

COUNTY OF SACRAMENTO

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September 23, 2014

The Honorable Robert C. Hight, Presiding Judge
Sacramento County Superior Court
720 9th Street, Room 611
Sacramento, CA 95814

RE: Sacramento County Grand Jury Consolidated Final Report 2013-14

Dear Judge Hight:

Enclosed is a copy of the Sacramento County response to the 2014 recommendations contained in the 2013-14 Grand Jury Final Report. The Board of Supervisors at their meeting of September 23, 2014 approved this report as submitted with the following recommendations as highlighted on the enclosed Board letter.

If you have any questions, please contact my office at 874-5451.

Respectfully,


for Cyndi Lee, Clerk
Board of Supervisors

Cc: Becky Castaneda, Grand Jury Coordinator

**COUNTY OF SACRAMENTO
CALIFORNIA**

For the Agenda of:
September 23, 2014
Timed: 11:30 a.m.

To: Board of Supervisors

From: County Executive

Subject: Response To The 2013-14 Grand Jury Final Report

Supervisorial
District(s): All

Contact: Navdeep S. Gill, Assistant County Executive, 874-5510
Ute Lavorico, Management Analyst II, 874-6112

Overview

This is the response to the investigation findings and recommendations contained in the 2013-14 Grand Jury Report issued June 28, 2014. County responses were requested for two investigative reports pertaining directly to the County and one involving the Herald Fire District. Staff from the Environmental Management Department, Probation, the Department of Finance, the Department of General Services and the County Executive Cabinet contributed to this report.

Recommendation

1. Adopt this report as Sacramento County's response to findings and recommendations contained in the 2013-14 Grand Jury Final Report.
2. Direct the Clerk of the Board to forward a copy of this report to the Presiding Judge of the Superior Court no later than September 26, 2014.

Measures/Evaluation

Not applicable.

Fiscal Impact

Departments contributing to this report absorbed incurred costs within their respective budgets.

BACKGROUND

Each year the Sacramento County Grand Jury concludes its work and releases its Final Report, typically the last week in June. The report, which can address a variety of activities, functions, and responsibilities of government, typically contains findings and recommendations with a response specifically directed to the Presiding Judge of the Superior Court.

The form of the County's responses as required by Penal Code section 933.05 is as follows:

As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

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

As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

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

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

County Counsel was consulted regarding the response requirements and confirmed that there are no additional requirements beyond those specified above. The level of detail to include in the responses is at the discretion of the Board.

DISCUSSION

The 2013-14 Grand Jury Final Report contained two investigative reports on issues pertaining directly to the County and one involving the Herald Fire District. The reports, "Abandoned Well ... Abandoned Program", "Millions are wasted on closed juvenile facilities while the county has no long-term residential treatment programs" and "A Firestorm Raging in Herald" required county responses from the Director of the Environmental Management Department, the Chief Probation Officer, the Department of Finance, the Director of the Department of General Services, the Sacramento County Board of Supervisors, and the County Executive. The Grand Jury Report requested a response by October 1, 2014 which is actually past the 90 day deadline

prescribed in the code. Therefore it is recommended that a response be sent by September 26, 2014.

1. Abandoned Well ... Abandoned Program

***Finding 1** The director of the Environmental Management Department suspended the Abandoned Wells Program in response to pressure from recalcitrant landowners, not for valid enforcement, personnel management, or discretionary budgetary reasons.*

Director, Environmental Management Department Response:

We disagree with this finding. The Abandoned Wells Program was not suspended. While the inspection approach was modified, time sheet reporting verifies the Abandoned Wells Program has remained staffed and operating since implementation in 2010.

The Abandoned Wells Program is a discretionary program that allows the Environmental Management Department to adjust its staffing resources as they are available. The full funding of the program from the statewide underground fuel tank lawsuits was received sporadically over a four- year period as cases were settled. Staffing changes – reductions or increases - in this program are affected by higher priority state mandates and budgetary considerations. Changes in the economy resulted in some Abandoned Wells Program staff being returned to their previous assignments in state mandated programs. The combination of higher priority mandated programs and normal personnel attrition due to transfers, retirements and hiring freezes are valid factors considered by the Director when making these staffing changes.

***Finding 2** The voluntary reporting and public awareness campaign which replaced the enforcement program has been ineffective in addressing the environmental threat to the county groundwater from abandoned wells.*

Director, Environmental Management Department Response:

We disagree with this finding. The new approach has been effective and sustainable. The revised approach is more consistent with other successful regulatory programs administered by the Environmental Management Department. To achieve success and positive outcomes, any regulatory program must start with effective public outreach and education, followed by inspection and then enforcement. Initially, the Abandoned Wells Program did not adequately employ an education and outreach component causing a negative reaction from impacted citizens. The approach was then changed to incorporate outreach and education, using media, community meetings, direct mailings, and personal contact, as well as to work with cooperative abandoned well owners first. The plan has always been to close any cases not yet resolved with dedicated staffing. To date, with the implementation of the revised approach, 285 abandoned wells have been closed or decommissioned.

