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A Commitment to Service

Board of Supervisors

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Mark Luce
Chair

June 23, 2009

The Honorable Raymond A. Guadagni
Presiding Judge
Superior Court of California, County of Napa
825 Brown Street
Napa, CA 94559

FILED

JUL - 6 2009

Clerk of the Napa Superior Court
By: C. Brennan
Deputy

Dear Judge Guadagni:

As required by Penal Code Section 933(c), enclosed is the response to the 2008-2009 Grand Jury Final Report on Napa County Adult Probation Department, Napa County Criminal Justice Facilities: County Jail and Juvenile Hall and County of Napa Office of the County Counsel.

Grand Jury activity takes place over the course of a number of months. As such, their findings and recommendations often address issues which county departments have already identified as problems and to which solutions are in the process of being developed.

The Board acknowledges the members of the 2008-2009 Grand Jury for the time they have devoted in preparing their report.

Sincerely,

Handwritten signature of Mark Luce.

Mark Luce, Chair
Napa County Board of Supervisors

Enclosure

cc: Foreman, 2008-09 Grand Jury

Received
Napa Superior Court

JUL - 2 2009

Court Executive Office

Brad Wagenknecht
District 1

Mark Luce
District 2

Diane Dillon
District 3

Bill Dodd
District 4

Keith Caldwell
District 5

**NAPA COUNTY
RESPONSES TO GRAND JURY REPORT
FISCAL YEAR 2008-2009**

ADULT PROBATION

FINDING 1: The Adult Probation Department is incorporating Evidence Based Practices in dealing with persons placed on Probation in an effort to reduce recidivism.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding.

FINDING 2: Probationers are rated by a Probation Officer in the Court Unit using an Evidence Based Assessment tool to assess the likelihood of re-offending. The probationers are placed in risk groups designated as very low, low, medium, high and very high.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding.

FINDING 3: The re-offending rating, which is not necessarily correlated to the seriousness of the offense committed, is included in the pre-sentencing report prepared for the Court by the Court Unit of the Probation Department.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding.

FINDING 4: The degree of supervision by the Supervision Unit of the Adult Probation Department is a function of the re-offending rating.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding.

FINDING 5: Probationers are placed into groups based on the types of offense committed and their offender rating. Each group is covered by one or more probation officers.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding.

FINDING 6: There are insufficient rehabilitation programs available to the probation officers for use with probationers. Of those rehabilitation programs that are available, few are Evidence Based Programs.

Response, Chief Probation Officer: The Chief Probation Officer disagrees partially with this finding. All of the programs offered by Probation or the Community Corrections Service Center are evidence based.

FINDING 7: The number of programs available for the mentally ill probationer is inadequate.

Response, Chief Probation Officer. The Chief Probation Officer agrees with this finding. There are very few mental health services in the community available to non Medi-Cal clients. The majority of the mentally ill probationers do not qualify for Medi-Cal or other mental health services.

FINDING 8: Upon completion of probation, the Adult Probation Department does not inform the probationer of California Penal Code Section 1203.4 concerning the possible dismissal of the probationer's case.

Response, Chief Probation Officer. The Chief Probation Officer agrees with this finding. Please see the Department's response to Recommendation 7 for additional information.

FINDING 9: Probation Officers, who are not armed except for pepper spray and handcuffs, can be exposed to potential harm when they perform unannounced search of a probationer's home and to a lesser degree to a "knock and talk" visit to a probationer's listed home address.

Response, Chief Probation Officer: The Chief Probation Officer disagrees partially with this finding. While there is always the potential for risk when Probation Officers see their clients, that risk is mitigated in the field by always having law enforcement present during searches. Probation Officers never go on a "knock and talk" alone. There are always two Probation Officers and two Sheriff Deputies or Police Officer present during a search and two Probation Officers present during the "knock and talks."

FINDING 10: The placement of furniture in a Probation Officer's office or cubicle could be a safety hazard if a probationer becomes violent.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding. Each officer receives safety training including office set-up instructions to reduce risk if a probationer were to become violent.

FINDING 11: The alarm system is slow to provide assistance to the Probation Officer who activates the alarm.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding. Efforts continue to be made to improve the alarm system.

FINDING 12: There is no secure holding area in the Adult Probation Department for holding probationers awaiting transfer from the Adult Probation Department to the Booking Department of the County Jail.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding. The Chief Probations Officer continues to work with the Director of Corrections to address this issue. Please see the Department's response to Recommendation 3 for additional information.

FINDING 13: The procedure for a Probation Officer to "wand" probationers outside the Adult Probation Department's office does not include a protocol when weapons are detected on the probationer.

Response, Chief Probation Officer: The Chief Probation Officer disagrees with this finding. The current policy and procedure on "wanding" addresses how to respond when a weapon is located.

