

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

820



FROM: Executive Office

SUBMITTAL DATE:
August 28, 2012

**SUBJECT: Response to the Grand Jury Report: 2011-12 Grand Jury Report:
Riverside County Human Resources Department, Temporary Assignment Program /
Medical Assignment Program (TAP/MAP)**

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve with or without modifications, the attached response to the Grand Jury's recommendations regarding Riverside County Human Resources Department, Temporary Assignment Program / Medical Assignment Program (TAP/MAP).
- 2) Direct the Clerk of the Board to immediately forward the Board's finalized response to the Grand Jury, to the Presiding Judge, and the County Clerk-Recorder (for mandatory filing with the State).

BACKGROUND: On June 26, 2012, the Board directed staff to prepare a draft of the Board's response to the Grand Jury's report regarding Riverside County Human Resources Department, Temporary Assignment Program / Medical Assignment Program (TAP/MAP).

Section 933 (c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury's recommendations pertaining to the matters under the control of the Board, and that a response be provided to the Presiding Judge of the Superior Court within 90 days.

90dayresponsef11TAP.MAP08.12

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30
	Requires 4/5 Vote

C.E.O. RECOMMENDATION:

APPROVE

BY: 
George A. Johnson

County Executive Office Signature

Policy X Policy X

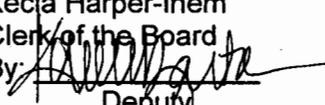
Consent Consent

Dept's Recomm.: Per Exec. Ofc.:

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Buster and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Benoit and Ashley
Nays: None
Absent: Stone
Date: August 28, 2012
xc: EO, Grand Jury, Presiding Judge, H.R., Recorder

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

3.11

Prev. Agn. Ref.: 3.4 - 06/26/12 District: Agenda Number:

ATTACHMENTS FILED

Departmental Concurrence

2011-2012 Grand Jury Report
Riverside County Human Resources Department
Temporary Assignment Program / Medical Assignment Program (TAP/MAP)

FINDINGS:

1. Policies and Procedures

Sworn testimony from multiple witnesses, coupled with an unscheduled visit to the TAP/MAP site, confirmed that no written recruitment policies and procedures or formal job training is provided to TAP/MAP recruiters. These recruiters seek out and place temporary employees for the County. The lack of these written procedures was originally identified in the Riverside County Internal Audit Report 2004-22 of January 29, 2005. The former HR director, in his written response, assured the Riverside County Board of Supervisors (Board) that written procedures would be developed and used. Seven years later the written procedures are yet to be published. Current management responded, under oath, that "written policies and procedures are not a high priority." Currently, procedures are given verbally and change frequently without notice. Verbal procedures are not applied equally to all TAP/MAP recruiters. Claims were made that management overlooks mistakes made by favored employees, but not for others. In sworn testimony TAP/MAP recruiters testified that they are unsure of their duties and fearful they will be reprimanded or terminated for doing the wrong thing.

RESPONSE:

Respondent disagrees wholly with the finding.

The TAP/MAP program regularly provides its recruiters with oral and written instruction as well as on the job training. Recruiters are provided with many resources for procedural instruction including the Human Resources (HR) Department's Job Match Recruitment Manual, the Temporary Assignment Program Employee Handbook and Riverside County Salary Ordinance 440. Each of these written resource materials are used by recruiters in their daily performance of recruiting and selecting candidates for assignment through the TAP/MAP Program. Every recruiter is provided a full day of training (which may be repeated at employee or supervisor request) on the JobMatch Recruitment System. Recruiters also receive day to day instruction by their lead/supervisor. Managers and Supervisors within the TAP/MAP Program hold regular staff meetings on a biweekly basis to discuss recruiting activity, and on a monthly basis to discuss office and procedural matters. Regular instruction/guidance is given to each recruiter on a day-to day basis. Each recruiter is responsible for having each recruitment "signed off" by a lead or manager during the recruiting process, where recruiters can seek guidance on procedural matters, and supervisors can provide additional instruction.

