



SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SIERRA

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10	In the Matter of
11	2011-2012 Sierra County Grand Jury MINUTE ORDER
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13	HONORABLE JOHN P. KENNELLY, JUDGE PRESIDING
14	The County Clerk is hereby directed to file the Response to 2011/2012 Grand Jury
15	John Evans by Sierra County Sheriff, received on September 12, 2012,
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18 19	I HEREBY CERTIFY the foregoing to be a full, true and correct copy of an order entered on the minutes of said Superior Court of the State of California, County of Sierra, this 13th day of September, 2012.
20	ATTEST my hand and seal of the Superior Court of the State of California, County of Sierra, this 13th day of September, 2012.
21	SIERRA SUPERIOR COURT
22	BY SO MILE Clerk
23	DI TOTAL MEIN
24	cc: Heather Foster
25	Sierra County Clerk Courthouse Downieville, CA 95936
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Office of the Sheriff of Sierra County

John I. Evans, Sheriff~Coroner 100 Courthouse Square ≈ Post Office Box 66 Downieville, California 95936-0066 Ph. (530) 289-3700, Fax: (530) 289-3318 sheriffadmin@sierracounty.ws

Wednesday 12 September 2012

Honorable John P. Kennelly Presiding Judge of the Superior Court 100 Courthouse Square, 2nd Floor Post Office 476 Downieville, CA 95936-0476 Ph.# (530) 289-3698

RE: Response to the 2011/2012 Grand Jury Report

Dear Judge Kennelly,

Pursuant to Section 933.05 of the Penal Code, I offer the following comments with respect to the 2011/2012 Grand Jury report as it relates to the sheriff's office and their annual inspection of the County jail. I would like to express my personal thanks and admiration to all of the County citizens who took the time and made the efforts to contribute in the Grand Jury process. It should be recognized that this is a huge commitment of personal time and energy. Each member took his or her participation and requisite responsibility seriously. I am well aware that the role of the local citizen in this process is one of the most important in local government and it is one of the highest forms of personal civic duty. My responses follow.

1) Jail Staffing

This has been an on-going issue that has been dealt with by every sheriff ever since the inception of the jail and a "dispatch" operation. This response, though similar to those in the past, contains some good news in that the jail staffing has increased by two corrections-communications officers, from last year. We went from four and a sergeant to six and a sergeant. At the same time, this increase in corrections-communications officer positions has caused staffing reductions in the sheriff's office in other critical positions, specifically at the cost of losing one patrol deputy sheriff and our only community and animal services officer for the entire county. The funds for the corrections-communications officers have to come from somewhere, in this case from reductions in front line emergency response and general patrol personnel.

It was within a lifetime that the sheriff's wife cooked the meals for the jail prisoners and she operated a dispatch radio from their home behind the current courthouse, sheriff's office and county jail.

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The concurrent operating requirements for the jail and dispatch are an inherently difficult issue that is complicated due to Sierra County having the smallest county jail and sheriff's office in the State of Regardless, we are held to, and we strive to attain, the same standards as Los Angeles County at the other end of the spectrum. Sierra County has approximately 3,200 residents while Los Angeles County has nearly 10,000,000. Our jail has a maximum capacity to house fourteen inmates. We generally have three to six inmates at any one time locally and none to two housed in contract jails due to inmate classification reasons. We have had up to ten or twelve inmates housed locally for a period of three or so days once or twice in the past twenty-two years of my tenure. To cope with the situation, the sheriff's office has cross-trained and designated the dispatch and jail staff as "correctionscommunications officers". There are currently seven full-time corrections-communications officers, six dedicated exclusively to the corrections-communications officer functions and one split with regular duties as well as correctional sergeant/supervisor and administrative operations duties. The remaining needs of the corrections-communications officer operations are supplemented as needed by part-time extra-help corrections-communications officers when available and by deputy sheriffs when absolutely necessary due to shortness of staff. Staffing shortages can include sick leave, personal leave, injury, attrition and State mandated training. This often is with little to no notice and for an extended period of time. The hiring and training process can take up to a year or more for one position. With so few personnel on hand to draw from, this makes it very difficult to constantly have adequate staff with the current authorized and funded levels.

