



**NAPA COUNTY GRAND JURY  
2016-2017**

**Final Report**

**May 24, 2017**

**REVIEW OF RESPONSES TO THE  
2015-2016 GRAND JURY REPORTS**

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# **REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORTS**

May 2017

## **I. INTRODUCTION**

### **SUMMARY**

The 2015-2016 Napa County Grand Jury issued its Consolidated Final Report on June 30, 2016. The report consisted of 10 individual final reports, which included a review of responses to the 2014-2015 Grand Jury reports (the “Continuity Report”). The Grand Jury made recommendations on all of its reports.

California Penal Code § 933 requires elected officials or agency heads to respond within 60 days of the issuance of a Grand Jury report that requires their response, and requires governing bodies to respond within 90 days. Elected officials and government agencies are required to respond to recommendations made in Grand Jury reports, indicating their agreement or disagreement with those recommendations with their reasons and actions taken pursuant to the recommendations. These responses are to be addressed to the Presiding Judge of the Superior Court.

The state law cited above requires the Grand Jury to assure that each response is submitted within the statutory time frame and is otherwise compliant with California Penal Code § 933. Accordingly, the 2016-2017 Grand Jury has reviewed all of the responses to the 2015-2016 Grand Jury’s nine investigative reports (which did not include those to last year’s Continuity Report) by elective officials, agency heads, and government agencies. The 2016-2017 Grand Jury finds that only seven of the nine officials and agencies, who were required to respond, did file their responses, and three of those responses were submitted late.

### **METHODOLOGY**

The 2016-2017 Grand Jury evaluated responses to the 2015-2016 Grand Jury’s recommendations to ensure compliance with the law. The following criteria were considered:

1. Were responses received by the Presiding Judge within the legal time limits from the date of each final report’s release (90 days for a public agency and 60 days for an elected official)?
2. If a response indicated that a recommendation had been implemented, did it include a summary of what was done?
3. If a response indicated that a recommendation would be implemented, did it include a summary and schedule for what would be done?

4. If a response indicated that a recommendation required further analysis or study, did it include an explanation of the scope, parameters, and timeframe of the proposed analysis or study?
5. If a response indicated that a recommendation would not be implemented because it was unwarranted or unreasonable, did the respondent include a reasoned explanation supporting that position?

## TIMELINESS

Of the seven responses received to the nine 2015-2016 Grand Jury reports, four were received on time. The other three varied in lateness from three days to four weeks. Details of the dates final reports were delivered and the dates of responses to them are shown below in Table 1.

<b>Table 1. 2015-16 Grand Jury Reports and Responses</b>					
Report	Date Issued	Replies Required	Responses		
			Due	Date Sent	Days Late
Responses to 2014-2015 Reports	4/29/2016	Board of Supervisors	7/28/2016	5/26/2016	On Time
		Napa County Treasurer	6/28/2016	5/26/2016	On Time
		City of Napa	7/28/2016		No Response
Facilities Management	4/29/2016	Board of Supervisors	7/28/2016	5/26/2016	On Time
Juvenile Hall	5/6/2016	Board of Supervisors	8/4/2016	6/8/2016	On Time
		Chief Probation Officer	7/5/2016	6/8/2016	On Time
Gang Activity	5/23/2016	NVUSD Board of Education	8/21/2016		No Response
		NVUSD Superintendent	7/22/2016	6/28/2016	On Time
County Website	5/24/2016	Board of Supervisors	8/22/2016	6/8/2016	On Time
		County Executive Officer	7/23/2016	6/8/2016	On Time
County Financial Health	5/24/2016	County Executive Officer	7/23/2016	6/8/2016	On Time
		County Auditor/Controller	7/23/2016	6/8/2016	On Time
		Board of Supervisors	8/22/2016	6/8/2016	On Time

County Performance Measures	5/24/2016	Board of Supervisors	8/22/2016	6/8/2016	On Time
Napa River Reclamation District	6/3/2016	NCLAFCO Executive Officer	n/a	8/1/2016	n/a
		Board of Supervisors	9/1/2016	8/30/2016	On Time
		NRRD Board of Trustees	9/1/2016	8/25/2016	On Time
		NCLAFCO Commissioners	9/1/2016	8/1/2016	On Time
		County Counsel	n/a	8/30/2016	n/a
Maintaining Food Quality	6/9/2016	Board of Supervisors	9/7/2016	8/30/2016	On Time
		Napa County Planning Director	n/a	9/6/2016	n/a
Napa County Jail	6/28/2016	Board of Supervisors	9/26/2016	8/30/2016	On Time
		County Executive Officer	n/a	8/30/2016	n/a

## **II. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON FACILITIES MANAGEMENT**

### **DISCUSSION**

The Grand Jury investigated how well the County’s facilities are being managed and whether or not energy efficiencies were realized through proper maintenance of their Heating, Ventilation, and Air Conditioning (HVAC) equipment and controls.

After interviewing managers at various levels within the Public Works Department, reviewing contracts with four maintenance contractors, conducting tours of major County facilities, and reviewing the earthquake recovery process with the Public Works Department after the major earthquake sustained in August 2014, the Grand Jury found the buildings to be attractive, clean, and with little sign of wear and tear. Moreover, they found temperatures to be comfortable and ventilation to be adequate.

The Grand Jury found, however, issues with the management of contracts for the maintenance of critical building systems, such as the service contracts for HVAC equipment, elevators, and emergency power generators that were allowed to expire, and inspections and testing were suspended.

The Grand Jury then requested that the Board of Supervisors commend the Public Works and Information Technology Services Departments for outstanding performance, and recommended

that the maintenance contracts for critical equipment and services not be allowed to lapse in the future.

