

# **INITIAL DRAFT**

## **El Dorado County Board of Supervisors Response to El Dorado County 2016-2017 Grand Jury Final Reports**

For Grand Jury Final Reports:

#16-002: South Lake Tahoe Juvenile Treatment Center

# 16-004: Red Hawk Tribe Board of Supervisors MOU

#16-005: Workers' Compensation Administration Program

#16-009: Fenix Project, Migration off the Main Frame

This report contains the Board of Supervisors' response to the Findings and Recommendations of the 2016-2017 El Dorado County Grand Jury. This response has been prepared pursuant to and in conformance with Penal Code Section 933.05, which is included here for reference.

**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 decision making 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.*

**South Lake Tahoe Juvenile Treatment Center**  
Grand Jury Case 16-002  
Public Release June 9, 2017  
*(BOS Response due as indicated on report September 11, 2017)*

**Background**

Pursuant to California Penal Code Section 919(b) the Grand Jury must inquire into the condition and management of public prisons within the county.

The 2016-2017 Grand Jury conducted its annual inspection of the El Dorado County Juvenile Hall in Placerville on October 5, 2016. The Grand Jury commented that the facility is clean, organized and well managed. No inspection report was issued, and no findings or recommendations were made regarding the Placerville Juvenile Hall.

The Grand Jury conducted its annual inspection of the El Dorado County Juvenile Treatment Center (JTC) located in South Lake Tahoe on September 30, 2016. The Grand Jury issued the following Findings and Recommendations specific to the JTC.

The Grand Jury requested responses from the Chief Probation Officer and the Board of Supervisors. Following is the County of El Dorado's response to the findings and recommendations of the Grand Jury in accordance with Penal Code §933 and §933.05. This response serves as the combined response for the County.

**Findings**

GJ F1. The entrance of the SLT Juvenile Treatment Center does not have a full body metal detector which presents a serious safety issue for staff and visitors.

**BOS Response: The Board of Supervisors disagrees wholly with the finding.**

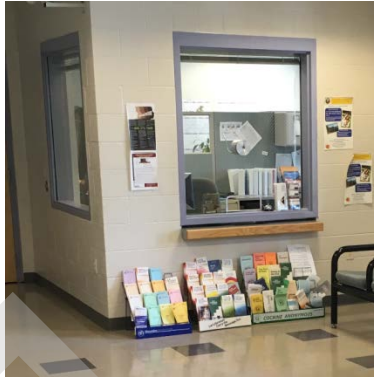
**Upon consultation with the Probation Department, a full body metal detector is not needed in the JTC facility since sworn officers already use hand-held metal detectors to scan visitors prior to entering the secured areas of the facility. The device that is used allows for a full body scan with a higher level of sensitivity than the stationary devices.**

GJ F2. The lack of bullet resistant glass in the receptionist area is a serious safety issue which puts staff and visitors at risk.

**BOS Response: The Board of Supervisors disagrees in part with the finding.**

**The JTC was constructed in 2006, to standards in place at that time. The existing reception desk at the JTC is immediately adjacent to the foyer/waiting area of the facility. Employees that work in the reception area of the JTC are separated from visitors by a wall and glass, limiting exposure to potential safety issues, as depicted in the picture below. However, the glass is not bullet resistant. As a comparison, the Placerville Juvenile Hall, which is a much older facility, has a different design wherein the foyer/entryway also serves as the facility's security central control room with direct access to the "lock down" areas of the facility, and therefore must be protected by bullet resistant glass. It should be noted that no safety incidents have been reported related to the**

entryway/reception/waiting area of the JTC, and staff is not aware of any changes to building or safety standards which would mandate bullet proof/resistant glass in the facility.



GJ F3. The indoor exercise area lacks proper insulation and the ability to be heated for year round use.

**BOS Response: The Board of Supervisors disagrees in part with the finding.**

The partially enclosed recreation area of the JTC was originally designed and constructed as a covered outdoor area, and includes hardened partial height walls with chain link roof peaks and openings to allow for unconditioned air and natural light, as depicted in the picture below. The recreation area was not intended, designed, or constructed as a Title 24 (energy efficiency requirements) compliant indoor space. As an outdoor recreation area, the area was designed with no mechanical (HVAC), minimal canopy down lighting, an exterior hose bib and a sloped concrete floor that allowed for drainage of rain water or domestic water. This outdoor area provides a location for outdoor activity during inclement weather and for mild days during winter months in South Lake Tahoe. Should there be a programmatic need to formally convert this outdoor recreation area to an indoor recreation area, further analysis will need to be performed to determine possible design options available to convert the recreation area to a code compliant, conditioned, indoor space. The feasibility of pursuing any identified design options, including cost impacts, will also need to be analyzed. Any modification to this area of the facility may be required to be Title 24 compliant as well as reviewed/approved by State agencies with oversight of detention facility construction.



