

*County of Lassen*  
**ADMINISTRATIVE SERVICES**

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**DAVID TEETER**

*District 2*

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August 9, 2019

TO: Board of Supervisors  
Agenda Date: August 20, 2019

FROM: Richard Egan, CAO 

SUBJECT: Lassen County Juvenile Hall Detention Facility

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RECOMMENDATION: Adopt resolution authorizing closure of the Lassen County Juvenile Hall Detention Facility and other authorizations.

PRIOR BOARD ACTIONS: None relative to this recommended action.

DISCUSSION: Attached to this memorandum is the proposed resolution authorizing closure of the Lassen County Juvenile Hall Detention Facility. The resolution contains background information and circumstances compelling the request to close the facility. It also contains authorization to County staff to obtain approvals to close and re-open the facility for any criminal justice purpose, including execution of any documents upon receiving as to form approval by County Counsel, if necessary.

FISCAL IMPACT: Positive. If closure on or before October 1, 2019, there would be an estimated savings of \$246,979.00 for FY 2019/20. Potential unknown future cost, if any, to the county to repay a portion of the \$2 million dollar state administered federal grant that paid for the construction of expansion of the Juvenile Hall in 1999. Related to accepting grant funding, the County, by Resolution No. 99-011, had agreed to receive permission and instruction from the U.S. Department of Justice (DOJ) prior to modifying the use of the facility. Modifying the facility's use includes closure of the facility. According instructions and guidance from the DOJ, if the County does not reopen the facility or identify another criminal justice purpose for the facility, within six-months of closure, then the DOJ may require the County to pay back a portion of the grant.

OTHER AGENCY INVOLVEMENT: None.

ALTERNATIVES: Provide direction to staff.

RE:ts

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF  
LASSEN AUTHORIZING THE CLOSURE OF LASSEN COUNTY JUVENILE  
DETENTION FACILITY**

WHEREAS, in 1995 the California Legislative Analyst's Office Juvenile Crime Outlook for California reported that *"California's juvenile population is projected to grow over 20 percent in the next decade (through 2004). The number of juvenile arrests will increase over 29 percent over the next ten years. The number of arrests for [juvenile] violent crime are estimated to increase over 28 percent through 2004"*; and

WHEREAS, In 1997 the County formed a Juvenile Hall Expansion Committee to determine how big the Lassen County Juvenile Hall would have to be to adequately house violent juvenile offenders in the years of 2000, 2010 and 2020; and

WHEREAS, the expected county population growth was, at the time, projected to have significant growth from 1998 to 2020, as was the consequent projected inmate population of the Lassen County Juvenile Hall; and

WHEREAS, in 1998 the County's estimated population was 34,471 people and the population was projected to grow to be 47,200 people in 2020; and

WHEREAS, the 2020 projected estimated average daily population of the Juvenile Hall was estimated to grow from 1998 to 2020 to be between 38.3 and 55.8 offenders per day; and

WHEREAS, it would be necessary to construct an expansion of the Juvenile Hall to adequately house the estimated projected increase in juvenile offenders; and

WHEREAS, the Board of Corrections (now the Board of State and Community Corrections or BSCC) awarded a Juvenile Facility Violent Offender Incarceration Program grant in the amount of \$2 million dollars to the County of Lassen for the construction of an expansion to the Juvenile Hall; and

WHEREAS, the source of grant funds being the Office of Justice Programs, U.S. Department of Justice (DOJ) as administered by the State BSCC; and,

WHEREAS, The Board of Supervisors adopted Resolution No. 99-011 relating to the Lassen County Juvenile Detention Facility Construction Grant Funding Application wherein the County provided assurance that the County would not modify use of the facility without permission and instruction from the DOJ; and,

WHEREAS, facility construction was completed and opened in 2000; and,

WHEREAS, since 1998 the voters of the State of California and the State Legislature began to approve and enact legislation, such as Proposition 47, 64, and State Assembly Bill 403 (Stone) that has resulted in fewer juvenile offenders being housed in California, including at the Lassen County Juvenile Hall; and,

WHEREAS, Proposition 47, is known as the "Safe Neighborhoods and Schools Act," was approved by the California voters, in November 2014, to enact to provide for

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reclassifying certain low-level offenses from felonies to misdemeanors and allowed persons with prior convictions the opportunity to retroactively have their conviction reclassified; and,

WHEREAS, California's Fourth District Court of Appeal held that a San Diego youth was eligible for reclassification of his sentence, from a felony to misdemeanor, under California's Proposition 47, and this could serve as a precedent for other jurisdictions and result in greater uniformity in how counties apply Proposition 47 for justice-involved youth; and