The Grand Jury's investigation resulted in three findings and two recommendations, requesting responses to the recommendations as follows:

- Board of Supervisors: **R1, R2**

The Grand Jury also invited responses from the County Executive Officer to **R2**.

## **RECOMMENDATIONS AND RESPONSES**

**R1.** The County Board of Supervisors should commend the Public Works and Information Technology Services Departments for the post-earthquake recovery work they performed.

**Board of Supervisors Response.** The recommendation has been implemented.

**R2.** The County Board of Supervisors should direct the County Executive Officer to compile a list of contracts for the maintenance of critical equipment and services and to institute a policy that RFPs for replacement contracts be distributed at least 60 days in advance of the expiration dates of such contracts. This policy should be in place by December 31, 2016. Any deviations from this policy should be approved by the County Executive Officer on a case-by-case basis.

**Board of Supervisors Response.** The Board of Supervisors disagrees with this recommendation. The recommendation will be implemented as follows: It is the responsibility of the Director of Public Works to establish departmental policies, procedures and goals. A policy will be in effect by May 31, 2016, which will provide for the timely contracting of maintenance services. The Public Works Department has compiled a list of contracts for the maintenance of critical equipment and services, including: 1. Elevators: Awarded to KONE, Inc. on April 19, 2016. 2. Generators: Awarded to Peterson Power Systems, Inc. on April 19, 2016. 3. Heating Ventilation and Air Conditioning (HVAC): Awarded to Bell Products, Inc. on May 10, 2016. 4. Fire alarms and sprinklers: Expected award date is August 2, 2016. The Director of Public Works will annually review services provided beginning in June 2017, and will track changes to equipment that may impact the scope of work included in the contract, and will develop a timeline to ensure that a request for proposal process will be undertaken and a new contract will be in place at least 60 days prior to expiration of the existing service contract.

## **III. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON ITS ANNUAL JUVENILE HALL REVIEW**

### **DISCUSSION**

The 2015-2016 Grand Jury conducted its annual inspection in October 2015 of the Napa County Juvenile Hall (NCJH) and conducted formal interviews with management and staff, and informal interviews with detainees. While new issues were not found, the Grand Jury remained concerned with NCJH's outdated video surveillance cameras, which produced poor quality, uneven sequencing of images, and blind spots around the facility.

Two previous grand juries found and recommended that the surveillance cameras be replaced, but during the Grand Jury’s investigation, it learned that video equipment had not been replaced and additional cameras were not installed to address the blind spots. In 2015, the 2014-2015 Grand Jury was told that the funding for the upgrade continued to be delayed due to the strain on the Napa County Budget as a result of the August 2014 earthquake, but the Grand Jury was assured by NCJH management that the upgrades were scheduled to be made in late 2015 or early 2016. Furthermore, the Grand Jury was also informed that as of spring 2016, NCJH was in the process of purchasing new camera equipment but that installation would take time. No completion date could be estimated.

The Grand Jury’s investigation resulted in two findings and two recommendations, requesting responses to the recommendations as follows:

- Board of Supervisors: **R1, R2**
- Chief Probation Officer: **R1, R2**

## **RECOMMENDATIONS AND RESPONSES**

**R1.** Replace video surveillance cameras with up-to-date technology by December 31, 2016.

**Board of Supervisors Response.** The Board of Supervisors agrees with the response of the Chief Probation Officer.

**Chief Probation Officer Response.** The Chief Probation Officer agrees with this recommendation. The cameras have been ordered and will be installed by December 31, 2016.

**R2.** Place new cameras in areas where blind spots have been identified by December 31, 2016.

**Board of Supervisors Response.** The Board of Supervisors agrees with the response of the Chief Probation Officer.

**Chief Probation Officer Response.** The Chief Probation Officer agrees with this recommendation. The cameras have been ordered and will be installed by December 31, 2016.

## **IV. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON GANG ACTIVITY**

### **DISCUSSION**

There are two major gangs in Napa County — the Nortenos and the Surenos (“Northerners” and “Southerners”). Many, but not all, of Napa County high schools have individuals belonging to either gang. Where gang activity is present today, school administrators and law enforcement agencies are using varied approaches to keep gangs in check. School administrators and law enforcement officials agree that gangs primarily target young men from Hispanic families. Most

of these gang members and families recently emigrated from Mexico, may or may not be legal residents, and have no heritage or personal stake in Napa County or California.

Napa County benefits from certain road geographic limitations that can be strong deterrents to gang activity in the county. There is only one major roadway leading into and out of Napa County and no quick direct connection with any interstate highway, creating a bottleneck and limiting quick escape.

Significant gang activity remains in Napa County generally and in Vintage, Valley Oak, and Napa High Schools. Specifically, the activity in those high schools is closer to social affiliation than a violent organization or criminal enterprise. Gang activity is not a danger at American Canyon, St. Helena, and Calistoga High Schools.

The Grand Jury noted that high school officials emphasize integrating active and potential gang members into the school curriculum, keeping the students busy and engaged in a relevant and interesting curriculum, including shop, music, heritage, and cutting-edge technology classes. All Napa County high schools strongly encourage students to continue their education after high school. School officials stated that families of gang members and candidates are active in their children's education and willing to meet with school and community representatives in a continuing effort to counter gang influences. School outreach programs have been successful in encouraging families to be involved in their children's education.

The City of Napa Police Department has proactively placed School Resource Officers (SROs) on some Napa Valley Unified School District (NVUSD) campuses. SROs are regular service police officers who have an interest in facilitating relationships with students and in providing direct security for campuses.

