

JAN 30 2018

NEVADA COUNTY
BOARD OF SUPERVISORS

cc: BOS
CEO
Counsel



GRAND JURY
COUNTY OF NEVADA
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30 January 2018

Nevada County Board of Supervisors
950 Maidu Avenue
Nevada City CA 95959

Dear Members of the Board,

Enclosed is a copy of the report prepared by the Grand Jury on the subject of *A Sally Port is Needed at the Truckee Branch of the Nevada County Superior Court.*

This report will be published 5 February 2018 at 11:00 a.m, when it will be posted on the Grand Jury's Website: <http://nccourt.net/divisions/gj-reports.shtml>.

The California Penal Code (§933.05) prohibits disclosure of any portion of this report prior to its publication by the Grand Jury.

The California Penal Code also requires that responses to Grand Jury reports be addressed to:

The Honorable Thomas Anderson
Supervising Judge of the Grand Jury
201 Church Street
Nevada City, California 95959

To assist you in writing your response, we are enclosing a copy of Section 933.05 (a) of the Penal Code and an example of the correct format for responding. To assist you with responding, an electronic formattable copy of this report can be obtained by request from the jury at: grandjury@nccourt.com. Please be advised that your response(s) are due on or before 7 May 2018.

The Grand Jury appreciates your cooperation.

Thomas Achter
Foreperson, 2017-2018 Nevada County Grand Jury

CALIFORNIA PENAL CODE (EXCERPT FOR RESPONDENTS)

Section 933.05 (a): For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

EXAMPLE: CORRECT FORMAT FOR RESPONDING TO A GRAND JURY REPORT

As required by Penal Code Section 933.05

FINDINGS:

1. Even when notification proceeds properly, the foster child's school records may not arrive at the new school for as long as eight or ten weeks. During this time the child may not be permitted to attend school

Disagree

Children are not denied education and a child's school record has to be requested by the school of enrollment.

2. Our CPS is on record as demanding that foster parents not home school the foster children in their care. CPS finds it difficult to enforce its own policy.

Partially agree

Nevada County CPS requires that its foster children be mainstreamed in education unless there are exceptional circumstances.

3. There can be a number of possible reasons for the foster child's relocation to another county, i.e., the availability of foster homes, need for special care, relationships between foster parent and foster child, the location of a desirable member of the child's extended family.

Agree

RECOMMENDATIONS:

6. The Board of Supervisors should consider taking back from the State the responsibility for the approval and training of foster parents within the County.

The recommendation will not be implemented at the present time

The Board believes the current process for the approval and training of foster parents in Nevada County is sufficient at the present time.

7. The Board of Supervisors should maintain funds and services to continue the County's model of the transition of 18-year-olds in the foster care system into independent living.

The recommendation has been partially implemented

Additional initiatives to redesign the California Child Welfare System will be implemented in Nevada County in conjunction with changes in State regulations.

**A Sally Port is Needed at the Truckee Branch
of the Nevada County Superior Court**

2017-2018 Nevada County Grand Jury

5 February 2018

A Sally Port is Needed at the Truckee Branch of the Nevada County Superior Court

Summary

Transporting prisoners from a secure law enforcement vehicle into or out of a jail or courthouse involves increased risk of escape and danger to the public and prisoners alike. To reduce that risk, most secure facilities – jails, prisons, and courthouses – are equipped with an enclosure providing limited access to the transfer location. Such enclosures are called sally ports. Access into and out of a sally port is typically through a gate. After a secure vehicle enters through the access gate, it is closed. Then prisoners can exit the secure vehicle and enter the jail or courthouse through another controlled door. Thus, a sally port provides protection for the public from attempted escape and for the prisoner from attempted revenge.

There are four locations in Nevada County (County) in the control of the Nevada County Sheriff's Office (NCSO) that involve the transfer of prisoners – the Wayne Brown Correctional Facility (Wayne Brown), the Nevada County Courthouse in Nevada City, the NCSO Truckee Sub-Station (Truckee Jail), and the Truckee Branch of the Nevada County Superior Court (Truckee Courthouse). Only the Truckee Courthouse lacks a sally port.

