



TUOLUMNE COUNTY SHERIFF'S OFFICE

"Serving with Professionalism and Pride"

JAMES W. MELE
SHERIFF-CORONER

FILED

AUG 19 2011

Superior Court of California
County of Tuolumne

BY

James Larnas
Clerk

August 16, 2011

The Honorable Eric L. DuTemple
Presiding Judge of the Superior Court
41 W. Yaney Street
Sonora, CA 95370

Re: Response to 2010-11 Grand Jury Findings & Recommendations

Dear Judge DuTemple:

The following is the response related to the Tuolumne County Sheriff's Department and the Tuolumne County Jail section of the 2010-11 Grand Jury Report as requested and required pursuant to Penal Code Sections 933 and 933.05. Below you will find listed each Grand Jury finding or recommendation followed by my response to each.

TUOLUMNE COUNTY SHERIFF'S OFFICE

Vehicle Towing

F1. Finding: *Vehicle Towing policy and procedure is within operating guidelines. Calls to local tow companies are conducted by computer and are on an automatic rotation.*

Response: Agree with this finding.

R1. Response: No Response Requested.

Vehicle Usage Program

F2. Finding: *Vehicle take-home policy is standard procedure and authorized by the CAO. However, the Jury found that certain personnel are assigned take-home vehicles unnecessarily. Furthermore, the take-home policy, while considered essential for personnel who need to respond to emergencies, appears to be a perk for non-emergency personnel.*

Response: I partially agree with this finding. The grand jury does not identify those they feel are non essential personnel. The persons being allowed to take vehicles home respond to emergencies, crime scenes and/or equipment failure or disaster.

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From: Sheriff James W. Mele

F3. Finding: *The Sheriff's department vehicle fleet is comprised of mostly large, inefficient vehicles. A tight budget combined with rising fuel prices, amounts to higher vehicle costs each year. The department claims fuel-efficient vehicles are currently not a real consideration and that they are somewhat limited in their vehicle selection. However, manufacturers are trending toward mid-sized vehicles for replacement, and many law enforcement agencies throughout California are already realizing the benefits of utilizing (where appropriate) fuel efficient and mid-sized vehicles.*

Response: I disagree with this finding. See response to Recommendation R3.

R2. Recommendation: *Evaluate the vehicles being taken home. Conduct a cost-needs analysis to determine whether vehicle costs could be reduced overall by reducing take-home vehicles and/or implementing a mileage reimbursement program.*

Response: This program was started years ago in an attempt to provide better service to the residents of the county. By allowing vehicles to be taken home, the Sheriff's Office vehicles and personnel are spread throughout the county and can be tasked to respond in the event of a major incident when needed. The Sheriff's Office patrol vehicles are marked in a distinctive manner and also allow for a very visible presence in presence even when not in service in a residential area. An example of this better response times and visibility is the marked patrol units being taken home to the Don Pedro Area. For years this area did not receive the patrol presence it receives now. Three deputies now live in that area and have provided patrol services while to and from work to that area.

In reviewing the list from the CAO's office and Sheriff's Office internal control, a finding of non-emergency personnel taking home a vehicle was unable to be determined. The person or persons taking vehicles home are subject to call back for major incidents, equipment failure, personnel issues or injury, etc. Without specifics from the Grand Jury it is difficult to answer the reference in greater detail.

R3. Recommendation: *In an effort to reduce vehicle costs and convert a portion of the fleet to more fuel efficient vehicles, the Jury recommends conducting a life-cycle cost analysis of new fuel-efficient vehicles, evaluate the availability of fueling and maintenance infrastructure and develop a strategy and goal for fuel-efficient vehicle replacement over a five year time period. The Sheriff's Department should look to cutting vehicle costs by ways of:*

- *Fleet reduction and vehicle sharing*
- *Monitoring fuel usage*
- *Either assign high mileage vehicles or eliminate personal vehicles for all non-emergency personnel*
- *Eliminate vehicle transporter and outsource to local towing companies*

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The Jury understands budgetary restraints may prevent such progress and further recommends investigating whether vehicle fleet replacement monies are still available under the Congestion Mitigation and Air Quality (CMAQ) Improvement Program. Additionally, the Alternative and Renewable Fuel and Vehicle Technology Program (AB118) administered by the California Energy Commission has allocated funding in the draft Investment Plan for propane and Natural Gas vehicles.