### **Grand Jury Recommendations**

GJ F1. Install a full body metal detector in the lobby area.

**BOS Response:** This recommendation will not be implemented because it is not warranted, due to the use of hand-held metal detectors in the SLT Juvenile Treatment Center, as reported by the Probation Department and noted in Finding 1 above.

GJ R2. Install bullet resistant glass in the reception area.

**BOS Response:** This recommendation requires further analysis, including evaluation of construction needs and parameters, development of a cost estimate, and identification of a funding source. The Probation Department reports that a request for installation of bullet resistance glass will be submitted to the Chief Administrative Office as part of the FY 2017-18 final budget/addenda process in August. The Grand Jury recommendation will be evaluated and a recommendation may be submitted to the Board of Supervisors in September of 2017 to consider funding for this project.

GJ R3. Provide the necessary insulation and heat so the indoor exercise area is usable year round.

**BOS Response:** This recommendation requires further analysis, including construction needs and best approach for heating the identified area, development of a cost estimate, and identification of a funding source.

The Probation Department reports that this has been a long-standing concern, and that certain measures have already been put in place, such as adding windows to the open areas, but have not proved successful in ensuring proper heating. The Probation Department reports that a request will be submitted to the Chief Administrative Office as part of the FY 2017-18 final budget/addenda process in August. The Grand Jury recommendation will be evaluated and a recommendation may be submitted to the Board of Supervisors in September of 2017 to consider funding for this project. However, due to the scope of the project and analysis required, a final recommendation may not be considered until later in the fiscal year.

## RED HAWK TRIBE BOARD of SUPERVISORS MOU

Grand Jury Case 16-004

Public Release May 30, 2017

*(BOS Response due NLT August 28, 2017)*

### Background

The 2016-2017 Grand Jury investigated matters that were brought to their attention regarding the County's agreement with the Shingle Springs Band of Miwok Indians (hereafter referred to as "Tribe"). The Grand Jury reports that they subsequently expanded their investigation to determine if the County and the Tribe were complying with other provisions of the Amended Agreement. The Grand Jury also looked into the current financial condition of the Tribe's casino operations to assess whether the Tribe would be able to meet future financial obligations as required by the Amended Agreement.

The Grand Jury found that the casino operation is financially sound today and that the Tribe and the County have consistently and in a timely manner made all payments as required by the Amended Agreement. The Grand Jury made the following detailed Findings and Recommendations specific to the administration of the Amended Agreement.

The Grand Jury requested a response from the Board of Supervisors. Following is the County of El Dorado's response to the findings and recommendations of the Grand Jury in accordance with Penal Code §933 and §933.05.

### Findings

GJ F1. The subject Amended Agreement appears to have been created at arm's length and in good faith by both the Miwok Tribe and El Dorado County.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F2. The County derives a benefit from its payments to the Tribe for the Qualifying Healthcare Contributions.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F3. Prior to the investigation, the County failed to adequately perform its duties to ensure the Tribe's compliance with the Amended Agreement by not having a central file, meaningful record keeping or point-of-contact.

**BOS Response: The Board of Supervisors disagrees in part with the finding.**

**The County has historically designated the Supervisor from District 4 as the primary point of contact for communications. The Chief Administrative Office has historically served as the primary administrative contact. However, at the time the Grand Jury Investigation was initiated, the Chief Administrative Office was undergoing a transition in staff. There had been admitted gaps in historic knowledge on various matters due to turn-over in executive-level staff, with those transitions noted in the Grand Jury report.**

Since his appointment in May of 2016, the current County Administrative Officer has served as the primary administrative contact for the County, as noted in the Grand Jury report. Additionally, during the transition between Chief Administrative Officers in 2014 and 2015, management level staff within the Chief Administrative Office fulfilled the role of primary administrative contact. The Agreement terms and required payments have been tracked within the Chief Administrative Office, and records are currently maintained in a central file. Additionally, the Chief Administrative Officer participates in regular meetings with Tribe representatives, where the parties discuss general matters as well as any new issues that either the County or the Tribe feel should be raised. These meetings help to ensure open and timely government-to-government communications, between the County and the Tribe, and help ensure that Agreement terms are met.

