

This document is an extract of a larger publication.

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NEVADA COUNTY HOLDING FACILITY TRUCKEE COURTHOUSE

Summary

The Nevada County Grand Jury is statutorily required to inspect public prisons annually within Nevada County. The Nevada County Sheriff's Office has responsibility for the management of county correctional facilities, including inmate holding facilities at the Nevada County Sheriff's Office Truckee Sub-Station and the Nevada County Superior Court, Truckee Branch.

There is a holding area in the Nevada County Superior Court Truckee Branch used to hold inmates awaiting court appearances. This holding area and its access is one segment of this report.

The Nevada County Grand Jury is concerned about officer safety and court office privacy and safety. The Nevada County Grand Jury observed that there is open viewing of a court office. There are no barriers to keep an out of control vehicle from crossing the sidewalk adjacent to the building and impacting the outside wall of the court office.

The Nevada County Grand Jury also found that there is an open unsecured walkway that is used once the inmate has debarked from the transport van and prior to entering the courthouse interior. Once inside, there is a toilet facility that has a solid door that doesn't allow supervision by corrections staff of inmates using that facility.

The Nevada County Grand Jury strongly recommends the Superior Court, Nevada County Sheriff's Office and Nevada County Board of Supervisors work together to obtain funding for safety and security upgrades.

Reasons for Investigation

The California Penal Code §919(b) states, in part, "*The grand jury shall inquire into the condition and management of the public prisons within the county.*" The Nevada County Grand Jury (Jury) defines public prisons as any adult or juvenile correction or detention facility within the county.

Background

The Nevada County Sheriff's Office (NCSO) is a county sheriff's office within the State of California as defined by the California Penal Code. The NCSO is responsible for the management of the county correctional facilities located at the Truckee Sub-Station (Sub-

Station) and the Nevada County Superior Court, Truckee Branch (Court). The administrative staff of the Court is responsible for the daily functions of this facility.

Criminal and civil court activities are conducted within the government administrative building, also commonly known as the Joseph Center. The Joseph Center also houses Nevada County departmental offices.

The operation of the Joseph Center is governed by a Joint Occupancy Agreement (JOA) between Nevada County and the Judicial Council of California (Council). The Administrative Office of the Courts (AOC) implements the Council's policies and decisions.

The Court holding facility is a Type 1 facility as defined by the Corrections Standards Authority, an agency of the California Department of Corrections and Rehabilitation. The holding facility is a low-security risk, temporary holding facility. The holding facility is used to hold inmates awaiting court appearances that day.

The 2011-2012 Grand Jury Report contained two recommendations each for the NCSO and Nevada County Board of Supervisors (BOS):

- NCSO: R.5.: *“In conjunction with the Nevada County Board of Supervisors, secure the open inmate loading/unloading area at the Courthouse with a fenced enclosure, commonly known as a sally port.”*
- NCSO: R.6.: *“In conjunction with the Nevada County Board of Supervisors, secure the open walkway area used to transport inmates into the Court with a fenced enclosure.”*
- Board of Supervisors: R.7. *“Provide funding to secure the open inmate loading/unloading area at the Joseph Center with a fenced enclosure, commonly known as a sally port.”*
- Board of Supervisors: R.8. *“Provide funding to secure the open walkway area at the Joseph Center, used to transport inmates into the Courthouse, with a fenced enclosure.”*

The 2011-2012 Jury Report recommendations listed above were not implemented. The responses to the Jury report from the NCSO and BOS stated that funding was not available.

Procedures Followed

On September 12, 2013, the Jury inspected the holding area within the Joseph Center, located at 10075 Levon Avenue, Truckee, California. The Jury toured the facilities and interviewed representatives from the NCSO. On subsequent dates, the Jury interviewed Nevada County Superior Court staff and reviewed documents concerning the Truckee holding facilities and the Court.

Facts

- Fa. 1** Nevada County (County) is the owner of certain real property, located in the Town of Truckee and having a street address of 10075 Levon Avenue, commonly known as the Joseph Center.
- Fa. 2** The Joseph Center was built in the 1950s. The County purchased the property and structure and in 1992 remodeled the facility providing space for the Court and county offices.
- Fa. 3** Ownership of the Joseph Center is shared by the County [70.68%] and the Administrative Office of the Courts (AOC) [29.32%]. This arrangement was completed in 2008 and is known as: Transfer of Responsibility for Court Facility Agreement; Joint Occupancy Agreement (JOA), and Memorandum of Joint Occupancy Agreement.
- Fa. 4** Maintenance costs are shared by the above percentages in the common areas. The Court pays for their exclusive area and the County pays for their exclusive area. The County performs all maintenance and is reimbursed by the AOC. The County is responsible for the maintenance of the common area.
- Fa. 5** The common area includes: driveways, adjacent parking lot areas, walkways and any means of access to the portion of the Joseph Center.
- Fa. 6** At the end of Fiscal Year 2011-2012, there were 24 pending requests for funding of maintenance and security projects to the AOC for this facility. The total cost for these requests is \$2,601,301.
- Fa. 7** To date, none of the 24 requests have been funded by the AOC.
- Fa. 8** There is no NCSO facility in the building other than a holding cell.
- Fa. 9** Inmates are transported from the Wayne Brown Correctional Facility and the Sub-Station to the Court by armed NCSO correctional staff in a secure transportation vehicle.
- Fa. 10** There is no fenced enclosure, commonly known as a sally port, at this location.
- Fa. 11** At the Court, the inmates are moved from the secure vehicle and into the holding facility along an outdoor, unsecured, unfenced, public area, adjacent to an open parking lot.
- Fa. 12** This area is located in near proximity to a public library and county offices operating in the Joseph Center, frequented by the public.

- Fa. 13** Movement of inmates is in the immediate area of a Court office with exterior windows.
- Fa. 14** There is no one-way material on the window to prevent individuals from viewing all activities of the Court office at any time.
- Fa. 15** The parking lot is adjacent to the outside wall of a Court office.
- Fa. 16** On December 13, 2013, the AOC issued a memorandum outlining their safety inspection of the Joseph Center that identified areas of safety concern and recommended work.
- Fa. 17** The December 13, 2013 memorandum outlined and suggested upgrades to the following areas:
- barriers at the first floor Court office,
 - upgrade the windows at the first floor Court office,
 - addition of security cameras on second floor areas,
 - second floor Court office window upgrade,
 - partitions at the clerk's counter and,
 - first floor holding area restroom door modification.
- Fa. 18** The NCSO is responsible for submitting an annual budget BOS for approval.
- Fa. 19** The BOS has the responsibility of approving the NCSO's budget.

Findings

- Fi. 1** The current conditions at the Joseph Center are believed to pose an imminent threat of serious injury to the public, courthouse employees and county employees.
- Fi. 2** Safety improvements identified by the county and AOC have not been approved and/or funded by the AOC.
- Fi. 3** Proposed safety improvements would enhance the safety of the public and Court and county employees.
- Fi. 4** The BOS and the Court have not provided leadership in urging the AOC to release the necessary funds to improve the safety at the Joseph Center.

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Recommendations

- R. 1** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court should take all the measures necessary to move forward with a formal agreement which provides the recommended safety improvements immediately to ensure the safety of the public and employees.
- R. 2** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should prioritize funding requests to implement the recommended safety improvements.
- R. 3** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should coordinate efforts to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

Responses

Nevada County Sheriff: Finding 1 – 4 and Recommendations: 1, 2 and 3.
Due Date: July 29, 2014.