Response: The Sheriff's Office purchases multi use vehicles that are accepted for law-enforcement needs. The Vehicles need to be able to contain equipment used in law enforcement and to be able to withstand the rigors of twenty-four hour, seven day a week usage. The vehicles must be able to withstand extreme duty requirements and accommodate the transport of person or persons and again various types of equipment.

The majority of vehicles purchased for use by the Sheriff's Office, are purchased through the State of California contracting services and are purchased with police or pursuit equipment packages. These vehicle upgrades can contain but are not limited to suspension upgrades, wiring upgrades, and power train upgrades.

Fleet reduction has been on going for the past years and the Sheriff's Office fleet has been reduced and is in constant evaluation. Considerations are given to mileage, maintenance and repairs records, manufacture recalls for safety, and the vehicles overall condition.

Fuel usage is monitored for both indications of maintenance issues and budget.

Also in the Grand Jury report there is reference to the elimination of vehicle transporter. The Sheriff's Office does not maintain a vehicle for transportation. In reference to vehicle transportation is a trailer used for vehicle transportation by the Vehicle Abatement program. The trailer was purchased for use in conjunction with the removal of abandoned vehicles. The use of that particular trailer has saved costs to the Sheriff's Office in the removal of abandoned vehicles and aided in the continued funding of that program.

Morale

F4. Finding: *The Jury recognizes that every organization is going to have positive and negative reviews. Furthermore, in times of extreme budget restraints and job uncertainty, employee morale tends to run low. However, through the survey, the Jury found intra-department communication and overall morale could be improved.*

Response: Agree with this finding.

F5. Finding: *The survey reported that 100% of people surveyed agree high ethical standards and conduct are important in the job they perform. However, 40% of them somewhat disagree or disagree that they receive continuing education on ethics as it pertains to their job.*

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Response: Agree with this finding.

F6. Finding: *The Jury was unable to obtain congruent information pertaining to the ordering and purchasing of supplies. Opinions ranged from expedient to prolonged and inaccurate. However, through multiple interviews, the Jury learned the ordering process can be inefficient at times.*

Response: Agree with this finding

R4. Recommendation: *Job satisfaction can be directly correlated to communication issues throughout the workplace. The department should make efforts to improve intra-department communication by ways of:*

- *Hold quarterly employee meetings to improve intra-department communication*
- *Create methods such as annual surveys and questionnaires to monitor employee morale*
- *The suggestion box could be better utilized in a non-video surveillance area*

Response: This has been one of the biggest problems that the Sheriff's Office has faced as it has grown out of its current location. Part of administration is housed in the main building along with dispatch and the jail it become very difficult to keep in touch with all divisions. Knowing that this is an important part of running a successful organization it comes down to budget constraints. With the DSA's MOU it would not be prudent to hold department wide meetings, it simply would not be cost effective; meaning that at anytime that an employee is asked to come to a meeting not at their regular time to work the county must pay them at premium wage at time and a half. We do see the lack of communication as a problem and are attempting to make communication better. The Sheriff and Undersheriff will continue to attend briefings with patrol, jail, dispatch and detective units along with civilian personnel. We will continue to communicate with memos and continue to place staff meeting notes on the common drive.

We will meet with HR to help with wording of surveys and attempt to conduct these surveys annually.

With the imputation of the security camera's it is very difficult to place this box in a "non-video surveillance". All hallways and doors have cameras for the employee's safety. We will attempt to find a better location.

R5. Recommendation: *Conduct mandatory ethics education on an annual basis. Refer to the "Police Chief Magazine" March 2011 for a four part article on ethics training for law enforcement personnel.*

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Response: Neither the County nor the Sheriff's Office conducts ethics training for its personnel at this time. However the Sheriff has met with the HR Department and is working with them to implement training of ethics which may be presented by instructor or computer. The start up time for this program is scheduled for this fiscal year.

R6. Recommendation: *Re-evaluate and streamline the purchasing procedures.*

Response: The Sheriff's Office can look at the purchasing procedure however most of these rules and regulations come from the county.