The corrections-communications officers fill both roles and functions in the sheriff's office in order to meet the needs of the county. There has long been discussion regarding what is the appropriate minimum operating level of staffing of our jail and dispatch center. Optimally, there would always be sufficient staff on-duty at any given moment to meet whatever the needs are of both the jail and dispatch center under all possible circumstances. The sheriff's office has always strived to do just that and all the while remain within the available budget allocations. Far and away the greatest cost to the sheriff's office is personnel costs. That includes for both patrol personnel, deputy sheriff-coroners, as well as the dispatch and jail operations by the corrections-communications officers. The issue of "more staffing" is directly and inseparably related to what the available public funds are to the county. It then becomes a matter and question of priority of how those funds are spread amongst all of the county offices to operate the county as a whole. The Sheriff has the responsibility to do everything in their power to remain within their current operating budget, or even to save funds for the general budget whenever possible. That includes to run the daily field patrol and emergency operations, criminal investigations, dispatch services, the jail, civil processes, court services and bailiff, inmate transports, search and rescue operations, coroner services, animal care services; etcetera.

Every year, the Sheriff submits a preliminary budget request to the County Auditor-Controller, as do all county office and department heads. Every year, the Sheriff estimates the next year budget needs based on the current year and best-made projections. Several areas of the Sheriff's operating budget needs are very unpredictable. This is because it is impossible to determine what type, volume and complexity of investigations will occur in the next year. That means it is impossible to determine how much overtime and related personnel costs will be required in the next fiscal year. Likewise the price of gasoline varies dramatically every year and there is no way to predict how many miles staff will drive in the coming year to handle calls for service. The number of coroner's cases and subsequent forensic pathology examination costs are unpredictable and can vary significantly sometimes based on a single tragic event. Lastly, it is impossible to predict how many people will commit crimes, be arrested and then be held in the county jail. The costs to house and medically care for inmates, for general health, dental and the costs for their prescribed medications vary considerably as well, sometimes at astonishing levels. Bearing this in mind, the cost for one corrections-communications officer is a huge budgetary commitment for the county.

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During an emergency, it would always be better to have adequate personnel on-duty in the dispatch center and jail to handle the incoming calls for service and other necessary functions. Those other related functions include: handling the required radio traffic to responding units, making the necessary phone calls for other requested resources (back-up deputy sheriffs, the C.H.P., fire personnel, ground and helicopter ambulances; etc.), effectively working the necessary computer operations, supervising and managing the jail. This does not include the "non-emergency" yet still obligated operations that the corrections-communications officers perform such as assisting the public at the office's front desk, records indexing and filing, processing of various county permits, handling of purchase orders, processing of court orders and arrest warrants and being the sole county data terminal for all other county offices.

Emergency calls for service are "routinely unpredictable". Emergency service calls are random events that are impossible to completely plan for. Therefore, the sheriff's office operates at the highest level it can routinely provide while staying within budget constraints. It is a constant concern. Yearly the Sheriff requests a budget increase for additional staff in order to have two committed full-time corrections-communications officers on-duty at all times. The overall constraints of the entire county's budget have not allowed for that. Every sheriff in the State is struggling to obtain additional staffing, for all operations; not just the jail. In Sierra County extra/additional staff is brought on-duty when there is a pending expectation of greater need, such as during special events and Holiday weekends. As well onduty staff has always been authorized to "call-in" off-duty personnel whenever the on-duty staff believes there is an immediate need for more staff at the time. With all this said, it has been the goal to have two dedicated corrections-communications officers on-duty at all times, but budget considerations have always restricted this in application. Unless or until the county receives enough funds to afford additional dedicated staff, this will continue to be a difficult issue that challenges the entire sheriff's office.