Nevada County Board of Supervisors: Finding 1 – 4 and Recommendations: 1, 2 and 3.
Due Date: August 29, 2014.

Nevada County Superior Court: Finding 1 – 4 and Recommendations: 1, 2 and 3.
Due Date: July 29, 2014.



**NEVADA COUNTY SUPERIOR COURT
OFFICE OF THE JURY COMMISSIONER
201 CHURCH STREET, SUITE 6
NEVADA CITY, CA 95959**

Thomas M. Anderson
*Presiding Judge of the
Grand Jury*

Audrey M. Golden
Deputy Jury Commissioner

(530) 265-1475

August 6, 2014

Keith Overbey Foreman
Nevada County Civil Grand Jury
950 Maidu Avenue
Nevada City, CA 95959

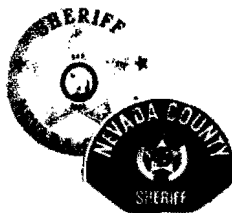
Dear Keith:

Enclosed is the response from the N.C. Sheriff's Office on the Holding Facility at the Truckee Courthouse.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey M. Golden", written over a horizontal line.

Audrey M. Golden

**NEVADA COUNTY
SHERIFF'S OFFICE****KEITH ROYAL**
SHERIFF/CORONER
PUBLIC ADMINISTRATOR

June 27, 2014 Updated on July 22, 2014

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, Ca. 95959

RE: Response to 2013-2014 Nevada County Holding Facility Truckee Courthouse Grand Jury Report

Dear Honorable Judge Anderson:

In response to the Grand Jury Report dated May 29, 2014 on the Nevada County Holding Facility Truckee Courthouse.

FINDINGS:

1. The current conditions at the Joseph Center are believed to pose an imminent threat of serious injury to the public, courthouse employees and county employees.

Disagree

Due to past experience, we do not feel an imminent threat of serious injury to the public, courthouse employees, and/or county employees exists. We have had an excellent record with our transport of prisoners from transportation units to the Courthouse in Truckee with no threats, escapes or injuries. We are committed to mitigating risk at every opportunity within the County's existing resources. Inmates are transported from the transportation unit to the Courthouse in customary restraints, including leg shackles and waist shackles.

2. Safety improvements identified by the county and AOC have not been approved and/or funded by the AOC.

Agree

3. Proposed safety improvements would enhance the safety of the public and Court and county employees.

Agree

4. The BOS and the Court have not provided leadership in urging the AOC to release the necessary funds to improve the safety at the Joseph Center.

Disagree

Our experience has been that both the BOS and the Court provide leadership and are prudent in prioritizing funding requests to the AOC.

RECOMMENDATIONS:

1. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court should take all the measures necessary to move forward with a formal agreement which provides the recommended safety improvements immediately to ensure the safety of the public and employees.

The recommendation will not be implemented on the part of the Nevada County Sheriff's Office because it is not reasonable. The State of California Administrative Office of the Courts has not approved \$2,601,301 in funding for prior requested maintenance and security projects. The Sheriff's Office has no information to doubt the Superior Courts ability to properly prioritize its funding requests and balance them against safety and security. The Sheriff's Office feels confident it will not be able to insert itself in the middle of the formal annual budget process between the Superior Court and the AOC, nor strike a formal agreement with the AOC outside that process. We are more than willing to work with them should funding from the AOC be identified.

2. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should prioritize funding requests to implement the recommended safety improvements.

The recommendation will not be implemented on the part of the Nevada County Sheriff's Office because it is not reasonable. It is the responsibility of the Nevada County Superior Court to make prioritized funding requests to the Administrative Office of the Courts, who in turn has the responsibility of prioritizing all funding requests for the entire State of California court system. The Nevada County Sheriff's Office has an advisory only role at the Court House when it comes to recommending security concerns. The Sheriff's Office is confident the Superior Court has properly prioritized its funding requests to the AOC and has put great weight into the safety and security of the Courthouse visitors. The Sheriff's Office has no control over funding decisions the AOC makes at a State level.

3. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should coordinate efforts to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

The recommendation will not be implemented on the part of the Nevada County Sheriff's Office because it is not reasonable. The end product of the recommendation is a completed project. As stated above, prioritized funding requests have been made by the

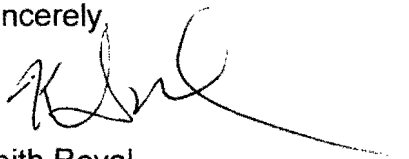
July 22, 2014

Page 2

Nevada County Superior Courts to the State of California Administrative Office of the Courts. As of this date, the AOC has decided not to fund those requests. The Sheriff's Office assumes other funding requests received by the AOC were given greater weight as to their priority. We are willing to work with the involved parties in an attempt to move these projects forward, however, with the apparent lack of funding from the AOC, we feel it is unlikely that this recommendation can be fully accomplished.

The Sheriff's Office would like to thank the members of the 2013-2014 Grand Jury for their participation and effort in preparing their reports. We are committed to providing the highest level of safety and security to our employees, the public, and inmates.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Royal', with a long horizontal flourish extending to the right.

Keith Royal
Sheriff-Coroner



**NEVADA COUNTY SUPERIOR COURT
OFFICE OF THE JURY COMMISSIONER
201 CHURCH STREET, SUITE 6
NEVADA CITY, CA 95959**

Thomas M. Anderson
*Presiding Judge of the
Grand Jury*

Audrey M. Golden
Deputy Jury Commissioner

(530) 265-1475

July 30, 2014

Keith Overbey Foreman
Nevada County Civil Grand Jury
950 Maidu Avenue
Nevada City, CA 95959

Dear Keith:

Enclosed is the response from the Courts on the Holding Facility at the Truckee Courthouse.

Sincerely,

A handwritten signature in blue ink, appearing to read "Audrey M. Golden".

Audrey M. Golden

SUPERIOR COURT OF THE STATE OF CALIFORNIA
County of Nevada

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CANDACE S. HEIDELBERGER,
Presiding Judge



G. SEAN METROKA,
Court Executive Officer

201 Church Street
Nevada City, CA 95959
(530) 265-1311

July 29, 2014

Grand Jury, County of Nevada
Attn: Keith Overbey, Foreperson
950 Maidu Avenue
Nevada City, CA 95959

Dear Mr. Overbey:

As requested in the 2013-2014 Nevada County Grand Jury Report on the subject of the Nevada County Holding Facility, Truckee Courthouse, the following response is submitted.

Findings

Fi.1 The current conditions at the Joseph Center are believed to pose an imminent threat of serious injury to the public, courthouse employees and county employees.

Disagree.

While we agree that the current conditions can and should be improved, the assertion that these conditions may "pose an imminent threat of serious injury to the public, courthouse employees and county employees" is greatly overstated. Many countermeasures are in place in this facility which significantly mitigates the potential risk to court users and employees.

Fi.2 Safety improvements identified by the county and AOC have not been approved and/or funded by the AOC.

Partially agree.

Several improvement requests have been approved and funded by the AOC. These include tinting of exterior windows, installing obstacles to prevent running a vehicle into sensitive areas of the building and installation of bullet resistant windows. There are other requests awaiting approval and funding, however, they are still in the approval process.

