

Finding 3. Separate accounting mechanisms were set up within the General Fund that allow for accurate ARRA tracking and transparency.

Response, County Auditor-Controller:

The Auditor-Controller agrees with this finding. However, it is not limited just to the General Fund. If ARRA funding was received in Special Revenue funds or Enterprise funds, the funding has to be recorded as such. The same separate accounting mechanisms are in place in those funds as well.

Finding 4. Napa County department representatives attended training workshops pertaining to fraud and misuse of funds and/or materials.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager agree with this finding. Training sessions were held in spring 2010 and attended by county managers and staff.

Finding 5. Departments involved in fraud or misuse are subject to review by County Counsel.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager agree with this finding. County policy requires a review by County Counsel whenever fraud or misuse is alleged.

Finding 6. ARRA projects are reimbursement based; the County submits requests to the State for reimbursement. ARRA funds are transferred from the Federal government to the State and then to the County.

Response, County Auditor-Controller:

The Auditor-Controller agrees with this finding, with the exception of two instances where funding is advanced prior to expenditure. Please see the full ARRA report on our website for more information.

Finding 7. California has forty-five calendar days from receipt of an undisputed claim to forward funds based on county reimbursement requests.

Response, County Auditor-Controller:

The Auditor-Controller agrees with this finding.

Finding 8: Napa County employees keep current with changing State guidelines.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager agree with this finding. Napa County employees monitor and keep current with changes in State guidelines.

Finding 9. Napa County employees have expressed concern about receiving vague information from the State and difficulty in receiving written information.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager agree with this finding. Obtaining written documentation from the State has been and can be difficult. It has been the informal policy of the County Executive Office to not accept certain funds when there is ambiguity or difficulty understanding guidelines and the State is unable or unwilling to provide written documentation. This has not been the experience with ARRA funds.

Finding 10. ARRA grant information is posted on the County website (www.countyofnapa.org).

Response, County Auditor-Controller:

The Auditor-Controller agrees with this finding.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager agree with this finding.

Finding 11. ARRA updates and information will be presented for the first time to the BOS beginning in April 2010 and continue quarterly thereafter.

Response, County Auditor-Controller:

The Auditor-Controller agrees with this finding.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager agree with this finding.

Finding 12. All departments awarded ARRA funds are required to file reports with the Auditor-Controller's department which are approved by the Auditor-Controller before being submitted to the State.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager agree with this finding.

Finding 13. County Policies and Procedures specific to ARRA have not been written.

Response, County Executive Officer and Community and Intergovernmental Affairs Manager:

The County Executive Officer and Community and Intergovernmental Manager disagree in part with this finding. While no formal amendments to county policies and procedures have been brought to the Board of Supervisors for approval, the Auditor-Controller has issued guidelines to the departments regarding procedures that departments are to follow.

RECOMMENDATIONS

The 2009-2010 Grand Jury recommended that:

Recommendation 1. Formal reporting procedures to the BOS be instituted requiring that the Board receive quarterly ARRA expenditures updates from the Auditor-Controller and CEO at the first BOS meeting immediately after each report is submitted to the State.

Response, Auditor-Controller:

The recommendation has been implemented. At the April 13, 2010 BOS meeting, the Auditor-Controller and CEO presented a fiscal summary of each award to date. The summary included information on each award as follows: the program name, the project description, the amount awarded, the payments received and the project status. This report is also uploaded on the County's website for public viewing and will be updated quarterly, corresponding with the State reporting requirements.

Response, CEO and Director of Community and Intergovernmental Affairs:

The recommendation has been implemented. The CEO and Manager of Community and Intergovernmental Affairs have scheduled, along with the Auditor-Controller, a quarterly update on the status of ARRA funding for the Board of Supervisors. These updates will occur after the reports have been submitted to the State Inspector General.

Response, Napa County Board of Supervisors:

The recommendation has been implemented. The Board of Supervisors received the first of these quarterly reports at the April 13, 2010 BOS meeting.

Recommendation 2. The CEO provide quarterly ARRA expenditures updates for residents via the County website immediately following the BOS review.

Response, CEO and Director of Community and Intergovernmental Affairs:

The recommendation has been implemented. The County's website will be updated to reflect the latest report that has been presented to the Board of Supervisors. The website will be updated quarterly immediately following the report to the Board of Supervisors.

Recommendation 3. The Auditor-Controller develop written policy and procedures that pertain specifically to ARRA.

Response, Auditor-Controller:

The recommendation has been implemented. The Auditor-Controller does not set County policies. However, she has established internal County-wide accounting procedures specifically regarding ARRA. As a new grant is awarded, a meeting is set between staff of the Auditor-Controller and key fiscal and program staff of the department receiving the award. The accounting procedures are disseminated and the award deadlines, reporting requirements and expectations are understood. Monthly reviews are completed and quarterly reports are reconciled prior to submission to the State.

NAPA COUNTY CRIMINAL JUSTICE FACILITIES Napa County Department of Corrections/County Jail

The 2009-2010 Grand Jury published its final report on the Napa County Department of Corrections/Jail on May 13, 2010. The 2009-2010 Grand Jury did not ask the Napa County Department of Corrections, Board of Supervisors, District Attorney or Adult Probation Department to respond to findings, as the law requires. A request to each department to respond to the findings was made by the 2010-2011 Grand Jury. Each department responded to the 2010-2011 Grand Jury's request.

Responses to findings and recommendations were received from the following:

- Napa County Department of Corrections
- Napa County Board of Supervisors
- Napa County District Attorney's Office
- Napa County Adult Probation Department

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are each of the responses of each respondent who was asked to respond to the specific finding and recommendation.

The responses to the following findings and recommendations were received and found to meet statutory requirements.

FINDINGS

The 2009-2010 Grand Jury found that:

Finding 1. The NCDC Policy and Procedures Manual does not require NCJ personnel to cooperate with outside investigative agencies including the Napa County Grand Jury without resorting to a subpoena process.

Response, Director of Corrections:

The Director of Corrections agrees in part with this finding. While the NCDC Policy and Procedures manual does not require personnel to cooperate with outside investigative agencies, it is the practice of management to require staff to participate in investigations, including those on the Grand Jury during the staff members regularly scheduled work shifts. This finding appears to be in response to one staff member's refusal to meet with the Grand Jury outside of their regularly scheduled work shift. The Director of Corrections cannot force staff to come to work on their days off or while on vacation to meet with investigative agencies.

Finding 2. Jail population at the time of the Grand Jury inspection was 265 in a facility built to house a maximum of 264 inmates. Jail population since the last Grand Jury inspection has at times exceeded 300 inmates.

Response, Director of Corrections:

The Director of Corrections disagrees with this finding. The jail is allowed a rated capacity of 264 as it relates to the permanent housing units. Additionally, the jail is authorized by the Corrections Standards authority to temporarily hold an additional 135 non-rated inmates (for a total of 399) in units in the jail including booking, safety and sobering cells, medical and observation cells and other overflow bed space. While

the Department of Corrections has exceeded 264 inmates at times and has experienced overcrowding in certain housing units, overall the Department has not exceeded a total of 264 inmates in permanent rated housing at any one time. The Department of Corrections daily inmate counts are taken and reported each day at 11:59 p. m. While it is possible the total inmate count (both rated and non-rated) exceeded 300 at some point during a business day, Departmental records indicate that the highest the rated population has been in the last year is 235 (8/3/2009) and 10/19/2009).

Finding 3. The NCDC website states: Various types of programs are offered to the inmates while in custody. They include: Adult Education, GED, Alcoholics Anonymous, Narcotics Anonymous, Anger Management, Parenting, Bible Studies, Private Counseling, Group Discussion, Class Discussion, Independent Studies, Tutoring, Audio/Visual presentations, etc. An inmate in custody wanting to make positive changes in his/her life, will be given every opportunity to do so and will be reinforced by the staff members.

Response, Director of Corrections:

The Director of Corrections agrees with this finding.

Finding 4. No more than three of the programs listed in Finding No. 3 are regularly scheduled and/or conducted.

Response, Director of Corrections:

The Director of Corrections agrees with this finding. Many of the programs listed above are not offered consistently and only made available upon the request of an inmate. Absent the request, a program is not offered. Please see the response to recommendation No. 2 for more detail.

Finding 5. Inmates with mental health issues are a serious safety concern for NCDC staff.

Response, Director of Corrections:

The Director of Corrections agrees with this finding.

Response, Napa County Board of Supervisors:

The Board of Supervisors agrees with this finding.

Finding 6. Inmate recidivism is neither tracked nor documented in Napa County.

Response, Director of Corrections:

The Director of Corrections disagrees in part with this finding. Recidivism data such as rearrest, new conviction and probation violation data is in the County's Criminal Justice Information System.

Response, Napa County Board of Supervisors:

The Board of Supervisors disagrees partially with this finding and incorporates by reference the August 10, 2010 response and explanation of the Director of Corrections.

RECOMMENDATIONS

The 2009-2010 Grand Jury recommended that:

Recommendation 1. NCDC make efforts to provide all programs described on its website.

Response, Director of Corrections:

The recommendation has been implemented. It should be noted that the NCDC website states the following regarding programs:

Various types of programs are offered to the inmates while in custody. They include: Adult Education, GED, Alcoholics Anonymous, Narcotics Anonymous, Anger Management, Parenting, Bible Studies, Private Counseling, Group Discussion, Class Discussion, Independent Studies, Tutoring, audio/Visual presentations, etc.

NCDC has been providing these programs for some time. The concern by the Grand Jury may be based upon the fact that some of these programs are not consistently offered and are initiated only at the request of the inmate. Additionally, not all inmates may qualify for certain programming due to safety and security concerns and housing classification score. The following is the current status of the above-mentioned programs:

- Adult Education - the program is offered as needed by inmate request and usually involves the inmate working toward GED completion.
- Alcoholics Anonymous - This program is offered regularly.

- Narcotics Anonymous – This program is offered regularly.
- Anger Management – NCDC uses BI Incorporated and computerized programs through Civil World to provide this training. The inmates engaged in this program are housed in a special unit called JEEP (Jail Education and Employment Program). NCDC did eliminate the previous program related to Anger Management because it was not evidence-based.
- Parenting – This is also part of the Civil World program through BI Incorporated and offered in the JEEP unit. A previous program was eliminated as it was not evidence-based.
- Bible Studies – This program is offered regularly.
- Private Counseling – NCDC facilitates private counseling when an inmate arranges it. One-on-one sessions are arranged to address crisis issues through a Mental Health Worker assigned to NCDC.
- Group Discussion – NCDC is moving forward to implement this by utilizing a Mental Health Worker from HHS. It should be noted that group discussions are a part of the in-custody portion of the Community Corrections Service Center and has been ongoing for several months depending upon the eligibility of inmates.
- Class Discussion – This is a part of the many of the courses or programs listed above.
- Independent Studies – Library services are offered if someone wants to learn on their own.
- Tutoring – NCDC facilitates this through the Library Literacy program when arranged by the inmate and depending upon the classification and custody of the inmate at the time of such request.
- Audio/Visual presentations – This is a part of many of the courses or programs listed above. The BI Incorporated program in the JEEP unit

Recommendation 2. NCDC open discussions with NSH, HHS Mental Health Services, and the District Attorney’s office to identify safe and secure ways to house inmates with mental illness while still allowing active psychiatric treatment.

Response, Director of Corrections:

The recommendation requires further analysis. NCDC, with the assistance of Health and Human Services Administration and Mental Health, has

made numerous attempts to meet with Napa State Hospital (NSH) staff in this issue. Discussions with NSH have been largely unproductive. In past discussions, the previous NSH Executive Director's stance has been to ask that the jail medical staff force- medicate inmates transferred from NSH to NCDC, an action the jail cannot legally take without extensive court processes. Per State law, a jail only has the option (upon agreement by the Board of Supervisors, County Mental Health Director and Director of Corrections) to force medicate inmates after the inmate has been found incompetent to stand trial and a court process has resulted in the approval of forced medication. NCDC does not support the idea of forcibly medicating inmates as it is often a punitive and sometimes combative process that causes distress to the inmates and potentially creates a dangerous situation for jail staff and increases the County's liability. In many cases hospital patients refuse to take medication following their transfer to NCDC and start deteriorating which not only impacts the jail staff and creates increased liability for the jail, but impacts the court process as well. The change in environment can be shocking for someone with mental health concerns and the County has the opinion that a jail setting is not the best place to hold these inmates as the jail is not designated nor has a desire to be designated as a Mental Health treatment Facility. Structurally, the current jail facility is built to be simply that, a jail with cells and the legally required day room and exercise space, NSH patients are not used to living in cells and the current jail facility does not allow for any construction or expansion to create a space like that of a treatment facility.

In the past, NSH has sent inmates to NCDC custody when they become difficult to manage at the hospital by NSH staff. In some instances, the inmates are brought over to NCDC custody for crimes committed several months prior to their transfer. NCDC has questioned the reasoning behind this. The inmates were allowed to stay at NSH for months following incidents and continued to receive medical and mental health care conducive to their level of care. At some point during the inmates' stay a decision is made to transfer him to NCDC without consideration by NSH about the subsequent treatment plans for the subject. NCDC has made requests to have the inmate housed at the hospital during the trial process for continuity of care. In some instances, even with a Court order requiring the inmate to return to the custody of the hospital, the NSH administration has refused to accept the inmate citing bed availability issues. NSH has suggested that the County provide correctional services at the NSH facility, an idea the County is willing to discuss further. The biggest issues regarding providing correctional services at Napa State Hospital are space and funding.