FINDING 14: The entrance to the Hall of Justice is not monitored and therefore is not secure.

Response, Chief Probation Officer: The Chief Probation Officer disagrees in part with this finding. While it is true that the Hall of Justice entrance is not monitored, it is unclear what is meant by "secure." If the Grand Jury means that the Hall of Justice is not a secure facility, like the Jail, where access is strictly controlled, visitors are searched and escorted, etc., then the Chief Probation Officer agrees with the Grand Jury. However, if the Grand Jury means that there are significant safety or security issues in the Hall of Justice, then the Chief Probation Officer does not necessarily agree. The Hall of Justice houses several County agencies and employees in addition to the Adult Probation Department, including the Sheriff Deputies that act as court security officers. These Deputies regularly pass through the Hall of Justice and are available to respond to emergency situations. The Chief Probation Officer is not aware of any major public safety or security issues that have occurred in the Hall of Justice and it is unclear how the Grand Jury concluded that the Hall of Justice was not secure. There are no safety or security issues in the Hall of Justice.

FINDING 15: The relatively high turnover of Probation Officers is due to the lack of upward mobility within the Department and the attractiveness of "safety officers" status with the additional pension and retirement benefits offered to Probation Officers by neighboring counties.

Response, Chief Probation Officer: The Chief Probation Officer disagrees with this finding. The Grand Jury reported that in an eighteen-month period between 2007 and 2008, ten Probation Officers and one Management Officer have left the Probation Department for jobs in counties that offer greater retirement and employee retiree health benefits. It is unclear how the Grand Jury reached this conclusion. A review by the Chief Probation Officer and the Human Resources Department indicate that in calendar year

2007, only four Probation Officers resigned from their respective positions. Of these four, only one made it clear that they took a job as a Probation Officer in their county of residence (Sonoma) because of enhanced retirement benefits. Of the remaining three, one took a job as a Probation Officer in Sacramento County to be closer to family, one moved out of state for a spouse's job and one transferred to a police agency. In calendar year 2008, two Probation Officers resigned, of which one took a job as a parole agent and one transferred to their county of residence (Sacramento). Two of the six officers that resigned in either 2007 or 2008 have since been rehired as Probation Officers by Napa County. Additionally, one Supervising Probation Officer took a non-safety promotional management position in the Department of Corrections in 2008. The Probation Officer turnover rate was approximately 8.8% in 2007 and 6.1% in 2008, compared to the countywide turnover rates of 13.8% and 9.9% respectively.

FINDING 16: Probation Officers are dedicated to their tasks as they serve a dual role of peace officer and social worker.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding.

FINDING 17: The Adult Probation Department is modeling a Mental Health Court.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding. Probation continues to work with the Napa Superior Court, Health and Human Services-Mental Health Division, District Attorney and Public Defender to begin a Mental Health Court pilot project. Please see the Department's response to Recommendation 1 for additional information.

FINDING 18: The Adult Probation Department has been determined to be the appropriate authority to implement and manage the Community Corrections Service Center, staffed by trained non-county personnel to establish and implement Evidence Based Programs to reduce recidivism by probationers.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding. The Center opened March 2, 2009.

FINDING 19: There is a "disconnect" between the Probation Officers and the Deputy District Attorneys on the issue of victim impact. Pre-sentencing reports produced by Probation Officers are not valued by the Deputy District Attorneys as providing sufficient victim impact information to the Court. The Probation Officer does not acquire victim impact information from the District Attorney's Office for use in the pre-sentencing report. The District Attorney's Office has no protocol for making victim impact information available to the Probation Officer for use in the pre-sentencing reports.

Response, Chief Probation Officer: The Chief Probation Officer agrees with this finding and will make an effort to resolve this issue with the District Attorney. Please see the Department's response to Recommendation 6 for additional information.

FINDING 20: The Adult Probation Department has indicated a desire to add three new Probation Officers and one Training Officer so as to equalize the caseload on the existing probation officers.

Response, Chief Probation Officer: The Chief Probation Officer disagrees in part with this finding. Although three new officers would reduce caseloads and contribute to increased supervision of probationers, it is not feasible during these difficult fiscal times to add new positions. The Department already has a Staff Services Manager position that acts as the Training Manager for the Department and it is unclear why the Grand Jury concluded that a Training Manager position was necessary. Please see the Department's response to Recommendation 5 for additional information.

RECOMMENDATION 1: Napa County continue to fund a Mental Health Court.

