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July 26, 2011

To: Honorable D. Scott Daniels  
Presiding Judge

From: Supervisor Michael J. Reagan  
Chair, Board of Supervisors

RE: *Response to Grand Jury Report of April 27, 2011 – Justice Detention Facility (Main Jail) and Claybank Detention Facility (Claybank)*

Honorable Judge Daniels:

As mandated by California Penal Code sections 933(c) and 933.05, the Solano County Administrator's Office responds to findings and recommendations contained in the 2010/11 Grand Jury Report of April 27, 2011 concerning the *Justice Detention Facility (Main Jail) and Claybank Detention Facility (Claybank)*

### **Finding 1**

The Victim Notification Program (VINE) notifies victims of crime when an inmate charged with or involved in the crime is released or transferred to another agency. The Victim Notification Program is funded by the Inmate Welfare Fund, which is authorized by statute to provide spiritual, recreational, educational, and indigent benefits for those in the custody of the Solano County Sheriff. Thus, the Victim Notification Program does not fall within the intention of Penal Code Section 4025 for programs funded by inmate welfare funds.

### **Response to Finding 1**

**Sheriff** - The Sheriff disagrees with the finding of the Grand Jury.

**Board of Supervisors** – The Board of Supervisors concurs with the Sheriff's response to Finding 1.

### **Recommendation 1**

The Sheriff's Office should stop funding the Victim Notification Program with funds derived from the Inmate Welfare Fund.

### **Response to Recommendation 1**

The Sheriff disagrees with the recommendation of the Grand Jury. California Penal Code Section 4025(e) does stipulate that any funds that are not needed for the welfare of the inmates may be expended to provide other programs deemed appropriate by the Sheriff. The VINE system has been funded by the Inmate Welfare Fund for many years. The Inmate Welfare Fund Committee has approved the expenditure each year and pursuant to statute, an itemized report of program expenditures is submitted annually to the Board of Supervisors for their review. Although the Sheriff is permitted by law to use the Inmate Welfare Fund to pay for the VINE contract, as a means of resolving the concerns of the Solano County Grand Jury, the Sheriff has no objection to including the cost of the VINE contract in his operating budget request beginning with Fiscal Year 2012/2013.

**Board of Supervisors** – The Board of Supervisors concurs with the Sheriff's response to Recommendation 1 and will work with the Sheriff to assess whether inclusion of the cost of the VINE contract in his FY2012/13 operating budget is necessary.

### **Finding 2**

The County cannot independently verify the dollar amount of items purchased from the iCare Commissary Program by an inmate's family or friends.

### **Response to Finding 2**

**Sheriff** - The Sheriff agrees with the finding of the Grand Jury.

**Board of Supervisors** - The Board of Supervisors concurs with the Sheriff's response to Finding 2.

### **Recommendation 2**

The Sheriff's Office should amend the iCare contract to require the payment for iCare commissary services to be made to the inmate's existing account used for telephone and detention facility commissary services by the use of a third party Internet collection service such as PayPal or a similar type of Internet collection service.

### **Response to Recommendation 2**

**Sheriff** - The Sheriff disagrees with the recommendation of the Grand Jury. However, the Sheriff does believe it is desirable to reconcile commission income with gross sales. Our vendor, Aramark, has agreed to provide the Sheriff's Office with an account and identification access to raw sales information including the dollar amount of items purchased from the iCare program. This information comes directly from an independent payment processing company utilized by Aramark. This will provide the Sheriff's Office with independent verification of gross iCare sales. The Sheriff's Office thanks the Grand Jury for their suggestion.

**Board of Supervisors** – The Board of Supervisors concurs with the Sheriff's response to Recommendation 2.

### **Finding 3**

The Sheriff's Office is not using the competitive bidding process when renewing contracts identified in Table I.