The Department of Corrections remains open to discussions with Napa State Hospital, especially once a new Executive Director is hired.

Response, Napa County District Attorney:

The District Attorney is in agreement with the recommendation and is open and willing to meet with NCDC, NSH, and HHS Mental Health Services for reasons suggested. The District Attorney agrees with the Director of Corrections that there is a serious issue with regards to NCDC housing certain NSH patients/inmates as the NCDC facility which is not designed to both secure and treat inmates with the level and sophistication of mental illness as found in a majority of NSH transfers to NCDC. The District Attorney is equally aware of the issues at NSH and their current limitations in their ability to protect their staff and other patients from those individuals who engage in violent conduct often resulting in serious injury to staff and other patients.

The District Attorney only files felony charges committed by patients at NSH for conduct committed at NSH by individuals the District Attorney believes are both competent and sane at the time of their offense and who have committed criminal acts for which the consequences should be state prison.

While Deputy District Attorneys have engaged in conversations with NCDC staff in regards to where an inmate should be held on a particular individual case, such discussions should take place in the future at the management level between representatives of NSH, NCDC, HHS Mental Health Services and representatives of the county CEO's office. Ultimately some long-term solution must be achieved which will allow for the maximum protection and security of staff and patients at NSH, protection of the staff at NCDC and creates the best environment under which NSH patients charged with serious crimes, wherever they are housed, have access to psychiatric treatment and medication so that they do not decompensate to the point where they do not understand the nature of the proceedings against them.

Recommendation 3. Napa County in cooperation with NCDC, the District Attorney's Office, and the Adult Probation Department develop methods to track recidivism and measure the effectiveness of evidence-based programs.

Response, Director of Corrections:

The recommendation has been partially implemented, and will be fully implemented in the future. As mentioned in the responses to Finding No. 6, the Criminal Justice Information Management System (CJIMS) has

recidivism data; the challenge has been in developing a system to extract and report the data. The Criminal Justice Committee, which includes representatives from the District Attorney, Probation and Corrections Departments has been working with the County Executive Office and Information Technology Services Division to develop a standard definition and a way to extract recidivism data from the CJIMS system. The Criminal Justice Committee has agreed that the County's definition of recidivism will include new felony and misdemeanor and sustained probation violations measured in 6 month, one year, two year and three year increments and reported for all offenders and for just those that participated in or completed specific programs. The project is in the final stages and should be complete by October 1, 2010.

In regards to measuring the effectiveness of evidence-based practices, the Criminal Justice Committee continues to work on ways to measure programs. It is important to note that evidence-based practices and a reduction in recidivism are not always related. Evidence-based practices are those that are research tested and proven to achieve an intended goal. The goal may be a reduction in recidivism but it may also be an increase in employment or a change in life circumstances. Regardless, Quality Assurance is very important to the Criminal Justice Committee and measuring the effectiveness of all evidence-based programs continues to be a priority.

Response, Chief Probation Officer:

The Chief Probation Officer concurs with the response of the Director of Corrections.

Response, Board of Supervisors:

The recommendation has been partially implemented, and will be fully implemented in the future. The Criminal Justice Information Management System (CJIMS) has recidivism data; the challenge has been in developing a system to extract and report the data. The Criminal Justice Committee, which includes representatives from the District Attorney, Probation and Corrections Departments has been working with the County Executive Office and Information Technology Services Division to develop a standard definition and a way to extract recidivism data from the CJIMS system. The Criminal Justice Committee has agreed that the County's definition of recidivism will include new felony and misdemeanor and sustained probation violations measured in 6 month, one year, two year and three year increments and reported for all offenders and for just those that participated in or completed specific programs. The County has been without a Criminal Justice Analyst since April 2010; that position has been filled effective February 22, 2011. While the original goal was to

complete the project by October 2010, the project has been extended and should be complete by June 30, 2011.

With regard to measuring the effectiveness of evidence-based practices, the Criminal Justice Committee continues to work on ways to measure programs. It is important to note that evidence-based practices and a reduction in recidivism are not always related. Evidence-based practices are those that are research tested and proven to achieve an intended goal. The goal may be a reduction in recidivism but it may also be an increase in employment or a change in life circumstances. Regardless, Quality Assurance is very important to the Criminal Justice Committee and measuring the effectiveness of all evidence-based programs continues to be a priority.

Response, Napa County District Attorney:

The District Attorney concurs with the response of the Director of Corrections.

NAPA COUNTY CRIMINAL JUSTICE FACILITIES Juvenile Justice Center/Juvenile Hall

The 2009-2010 Grand Jury published its final report on the Napa County Juvenile Hall on May 13, 2010.

Responses to recommendations were received from the following:

- Napa County Board of Supervisors
- Napa County Juvenile Hall Director
- Napa Valley Unified School District Superintendent

The 2009-2010 Grand Jury did not ask the respondents to respond to findings, as the law requires. A request to respond to the findings was made by the 2010-2011 Grand Jury. The respondents did respond to the findings.

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are the responses of each respondent who was asked to respond to the specific finding and recommendation.

The responses to the following findings and recommendations were found to meet statutory requirements.

FINDINGS

The 2009-2010 Grand Jury found that:

Finding 1. Napa County does not currently track juvenile recidivism with the exception of those minors participating in programs funded by the Juvenile Justice Crime Prevention Act.

Response, Board of Supervisors:

The board of Supervisors disagrees in part with this finding and incorporates by reference the August 10, 2010 response and explanation of the Chief Probation Officer.

Finding 2. NVUSD is not required to provide current course work, for minors incarcerated at Juvenile Hall in a timely matter.

Response, Napa Valley Unified School District:

The respondent agrees with the finding.

Finding 3. There is no re-entry counseling for minors returning to NVUSD schools from NCJH.

Response, Napa Valley Unified School District:

There is no re-entry counseling for minors returning to NVUSD schools from NCJH.

RECOMMENDATIONS

The 2009-2010 Grand Jury recommended that:

Recommendation 1. The County develop and implement a standardized program to track recidivism for all juvenile offenders.

Response, Director of Juvenile Hall:

The recommendation requires further analysis. As mentioned in the response to Finding No. 1, the Juvenile Information Management System (JIMS) has recidivism data, the challenge is developing a way to extract and report data. The JIMS system is in need of replacement and the Chief probation Officer is working with Information Technology Services (ITS) Department on a timeline to replace the system. It is unclear at this time

whether recidivism data can easily be extracted and reported from the current system. The current focus in the criminal justice system has been the replacement of the much larger Adult Criminal Justice Information Management System (CJIMS). While the county agrees that reporting juvenile recidivism is important, the Chief Probation Officer will continue to work with ITS to determine whether this project can be completely concurrently with the CJIMS upgrade or will need to wait until the CJIMS project is complete and the JIMS system is replaced. The Chief Probation Officer expects the analysis to be complete by December 2010.

Update:

The analysis is now complete and it has been determined that the systems cannot be replaced concurrently. The CJIMS project is moving forward. The JIMS replacement will not occur until the CJIMS project is complete. Juvenile Probation will continue to collect the recidivism data that is currently required for state funding projects but other data has been too difficult to extract from the current system.

Response, Board of Supervisors:

See the response from the Juvenile Hall Director.

Recommendation 2. NVUSD, in conjunction with NCJH personnel, establish and implement a re-entry program for youth returning from Juvenile Hall.

Response, NVSUD Superintendent:

The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe of implementation.

We are in agreement with the recommendation that a re-entry program would be valuable. The suggested implementation of the following procedures at all NVUSD middle and high school sites, in conjunction with the NCJH staff would address the grand jury recommendation:

Please note: There are only a small number (30-40) of total NVUSD students each school year who might fall into these circumstances.

Initial incarceration of students would trigger assigned Probation officers to inform parents to request student's homework. It would be solely the responsibility of the parent to follow through with that request with the child's school, and bring any such work to Juvenile Hall for completion. Note: EC 48913 indicates: "The teacher of any class from which a pupil is suspended may require the suspended pupil to complete any assignments and tests missed during the suspension."

Upon release from incarceration, the Juvenile Hall (Crossroads) classroom staff will fax the student's NVUSD school dean or middle school assistant principal, the name of the student, birth date, and any course completion hours the student has achieved while there. The Crossroads staff will in addition instruct students that for re-entry to their regular school, they and their parent need to first meet with the Assistant Principal or Dean for re-entry.

The fax to the Dean's office or Assistant Principal, will trigger acknowledgement of the student's release, and return to the school.

At the time of the Dean or Assistant Principal meeting with the parent and student, they make arrangements for the student and parent to meet with the student's School Counselor to review, within 5 days of return, each student's class standing, hours earned in courses at NCJH, current transcript, and develop/implement necessary plans with the student's teachers for supportive accommodations toward the success of those students. Counselors will be responsible for emailing the student's teachers any update of those plans. Documentation and details of re-entry meetings with Counselors will be placed in the student's AERIES data base.

If a student has garnered actual high school credits in classes while at NCJH, the NCOE staff, when those credits are compiled in transcript form, will fax to the student's school, this accounting for their records.

The NVUSD Child Welfare and Attendance Supervisor will facilitate the planning and discussion between NCJH, NCOE and NVUSD during the 2010-11 school year, with the intention of implementing a program by the beginning of the 2011-12 school year.

NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

The 2009-2010 Grand Jury published its final report on the Napa County Regional Park and Open Space District (NCRPOSD) on May 17, 2010.

Reponses were received from the following:

- Napa County Regional Park and Open Space District Board of Directors

The 2009-2010 Grand Jury did not ask the NCRPOSD Board of Directors to respond to findings, as the law requires. A request to respond to the findings was

made by the 2010-2011 Grand Jury. The NCRPOSD Board of Directors did respond to the findings.

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are the responses of the NCRPOSD Board of Directors.

The responses to the following findings and recommendations were found to meet statutory requirements.

FINDINGS

The 2009-2010 Napa County Grand Jury found that:

Finding 1. The County's intent was to provide funds for the initial operational support of the District.

Response, NCRPOSD Board of Directors:

Agree

Finding 2. The BOS anticipated a base level of funding to the District of \$350,000 per year (with adjustments for inflation, and adopted labor agreements) and an additional amount for election costs.

Response, NCRPOSD Board of Directors:

Agree

Finding 3. In formation of the District, the BOS did not acknowledge any additional need for acquisition and capital improvement funding above the base level of funding.

Response, NCRPOSD Board of Directors:

Disagree. The Board Agenda Letter for June 13, 2006, regarding formation of the District, clearly notes that the District would need considerably more acquisition and capital improvement funding than the base level of funding that was to be provided by the County.

Finding 4. The BOS anticipated costs to the County in future years would be reduced as the District is successful in obtaining its own outside funds.

Response, NCRPOSD Board of Directors:

Disagree. While it is clear the Board of Supervisors expected the District to seek dedicated revenues for the District, it is not clear that they intended

to reduce County support once dedicated revenue were obtained. The Board Agenda Letter for June 13, 2006, regarding formation of the District, which represents the County staff's position, did note that "The cost to the County in future years can be reduced as he District is successful in obtaining its own dedicated revenues." However, the actual resolution adopted by the Board of Supervisors initiating the formation of the District (Resolution 06-110), included the following statement: "Whereas, the County of Napa intends to provide the initial operational support for the recommended District at a level comparable to that which the County is currently budgeting for park, recreation and related open space purposes, with the exception that the District will develop additional sources of revenue in future years..." (emphasis added)

Finding 5. All increased TOT taxes collected go to a SPF within the County's General Fund and are allocated as directed by the BOS.

Response, NCRPOSD Board of Directors:

Agree

Finding 6. In the most recent distribution of the SPF in FY 2008-2009, 60 percent was allocated to the District, 30 percent to the NVDC, and 10 percent to the Arts Council Napa Valley.

Response, NCRPOSD Board of Directors:

Disagree. The percentages for the three purposes were adopted by the Board of Supervisors on July 31, 2007. These percentages were for a three period. The amount actually granted to each purpose for any given fiscal year could be (and in fact have been) above or below the set percentages. In addition, the 60 percent figure was for the purpose of parks and open space generally, and not guaranteed to only be granted by the District. Apart from the funds granted to the District for its general operations, the County utilized a competitive grant process to determine to whom the remainder of the funding for parks and open space would be awarded.

Finding 7. The BOS Resolution No. 07-97 of July 18, 2009, providing principles for allocation of the SPF will expire June 30, 2010.

Response, NCRPOSD Board of Directors:

Disagree. This finding has a typographical error. The Resolution was adopted in 2007, not 2009.

Finding 8. District budgets do not differentiate between County and outside sources of funds for acquisitions and capital improvements.

Response, NCRPOSD Board of Directors:

Disagree. As noted in the District Board's July 12, 2010 response to Recommendations contained in the Final Report, the District's budget does in fact clearly differentiate between County and outside sources of funds for acquisitions and capital improvements.

Finding 9. The annual allocation of the SPF for the District's operation and capital improvements, plus an additional \$200,000 per year is designated in the SPF for use by the District for the anticipated future purchase of Skyline Park.