WHEREAS, Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" ("Proposition 64") was approved by the California voters, in November 2016, to provide for resentencing and dismissal procedures which permit persons previously convicted of designated marijuana-related offenses to obtain a reduced conviction or sentence, if they would have received the benefits of the law had it been in effect when the crime was committed, including the reclassification of juvenile marijuana offenses as infractions; and

WHEREAS, State Assembly Bill 403 (Stone): Foster Youth: Continuum of Care Reform is changing the manner for helping youth to be placed into Juvenile Hall; and,

WHEREAS, in a presentation titled: Juvenile Justice Trends and the Continuum of Care Reform, statewide, as presented by Chief Probation Officers of California (CPOC) in 2017, that since 2007, more youth stay in the community, and 50% fewer youth are in the [juvenile justice] system, including a 75% decline in juvenile arrests since 2007 with most wardship dispositions released home or to a relative; and,

WHEREAS, the State of California Department of Transportation's, Lassen County Economic Forecast, is reporting that "*Lassen County's population has declined for most of the last decade. Population decline is expected to continue in Lassen County, placing the economy at the risk of long-term stagnation*" to a current estimate of 30,655 people (2017) which is approximately 35 percent fewer people than was forecasted in 1998; and,

WHEREAS, it is believed that the enactment of the above described state laws in combination with a declining county population is resulting in fewer juvenile arrests in Lassen County, from 123 bookings in 2014 to 56 bookings in 2018; and,

WHEREAS, the Juvenile Hall's average daily population had declined to 4.4 offenders per day in 2018 and is presently 2.9 per day for 2019 which is significantly less than what the circa 1998 needs assessment and grant process had projected to grow to be 38.3 offenders per day; and,

WHEREAS, the BSCC's April 2019 Average Daily Cost to House Youth in Detention Facilities Report showed that Lassen County's average daily cost per juvenile offender was very high at \$714 per day, while neighboring counties of Butte, Shasta and Tehama Counties with Juvenile Hall facilities are having much lower average daily operating costs of \$489, \$580, and \$402 per offender, respectfully; and;

WHEREAS, the County has agreements in place with other jurisdictions to safely house juvenile offenders.

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NOW THEREFORE BE IT RESOLVED by the Board of Supervisors of the County of Lassen that:

1. A combination of new State laws, declining county population, and a very-low average daily offender population in the Juvenile Hall are the circumstances that are drastically opposite to what was forecasted to occur from 1998 to 2020 in Lassen County when grant funding was used for expanding the facility to adequately house the projected increase in juvenile offenders.
2. The above described circumstances were unforeseeable and beyond the control of the County of Lassen, U.S. Department of Justice (DOJ) and California Board of State and Community Corrections (BSCC).
3. Other facilities are available to safely house juvenile offenders at a lower cost to the taxpayers of the State of California and Lassen County, and therefore the Lassen County Juvenile Hall is not needed and the facility is ordered closed, temporarily.
4. The Lassen County Chief Probation Officer, Lassen County Counsel and County Administrative Officer, and/or their designee(s), are authorized to represent and act on the County's behalf for obtaining a change of facility use approval to close and re-open the facility for any criminal justice purpose.
5. The County Administrative Officer and/or his designee is authorized to sign any and all documents pertaining to changing the facility's use as required by the DOJ or BSCC, upon receiving as to form approval by County Counsel, if necessary.

THE FOREGOING RESOLUTION WAS ADOPTED AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LASSEN, STATE OF CALIFORNIA, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_ BY THE FOLLOWING VOTE:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN OF THE BOARD OF SUPERVISORS  
COUNTY OF LASSEN, STATE OF CALIFORNIA

ATTEST:  
JULIE BUSTAMANTE

RESOLUTION NO. \_\_\_\_\_

Clerk of the Board

BY: \_\_\_\_\_  
Michele Yderraga, Deputy Clerk of the Board

I, Michele Yderraga, Deputy Clerk of the Board of Supervisors, County of Lassen  
do hereby certify that the foregoing resolution was adopted by the said Board of  
Supervisors at a regular meeting thereof held on the \_\_\_\_\_ day of  
\_\_\_\_\_ 20 \_\_\_\_\_.