The success of this program has been acknowledged by several outside entities. The Abandoned Wells Program has received state and national award recognition from the National Association of Counties (NACO), Ground Water Resources Association of California, and the California State Assembly.

Recommendation 1 Given the environmental threat to Sacramento County citizens' water supply resulting from the hundreds of abandoned wells in the county, the Sacramento Grand Jury recommends that the Environmental Management Department revive and fully staff the Abandoned Wells Program and implement the aggressive enforcement program mandated by law, using all available statutory and technical tools to identify and decommission abandoned wells in Sacramento County.

Director, Environmental Management Department Response:

The recommendation has been implemented. The County recognizes the value and importance of the Abandoned Wells Program and remains committed to its goals. The Department is in the process of filling 5.0 limited term, full-time-equivalent positions to complete the program, with continued emphasis on outreach, education, and compliance, and appropriate enforcement when necessary, which has thus far closed or decommissioned nearly 300 wells.

2. Millions are wasted on closed juvenile facilities while the county has no long-term residential treatment programs

Finding 1 Millions of dollars are being wasted to maintain unused facilities previously used as long-term residential treatment centers for juveniles.

Director of General Services Response:

I disagree with this finding.

I concur that further steps are necessary to reduce the financial liability the County incurs due to the vacant property at the Boys Ranch. However, in 2010 we faced exceedingly difficult financial reductions that cost more than 1,500 jobs in the organization, so it was a difficult but prudent decision to close the facility. The cost to mothball the facility since 2010 has been about \$2.44 million, while the savings have exceeded \$50 million. On its face, these costs seem like a large sum, but there are three very important factors that must be considered:

- \$944,000 of the mothball number is to maintain the facilities; that money remains in the County financial structure, funding staff, ensuring sustainability of the property, and contributing to the general fund. This figure also represents a savings of about \$700,000 per year in maintenance costs, or some \$3.5 million, just for facility upkeep.
- Less than half of the \$2.44 million is actual cost-to-maintain; the other \$1.5 million is debt service, which is the invested obligation in the property, not 'wasted' dollars.
- Mothball costs over five years, even including the debt service, is a vast savings over the staffing and maintenance necessary to keep the site functioning – operational costs (Probation staffing and operations budgets) were about \$10.2 million in Fiscal Year 2008-09 – considering normal inflation, the County saved well over \$51 million through last fiscal year by closing the facility.

In 2011, the County attempted to lease the Boys Ranch via a Request For Proposals (RFP) to repurpose the property, but the only feasible response was dependent on a 20+ year lease. The County rejected that concept with the mindset that the property may one day be reopened as a juvenile detention facility.

The Warren E. Thornton Youth Center (WETYC) has been in limited use since its closure in 2009. The Probation Department operated a Day Reporting Center (DRC) for approximately one year and currently uses the site to house its Juvenile Community Supervision division and conduct office visitation for youth under Court jurisdiction. Use of the facility in this manner has saved over \$1 million in facility costs, in addition to the \$35 million in operational costs, over the last 5 years.

Board of Supervisor's Response:

We concur with the response from the Director of General Services. The 2014-15 budgeted cost for the Boys Ranch and Warren E. Thornton facilities is \$1,978,555. The debt obligation portion of this cost is \$1,045,793. The County recognizes that it is unlikely the Boys Ranch facility will be reopened in its former capacity and is taking steps to repurpose the property and reduce costs incurred by the County.

County Executive Response:

I agree with the response from the Director of General Services.

Recommendation 1 *The County of Sacramento must take positive steps to stanch the negative cash flow associated with the Boys Ranch, whether by leasing or selling the property, and should do whatever is necessary to maximize the property's value.*

Director of General Services Response:

The recommendation is already being implemented. In 2014, current senior management at the Probation Department and County Executive levels recognized that it is unlikely the Boys Ranch would be reopened in its former capacity; therefore a revised RFP was issued on March 25, 2014 that expanded the options for repurposing the facility. We received two responses, and are currently in negotiations with the company that submitted the most viable proposal. There remains a lot of work to be done, including extensive community outreach, land use permits, facility renovations, contractual discussions, etc., but the County is optimistic that the resulting contract will create a valuable service for the local community, as well as relieve the County of virtually all of its current financial liabilities at the site.

Combined Board of Supervisors and County Executive Response:

The recommendation is already being implemented. Please see the response from the Director of General Services. The County will continue to take steps towards reducing this liability and finding alternative uses for the property, however the property is currently zoned for agriculture and it would likely not be appropriate to rezone the property for commercial activities.

Finding 2 *Facilities and programs for youths in need of long-term treatment in Sacramento County are limited or non-existent*

Chief Probation Officer Response:

I agree with the finding.