To mitigate this issue the sheriff's office has recently purchased mobile telephone headsets and obtained portable radio operations within the jail for the corrections-communications officers. This now allows the on-duty corrections-communications officer to still talk on the phone and to have direct radio contact with available field personnel even when the corrections-communications officer is tending to jail matters and not in the dispatch center. We also have implemented a schedule of controlling inmate movements during business hours to limit the number of inmates out if their actual cells to a number that can be adequately supervised and attended by the on-duty staff. Inmates are no longer essentially all released from their individual or shared cells, loose in the dayroom or rear sally-port/recreation area all at the same time. The corrections-communications officers are now directed to only release the number of inmates they believe they can adequately control with available on-duty staff. There are 168 hours in a We are generally staffing two corrections-communications officers on-duty for 108 of those hours. This is with the six authorized corrections-communications officers and one corrections sergeant/administrative operations supervisor positions. We currently do not have any part-time extrahelp corrections-communications officers, however we are in the hiring process for one to three of these positions which we usually maintain. Two additional full-time corrections-communications officer positions would alleviate most if not all of the gaps of double officer coverage, understanding there is little availability of more funding. The corrections-communications officer staffing is regularly supplemented as needed and available by cross-trained deputy sheriffs.

Also recently the sheriff's office is transitioning to a "silent jail" operation. This is a relatively new concept in the filed of correctional institutions which Sierra County is now also attaining. The process involves replacing a general volume speaker television with a system that has no audio sound from the actual television speakers. Instead, the inmates wear a hearing set which cancels out the background noise of the other inmates and instead allows them to listen to the television without distractions. This minimizes inmate-on-inmate irritation by tuning-out other annoying chatter and often disrespectful comments to each other. This allows the inmates to watch and listen to the television in the dayroom with ease while their movement is controlled because they remain in their secure cells. As well, this

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provides for better officer safety in that officers can better listen for issues in the jail instead of hearing the television set.

The sheriff's office has also been repeatedly trying to obtain funds, from various sources, including the newly created Community Corrections Partnership panel via Assembly Bill 109 to improve and increase the jail security; as well as to pay for additional corrections-communications officers Specifically, this source is available to provide funding for improvements to the rear jail sallyport/recreation yard if approved by the local Community Corrections Partnership panel. enclosed by a standard 12' high cyclone fence installed in the early 1990's and was designed and intended only to be secure enough to use as an inmate transport sally-port of restrained (handcuffed, etc.) prisoners. Per State guidelines of Titles 15 and 24, the sheriff's office has had to use this un-secure area as a "recreation yard" for the inmates, generally for three hours a week; also per inmate per State guidelines. This use of the currently configured sally-port as a "recreation yard" for un-secured inmates is inherently flawed and poses a real inmate security risk. Currently there is no security/safety coil or barbed wiring at the top. It has no cover enclosure and there is nothing to prevent someone from throwing items in or out of the area or from physically deterring or preventing persons from climbing over The sheriff's office is currently attempting to increase the security of this area to the best ability it can with whatever funds possible. Until this area is secured properly to meet Title 24, there is an unreasonable risk to the jail security. In fact, only a few years ago an intoxicated man fell into the rear sally-port area when he and his friend were climbing on the courthouse roof late at night.

The sheriff's office and entire staff are doing the best we can to provide the highest level of professional service possible within our allotted operating budget. The options are in effect to increase county revenues (fees and taxes) and/or to cut other county services elsewhere. That is a very difficult decision at the level of the County Board of Supervisors. The Board of Supervisors is pulled from all directions regarding budget allocations from requests from the public, various locally funded entities, the various nine or so county office/department heads and the many county employees. In a perfect world without any budgetary constraints, having a minimum of two dedicated corrections-communications officers on-duty at all times would be optimal for the sheriff's office.