### **Response to Finding 3**

**Sheriff** - The Sheriff agrees with the finding of the Grand Jury.

**Board of Supervisors** – The Board of Supervisors concurs with the Sheriff's response to Finding 3.

### **Recommendation 3**

Although the *County of Solano Purchasing & Contracting Policy Manual – Issued July 2004* can be interpreted to allow the present contracting practices used by the Sheriff's Office, the Grand Jury recommends that the Sheriff provide written justification for the use of non-competitive contract renewal. The Sheriff's justification should include how the benefits of competitive bidding are being considered in his decision-making process.

### **Response to Recommendation 3**

**Sheriff** - The Sheriff disagrees with the recommendation of the Grand Jury. As acknowledged by the Grand Jury in the recommendation, the Sheriff is following the County's contracting policy with reference to competitive bidding and renewal of contracts. The County policy does not require written justification for the use of non-competitive contract renewal. Limitations on number and length of renewal periods are the control mechanism that the County employs to ensure the best value for goods and services. Contract renewals are presented to the Board of Supervisors in public session for examination and approval. As the Grand Jury report indicates, the Sheriff's Office employs criteria by which to make decisions regarding the renewal of existing contracts that are consistent with the County's contracting policy.

As an independently elected official, it is questionable as to whom the Sheriff would provide written justification for contract renewals, above and beyond that which he includes in the presentation of these items to the Board of Supervisors for public discussion and approval.

**Board of Supervisors** – The Board of Supervisors concurs with the Sheriff's response to Recommendation 3.

### **Finding 4**

The Solano County Sheriff's Office is using seven-year old purchasing and contracting policy manuals.

### **Response to Finding 4**

**General Services** – General Services partially agrees with this finding.

**County Administrator** - The County Administrator's Office partially agrees with this finding. While the date on the Solano County Purchasing and Contracting Policy Manual is July 2004, it has been updated several times.

**Board of Supervisors** - The Board of Supervisors concurs with the responses by General Services and the County Administrator to Finding 4.

#### **Recommendation 4**

The Grand Jury recommends the County consider reviewing the current edition of the County of Solano Purchasing and Contracting Policy Manual – Issued July 2004 for any required revisions. If the July 2004 version is not the latest edition, the County should ensure that the departments are using the latest edition.

#### **Response to Recommendation 4**

**General Services** – General Services agrees with this recommendation. Although the date of the Solano County Purchasing and Contracting Policy Manual (herein after referred to as “Manual”) is July 2004, the Manual has been subsequently updated several times.

When the Manual was approved by the Board on July 27, 2004, one of the recommendations for approval was to provide authority to the County’s Purchasing Agent to make technical, not substantive, change as warranted and update the Manual whenever the Board adopts policy changes as they apply to purchasing and contracting,

With each revision and update to the Manual, departments were notified electronically of all changes. The changes were incorporated into the master document and made available to all departments on the County’s Intranet Central Services webpage.

Additionally, on an annual basis, County Counsel hosts a workshop entitled, *Nuts and Bolts of Bids and Requests for Proposals*. This workshop is largely facilitated by the Central Services Manager. The workshop focuses on why and how to conduct a solicitation and provided insight with how to reference and comply with the Solano County Purchasing and Contracting Policy Manual. In the past, several representatives of the Sheriff’s Office have attended these workshops.

**County Administrator** - The recommendation has been implemented. As stated in Finding 4, the Solano County Purchasing and Contracting Policy Manual – Issued July 2004 (Manual) has been updated several times since it was initially approved by the Board of Supervisors on July 27, 2004.

One of the recommendations for approval was to provide authority to the County’s Purchasing Agent to make technical, not substantive, changes as warranted and update the Manual whenever the Board adopts policy changes as they apply to purchasing and contracting.

With each revision and update to the Manual, departments were notified electronically of all changes. The changes were incorporated into the master document and made available to all departments on the County’s Intranet Central Services webpage.

