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Trinity County
Board of Supervisors
By: _____

Superior Court of California County of Trinity

ELIZABETH W. JOHNSON
Judge

MEMORANDUM

TO: Trinity County Chief Probation Officer
Board of Supervisors ✓
Trinity County CAO

FROM: Staci Holliday, Court Secretary

DATE: June 24, 2014

RE: 2013-2014 Trinity County Grand Jury Report
*JUR-2013-2014-014 Trinity County Juvenile Detention Facility and the
Adult Probation Department:*

This report is being provided to your department pursuant to Section 933.05 of the Penal Code relative to grand juries. Penal Code § 933.05(f) requires that grand juries, **following approval by the Superior Court Presiding Judge and at least two working days prior to the public release of the report**, shall furnish each respondent a copy of the report which pertains to the respondent. No respondent shall disclose any contents of the report prior to the public release of the final report.

This report will become a matter of public record on **June 30, 2014**. Sections 933 and 933.05 require you to respond in writing to the findings and recommendations pertaining to matters under the control of you or your department. Your original response should be addressed to Elizabeth Johnson, Presiding Judge of Trinity Superior Court **with a copy to the County Administrative Office "Clerk of the Board"**.

Enclosure

TRINITY COUNTY GRAND JURY
2013-2014

Judicial Committee
Final Report

JUR-2013-2014-014 - Trinity County Juvenile Detention
Facility and the Adult Probation Department

Approved March 20, 2014
Bob Morris, Foreperson

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JUN 23 2014
TRINITY COUNTY
SUPERIOR COURT

**2013-2014 Trinity County Grand Jury
Judicial Committee Investigation
Final Report**

**JUR2013-2014-014 Trinity County Juvenile Detention Facility
and the Adult Probation Department**

March 20, 2014

Summary

This investigation is a response to a complaint filed with the 2013-2014 Grand Jury regarding multiple concerns within the Probation Department, which includes Juvenile Hall: improper time keeping, relative value of maintaining a juvenile detention facility within the county, and improper use of county vehicles. The Jury examined these claims and produced a set of findings and recommendations that are very important for the continuous improvement of county government. Other concerns are mentioned in the complaint, but they were not investigated due to insufficient or unavailable sources. However, the investigation uncovered other concerns that are described herein.

Glossary

CPO – Chief Probation Officer
ACPO – Assistant Chief Probation Officer
JH – Juvenile Hall or Juvenile Detention Facility
PO – Parole Officer
CO – Correctional Officer
EH – Extra Help Employees
CAO – Chief Administrative Officer
TCSCJ – Trinity County Superior Court Judge
TC – Trinity County
BOS – Board of Supervisors
MOU – Memorandum of Understanding

Disclaimer

This report was issued by the Grand Jury with the exception of a juror who is a former employee of the Probation Department. This grand juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

Background

The Probation Department within Trinity County is organized in accordance with enclosure (1). Two major sub-organizations exist within the department: Collections and Probation. Juvenile

Hall exists within the Probation side of the department. This report will deal with Probation exclusively. Due to the recent retirement of the CPO, the ACPO is acting in this role. The JH Superintendent also acts as the ACPO. The Supervising Deputy Probation Officer is currently vacant. The county has approximately 300 adults on probation. JH currently has 10 residents: 3 are from Trinity County; 7 from outside the county. These numbers vary significantly. A child at JH serves an average of 60 days before release. The amount of recidivism is not known.

Eight(8) full-time CO's are currently employed to manage the residents of JH. Of course, JH must be a 24/7 operation. Two 12-hour shifts are used with 4 CO's on each shift. Probation has 6 PO's. Currently 3 EH's are used to help within Probation and/or JH to help fill in gaps due to absence. PO's will also substitute for CO's when the need arises. All full time staff must be core trained to serve as in their specific job. If—as in the case of EH's—the employee is not core trained, they must always have a core trained staff member working with them in the same facility. CO's and PO's exist as an employee unit as they are either members or beneficiaries of a police and security worker union.