Fi.3 Proposed safety improvement would enhance the safety of the public and court and county employees.

Agree.

Fi.4 The BOS and the Court have not provided leadership in urging the AOC to release the necessary funds to improve the safety at the Joseph Center.

Disagree.

The Court has made several attempts to gain approval of our requests for safety improvements at the Joseph Center. We regularly follow up on these requests and provide additional information as necessary to establish an appropriate priority for funding. The plain fact is that funding across the State is too little to meet all security needs in all courthouses. The Grand Jury's assumption that this is a shortfall in leadership on the part of the BOS and Court completely lacks foundation.

Recommendations

- R.1** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Office of the Courts and the Nevada County Superior Court should take all the measures necessary to move forward with a formal agreement which provides the recommended safety improvements immediately to ensure the safety of the public and employees.

Partially implemented.

The Court has taken all appropriate steps to secure funding for the identified security improvements. The recommendation that this effort should be pushed forward at all cost clearly fails to consider the statewide limitations on funding and competing priorities – not the least of which is simply providing sufficient staffing of court operations to provide basic access to justice for all.

- R.2** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Office of the Courts and the Nevada County Superior Court staff should prioritize funding requests to implement the recommended safety improvements.

Partially implemented.

We have prioritized our security requests and submitted them to the State for consideration and funding. The State considers requests from all jurisdictions and establishes statewide priorities. We do not control that process.

- R.3** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Office of the Courts and the Nevada County Superior Court staff should coordinate efforts to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

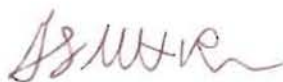
Partially implemented.

We do currently coordinate our efforts in this area and will continue to do so. Ensuring these improvements are completed is outside of our control and subject to approval and funding by the State.

Respectfully submitted,



Candace S. Heidelberger
Presiding Judge



G. Sean Metroka
Court Executive Officer

NEVADA COUNTY HOLDING FACILITY NEVADA COUNTY COURTHOUSE IN NEVADA CITY

Summary

The Nevada County Grand Jury is statutorily required to inspect public prisons annually within Nevada County. The Nevada County Sheriff's Office has responsibility for the management of county correctional facilities at Nevada County Courthouse in Nevada City.

Security is handled via a security desk that electronically controls access through the facility and has cameras to monitor conditions. Additional security cameras are needed.

The Nevada County Grand Jury strongly recommends the Superior Court, Nevada County Sheriff's Office and Nevada County Board of Supervisors work together to obtain funding for safety and security upgrades.

Reasons for Investigation

California Penal Code §919(b) states in part; "*The grand jury shall inquire into the condition and management of the public prisons within the county.*" The Nevada County Grand Jury (Jury) defines public prisons as any adult or juvenile correction or detention facility within the county.

Background

The Nevada County Sheriff's Office (NCSO) is a county sheriff's office within the State of California as defined by the California Penal Code. The NCSO is responsible for the management of the county correctional facilities located in the Nevada County Superior Court, Nevada City Branch (Courthouse).

This area has six cells on the ground floor for use as an inmate holding area for inmates awaiting court appearances. This area of holding has two entrances in use during normal business hours. Public entry is via Church Street where people are subject to security screening. The Washington Street door is primarily used for ingress and egress of inmates when the underground sally port is not used and for self surrender actions.

Administrative staff of the Courthouse (Staff) is responsible for the daily functions of this facility.

Procedures Followed

The Jury reviewed previous reports concerning holding facilities for reference. Interviews with courthouse management staff, NCSO courthouse staff and county facilities staff were conducted. On January 16, 2014, the Jury inspected the NCSO holding facility along with other areas of the Courthouse, located at 201 Church Street, Nevada City.

Facts

- Fa. 1** Nevada County (County) is the owner of certain real property located in Nevada City and having a street address of 201 Church Street. Ownership and maintenance responsibilities are: County, in all areas used for temporary holding; Administrative Office of the Courts (AOC) for all other areas.
- Fa. 2** The Courthouse was once the site of the Nevada County Jail and Courthouse. An annex was added to the structure for additional courtrooms and office space.
- Fa. 3** The Courthouse handles criminal court cases and various civil court actions.
- Fa. 4** In 1991 prisoners were moved from this facility to the Wayne Brown Correctional Facility.
- Fa. 5** A portion of the Courthouse now serves as a holding area for individuals scheduled for criminal court hearings. It also serves to conduct some booking duties for self-surrenders.
- Fa. 6** A self-surrender is when an individual knows that they are subject to arrest and voluntarily turn themselves in to custody.
- Fa. 7** Security is handled at a single security area (Desk). The Desk is responsible for access throughout the area via electric locks. Movement is recorded via a series of cameras.
- Fa. 8** The camera system is wholly owned by the AOC. The camera system is operated and monitored by NCSO staff.
- Fa. 9** There are cameras positioned throughout the interior and exterior of the Courthouse building.
- Fa. 10** The camera system ensures that NCSO movements and security activities are monitored through the AOC camera system.
- Fa. 11** Camera images are displayed on a computer screen that can have a single image, or multiple images viewed simultaneously.

- Fa. 12** The Washington Street intake hallway is used for movement of self-surrenders and inmate movement between a transport vehicle and holding cells.
- Fa. 13** There was an analog camera in the Washington Street intake hallway that was not compatible with the new security system and was removed and not replaced.
- Fa. 14** A digital camera for live view only is available for approximately \$300.00 to \$500.00. An additional digital recording system connection would cost \$1,000.00 to \$1,500.00.
- Fa. 15** The Staff has requested funds from the AOC for purchase and installation of additional external and internal cameras for:
- court rooms,
 - hallways,
 - underground garage area,
 - sally port.
- Fa. 16** The 2012-2013 Jury Report recommended upgrades to the Courthouse camera security system. Staff responded to the Jury Report Recommendations as follows:
- *“The current camera system was purchased by the Administrative Office of the Courts (AOC) and is the sole property of the Court. While the Court will coordinate any system changes and camera placement with the Nevada County Sheriff’s Department, we do not expect that the County will contribute funds to purchase additional cameras for a system that they do not own.”*
 - NCSO response was that *“...there was no funding available.”*
- Fa. 17** The NCSO response to the recommendation was that, *“...there was no funding available.”*
- Fa. 18** The NCSO is responsible for submitting an annual budget to the Nevada County Board of Supervisors (BOS) for approval.
- Fa. 19** The BOS is responsible for approval of the NCSO budget.

Findings

- Fi. 1** The safety of county and court employees and the public is compromised by a lack of security cameras in some areas of the Courthouse.
- Fi. 2** Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

- Fi. 3** NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.
- Fi. 4** This issue has been on the forefront for several years without resolution. The safety of the public, the Courthouse employees and NCSO staff remains at risk.