Response, Chief Probation Officer: The recommendation has been implemented on a pilot basis, but long-term viability will depend on whether additional resources can be found. Although there is no designated funding for a Mental Health Court, the Probation Department in a partnership with the Napa Superior Court, Health and Human Services Agency, District Attorney's Office and Public Defender's Office has determined that there is a need for this type of program. A pilot program will begin June 3, 2009 for five mentally ill adults going through the criminal justice system. The pilot program will last six months and if the program is successful, the agency partners plan to pursue outside funding sources to continue the program. Given these difficult economic times, the County is not able to fund new programs with General Fund dollars. An alternative funding source will need to be identified.

Response, Board of Supervisors. The Board of Supervisors concurs with the response of the Chief Probation Officer.

RECOMMENDATION 2: Adult Probation Department identify and increase the number of evidence based programs, either "in house" or by outside contractors, to be used by the Probation Officers to assist probationers to achieve cognitive changes so as to reduce recidivism.

Response, Chief Probation Officer: This recommendation has been implemented. Since the time the Grand Jury was conducting interviews, additional staff has been trained as cognitive behavioral group facilitators. The Department recently graduated three classes in the adult division. The felony offender and parenting curriculums were conducted with successful results and graduation celebrations were held for each of these programs. The Department has plans to conduct employment, felony offender and substance abuse curriculums in the coming months. Additionally, the Community Corrections Service Center opened on March 2, 2009 and currently provides evidence based programming to

more than 50 adult probationers. The Chief Probation Officer will continue to explore cost effective ways to offer evidence based programming to more probationers.

Response, Board of Supervisors. The Board of Supervisors concurs with the response of the Chief Probation Officer.

RECOMMENDATION 3: The security within the Adult Probation Department, inclusive of creating a secure holding area for holding arrested probationers awaiting transport to the Jail Booking Department be increased.

Response, Chief Probation Officer: The recommendation has not been implemented, but will be implemented in the future. The Probation Department continues to look at ways to increase office safety, particularly in regards to holding arrested probationers awaiting transport. The Chief Probation Officer and the Director of Corrections have been working jointly to address this issue and expect that a better system will be developed and implemented within the next six months.

Response, Board of Supervisors. The Board of Supervisors concurs with the response of the Chief Probation Officer.

RECOMMENDATION 4: The lack of opportunities for upward mobility within the Probation Department be addressed to reduce turnover.

Response, Chief Probation Officer: The recommendation will not be implemented because it is not warranted. The Department has done a review of positions and options for advancement. Due to the size of the Probation Department (33 Probation Officer I/II positions), it is not reasonable to have more management positions. There are currently six Supervising Probation Officer positions, two Supervising Legal Clerk positions, five Supervising Juvenile Hall Counselor positions, two management positions in Juvenile Hall and five management positions in Probation (including the Chief Probation Officer). Additionally, there are six Senior Juvenile Hall Counselor positions and 10 Senior Probation Officer positions. When vacant, all senior positions and most supervisor positions are opened as promotional only recruitments. Furthermore, as addressed in the response to Finding 15, the Chief Probation Officer does not agree that there is a unusually high turnover of Probation Officers.

Response, Board of Supervisors. The Board of Supervisors concurs with the response of the Chief Probation Officer.

RECOMMENDATION 5: The Adult Probation staff be expanded by three Probation Officers and one Training Officer.

Response, Chief Probation Officer: This recommendation will not be implemented because it is not reasonable. While the addition of three Probation Officers would further reduce caseloads and increase contact frequency with higher risk probationers, the County's current fiscal constraints do not make the addition of any new positions

possible. The Chief Probation Officer will wait until the County's fiscal situation improves before beginning discussions of adding additional Probation Officers with the County Executive Office. The Probation Department currently employs a Staff Services Manager that functions as the Department's Training Manager. It is unclear why the Grand Jury is recommending this position.

Response, Board of Supervisors. The Board of Supervisors concurs with the response of the Chief Probation Officer.

RECOMMENDATION 6: A protocol be established between the District Attorney's Office and the Court Unit of the Probation Officer for use in a pre-sentencing report while maintaining the independence of investigations done separately by the two offices.

Response, Chief Probation Officer: This recommendation has not been implemented but will be implemented in the future. In discussions with the District Attorney, it is clear there is a way for Probation Officers to gather increased victim information in time to complete their pre-sentence report. A protocol will be set up in the next six months to be able to have updated victim information available to the Probation Officer.

RECOMMENDATION 7: The Adult Probation Department's letter to the probationer informing them probation has been completed include a recital of California Penal Code Section 1203.4 concerning the possible dismissal of the probationers case.

Response, Chief Probation Officer: This recommendation has not been implemented but will be implemented in the future. Currently, at the start of a probationary period, the probationer meets with his or her officer and the information in California Penal Code Section 1203.4 is discussed. Most probationers are on probation for a period of three or five years. It makes sense to review this code section with the probationer at the end of their term as well. In the next three months, the letter sent to a probationer at the end of their term of probation will be modified to include Penal Code Section 1203.4 language.