The Truckee Courthouse is located in a building shared with various County offices and shares a public parking lot with the Truckee Branch of the Nevada County Library (Truckee Library). Adjacent to the same public parking lot is the Truckee Jail. While the NCSO and the Nevada County Board of Supervisors (Board) believed it appropriate to equip the Truckee Jail with a sally port in 2006, they have consistently failed and refused to install a sally port just across the public parking lot at the Truckee Courthouse. The same prisoners pass through both facilities and there is no reason why the facilities should not be similarly equipped. The safety of the employees sharing a building with the Truckee Courthouse and library patrons using the same public parking lot is in jeopardy in the absence of such a sally port.

While the NCSO has stated that: "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," the fact remains that the NCSO and the Board have provided a sally port at every other location in the County where prisoners are transferred from secure vehicles to secure buildings. There is nothing that distinguishes the conditions at the Truckee Courthouse to make it safer than those other three County-operated locations. Moreover, the presence of public facilities and a County Library in the immediate proximity of the Truckee Courthouse creates an increased threat to the public, law enforcement, and the prisoners at this location. Hence, the lack of a sally port at the Truckee Courthouse poses a greater risk than has been permitted at the Nevada City Court Holding Facility, the Truckee Jail, or Wayne Brown. County employees in Truckee, prisoners, and the citizens of Truckee deserve better.

The Nevada County Grand Jury (Jury) recommends that the NCSO budget the construction of a sally port at the Truckee Courthouse and that the Board immediately approve the construction of such a sally port to protect County employees, the citizens of Truckee, and prisoners.

Glossary

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| Board | Nevada County Board of Supervisors |
| CO | Nevada County Sheriff's Office Correctional Officer |
| County | County of Nevada |
| Deputy | Nevada County Sheriff's Office Deputy |
| Jury | Nevada County Grand Jury |
| NCSO | Nevada County Sheriff's Office |
| Truckee Courthouse | Nevada County Superior Court, Truckee Branch |
| Truckee Jail | Nevada County Sheriff's Office, Truckee Sub-Station |
| Truckee Library | Truckee Branch of the Nevada County Library |
| Wayne Brown | Wayne Brown Correctional Facility |

Background

Pursuant to California Penal Code Sec. 919(b),¹ the Jury is required to inquire into the condition and management of all public prisons in the County on a yearly basis. In September 2017, members of the Jury visited the Truckee Jail. The Jury also visited the Truckee Courthouse located across the public parking lot from the Truckee Jail in the Joseph Center. The Jury had seen, in visits to Wayne Brown, the Nevada City Court Holding Facility, and the Truckee Jail, that each of those facilities was equipped with a secure area called a sally port for the safe transfer of prisoners. The Jury noted that notwithstanding prior Jury reports and recommendations on the lack of a sally port at the Truckee Courthouse, none has been added. The Jury undertook to review past Jury reports, findings, and recommendations to determine why there was not yet a sally port at the Truckee Courthouse.

Approach

The Jury visited the Truckee Jail and the Truckee Courthouse in September 2017. It also reviewed previous Grand Jury reports, the responses to those reports by the NCSO and the Board, and reviewed the agreements between the County and the California Administrative Office of the Courts concerning the use of a portion of the Joseph Center as the Truckee Courthouse.

Discussion

In September 2017, members of the Jury visited the Truckee Jail and the Truckee Courthouse, where prisoners detained at the Truckee Jail are often tried. Both are located off Donner Pass Road in the Joseph Center, a government complex comprising three buildings: the Truckee Jail, the Truckee Library, and a building housing the Truckee Courthouse and various other County government departments including the Public Health Department, Probation, the District

¹ "919(b) The grand jury shall inquire into the condition and management of the public prisons within the county."

Attorney, and the Public Defender. The three buildings comprising the Joseph Center share a public parking lot. The Truckee Courthouse is across that public parking lot from the Truckee Jail. Walking from the Truckee Jail to the Truckee Courthouse, one passes the Truckee Library.