The CPO officially reports to the TCSCJ for administrative matters. JH is funded by state and federal grants and general funding from TC. The BOS must approve the budget for the Probation Department. The JH operational budget is currently approximately \$800,000/year. The TC portion is approximately \$210,000. The remaining funds must be secured through grants and rents obtained from out-of-county residents at \$75.00/day/person. JH has the capacity for 28 residents. The population norm for at least the last 5 years has been between 8 and 10.

JH serves both males and females. JH provides counseling, education, hygiene, food, recreation, medical care, and discipline for all residents.

The Probation Department must comply with all Federal, State, and County Regulations for a probation and detention service. Reference (2) is an example of the kind of inspection process a detention facility must undergo on an annual basis.

Method of Investigation

The methods of investigation for this report were an interview with the Managers of Probation and JH, senior probation officers, examination of documentation, and inspection of facilities.

Discussion

Reference (2) is an inspection report of JH. The excellence of this facility is clearly depicted as JH received a perfect grading in all areas. Such a report is unprecedented and Trinity County's JH ranks with the best facilities in California. This ranking is remarkable in that other facilities around Northern California are having difficulty remaining open, e.g., Lassen and Butte.

The time keeping process within the Probation Department is based on an honor system. Personnel submit hand-written time-cards once per month. In a general sense whatever

personnel record on the time-card is what is submitted and accepted through pay processing. Time keeping is somewhat tighter for JH personnel because the comings and goings are recorded in the JH log. However, in the probation side no such monitoring system exists. Hence, for hourly probation workers the time keeping system is subject to abuse. Of course, such a system could be improved with a variety of well established electronic systems up to and including biometrics as seen in Weaverville's Tops Market.

PO's and CO's belong to an employee unit and they are represented by a union. Therefore, these personnel are subject to very clear grievance procedures that are provided in Trinity County Code of Ordinances, Sect. 2.60.710 – 2.60.720. During the investigation process the jury determined that Probation personnel are not aware of these procedures and, therefore, do not understand their rights when a grievance appears in their course of work and/or their relations with the chain of management. The management chain includes the CAO. However, the CPO reports directly to the TCSCJ. Hence, some natural confusion and conflict exists between these county departments, which make implementing the grievance procedures difficult, especially since the judge is an elected official, which by the nature of the office creates continuity and consistency issues. Currently the CAO is not appointed to resolve grievances within Probation.

To amplify the CAO/TCSCJ relationship further the Grand Jury determined during the investigation that the CPO believes that he/she reports to the judge for general administrative matters and to the CAO for budget issues. However, the jury found a lack of clarity from the reciprocal positions. The judge determines his/her responsibility toward the CPO as hiring, firing, and "possibly discipline". The CAO recognizes a budgetary and administrative connection to the CPO, but he/she does not believe that any enforcement authority exists due to a lack of judicial appointment through an MOU or other form of directive. This management confusion results in the potential for the CPO to act without direction, increasing the likelihood of misuse of probation resources and mistreatment of personnel, especially if these personnel do not know their grievance procedures.

The lack of management clarity descends down to all personnel within the department particularly in disciplinary cases. The jury found a case in which a valid disciplinary action was instituted by the CPO, but no status recovery path was established, if corrective actions were successfully completed. In other words, the CPO provided no plan for recovery of pay grade and other job privileges, if certain verifiable actions were successfully completed. These actions may include proof of recovery from drug and alcohol abuse. Definitely circumstances may exist that must prevent an employee from ever receiving full recovery. However, the employee needs to not only understand his/her recovery path, he/she must be free to fully apply the grievance process if necessary.