The following statement in the Findings did not related to general written procedures:

“The lack of these written procedures was originally identified in the Riverside County Internal Audit Report 2004-22 of January 29, 2005. The former HR director, in his written response, assured the Riverside County Board of Supervisors (Board) that written procedures would be developed and used.”

The June 6, 2006 Audit Follow-up Report sent to Assistant CEO/HR Director Ronald W. Komers (attached) reveals that the recommendations included two items related to written procedures. One recommended establishing clear guidelines on enrollment or TAP employees in CalPERS. Another recommendation related to keeping adequate documentation of interview and screening processes. Both procedures were developed and implemented.

In addition, management of the Temporary Assignment Program has provided staff with training related to conducting recruitments, and general office procedures. Regular all-staff meetings, small group meetings, and one-on-one meetings are conducted with staff where these discussions are conducted. The TAP office has recently implemented SharePoint technology to document evaluation of assignment extension requests, and requests for retirees returning to work during CalPERS retirement. The management and supervisors of TAP work to keep staff informed of procedural changes as they are required. Additionally, the HR Department has worked to improve communication with staff overall, and staff from TAP are participants in that initiative.

2. Bullying

The Grand Jury initiated an investigation into the alleged existence of bullying within the TAP/MAP unit. After an extensive examination, it is the considered judgment of the Grand Jury that workplace bullying by supervisors and managers has become pervasive in the TAP/MAP section of HR. Bullying by leads (a supervisor without administrative duties) and supervisors in TAP/MAP is causing fear and intimidation among employees, as reported in seven complaints. The County has no written policy or employee training specifically directed against bullying in the workplace. A group of TAP/MAP recruiters are frequently and routinely referred to as “the wild, wild, West” in a negative manner by management assigned to TAP/MAP in 2010-2011. Under oath before the Grand Jury, one HR manager admitted to coining the phrase “wild, wild, west.” These targeted employees view this reference as verbal abuse and feel it isolates them from other employees. Former TAP/MAP recruiters testified they have escaped supervisor bullying by leaving their positions, while others testified they feel trapped in their positions and fear termination. Others testified they have asked for transfer or demotion; their requests have been ignored or denied.

Sworn testimony revealed that during the period 2007 through 2011, senior TAP/MAP recruiters’ performance was judged by their supervisors and managers overseeing the unit as “out of control,” “doing their own thing,” abusing time and attendance regulations, taking long breaks, and making errors. Customer surveys taken during the

same time period contradict the supervisory judgment. These surveys show that various departments using the services of TAP/MAP recruiters were provided a high quality of service. It is these same senior recruiters who were targeted and labeled "the wild, wild West."

Data received from HR by the Grand Jury showed the results of the annual HR Customer Satisfaction Survey clearly demonstrate that on a scale of one to five, with five being the highest score and one the lowest, the TAP/MAP unit scored very high over the five calendar years surveyed.

RESPONSE:

Respondent disagrees wholly with the finding.

The Human Resources Department denies that "bullying" is taking place in the TAP/MAP program. On the contrary, a number of necessary corrective and disciplinary actions have been taken on underperforming staff in the TAP/MAP program; these actions were administered within the guidelines of the County's Disciplinary Process Policy and have been mischaracterized as "bullying".

Starting in 2010, management in the TAP/MAP program set out to raise levels of program and staff performance after customer satisfaction scores had been falling, complaints from applicants and utilizing departments were received, procedural errors were observed, and evidence of staff lacking accountability existed.

From 2010 through 2012, good performance management processes were followed, issuing Corrective Memos (Corrective Memos are advisory, not discipline), Written Reprimands, Performance Improvement Plans, Suspensions and Terminations in appropriate steps in attempts to improve performance. A total of 7 employees out of 35 received some level of discipline.

The Human Resources Department wholly disagrees that corrective and disciplinary action taken by supervisors and managers in the TAP/MAP program was "bullying". Employees subject to corrective action typically do not "enjoy" receiving negative feedback about their performance. However, some employees go on to correct deficient performance and return to acceptable levels of performance; other employees have continued to have performance problems and additional corrective and disciplinary actions were required.