Of note is that continually the Grand Jury cites the sheriff's office with under staffing in the jail. Not once have I been asked about what the "adequate staffing levels" for deputy sheriffs are. important to remember that the interior of the jail is one of the most controlled areas a person in law Access to the interior is controlled. enforcement can work. No one is allowed in without being screened for weapons. The arrestees have already been controlled by the arresting officer(s) and there should be no access to any weapons. In contrast, the deputy sheriffs in the field have to respond to in progress emergency circumstances at places they have no control over including the presence of weapons and other dangerous conditions. Repeatedly there is this focus to make the county provide remiss if I did not point out I have an equal, if not much greater, concern for the amount of deputy sheriffs we have available to respond to regular daily emergency calls for service. I too worked the night shift for many years often as the sole officer on-duty, at times for the entire county. I know what it is like to have to respond to an armed and intoxicated or under the influence aggressive person when I am alone and in a remote area. I recognize the need for appropriate staffing in the jail, however it is necessary to keep matters in perspective. The sheriff's office has to provide the level of service the public needs too, while not abdicating the responsibility of having to provide enough staff for the inmates. I ask that the Grand Jury to recognize this need too and understand that we are all doing everything we can to provide "adequate staffing", striving to provide for the needs of everyone. This includes the jail, the general public and the patrol officers in need of back-up assistance in the uncontrolled field.

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2) Referral from Board of Supervisors

I would like to acknowledge my respect as well as thank and recognize the members of the Grand Jury for their efforts. I also would like to note that I was not contacted by the members regarding this referral.

Closing-

During this year the Grand Jury met with the Sheriff on one or possibly two occasions including their annual inspection of the jail. It was a polite, sincere and professional encounter. I enjoyed the meeting, which as I recall was about an hour and a half in duration. I gave an over-view of the jail and the entire sheriff's office. I answered all questions I was asked. I was asked about budget matters, general staffing and the operations of the jail. I believe I left the meeting having answered all questions posed to me completely. I was not requested to meet with the Grand Jury for follow-up questions. The full sheriff's office and jail staff was made available as requested, as were the entire sheriff's office facilities and jail as well as the currently held inmates. All of the members of the Sierra County Sheriff's Office are proud to serve this county and we are each, especially I, thankful for the overwhelming support of our community. We well recognize the huge level of responsibility that the public has placed on and entrusted in us and we very much appreciate having our publicly funded jobs. Foremost, we are thankful to the public for the opportunity to do what we all entered this profession to do; which is "to serve and to protect". I personally again would like to thank the members of the Grand Jury for their courtesy, sincerity and the compassionate efforts each member has dedicated to this civil process.

Respectfully,

OHN I. EVANS Sjerra County Sheriff

Cc: Sierra County Board of Supervisors

Sierra County Counsel Sierra County Grand Jury

FILED

OCT 1 0 2012

SIERRA COUNTY SUPERIOR COURT

BY

DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SIERRA

In the Matter of Amended

2011-2012 Sierra County Grand Jury MINUTE ORDER

HONORABLE JOHN P. KENNELLY, JUDGE PRESIDING

The County Clerk is hereby directed to file the Board of Supervisors' Response

to Grand Jury Reports of 2012, received on October 4, 2012

I HEREBY CERTIFY the foregoing to be a full, true and correct copy of an order entered on the minutes of said Superior Court of the State of California, County of Sierra, this 10th day of October, 2012

ATTEST my hand and seal of the Superior Court of the State of California, County of Sierra, this 10th day of October, 2012

SIERRA SUPERIOR COURT

_Clerk

cc: Heather Foster Sierra County Clerk Courthouse Downieville, CA 95936

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SIERRA COUNTY

Board of Supervisors P.O. Drawer D Downieville, California 95936 Telephone (530) 289-3295 Fax (530) 289-2830

26 July 2012

Honorable John P. Kennelly Presiding Judge of the Superior Court County of Sierra PO Box 476 Downieville, CA 95936

Re: Response to Grand Jury reports of 2012

Dear Judge Kennelly:

Pursuant to section 933.05 of the California Penal Code, we offer the following comments with respect to the above entitled reports.