Recommendations

- R. 1** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.
- R. 2** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.
- R. 3** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

Responses

Nevada County Sheriff: Findings 1, 2, 3 and 4 and Recommendations: 1 and 2.
Due Date: August 16, 2014

Nevada County Board of Supervisors: Findings 2, 3 and 4 and Recommendations 1, 2 and 3
Due Date: September 16, 2014

Nevada County Superior Court: Finding 1, 2 and 3 and Recommendation 1, 2 and 3.
Due Date: August 16, 2014



**NEVADA COUNTY SUPERIOR COURT
OFFICE OF THE JURY COMMISSIONER
201 CHURCH STREET, SUITE 6
NEVADA CITY, CA 95959**

Thomas M. Anderson
*Presiding Judge of the
Grand Jury*

Audrey M. Golden
Deputy Jury Commissioner

(530) 265-1475

August 12, 2014

Keith Overbey Foreman
Nevada County Civil Grand Jury
950 Maidu Avenue
Nevada City, CA 95959

Dear Keith:

Enclosed is the response from Nevada County Superior Court of California, on the subject of the Nevada Holding Facility and the Recorders response for the Elections office.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey M. Golden", written over a horizontal line.

Audrey M. Golden

County of Nevada

CANDACE S. HEIDELBERGER,
Presiding Judge



G. SEAN METROKA,
Court Executive Officer

201 Church Street
Nevada City, CA 95959
(530) 265-1311

August 11, 2014

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
Superior Court of Nevada County
201 Church Street
Nevada City, CA 95959

Dear Judge Anderson:

As requested in the 2013-2014 Nevada County Grand Jury Report on the subject of the Nevada County Holding Facility, Nevada County Courthouse in Nevada City, the following response is submitted.

Findings

Fi.1 The safety of county and court employees and the public is compromised by a lack of security cameras in some areas of the Courthouse.

Agree.

Fi.2 Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

Agree.

Fi.3 NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.

Disagree.

The Court would certainly welcome any help the NCSO might offer to enhance the Court's camera system. However, this system is the Court's responsibility and we rely on the Judicial Council for funding to expand / enhance the system.

Recommendations

R.1 The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.

Not implemented.

The entities listed in this recommendation do not all share responsibility for improving the court's camera system and cannot be compelled to enter into a formal agreement in order to secure funding for this system.

- R.2** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.

Not implemented.

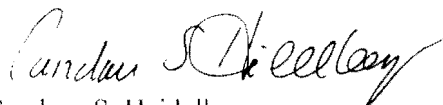
Funding for the Judicial Branch and our court is very limited and expenditures must be prioritized according to greatest need. While we agree that this system is important to the overall security of our court buildings, we cannot say with certainty that the proposed system enhancement should be made the highest priority for funding statewide – we rely on the Judicial Council to make that assessment and allocate funding accordingly.

- R.3** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

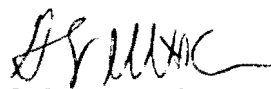
Partially implemented.

The Superior Court of Nevada County has requested State funding to implement the recommended safety improvements and we routinely follow up on our request to ensure it isn't lost in bureaucracy. We cannot ensure the work is completed until funding is allocated by the Judicial Council.

Respectfully submitted,



Candace S. Heidelberger
Presiding Judge



G. Sean Metroka
Court Executive Officer

**NEVADA COUNTY
SHERIFF'S OFFICE****KEITH ROYAL**
SHERIFF / CORONER
PUBLIC ADMINISTRATOR

July 11, 2014

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, Ca. 95959RE: Response to 2013-2014 Nevada County Holding Facility Nevada County Courthouse in
Nevada City Grand Jury Report

Dear Honorable Judge Anderson:

In response to the Grand Jury Report dated June 16, 2014 on the Nevada County Holding
Facility Nevada County Courthouse in Nevada City.**FINDINGS:**

1. The safety of county and court employees and the public is compromised by a lack of security cameras in some areas of the Courthouse.

Partially Disagree

Due to past experience, we do not feel an imminent threat of serious injury to the public, courthouse employees, and/or county employees exists. We have had an excellent record with our transport of prisoners from transportation units to the Courthouse in Nevada City. We are committed to mitigating risk at every opportunity within the County's existing resources. Inmates are transported from the transportation unit to the Courthouse in customary restraints, including leg shackles and waist shackles. Officer safety practices are primary in maintaining a safe environment while transporting prisoners; although security cameras may provide additional security.

2. Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

Partially Disagree

If money were no object it would be optimal for additional security cameras to be installed and additional staff to monitor the cameras. In light of the fact that the AOC has other funding requests to consider and a limited budget, the immediacy of the attention needed by the AOC is questionable on our part. Our opinion is that the AOC must determine their funding priorities.

3. NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.

Agree. We are always willing to participate in discussions with Court Staff regarding Courthouse Security.

4. This issue has been on the forefront for several years without resolution. The safety of the public, the Courthouse employees and NCSO staff remains at risk.

Partially Disagree

The issue has not been fully resolved, yet, due to past experience, we do not feel an imminent threat of serious injury to the public, courthouse employees, and/or county employees exists. We have had an excellent record with our transport of prisoners from transportation units to the Courthouse in Nevada City. We are committed to mitigating risk at every opportunity within the County's existing resources. Inmates are transported from the transportation unit to the Courthouse in customary restraints, including leg shackles and waist shackles. Officer safety practices are primary in maintaining a safe environment while transporting prisoners; although security cameras may provide additional security.

RECOMMENDATIONS:

1. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.

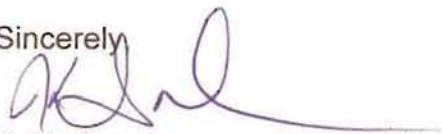
The recommendation will not be implemented because the Nevada County Sheriff's Office does not secure funding from the AOC for Court equipment.

2. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.

The recommendation will not be implemented because the Nevada County Sheriff's Office does not secure funding from the AOC for Court equipment.

The Sheriff's Office would like to thank the members of the 2013-2014 Grand Jury for their participation and effort in preparing their reports. We are committed to providing the highest level of safety and security to our employees, the public, and inmates.

Sincerely



Keith Royal
Sheriff-Coroner

COUNTY OF NEVADA
STATE OF CALIFORNIA
BOARD OF SUPERVISORS



Chair Nathan H. Beason, 1st District
Vice Chair Ed Scofield, 2nd District
Terry Lamphier, 3rd District
Wm. "Hank" Weston, 4th District
Richard Anderson, 5th District
Donna Landi, Clerk of the Board

September 16, 2014

The Honorable Thomas Anderson
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2013-14 Nevada County Civil Grand Jury Report,
Nevada County Holding Facility, Nevada County Courthouse, Nevada City.

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2013-14 Nevada County Civil Grand Jury Report, dated June 16, 2014, entitled *Nevada County Holding Facility, Nevada County Courthouse, Nevada City.*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses are based on either personal knowledge, examination of official County records, information received from the Sheriff, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2013-14 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

Nathan H. Beason, Chair
Nevada County Board of Supervisors

cc: ✓ Keith Overbey, Foreman, Grand Jury
Keith Royal, Nevada County Sheriff
Rick Haffey, County Executive Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617
phone: 530.265.1480 | fax: 530.265.9836 | toll free: 888.785.1480 | email: bdofsupervisors@co.nevada.ca.us
website: <http://www.mynevadacounty.com/nc/bos>

NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2013-2014 Nevada County Civil Grand Jury Report
Nevada County Holding Facility Nevada County Courthouse in Nevada City

DATED: June 16, 2014

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS :

FINDING 2: Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

Disagree.

The Nevada County Board of Supervisors provides leadership in working with the Sheriff and Court to help direct funding to the highest priorities. Safety and security concerns have not risen to a level high enough to make this a priority project.

FINDING 3: NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.

Agree.

The Nevada County Sheriff Office has agreed to participate in discussions with Court Staff regarding Courthouse Security.