Since the Truckee Jail is a Type I facility, the maximum stay permitted there is 96 hours. Thus, prisoners are normally transported from the Truckee Jail to Wayne Brown for stays longer than 96 hours. When such prisoners have a subsequent hearing at the Truckee Courthouse, they are transported to the Truckee Jail to wait for their appearance. Such prisoners depart Wayne Brown and are brought to the Truckee Jail in a secure law enforcement vehicle. The vehicle arrives at an area behind the Truckee Jail that is enclosed with a chain link fence with a roll-down gate. Vehicles enter through the gate, the gate closes, and the officers escort the prisoner into the booking area of the jail while protected from any interference by the enclosing fence. Such a secure area for the transfer of prisoners is called a sally port.

Thus, for court appearances, prisoners are transported from Wayne Brown, through its sally port, to the Truckee Jail, arriving at its sally port. When they are scheduled to appear at the Truckee Courthouse, they enter an NCSO vehicle in the Truckee Jail sally port and are securely transferred across the public parking lot to the prisoner entrance to the Truckee Courthouse. This disembarkation point is in an open area at the edge of the public parking lot shared with the Truckee Library and other County offices. There is no sally port at the Truckee Courthouse. During 2016, approximately 15 prisoners were transported from the Truckee Jail to the Truckee Courthouse each month.

Every facility in the County at which prisoners are transferred from law enforcement vehicles into jails or holding facilities is equipped with a sally port except the Truckee Courthouse.² The close proximity of the Truckee Courthouse to the Truckee Library and other County offices makes the lack of a sally port even more dangerous.

Since prisoners who are escorted from a secure vehicle into the Truckee Courthouse are normally chained or otherwise restrained, there is little risk of an unaided escape. However, the location of the walkway and door on the edge of the public parking lot provides very little security against assisted escapes or attempts at retaliation against the prisoner. These are the very dangers that sally ports are designed to ameliorate.

The Grand Jury has commented regularly over the years on the lack of sally ports in Truckee. In 2004, when the Truckee Jail was remodeled and assigned to the NCSO after the formation of the Truckee Police Department, the Jury issued a report including a Finding that: "Inmates are transferred in and out of the substation [the Truckee Jail] through an open and non-secured carport at the rear of the facility. This carport, which has no security fencing, faces the front door, driveway, and parking lot for the Truckee branch of the Nevada County library and the Joseph Center, where the courtrooms are located."

² There are four locations in the County under the control of the NCSO that involve the transfer of prisoners – Wayne Brown, the Nevada County Courthouse in Nevada City, the Truckee Jail, and the Truckee Courthouse. In addition, the Carl F. Bryan II Juvenile Hall, under the Jurisdiction of the Chief Probation Officer, involves such transfers. Only the Truckee Courthouse lacks a sally port.

The Board and the NCSO responded to that Finding stating "Agree." Based on that Finding the Jury recommended: "In the interest of public safety, the Board of Supervisors and the Sheriff, must ensure that the open carport at the Truckee Substation be secured with a physical barrier." The NCSO responded: "The recommendation requires further analysis, and has not been budgeted for this fiscal year. The 'Sally port' enclosure is an item that will be prioritized and funding sought for future installation."

In 2005, the Jury again reported on the Truckee Jail and recommended the installation of a sally port, noting that the NCSO had requested funding for such a project from the Board. The installation of the sally port at the Truckee Jail was completed in 2006. In Resolution 06-567, the Board took notice of the completion of the contract with Empire Fence Co., Inc. "for a total project expenditure of \$21,122."

In 2011, the Jury issued a report recommending the installation of a sally port at the Truckee Courthouse. Noting that "[i]nmates are moved from the secure vehicle to the Truckee Court through an outdoor, unsecured, open walkway utilized by court and county employees and the public," the Jury made the Finding: "There is concern regarding officer and public safety, as well as potential prisoner escape, when transferring prisoners between vehicles and the Truckee Court."