Response, NCRPOSD Board of Directors:

Disagree. At the present time, the County has not made a determination regarding the future ownership of Skyline Park, assuming the State and County can come to an agreement on terms of sale. The funding which the County has set aside for potential purchase of the property is entirely under the control of the County, and is neither available nor promised to the District.

Finding 10. The District has been operating within the limits of the SPF as currently allocated by the BOS.

Response, NCRPOSD Board of Directors:

Agree

Finding 11. The District has the authority to raise revenues through some types of property assessments and taxes if approved by the voters.

Response, NCRPOSD Board of Directors:

Agree

Finding 12. The FY 2009-2010 District Budget, dated May 11, 2009, indicates an increase in funding from the County.

Response, NCRPOSD Board of Directors:

Agree

Finding 13. The County anticipates a reduction in the SPF available in the FY 2010-2011 due to the decline in TOT collections.

Response, NCRPOSD Board of Directors:

Agree

Finding 14. The District is currently considering whether to form its own non-profit foundation or join an existing community foundation.

Response, NCRPOSD Board of Directors:

Agree

RECOMMENDATIONS

The 2009-2010 Napa County Grand Jury recommended that:

Recommendation 1. The District present the annual budget to the public in such a way as to state clearly which funds are obtained from the County and which are from outside grants for operations, capital improvements, and acquisitions.

Response, NCRPOSD Board of Directors:

The District already implements this recommendation.

The District's budget for each year since formation of the District does clearly separate which funds are obtained from the County and which are from outside grants, as well as distinguish between capital, acquisition and operational purposes. The County's Budget, on the other hand, does not separate out the various distinctions in funding, which may be what this recommendation is referencing. Although it would be beneficial to the District to have the County's budget reflect the same line items as in the District budget, it is not under the District's control to do this. The County does maintain detailed support of the funding breakdown and it is consistent with the District's Budget.

Recommendation 2. The District disclose to the public, by notation, the SPAF funding and disbursements in both the District's annual budget and audit report.

Response, NCRPOSD Board of Directors:

The District will include a notation in the Management Analysis for the next District audit regarding the potential for a future District role in the acquisition of Skyline Park, as recommended in the Final Report.

The set-aside for the Skyline Park Acquisition Fund is solely a County budget matter, and is not in any way controlled by the District. Skyline Park is managed by the County, through a lease with the State; the District

at this time has no legal or formal role in the management of the park. It is the County, not the District, which is the sponsor of state legislation that would authorize the sale of the land to the County. Nonetheless, as noted in the District's Master Plan, the District supports acquisition of the property from the state, and should that legislation pass, and the County and the State successfully enter into a purchase and sale agreement, it may turn out that the County and District will agree that management and/or ownership of the park should be transferred to the District.

Since the District's Master Plan does indicate that there could be a future management an/or ownership role for the District related to Skyline Park, the District Manager will provide a brief statement in the Annual Audit indicating this potential role and the funding which has been set aside by the County.

Recommendation 3. The District staff prepare a plan and timeline for a reduction in County funding and present it to the BOD.

Response, NCRPOSD Board of Directors:

The District does not believe this recommendation is warranted at this time but will revisit this issue in 2011 as part of the already planned first update to the District's Master Plan.

The District has devoted considerable thought to the long-term finances of the District. The District's Master Plan, adopted in January 2009 and subsequently received by the County Board of Supervisors, lays out a multi-year financial and organizational strategy. The strategy says, in essence, that the District must establish a positive track record of accomplishment, responsiveness and efficiency, using its current, albeit limited, funding, before it should consider asking the voters for additional funding.

The Final Report notes the District has operated diligently and frugally, and made substantial progress toward its goals. The Final Report also notes the District has the legal authority to ask the voters for certain types of dedicated tax revenues, and that prior to the formation of the District, it was anticipated that within a few years after formation the District would seek voter approval for dedicated revenues. In light of these observations, Recommendation #3 appears to be saying the District should seek a tax increase (since there is currently no other way to reduce County financial support without eliminating the District). The District appreciates the Grand Jury's faith in the District that is implied by this recommendation, and the District Board would very much like to have a dedicated and predictable source of long-term funding.

However, shortly after the formation of the District, the local, national and international economies were hit extremely hard. In addition to the hardship that this has caused to individuals and businesses, the economic situation has placed serious fiscal burdens on all levels of government and the programs and services provided by the public sector. In light of this, the District Board believes that now is not the appropriate time to be contemplating adding to the burdens facing local taxpayers.

Given the current state of the economy, the key challenge for the District at this time is to focus on the planning and permitting for as many as possible of the worthy projects included in its Master Plan. Only after it has done all that it can with its current funding should the District decide whether it makes sense to ask the voters for new, dedicated revenues to complete and operate the projects which cannot be pursued without additional funding. Should it decide to pursue approval of dedicated tax funding, this approach will allow the District to provide the voters with the detail they deserve regarding how their taxes would be used.

It should also be noted that the amount of funding provided by the County for parks and open space is primarily a policy matter for the County Board of Supervisors. While the voter-approved ballot measure which increased the Transit Occupancy Tax in 2004 placed the new revenues into the General Fund, without specific earmarks, parks and open space was clearly identified as one of the purposes for which the new funds were intended. Given the magnitude of unfunded park and open space needs in Napa County, as long as the County Board of Supervisors continues to support and have faith in the work of the District, the District believes any future District efforts to obtain new funding should be for the purpose of accomplishing more, and not reducing the County's use of TOT funds for park and open space purposes.

THE NAPA COUNTY TRANSPORTATION AND PLANNING AGENCY

Our Transit Provider and More

The 2009-2010 Grand Jury published its final report on the Napa County Transportation and Planning Agency (NCTPA) on May 17, 2010. The 2010-2011 Grand Jury received responses from the NCTPA's Executive Director on July 26, 2010. The report specifically requested the NCTPA Board of Directors respond to the recommendations. In addition, the 2009-2010 Grand Jury did not ask the NCTPA Board of Directors to respond to findings, as the law requires. On

November 10, 2010 a second request to respond and again asked the NCTPA Board of Directors respond to both the findings and the recommendations. On December 15, 2010 the Grand Jury received responses to findings and recommendations from the NCTPA Board of Directors.

Responses were received from the following:

- Napa County Transportation and Planning Agency Board of Directors.

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are the responses of the NCTPA Board of Directors.

The responses to the following findings and recommendations were found to meet statutory requirements.

FINDINGS

The 2009-2010 Napa County Grand Jury found that:

Finding 1. The original intent of the NCTPA was to provide transportation services for Napa County residents.

Response, Board of Directors:

NCTPA Board of Directors disagree wholly or partially with this Finding.

The agency was created by its Member Jurisdictions to provide coordinated transportation planning and transportation services within the County of Napa. The agency's authority is described under its Joint Powers Agreement. Specifically:

1. **General.** NCTPA is to serve as the countywide transportation planning body for the incorporated and unincorporated areas within Napa County, and **as a advisory body** for countywide development, environmental issues, arts and cultural issues. It is to do so in a coordinated and more simplified way countywide:
 - A. Transportation policy development and planning activities including:
 - i. those relating to transit on both a short-term and long-term basis and within an intermodal policy framework;
 - ii. improving transit services;

- iii. providing coordinated and more competitive input to the region's transportation planning and funding programs;
 - iv. and performing such other transportation related duties and responsibilities as the Member Jurisdictions may delegate to NCTPA through its Joint Powers Agreement.
- B. Advisory deliberations on land-use, demographics, economic development, community development, environmental issues. Arts and cultural issues whose results are nonbinding on any Member Jurisdiction.

2. Abandoned Vehicle Abatement Authority

NCTPA is to serve as the service authority for the abatement of abandoned vehicles (AVAA) for Napa County and the Member Jurisdictions.

3. Preparation of County Transportation Plan

NCTPA is to prepare and submit to Metropolitan Transportation Commission (MTC) a county transportation plan for the incorporated and unincorporated territory of Napa County which shall include consideration of the planning factors included in Section 134 of the federal Intermodal Surface Transportation Efficiency Act of 1991.

Finding 2. Staffing and funding was increased to provide non-transportation services.

Response, Board of Directors:

The NCTPA Board of Directors disagrees wholly or partially with this Finding. Specifically; as stated and written on page 9 Section iv Additional Activities "Mission Creep;" which lists the NCTPA comprehensive planning activities proposed to be undertaken during FY 2009-2010.

Each year, the NCTPA develops an Overall Work Program (OWP). Prior to FY 2009-2010, the agency' OWP was simply a Table of Contents which listed the program categories and tasks that the agency was to undertake. This current version describes the proposed transportation planning activities for the upcoming fiscal year. The OWP also includes those transportation planning activities and studies required by federal and state law. These related planning studies address overall social, economic and environmental effects of transportation decisions in the region. The OWP is divided into fourteen (14) program categories and is further divided into these sixty-six more specific work elements and tasks.

The OWP serves four (4) important objectives:

1. It satisfies federal, state and local requirements for a comprehensive work program that documents all proposed work tasks, products, and financing for the upcoming fiscal year.
2. It serves as a reference for citizens, agencies, and elected officials throughout the region in understanding NCTPA's objectives and how these will be achieved through comprehensive, continuous, and cooperative planning process.
3. It serves as a management tool for NCTPA's planning program. The division of this program into work elements with scheduled tasks and specific work products facilitates management and Board review throughout the year to ensure that the planned activities are accomplished on schedule and within budget.
4. It serves as documentation to support the local funding and various federal and state grants that finance the planning and programming activities.

Finding 3. The NCTPA has become the de-facto forward planning agency for Napa County and its municipalities.

Response, Board of Directors:

NCTPA Board of Directors agrees with this Finding. NCTPA was created to provide coordinated transportation planning as well as transportation services with the County of Napa and thus is the designated forward transportation planning agency. As such NCTPA is well positioned to develop a coherent strategy for the area of responsibility which ensures that efforts are not duplicated and that all activities are focused on long term durable solutions; contributes to policy development by proactively putting forward ideas, suggestions, and recommendations based on an understanding and knowledge of the area of responsibility.

Finding 4. Fare box collections account for approximately 15 percent of the 2009-2010 VINE Operating Cost of \$4,736,713.

Response, Board of Directors:

The Executive Director concurs with this finding as written. NCTPA has undertaken critical review and assessment of its current transit services and operations as well as its fleet composition to seek out opportunities to get the most "bang for our buck" and to truly meet the needs of its Napa County residents. NCTPA also recognizes that having a good Marketing Plan and a good community Transit Services Plan are key in getting the word out regarding its routes and schedules to not only its residents but also its visitors.

Finding 5. The current NCTPA budget is difficult to understand due to combining transportation and non-transportation revenue and expenses.

Response, Board of Directors:

The NCTPA Board of Directors disagrees wholly or partially with this Finding. Combining transportation and non-transportation revenue and expenses is not the primary reason that makes the current NCTPA budget difficult to understand. Similar to the reason stated above, NCTPA after re-evaluating its accounting system at the beginning of FY 2009-2010 made a conscience decision to shift to an accrual based as opposed to cash based system. The main problem with a cash based system is that it can be difficult to get an accurate picture of the agency's performance. There is usually a gap between making a sale and collecting the money, and between using a resource and then paying for it, there can be a lot of overlap in cash flow from one period to the next.

A much better method, and one that is generally required of agency's that have to publicly report their financial statements, is the accrual basis. This method follows the revenue recognition principle, which dictates that all revenue is recorded when it is earned, regardless of when it is actually collected. In addition, all expenses are recorded when they are recognized and not when the cash is actually paid.

Through the accrual accounting method, NCTPA can get a better picture of how the agency has performed during a certain period of time, without the latency of the money actually changing hands to skew the numbers. The advantage is that NCTPA has a much better way to account for the agency's financial performance. This couple with the OWP will allow both management and its Board of Directors to make a more informed decision(s).

Finding 6. VINE ridership is trending downward increasing the cost per person trip

Response, Board of Directors:

Staff concurs with this Finding as written. However, as noted in the above response to Finding 4, NCTPA is awaiting completion of several key studies and Marketing Plan to help restructure its transit system and services. Several modifications to existing services and operations as well as new services and promotions implemented in early 2010 are beginning to show positive trends. Additionally, the Board has taken steps to eliminate unproductive services over the past year.

Finding 7. Passenger subsidies have doubled in the past eight years.

Response, Board of Directors:

Staff concurs with this Finding as written. Subsidies help to keep fares affordable while reducing roadway congestion. There is no mass transit system in North America that operates without public support (i.e. subsidy). As noted above, NCTPA is involved with a critical review of its services to improve its effectiveness.

Finding 8. New state of the art vehicles have been purchased and more ordered while ridership is decreasing.

Response, Board of Directors:

Staff does not agree with this Finding as written. The older buses get, the more money it costs to maintain them which is partly due to wear-and-tear, but also because the technology used in vehicles is becoming obsolete. Often an aging diverse fleet means that there is a greater likelihood that your system is out of production; the technology is no longer supported; and parts are becoming scarce --- all of which makes maintenance and reliability more difficult and costly. NCTPA is consciously standardizing its fleet to achieve and maintain an optimal and efficient fleet that leverages its scarce resources through economies of scale.