Tuolumne Narcotic Team

F7. Finding: *There is an ever-increasing need for marijuana reconnaissance/eradication in the remote areas of Tuolumne County.*

Response: Agree with this finding.

F8. Finding: *To process a search warrant requires the entire existing Team to be on-site in order to meet the required surveillance demands. With only five members of the Team, illness, vacation, disability and court time can seriously limit the required number of deputies available.*

Response: Agree with this finding.

F9. Finding: *A K9 Unit as an integral part of the Team would expedite the locating of suspected drugs, saving significant deputy time. Contracting out and scheduling in advance eliminates the opportunity to act quickly on a suspected location or target. While three of the local high schools (Summerville, Sonora and Cassina) have contracted out in the past for the use of a K9 Unit for the detection of drugs, alcohol and gun powder, this has been suspended due to high costs. Tioga currently contracts out for the use of a K9 Unit. In speaking with the administrators of Summerville, Cassina, Sonora and Tioga, the Grand Jury learned the administrators would welcome a County K9 Unit and would be willing to pay a reasonable fee for that service. Such payment would offset some of the expense of procuring and maintaining a K9 Unit.*

Response: Disagree with this finding. State and Federal law prohibits law enforcement to enter the campus without probable cause. Law Enforcement cannot conduct random search of students, lockers or vehicles with out probable cause.

F10. Finding: *Members of the previous TNT are not held over to serve as member(s) of the incoming team.*

Response: Agree with this finding.

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F11. Finding: *The 2008-2008 Grand Jury recommended the establishment of a policies and procedure manual governing TNT operations. This has been done.*

Response: I agree with this finding and was completed.

R7. Recommendation: *The Grand Jury recommends the assignment of additional personnel to TNT for marijuana reconnaissance and eradication.*

Response: The illegal cultivation of marijuana has spread like a plague across Tuolumne County lands. Previously most cultivation occurred in remote locations of the forest. Recently large plantations have been located within several hundred yards of residential areas. The infringement of Mexican cartels cultivating marijuana has been located on all lands within Tuolumne County. It affects National Parks, State and Federal lands including Forest Service, BLM, BOR and private properties throughout Tuolumne County. Historically a large marijuana cultivation site would yield between two to five thousand plants. More recently a single cultivation site has yielded in excess of sixty-five thousand plants. Through aggressive reconnaissance and eradication efforts, Tuolumne County has found its way to the number two ranking in the state for the number of plants eradicated. As of the 2011 cultivation season, the illegal cultivation of marijuana has thus far seemed to be on the decline. The season is in its infancy stages and cannot be predicted, however agents have noticed a change of tactics from the large scale cultivation sites, to smaller grow sites established on private lands under the guise of proposition 215 grows. I believe if the efforts of marijuana detection and eradication are not continued as they are or increased, marijuana cultivation in Tuolumne County could reach epic proportions within a few years. With this being said, the manpower shortage in the Tuolumne County Narcotics Team is a problem that lies within the County of Tuolumne Administration. With severe budget cuts devastating the agency in every unit, it is doubtful that an increase will be allowed to the Sheriff's Office narcotics Unit, as the unit is not a mandatory service that must be provided by the Sheriff's Office.

R8. Recommendation: *The Grand Jury recommends the assignment of additional personnel to TNT for the processing of search warrants.*

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Response: Search warrants, surveillance, undercover buy/bust operations, marijuana eradications, major case investigations and probation searches all make up a major portion of the work performed by narcotics agents on a day to day basis. The amount of personnel required to safely perform these functions would be minimally eight to ten. Often times these functions are performed with partial members of the team due to circumstances mentioned above. Great efforts have been made by the unit to pull from additional resources such as probation, parole, and allied agencies. These efforts have allowed the unit to get by, but have also greatly stretched the cooperation abilities of the partnering agencies that are now more reluctant than ever to volunteer the use of personnel during these fiscally trying times. I believe that a proactive narcotics unit is invaluable to the community of Tuolumne County. Crimes against persons and property skyrocket when areas are plagued with substance abuse. Drug abuse affects our children, schools, neighborhoods, and quality of life throughout Tuolumne County. Narcotics investigations also parallel other criminal investigations and often bring light to other unreported crimes such as child neglect/abuse, animal neglect/abuse, power diversion, environmental crimes, crimes involving dangerous weapons and explosives.