The NCSO responded "Agree" to the Finding. The Jury also made a recommendation that the NCSO should discuss installation of a sally port at the Truckee Courthouse with the California Administrative Office of the Courts. The NCSO responded: "The recommendation has been implemented in that the discussion has taken place, although the California Administrative Office of the Courts does not have any funding sources to cover the costs of building a Sally port."

The following year, 2012, the Jury again recommended the addition of a sally port and sought to clarify whether the County was responsible for the security of the area where prisoners are unloaded outside the Truckee Courthouse for their court appearances. The Jury made the following Finding: "Nevada County is responsible both for the area where prisoners are removed from the secure vehicle and for the unsecured walkway leading to the Court." The Board responded: "Agree."

Based on that Finding, the Jury issued this Recommendation in 2012: "The Nevada County Sheriff should: ... In conjunction with the Nevada County Board of Supervisors, secure the open prisoner loading/unloading area at the Court with a fenced enclosure, commonly known as a sally port." The NCSO and the Board responded as follows: "The recommendation will not be implemented because it is not reasonable in the current fiscal environment."

In 2014, the Jury again found that the lack of a sally port posed an unsafe condition. The Jury's Finding was: "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." The NCSO responded:

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. Prisoners are transported from the transportation unit to the Courthouse in customary restraints, including leg shackles and waist shackles.

Nothing has changed since 2014.

The history of responses to Jury findings and recommendations creates some confusion concerning whether the Administrative Office of the Courts or the County are responsible for the dangerous condition arising from the absence of a sally port at the Truckee Courthouse. Most recently, as noted above, the Board accepted that the County is responsible for the area in question but claimed that there were not sufficient funds available to protect County employees and Truckee residents at the Courthouse. The Board previously undertook a similar sally port installation across the parking lot at the Truckee Jail. The cost of providing that protection eleven years ago was just in excess of \$21,000.

While the NCSO has stated that: "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," the fact remains that the NCSO and the Board have provided a sally port at every other location in the County where prisoners are transferred from secure vehicles to secure buildings. There is nothing that distinguishes the conditions at the Truckee Courthouse to make it safer than those other three County-operated locations. Moreover, the presence of public facilities and a County Library in the immediate proximity of the Truckee Courthouse creates an increased threat to the public, law enforcement, and the prisoners at this location. Hence, the lack of a sally port at the Truckee Courthouse poses a greater risk than has been permitted at the Nevada City Court Holding Facility, the Truckee Jail, or the Wayne Brown Correctional Facility. County employees in Truckee, prisoners, and the citizens of Truckee deserve better.

Findings

- F 1. The sally port at the Truckee Jail increases safety for the public during the transfer of prisoners from secure vehicles into the secure jail.
- F 2. The absence of a sally port at the Truckee Courthouse increases the risk to the public, law enforcement, and the prisoners at this location during the transfer of prisoners from secure vehicles into the secure courthouse.
- F 3. The absence of a sally port at the Truckee Courthouse, in immediate proximity to a public parking area, County offices, and the Truckee Library, creates an increased risk to the public, law enforcement, and the prisoners at this location.
- F 4. The addition of a sally port to the prisoner entrance at the Truckee Courthouse would increase safety for the public, prisoners, and citizens of Truckee.

Recommendations

The Nevada County Grand Jury recommends that the Nevada County Sheriff's Office and the Nevada County Board of Supervisors implement the following recommendations.

The Nevada County Sheriff's Office should:

- R 1.** Request funding from Nevada County Board of Supervisors to install a sally port at the Truckee Courthouse.

The Nevada County Board of Supervisors should:

- R 2.** Provide funding to install a sally port at the prisoner entrance to the Truckee Courthouse.

Request for Responses

Pursuant to Penal Code section 933.05, the Nevada County Civil Grand Jury requests responses as follows:

From the following:

- Nevada County Sheriff's Office (R1) by 7 April 2018.
- Nevada County Board of Supervisors (R2) by 7 May 2018.