The phrase "wild, wild, west" was taken out of context. This statement was made during a staff meeting on January 6, 2011, where business processes in the office were discussed with the introduction of a new Manager who was being assigned to TAP/MAP effective January 2011. All staff of the TAP/MAP program were invited to attend. During that meeting, the manager solicited input from employees on how to improve business processes. Employees were encouraged to provide input to make positive changes in the way the program operated. During this discussion, the state of operation under past management was reviewed. In the past, recruiters were not accountable for performance on

their Job Orders or timely results, external advertising was not utilized consistently to generate sufficient applicant flow, complaints from ordering departments and applicants were received regularly, and employee accountability was lacking. All of these topics were discussed in the meeting in the context of moving forward to make improvements from the past state. The phrase "wild, wild, west" was used during that meeting to reference the time when accountability and consistent practice was lacking; the statement was not directed at any particular employee, group of employees, or persons, but as a reference to time past. The phrase was not used by management beyond that meeting, and carried no insulting or derogatory context, but instead to motivate employees to make changes moving forward with the new management.

It is true that supervisors and managers perceived performance of some staff members in TAP/MAP as abusing time, taking long breaks, doing their own thing, and making errors; performance management issues were not sufficiently addressed by past management. Beginning in 2010, these issues were documented in employees' performance reviews and corrective actions were taken in accordance with the County's established disciplinary process procedures. Actions taken on employees were reviewed with Human Resources Department senior management, the Human Resources Services team assigned to the HR Department, and the Employee Relations Division of Human Resources. All actions were within reasonable levels prescribed by the county's progressive discipline policy.

It should be noted that higher levels of customer satisfaction were achieved in 2010 and 2011 than in prior years. This coincided with management actions of enforcing higher levels of accountability of staff, thus demonstrating that management actions to address performance problems that existed within the TAP/MAP program resulted in greater customer satisfaction following those actions.

3. Workplace Admonitions

Documentation provided by HR management for calendar year 2011 indicated seven out of thirteen TAP/MAP recruiters have been placed on a Performance Improvement Plan (PIP) and/or a Medical/Certification (MED/CERT) requirement. These employees were in the targeted group labeled "the wild, wild West." After reviewing documents the Grand Jury found that the language contained in them showed disrespect to employees beyond what would be considered reasonable, (e.g., in order to meet the MED/CERT requirement, an employee must leave his/her sick bed and report to a doctor's office, thus exposing others to the illness. On some occasions, a doctor may ask that a child not be brought into the doctor's office for the child's well-being, as well as the well-being of others.) PIPs and MED/CERTS are being used as punitive rather than corrective measures. Disciplinary letters are written by TAP/MAP management and are placed in employee's official personnel files; however, letters of appreciation, commendation, and thank you, are not. This indicates disregard and lack of recognition for quality work performed by these employees.

Documentation provided by complainants, and verified by documentation obtained from HR management, confirmed that formal and informal disciplinary letters and memorandums written by TAP/MAP management were written in an unduly negative, condescending, and accusatory manner. A similar issue was addressed in Grand Jury Report 2004-2005, "Riverside County Regional Medical Center Human Resources and Employee Relations," in which the respondent admitted to this practice.

Employees interviewed testified that when employees freely admit to their supervisors about making inadvertent errors, they are later reprimanded and accused of making the mistakes intentionally. The Grand Jury reviewed extensive documentation, which showed that employees are reprimanded for minor infractions, e.g., not responding in a timely manner to an email from a department. Witnesses stated that recruitment packages submitted for review to a lead or supervisor before a new hire's documentation is finalized, have later been found to contain errors; however, blame is assigned to the recruiter, not to the reviewing supervisor. Investigations are initiated for serious infractions without telling employees why they are being investigated and without evidence that they were involved.

RESPONSE:

Respondent disagrees wholly with the finding.

Performance Improvement Plans (PIP) and Medical Certification Directives (Med Cert) are notices to affected employees regarding the department's expectations on performance and attendance. PIPs are designed to provide employees with expected standards and additional guidance in areas rated Below Expectations to assist them with meeting performance goals. Med Certs provide procedures employees must follow when utilizing applicable leave to correct leave abuse.