GJ F4. The Tribe and the County have complied with the Amended Agreement by consistently and in a timely manner making all payments as required by the MOU as amended.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F5. The Grand Jury finds that the Tribe's ability to meet its financial obligations has improved significantly since 2012.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F6. The County has failed to verify the number of gaming machines at Red Hawk which may have resulted in lost revenue.

**BOS Response: The Board of Supervisors disagrees in part with the finding.**

It is important to note that the County does not have the authority to regulate the Tribe or its gaming operations or other activities on tribal lands. However, as the 2006 Agreement indicates, “the County will monitor the number of gaming devices the Tribe has in operation through the State of California’s oversight of the Tribe’s gaming facility, which tracks the number of gaming devices in connection with the Tribal-State Compact.”

The County does not intend to itself count the number of gaming machines in operation at the casino. Gaming operations are conducted pursuant to the Tribe’s compact with the State of California. Federal and State regulations establish agreed-upon procedures for ensuring compliance with internal control standards and other compliance matters, including reporting of gaming devices to the California Gambling Control Commission. The County should have the ability to monitor and/or verify the number of gaming devices through the State of California, which tracks the number of gaming devices.

As a point of clarification, the Grand Jury report states “the Amended Agreement permits the County to audit gaming machines at Red Hawk Casino...” However, the relevant language is contained within the 2006 Agreement and simply refers to monitoring through the State of California.

GJ F7. The County's acceptance of insufficient documentation of the Qualifying Healthcare Contribution Fund by the Tribe deprives the County of the ability to monitor compliance with the 2006 MOU as amended.

**BOS Response: The Board of Supervisors disagrees with the finding.**

**The obligation of the Shingle Springs Band of Miwok Indians with regard to reporting on Qualifying Healthcare Contributions is limited to what is contained within the 2012 Amended Agreement between the County and the Tribe.**

**The Agreement between the County and the Tribe states “the Tribe shall submit to the County an annual written summary detailing the expenditures made with the funds from the Qualifying Healthcare Contribution.” While not significantly detailed, the Tribe has annually submitted to the County a written report indicating the use of the identified funds. For example, the report dated January 11, 2017, indicates that the Tribe applied the 2016 Qualifying Healthcare Contribution “to the planning, installation and construction of a new pharmacy at the Health and Wellness Center and to the general operating budget of the Shingle Springs Health and Wellness Center.” The written report provides further summary information regarding patient visits from non-Native American El Dorado County residents.**

**As a point of clarification to the Grand Jury Report, it should be noted that the 2012 Amended Agreement does not require the Tribe to provide in the report any detail about the increased expenses associated with caring for non-Indian residents of the County.**

#### **Grand Jury Recommendations**

GJ R1. The Grand Jury recommends the County direct present and future Chief Administrative Officers to identify a central point of contact among county staff to monitor and maintain oversight of and compliance with the Amended Agreement. The recommendation should be implemented at once.

**BOS Response: This recommendation has already been implemented.**

**The current County Administrative Officer has served as the primary administrative contact for the County. The Assistant Chief Administrative Officer serves as a secondary/back-up contact. Agreement terms and required payments are tracked within the office, and records are maintained in a central file.**

GJ R2. The Grand Jury recommends the County direct present and future Chief Administrative Officers to annually monitor the number of gaming machines at the Red Hawk Casino.

**BOS Response: This recommendation requires further analysis.**

**The County does not intend to itself count the number of gaming machines in operation at the casino. Gaming operations are conducted pursuant to the Tribe’s compact with the State of California. Federal and State regulations establish agreed-upon procedures for ensuring compliance with internal control standards and other compliance matters, including reporting of gaming devices to the California Gambling Control Commission. The County should have the**



ability to monitor and/or verify the number of gaming devices through the State of California, which tracks the number of gaming devices. It is anticipated that a process for receiving information will be implemented within six months.

Any process that is implemented will be following consultation with representatives from the Shingle Springs Band of Miwok Indians regarding an appropriate procedure for confirming the number of gaming machines, should that process differ from what was contemplated in the 2006 Agreement.

GJ R3. The Grand Jury recommends the County direct present and future Chief Administrative Officers to maintain and safeguard documentation associated with the Amended Agreement at a central location.

**BOS Response: This recommendation has already been implemented.**

**Agreement terms and required payments are tracked within the office by fiscal staff, and records are maintained in a central file.**

GJ R4. The Grand Jury recommends the Board of Supervisors adopt a policy requiring the Tribe to provide a detailed annual report of the Tribe's use of the County's "Qualifying Healthcare Contributions" to insure compliance with the Amended Agreement.