Report of June 4 regarding Sierra County Jail

While we do not take the minimum jail standards lightly, the board would remind all that those standards are guidelines and not law. Those guidelines are written after being vetted by any number of stakeholders involved in the corrections process. All should be reminded that the Sierra County jail is the smallest operating county correctional facility in the state and none of the guidelines are written with it specifically in mind. While some jail facilities are able to greatly influence the direction these standards take, Sierra County has had little to no input in this process. One also needs to consider the relative small numbers of inmates housed in this facility and a far more fair way of looking at this facility would be to consider staff to inmate ratios as well as physical response times. There is no doubt much potential for liability with any jail facility and it would be interesting to see a review of this facility's loss history over the last decade with respect to any other such facility in northern California. In making funding decisions, unfortunately the board of supervisors must weigh other competing demands for public services, balance those demands, as well as the cost/benefit ratio.

Report of June 15 regarding Chief Administrative Officer

This board appreciates the grand jury's review of this matter, a subject matter that is routinely pondered by many countywide. While no doubt the addition of a CAO could assist in some organizational effort, the real question is with respect to the cost/benefit radio with such a position. Identifying the true realistic total cost of such an office, along with support staff and services, and identifying funding sources, is especially tricky in the fiscal climate that Sierra County presently finds itself in. While this board does agree that present responsibility for personnel matters are bifurcated between a number of county managers, we disagree that that the structure is uncoordinated or haphazard nor do we agree that there is a revolving door of harassment claims. No public agency is immune from such claims, and we would instead suggest that Sierra County's loss history be compared to other northern California jurisdictions before such proclamations are made.

Under the state Constitution, three elected officials are required to be publicly elected and such are given a wide berth of independence. Those officials are the sheriff, assessor, and district attorney. While the board of supervisors does set overall county operating policy and the budgets of all agencies, the day to day operations of especially those three officials is independent and nothing would change with respect to oversight to those three with the addition of a CAO.

On the subject of vision and planning, the board of supervisors is designed to reflect the community at large and we also take that role seriously. It is hard to understand how the addition of a single not elected CAO would instantly give Sierra County a better vision or one accepted by all. While the current general plan estimates a different population within the county that differs from reality, calling the document "out of touch with reality" is both unfair and inaccurate. While most of the western world attempts to recover from the biggest financial setback since the great depression, many projections worldwide have fallen short of expectations. On the contrary, the Sierra County general plan has been complimented as being responsible and visionary, and the board continues to fund completion of implementation ordinances as funding allows. With any such document that attempts to represent a consensus of ideas, not all are going to be happy with every component within it.

The board recognizes that most public agencies do it fact operate with a CAO and that such an addition in Sierra County could be immensely helpful for a more coordinated operation of county government. A CAO, however, is not a fix all for all ills in county government and no reference to it is found in the state Constitution as it is a rather recent addition to government operation. While Sierra County is just one of a few county governments without a CAO, it might be noted that due to financial issues, neighboring Plumas County just unfunded its CAO and is presently operating without such a position. In light of Sierra County's current financial standing, now does not seem the most practical time to divert the necessary funding to create an independent CAO operation. The grand jury's estimate that \$237,000 seems woefully short, with the actually cost somewhere nearly double that amount. While the total budget of the Alpine County CAO is not clearly identified within one line item, it appears that the operation of that office appears to be at least \$327,432 with unknown additional costs absorbed by different budget units. This board appreciates this grand jury's recommendation and will continue to evaluate the alternatives.

Report of June 29 regarding Board of Supervisor's referral to the grand jury

On the subject of the referral, the board appreciates the grand jury's thoughtful review of this matter.

The board is clearly disappointed, however, with the broad brush in which this jury appears to paint county government due to isolated issues involving allegations of sexual harassment. Sierra County has a most professional group of responsible department managers that take their occupations seriously and do their best to carry out those responsibilities in a caring and professional manner. The county has taken a proactive approach to the subject of sexual harassment, undertaking annual training for over a decade. As with this referral, there is little direct action this board can take with respect to an independently elected official. While we abhor both the emotional and financial toll these incidences take on all, there is no indication that the events within county government are more prevalent than anywhere else nor are we exempt from frivolous claims.

While we appreciate the overall review of specific county operations by the grand jury, this board has no such luxury: we have a mandate to see that all required county operations function at a level either required by law or desired by the public and must do so with a limited budget. We try to make such decisions in a thoughtful manner, balancing the needs and desires of all countywide.