Napa County and Napa City law enforcement officials continue to take consistent actions in response to gang activity. There is close coordination between the County Sheriff, the Napa City Police, the County District Attorney's Office, and many other stakeholders. A Gang and Youth Task Force meets five times during the year explicitly for the purpose of monitoring, preventing, and counter-acting gang activity in the county. Even with all the efforts made to combat gang activity, it is unlikely that gangs will ever be entirely eliminated from Napa County.

The Grand Jury's investigation resulted in 10 findings and two recommendations, requesting responses to the recommendations as follows:

- The Jury did not request a response; however, the City of Napa responded. **R1**
- Board of Education and NVUSD Superintendent **R2**

## **RECOMMENDATIONS AND RESPONSES**

**R1.** Continue and expand the use of SROs at all Napa County public high school campuses.

**City of Napa Response:** The recommendation to continue the use of SROs has been implemented by the Napa Police Department at the high school campuses within the city. The recommendation to expand the use of SROs requires further analysis by the Napa Police Department in collaboration with NVUSD. The analysis to expand the use of SROs in the high schools by the Napa Police Department will include a review of staffing, fiscal, and needs considerations. This analysis will be completed by September 30, 2016.

**R2.** Continue the Legacy Program at Vintage High School and use it as a model for other high schools, in particular Napa High School and Valley Oak High School.

**Napa Valley Unified School District Superintendent's Response:** Napa High School uses the AVID and LAYLA programs to build academic success and a sense of belonging for students. Due to funding restraints, we will be analyzing where we can expand the Legacy program after the 2016-2017 year. Valley Oak will be implementing an advisory period next year to continue to strengthen its community. Valley Oak will continue to work with Napa and Vintage High Schools in a multi-year partnership with the Acosta Consulting Team to develop more culturally responsive curriculum. Napa High will be joining the training in 2016-2017.

**Napa Valley Unified School District Board of Education's Response:** No Response.

**City of Napa Response:** The recommendation to continue the Legacy Program at Vintage High School and to use as a model for other high schools has been implemented by the Napa Police Department. The recommendation to use the Legacy Program as a model for other high schools, in particular Napa High School and Valley Oak High School, will require further analysis by the Napa Police Department in collaboration with NVUSD. The analysis to use the Legacy Program as a model for other high schools, in particular Napa High School and Valley Oak High School, will include a review of staffing, fiscal, and needs considerations. This analysis will be completed by September 30, 2016.

## **V. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON THE COUNTY WEBSITE**

### **DISCUSSION**

The Grand Jury made heavy use of the County website, finding it very useful but with several aspects that needed improvement: lack of standard formats and features, inaccurate and out of date information, weak search function, and collateral duty content administrators. Links to documents did not always go to the current versions, and some documents did not exist at all. The Jury found that people would rather wait in line than be frustrated online.

With regards to lack of standard formats and features, the Grand Jury found that although all departments used a standard web page design, there was a wide range of formats and features varying by department. Document naming conventions were inconsistent, frequently making documents difficult or impossible to find. Some departments included helpful information, like organizational charts, but others did not.

The Grand Jury found that the responsibility for the website's content management lay with department and division managers, and the duties for monitoring and updating were part time assignments for administrators with a wide range of interest and ability. The Jury further found that the County website was not capable of performing basic transactions, such as making appointments, submitting applications, and scheduling inspections, as other counties' websites are.

The Grand Jury's investigation resulted in five findings and six recommendations, requesting responses to the recommendations as follows:

- Board of Supervisors: **R1, R2, R3, R4, R5, R6**
- County Executive Officer: **R1, R2, R3, R4, R5, R6**

## **RECOMMENDATIONS AND RESPONSES**

**R1.** Establish county wide standards for formats, document naming conventions and best practice content features.

**County Executive Officer Response:** The County Executive Officer and Director of Library Services and Community Outreach disagree with this recommendation. The County has established standards for formats and document naming conventions and the guide for content contributors, and is available on the county's internet, as well as upon login to the content provider portal. The guide will be updated with new training resources after the selection of new content management software (CMS) to take advantage of new functionality. The County continues to make improvements to its website a high priority.

**Board of Supervisor's Response:** The Board of Supervisors agrees with the response of the County Executive Officer and the Director of Library Services and Community Outreach.

**R2.** Clean up the website and keep it current. Verify that information is accurate, up-to-date, and easy to find.

**County Executive Officer Response:** The County Executive Officer and Chief Information Officer agree with this recommendation. In the Request for Proposal (RFP) for a new CMS software system, the enhanced search tool is a key requirement. This RFP is planned to be posted during the first quarter of Fiscal Year 2016-17.

**Board of Supervisor's Response:** The Board of Supervisors agrees with the response of the County Executive Officer and the Chief Information Officer.

**R3.** The County should upgrade the website search function.

**County Executive Officer Response:** The County Executive Officer and Chief Information Officer agree with this recommendation. In the RFP for a new CMS software system, the enhanced search tool is a key requirement. This RFP is planned to be posted during the first quarter of Fiscal Year 2016-17.

**Board of Supervisor's Response:** The Board of Supervisors agrees with the response of the County Executive Officer and the Chief Information Officer.

**R4.** The Grand Jury recommends that the County form an expert user group to share best practices and new web functionality among divisions.