With the ever shrinking budgets it is becoming more difficult to fund these types of specialized units. The majority of dollars that are spent on TNT come from state and federal levels. We are seeing a fluctuation in these dollars which means that more county dollars are spent in this area.

R9. Recommendation: *The Tuolumne County Sheriff's Department should utilize the grant programs available to obtain a K9 Unit to be on-site and available at all times to the narcotics team for targeted/suspected locations and for random visits to school sites.*

Response: I disagree with this recommendation. As the Grand Jury points out, the schools or school districts contracted with private vendors. The reason is so the school and or district will not violate the student's constitutional rights. In re Sean A. (2011) 191 Cal.App.4th 182, which essentially says that school officials occupy a different position in relation to students than do law enforcement officers. While the Fourth Amendment prohibition on unreasonable searches and seizures applies to students at schools, the public interest in maintaining safe schools allows school officials to conduct "special needs" searches without any individualized suspicion of criminal conduct. (Random drug testing, metal detector tests for weapons, drug-sniffing dogs, etc.) There is case law to the effect that using a drug-sniffing dog in a public place is not a search that falls under the Fourth Amendment. (People v. Stillwell (2011) 197 Cal.App.4th 996.) A school is not, however, a place open to the public. For that reason, a law enforcement officer who is conducting a search on school grounds would still be subject to the Fourth Amendment and would have to have probable cause for the search. As noted in Sean A., the same is not true for school officials, who are charged with maintaining discipline and safety on campus.

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R10. Recommendation: *The Grand Jury recommends some overlap of personnel from one three-year term to the next. The Jury was unable to derive any substantive reasoning behind this practice which fails to take advantage of cross-training and the retention of the 'corporate memory'.*

Response: I agree and disagree with this recommendation. It is important to understand that the Sheriff and or Administration need to have the ability to place personnel in assignments as they see fit. In these types of assignments the detectives are placed in situations that put a strain on the detective and the detective's family due to the long hours, type of work, and so on. It is the responsibility of the Sheriff and or the Administration to look for these signs of stress and burn out even when the employee may not see or understand it. It is for these reason along with others that there is a time limit. With that being said the Sheriff does have the ability and the right to extend the detective and has in the past. Again the Sheriff needs to look at the health of the detective and the health of the agency and needs to make this decision even if it may mean not taking advantage of cross-training of the detective.

Tuolumne County Jail

Health/Medical Services

Please see response from Tuolumne County Health Department for Findings 1-4 and Recommendations 1-4.

Nutrition

F5. Finding: *During the tour of the kitchen facility, there were three occasions in which two of the people providing food service were not wearing hair nets.*

Response: I agree with this finding.

F6. Finding: *The food is overseen by a nutritionist and follows guidelines but is lacking in fresh fruits and vegetables. Due to cost and budget many food items are processed and commissary items chosen by many inmates are not highly nutritious. Furthermore, personal eating habits may affect the intake of adequate nutrition.*

Response: The Jail/Custody division follows the State mandated requirements for person in custody. The foods served by the Custody division are subject to review by the State and Public Health.

R5. Recommendation: *Enforce kitchen standard health policies and require all kitchen personnel to wear hairnets and gloves at all times. Post signs as a reminder.*

Response: Agreed. We will meet with the food service contractor and will take measures to put appropriate policies in place.

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- R6. Recommendation:** *The inmates should be advised to discuss with their Primary Care Physician a vitamin supplement regiment and the benefits of a healthy diet.*

Response: Please see response from Tuolumne County Health Department.

Education and Recreation

- F7. Finding:** *The limited classroom space environment makes it difficult to provide NA and AA support for what is the vast majority of inmates. Also, it is difficult to find and maintain a consistent supply of instructors.*

Response: A new jail/custody center would allow for space needs for classes to be administered. The current jail, in addition to space limitations does not currently have all of the construction requirements that would allow for additional equipment to be installed, i.e. computer stations to be used in conjunction with class room environments. Instructors from various education institutions also have been reluctant to provide services in a custody environment.