Not all disciplinary documents are placed in an employee's official personnel file. Informal disciplinary documents such as Directive Memorandums, Corrective Memorandums, and Corrective Counseling Confirmation Memorandums are kept in the supervisor's working file for the individual employee, and are scheduled for removal after 12 months. Also placed in the supervisor's working files are ongoing records of the employee's performance including, but not limited to, letters of appreciation, commendation, thank you notes, and other work related information. An employee's official personnel file will include employee's data, required forms and notices, acknowledgements of policies and procedures, beneficiary information, performance evaluations, and formal disciplinary documents such as Written Reprimand, Notice of Suspension, Notice of Pay Reduction, and Notice of Termination. Letters of appreciation, commendation, and thank you notes are generally indicated on the employee's performance evaluation, a copy of which is placed in the official personnel file.

The Grand Jury Report noted formal and informal disciplinary documents written by TAP/MAP management were written in an unduly negative, condescending, and accusatory manner. While it was not management's intent to be unduly harsh in its disciplinary documents, such language may sometimes

be unavoidable when misconduct is formally presented. Minor infractions such as not responding to an email in a timely manner may appear trivial on an individual occurrence, but cumulatively they are problematic because of their aggregate effect on customer service.

It was confirmed by testimony from numerous witnesses that HR management, at all levels, was aware of the bullying behavior; however, no corrective action was taken.

RESPONSE:

Respondent disagrees wholly with the finding.

As stated in the responses above, appropriate disciplinary action does not constitute bullying.

It was also discovered and documented by an email, that a supervisor had violated California Labor Code §230.8 by denying a recruiter a short period of time off at the end of the workday to attend her daughter's honor roll award at school. It had been requested four weeks in advance of the event and denied two weeks later by the supervisor.

Two recruiters testified that they were stressed enough to take extended stress leave due to the hostile work environment.

RESPONSE:

Respondent disagrees wholly with the finding.

In the referenced case, the activity in question was scheduled at 6 p.m. in Rialto (approximately 9 miles from the employee's work site), and the employee's work schedule was 7:30-5:00 p.m. The supervisor's denial of the employee's request to leave at 4 p.m. on this date should not have precluded the employee from participating in her daughter's high school activity, and thus does not appear to be a violation of Labor Code §230.8.

As to the stress leave, employees who are being disciplined do sometimes claim they are suffering from stress from a "hostile" work environment. Such claims are generally not up-held by either Workers' Compensation or the Courts.

4. Evaluations

Grand Jury Reports 1991-1992, 2001-2002, 2003-2004 and a study by an outside consultant reported a failure to conduct timely, annual, written performance evaluations. Despite acknowledgment by HR of this failure and despite the mandate contained in County Policy C-21, performance evaluations are frequently not being conducted by managers and supervisors. In some cases, years have elapsed since the last written evaluation. TAP/MAP recruiters have assumed they were performing at least satisfactorily until, without warning and after years of not receiving a performance rating, they are given an unsatisfactory performance evaluation followed by a PIP. It is

the considered judgment of the Grand Jury, from review of the records, that it is when a disciplinary action is anticipated, that TAP/MAP supervisors conduct a performance evaluation. County Policy C-21 states that it is of the utmost importance that the employee receives a performance evaluation annually.

RESPONSE:

Respondent disagrees partially with the finding.

It is true that completion of annual performance evaluations is an important tool for supervisors and employees. It is also true that the County in general and the Human Resources Department specifically, has not conducted 100% of performance evaluations on a regular and consistent schedule. This, however, does not mean employees were not given timely feedback on work assignments. In 2008, the Human Resources (HR) Director directed the HR Service Teams to work with departments to facilitate compliance of Board of Supervisor's Policy C-21 (Performance Evaluations) utilizing a tool of their choice. Human Resources officially adopted the Employee Performance Manager in 2009 after all necessary training occurred for departmental staff. Departments using a system other than EPM were to record evaluation completion in PeopleSoft. Due to the use of multiple systems and some failure to enter data into the system, our reporting system is not totally accurate.