**County Executive Officer Response:** The County Executive Officer and director of Library Services and Community Outreach agree with this recommendation. A bi-weekly drop in session is available to content providers to work one on one with the Webmaster. The Webmaster meets with departments individually when needed and is constantly reviewing analytics, website chat data and seasonal/scheduled events to enhance the user's experience. Until further resources become available, a recommendation by department heads to the Director of Library Services and Community Outreach to realign the content providers into two distinct users groups will be implemented in Fiscal Year 2016-17. Representatives from each department will serve on the Users Experience (UX) group to ensure County-wide consistency in the user experience from department to department. A group of application experts will also be convened. The application experts will work closely with the department's UX contributor to assure that any changes made are done with the end user in mind.

**Board of Supervisor's Response:** The Board of Supervisors agrees with the response of the County Executive Officer and the Director of Library Services and Community Outreach.

**R5.** Recognize the website's importance as a communication, productivity, and service tool, by providing sufficient up front resources to department/division managers and to Information Technology Services to enable implementation of all systems enhancements that can be cost justified through improvements in productivity and customer service.

**County Executive Officer Response:** County Executive Officer and Chief Information Officer agrees with the recommendation. The information Technology Services Division works on a bi-monthly basis with a countywide ITS Leadership Committee

(made up of a representative set of county department directors) to prioritize projects that cross the entire County. This committee has already made the improvement of the County website a top priority. Funding is provided in the Fiscal Year 2016-17 budget for improvement and once the RFP responses have been reviewed the contract for a new CMS will be brought to the Board of Supervisors for approval.

**Board of Supervisor's Response:** The Board of Supervisors agrees with the response of the County Executive Officer and the Chief Information Officer.

**R6.** The Board of Supervisors should challenge department and division managers to identify opportunities to improve productivity and/or customer service through the use of technology and provide the necessary up front resources to implement those opportunities that can then be justified based on cost/benefit analyses.

**County Executive Officer's and Chief Information Officer's Response:** County Executive officer and Chief Information Officer agree with this recommendation.

**Board of Supervisor's Response:** The Board of Supervisors agrees with the response of the County Executive Officer and the Chief Information Officer.

## **VI. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON COUNTY FINANCIAL HEALTH**

### **DISCUSSION**

In looking at the financial health of Napa County and how financial information is made available to county residents, the 2015-2016 Grand Jury focused on the general fund structure and the balance sheet. The analysis included a ten year study of several key financial indicators. The "The 6 things you should know about Napa County's finances and budget" a page on the County Executive Office's section of the county website provided the framework of the investigation.

Overall, the Grand Jury found that Napa County has maintained excellent fiscal policies that have achieved the highest possible bond rating from Standard & Poor. The Board of Supervisors' budget policies have resulted in conservative spending and strong reserve and contingency funds. However, the Jury also found that certain methodologies used in the County's accounting systems were confusing to the public. They also found that although the county recognizes the importance of transparency in making a wide range of financial documents available to the public, many documents were not available where the County website stated they were.

The Grand Jury also inquired into the status of unfunded pensions and other payroll benefits. They discovered that the county's unfunded obligations of nearly \$200 million are calculated and under the umbrella of the California Public Employees' Retirement System (CalPers). The Grand Jury felt that it would be in the County's interest to set up a trust to pay down these obligations more rapidly than under the current system.

The Grand Jury’s investigation resulted in eight findings and three recommendations, requesting responses to the recommendations as follows:

- Board of Supervisors **R1, R2, R3**
- County Executive Officer **R1 R3**
- County Auditor Controller **R1**

**RECOMMENDATIONS AND RESPONSES**

**R1.** The Grand Jury recommends that Napa County institute a schedule in the Management’s Discussion and Analysis of the Comprehensive Annual Financial Report (CAFR) that explains the negative variance from “Actual Amount (Budgetary Basis)” and “Variance with Final Budget” in “Aid from other governments.” The Grand Jury believes that including the information outlined below would clarify the actual situation for the average citizen.

Explanation of Aid from other governments						
County Capital Project no.	County Project Description	Date Project Initiated	Total Amount Budgeted	Actual Amount Realized in Previous Years	Actual Amount Realized This Year	Amount Carried Forward
The amount carried forward for the total of all projects will be the same as the Negative Variance in Aid from other governments						

**County Executive Officer’s Response:** Because preparation of the CAFR is the responsibility of the Auditor-Controller, the Auditor-Controller will respond to the recommendation related to the CAFR.

**County Auditor Controller’s Response:** The Auditor-Controller agrees with this recommendation and can appreciate providing the public with additional information to make the CAFR more useful. Due to restrictive requirements by Governmental Accounting Standards Board in respect to the content of the CAFR, staff will work with the county's external auditors to determine the best placement and display of the information.

**Board of Supervisor’s Response:** Did not respond.

**R2:** The Grand Jury recommends that the BOS consider using some positive Fund Balances each year to begin to pay down the Unfunded Pension and Other Post-Employment Benefits (OPEB) by establishing an 115 Irrevocable Trust (a type of trust authorized by Sec. 115 of the Internal Revenue Code solely for the purpose of funding post-employment benefit for workers that cannot be revoked by the employing agency).

**Board of Supervisors' Response:** This recommendation will not be implemented. The existing fund balance that the Board would have access to as a means to fund increased pension payments, is made up primarily of the Fiscal Uncertainty and General Reserve. At the close of each year, any excess of revenue over expenditures becomes available fund balance. The policy adopted by the Board of Supervisors is to use the available fund balance first to fund reserves and then to transfer any remaining available fund balance to Accumulated Capital Outlay to be used for capital projects. Until the capital needs are met, there is no additional fund balance available unless the BOS changes its long standing policy. In FY 2008-09, the BOS studied the feasibility of using an irrevocable trust instrument to set aside funds to pay down pension liability and determined that it was not cost effective, although the instrument suggested by the Grand Jury may provide a future opportunity. The County continues, through its annual pension rate, to pay toward the unfunded liability. Once capital needs are met, the BOS may consider accelerated funding of its PERS liability. However, because of the cost sharing formula agreed upon with its employees, any acceleration would be negotiated.