Finding 9. Many activities of the NCTPA “Overall Work Program F/Y 2009-2010” are for non-transportation related activities.

Response, Board of Directors:

The Executive Director does not concur with this Finding as written. As previously explained, of sixty-six items shown on pages 10 and 11 there are approximately seven that are non-transportation related activities. The OWP is structured to look at where the agency has been over the past twelve months (activities that are either nearing completion or are continuing) and to look ahead to where the agency needs to be over the next twelve months. Each work element and task is reviewed and programmed by management to ensure compliance with all applicable federal, state, and local requirements.

Finding 10. The BOD of the NCTPA has failed to follow up on certain audit findings and recommendations.

Response, Board of Directors:

Staff does not agree with this Finding as written. NCTPA and its Board of Directors understand the contributions and major importance an effective internal audit has on an organization especially since it leads to improved accountability, ethical and professional practices, effective risk management, improved quality of output and supports decision making and performance tracking. It is worth that NCTPA has been in a consistent audit mode since October of 2007. Many of the above responses touch on the various efforts and assessments underway that are identified as deficiencies in the audit(s). A matrix was created which tracks and monitors the agency's progress as it considers how best to manage and minimize risk of the agency.

Below are the series of audits and staff changes the agency has undergone.

- a) Internal Audit performed by the County of Napa Auditor-Controller- (2006 to 2007)
- b) Six-month Follow-up to Internal Audit by the County of Napa Auditor-Controller (January/February 2009)
- c) 2008 Triennial Review by the Federal Transit Administration (FTA) (August 2008 for the prior three years)
- d) 2008 Transportation Development Act by the MT (August 2008 through March 2009 for the prior three years)
- e) 2008 Transportation for Clean Air (TFCA) by the Bay Area Air Quality Management District (BAAQMD) (October 2008 through April 2009 for the prior three years)
- f) FY 2007-2008 External Audit (October 2008 through March 2009)
- g) FY 2008-2009 External Audit (October 2009 through December 2010)

Staff Changes:

- June 2006 Transportation Program Manager - Transit (separated)
- August 2006 Executive Director (separated)
- December 2006 Executive Director (hired)
- March 2007 Transportation Program Manager – Transit (hired – Transportation Program Manager – Fiscal promoted through competitive process)
- June 2007 Transportation Program Manager – Fiscal (hired)
- December 2007 Deputy Executive Director (separated)
- March 2008 Deputy Executive Director (hired – through competitive process position under filled as Transportation Program Manager – Highways, Street, & Road until June 2008)
- July 2008 NCTPA becomes an Independent Agency (6 of 7 County Personnel transferred plus 2 part-time temporary positions (Administrative Assistant remained))

- September 2008 Executive Director (separated)
- September 2008 Transportation Program Manager – Transit (separated)
- September 2008 Interim Executive Director (former Executive Director hired until new Executive Director is selected and hired)
- January 2009 Executive Director (hired)
- May 2009 Manager of Public Transit (hired – Transportation Senior Planner promoted through competitive process)
- June 2009 Manager of Finance (hired)
- July 2009 Transportation Program Manager – Fiscal (separated)
- July 2009 Manager of Planning and Programming (hired)
- February 2010 Re-alignment of staff (Incorporating recommendations made by Internal Audit)

Finding 11. The BOD approves issues with potential policy and financial impact by consent agenda without discussion.

Response, Board of Directors:

Staff does not concur with this Finding as written. Starting in 2009 management has made a conscience effort on matters with potential policy and financial impact to introduce them over the course of several Board meetings. This helps to ensure that adequate guidance and direction is given by its BOD to staff before any final action is taken.

Finding 12. The Agricultural Workers Vanpool Program started with a pilot program under a State grant and the program needs to be self-sufficient by June 2011.

Response, Board of Directors:

Staff concurs with this Finding as written.

Finding 13. The Single Audit Report 2008-2009 indicates there were eight areas of deficiency, some of which had been brought to the attention of the BOD in previous audits.

Response, Board of Directors:

Staff concurs with this Finding as written. As previously stated in the above response to Finding 10, NCTPA continues its efforts toward addressing all areas of deficiencies cited in the various audits completed to date. In addition, NCTPA has researched prior actions taken by the BOD to ensure that the appropriate action is taken to ensure compliance with all Federal, State, and Local requirements. On July 21, 2010, NCTPA plans

to present its action plan and schedule for the delivery of its suite of policies and procedures for each of its respective business processes. The goal is to have them in place by the end of the fiscal year 2010/2011. In addition, NCTPA staff will ask that the Board rescind all previously approved Policies and Procedures and replace them with a more up-to-date version incorporating realigned roles and responsibilities. These will be consolidated into one user manual that will be available to all staff members via our website. Revisions to the users' manual will be made as needed to ensure the manual is current at all times. NCTPA staff will be advised of all revisions and will be required to sign an acknowledgement form.

Finding 14. The NCTPA was able to secure ARRA funds for the repair/maintenance of local and county roadways. Continuation of funding for future repair and maintenance programs throughout the County is unclear.

Response, Board of Directors:

Staff concurs with this Finding as written.

RECOMMENDATIONS

The 2009-2010 Grand Jury recommended that the NCTPA BOD:

Recommendation 1. Create oversight committees, including an audit committee.

Response, Board of Directors:

The NCTPA Board of Directors has implemented this recommendation. On September 16, 2009, the NCTPA Board of Directors created the "Transit Efficiency Committee" to assist the full Board in the monitoring the performance of the Transit Services Contractor (Veolia Transportation) which will sunset after 2 years unless the Board takes action to continue said committee. This committee meets quarterly to assess the Transit Service contractor's performance to the measures put forward in the contract and RFP 09-01. Quarterly reports have been presented to the Board showing progress to date.

Recommendation 2. Correct the deficiencies listed in the latest outside audit and other regulatory agency reviews.

Response, Board of Directors:

The NCTPA Board of Directors has implemented this recommendation. NCTPA has corrected the deficiencies listed in the latest outside audit and other regulatory agency reviews. The Board of Directors has approved the necessary financial internal controls at its September 2010 meeting. NCTPA has undergone subsequent audits which acknowledge and support resolution to these efficiencies. In addition, NCTPA has brought onboard trained staff who have actual hands on experience with tracking and monitoring grants as recommended by the internal audit. Beginning in September 2009, NCTPA took the necessary steps with the assistance of MTC to bring its monthly and quarterly reporting back into compliance. Early FY 2009-2010 NCTPA made the decision to change from cash to an accrual basis accounting system so that the agency can monitor its performance. It also allowed for establishing a set of financial controls that will satisfy the agency's requirements under the various programs

Recommendation 3. Focus on NCTPA stated main purpose of providing for transportation planning and services delivery.

Response, Board of Directors:

The NCTPA Board of Directors has implemented this recommendation. NCTPA continues to stay on course with its main purpose of providing for transportation planning and services delivery as outlined in the Board-approved Overall Work Program for FY 10/11.

Recommendation 4. Prepare and publish a budget summary each year with sufficient detail which can be easily understood by the public.

Response, Board of Directors:

The NCTPA Board of Directors has not implemented this recommendation. NCTPA plans to publish a budget summary for FY 10/11 as part of the budget hearing process for establishing next year's budget FY 11/12 with sufficient detail so that it can be easily understood by the public.

Recommendation 5. Develop a plan for the Agricultural Worker Vanpool Program to be self sufficient after June 2011.

Response, Board of Directors:

The NCTPA Board of Directors state this recommendation needs further analysis. The original application submitted in 2008 contained a plan for the Agriculture Worker Vanpool Program to become self-sufficient after June 2011. NCTPA has kept the Board abreast of the progress made to date and has agreed to reevaluate the program at its January 2011 meeting.

Recommendation 6. Establish a plan to seek ongoing funding for street and roadway repair and maintenance.

Response, Board of Directors:

The NCTPA Board of Directors has implemented this recommendation. NCTPA, through its participation with the Metropolitan (MTC), which serves as the Metropolitan Planning Organization (MPO) for the bay area's nine counties, seeks ongoing funding for street and roadways, land-planning oversight and many other functions listed in the Grand Jury's report. Each year NCTPA helps to identify, plan and program Federal and State funds that are available to the region through formula and street classification established by the MTC.

Napa County is one of a few counties within the nine county Bay Area that does not have a dedicated transportation sales tax, responsible for delivering voter-approved transportation sales tax measures throughout the state. Without such dedicated funding it is extremely difficult to deliver many of the region's priority transportation projects. The Metropolitan Transportation Commission administers and allocates by formula all of the available Federal and State monies it receives that then NCTPA plans, programs and distributes to its member jurisdictions. NCTPA also serves to distribute by issuing Calls for Projects for available funding for state and local programs such as the Transportation for Clean Air administered by the Bay Area Air Quality Management District (BAAQMD). However, it is worth noting that some programs are established with very specific criteria and conditions that must be met in order to qualify. Federal funds require a local match of either 10 to 20% of the total project costs. Use of federal funds also triggers full compliance of all federal requirements such as Timelines; Procurement; Environmental; Reporting; etc. ARRA serves as a prime example in both project delivery and source of funding to which Napa County delivered 100% of its allocation.

NAPA COUNTY WATER Our Precious, Critical Resource

The 2009-2010 Grand Jury published its final report on Napa County Water on May 31, 2010.

Responses were received from the following:

- Napa County Board of Supervisors
- Napa County Flood Control and Water Conservation District

- Napa Sanitation District
- City American Canyon Public Works Department
- City of Calistoga Public Works Department
- City of Napa Public Works Department
- City of St. Helena Public Works Department
- Town of Yountville Public Works Department
- Mayor, City of American Canyon
- Mayor, City of St. Helena
- Mayor, Town of Yountville
- City Council, City of Calistoga
- City Council, City of St. Helena

The 2009-2010 Grand Jury did not ask the respondents to respond to findings, as the law requires. A request to respond to the findings was made by the 2010-2011 Grand Jury. The respondents did respond to the findings.

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are each of the responses of each respondent who was asked to respond to the specific finding and recommendation.

The responses to the following findings and recommendations were found to meet statutory requirements.

FINDINGS

The 2009-2010 Napa County Grand Jury found:

Finding 1. Water quality testing in all municipalities in Napa meets current California Department of Public Health and EPA Clean Drinking Water Act requirement. Water Quality Reports are available annually from all Napa County municipalities.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Response, City of Napa:

Agree with respect to City of Napa meeting current regulations and producing annual water quality reports.

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control

of the City of St. Helena. Subject to this stated limitation, the water quality testing in all municipalities in Napa meeting current California Department of Public health and EPA Clean Drinking Water Act requirements is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c).

Response, Town of Yountville:

Agree with the finding.

Finding 2. In the event of supply disruption from the NBA, the County and its municipalities will depend on water from municipal reservoirs and water storage facilities.

Response, City of American Canyon:

Agree. The City also depends on water purchased from the City of Vallejo in Solano County.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Response, City of Napa:

Agree with respect to City of Napa.

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, the event of supply disruption from the NBA, the County and its municipalities dependence on water from municipal reservoirs and water storage facilities is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c).

Response, Town of Yountville:

Agree with the finding, but also note that Yountville and several agencies have municipal wells that will be utilized during an emergency.

Response, Napa County Flood Control and Water Conservation District:

The NCFWCWD concurs with Finding No. 2 but adds that the City of St. Helena and Town of Yountville have groundwater wells to supplement stored supplies.

Finding 3. The current County Emergency Response Plan (ERP) provides a general framework for a regional response to all emergencies. The Cities of American Canyon and Napa have their own ERPs; other municipalities do not.

Response, City of Napa:

Agree with respect to City of Napa having an Emergency Response Plan (ERP).

Finding 4. A major earthquake would likely cause a significant disruption to water delivery infrastructure throughout the County.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Response, City of Napa:

Disagree partially. While a major earthquake could cause significant disruption to water delivery infrastructure, there are many variables associated with the earthquake such as size, intensity, type, location, and proximity to significant infrastructure that would determine the extent of damage to the water system. The potential for disruption to Napa's ability to deliver water is mitigated by the fact that the City has two separate full scale treatment plants (Hennessey in the north and Barwick Jamieson Canyon in the south) separated by 20 miles. Each individual plant and transmission system is capable of supplying adequate water to the community.

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, a major earthquake likely causing a significant disruption to water delivery infrastructure through the County is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c)).

Response, Town of Yountville:

Agree with the finding.

Response, Napa County Flood Control and Water Conservation District:

The NCFCWCD concurs with Finding No. 4 but adds it does not own, control or maintain any physical water delivery infrastructure.

Finding 5. State law requires the City of Napa and American Canyon to have UWMPs in place and to update them every five years. At present, these are current and are being updated to comply with current law and regulations.

Response, City of Napa:

Agree with respect to City of Napa UWMP.

Finding 6. Although not required, St. Helena voluntarily prepared an UWMP.

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena (see Penal Code section 933(c)).

Finding 7. Napa County has not completed a detailed hydro-geological study its groundwater resources since 1973.