Finding 4: This issue has been on the forefront for several years without resolution. The safety of the public, the Courthouse employees and NCSO staff remains at risk.

Disagree.

The Nevada County Board of Supervisors concurs with the Nevada County Sheriff Office that there is not an imminent threat of serious injury to the public, the Courthouse employees and NCSO staff. The NCSO has an excellent record in transporting prisoners from transportation unit to the Courthouse.

B. RESPONSES TO RECOMMENDATIONS:

Recommendation 1: The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.

This recommendation will not be implemented. The Administrative Office of the Courts ultimately prioritizes funding requests and balances them against safety and security. Current funding is limited and there are other priority projects that remain unfunded. The County is open to supporting other alternatives, which includes housing a criminal court next to the Wayne Brown Correctional facility.

Recommendation 2: The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.

This recommendation will not be implemented. See R.1. above.

Recommendation 3: The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

This recommendation will not be implemented. See R.1. above.

NEVADA COUNTY ELECTIONS OFFICE

Summary

The Nevada County Grand Jury has monitored Nevada County General Elections in 2008, 2010 and 2012, and subsequently issued reports on the conduct of those elections. Most of the recommendations made by the Grand Jury were implemented by the Nevada County Clerk Recorder/Registrar of Voters.

A citizen complaint was received after the Nevada County Grand Jury 2012 Election Report was issued. As a result, the 2013-2014 Nevada County Grand Jury opened an investigation into the 2012 General Presidential Election.

The 2013-2014 Nevada County Grand Jury found concerns in the conduct of the 2012 General Presidential Election. The 2013-2014 Nevada County Grand Jury has recommended modifications to the poll worker training that may result in a more positive voter experience on Election Day. The recommendations may also help to reduce costs associated with processing provisional ballots.

The most egregious problem found in this review is that, for the past four years, the Nevada County Superior Court has failed to provide a list of convicted felons to the Nevada County Clerk Recorder/Registrar of Voters with information required by Elections Code. This information is necessary to properly ensure the integrity of the voter rolls. Further, the Nevada County Clerk Recorder/Registrar of Voters did not open a dialog during the same period with the Superior Court to ensure the provision of the required information.

The Nevada County Grand Jury recommends that the Nevada County Clerk Recorder/Registrar of Voters and the Nevada County Superior Court develop and adopt a formal agreement, which establishes an effective communication process between the two offices, and defines their respective roles and responsibilities to ensure compliance with the Elections Code.

It is further recommended that the Nevada County Clerk Recorder/Registrar of Voters should continue to use reports from the Election Integrity Project as an investigative tool to ensure the accuracy of the voter rolls.

Reasons for Investigation

The Nevada County Grand Jury (Jury) received a citizen's complaint that some sections of the California Elections Codes (Elections Code) may not have been followed during the course of the 2012 General Presidential Election in Nevada County.

Background

The Nevada County Clerk-Recorder/Registrar of Voters (Registrar of Voters) has the responsibility to select polling places in accordance with the Elections Code. Each polling place contains one or more precincts. Each precinct is staffed by a precinct board (poll workers), consisting of an inspector and two or more judges. The inspector has overall responsibility for the election activities of that precinct. All poll workers are volunteers and are required to attend poll worker training.

Poll workers' duties include:

- knowing and enforcing Elections Code and regulations,
- knowing the voting process,
- ensuring ballot security,
- instructing voters in proper operation of electronic voting equipment,
- answering voter's questions,
- trouble-shooting problems.

The Elections Code provides various methods of voting, which includes both Vote-by-Mail (VBM) and use of a provisional ballot.

VBM ballots must be deposited in an envelope that bears the signature of the voter on the inside flap of the envelope. VBM ballots can be sent by mail to, or dropped off at, the Nevada County Elections Office (Elections Office) prior to Election Day. VBM ballots can also be dropped off at any precinct or the Elections Office on Election Day.

Provisional ballots issued on Election Day, pursuant to Elections Code §14310, are verified at the Elections Office after all regular and VBM ballots have been processed.

The Elections Office is required to purge names from the voter rolls in a timely manner pursuant to Elections Code §2211 and §2212.

Procedures Followed

The Jury interviewed:

- staff members of the Elections Office,
- polling place observers,
- a precinct officer,
- staff members of the Superior Court.

The Jury also visited the Elections Office to observe procedures and evaluate equipment operation. In addition the Jury reviewed a document entitled *Voting and Registering to Vote, The 2013 Report of the Nevada County Elections Office*, sent to the Nevada County Board of Supervisors on March 18, 2013.

Facts

Fa. 1 Elections Code §14216 states, in part, *“Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address.”*

Fa. 2 The *County of Nevada Poll Worker Training Manual* (Training Manual) provides under Module 3, Page 5, in part, the following:

- “1. The Roster Judge asks the voter to state his/her name and residence address.*
- 2. Then finds the voter in the Master Roster, while the Tally Judge finds the voter in the Tally Index.*
- 3. The Roster Judge then repeats the voter’s name and address.”*

Fa. 3 Poll workers did not consistently repeat the voter’s name and/or address in all precincts.

Fa. 4 Elections Code §14310 provides, among other things, *“(a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows: (1) An elections official shall advise the voter of the voter’s right to cast a provisional ballot. (2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter’s registration and eligibility to vote. The written instructions shall include the information set in subdivisions (c) and (d). (3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.”*

Fa. 5 The number of provisional ballots cast in previous general elections as reported in the *Voting and Registering to Vote, The 2013 Report of the Nevada County Elections Office* are as follows:

- 2004 –998
- 2006 –155
- 2008 –1,270
- 2010 –1,302
- 2012 –1,955

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Fa. 6 Elections Office staff stated the approximate cost to process various ballots is:

- \$4.00 per VBM ballot,
- \$17.00 per Polling Place ballot,
- \$5.00 to \$20.00 additional per provisional ballot.

Fa. 7 Prior to each election, sample ballots are mailed to the address of registered voters and include the location of the voter's assigned polling place.

Fa. 8 Voters who arrive to vote at an incorrect polling place are given the option to go to their assigned polling place or to vote using a provisional ballot at the incorrect location.

Fa. 9 The provisional ballot provided may differ from the ballot issued for the voter's assigned polling place.

Fa. 10 The Training Manual does not provide an instruction for poll workers to advise voters that a provisional ballot may differ from the ballot issued for their assigned polling place.

Fa. 11 Module 3, Page 7 of the Training Manual includes the following:

“Vote-By- Voters Dropping Mail Off Ballot (sic)

Most Vote-by-Mail voters will simply want to drop their ballot off at the polling place.

Instruct voters delivering their Vote-by-Mail ballot to the poll location to make sure their envelope is signed and sealed, and then have the voter deposit his or her ballot into the blue VBM Ballot Box. Remember if the voter does not sign his or her ballot envelope, the enclosed ballot cannot be counted.”

Fa. 12 The blue VBM ballot boxes are placed in polling places for the deposit of VBM ballots.

Fa. 13 The blue VBM ballot boxes are often placed too far from polling place workers for them to ask voters if the VBM envelope is signed.

Fa. 14 When the VBM envelope is missing the signature of the registered voter, the ballot requires special handling which increases costs.

Fa. 15 Pursuant to *California Secretary of State Memorandum #12143* to all County Clerk/Registrar of Voters dated May 7, 2012, the Elections Code allows polling place observers to be present before, during and after an election.