\_\_\_\_\_  
Deputy Clerk of the County of Lassen  
Board of Supervisors

RESOLUTION # 99-011  
RESOLUTION RELATING TO THE LASSEN COUNTY JUVENILE DETENTION FACILITY  
CONSTRUCTION GRANT FUNDING APPLICATION

WHEREAS, the County of Lassen has identified the need for a regional juvenile detention facility to confine alleged, pre-trial, or non adjudicated violent juvenile offenders; and

WHEREAS, the County of Lassen has identified the Federal Violent Offender Incarceration Grant Program as a potential funding source to finance the construction of an expanded juvenile hall; and

WHEREAS, the County of Lassen is committed to the long term operation of an expanded juvenile hall if constructed; and

WHEREAS, the County of Lassen has applied for and been awarded a grant from the California Board of Corrections in the amount of \$2,000,000 for the construction of an expansion to the County Juvenile Hall

NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF LASSEN HEREBY:

- A. Appoints the County Administrative Officer as the County Construction Administrator and Financial Officer for the purposes of participating in the Juvenile Facility Violent Offender Incarceration Grant Program administered by the California State Board of Corrections;
- B. Authorizes said County Construction Administrator to sign the grant contract ;
- C. Assures that Lassen County will adhere to state and federal regulations and all terms of contract, in the expenditure of grant funds, and has appropriated, a minimum of 10 percent cash hard match (of total cost) as matching funds for the proposed project;
- D. Certifies that the Lassen County Board of Supervisors has reviewed , approved and is committed to the need for additional staff and operating costs should they result from the project for which funds are being requested, and agrees to fully and safely staff and operate the facility subject to construction consistent with title 15, California Code of Regulations;
- E. Assures that the County has a fee simple or other such estate or interest in the site of the project and rights of access sufficient to assure undisturbed use and possession of the site, and will not dispose of, modify the use of , or change the terms of the real property title, or other interest in the site of facility subject to construction in this project, or lease the facility for operation by other entities, without permission and instructions from the Office of Justice Programs, U. S. Department of Justice.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Lassen held on the 9th day of March, 1999 by the following vote:


AYES: Supervisors Chapman, Pyle, Keefer, Dahle, McCain

NOES: None

ABSENT: None

ATTEST:



  
Jim Chapman, Chairman, Board of Supervisors

In accordance with Section 25106 of the Government Code of the State of California a copy of this document has been delivered to the Chairman of the Board of Supervisors, County of Lassen on

3-9-99

By   
Clerk (Deputy Clerk) of the Board of Supervisors

**County Clerk, County of Lassen**

**I, THERESA NAGEL, County Clerk of the County of Lassen, State of California, and Ex Officio Clerk of the Board of Supervisors thereof do hereby certify that the foregoing resolution was adopted by said Board of Supervisors as a special meeting held, March 9, 1999.**

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**County Clerk and Ex Officio Clerk of the  
Board of Supervisors**

## **Guidance for States on the Use and Disposition Requirements for VOI/TIS-Funded Facilities**

This guidance relates to correctional facilities that were constructed, in whole or in part, with funds from the federal Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) Incentive Formula Grant Program. The VOI/TIS program was administered under the Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), with grants made between 1996 and 2001.<sup>1</sup> The VOI/TIS grants provided states with funding to increase bed space for violent offenders, by (among other things) building new correctional facilities or jails or by expanding existing facilities or jails. No new VOI/TIS funds have been appropriated since 2001, but numerous facilities throughout the United States were built with VOI/TIS funds. This guidance is intended to address the ongoing obligations that recipients of those funds have to DOJ regarding those facilities.

For purposes of clarity, we distinguish between (1) facility use requirements and (2) property disposition requirements. The former relates to issues regarding operation of a VOI/TIS-funded facility; the latter relates to possibilities for selling or disposing of the real property associated with a VOI/TIS-funded facility. Issues regarding facility-use requirements will be addressed first, followed by a discussion of options regarding disposition of facilities, should a state choose to cease operations.

### **FACILITY-USE REQUIREMENTS**

As a condition of funding, and in keeping with the statutory purpose of increasing correctional bed space, VOI/TIS grantees were required to agree to operate those facilities built under VOI/TIS as correctional facilities or jails. The duration of this obligation was not generally specified in grant documents, but DOJ regulations regarding property disposition provide some general guidance. Under these regulations, grantees are required to continue using DOJ-funded property, equipment, or facilities for the originally authorized purposes, for as long as they are needed for those purposes. 28 C.F.R. § 66.31(a). Thus, the need for the correctional facility dictates the length of the federal requirement for continued use.