The unfunded OPEB liability is managed through a trust within PERS and is amortized on a 20-year schedule. To date, six years' payments have been made, leaving 14 years remaining to funded status.

**R3:** The Grand Jury recommends that the BOS and the CEO must require every division to report current status of every goal that was prepared to support the previous years Recommended Budget.

**County Executive Officer's Response:** This recommendation was implemented for the FY 2016-17 Recommended Budget.

**Board of Supervisors' Response:** The Board of Supervisors agrees with the response of the County Executive Officer.

## **VII. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON COUNTY PERFORMANCE MEASURES**

### **DISCUSSION**

While investigating the County's finances, the 2015-2016 Grand Jury became aware of the County's Performance Measurement Reports (PMRs). These annual reports include division by division trends of key activities performed by the County government. They also include measures of productivity and service levels within every division. The jury initiated an investigation into their use in the County and found that although the cost to produce and publish the PMRs exceeded \$400,000, generally these were not being used by the County management

team to manage their divisions. In their place, managers regularly tracked their own specific productivity and service levels and reviewed those with direct reports.

The Grand Jury's investigation resulted in five findings and two recommendations to which responses to the recommendations were requested from the Napa County Board of Supervisors.

## **RECOMMENDATIONS AND RESPONSES**

**R1.** Discontinue publication of the Performance Measurement Report in its current form. If the Board of Supervisors finds the activity tracking and/or division overviews useful, produce them in a more condensed and efficient way. Use the website to do so whenever possible.

**Board of Supervisor's Response:** The Recommendation will be implemented. Effective fiscal year 2015-2016, the PMR will no longer be produced. In the future, staff will be developing performance measures that align with the strategic goals developed by the Board of Supervisors at their next Strategic Planning retreat. Rather than require specific number of measures, direction to departments will be to develop Performance Measures that measure progress toward the goals that the Board of Supervisors wants to achieve.

**R2.** Post key activity levels ("Community Indicators") on the County website annually, or more frequently if data are available, and no later than 60 days following the end of the period being reported.

**Board of Supervisor's Response:** The Recommendation may be implemented in the future. Community Indicators are interesting, but not necessarily tied to the County's activities or performance. When staff develops performance measures to align with the Board's Strategic Goals, Community Indicators could be included in any publication or related website.

## **VIII. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON THE NAPA RIVER RECLAMATION DISTRICT**

### **DISCUSSION**

To get an overall picture of the county's 23 special districts, the 2015-2016 Grand Jury initiated an inquiry into the Napa County Local Formation Commission (NCLAFCO), a state-mandated agency. Special districts are a type of local government created by a local community to meet specific needs. NCLAFCO oversees the special districts' boundaries, services, and governance. Most of these special districts had not been reviewed by prior grand juries.

During the review the Jury received information that led them to focus on the Napa River Reclamation District (NRRD). NRRD was formed over 40 years ago to "maintain the existing flood control levee" protecting 150 lots currently containing 135 occupied homes, fronting the Napa River in the Edgerly Island/Ingersoll area.

After their investigation, the Grand Jury found that major flood damage continues to be a significant threat and that NRRD has never performed the essential levee control and maintenance responsibilities for which it was created. If the area floods, county facilities could be damaged, first responders could be at risk, and the district's underground sewer system could fail, possibly causing a serious health and safety issue to residents and responders. In the event of such damage, it is unclear who would be responsible or capable of repairing the damage

The Jury also found that because of the failure of NRRD and homeowners to provide appropriate levee maintenance, county dollars have been spent on various stop gap projects such as sand bag facilities and dewatering pumps. The Jury further concluded that all the oversight agencies and residents were or should have been aware of NRRD's failure to perform.

The Grand Jury report included eight findings and four recommendations, requesting responses as follows:

- Napa County Board of Supervisors: **R1**
- Napa County Counsel: **R1**
- NCLAFCO Commissioners: **R1, R2, R3**
- NRRD Board of Trustees: **R1 R3**
- A specific response was not requested for **R4**; however, the NCLAFCO Executive Officer responded to this Recommendation.

## **RECOMMENDATIONS AND RESPONSES**

**R1:** The County Board of Supervisors (BOS) should direct County Counsel to render a written opinion, that will be made public, on the respective liabilities and responsibilities of NRRD and the county arising from NRRD's failure to perform its essential function(s).

**Board of Supervisors' and County Counsel's Response:** The Board of Supervisors disagrees with and respectfully declines to follow the recommendation. County Counsel is legally responsible for representing the County and the BOS. An attorney-client relationship exists between the Board/County and County Counsel. It is not County Counsel's role to provide legal advice to the public at large. County Counsel's analysis and advice provided to the county regarding issues of potential county liability, if any, are protected and privileged from disclosure by the attorney-client privilege and the attorney work product doctrine. To require the office of County Counsel to disclose its analysis publicly would risk prejudice to the County's position in any litigation that might occur. Thus, the County cannot be required to waive the privilege or required to direct County Counsel to disclose its analysis.

As to advice and analysis provided by County Counsel attorneys to NRRD (which is a client of the office of County Counsel independent of the County), only NRRD can waive the privilege or direct County Counsel to divulge its analysis as to NRRD's potential liability.

**NRRD Board of Trustees Response:** While the recommendation is asking a separate legal entity to take an action, the Board's position is that this recommendation should not be implemented because it is neither warranted nor reasonable. NRRD only owns fifty (50) linear feet of levee and has no responsibility to maintain the privately owned portions of the levees along Milton Road.