Response, City of Napa:

Disagree partially. The City is responding to this finding to the extent that it pertains to matters under the control of the City. While this finding implies that Napa County is solely responsible for groundwater resources, in fact the City of Napa is responsible for groundwater resources underlying City owned property and within the City limits. Historically, the City has voluntarily honored County policies related to groundwater, and the City has not approved the use of groundwater as a primary source for urban development within the City limits. Currently, the City is exploring groundwater options for dry-year and emergency back-up. This is a necessary step to ensure locally controlled water sources are available in the event of an emergency or when State water is unavailable.

Finding 8. Recycled water is a non-potable supply option to alleviate demands on potable water programs.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Response, City of Napa:

Agree.

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, Recycled water as a non-potable supply option to alleviate demands on potable water programs is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c).

Response, Town of Yountville:

Agree with the finding.

Finding 9. In Yountville, eighty-five percent of wastewater is recycled.

Response, Town of Yountville:

Agree with the finding, but clarify that 83% of wastewater from the Town of Yountville and the Veterans Home of California was recycle in 2009 and 80% was recycled in 2010.

Finding 10. Calistoga uses 100 to 200 acre-feet per year of its wastewater and distributes it to about twenty locations.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Finding 11. St. Helena is not currently using recycled water but is “looking into it.”

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, the City agrees with this finding.

Finding 12. As more City of Napa water customers convert to using recycled water the revenues for Napa City Water Department decline since recycled water is delivered to customers at a lower rate than potable water.

Response, Napa Sanitation District:

NSD partially disagrees. It is true that if a City of Napa potable water customer converts to recycled water use for irrigation or other appropriate uses, there would be a loss of revenue to the City from that customer. It is for this reason the City and NSD have entered into an agreement to help offset these revenue losses in the short term. This agreement provides that NSD reimburse the City for 100% of its lost revenue the first year, with

decreasing compensation for the second and third years. While it does not reimburse the City for the long term financial impact, it does provide some short term relief and allows the City the opportunity to use a redistribution of the available water to new customers and future rate adjustments to make up some or all of the lost revenue over the longer term.

NSD is committed to the reimbursement agreement with the City. However, more important than the agreement is the commitment by NSD that we work cooperatively with the City to ensure that the revenue impact of customers converting from potable water to recycled water does not hinder the expansion of recycled water delivery, nor significantly harm the customers of the City's potable water system. We believe that the City of Napa shares this commitment, and we are currently discussing this agreement to ensure this goal is met.

It might be of interest to note that in the history of NSD's recycled water programs, only three existing City water customers have converted to recycled water.

Response, City of Napa:

Agree. The City's rate base is reduced when potable water customers convert to recycled water. Pursuant to an agreement with Napa Sanitation District (NSD), the City receives a reimbursement for lost revenue from NSD that eases the City towards the lower rate base. Typically, within two to three years the reimbursement declines to zero. The City factored the rate base adjustment and NSD reimbursement into the rate setting process; therefore there are no financial barriers for the City to allow water customers to convert to recycled water pursuant to the terms of the agreement with NSD.

Finding 13. Napa Sanitation District and the City of Napa have agreements to manage transition from using potable to recycled water for new users.

Response, City of Napa:

Agree with respect to users within the City of Napa water service area.

Finding 14. None of Napa County's public water systems fluoridate their water supplies.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Response, City of Napa:

Agree with respect to water delivered by the City of Napa.

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, none of Napa County’s public water systems fluoridating their water supply is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c)).

Response, Town of Yountville:

Agree with the finding.

Finding 15. Fluoridated water has a documented significant oral health benefit and fluoridating water in Napa County was recommended as a component for community dental health improvement.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, the oral health benefits of fluoridation is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c)).

Response, Town of Yountville:

Agree with the finding.

Finding 16. AB 733 mandates fluoridation of public water systems having 10,000 or more connections.

Response, City of Napa:

Disagree partially. AB 733 or more specifically California Code of Regulations Title 22, Division 4, Chapter 15, Article 4.1, Section 64433 and California Health and Safety Code Section 116409 – 116415 requires public water systems with 10,000 service connections or more to fluoridate their water IF funding is offered pursuant to a binding contractual offer from an outside source for capital and operating costs associated with the fluoridation system. Health and Safety Code Section 116415 describes “outside source” as follows – As used in this section, “outside source” mean a source other than the system’s ratepayers,

shareholders, local taxpayers, bondholders, or any fees or charges levied by the water system.

Finding 17. Annual savings in oral healthcare to County residents is projected to exceed the estimated costs of operating water fluoridation systems at the County public water systems.

Response, City of Calistoga:

Disagree partially with the finding, per California Penal Code 933.05(a)(2). Annual savings in oral healthcare to the City of Calistoga has not been projected to exceed the estimated costs of operating water fluoridation systems. While fluoridation does have certain benefits, it is not required for a small system such as Calistoga's, and there is no demonstrated community support for such an initiative. During approximately 22 publicly-noticed, public meetings conducted by a City Council-appointed water advisory committee, there was extensive public commentary and participation, but no requests for fluoridation. City water customers can make individual choices on fluoride use through widely available, over-the-counter fluoride supplements and toothpaste.

Response, City of Napa:

Disagree partially. While capital and operating costs for a fluoridation system can be accurately calculated, annual savings in oral healthcare is difficult to determine definitively. The responsibility of the Water Division is to provide safe and dependable water delivery to the community. Treatment and distribution programs are focused on those goals. While adding fluoride to the water supply may be beneficial to a small percentage of the population, this is a medical or public health issue unrelated to the primary mission of delivering water to the community. The health related benefits and costs of fluoridation should be better handled and, if appropriate, be funded through the Department of Health and Social Services. If they wish to accept responsibility for the planning and funding of such an effort we will be happy to cooperate.

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, the annual health benefits of the fluoridation of water is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c)).

Response, Town of Yountville:

Disagree partially with the finding. Annual savings in oral healthcare to Yountville and Veterans Home residents has not been projected to exceed the estimated costs of operating water fluoridation systems at the Rector Reservoir Water Treatment Plant. As stated in the response to recommendation 14, the Town purchases water from the California Department of veterans Affairs (CDVA), which operates Rector Reservoir and Water Treatment Plant. Fluoridation is most beneficial to children, most toothpastes have fluoride, and fluoride supplements can be purchased for children. Recent studies have also found that some children are receiving too much fluoride. There is little benefit of fluoridation to the veterans and the CDVA staff has stated that fluoridation is not cost effective. If the Town Council insists on fluoridation, then there are up front capital costs to add fluoride to the water treatment process and ongoing chemical purchase costs that would probably be entirely paid by the Town. On February 15, 2011 the Town Council is having a public hearing about increasing water rates, which is necessary to pay for increasing costs of water purchases from the CDVA and fund the water infrastructure replacement fund. Since fluoridation would increase the rates higher, the benefits have not been found to justify the costs spread to all rate payers in Yountville.

Finding 18. No County municipalities have applied for funding to fluoridate their water systems.

Response, City of Calistoga:

Agree with the finding, per California Penal Code 933.05(a)(1).

Response, City of Napa:

Agree with respect to City of Napa

Response, City of St. Helena:

Pursuant to Penal Code Section 933(c), the City of St. Helena responds as follows only to the extent the finding pertains to matters under the control of the City of St. Helena. Subject to this stated limitation, the County municipalities applying for funding to fluoridate their public water systems is not a matter under the control of the governing body of St. Helena (see Penal Code section 933(c)).

Response, Town of Yountville:

Agree with the finding.

RECOMMENDATIONS

The 2009-2010 Napa County Grand Jury recommended:

Recommendation 1. Municipalities within the County develop, expand, and formalize agreements to provide water allocations to address a catastrophic loss of water.

Response, City of American Canyon:

Agree. The City concurs that it is beneficial to develop mutual-aid agreements between the municipalities and the County as a component of our emergency operations plan and water system emergency response plans. All six Napa County Public Works Directors meet bi-monthly to discuss items of mutual interest and concern, and from these meetings, a public works first responder mutual aid framework is expected to be created.

Response, City of Calistoga Public Works Director:

The recommendation has been substantially implemented per California Penal Code 933.05 (a)(1). Calistoga has two sources of potable water supply – from its own Kimball Reservoir and from its share of the North Bay Aqueduct (NBA) project. The NBA water is treated to potable water standards and ‘wheeled’ to Calistoga by the City of Napa; i.e. Calistoga is a wholesale water ‘customer’ of the City of Napa. The cities of Napa and Calistoga have long-standing and formal water service agreements to implement the water supply relationship, and the arrangements are further strengthened on a regular basis through staff communication and coordination efforts. In addition, public works and water utility staff from the entire county meet monthly as a Water Technical Advisory Committee to discuss and coordinate items of mutual interest with respect to water quality and water supply reliability. Staff at the various agencies within the County also have initiated and developed projects to improve the reliability of the water supplies during regular and emergency operational periods. For example, the cities of Napa, St. Helena, and Calistoga have recently completed the first phase (a Conceptual Design and Feasibility Study) of the Dwyer Pump Station project, which would provide enhanced and more reliable distribution of potable water in the upper Napa valley area, to the benefit of each of the cities. The Public Works Director shall work with other municipalities in the County to develop and formalize any further agreements, as may be mutually beneficial, to provide water allocations and water supply reliability to address a catastrophic loss of water.

Response, City of Napa:

This recommendation has been implemented. The City of Napa has formal agreements with St. Helena and Yountville to deliver water in the

event of an emergency so long as the City's system is in a position to do so. The City also has treat and wheel agreements with Calistoga and American Canyon to convey their State Water Project water. All agencies participate in the Water Technical Advisory Committee which meets on a monthly basis to ensure cooperation among agencies. The City would be open to modifying current agreements with other agencies for water delivery in an emergency if those agencies feel it is important and Napa could accommodate the modifications without adverse impact to its customers.

Response, City of St. Helena Public Works Director:

Pursuant to 933.05(b)(3) the recommendation requires further analysis. The City produces water from two water treatment plants. One plant treats water from Bell Canyon Reservoir and the other treats water surface water from Stonebridge Wells (two deep groundwater sources fed by Sonoma Volcanic aquifer). The City also has an agreement with the City of Napa to purchase between 400 and 800 acre-feet of water per year. The City has adequate groundwater and backup water supply, and the Public Works Director is working with other municipalities in the County to improve water supply reliability in the entire Napa Valley and to address a catastrophic loss of water.

Response, City of Yountville's Public Works Director:

Disagree partially with the finding. The recommendation requires further analysis by December 1, 2010. The Town purchases water from the California Department of Veterans Affairs, which operates Rector Reservoir and Water Treatment Plan. The Town also has an emergency well and an agreement with the City of Napa to purchase water from a connection to the Conn Dam Transmission Line, which runs from Lake Hennessey to the City of Napa. The Town has established a \$2 million drought reserve fund to purchase water when necessary. The Town has adequate groundwater and backup water supply, but the Public Works Director will work with other municipalities in the County to formalize an agreement to provide water allocations and improve water supply reliability to address a catastrophic loss of water.

Update: The Town has a Public Works Mutual Aid Agreement with other municipalities in Napa County and joined California Water/Wastewater Agency Response Network (CalWARN). The CalWARN 2007 Omnibus Mutual Assistance Agreement sets forth covenants for agencies to provide mutual assistance to one another in times of emergency and the agreement is consistent with Standardized Emergency Management Systems (SEMS). The Town staff also voluntarily prepared an Emergency Response Plan (ERP) to implement after a disaster, which includes hiring

contractors to provide potable water to Town residents, repair pipelines, and install temporary pipelines. The Public Works Director met with other Public Works Directors in Napa County and does not feel it is necessary to formalize an agreement to provide water allocations and improve water supply reliability to address a catastrophic loss of water in Yountville.

Recommendation 2. All County municipalities evaluate means to increase the capacity, and enhance the survivability, of municipal reservoirs and water storage facilities.

Response, City of American Canyon:

Agree. The City of American Canyon works closely with the City of Napa, the County, and the other northern cities in this regard and meets monthly with these partners to discuss matters of common interest and advantage, and to plan and coordinate water allocation and supply opportunities. The Napa Turnout Reservoir raw water tank near the City's water treatment plant (see Final Report Figure 3) was recently expanded from 7-million gallons to 10-million gallons. The City is planning to construct in the next several years an additional 4.5-million gallons of water storage to improve storage, water quality, and delivery reliability.

Response, City of Calistoga Public Works Director:

The recommendation has been substantially implemented per California Penal Code 933.05(a)(1). Calistoga agrees with the recommendation, except as it pertains to the City's Kimball Reservoir. The recommendation should not be implemented at this time with respect to increasing the capacity of Kimball Reservoir at this time, because it is not fiscally justifiable. In the late 1990's, Calistoga undertook a comprehensive review of long-term water supply options, and elected to increase water supplies through the purchase of additional water allocations through the North Bay Aqueduct system. Calistoga's water supplies are adequate for its projected growth, as specified by the General Plan and it is not warranted or economically feasible at this time to also increase the Kimball Reservoir supply. Kimball Dam and Reservoir are inspected regularly by City staff and on an annual basis by the City staff and representatives of the State of California, Division of Safety of Dams, to ensure the facility is operated both safely and reliably. With respect to treated water storage, the City of Calistoga has secured all necessary funding, and anticipates beginning construction within nine months, on the Mount Washington Water Storage Tank project, which will increase the City's capacity to store treated water by over 125%.