Although grant instruments for VOI/TIS awards typically did not specifically reference a timeframe for operating funded facilities,<sup>2</sup> each grantee agreed to seek OJP's permission before making any significant modification to facility use—which would include ceasing operations. One of the General Assurances that was attached to each VOI/TIS award provided that “[t]he applicant assures and certifies that the applicant [w]ill not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site or facilities without permission and instructions from the Office of Justice Programs, U.S. Department of Justice.”

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<sup>1</sup> The grants initially were administered by OJP's Corrections Programs Office but later were transferred to the Bureau of Justice Assistance (BJA) for administration.

<sup>2</sup> Although we do believe this to be true in most cases, if the grant instrument for any particular VOI/TIS award actually does reference a specific timeframe for operations, the terms specified in the instrument are controlling.



Although we emphasize the requirement that states request permission to cease operations or otherwise change the use of the facility, it also should be noted that BJA has general policy of granting all reasonable facility-use requests. With regard to what types of alternate uses of a facility BJA would allow, BJA has stated that any alternative use of the facility by the grantee must serve a criminal justice purpose, as a general matter, and that it must be made available for the originally authorized purpose, if the need should arise again.

## PROPERTY DISPOSITION REQUIREMENTS

Rather than retain a VOI/TIS-funded facility once it is determined that it is no longer needed for its originally authorized purpose, some states would prefer to sell or otherwise dispose of the facility. Alternatively, a state may wish to retain title but extinguish its ongoing obligations associated with the grant funding. This section describes the several options regarding disposition of the property.

First and foremost, each state should be aware that, as a result of the funding provided for the construction of the facility under the VOI/TIS grant by virtue of the relevant regulations and government-wide guidance, DOJ retains a financial interest in the facility. Under the generic DOJ regulations regarding property disposition, there are three property-disposition options: (1) the state may retain title to the facility and compensate the DOJ funding agency, thus ending any obligation to DOJ associated with the facility; (2) the state may sell the facility and compensate the DOJ funding agency; or (3) the state may transfer title to the DOJ funding agency or to another entity designated/approved by the DOJ funding agency. *See* 28 C.F.R. § 66.31(c).<sup>3</sup> A fourth option that may be available to states is to direct the proceeds of the sale of a DOJ-funded facility toward another VOI/TIS-authorized purpose. Each of these options is discussed briefly below.

### *(1) Retention of Title with Repayment or (2) Sale with Repayment*

Pursuant to the generic DOJ regulations regarding property disposition, and consistent with the Office of Management and Budget Common Rule, VOI/TIS grantees may buy their way out of any ongoing obligations related to grant funding. *See* 28 C.F.R. § 66.31(c). Under this regulation, the amount due to DOJ would generally be calculated by applying the awarding agency's percentage in the cost of the original purchase, which may be as high as 90 percent for VOI/TIS-funded facilities, to the proceeds of the sale. The regulations do allow, however, for reductions to the amount owed based on certain expenses and facility depreciation. Arrival at the final dollar amount to be returned to DOJ would require a certain amount of fact-gathering on the grantee's part, and coordination with OJP's Office of the Chief Financial Officer.

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<sup>3</sup> It is important to note that, pursuant to the regulations (as well as under the VOI/TIS General Assurances, discussed above), it is the DOJ funding agency, rather than the award recipient, that directs which option to take. It is the general policy of BJA, however, to defer to the expressed desires of the state, as appropriate.

*(3) Transferring Facility Ownership to Another Entity*

Although it is unlikely that DOJ would desire a grantee to transfer the facility's title to DOJ, a transfer to another entity could be desirable under many circumstances. Generally speaking, so long as the use of the facility by the receiving entity would be for criminal justice purposes, the transfer, in principle, may be permissible. In such a situation, where the facility was transferred to another owner—either DOJ or another entity—the state would be compensated for any amount beyond that in which DOJ retained an interest, calculated as per above.

*(4) Sale with Change in the Purposes of the Original Award*

In certain circumstances, it may be possible for a state to sell a facility and direct the proceeds in which DOJ retains an interest toward another program purpose authorized under the VOI/TIS statute. Currently allowable VOI/TIS purposes include construction or expansion of correctional facilities, including halfway houses, and many activities related to offender reentry.

BJA appreciates all the work you do in making our communities safer, and looks forward to continuing our partnership. If you have any questions about this guidance or the ongoing financial obligation associated with your VOI/TIS-funded facility, please contact Jonathan Faley, BJA Associate Deputy Director, at [Jonathan.Faley@usdoj.gov](mailto:Jonathan.Faley@usdoj.gov) or call 202-514-2350.