Fa. 16 Each observer at the Elections Office is instructed to stand only in designated areas approximately 18 inches square to:

- preserve privacy of the votes cast,
- not interfere with staff and,
- not touch any of the ballots or machinery.

- Fa. 17** Some observers felt unwelcome and unable to effectively observe during the time they were at the Elections Office.
- Fa. 18** California state law prohibits persons imprisoned or on parole for the conviction of a felony from voting.
- Fa. 19** Elections Code §2212 states, *“The clerk of the superior court of each county, on the basis of the records of the court, shall furnish to the chief elections official of the county, not less frequently than the first day of April and the first day of September of each year, a statement showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the clerk’s last report. The elections official shall, during the first week of April and the first week of September in each year, cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony. The clerk shall certify the statement under the seal of the court.”*
- Fa. 20** California Secretary of State Memorandum #11134, dated December 5, 2011 (Memorandum #11134) states, in part,
- “Jail commitment as a condition of probation in lieu of felony sentencing: No change. The person has been convicted of a felony, but the judge has suspended imposition or execution of a felony sentence, instead placing the person on probation with the condition that the person serve one year or less in county jail. While in jail as a condition of this form of probation, the person retains the right to vote because the imposition or execution of the felony sentence was suspended.”*
- Fa. 21** The Nevada County Superior Court (Court) did not submit felony statements covering the period between 2009 and September, 2013 required by Elections Code §2212 to the Registrar of Voters.
- Fa. 22** The Elections Office did not notify the Court or inquire of the Court regarding the missing felony statements pursuant to Elections Code §2212.
- Fa. 23** The Court provided the Registrar of Voters with a document entitled *Felony Conviction Report* dated October 4, 2013 identifying 109 convicted felons covering a period from April 1, 2013 to August 31, 2013.
- Fa. 24** The *Felony Conviction Report* dated October 4, 2013 was missing many required dates of birth and/or addresses.
- Fa. 25** Elections Code §2212 has no requirement for the Court to submit to the Elections Office the names of convicted felons who retained their right to vote.

- Fa. 26** The *Felony Conviction Report*, dated October 4, 2013, did not specify convicted felons who retained their right to vote pursuant to Memorandum #11134.
- Fa. 27** The Elections Office took no action to determine the voter eligibility of convicted felons listed on the report dated October 4, 2013.
- Fa. 28** The Elections Office did not cancel the affidavits of voter registration of any of the convicted felons listed on the October 4, 2013 report.
- Fa. 29** The Elections Office has not obtained the missing felony statements from the Court for the period between 2009 and April of 2013.
- Fa. 30** The Court has no plans to provide the missing felony statements to the Elections Office for the period between 2009 and April of 2013, due to the Court's stated lack of financial resources and other priorities in the daily operations of the Courts.
- Fa. 31** Elections Code §2211 states, "*(a) Any person who (1) has plead not guilty by reason of insanity and who has been found to be not guilty pursuant to Section 1026 of the Penal Code, (2) has been found incompetent to stand trial and whose trial or judgment has been suspended pursuant to Section 1370 of the Penal Code, (3) has been convicted of a felony and who was judicially determined to be a mentally disordered sex offender pursuant to former Section 6300 of the Welfare and Institutions Code, as repealed by Chapter 728 of the Statutes of 1981, or (4) has been convicted of a felony and is being treated at a state hospital pursuant to Section 2684 of the Penal Code shall be disqualified from voting or registering to vote during that time that the person is involuntarily confined, pursuant to a court order, in a public or private facility. (b) Upon the order of commitment to a treatment facility referred to in subdivision (a), the court shall notify the elections official of the county of residence of the person and order the person to be disqualified of the county of residence of the person to be disqualified from voting or registering to vote. (c) If the person is later released from the public or private treatment facility, the court shall notify the county election official of the county of residence of the person that the right to register to vote is restored.*"
- Fa. 32** The Court was unable to provide documentation that the notification(s) required by Elections Code §2211 had been sent to the Registrar of Voters.
- Fa. 33** The Elections Office was unable to provide evidence of receipt of notification, from the Court, per Elections Code §2211.
- Fa. 34** There is no agreement, policy or procedure describing the roles and responsibilities of the Court and the Elections Office in complying with Elections Codes §2211-2212 and Memorandum #11134.

- Fa. 35** The Election Integrity Project, a California corporation (EIP), is a non-partisan volunteer based organization on file with the Secretary of State and is active and in good standing.
- Fa. 36** EIP issued a document, entitled *County Voter Roll Findings Summary Report* dated November 24, 2013, for Nevada County, which reported the following suspected voter registration abnormalities:
- 34 pairs of duplicate registrations with the same address,
 - 4 pairs of duplicate registration with different addresses,
 - 2 pairs double voting,
 - 35 deceased registrants,
 - one voting after date of death.
- Fa. 37** The complete report entitled *County Voter Roll Finding* issued by EIP was provided to the Registrar of Voters without cost.
- Fa. 38** The Elections Office acknowledged receipt of the *County Voter Roll Finding* report issued by the EIP.
- Fa. 39** The Elections Office is currently in the process of merging duplicate voters and cancelling deceased voters from the voter rolls using the “*County Voter Roll Finding*” report issued by the EIP as a tool.
- Fa. 40** The Elections Office review, as of April 2, 2014 has thus far merged 38 duplicate voters and has cancelled 12 deceased voters from the voter registration rolls.

Findings

- Fi. 1** Election policies, procedures, rules and/or instructions are not applied in a consistent manner at polling places (Fa.1, Fa.2, Fa.3).
- Fi. 2** Poll workers are not instructed:
- to advise voters that provisional ballots may differ from the voters’ ballots provided at the correct polling place and,
 - to advise that voters they may be unable to vote on candidates and ballot measures specific to their residence if they vote provisionally. (Fa.7-Fa.10).
- Fi. 3** There is no consistent verification by poll workers that VBM envelopes bear the signature of the registered voter (Fa.11-Fa.14).
- Fi. 4** The number of voters using provisional ballots has increased approximately 96% between 2004 and 2012. (Fa. 5)

- Fi. 5** The increase in voter use of provisional ballots has increased the overall costs to Nevada County to conduct elections. (Fa.5, Fa.6)
- Fi. 6** The increased expense of processing provisional ballots may be reduced if poll workers encourage voters to go to their correct polling place (Fa.7-Fa.10).
- Fi. 7** The rules regarding observers allowed before, during and after elections have been followed by the Elections Office (Fa.15, Fa.16).
- Fi. 8** The Elections Office and the Court have no formal agreement regarding their roles and responsibilities to comply with Elections Code §2211 and §2212 (Fa.34).
- Fi. 9** There is a lack of effective communication between the Elections Office and the Court regarding compliance with Elections Code §2211 and §2212 (Fa.19 thru Fa.34).
- Fi. 10** Since 2009, the lack of communication between the Elections Office and the Court had led to a failure to comply with the requirements of Elections Code §2211 and §2212, which affects the integrity of the voter rolls (Fa.19 thru Fa.34).
- Fi. 11** The *Election Integrity Project* report dated November 24, 2013 received by the Elections Office is a useful tool in assisting the Registrar of Voters to investigate duplications or other errors in the voter rolls (Fa.36).