**BOS Response: This recommendation will not be implemented because it is not warranted and is not reasonable.**

**The obligation of the Shingle Springs Band of Miwok Indians with regard to reporting on Qualifying Healthcare Contributions is limited to what is contained within the Agreement between the County and the Tribe, and the County would not be able to enforce any policy adopted by the Board without an agreement with the Tribe.**

## WORKERS' COMPENSATION ADMINISTRATION PROGRAM

### Competitive Process Needed Now

Grand Jury Case 16-005

Public Release June 9, 2017

*(BOS Response due NLT September 7, 2017)*

#### Background

The El Dorado County Grand Jury investigated El Dorado County's handling of its Workers' Compensation claims. The Grand Jury found the County's workers' compensation system is without significant waste, fraud, or abuse, and issued the following Findings and Recommendations.

The Grand Jury requested responses from the Board of Supervisors, as well as the Chief Administrative Officer, the Human Resources Director, the Purchasing Agent, and the Risk Manager. Following is the County of El Dorado's response to the findings and recommendations of the Grand Jury in accordance with Penal Code §933 and §933.05. This response serves as the combined response for the County.

#### Grand Jury Findings

GJ F1. The County's workers' compensation system is without significant waste, fraud, or abuse and the County has gotten fair value for its money.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F2. A third-party workers' compensation claims administrator is better able to handle the important workers' compensation administration than an in-house program and appears to save the county money.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F3. York Risk Services Group appears to be providing good support to the county, thus assuring that the system runs well.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F4. While the County may legally extend services contracts with vendors such as YRSG; that may not be the best practice when contractual relationships are as long-standing and involve such significant costs as the one with York.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F5. A competitive selection process, rather than another renewal of the existing agreement, is the better way to select the County's third-party administrator after the current compact expires on October 31, 2017.

**BOS Response: The Board of Supervisors disagrees partially with the finding. Due to the timing necessary for the issuance and evaluation of a Request for Proposals (RFP), the County will not be able to issue and evaluate an RFP and award the contract prior to the current contract renewal period, which is October 31, 2017.**

GJ F6. The use of a full competitive RFP selection process will gain the advantage of competition and obtain the best and lowest cost services.

**BOS Response: The Board of Supervisors agrees with the finding.**

### **Grand Jury Recommendations**

GJ R1. The County not simply extend again the agreement awarded in 2012 to York.

**BOS Response: This recommendation has not yet been implemented, but will be implemented within the next year. Due to the timing necessary for the issuance and evaluation of a Request for Proposals (RFP), the County will not be able to issue and evaluate an RFP and award the contract prior to the current contract renewal period, which is October 31, 2017.**

**Additionally, a detailed financial analysis and actuarial study is underway to determine the best self-insured retention level for this program. The results of the study will directly impact the claims administration and corresponding third party administrator services. Information gained from the study and any resulting policy direction will need to be captured in the RFP.**

GJ R2. The County conduct and complete an open RFP and contractor selection process for its third-party workers' compensation administration program.

**BOS Response: This recommendation has not yet been implemented, but will be implemented within the next year. It is anticipated that a RFP will be issued in the Fall/Winter of 2017, for the contract period beginning November of 2018.**

**Fenix Project**  
**Migration off the Main Frame**

Grand Jury Case 16-009

Public Release June 9, 2017

*(BOS Response due NLT September 7, 2017)*

**Background**

The El Dorado County Grand Jury investigated the El Dorado County (EDC) Information Technology (IT) Department projects to migrate applications to a new computing platform and decommission the mainframe computing platform, citing the delay of the Fiscal Enterprise and Information Exchange (FENIX) Project implementation as reported by the 2015- 2016 Grand Jury.

The organizational structure and management practices of EDC create significant challenges to the migration and success is not assured. The 2016-17 Grand Jury issued the following Findings and Recommendations.

The Grand Jury requested a response from the Board of Supervisors. Following is the County of El Dorado's response to the findings and recommendations of the Grand Jury in accordance with Penal Code §933 and §933.05.

**Grand Jury Findings**

GJ F1. Absent an IT strategic plan, supported by the BOS and senior leadership of EDC, the IT department lacks solid direction and the ability to manage projects to successful completion.

