

The Grand Jury of Humboldt County



**2007 – 2008
Final Report with Responses**

Grand Jury Report # 2008-AF-01
Board of Supervisors Settlement with Tamara Falor

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

The 2006-07 Grand Jury produced a report titled, *Board of Supervisors Settlement and Release for Tamara Falor*.¹ It is suggested it be read as a preface to what follows. Unless otherwise noted, all references to the Grand Jury refer to the 2007-08 Grand Jury.

At the request of the 2006-07 Grand Jury, the Presiding Judge of the Superior Court ordered all records and evidence turned over to the present Grand Jury to continue the investigation. The investigation ensued by calling additional witnesses. One witness testified for two days, rebutting in great detail the 2006-07 report.

With this additional testimony, it is reasonable to assume the Board of Supervisors may have settled with Falor to avoid more costly and time consuming litigation.

The Board of Supervisors was asked to testify and they again declined. They claimed it was a personnel matter they could not discuss.

In conclusion, this jury is no closer than the 2006-07 Grand Jury in determining the factual reason(s) behind Falor's separation.

¹ *The Grand Jury of Humboldt County, 2006-2007 Final Report: Board of Supervisors Settlement and Release for Tamara Falor #2007-AF-02.* (June 2007) or online at <http://www.co.humboldt.ca.us/grandjury>

Grand Jury Report # 2008-AF-02
Appointed Department Head Evaluations

Executive Summary:

The Grand Jury reviewed the policy, procedures, and practices of Humboldt County in conducting performance evaluations of appointed department heads. The review was initiated subsequent to the 2006-07 Grand Jury investigation into the 2007 dismissal of County Counsel.* At that time, the Grand Jury observed that performance evaluations for department heads were not being conducted on a regular and timely basis.

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **The Humboldt County Board of Supervisors** shall respond to Findings and Recommendations 1, 2, and 3.

*On August 6, 2008, the 2008-2009 Grand Jury issued a report clarifying that the County Counsel resigned and was not dismissed.

Report:

The following positions are appointed by the Board of Supervisors: Agricultural Commissioner and Sealer of Weights and Measures, County Administrative Officer, Cooperative Extension Director, Child Support Services Director, County Counsel, Personnel Director, Library Services Director, Community Development Services Director, Conflict Counsel, Chief Probation Officer, Public Defender, Public Works Director, and the Health and Human Services Director. State law requires the Agricultural Commissioner/ Sealer of Weights and Measures and the County Counsel receive four-year employment contracts once assigned. The remaining appointed positions serve the county as *at will* employees. Seven elected positions are not the subject of this report as their performances are evaluated by the voters.

The Grand Jury interviewed members of the Board of Supervisors, the Chief Administrative Officer, the assistant to the Chief Administrative Officer, and the head of the Personnel Department. Information was also received from the California State Association of Counties, Santa Barbara County, and Shasta County. In reviewing evaluation practices, the Grand Jury considered current practices and those which may have been in place over the most recent five-year period.

The Board of Supervisors retains ultimate authority for county operations and the performance of county departments. The board appoints department heads, retains authority to hold them accountable, and can dismiss them for any reason or no reason. There is no formal evaluation policy or any regular unwritten or informal practice of evaluating the performance of department heads.

There are adequate job descriptions and procedures for recruiting qualified candidates. Witnesses, interviewed by the jury, expressed concern over difficulty in attracting and retaining qualified managers. Positions sometimes attract no more than three to five qualified applicants or the position may remain open for extended periods due to a lack of qualified applicants. According to testimony, the reasons for this include a general shortage of qualified candidates, reluctance to serve in positions open to public scrutiny, and the comparatively low pay in rural California counties such as Humboldt.

At the time a department head is employed, there may be a probationary period of six months to one year. During this time, individuals previously employed by the county may be provided the title of *interim* or *acting*. This indicates a trial period during which the Board of Supervisors, as well as the department head, determines the commitment to continue with the designation as a permanent employee. Formal performance evaluations *may* be completed during an employee's probationary period. However, after the probationary period, formal evaluations do not continue.

At times of crisis or commendable performance, department heads may be called before the Board of Supervisors and reprimanded in closed session or provided commendation for outstanding performance. The Board of Supervisors reviews department budgets and significant projects from time to time as part of their regular public meeting agenda. These reviews are not considered performance evaluations.

Fourteen counties in California are *charter* counties and leadership is provided in the form of a Chief Executive Officer (CEO). The CEO assumes direct responsibility for evaluating department heads, with the authority to recommend continued employment or dismissal. Humboldt County is one of forty-four *general law* counties administered by a Chief Administrative Officer (CAO). With the CAO arrangement, certain powers must be specifically assigned to the position by the Board of Supervisors.

In Humboldt County, there is a lack of clear understanding between the CAO and the Board of Supervisors as to when, how, how often, and for what purpose department heads will be evaluated. Subsequently, the CAO is assigned responsibility without commensurate authority. Even though the CAO may be viewed as management, the position carries no official authority to reprimand or recommend the termination of an appointed department head. Additionally, with no formal mechanism in place, there is missed opportunity to build trust, establish common goals, and commend and encourage department leaders. It is not enough to expect a department head or organization will operate at a high level without the benefit of an effective and regular assessment of their skills, personal attributes, and suggestions for improvement by their supervisors.