Recommendations

- R. 1** The Nevada County-Clerk/Registrar of Voters should direct the Elections Office to develop and implement policies and procedures to ensure consistent application of existing policy and procedures, specifically:
- to ensure all poll workers repeat the name and address of each voter as they check in to vote (Fi.1),
 - to ensure poll workers advise voters that a provisional ballot, if chosen, could be different than the ballot from the voter's assigned polling place (Fi.2),
 - to ensure poll workers suggest to voters they go to their assigned polling place (Fi.2),
 - to place the blue VBM ballot boxes so poll workers may verbally ensure that the VBM envelope is signed by the registered voter (Fi.3).
- R. 2** The Nevada County Clerk-Recorder/Registrar of Voters and the Nevada County Superior Court should develop and adopt a formal agreement which:
- establishes an effective communication process between the Nevada County Elections Office and the Nevada County Superior Court with respect to ongoing compliance with Elections Code §2211 and §2212 (Fi.9, Fi.10),

- defines the respective roles and responsibilities of the Nevada County Elections Office and the Nevada County Superior Court with respect to compliance with Elections Code §2211 and §2212 (Fi.8),
 - ensures the information received by the Elections Office is in a useable format,
 - provides retroactive reporting for the period of 2009 through 2014 with respect to compliance with Elections Code §2211 and §2212 (Fi.10).
- R. 3** The Nevada County Clerk-Recorder/Registrar of Voters should direct the Elections Office to immediately review and update the voter registration rolls to ensure that Nevada County is in compliance with Elections Code §2211 and §2212 (Fi.10).
- R. 4** The Nevada County Elections Office should continue using information provided by the EIP as a tool to ensure the accuracy of voter registration rolls (Fi.11).

Responses

The Nevada County Clerk-Recorder/Registrar of Voters: Findings 1 through 10;
Recommendations 1 through 4
Due Date: August 11, 2014.

The Nevada County Superior Court: Findings 8 through 10; Recommendation 2
Due Date: August 11, 2014.



CLERK RECORDER-REGISTRAR OF VOTERS

GREGORY J. DIAZ

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August 11, 2014

Hand-delivered to Nevada County Superior Court 8/11/14
Emailed on 8/11/14

Honorable Thomas Anderson
Presiding Judge of the Grand Jury
Nevada County Superior Court
201 Church Street
Nevada City, California 95959

Response to the Grand Jury Report Dated June 11, 2014 Nevada County Elections Office

Dear Judge Anderson,

As required by California Penal Code §933, the Clerk-Recorder/Registrar of Voters hereby submits his response to the 2013-2014 Nevada County Elections Grand Jury report, as requested by members of the Grand Jury.

FINDINGS:

1. Election policies, procedures, rules and/or instructions are not applied in a consistent manner at polling places.

Partially Agree:

While it is true that we cannot be certain that all 300 poll workers accurately follow election policy at all times, from observation, poll workers are adhering to procedure. The Elections Office thoroughly trains poll workers during a four hour pre-election training class, after which, poll workers are sent home with all necessary materials and information (which is also posted on our website). During training it is emphasized that poll workers must repeat the name and address back to the voter upon check-in, which is a procedure we will continue to stress during training. Furthermore, Field Elections Deputies visit polling places during the entirety of Election Day to provide support and to ensure that correct procedures are being implemented. The Clerk-Recorder/Registrar of Voters, himself, as well as Elections Office staff visit polling locations across the county every election and have physically observed poll workers consistently following policy and procedure. For the most part, Nevada County poll workers are honest, hardworking individuals who do a great job, and we are grateful for their dedicated efforts.

2. Poll workers are not instructed:
 - To advise voters that provisional ballots may differ from the voters' ballots provided at the correct polling place and,
 - To advise the voters they may be unable to vote on candidates and ballot measures specific to their residence if they vote provisionally.

Partially Agree:

Poll workers do not have the ability to determine the correct ballot style for an individual voter. That is why this policy is not included in poll worker training or California Elections Code. That being said, we will not be advising poll workers to inform voters that they may not be able to vote on candidates and ballot measures specific to their residence. In addition, the Elections Office is actively taking measures to reduce the number of provisional ballots issued. One of these steps includes the implementation of e-poll books, which are electronic rosters. During the June 2014 Primary Election, the number of provisional ballots issued decreased significantly. The implementation of these devices county-wide will allow poll workers to easily redirect voters to their correct polling location, subsequently reducing the number of provisional ballots issued.

3. There is no consistent verification by poll workers that VBM (Vote-by-Mail) envelopes bear the signature of the registered voter.

Agree

4. The number of voters using provisional ballots has increased approximately 96% between 2004 and 2012.

Agree

5. The increase in voter use of provisional ballots has increased the overall costs to Nevada County to conduct elections.

Agree

6. The increased expense of processing provisional ballots may be reduced if poll workers encourage voters to go to their correct polling location.

Agree

7. The rules regarding observers allowed before, during, and after elections have been followed by the Elections Office.

Agree

8. The Elections Office and Court have no formal agreement regarding their roles and responsibilities to comply with Election Code §2211 and §2212.

Agree

9. There is a lack of effective communication between the Elections Office and the Court regarding compliance with Elections Code §2211 and §2212.

Disagree:

The Elections Office and the Superior Court of Nevada County through G. Sean Metroka, the Court Executive Officer, have engaged in effective communication regarding compliance with California Elections Code §2211 and §2212. Correspondence, beginning September 2009 through 2010, documents the latest email thread between then Assistant Clerk-Recorder, Gail Smith, and G. Sean Metroka, engaging in dialogue regarding Elections Codes §2211 and §2212.

10. Since 2009, the lack of communication between the Elections Office and the Court has led to a failure to comply with the requirements of Elections Code §2211 and §2212, which affects the integrity of the voter rolls.

Disagree:

The report required by EC §2212 compels the Clerk of the Superior Court, based upon the records of the court, to produce and furnish the Registrar of Voters with a statement showing the names, addresses, and dates of birth of all persons who have been convicted of a felony since the clerk's last report. The court has consistently complied with this code section. Pursuant to EC §2212, the Registrar of Voters shall cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony. The Elections Office has consistently complied with this code section. As per the dialogue with G. Sean Metroka, the Court Executive Officer, the information necessary for the Elections Office to comply with EC §2212 is not ascertainable on the basis of the courts records.

Moreover, further clarification of Elections Code §2212 comes in the form of 2002 Law Revision Commission Comments regarding the county clerk's alleviation of those powers, duties, and responsibilities:

**Law Revision Commission Comments
2002 Amendment**

“Section 2212 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§ 69840 (powers, duties, and responsibilities of clerk of the court and deputy clerk of the court), 71620 (trial court personnel).

The section is also amended to eliminate certification of which felons remain imprisoned; that determination may not be ascertainable on the basis of court records. [32 Cal.L.Rev.Comm. Reports148 (2002)].”

The report furnished to the Elections Official, pursuant to EC §2212, will not have sufficient information for the Elections Official to cancel affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony.

RECOMMENDATIONS:

1. The Nevada County-Clerk/Registrar of Voters should direct the Elections Office to develop and implement policies and procedures to ensure consistent application of existing policy and procedures, specifically:
 - To ensure all poll workers repeat the name and address of each voter as they check in to vote,
 - To ensure that poll workers advise voters that a provisional ballot, if chosen, could be different than the ballot from the voter’s assigned polling place,
 - To ensure poll workers suggest to voters they go to their assigned polling place,
 - To place the blue VBM ballot boxes so poll workers may verbally ensure that the VBM envelope is signed by the registered voter.