- F8. Finding:** *The availability of the self-help approach and materials for a GED as well as Columbia College's provision for continuing study makes opportunities possible that the inmates might not otherwise have.*

Response: As stated in F7, the construction of the current jail and availability of equipment is providing limitations that have yet to be overcome.

- F9. Finding:** *Reading is one of the primary ways inmates cope with 'doing time.' The inmates in the County jail encompass all levels of reading ability and all levels of interest. For many, this is the first time they have ever taken the time to read.*

Response: Books are provided to those who request them and agreed that this maybe the only time they have taken the time to learn or expand their reading skills.

- F10. Finding:** *The recreational space is small and not adequate for any variety of sports. To maintain good physical and mental health, exercise is an important factor.*

Response: Agreed. But again the current construction of the jail and staffing makes recreation time difficult.

- R7. Recommendation:** *Members of the community who meet the criteria mandated by NA and AA for instructors are encouraged to volunteer for the jail program, since having more instructors to draw from assures the continuity of the existing program.*

Response: Instructors for NA and AA do come into the Jail and provide for limited classes. The types of classes and class rooms are impacted by limited space and time. Instructors from the community are screened and a small number of volunteers are turned away at screening.

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R8. No Recommendation

R9. Recommendation: *Create a community book donation program, so that members of the community can donate books directly to the jail. Community members should be encouraged to donate used paperback books to the donation center at Sierra Bible Church.*

Response: This type of program is possible with limitations. Contraband can easily be concealed within the books and requested by an inmate. Example, an inmate is contacted by a person outside the jail and told to request a certain book or author. The inmate is told that a certain page of the book has been saturated in a controlled substance. The book is brought in, the inmate requesting the book obtains it and then consumes the drug on the page. This may be an extreme example but illustrates what has happened in other custody environments. A screening program will have to be developed prior to allowing books from unknown sources to be allowed into the custody division.

R10. Recommendation: *The construction of a new jail facility is greatly needed. This would allow for adequate movement and open space. Detention facilities with higher risk inmates have more open space and equipment which allows for the promotion and sustainability of proper health.*

Response: Agreed.

Guard Safety

F11. Finding: *Guards do not have the proper fire gear and equipment to safely evacuate the jail inmates. Per the CSA inspection, compliance with the Fire Suppression Preplanning code could not be verified.*

Response: For a number of years fire equipment was in the custody area. Problems were encountered with maintenance of said equipment and maintaining current training standards. The types of equipment used in custody settings has also changed and is continuing to change. The Sheriff's Office has chosen to conduct training exercises through County Fire.

F12. Finding: *As consistently reported, the facility and the level of staffing are inadequate. This continues to be a problem and a safety issue for the guards and inmates. If the state does go through with the transferring of criminals from prisons to local jails, the need for a new jail will be even greater. The County cannot afford the construction of a new jail and needs the funding support of the state.*

Response: Agreed, however in the meantime we are attempting to overcome some staffing issues with schedule revisions and some programs which may reduce the daily population.

August 16, 2011

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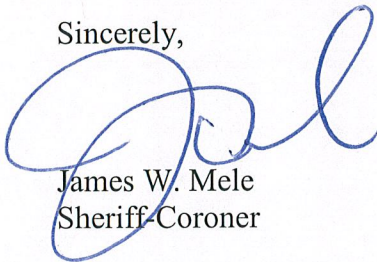
R11. Recommendation: *Provide the necessary protective gear and equipment to safely evacuate personnel and inmates. Consult the fire department to assist in determining the proper safety gear needed. Perform and record all monthly fire inspections.*

Response: The custody division has a staff member assigned to oversee this type of program. The records will be reviewed for update and correction in problem areas identified.

R12. Recommendation: *Ensure all stations have a guard at all times. Continue to push for the new jail construction. Community members should appeal to the County Supervisors to approve the Law & Justice Center and be cognizant of new legislature which pertains to the issuance of statewide general obligation bonds as a way to fund county buildings.*

Response: Agreed.

Sincerely,

A handwritten signature in blue ink, appearing to be 'JW Mele', is written over the typed name and title.

James W. Mele
Sheriff-Coroner

Cc: Craig Pedro, County Administrator