Response, City of Napa:

This recommendation has been implemented through previous actions and on-going efforts. The City has completed seismic upgrades on all of the large (greater than 1-million gallons) water storage tanks. The City recently completed over \$1M worth of improvements to Milliken Dam to meet Division Safety of Dams (DSOD) requirements related to a maximum credible earthquake. As part of this project, an option to expand the reservoir by upgrading the dam was explored but rejected due to cost. DSOD regularly inspects the City's two dams to ensure they are operated correctly and safely. Expansion of Conn Dam has been considered, however significant cost and environmental concerns render it infeasible at this time. On-going inspection, preventative maintenance, and upgrades of water storage facilities ensure they are in the best condition practical to enhance survivability.

Recommendation 3. Calistoga, St. Helena and Yountville prepare their own detailed plans that supplement and complements the County's ERP.

Response, City of St. Helena, City Council:

Disagree partially with the finding [recommendation]. The recommendation has not yet been implemented, but will be implemented in the future. The City has less than 2,400 service connections (1,964 within City limits, 348 outside City limits) to a population of approximately 6,800 people using approximately 1977 acre feet of water per year. The City is not required to prepare an Emergency Response Plan; however the City has established an Urban Water Management Plan which addresses the City's response to a catastrophic loss of water in Section 9 Water Shortage Contingency Plan, Section 9.1. The City has a five-phased Water Shortage Emergency (Contingency) Plan which includes voluntary and mandatory conservation measures. At any time that the City Council determines that a water shortage emergency condition exists, and that it is necessary to limit usage by the customers of the City's water system, the City Council shall adopt a resolution setting forth applicable phases.

Recommendation 4. Each County municipality prepare a plan to ensure rapid repair of the water delivery system and include procedures for emergency water delivery to facilities responsible for providing immediate health and safety aid to the communities' population, especially local hospitals, shelters, and emergency centers.

Response, City of American Canyon:

Agree. Enhancing the existing American Canyon water system emergency response plan to include such procedures in the next update would be beneficial during an emergency.

Response, City of Calistoga Public Works Director:

The recommendation has been implemented per California Penal Code 933.05(a)(1). The City already has an Emergency Response Plan (ERP), dated December 2004, as required by various laws and requirements as promulgated by the United States Environmental Protection Agency and the California Department of Public Health. The ERP, prepared and submitted in accordance with applicable laws, outlines, and guidance documents, was based in part on the completed vulnerability assessment of the City of Calistoga's water system. The ERP includes various operating procedures and action plans to protect and restore the water system during and following an emergency event. The City is also allowed by its Municipal Code to declare an emergency, procure necessary services and supplies via expedited emergency procedures, and request mutual aid during an emergency.

Response, City of Napa:

This recommendation has been implemented. The City has a well planned Emergency Operation Center and is well versed in meeting the needs of the community as evidenced by responses to numerous floods and the 2000 earthquake. The Water Division has an emergency response plan that includes numerous resources and action plans for ensuring delivery of potable water to the public. The plan includes a chapter on "sensitive customers" including Queen of the Valley Hospital, numerous health care facilities, and schools so that emergency responders can take this into account when addressing the repair of the water system. The City has taken the proactive step to convert the distribution system serving Queen of the Valley hospital to include multiple feeds from the City's base pressure-zone.

Response, City of St. Helena Public Works Director:

Pursuant to 933.05(b)(2) the recommendation has yet been implemented, but will be implemented in the future. The City has less than 2,400 service connections (1,964 within City limits, 348 outside city limits) to a population of approximately 6,800 people using approximately 1977 acre feet of water per year. The City is not required to prepare an Emergency Response Plan; however the City has established an Urban Water Management Plan which addresses the City's response to a catastrophic loss of water in Section 9 Water Shortage Contingency Plan, Section 9.1, the City has a five-phased Water Shortage Emergency (Contingency) Plan which includes voluntary and mandatory conservation measures. At any time that the City Council determines that a water shortage emergency condition exists, and that it is necessary to limit usage by the customers of the City's water system, the City Council shall adopt a resolution setting forth applicable phases.

Response, City of Yountville Public Works Director:

Disagree partially with the finding [recommendation]. The recommendation has not yet been implemented, but will be implemented in the future. The Town has less than 800 service connections to a population of approximately 2,200 people using approximately 510 acre feet of water per year. Even though the Town is not required to prepare an Emergency Response Plan, one has been prepared to respond to an emergency. The Town staff can purchase water at stores or transport water from an emergency well in a trailer mounted tank. Based on Chapter 2.52 of the Yountville Municipal Code, the Director of Emergency Service and Town Council can declare a local emergency and request mutual aid during an emergency. Town staff will execute “on-call” agreements with contractors to make emergency repairs and prepare procedures for emergency water delivery to the Community Center by December 1, 2010.

Update: The recommendation has been implemented. A copy of the general services “on call” agreement with Taylor – Bailey Construction was executed July 19, 2010.

Recommendation 5. Cities of American Canyon and Napa are encouraged to complete their updated UWMP plans on schedule and train appropriate City and County officials to carry out their specific responsibilities. St. Helena is encouraged to update their UWMP plan on a periodic basis.

Response, City of American Canyon:

Agree. The City expects to begin the process of updating its Urban Water Management Plan later this calendar year as required by the State of California (see <http://www.water.ca.gov/wateruseefficiency/sb7/committees/urban/u7/> for up-to-date information from the Department of Water Resources) and will involve the City Council ad hoc committee on water resources (the “Blue Ribbon Committee”) and interested members of the American Canyon community.

Response, City of Napa:

This recommendation is in the process of being implemented. The City is on schedule to update and submit the Urban Water Management Plan (UWMP) to the State prior to the deadline of June 30, 2011. A request for qualifications is currently being calculated to assist the City in the UWMP update.

Response, City of St. Helena, City Council:

Disagree partially with the finding [recommendation]. The City of St. Helena is not required to prepare and adopt an Urban Water Management Plan because it does not meet the minimum number of required connections which is 3,000. The city currently has only +/- 2,500 connections and based on projected General Plan growth will not exceed the minimum of 3,000. Although the City is not required to prepare an Urban Water Management Plan, the City voluntarily completed one in 2003 and an update in 2007. Emergency preparedness can always be improved, and City staff will continue to update its plan on a periodic basis.

Response, City of St. Helena Public Works Director:

Disagree partially with the finding [recommendation]. The recommendation has not yet been implemented, but will be implemented in the future. The City has less than 2,400 service connections (1,964 within City limits, 348 outside city limits) to a population of approximately 6,800 people using approximately 1,977 acre feet of water per year. The City is not required to prepare an Emergency Response Plan; however the City has established an Urban Water Management Plan which addresses the City's response to a catastrophic loss of water in Section 9 Water Shortage Contingency Plan, Section 9.1, the City has a five-phased Water Shortage Emergency (Contingency) Plan which includes voluntary and mandatory conservation measures. At any time that the City Council determines that a water shortage emergency condition exists, and that it is necessary to limit usage by the customers of the City's water system, the City Council shall adopt a resolution setting forth applicable phases.

Response, City of St. Helena's Mayor:

Disagree partially with the finding [recommendation]. The City of St. Helena is not required to prepare and adopt an Urban Water Management Plan because it does not meet the minimum number of required connections which is 3,000. The city currently has only +/- 2,500 connections and based on projected General Plan growth will not exceed the minimum of 3,000. Although the City is not required to prepare an Urban Water Management Plan, the City voluntarily completed one in 2003 and an update in 2007. Emergency preparedness can always be improved, and City staff will continue to update its plan on a periodic basis.

Recommendation 6. NCFCWCD conduct a countywide hydro-geologic groundwater survey and develop a management plan as a County priority.

Response, Napa County Flood Control and Water Conservation District:

The NCFCWCD concurs with the Grand Jury's recommendation No. 6 that a county-wide hydro-geologic groundwater survey and groundwater management plan is necessary. However, the NCFCWCD is not the appropriate agency to conduct the hydro-geologic groundwater survey and to develop a management plan for the County. The County of Napa is the appropriate agency and is currently underway with a study that is evaluating existing groundwater data, determining additional data needs, developing a monitoring program, and developing a groundwater conditions report that will be the first steps leading to the development of a comprehensive groundwater management plan for the County of Napa. The County expects this work to be complete in September 2010 and the final report to be presented to the County Board of Supervisors in September for acceptance and direction.

Recommendation 7. Board of Supervisors develop regulations to ensure adequate groundwater supply for future needs.

Response, City of Napa:

This recommendation requires further analysis as it relates to the City's groundwater resources. The City is responding to these recommendations to the extent that they pertain to matters under the control of the City. While these recommendations imply that Napa County is solely responsible for groundwater resources, in fact the City of Napa is responsible for groundwater resources underlying City owned property and within City limits. Historically, the City has voluntarily honored County policies related to groundwater, and the City has not approved the use of groundwater as a primary source for urban development within the City limits. Currently, the City is exploring groundwater options for dry-year and emergency back-up. This is a necessary step to ensure locally controlled water sources are available in the event of an emergency or when State water is unavailable. Hydro-geologic studies and management plans will be required as part of the City's future use of groundwater.

Recommendation 8. The City of Napa and NSD identify a process for, and develop an implementation plan to, integrate NSD and PWD into a single department.

Response, Napa Sanitation District:

This recommendation will not be implemented because it is not warranted. This recommendation, rooted in concerns noted in the report about a loss of revenue to the City of Napa when customers transition to recycled water use, appears to conclude that this contributes to competition between the two agencies and acts as a barrier to recycled water expansion.

As noted in the Grand Jury report in the Findings the city of Napa and NSD have an agreement to manage the transition of City potable water customers to recycled water. This agreement addresses this concern straight on, providing compensation to the City for lost revenues. NSD has been and continues to be in full support of this agreement. NSD has not seen any evidence that there is competition for customers, as City supports the conversion to recycled water and NSD supports the compensation agreement. In fact, City, County and NSD staff and elected officials meet regularly to discuss coordination and cooperation regarding the expansion of recycled water delivery. In addition, the City cites expansion of recycled water use as a way to manage City water demand in its 2005 Urban Water Management Plan update. We do not see NSD's status as an independent agency as an impediment to expanding the recycled water system.

Additionally, it must be noted that the delivery of recycled water is only one part of NSD's operation, and that the majority of its budget and staff effort is related to the collection and treatment of wastewater.

Response, City of Napa:

This recommendation requires further analysis. While the City of Napa agrees that there may be significant merit to the consolidation of services, the City is not in a position to implement this recommendation unilaterally. The City is willing to explore the potential benefits of consolidation (i.e. economics of scale, coordination of services, planning) that could result from a merger. If the Napa Sanitation District wishes to participate in a joint effort to identify the feasibility and advisability of a consolidation the City could begin such an effort within the next six months.

Recommendation 9. The County and all municipalities continue development and expansion of recycled water projects to alleviate future water shortages.

Response, City of American Canyon:

Agree. The City is currently delivering recycled water to several community parks and a commercial vineyard. We plan to continue to expand the system in accordance with the recycled water implementation plan and as funding becomes available.

Response, City of Calistoga Public Works Director:

The recommendation has been substantially implemented per California Penal Code 933.05(a)(1). Calistoga has provided disinfected tertiary-

treated recycled water to customers for many years. Calistoga seeks to expand the use of recycled water to new customers, when it is economic and feasible to do so. In some cases, the use of recycled water is specified as a mandatory condition of approval for new development projects. For example, the large and prominent Solage resort, which opened in 2007, is a relatively new and significant recycled water user. In 2009, Calistoga used approximately 761 acre-feet of potable water, while using 320 acre-feet of recycled water. Calistoga expects the beneficial re-use of recycled water to continue and expand modestly into the foreseeable future.

Response, City of Napa:

This recommendation has been implemented. The City of Napa encourages the use of recycled water where feasible and cost effective to offset potable water use. In 1998, the City and NSD entered into an agreement for NSD to convey water in the southern portion of the City's service area. This area includes many of the City's large irrigation customers such as Kennedy Golf Course, Kennedy Park, Napa Valley College, Napa Corporate Park and Napa State hospital. To date, many of these customers have converted to recycled water saving the City over 300 acre-feet of water per year. The City has planned for the conversion of Napa State Hospital in the near future. The approval of the Ritz-Carleton project included a water mitigation requirement that can be met by converting the irrigation system at the Napa Valley Corporate Park to recycled water. The proposed St. Regis project includes provisions for converting the project as well as irrigation on the Stanley ranch property to recycled water. The City is fully in support of this requirement.

Response, City of St. Helena:

Pursuant to 933.05(b)(4) the recommendation will not be implemented because it is unreasonable. While the City recognizes recycled water should be put to beneficial use, the production rate of recycled water would not be satisfactory to "alleviate future water shortages". Additionally the demand for recycled water is likely to be highest during the driest months when flows into the sewage treatment plant are at the lowest. This means that recycled water could not be a meaningful factor in augmenting supply of non-potable use without the addition of a substantial storage capacity. It would be necessary to provide recycled water storage, pumping and distribution facilities, which includes at minimum, a 400 acre-feet of storage. The City does not own land at a location suitable for such storage capacity and the cost of purchasing land and constructing more storage is not fiscally justifiable to rate payers. Not to mention a significant capital cost.