The recommendation will not be implemented because it is not warranted or is not reasonable.

Elections staff have been working to ensure that poll workers are repeating back the voters’ name and address, as discussed in Finding 1, and we will continue to emphasize this point in the future.

As explained in Finding 2, we do not instruct poll workers to inform voters that a provisional ballot might not be their assigned ballot because this is not required by California Elections Code, and because there is no way for a poll worker to determine this information. Poll workers are instructed and encouraged to redirect voters to their correct

polling location when possible. The implementation of e-poll books will provide the correct polling location of individual voters, allowing poll workers to redirect the voter to the assigned polling location, consequently, reducing the number of provisionals.

Finally, signing of the Vote-by-Mail envelope is the responsibility of the voter and is clearly instructed on the envelope. It is not the responsibility of the poll workers to check that a Vote-by-Mail ballot being dropped off has been signed. Checking for a signature would require the poll worker to remove the protective privacy strip on the outside of the envelope, a task which is typically done in the security of the Elections Office.

2. The Nevada County-Clerk/Registrar of Voters and the Nevada County Superior Court should develop and adopt a formal agreement which:
 - Establishes an effective communication process between the Nevada County Elections Office and Nevada County Superior Court with respect to ongoing compliance with Elections Code §2211 and §2212,
 - Defines the respective roles and responsibilities of the Nevada County Elections Office and the Nevada County Superior Court with respect to compliance with Elections Code §2211 and §2212,
 - Ensures the information received by the Elections Office is in a useable format,
 - Provides retroactive reporting for the period of 2009 through 2014 with respect to compliance with Elections Code §2211 and §2212.

The recommendation will not be implemented because it is not warranted or is not reasonable.

This recommendation will set up a procedure which is outside the parameters of both the California Elections Code and the California Rules of Court. The Elections Office will continue to comply with the provisions of the Elections Code. If and when the legislative body of the State of California exacts new statutes or amends existing statutes, the Elections Office will comply with the legislative mandates. When the Elections Office receives the information necessary to cancel the affidavits of registration for those currently imprisoned or on parole for the conviction of a felony, we immediately cancel the affidavits of registration for those persons.

3. The Nevada County Clerk-Recorder/Registrar of Voters should direct the Elections Office to immediately review and update the voter registration rolls to ensure that Nevada County is in compliance with Elections Code §2211 and §2212.

This recommendation has been implemented.

Since June 26, 2007, the Registrar of Voters has continually reviewed and updated the voter registration rolls to ensure Nevada County is in compliance with Election Code

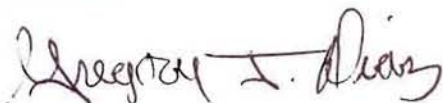
§2211 and §2212. Once again, when the Elections Office receives the information necessary to cancel the affidavits of registration for those imprisoned or on parole, we do so.

4. The Nevada County Elections Office should continue using information provided by the EIP as a tool to ensure the accuracy of the voter registration rolls.

The recommendation will not be implemented because it is not warranted or is not reasonable.

The Election Integrity Project is one of several groups, clubs, resources, organizations, and individuals that we receive information from on a daily basis. We certainly consider all of the information given to us and when we are compelled to act, we act accordingly to uphold California Elections Code.

Sincerely,



Gregory J. Diaz
County Clerk-Recorder
Registrar of Voter
950 Maidu Ave, Ste 250
Nevada City, CA 95959
www.mynevadacounty.com



**NEVADA COUNTY SUPERIOR COURT
OFFICE OF THE JURY COMMISSIONER
201 CHURCH STREET, SUITE 6
NEVADA CITY, CA 95959**

Thomas M. Anderson
*Presiding Judge of the
Grand Jury*

Audrey M. Golden
Deputy Jury Commissioner

(530) 265-1475

August 12, 2014

Keith Overbey Foreman
Nevada County Civil Grand Jury
950 Maidu Avenue
Nevada City, CA 95959

Dear Keith:

Enclosed is the response from Nevada County Superior Court of California, on the subject of the Nevada County Elections Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey M. Golden", written over a horizontal line.

Audrey M. Golden

Handwritten initials or a signature in the bottom right corner of the page.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
County of Nevada

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CANDACE S. HEIDELBERGER,
Presiding Judge



G. SEAN METROKA,
Court Executive Officer

201 Church Street
Nevada City, CA 95959
(530) 265-1311

August 11, 2014

The Honorable Thomas M. Anderson
Presiding Judge of the Grand Jury
Superior Court of Nevada County
201 Church Street
Nevada City, CA 95959

Dear Judge Anderson:

As requested in the 2013-2014 Nevada County Grand Jury Report on the subject of the Nevada County Elections Office, the following response is submitted.

Findings

Fi.8 The Elections Office and the Court have no formal agreement regarding their roles and responsibilities to comply with Elections Code §§ 2211 and 2212.

Agree.

The Elections Code does not require a formal agreement between the Elections Office and the Court regarding compliance with Elections Code §§ 2211 and 2212.

Fi.9 There is a lack of effective communication between the Elections Office and the Court regarding compliance with Elections Code §§ 2211 and 2212.

Partially agree.

While there was a break in communication between the Elections Office and the Court, the issues have been addressed and we have been communicating effectively again since August 2013.

Fi.10 Since 2009, the lack of communication between the Elections Office and the Court had led to a failure to comply with the requirements of §§ 2211 and 2212, which affects the integrity of the voter rolls.

Partially agree.

Improved communications between the Elections Office and Court would certainly have helped to limit the impact of the breakdown in this process. The Court cannot address the affect this has had on the integrity of the voter rolls.

Recommendations

- R.2** The Nevada County Clerk-Recorder/Registrar of Voters and the Nevada County Superior Court should develop and adopt a formal agreement which:
- establishes an effective communication process between the Nevada County Elections Office and the Nevada County Superior Court with respect to ongoing compliance with Elections Code §§ 2211 and 2212,
 - defines the respective roles and responsibilities of the Nevada County Elections Office and the Nevada County Superior Court with respect to compliance with Elections Code §§ 2211 and 2212,
 - ensures the information received by the Elections Office is in a useable format,
 - provides retroactive reporting for the period of 2009 through 2014 with respect to compliance with Elections Code §§ 2211 and 2212.

The recommendation will not be implemented at the present time.

The Nevada County Clerk-Recorder/Registrar of Voters and the Superior Court of Nevada County are not required by California Law or Rules of Court to adopt a formal agreement in order to comply with Elections Code §§ 2211 and 2212. Nevertheless, we have established effective communications, we each understand our respective roles and responsibilities and the Court does provide the report required by Elections Code §§ 2211 and 2212 in the format specified in the law.

The Court does not have any economically feasible way to provide retroactive reporting for the period of 2009 through March 2013 to the Elections Office. Moreover, that information would be of little value to the Elections Office in the performance of its duties as the information would not be currently applicable to the tasks required by the Elections Code. The required reporting for the period beginning April 2013 to present has been accomplished.

Respectfully submitted,



Candace S. Heidelberger
Presiding Judge



G. Sean Metroka
Court Executive Officer