Once again, this board appreciates the work and effort of all involved as members of the 2011-2012 Sierra County Grand Jury.

Sincerely,

SIERRA COUNTY BOARD OF SUPERVISORS

PETER W. HUEBER

Chairman

1. W. A.

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OCT 1 0 2012

SIERRA COUNTY SUPERIOR COURT

DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SIERRA

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In the Matter of Amended

2011-2012 Sierra County Grand Jury

MINUTE ORDER

HONORABLE JOHN P. KENNELLY, JUDGE PRESIDING

The County Clerk is hereby directed to file the Response to the 2011/2012 Grand Jury Response to the Sierra County Board of Supervisors' Referral to the 2011/2012 Grand Jury, received on October 4, 2012

I HEREBY CERTIFY the foregoing to be a full, true and correct copy of an order entered on the minutes of said Superior Court of the State of California, County of Sierra, this 10th day of October, 2012

ATTEST my hand and seal of the Superior Court of the State of California, County of Sierra, this 10th day of October, 2012

SIERRA SUPERIOR COURT

Clerk

cc: Heather Foster Sierra County Clerk Courthouse Downieville, CA 95936

COUNTY OF SIERRA BOARD OF SUPERVISORS

PO Drawer D Downieville, CA 95936 Telephone: (530) 289-3295 Fax: (530) 289-2830 October 2, 2012

Honorable John P. Kennelly Presiding Judge of the Superior Court PO Box 476 Downieville, CA 95936

Response to the 2011-12 Grand Jury Response to the Sierra County Board of Supervisors' Referral to the 2011-12 Grand Jury

Dear Judge Kennelly:

As chairman of the Board of Supervisors I am writing to reply to the report by the 2011-12 Grand Jury in response to the Board of Supervisors' referral of the allegations made in the complaint by Tamara Browne against Sheriff John Evans. At the Board of Supervisors' meeting on April 17, 2012, the Board announced that it approved the settlement of the claim filed by Ms. Browne, as a former employee in the Sheriff's office, wherein she alleged that she had been sexually harassed by Sheriff Evans. Immediately after approving the settlement, as part of the public meeting, the Board addressed the recommendation from counsel that this matter be referred to the County Grand Jury for review, investigation and consideration as to whether an accusation for removal from office due to misconduct in office was appropriate. The Board's action clearly reflects the seriousness the Board attributed to the allegations of misconduct based on the information made available to the Board. Again, that action was taken as part of a public session that was open for all to hear.

In its final report, the 2011-12 Grand Jury stated that:

After close review of the testimony provided, research, review of the State Codes 3060 and 3061, and exhaustive deliberation, it remained unclear to the majority of the members of the grand jury that Sheriff Evans' conduct constituted willful malfeasance, misfeasance or nonfeasance. Nor could the majority of the grand jury

members conclude that Sheriff Evans' conduct was so corrupt that to file an accusation, followed by a jury trial and possible removal from office was warranted.

The Grand Jury report then states, "Sheriff Evans has violated basic codes of work place conduct and has demonstrated a lack of common sense. It is the conclusion of this Grand Jury that Sheriff Evans must be immediately and formally censured by the Sierra County Board of Supervisors."

The allegations set out by Ms. Browne in the claim that she filed with the County, alleging the sexually harassment by Sheriff Evans, is a public document, as is the Board's announcement of its settlement of that claim. In addition, as noted above, the Board's further public announcement that it was referring the matter to the grand jury for its investigation and possible action in the form of an accusation for removal from office clearly reflects the Board's strong concern over, and disapproval of, the Sheriff's conduct as it related to the allegations of sexual harassment. It is my opinion that the Board's actions here, together with the Grand Jury's report, effectively provide the public recognition of the problem with the alleged conduct and the Board's disapproval of any such conduct. Since the Board has no authority over the Sheriff and unlike the Grand Jury, cannot take any action against the Sheriff to remove him from office, I do not believe that any further action by the Board is warranted.

Peter Huebner

N.W. Stiller

Chairman, Sierra County Board of Supervisors