Response, Napa Sanitation District:

NSD agrees that development and expansion of recycled water delivery can improve the availability and reliability of potable water systems. Additionally, recycled water is itself a reliable source of water for the region that will be available even when there are potable water shortages. Promoting the expanded use of recycled water is sound public policy, which NSD supports.

The recommendation has been implemented. NSD shares the desires of potential recycled water users to participate in the pursuit of opportunities to expand the recycled water system. In fact, since 1990, NSD has spent roughly \$1.2M on planning and environmental studies in support of expanding its recycled water distribution system. NSD has developed strategies and policies through its Recycled Water Strategic Plan and other policy documents that promote the continued development and expansion of recycled water projects with local partners. NSD stands ready to cooperate with local partners and potential end users to develop feasible recycled water projects.

Recommendation 10. The County, all municipalities, and NSD investigate the process and economics for the formation of a countywide utility district to benefit the County residents and holistically manage the availability, distribution, and economics of potable and recycled water.

Response, City of American Canyon:

Disagree. Each water agency in Napa County operates its own water system according to state and federal regulations and in accordance with the needs and desires of each community, and at the direction of their respective elected governing bodies. While there might be financial benefit from the economy of scale afforded by a countywide water agency, a one-size-fits-all approach to water supply, demand, and conservation issues would not be appropriate for the diversity of Napa County cities and their community goals and objectives.

Response, City of Calistoga Public Works Director:

The recommendation will not be implemented per California Penal Code (a)(4), as it is not warranted nor reasonable. Calistoga's existing systems of partially interconnected utility systems, water supply agreements, and constructive cooperation among the County and the municipalities, is adequate to meet the needs of Calistoga. Calistoga has a well-developed, two-source potable water supply system, which is sized to meet the City's needs to grow in accordance with its General Plan. Calistoga's recycled water system provides a substantial amount of tertiary-treated recycled water to approximately two dozen customers, and Calistoga is implementing plans to expand the system when it is economic and feasible

to do so. Given the geographic remoteness of Calistoga from the other (larger) municipalities in the County, Calistoga believes its current utility systems are sufficient to meet community requirements.

Response, City of Napa:

The City does not intend to implement this recommendation since it is not warranted. The City understands that the underlying goal of this recommendation is to establish systems that would more effectively manage potable and recycled water throughout the County, and the City certainly agrees with this goal. However, in order to effectively manage water resources and water use, and meet the expectations of residents within the community, it is important to be able to coordinate land use planning with the construction of necessary improvements. If a countywide utility district was formed, it would create a disconnect between the agency responsible for regulating land use (the City) from the agency responsible for providing public improvements to the residents and businesses generated from the land use decisions (the utility district). The City agrees that all municipalities, the County, and NSD should work cooperatively to communicate, coordinate, and implement joint projects and/or countywide efforts as it relates to water resources. Monthly Water Technical Advisory Committee meetings provide the forum for this to occur. In addition, each municipality is represented on the Napa County Flood Control and Water Conservation District Board which functions in part as the countywide district related to water issues.

Response, City of St. Helena's Mayor:

Disagree partially with the finding [recommendation]. The recommendation requires further analysis by December 1, 2010. While it is cost prohibitive at this time for the City to solely provide recycled water, the Public Works Director will work with other municipalities in the County to investigate the process and economics for the formation of a countywide utility district to benefit the County residents and holistically manage the availability, distribution, and economics of potable and recycled water.

Response, Napa Sanitation District:

This recommendation will not be implemented because it is not warranted at this time. NSD has a long history of working cooperatively with the area jurisdictions on issues related to potable and recycled water. NSD has taken a very active role in investing in recycled water infrastructure and in pursuing partnerships to expand the recycled water distribution system.

The combination of all potable and recycled water purveyors into one utility district would have significant hurdles to overcome. Rates and service levels are set at the local level based on infrastructure investments, outstanding debt levels, and local values. The combination of these systems into one utility district would create significant conflict and problems that, we believe, would be greater than any benefits derived from consolidation.

Being a separate district allows us to be responsive to local resident needs and priorities, and to set the levels of service and the rates for those services according to local resident desires. NSD is in sound financial condition and has a professional competent management team that operates NSD efficiently and effectively. At this time, we do not believe that the formation of a utility district would provide sufficient additional benefits to the customers of NSD.

Recommendation 11. St. Helena accelerate its planning process and implementation of distribution and use recycled water.

Response, City of St. Helena:

Pursuant to 93305(b)(4) the recommendation will not be implemented because it is not reasonable. While the City recognizes recycled water should be put to beneficial use, the economic feasibility of implementing a recycled water product is daunting for a system with so few users. The City has researched and proposed a Recycled Water Project which involved an upgrade and expansion of the existing wastewater treatment facilities to provide up to 1,200 acre-feet of recycled water meeting tertiary, unrestricted reuse standards according to Title 22 to be utilized to offset current use of potable water for irrigation of school grounds, parks, and other City properties, groundwater currently used by vineyards for irrigation, and to enhance drought and fire protection. However the demand for recycled water is likely to be highest during the driest months than when flows into the sewage treatment plant are at their lowest. This means that recycled water could not be a meaningful factor in augmenting supply for non-potable use without the addition of substantial storage capacity. It would be necessary to provide recycled water storage, pumping and distribution facilities, which includes at minimum, a 400 acre-feet of storage. The City does not own land at a location suitable for such storage capacity and the cost of purchasing land and constructing more storage is fiscally challenging to so few rate payers and the City is not currently capable to produce funds for such a significant capital cost.

Recommendation 12. NSD proactively and aggressively identify funding sources to accelerate expansion of recycled water service in Napa.

Response, Napa Sanitation District:

This recommendation has been implemented. NSD is currently a member of the North Bay Water Reuse Authority, an organization omitted to securing state and federal resources to promote the expansion of recycled water throughout Marin, Sonoma and Napa Counties. Through membership in this organization, which has been supported financially by Napa County, NSD has been awarded \$1.5M in federal grants to expand recycled water pipeline through the Napa State Hospital and into the MST area. If partnership agreements are reached with future beneficiaries of an expanded recycled water system to other areas, NSD will continue to develop projects and pursue external funding sources to expand the use of recycled water.

Recommendation 13. That within six months the City of Napa apply for funding sources for capital improvements to fluoridate water supplies for its three treatment plants in compliance with AB 733.

Response, City of Napa:

The City does not intend to implement this recommendation since it is not warranted. The responsibility of the Water Division is to provide safe and dependable water delivery to the community. Treatment and distribution programs are focused on these goals. Requests for capital funding are prioritized for treatment technology to meet water quality regulations, upgrades to the distribution system that is more than 100 years old in some areas, and investment in water supplies to ensure adequate water is available to the community through 2050. Less than one percent of the water treated by the City of Napa is consumed by the population. Of this one percent, only a small percentage includes children that get the most benefit from fluoride in the water. Of that small percentage, an even smaller percentage is children that don't get fluoride from other sources such as toothpaste and mouthwash. Funds would be better applied directly to those needing treatment, rather than spending over \$1M to treat 100% of the water with fluoride when far less than 1% of the water reaches the intended beneficiary of the treatment. The Department of health and Social Services is in a better position to distribute fluoride through clinics and dental outlets if there are real benefits to be achieved.

Recommendation 14. That within six months American Canyon, Calistoga, St. Helena, and Yountville prepare capital cost proposals for fluoridation of their water supplies.

Response, City of American Canyon:

Before the City can agree or disagree with the Grand Jury recommendation, the City Council will refer this proposal to its Blue

Ribbon Committee on Water Resources, a community technical advisory group, who will evaluate the merits of fluoridation and provide a recommendation to the City Council early next year.

Response, City of Calistoga Public Works Director:

The recommendation will not be implemented per California Penal Code 933.05 (a)(4), as it is not warranted nor reasonable. While fluoridation does have certain benefits, it is not required for a small system such as Calistoga's, and there is no community support for such an initiative. Calistoga is currently undertaking a comprehensive review of the City's water system, including the operation and funding of same, as part of a water rate-setting process. During approximately 18 publicly-noticed meetings conducted by the Council-appointed advisory committee, there was extensive public commentary and participation, but no requests for fluoridation. In light of the substantial water rate increases now being contemplated, even without the provision of new fluoridation systems the additional costs of fluoridation (estimated on an order-of-magnitude basis of \$80,000 initially plus \$6,000 per year) do not appear to be justified. Furthermore, City water customers can make choices on fluoride use through widely available, over-the-counter fluoride supplements and toothpaste.

Response, City of St. Helena:

Pursuant to 933.05(b)(4) the recommendation will not be implemented because it is not required of small water systems. The City of St. Helena's 2009 Consumer Confidence Report (Annual Drinking Water Quality Report) showed that laboratory testing found 0.56 parts per million (ppm) of fluoride detected so there is some fluoride in the water supply. Fluoridation is most beneficial to children, most toothpastes have fluoride, and fluoride supplements can be purchased for children. If the City Council insisted on fluoridation, then there are up front capital costs to add fluoride to the water treatment process and ongoing chemical purchase costs that would likely to be paid by the City. The City Council is evaluating the need to increase water rates, which is not what rate payers want during these difficult economic times. Since fluoridation would increase the rates higher, the benefits do not justify the costs spread to all rate payers. Additionally, there is rapidly growing scientifically supported opposition evidencing that fluoridation, long promoted to fight tooth decay, is ineffective and has serious health risks. One fact contrary to the belief that began in the 1940s and 1950s that fluoride needed to be swallowed in order to be most effective shows that according to the Centers for Disease Control. Fluoride's "predominant effect is posteruptive and topical", and any benefits that accrue from the use of fluoride, come from the direct application of fluoride to the outside of

teeth (after they have erupted into the mouth) and not from ingestion. Therefore, there is no need to expose all other tissues to fluoride by swallowing it.”

NAPA COUNTY SPECIAL INVESTIGATIONS BUREAU

24-HOUR DRUG HOTLINE

(707) 224-DRUG

The 2009-2010 Grand Jury published its final report on the Napa Special Investigations Bureau on June 8, 2010.

Responses were received from the following:

- Napa County Board of Supervisors
- Napa County Executive Officer
- Napa County Chief Probation Officer
- NSIB Governing Board
- NSIB Special Agent Supervisor

The 2009-2010 Grand Jury did not ask the respondents to respond to findings, as the law requires. A request to respond to the findings was made by the 2010-2011 Grand Jury. The respondents did respond to the findings.

Below are the findings and recommendations made by the 2009-2010 Grand Jury and following each finding and recommendation are each of the responses of each respondent who was asked to respond to the specific finding and recommendation.

The responses to the following findings and recommendations were found to meet statutory requirements.

FINDINGS

The 2009-2010 Grand Jury found that:

Finding 1. The Napa Special Investigations Bureau (NSIB) was formally established on March 1, 1976, through a state grant funded by the California Office of Criminal Justice Planning.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, County Executive Officer:

The County Executive Officer agrees with this finding.

Finding 2. In 1988, the NSIB Governing Board entered into a memorandum of understanding (MOU) with the California Department of Justice, Bureau of Narcotic Enforcement (CA DOJ/BNE).

Response, NSIB Governing Board:

The respondent agrees with this finding.

Finding 3. NSIB is one of thirty-three other county narcotic task forces participating in the (BNE) Statewide Regional Task Force program.

Response, NSIB Governing Board:

The NSIB Governing Board disagrees in part with this finding. The number of countywide narcotic task forces participating in the (BNE) Statewide regional Task Force program has grown to thirty-nine (39). In addition, fifteen other task forces, totaling fifty-four (54), participate in the BNE Statewide Regional Task Force program.

Finding 4. NSIB's primary focus is to conduct criminal investigations and enforcement activities aimed at combating illegal manufacturing, trafficking, and use of illegal controlled substances throughout Napa County.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Finding 5. NSIB personnel are assigned by their participating parent agencies with input from the NSIB commander.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 6. CPD and SHPD contribute funding contribute funding in lieu of personnel.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, County Executive Officer:

The County Executive Officer agrees with this finding.

Finding 7. In 2009, methamphetamine and marijuana were the most significant and predominant illegal drugs in Napa County.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 8. While NSIB directs its efforts and assets towards all levels of illegal drug trafficking in the County, an emphasis has been placed on methamphetamine because the drug is so prolific and dangerous.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 9. In most instances, Napa County methamphetamine dealers obtain their drugs from sources in surrounding counties and the Central Valley.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 10. In FY 2008-2009, NSIB seized approximately 90,000 marijuana plants with a street value in excess of \$266 million.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 11. Ninety percent of large-scale (marijuana) growing operations in Napa County involving arrests are operated by Mexican nationals suspected of being members of Mexican Drug Trafficking Organizations (MDTOs).

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 12. Much of the marijuana grown in Napa County is exported to other states including Illinois, New York, Ohio and Texas.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 13. Methamphetamine is considered the single most dangerous health and safety threat to Napa County and continues to dominate NSIB resources and investigative time.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 14. Methamphetamine has been found in every municipality and unincorporated section of the County.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 15. In FY 2008-2009, all NSIB methamphetamine seizures have been of “crystal” or “ice” form.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 16. “Pharm Parties” among teens in the community are a growing concern to NSIB and should be to the community in general.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 17. NSIB currently has only one bilingual agent.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 18. NSIB, in conjunction with the DA, Adult Probation Department, and the California Department of Corrections Parole Unit, is involved in a cooperative effort to coordinate and pursue intensive supervision of adult probationers and parolees (Parolee, Probation Offender Program).