A controversy exists regarding the provision of a JH within Trinity County if the facility population is approximately three(3) local juveniles. JH currently houses 7 out-of-county people. Trinity's JH attracts juveniles from other counties because the detention cost is \$75.00/day as opposed to an average of \$125.00/day elsewhere. However, since JH is a 28-bed facility, it appears under-utilized and expensive for a small county like Trinity. Cost benefit analyses are currently in process. If Trinity did not provide a JH, then juveniles would require settlement out-of-county at a determinable cost per child. On the other hand, providing a quality JH offers a

means of some cost recovery as out-of-county children arrive. The value argument for maintaining JH needs considerable analysis. Other factors exist that influence a decision on how to proceed with JH. The facility serves as a valuable resource for not only the county, but also Northern California. Maintaining the county's juveniles near to families certainly aides in rehabilitation.

The value argument needs to consider the current budgetary and staffing levels currently in place at JH. The facility has 8 full-time correctional officers for a 24/7 operation. The staff is supplemented by 3 EH's. With the arrival of the Affordable Care Act, the EH's may need to be eliminated from the support staff. The current full-time staff already is maximally detailed in the sense that absenteeism results in taking substitutes from the PO staff. Vacations are difficult to take without disrupting probation operations. CO's must coordinate their vacations, so as not to diminish staff too severely. CO's wanting to take vacations at the same time causes disruption throughout the Probation Department. The jury understands that 2 positions are open for core trained CO's.

The jury understands that the current CPO drives a county vehicle to and from home in Redding whenever the CPO is on duty—the duty cycle is approximately 50% of total work week. The apparent reasoning behind this is that the CPO is on-call 24/7 and must be rapidly mobile. Therefore, the county vehicle meets the need for this accessibility requirement. A cost benefit analysis would resolve whether provision of a vehicle or mileage reimbursement would optimize the transportation costs. Also no logs are kept when the vehicles are used; hence, no record exists for mileage and usage. At present no threshold exists as to allowable commute distances when on duty. The current CPO puts at least 90 miles/day to commute to and from home during a duty cycle. Note, however, that the CPO is rarely called to report to Weaverville while on-call: less than 10 times per year.

The jury inspected JH and determined that it is in good repair. Several items are of note:

- The drinking fountain in the large recreation room had a large green stain/residue in the basin.
- The fenced-in outdoor exercise area needs repairs to the gate and gap between the building and the top of the fence.
- The open spaces under beds and tables present dangers to residents, if they are under significant psychological stress.

Findings

F1. Trinity County provides a high quality JH as detailed in Reference (2).

F2. Time keeping particularly within the probation office is based on the honor system and is open to severe abuse.

F3. Probation Dept. employees are not familiar with Trinity County grievance procedures.

F4. Who the CPO reports to for administrative and budgetary reasons is unclear, unaccountable, and uncoordinated.

F5. No clearly defined recovery path, i.e. mutual agreement, exists for disciplinary actions.

F6. The value of maintaining a JH is controversial in light of the small local population.

F7. The value of providing the CPO a county vehicle for transportation to and from home in Redding needs analysis and justification. No vehicle logs are kept.

F8. Repairs are needed for the drinking fountain and the fencing.

Recommendations

R1. No recommendation is required for F1. JH is an excellent facility, which meets all state and federal requirements. The CPO and his personnel should be congratulated for delivering such excellence to the county and the State of California.

R2. The time keeping procedures must be re-designed to include a check-in/out methodology. Various techniques need to be explored, but such systems may include:

- Punch clock
- Scanner ID cards
- Biometric recognition (hand scanner)

The CPO is responsible for insuring that time keeping is properly managed in the Department. The methodology and time reports must be available to the CAO and/or his/her designee.

R3. PO's and CO's must be familiar with county grievance procedures. The CPO is responsible for making his/her personnel familiar with the appropriate county code via a signed statement of understanding. As these grievances may extend beyond the CPO, the TCSCJ and the CAO must have an MOU and/or necessary appointments to insure that the grievance avenue remains open to all county employees, including PO's and CO's.