**BOS Response: The Board of Supervisors disagrees partially with the finding. The County hired a Director of Information Technologies in April of 2017. The Board and current senior leadership support the Director and the Strategic Plan being finalized. Through the application modernization process, the IT Department has identified the need for additional project management resources and business analyst resources to be successful in the long-term. Since a PMO (Project Management Office) currently does not exist within the IT Department, the Department has recommended hiring third party project managers for the LMIS (Land Management Information System) and Property Tax system replacement projects and senior leadership has supported the decision.**

GJ F2. EDC has a complex IT operating environment, created by using multiple platforms (software and hardware), that requires diverse IT skills sets and is expensive to maintain.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F3. Having the IT functions decentralized provided an uncoordinated leadership that has created complexity, the risk to operations and increased operating costs.

**BOS Response: The Board of Supervisors agrees with the finding.**

GJ F4. The lack of a single senior, professional, Chief Information Officer (CIO) with county-wide IT responsibility has created an environment where department heads set policy and direction at odds with county-wide priorities and needs.

**BOS Response: The Board of Supervisors disagrees with the finding. The County hired a Director of Information Technologies April 2017. Policy is being created and established by the director, in conjunction and coordination with all department heads.**

GJ F5. The lack of support from various departments for the IT migration project creates roadblocks to IT's success.

**BOS Response: The Board of Supervisors partially disagrees with the finding.**

**While some resistance was experienced in the past, the IT migration project currently enjoys broad-based support from County Departments.**

GJ F6. Elected Officials functioning as Departments Directors that are not accountable to the BOS or CAO cannot be required to comply with the demands of the application migration.

**BOS Response: The Board of Supervisors disagrees in part with the finding. While elected department heads do not report directly to the Board of Supervisors or the Chief Administrative Officer, elected department heads are not without accountability. Elected officials participate in County administrative activities as do other Department Heads, and are ultimately accountable to the voting public.**

### **Grand Jury Recommendations**

GJ R1. The BOS should require IT, in coordination with the CAO (aligned with the EDC Strategic Plan) to develop a five-year IT Strategic Plan that is approved by the Board.

**BOS Response: This recommendation will not be implemented because it is not warranted. However the County agrees that an IT Strategic Plan is necessary. The Director of Information Technologies and the CAO's office have been working on a three-year plan aligned the EDC Strategic Plan. It is anticipated that the three year plan will be presented for approval and implemented by December 2017.**

GJ R2. The five-year strategic plan should provide for the consolidation of a fully integrated, countywide, IT Organization that can achieve all the goals and objectives of the five-year Strategic Plan.

**BOS Response: The recommendation will not be implemented because it is not reasonable. Complete consolidation is not standard across California Counties, could be infeasible within a County organizational structure, and may not be advisable in all circumstances. However, partial consolidation of information technology functions has been an area identified by the County as an opportunity to gain efficiencies, and the Chief Administrative Office continues to work with the IT Director and County departments to identifying appropriate areas for consolidation under a**

centralized Information Technologies Department model. It is anticipated that consolidation efforts will remain focused on central service departmental functions. It is anticipated that the Sheriff's Office, which is responsible for specialized and complex information systems with expanded requirements for security, will remain responsible for information technology functions within the Sheriff's Office.

GJ R3. The BOS should make the IT Director (CIO) position, reporting to the CAO, responsible for countywide IT and the consolidation of the fragmented IT functions under one centralized county IT Department.

**BOS Response: This recommendation will not be implemented because it is not warranted. While appointed Department Heads serve at the pleasure of the Board, the County Charter states that the Chief Administrative Officer has the duty and the power to coordinate the work of all offices and departments, both elective and appointive, and devise ways and means to achieve efficiency and economy in all county operations. The County Charter, Section 401, also provides that "All department heads and officers of the county, both elected and appointed, shall cooperate with the Chief Administrative Officer so that the Chief Administrative Officer may achieve complete coordination of all county activities." Furthermore, County Ordinance Code Section 2.13.070, subsection A, states that the Chief Administrative Officer shall "monitor the overall performance of departments and review methods and procedures and formulate recommendations to the Board for increased efficiency..." The Chief Administrative Office continues to work with the IT Director to ensure efficient operations of the information technology function, including identifying appropriate areas for consolidation under the central county IT Department.**

GJ R4. To the maximum extent allowed by state law the BOS should grant the CAO the authority over all EDC operating departments, either through amendment of the El Dorado County Charter or via the Board's own budget allocations. To ensure the cooperation and full participation of all departments with the five-year Strategic Plan.

**BOS Response: This recommendation requires further analysis. The Chief Administrative Officer is currently responsible for overseeing and coordinating the work of all departments. Any recommended changes to the County Charter should be evaluated and developed by the Charter Review Committee. Any recommendation will be considered by the Board of Supervisors. Recommendations from the Charter Review Committee are anticipated to be presented to the Board of Supervisors by or before May of 2018.**