**NCLAFCO Commissioners:** No response.

**R2:** NRRD and NCLAFCO should take all steps necessary to ensure that NRRD has all enforcement and funding authority necessary to perform the levee maintenance, rehabilitation, and construction functions for which it was created. Alternatively, NRRD should be reformed so that it is responsible only for providing sewer services.

**NCLAFCO Executive Officer's Response:** Recommendation Number 2 requires further analysis. As part of the comprehensive Municipal Service Review (MSR) and Sphere of Influence (SOI) update currently being conducted, LAFCO is evaluating what potential actions, including the Grand Jury's recommendation, are within its authority to implement. The ongoing MSR and SOI update will culminate in determinations on NRRD's existing service levels, its financial ability to provide services, and its governance structure. The MSR may potentially also determine that new, more detailed governance study is needed for NRRD at this time.

**R3:** NCLAFCO should, within the next six months, complete comprehensive Sphere of Influence, Municipal Services, and Governance reviews of NRRD.

**NCLAFCO Executive Officer's Response:** Recommendation Number 3 requires further analysis. As stated in response to Recommendation Number 2, LAFCO is currently completing a comprehensive MSR and SOI update. One outcome of that process may be a determination that a more detailed governance study is needed. It is anticipated that the MSR and SOI update will be completed by the end of calendar year 2016.

**NRRD Trustees Response:** While the recommendation is asking a separate legal entity to take an action, the Board of Trustees understands LAFCO intends to implement a portion of this recommendation. Accordingly, the Board of Trustees intends to work with LAFCO towards finalizing their "Sphere of Influence" and "Municipal Services" reviews within the next six months. The Board of Trustees further understands that LAFCO is not required to complete a "Governance" study and does not intend to perform such a study at this time. Should LAFCO choose to complete a "Governance

Study," the Board of Trustees would intend to work with LAFCO towards the preparation of such a report.

**R4:** If NRRD continues to be responsible for reclamation and flood control services, NCLAFCO should consider reforming the NRRD Board to include independent, non-resident members should it become apparent that an all-resident board is reluctant to take actions to ensure the enforcement and funding necessary to bring all levees into compliance and to maintain them. As an alternative, the Board of Supervisors could consider creating a revenue source for NRRD at the county level.

**NCLAFCO Executive Officer's Response:** This recommendation has not yet been implemented, but as stated above, LAFCO is conducting a comprehensive MSR and SOI update at this time, which will include determinations regarding NRRD's governmental structure and financial ability to provide services, among other determinations, and will consider whether the NRRD Board should be reformed.

## **IX. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON MAINTAINING FOOD QUALITY**

### **DISCUSSION**

Citing the U.S. Food and Drug Administration report finding that about one in six Americans gets sick each year by consuming contaminated foods or beverages, the 2015-2016 Grand Jury decided to examine the way that retail food providers are monitored in Napa County. The Grand Jury discovered that there are a small number of specialists assigned to the Retail Food Program within Napa County's Environmental Health Division with the primary goal of ensuring that our food is safe.

This Consumer Protection unit monitors more than 750 regulated food facilities, including fixed-location and mobile food providers. Each retail food facility is inspected at least annually. In addition, the County offers food safety education to businesses and their staff. Citizen complaints are a valuable information source for the food inspectors. The Grand Jury examined more than 100 recent food-related complaints, and found that more than 50% were acted upon within two business days, and 75% within five business days.

After completing the inquiry, the Grand Jury commended the professionals employed by Napa County's Environmental Health Division for their persistent and dedicated actions to minimize food-borne illness risk to Napa County residents and visitors. The Jury submitted two findings, one recommendation, and one commendation to the County Board of Supervisors.

## RECOMMENDATIONS, RESPONSES, AND COMMENDATION

**R1.** The Board of Supervisors is encouraged to direct the Department of Planning, Building and Environmental Services to expand resources devoted to the training of restaurant owners and employees regarding food-borne illness prevention and food safety practices.

**Director of Planning, Building, & Environmental Services Response:** The Director partially agrees with this recommendation. The Consumer Protection program is currently operating efficiently and is meeting its responsibilities. However, as the local economy continues to improve and as the range of food service alternatives expand, the number of facilities is increasing. At the same time, staff from the Consumer Protection unit have been temporarily reallocated to the Land Use unit, as that program has seen a significant increase in regulatory requirements recently related to water wells and septic systems. Consequently, although additional resources for the Consumer Protection unit are not presently required, the Director of Planning, Building, and Environmental Services recommends that staffing levels for both the Consumer Protection and the Land Use programs be evaluated as a part of the mid-year budget review.

**Board of Supervisors Response:** The Board of Supervisors agrees with the County Executive Officer and the Director of Planning, Building, and Environmental Services.

**Commendation.** The Grand Jury commends the professionals employed by Napa County's Environmental Health Division for their persistent and dedicated actions to minimize food-borne illness risk to Napa County residents and visitors.

**Director of Planning, Building, & Environmental Services Response:** The Director agrees with this commendation. Staff of the Consumer Protection unit are knowledgeable, well-trained, and diligent in their duties. They also provide inspections after hours and on weekends to accommodate business needs and to ensure the safety of the many festivals and events within the County. The recognition of their service by the Grand Jury is greatly appreciated.

**Board of Supervisors Response:** The Board of Supervisors agrees with the Director of Planning, Building, and Environmental Services.