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Finding 19. The DEC Protocol was implemented four years ago and is a collaborative effort by NSIB, CWS, Napa County DA, and QVMC.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Response, County Executive Officer:

The County Executive Officer agrees with this finding.

Finding 20. State and County budget cuts have reduced the number of NSIB agents as compared to past years.

Response, NSIB Governing Board:

The NSIB governing Board disagrees in part with this finding. The County and BNE have continued their NSIB staffing levels. Staffing levels with the Napa Police Department (NPD) and the California Highway patrol (CHP) have been impacted due to budget concerns resulting in a reduced number of officers assigned to NSIB.

Response, NSIB Commander (Special Agent Supervisor):

The respondent agrees with this finding.

Response, Napa County Board of Supervisors:

The Board of Supervisors disagrees in part with this finding. NSIB is a multi-jurisdictional agency and all agencies in Napa County, the Bureau of Narcotic Enforcement and California Highway Patrol have contributed officers or funds to the task force in the past. Napa County serves as the fiscal agent of the task force and through the Sheriff's Department provides one Sergeant and two Deputies to NSIB on a full time basis. Over the last few years, other law enforcement agencies, not the County/Sheriff's Office have reduced the number of officers allocated to the task force on a full time basis. Napa County received grant funding from the California Methamphetamine Enforcement Team program that allowed for the allocation of additional officer overtime hours towards methamphetamine eradication throughout the County. Consistent with the Board of Supervisor's policy to not backfill reduced or depleted grant funds, the Sheriff's Office has eliminated the additional officer overtime once dedicated to methamphetamine enforcement due to a reduction in grant funds received.

Response, County Executive Officer:

The County Executive Officer concurs with the Board of Supervisor's response.

Finding 21. The PO attached to NSIB, like all Napa County Pos, does not carry a firearm.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, Chief probation Officer:

The Chief Probation agrees with this finding.

Response, Board of Supervisors:

The Board of Supervisors agrees with this finding.

Finding 22. NSIB has expressed the desire to have the County arm the PO attached to NSIB.

Response, NSIB Governing Board:

The NSIB Governing Board disagrees with this finding. While the NSIB commander has expressed the desire to arm PO assigned to NSIB, the NSIB Governing Board, as a whole, does not share this view. All agree the matter of whether the NSIB PO is armed should be decided by the Chief Probation Officer.

Response, Chief Probation Officer:

The Chief Probation Officer disagrees with this finding. NSIB is governed by an independent Board that is comprised of the Sheriff, the District Attorney, Chiefs of the local police agencies and the Chief Probation Officer. While the Commander assigned to NSIB by the Bureau of Narcotic Enforcement (not a governing board member) has discussed arming the Probation Officer assigned to NSIB with the Chief Probation Officer, the NSIB Governing Board has never taken formal action or even discussed the arming of the Probation Officer. Furthermore, upon inquiry by the Chief Probation officer, the Sheriff and the City of Napa Chief of Police stated that they believe the issue of arming the Probation Officer should be handled by the Chief Probation Officer that they do not endorse or recommend the arming of the Probation Officer assigned to NSIB and will continue to support the position in a limited and low-risk capacity. Please see the response to Recommendation No. 2.

Response, Board of Supervisors:

The Board of Supervisors disagrees with this finding and incorporates by reference the August 10, 2010 response and explanation of the Chief Probation Officer.

Finding 23. The Probation Department Safety Committee currently has a not recommended arming the PO attached to NSIB.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, Chief Probation Officer:

The Chief probation Officer agrees with this finding.

Finding 24. Local law enforcement officials stated the California Supreme Court’s ruling in People v. Kelly (supra) has made the already murky situation surrounding medical marijuana worse and has created even more difficulties in the investigation, arrest, and prosecution for illegal marijuana cultivation and possession.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Finding 25. Other than a list of “guidelines” provided by the California Attorney General in 2008, the State does not provide the County or NSIB with any clear regulation for the cultivation and/or distribution of medical marijuana.

Response, NSIB Governing Board:

The respondent agrees with this finding.

Response, Board of Supervisors:

The Board of Supervisors agrees with this finding.

Finding 26. The law enforcement personnel the Grand Jury interviewed expressed concern that the legalization of marijuana in California will not make marijuana related problems, issues, and violence disappear.

Response, NSIB Governing Board:

The respondent agrees with this finding.

RECOMMENDATIONS

Recommendation 1. NSIB selection process emphasize bilingual competency.

Response, NSIB Governing Board:

The recommendation has been implemented by the NSIB Governing Board. Over the past decade, NSIB has strived to recruit team members whom possess a strong work ethic, reputation for integrity, an ability to work well in a team environment, are physically capable and have bilingual abilities. The recruitment flyers will reflect these continuously desired skills.

Response, NSIB Commander (Special Agent Supervisor):

The recommendation has been implemented by the NSIB Commander. Since assuming command of the Napa Special Investigations Bureau (NSIB) in 2002, the Commander has strived to recruit team members whom possess a strong work ethic, reputation for integrity, an ability to work well in a team environment, are physically capable and have bilingual abilities. The recruitment announcing NSIB vacancies will reflect these continuously desired skills. While bilingual competency is important, it is not any more important than the other traits outlined above.

The present NSIB Field Supervisor, a Sergeant with the Napa Sheriff's Department, is a fluent Spanish speaker. When operational needs dictate the presence of additional Spanish-speaking law enforcement personnel, the Commander draws on resources from allied agencies such as the Bureau of Narcotic Enforcement (BNE), neighboring BNE task forces and local law enforcement agencies.

Response, Napa County Board of Supervisors:

The recommendation will not be implemented because it is unwarranted. The Grand Jury report does not provide a clear reason or identify a need or gap to support the recommendation to emphasize bilingual competency. While the current Sergeant assigned to NSIB by the Sheriff is bilingual, the Chief Probation Officer has consistently assigned non-bilingual Probation Officers to the NSIB caseload because the need for a bilingual Probation Officer has not been evident. To the extent that bilingual staff is assigned to the NSIB Task Force, it is up to each member agency not the Board of Supervisors to determine whether the assigned personnel should be bilingual.

Recommendation 2. The Napa County Probation Department Safety Committee, the County Executive Office (CEO), and the BOS, explore the option to arm the PO attached to NSIB, as well as other PO's dealing with high risk probationers and parolees.

Response, NSIB Governing Board:

The recommendation will not be implemented by the NSIB Governing Board because it is not warranted. Determination as to whether the NSIB Probation Officer should be armed rests with the Probation Department. NSIB will continue to communicate the role and responsibilities of the NSIB Probation Officer to the Probation Department, and utilize the NSIB Probation Officer in a role that mitigates risk to the employee while supporting NSIB's mission.

Response, Chief Probation officer:

This recommendation will not be implemented because it is unwarranted. While a Probation Officer is considered a peace officer while on duty, their primary job functions and training are very different than those of police officers. Probation Officers serve as an arm of the Superior Court and are responsible for ensuring that the terms and conditions of Probation Officers develop relationships with their clientele and assist offenders by referring or placing offenders in treatment programs, treating criminogenic needs and motivating offenders to change and improve life conditions. While the job does include administering probation searches, at least one police officer is always present during these searches to address any immediate safety needs and stabilize the situation. This system has worked well in Napa County.

In regards to NSIB, as the Grand Jury noted, the Probation Officer is assigned part-time and per an agreement, cannot be left alone and does not participate in NSIB activities determined to be hazardous. The role of the Probation Officer is to, after the scene has been stabilized, work with the NSIB law enforcement officers to interpret and explain Probation Orders in order to properly take necessary criminal action. The NSIB law enforcement officers often use the Probation Officer as leverage when dealing with offenders since the Probation Officer is often times more familiar with the history of the offender.

As referenced by the Grand Jury, the Probation Officer Department Safety Committee has discussed the arming of various Probation Officers and has not made a recommendation to arm any officers. All Probation Officers carry pepper spray once all necessary training is complete and to date, not one Probation Officer has needed to use the pepper spray when dealing with an offender.

Finally, as expressed in the response to Finding 22, the arming of the NSIB Probation Officer has been recommended or discussed by the NSIB Governing Board. The Grand Jury report does not provide a clear public safety need to arm the Probation Officer other than the opinion of the

NSIB supervisory staff and what other some counties do. Absent a more detailed explanation, the recommendation will not be implemented.

Response, County Executive Officer:

The County Executive Officer concurs with the response of the Chief Probation Officer.

Response, Napa County Board of Supervisors:

The Board of Supervisors concurs with response of the Chief Probation Officer.

Recommendation 3. NSIB Governing Board, CEO, and the BOS identify and implement additional NSIB investigative funding.

Response, NSIB Governing Board:

The recommendation will not be implemented by the NSIB Governing Board because it is not warranted. Based upon current operational staffing and needs, NSIB has sufficient funding. When necessary, additional funds are available to support NSIB investigative and enforcement operations through our partnerships with the Bureau of Narcotic Enforcement (BNE), High Intensity Drug Trafficking Area (HIDTA) federal initiative, Western States Information Network (WSIN), state grants such as California Multi-jurisdictional Methamphetamine Enforcement team (Cal-MMET) and Anti-Drug Abuse (ADA) grants administered by the California Emergency Management Agency (CalEMA), and federal grants such as the United States Drug Enforcement Administrations' (DEA) Domestic Cannabis Eradication and Suppression Program (DCESP). Depending on the investigative scope and objective(s) of NSIB investigations, additional funding is often available through partnering for investigative purposes with other federal agencies such as the Federal Bureau of Investigation (FBI), DEA, and Immigration and Customs Enforcement (ICE).

Response, County Executive Officer:

The recommendation will not be implemented by the County Executive Officer or the Board of Supervisors because it is not warranted. The Grand Jury does not provide a clear and compelling reason detailing the need for additional investigative services. While it may be difficult to quantify, it is not clear that there are investigations and activities not occurring due to a lack of staff or funding. Additionally, as shown in Appendix IV: Napa Special Investigations Bureau Arrests By Location in 2009, the majority of the arrests and searches occur within the cities (100 of 143 arrests and 99 of 140 searches). The one Sergeant and two Deputies currently provided by the Sheriff's Department to NSIB

sufficiently meet the County's needs. As mentioned in the response to Finding No. 20, Napa County received grant funding from the California Methamphetamine Enforcement Team program that allowed for the allocation of additional officer overtime hours towards methamphetamine eradication throughout the County. Consistent with the Board of Supervisor's policy to not backfill reduced or depleted grant funds, the Sheriff's Office has eliminated the additional officer overtime once dedicated to methamphetamine enforcement due to a reduction in grant funds received. It is typically the Department, not the County Executive Officer and the Board of Supervisors that routinely identify additional funding sources. Should the NSIB Governing Board identify additional investigative funding, the County Executive Officer and the Board of Supervisors would be open to discussing the implementation of such funding.

Response, Napa County Board of Supervisors:

The Board of Supervisors concurs with the response of the County Chief Executive Officer.

Recommendation 4. NSIB Governing Board, the CEO, and the BOS bring NSIB staffing back to that in FY 2000 level.

Response, NSIB Governing Board:

The recommendation will not be implemented by the NSIB Governing Board because it is not reasonable. The decision and responsibility to contribute additional staffing lies directly with each participating agency, and in coordination with the recommendation of the NSIB Governing Board. NSIB has, and will continue to, take advantage of alternative funding sources to increase staffing levels. This is primarily accomplished through competitive application for state and federal grants, such as Cal-MMET, ADA, DCESP and the like. Unfortunately, temporary funding from grants cannot ensure continued funding in the future. Failure to guarantee such funding prevents many City Councils and the County Board of Supervisors from permanently increasing the respective department's staffing level.

Response, County Executive Officer:

The recommendation will not be implemented by the County Executive Officer or the Board of Supervisors because it is not warranted or reasonable. As mentioned in the response to Finding 20 Napa County received grant funding from the California Methamphetamine Enforcement Team program that allowed for the allocation of additional officer overtime hours towards methamphetamine eradication throughout the County. Consistent with the Board of Supervisor's policy to not

backfill reduced or depleted grant funds, the Sheriff's Office has eliminated the additional officer overtime once dedicated to methamphetamine enforcement due to a reduction in grant funds received. Budget cuts have resulted in the reduction of staff dedicated to NSIB by other agencies. The County believes that the Sheriff's Department is providing a sufficient number of staff to the NSIB Task Force to meet the needs of the unincorporated areas.

Response, Napa County Board of Supervisors:

The Board of Supervisors concurs with the response of the County Chief Executive Officer.

FINAL COMMENTS

In conclusion, the Grand Jury believes the 2009-2010 Napa County Grand Jury Final Reports accomplished exactly the job they were intended to do. That is to point out to the residents of Napa County facts and events about which they might not otherwise have had knowledge and to create media attention and generate public discussion. The 2010-2011 Grand Jury pledged to continue to publish honest, accurate and unbiased reports to the Napa Valley community, to do anything less would be a disservice to the residents of Napa County and an insult to the entire Grand Jury process.