In November 2011, the evaluation completion rate for Human Resources was 87% and TAP/MAP 61%. As of August 15, 2012 TAP/MAP is 82% compliant. Evaluations for the three employees who have not been evaluated in the last twelve months are scheduled for the last week in August 2012.

5. Management Training

Sworn testimony by HR management revealed that supervisors and managers are not required to complete a comprehensive supervisorial or managerial training course, which is offered by the County. Further testimony noted that without sound and comprehensive supervisorial and managerial training, a supervisor or manager can put the County at risk by making an error in administering a law or policy. The HR Center for Government Excellence provides two academies covering comprehensive supervisorial and managerial training that are not being used to their greatest potential. This training is provided to departments at minimal cost.

RESPONSE:

Respondent disagrees partially with the finding.

HR is committed to providing ongoing training for employees and will ensure that supervisors and managers continue to receive additional and refresher training.

While not mandated, management and supervisors county-wide continue to receive the Supervisory Excellence Academy, Management Excellence

Academy, or a Coaching training provided by the HR Center for Government Excellence (CGE). Departments (including Human Resources) value the supervisory and management training conducted by the CGE and new supervisors and managers are sent to the academies as budgets allow. All of the TAP managers and supervisors have received training appropriate to their positions including Supervisory Academy, Management Academy and/or the Leadership Initiative.

Additionally, mandated training required by laws and policies, including their appropriate application, are thoroughly covered in the County's overall employee training and all supervisors and managers are required to attend those classes.

RECOMMENDATIONS:

1. *TAP/MAP management must immediately discontinue verbalizing ambiguous policies and procedures; written policies and procedures must be established. They must be applied equally to all personnel and be provided to each employee at the time of hire.*

RESPONSE:

Recommendation will not be implemented because it is not reasonable.

Written policies and procedures are already in place. No specific details were provided regarding which "ambiguous policies and procedures" the Grand Jury has deemed problematic in the TAP/MAP program. Management of the Human Resources Department would welcome an opportunity to provide clarification to staff on existing policies and procedures if specific areas were specified. Management in the TAP/MAP program continues to hold individual Job Opening reviews with all recruiters on each job opening filled, biweekly reviews of all recruitments in the office, and monthly staff meetings for general office procedural and staff-related discussions. Recruiters have been trained, and will continue to receive ongoing training on recruitment software and procedures, and employees have and will continue to have access to procedural manuals related to recruitment practices. Policies and procedures will continue to be applied equally to all personnel, and staff will continue to have access to policies and procedures on a daily basis.

2. *The Board must issue a policy against bullying for all branches of County government. The Board must establish an independent process to report cases of bullying.*
 - a. *This policy must require the County to consider workplace bullying unacceptable and it will not be tolerated under any circumstances. This includes, but is not limited to:*
 1. *Failing to recognize quality work by the target(s),*
 2. *Making false accusations or exaggerating the seriousness of "errors" made by target(s),*

collected from the personnel investigation supports misconduct such as violations of policy, discourteous treatment, and/or retaliation, appropriate action will be taken. Use of the term “bullying” instead of discourteous treatment will not change the result, and the wording in our current Memoranda of Understanding was negotiated and agreed upon by the various unions.

3. *The directive for sick leave must be revised to require that an employee be placed on MED/CERT only when abuse is shown, not just by the number of hours or times used. HR must recognize that sick-leave abuse patterns occur when sick days are taken:*

- *before and/or after holidays.*
- *before and/or after weekends or regular days off.*
- *after paydays.*
- *on any one specific day.*
- *on an absence following overtime worked.*
- *on half days.*
- *on a continued pattern of maintaining zero or near zero leave balances.*
- *using excessive absenteeism.*

Medical certificates will be required only after absences of three consecutive days, under any circumstances. Consideration must be given to the unnecessary requirement to see a doctor for every sick hour used while on a MED/CERT.

TAP/MAP management must use a positive approach with the issuance of corrective action, e.g., Written Reprimands, MED/CERTs, Corrective Memorandums, and especially with Directive Memorandums. Written discipline and corrective actions including reprimands, PIPs, corrective memorandums and investigations will not be written with demeaning, disrespectful, or condescending language.