## X. REVIEW OF RESPONSES TO THE 2015-2016 GRAND JURY REPORT ON ITS ANNUAL COUNTY JAIL REVIEW

### DISCUSSION

The 2015-2016 Grand Jury conducted its annual inspection of the Napa County Jail (NCJ). In addition to a physical inspection, the Grand Jury reviewed the NCJ operations, interviewed management, correctional officers, and administrative staff and other witnesses, and looked at

numerous documents. The Jury's investigation resulted in substantial evidence of significant problems in the management of the NCJ, including but not limited to, a lack of confidence in jail management, on-the-job safety, hiring and retention problems, and outdated facilities that did not comply with current best correctional practices.

The Grand Jury focused its investigation on the following four topics:

1. Physical jail inspection:

The Grand Jury found that the cells appeared mostly clean, but graffiti was abundant in the older, original wing of the facility. There was visible damage from the August 2014 earthquake with repairs underway, as well as a basement project converting dormitory style units to two-person cells.

2. Management and operations of the jail:

The Grand Jury found a chronic shortage of staff at the NCJ. Specifically, 21 of 64 positions were vacant, resulting in safety risks to staff and inmates and officers working consistent overtime to cover all shifts. The Grand Jury credited this shortage to recruitment and retention issues fueled by competing jobs offering earlier retirement, larger pensions, and larger compensation packages. The Grand Jury also found substantial problems with the NCJ management, including organization at the management level being in flux, and low morale among employees.

3. Mental health issues:

The Grand Jury found only limited psychotherapy and counseling services are offered to the 30% to 40% of inmates who require services related to the care, treatment, and rehabilitation for those suffering with mental health issues. The Grand Jury believed this may be partly due to the August 2014 earthquake, which damaged facilities and have precluded offering on-site programs such as group counseling, Alcoholics Anonymous, Narcotics Anonymous and the services of a chaplain.

4. Status of the new jail:

The Grand Jury found the need for a new jail.

The Grand Jury's investigation resulted in nine findings and five recommendations, requesting responses to the recommendations as follows:

- Board of Supervisors: **R1, R2, R3, R4, R5**
- County Executive Officer: **R1, R2, R3, R4**

## **RECOMMENDATIONS, RESPONSES, AND COMMENDATION**

**R1.** The County Board of Supervisors should enhance its oversight of the Napa County Jail to ensure that it is operating properly, including assigning a senior staff person to comprehensively review the operation of the jail and to provide a written report of findings no later than April 1, 2017.

**Board of Supervisors Response:** The Board of Supervisors agrees with the County Executive Officer.

**County Executive Officer Response:** The County Executive Officer disagrees with this recommendation. The Napa County Jail is one of two jails in California over which the Board of Supervisors has direct authority regarding jail operations. The Corrections Department is assigned to the most senior staff within the County Executive Office, and the staff person together with the County Executive Officer meet regularly with the Director. The County Executive Officer keeps the Board apprised of operational hurdles and suggests possible solutions. In addition, all jails in California are inspected biennially by the Board of State and Community Corrections (BSCC), which reviews among other items the department's policies and procedures, grievances, discipline, housing, staffing, sanitation and staff training. The BSCC inspectors represent an independent state agency that ensures that correctional facilities are operating within established guidelines. The department has consistently met the BSCC requirements and standards required by law.

**R2.** The Board of Supervisors should retain a management consultant to work with jail leadership on operational, administrative and workforce issues.

**Board of Supervisors Response:** The Board of Supervisors agrees with the County Executive Officer.

**County Executive Officer Response:** The County Executive Officer disagrees with this recommendation. Prior to the Grand Jury's investigation, the Director of Corrections hired a management consultant to assist the department in its transition from post-earthquake-related work projects, inmate relocation, and staffing vacancies to a more stable operational status. The management consultant has and continues to work with manager and supervisory staff to ensure that practices are consistent and that the department is focusing on addressing its most significant needs and planning for the future.

**R3.** Compensation and benefits for Correctional Officers should be analyzed to determine the incentive package necessary to attract new career officers and retain existing officers.

**Board of Supervisors Response:** The Board of Supervisors agrees with the County Executive Officer.

**County Executive Officer Response:** The County Executive Officer partially agrees with this recommendation. Staff members have left the department for jobs offering higher pay and enhanced benefits in the private sector and to accept similar positions at other law enforcement agencies. A shift in the public employee pension formula has reduced the number of qualified applicants, and this will continue to have an impact on the department's ability to recruit and retain staff. A compensation study was conducted by Ralph Anderson & Associates on the Correctional Officer classification in April 2015. The County met and conferred with the union sharing the results of the study. It was the County's conclusion that compensation was in line with the Board's philosophy to be within 5% of the median of non-sworn market comparable agencies.

**R4.** Staffing should be made an immediate priority, including a full staff of Correctional Officers, and a bilingual FMHC.

**Board of Supervisors Response:** The Board of Supervisors agrees with the County Executive Officer.

**County Executive Officer Response:** The County Executive Officer disagrees with this recommendation. Sufficient staffing is always a top priority for the department, and the department works closely with Human Resources to conduct recruitments and advertise for correctional officer positions in other states. The cost of living in Napa, changes in retirement formulas and a stressful work environment, including the challenges inherent in working with mentally ill inmates, are contributing factors to staff recruitment. The department had a bilingual Forensic mental Health Counselor (FMHC) until a few months ago, when the position became vacant. In the interim, when there has been a need for a bilingual mental health professional on site, the Napa County Health and Human Services Agency's Mental Health Division has provided staff to address these needs. Recently, the full-time FMHC position has been filled, and an additional vacant half-time position is being recruited.

**R5.** The County Board of Supervisors should establish a multi-year Citizen's Oversight Committee by December 31, 2016. The BOS should assure that there is no retribution to staff from the committee's findings.