R4. Establish an MOU, directives, and or appointments between the TCSCJ and the CAO regarding who the CPO reports to and for what purposes. Identify and regulate what type of written and oral reports need to be presented and when. The CPO must provide on at least a monthly basis a written status report showing:

- Probation population
- JH resident population
 - o Numbers for Trinity County
 - o Numbers for out-of-county

- Budget status
 - o Income
 - o Expenditures
 - o Shortfalls
- Personnel Status
 - o Absenteeism
 - o Losses due to retirements, resignation, or other reasons
 - o Substitutions required
 - o Disciplinary actions
 - o Grievances
 - o Union issues
- Significant Actions
 - o Escapes
 - o Use of medical facilities
 - o Accidents
- Recommendations

This report needs to go to the TCSCJ, CAO, and any other department that has a need to know.

R5. The CPO and a disciplined employee must agree on a recovery path even if full recovery of privileges and grade cannot be provided. The recovery path must be in writing and signed by the CPO and the employee. If substance abuse is part of the reason for disciplinary action, and the employee is going to be retained, then the CPO must arrange for a drug and alcohol program for the employee. In that light, the employee must be willing to submit to random testing at a time designated by the CPO. A copy of the recovery path agreement must be provided to the TCSCJ and the CAO.

R6. The cost benefit analysis regarding the future of JH is currently underway. This study needs to be completed. Maintaining the JH has more considerations than mere cost. Therefore other factors need to be brought into the argument, such as family separation, educational benefits, and psychological issues.

R7. The CAO must produce a cost benefit analysis comparing the costs of loaning a county vehicle to the CPO as opposed to a mileage benefit. Action must be taken based on this analysis.

R8. The jury does not know why the drinking fountain stains and residue exist. The reason must be determined and corrected. The fence needs to be repaired and augmented to prevent escape and injury. Some redesign of cell furniture is required to not only insure security, but also maintain safety of the residents.

Request for Responses

The response time is specified in days post the receipt of the report.

The following responses are requested for the recommendations listed above:

R1. The TCSCJ writes a kudo letter to the CPO for excellent inspection results as described in Reference (2). Response within 60 days.

R2. The CPO must design and implement a new time keeping procedure. This time keeping system must be inspected and approved by the CAO or his/her designee. Response within 90 days.

R3 and R4. The CPO, CAO, and TCSCJ produce a plan to clarify the administration of the CPO for both administrative and budgetary purposes. The plan must include all necessary appointments and directives, training CO's and PO's in grievance procedures, and establish reporting requirements for the CPO. Response within 90 days.

R5. The CPO shall develop and implement a plan to insure that disciplined employees understand their recovery path back to original employment grade and privileges. The plan must be in writing for each impacted employee, even if no recovery path exists. The plan must include plans for substance abuse recovery if relevant to the case. This implementation must be retroactive to include any employee under disciplinary status. Response within 60 days.

R6. The CPO and the CAO must provide the cost benefit analysis for the JH future in Trinity County. Then a committee of the TCSCJ, CAO, and CPO, County Council must produce a recommended course of action and who will be responsible for the decision: BOS, public vote, or other means. If the decision means closure, then a plan for the JH residents must be produced by the CAO or appropriate designee. Response within 90 days.

R7. The CPO and CAO must produce a cost benefit analysis to justify the use of a county vehicle to drive to and from home. The county policy for vehicles must include vehicle logs that are retained within the vehicle. The logs must be maintained county-wide and must be similar to what the Sheriffs Department in terms of content. Response within 60 days.

R8. The JH Superintendent must determine the cause of the stained drinking fountain and make necessary repairs. The Superintendent must determine a satisfactory fence repair and implement those fixes. Cell furniture repairs need to be made for resident safety. The response required for the drinking fountain is one(1) week. The response for the fence and furniture is 60 days.

Appendices

- (1) Probation Organization Chart
- (2) Reference: State Inspection Results

Enclosure (1)

Enclosure (1)

Trinity County Probation