Discipline must be applied equally to all employees without discrimination or targeting. When discipline is necessary, it must be justified and not for a trivial occurrence. Investigators must immediately reveal the nature of an inquiry to the employee being investigated.

RESPONSE:

Recommendation will not be implemented because it is not reasonable.

Medical Certification: Under the Resolution of the County of Riverside for Exempt Management, Management, Confidential, and Other Unrepresented Employees, an employee shall be placed on written notice (Med Cert) when in the judgment of the department, good reason exists for believing an employee may be abusing sick leave. An employee’s 12-month attendance profile is reviewed to determine if an abuse pattern exists. The criteria for sick-leave abuse patterns suggested in the Grand Jury Report closely resembles the criteria utilized by the Human Resources Department. Since the Med Cert is issued after an established pattern of abuse, requiring medical certification only after absences of three consecutive days would be inconsistent with the goal of

abuse deterrence since most sick-leave abuse does not manifest with consecutive absences.

Disciplinary Actions are not written in demeaning, disrespectful or condescending language. Correction of misconduct is generally addressed first through informal counseling. Disciplinary actions are usually taken only when such corrections fail to improve the employee's performance to an acceptable level, or to prevent continued misconduct. The Department's objective is to ensure disciplinary action is consistent with county-wide practice and is fair. During an Administrative Investigation, employees are advised of their rights to representation, and informed of the subject of the investigation.

4. *Conducting performance evaluations is a vital part of a supervisor's or manager's job responsibility, but if they are not performed the supervisor or manager must receive a negative rating on his/her own performance evaluation.*

RESPONSE:

Recommendation will be implemented in part.

Human Resources recognizes the value of performance management and evaluation completion for all employees. Completing timely evaluations per Board Policy has been given high priority this year. In the Human Resources Department, if a supervisor or manager does not complete all his/her evaluations for that rating period, s/he will receive a "below standards" rating for the competency area within which this task falls.

Additionally, the Human Resources Department is responsible for monitoring the completion of performance evaluations for all County Departments. However, each County Department is responsible for determining the priority of functions performed by staff in their department. The Human Resources Department will continue to encourage the timely completion of performance evaluations and will provide the tools required to achieve compliance.

The tools being utilized for reporting completion rates may not show 100% for performance evaluations due to: (a) staggered employee anniversary dates, and (b) delays between the completion of an evaluation and recording it in the reporting system(s).

5. *Development and training of managers and supervisors must become a priority. Completion of Supervisory and/or Management Excellence Academy courses must be mandatory for current and newly-appointed supervisors and managers. Training must be completed within 180 calendar days of enactment of this policy by the Board or upon entry into a supervisorial or managerial position.*

RESPONSE:

Recommendation requires further analysis.

County-wide tracking of employee training began in August 2007 utilizing the Center for Government Excellence's Learning Management System. Employees who completed the old academies prior to the revamping of academy content will not have academy completion noted in their file. In addition, the Learning Management System (LMS) relies on PeopleSoft for employee information, so records in the LMS are only as good as the PeopleSoft data. That being said following is the data:

- The total number of Active County Managers and Supervisors is 1862
- As many as 1437 Active County Managers and Supervisors may not have completed either academy.

To train 1437 managers and supervisors at the current CGE rate of 24 students per academy, 60 academies of 9-10 classes each would need to be scheduled; Given the materials cost for the academies of \$1500 per student, it would cost \$2,155,500 county-wide to meet the above objective, assuming that we could staff the academies.

As an intermediate alternative, the Center for Government Excellence is designing an on-line, self-paced Supervisory Series that covers the basics of supervision. In this series, supervisors will be made aware of all human resources procedures that pertain to their management or supervision of staff and they will have immediate access to all necessary required forms and processes with completion and submission instructions. The cost for this series will be significantly less than the in-person academy and will be convenient for a new supervisor to access on-line at a time convenient for them.

In addition, Human Resources commits to exploring other ways to reduce the costs of training while ensuring those who need it receive it.