Board of Supervisor's Response:

We agree with the finding.

County Executive Response:

I agree with the finding.

Recommendation 2 *The Sacramento County Board of Supervisors should appoint a task force to assess the viability of establishing a commitment program at the Youth Center, such as suggested above, and ensure that action is taken and oversight enforced without further delay.*

Chief Probation Officer Response:

The recommendation will not be implemented. Because we are already well underway in assessing the viability of establishing a residential treatment program at the Youth Center, I do not agree that the formation of a task force is necessary.

The Probation Department has been working with the Sacramento Criminal Justice Cabinet – a group of key stakeholders in criminal justice including the Courts, the Sheriff's Department, the Sacramento Police Department, the District Attorney's Office, the Public Defender's Office, County Health and Human Services, and others – to guide an independent research effort to obtain accurate information about the service and program gaps in the county's juvenile justice system. The resulting report, which we recently received, provides precise information regarding unmet needs and is intended to act as a guide for future planning efforts to serve our at-risk youth population.

The report is titled "Juvenile Case Processing and Program Intervention Gap Analysis," and we are currently reviewing it. It confirms the finding of the grand jury report that Sacramento County needs facilities and programs for youths in need of long-term treatment. We will continue our review of this report, share it with interested parties – including the Criminal Justice Cabinet – and utilize it to develop our ongoing plan to provide long-term treatment to at-risk youths in Sacramento County.

Our department is currently working with the County Executive to schedule a date to present a summary of this report and our responsive plan to the Board of Supervisors in the coming months. This presentation will focus on our plan to re-open the Youth Center.

Board of Supervisor's Response:

We agree with the Chief Probation Officer's response.

County Executive Response:

I agree with the response from the Chief Probation Officer.

3. A Firestorm Raging in Herald

(The County was asked to respond to Finding and Recommendation 2, only.)

***Finding 2** Since 2008 the District's finances have not been audited in accordance with generally accepted auditing standards, as required by law.*

Department of Finance Response:

The Department agrees with Finding 2.

***Recommendation 2** The county auditor should conduct an immediate audit of the District's financial statements and conduct all future annual audits of the District's finances, as required by law.*

Department of Finance Response:

The recommendation for finding 2 cannot be implemented as written.

Government Code 26909 requires Special Districts to have an audit. The Government Code allows a District to procure their own audit services or the County Auditor-Controller shall either make or contract with a certified public accountant (CPA) to make an audit of the accounts and records of a District for which an audit by a CPA is not otherwise provided. Finding 2 states that "since 2008 the District's finances have not been audited in accordance with Generally Accepted Auditing Standards, as required by law." Based on the finding the recommendation was to have the county auditor (Department of Finance) perform the audit rather than having Herald Fire Protection District procure their own audit services.

As required by various statutes within the California Government Code, the County Department of Finance, Auditor-Controller Division (DOF-A/C) is mandated to perform certain accounting functions and maintain accounting records for the Herald Fire Protection Fire District.

These activities, in themselves, necessarily impair the Sacramento County-Auditor's independence to perform an audit for the District because the DOF-A/C should not audit its own work or provide non-audit services in situations where the amounts or services involved are significant/material to the subject matter of the audit.

A recent change in Government Auditing Standards, issued by the Comptroller General of the United States, paragraph 3.25, states "Certain conditions may lead to threats that are so significant that they cannot be eliminated or reduced to an acceptable level through the

application of safeguards, resulting in impaired independence. Under such conditions, auditors should decline to perform a prospective audit or terminate an audit in progress.”

As a result of the recent change in the Government Auditing Standards, the DOF-A/C, Internal Audit Unit can no longer perform the financial audit of the District. The DOF-A/C intends to procure an outside CPA firm to perform the audit services for the District. DOF-A/C will either contract with its external auditor or will prepare a Request for Proposals for the audit services. Either way, due to timing conflicts the audit will not take place until early 2015. In addition, The DOF-A/C, Internal Audit Unit can assist the District in establishing proper internal controls prior to the start of the audit.

The Board of Supervisors was not asked to respond to this item; however they requested the following comments be included.

Although the financial audit is a good first step, it will not address all the issues identified by the Grand Jury. The financial audit will focus on the District's compliance with acceptable accounting policies and procedures however it will not assess the underlying financial stability or management practices of the District.

The Sacramento County Board of Supervisors, therefore respectfully requests that the Grand Jury perform a management audit of the District to fully address citizen concerns surrounding the Herald Fire District operations and long-term stability.

FINANCIAL ANALYSIS

Staff from the Environmental Management Department, Probation, the Department of Finance, Department of General Services and the County Executive Office contributed to this report. Costs incurred were absorbed within each department's budget.

Respectfully submitted,

APPROVED:
BRADLEY J. HUDSON
County Executive

NAVDEEP S. GILL
Assistant County Executive