Additionally on an annual basis, County Counsel hosts a workshop entitled, *Nuts and Bolts of RFPs and RFQs*. This workshop is largely facilitated by the Central Services Manager and focuses on why and how to conduct a solicitation. The workshop reviews the Manual and provides direction on the preparation and processing of Requests for Proposals (RFPs) and Requests for Qualifications (RFQs) in accordance with County Code and state and federal law.

A full scale revision to the Manual is in process and is scheduled to be presented to the Board of Supervisors in late July/August 2011.

**Board of Supervisors** – The Board of Supervisors concurs with the responses by General Services and the County Administrator to Recommendation 4.

#### **Finding 5**

By circuitous interpretation of the *County of Solano Purchasing and Contracting Policy Manual – Issued July 2004*, the County departments can avoid the competitive bidding process without written justification.

#### **Response to Finding 5**

**General Services** – General Services does not agree with this finding.

**County Administrator** - The County Administrator's Office does not agree with this finding.

**Board of Supervisors** – The Board of Supervisors concurs with the responses by General Services and the County Administrator to Finding 5.

#### **Recommendation 5**

The Grand Jury recommends the County consider reviewing the policy stated in the *County of Solano Purchasing and Contracting Policy Manual – Issued July 2004* to ensure it is consistent with the County's intent regarding competitive bidding. The Manual should also be re-written to eliminate policy modification by linking various portions of the Manual.

#### **Response to Recommendation 5**

**General Services** - General Services partially agrees with this recommendation. The Solano County Purchasing and Contracting Policy Manual is clear and concise when a competitive solicitation is necessary. County Code Section 22-26(d) allows for certain types of professional service contracts to be let without competitive solicitations and/or allows Solano County to "piggyback" off of other governmental contracts for same services and/or commodities. This Code Section is included in the Manual Section 2.11, Exceptions to the Competitive Bid Process.

Representatives of the Sheriff's Office are diligent in conferring with Purchasing staff to ensure compliance with the County's Purchasing and Contracting Policy. In reviewing the contracts in Table II of the report, it is known that some of the contracts allowed for contract extensions in the initial solicitation; in these cases the contract for services were indeed competitively bid (Aramark, Anka). This is consistent with County policy.

In other cases, for example, the contract with Legal Research Associates, a non-competitively bid contract is permissible per Section 2.11 of the County's Purchasing and Contracting Policy Manual which states:

"Expert and professional services. Wherever State law expressly authorizes the execution of expert and professional services contracts. Definition of expert and professional services are defined by state law as those that involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced,



specialized type of knowledge, expertise, or training customarily acquired either by prolonged course of study or equivalent experience such as accountants, physicians, social service consultants, labor consultants, investigators, attorneys, architects, surveyors and engineers.”

Departments are not permitted to modify or to interpret the Solano County Purchasing and Contracting Policy Manual upon their discretion or for their convenience. The master document is housed on the Central Services Webpage.

**County Administrator** - This recommendation has been implemented in part and will not be implemented in part because it is not warranted. The Manual details the policies and procedures of Solano County’s purchasing authority and is clear and concise when a competitive solicitation is necessary.

Actual purchasing authority is set forth in Chapter 22 of the Solano County Code which allows, pursuant to County Code Section 22-26(d), for certain types of professional service contracts to be let without competitive solicitations and/or allows Solano County to “piggyback” off of other governmental contracts for the same services and/or commodities. This Code Section is explained in the Manual Section 2.11, Exceptions to the Competitive Bid Process.

Departments are not permitted to modify or interpret the Manual upon their discretion or for their convenience.

The master document is housed on the Central Services webpage via the following link:  
<http://www.solanocounty.com/depts/genserv/purchasing/vendorguide.asp>.

**Board of Supervisors** – The Board of Supervisors concurs with the responses by General Services and the County Administrator to Recommendation 5.

Respectfully submitted,



Michael J. Reagan  
Chair, Solano County Board of Supervisors