**Board of Supervisors Response:** The Board of Supervisors disagrees with this recommendation. The department has periodic inspections by the State, and the Board of Supervisors provides direct oversight of jail operations. In addition, the number of grievances from inmates is low. The County has policies to prohibit retribution and has no reason to believe that retribution is occurring or will occur in the future. However, there are a number of ways that any employee can report suspected retribution and appropriate follow up of any claim occurs.

**Commendation.** The County Board of Supervisors should commend the Correctional Officers for excelling in an extremely difficult environment.

**Board of Supervisors Response:** The Board of Supervisors agrees with the commendation but believes that the commendation should be extended to all staff members of the Corrections Department, who do an outstanding job under very difficult circumstances.

## **XI FINDINGS AND RECOMMENDATIONS**

### **DISCUSSION**

Similar to last year, the Grand Jury notes some laxity about official responses to the 2015-2016 Grand Jury's reports. Elected officials or agency heads have 60 days and governing boards have 90 days to respond to a grand jury report or to notify the Presiding Judge that their report will be late with an explanation for its lateness. In both cases, the allowed time begins on the date the report is issued by the Grand Jury. To the 2015-2016 Grand Jury's reports, of the 23 requested responses, 21 were received on time and two were not submitted at all. Specifically, the City of Napa failed to respond to last year's Continuity Report, and the NVUSD Board of Education failed to respond to the report concerning Gang Activity. This Grand Jury received no explanations for lack of responses to these reports.

Further, several of the responses included a deadline wherein a recommendation would be implemented. The Grand Jury has followed up on each of these responses and the results are shown below in Table 2.

**Table 2. 2015-16 Grand Jury Responses and Implementation of Recommendations**

Report/ Responder	Recommendation	Response	Implementation
<b>Facilities Management</b> Board of Supervisors	<b>R2.</b> The County Board of Supervisors should institute a policy that RFPs for replacement contracts be distributed at least 60 days in advance of the expiration dates of such contracts. This policy should be in place by December 31, 2016.	1. The Board of Supervisors disagreed with the recommendation. However, they stated that a policy will be in effect <u>by May 31, 2016</u> , which will provide for the timely contracting of maintenance services.	Yes. The Property Management Division has worked steadily over the last year to update all major service contracts through competitive procurement efforts, and have operationalized the continual review of these contracts to ensure timely contracting of maintenance services. Including those related to: <ul style="list-style-type: none"> <li>- Elevators,</li> <li>- Generators,</li> <li>- HVAC,</li> <li>- Fire Sprinklers,</li> <li>- Fire Alarm Monitoring,</li> <li>- Fire Suppression, and</li> <li>- Fire Extinguisher Services.</li> </ul>
		2. The BOS also stated that the Director of Public Works will annually review services provided <u>beginning in June 2017</u> , and will track changes to equipment that may impact the scope of work included in the contract, and will develop a timeline to ensure that a request for proposal process will be undertaken and a new contract is in place at least 60 days prior to expiration of the existing service contract.	<b><u>Deadline not yet passed.</u></b>
<b>Juvenile Hall</b> Board of Supervisors and Chief Probation Officer	<b>R1.</b> Replace video surveillance cameras with up-to-date technology by December 31, 2016.	The cameras have been ordered and will be installed by <u>December 31, 2016</u> .	Not yet implemented (awaiting County action).
	<b>R2.</b> Place new cameras in areas where blind spots have been identified by December 31, 2016.	The cameras have been ordered and will be installed by <u>December 31, 2016</u> .	Not yet implemented (awaiting County action).

<p><b><u>Gang Activity</u></b> City of Napa</p>	<p><b>R1.</b> Continue and expand the use of School Resource Officers (SROs) at all Napa County public high schools campuses</p>	<p>Analysis to expand use of SROs in the high schools ... to include a review of staffing, fiscal, and needs considerations to be completed <u>by September 20, 2016.</u></p>	<p>Oral report given to City Manager, on or before September 30, 2016, that current SRO staffing levels are adequate.</p>
<p><b><u>County Website</u></b> County Executive Officer</p>	<p><b>R2.</b> Clean up the website and keep it current. Verify that information is accurate, up-to-date, and easy to find.</p>	<p>In the Request for Proposal (RFP) for a new CMS software system, the enhanced search tool is a key requirement. This RFP is planned to be posted during the <u>first quarter of Fiscal Year 2016-17.</u></p>	<p>As of December 6, 2016, the County entered into a contract with an outside software company to redesign the County Website as recommended.</p>
<p><b><u>Napa River Reclamation District (NRRD)</u></b> NCLAFCO Executive Officer</p>	<p><b>R3:</b> The Napa County Local Formation Commission (NCLAFCO) should, within the next six months, complete comprehensive Sphere of Influence, Municipal Services, and Governance reviews of NRRD.</p>	<p>LAFCO is currently completing a comprehensive MSR and SOI update. ... It is anticipated that the MSR and SOI update will be completed <u>by the end of calendar year 2016.</u></p>	<p>MSR and SOI updates published December 2016 (Final Report District No. 2109).</p>

**FINDINGS**

As the result of its review of responses to the 2015-2016 Grand Jury, this Grand Jury makes the following finding and recommendation.

**F1.** Some respondents to the 2015-2016 Grand Jury reports, being tardy with their responses or ignoring them completely, are not meeting their legal responsibilities.

**RECOMMENDATIONS**

**R1.** The Board of Supervisors and the City of Napa shall remind their officers and department heads of their legal responsibility to respond on a timely basis to all Napa County Grand Jury requests for response.