Evaluators need not be experts, in each area of department responsibility, to provide an effective evaluation. However, they should have expertise in providing direction and leadership. Though there may be roadblocks or reluctance to provide for effective performance evaluations of county department heads, the Grand Jury believes annual written performance evaluations are essential to efficiently manage county business. The Grand Jury recognizes the dedicated public officials committed to the well-being and prosperity of Humboldt County. It is hoped the following findings and recommendations will support their work in leadership positions.

Findings and Recommendations:

Finding 1:

There is no policy or procedure for annual written job performance evaluations for department heads appointed by the Board of Supervisors.

Recommendation 1:

The Board of Supervisors adopts policy and procedure for annual written job performance evaluations for all department heads who report to the Board of Supervisors. Policy to include that such evaluation is kept as part of the employee's permanent personnel file.

Finding 2:

There is a lack of clarity among the Board of Supervisors and subcommittees as to who is responsible for evaluation of appointed department heads.

Recommendation 2:

The Board of Supervisors should either conduct regular performance evaluations through a subcommittee of the board or do what is necessary to direct the Chief Administrative Officer to conduct performance evaluations, with the authority necessary to make the process timely and effective. Such direction to include making the evaluations part of the employee's personnel file.

Finding 3:

No evaluation of the Chief Administrative Officer is conducted by the Board of Supervisors on a regular basis.

Recommendation 3:

Conduct an annual evaluation of the Chief Administrative Officer, at which time goals consistent with the priorities of the board can be established.

RESPONSES

Finding 1: There is no policy or procedure for annual written job performance evaluations for department heads appointed by the Board of Supervisors.

County Board of Supervisors: *The Board agrees with the finding.*

Recommendation 1: The Board of Supervisors adopts policy and procedure for annual written job performance evaluations for all department heads who report to the Board of Supervisors. Policy to include that such evaluation is kept as part of the employee's permanent personnel file.

County Board of Supervisors: *The Board will work with the County Administrative Officer and the Personnel Director to establish a policy and procedures.*

Finding 2: There is a lack of clarity among the Board of Supervisors and subcommittees as to who is responsible for evaluation of appointed department heads.

County Board of Supervisors: *The Board agrees with the finding.*

Recommendation 2: The Board of Supervisors should either conduct regular performance evaluations through a subcommittee of the board or do what is necessary to direct the Chief Administrative Officer to conduct performance evaluations, with the authority necessary to make the process timely and effective. Such direction to include making the evaluations part of the employee's personnel file.

County Board of Supervisors: *The Board of Supervisors will work with the County Administrative Officer to schedule and conduct regular department head performance evaluations.*

Finding 3: No evaluation of the Chief Administrative Officer is conducted by the Board of Supervisors on a regular basis.

County Board of Supervisors: *The Board Agrees.*

Recommendation 3: Conduct an annual evaluation of the Chief Administrative Officer, at which time goals consistent with the priorities of the board can be established.

County Board of Supervisors: *The Board of Supervisors agrees and will continue to conduct an annual performance evaluation of the County Administrative Officer.*

Grand Jury Report # 2008-AF-03
Office of Emergency Services

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

The Grand Jury reviewed the Office of Emergency Services (OES) and its role in coordination of services and agencies in the event of disaster.

Office of Emergency Services

The Office of Emergency Services is located in the basement of the Humboldt County courthouse in Eureka. It houses a complete communications center with emergency power to operate in the event of an electrical outage. The equipment is well organized and maintained although working space is limited and there is no room for expansion. The OES director maintains his office at this location and is responsible for daily operations and the coordination of services in the event of disaster.

OES is an arm of the sheriff's department and the resources of that department are available to OES. The sheriff and the OES director are prepared to mobilize emergency equipment and materials county-wide, as necessary. Assistance includes the provision of trained personnel and equipment and taking the lead in coordinating interagency resources. Request for mutual aid from outside the county, such as from the State Office of Emergency Services, are routed through the county OES. The OES offers training by state and federal personnel to maintain expertise and readiness. This includes specific training in communications protocol and the coordination of emergency services.

The Department of Homeland Security previously provided resources to OES, including \$250,000 for the purchase of a state-of-the-art emergency van known as the Mobile Command Center. This special communications center is controlled by the Humboldt County Sheriff Special Services Department. Several individuals receive mandatory periodic training in the operation of the command center. The Mobile Command Center is available for use by various agencies including law enforcement, fire departments, and the health department. The mobile unit is equipped to operate in remote areas.

Emergency Support Agencies

Several public and independent agencies offer valuable service in the event of disaster. Two volunteer agencies, the American Red Cross and the local Ham Radio Operators Club, were visited by jury members. The American Red Cross is a private organization working with individuals, schools, and civic groups. It trains volunteers to prepare for emergencies and provides orientation to individuals responding to disaster.

Organizing an effective response, when communications are lost or roads are impassable, requires knowledge, training, and practiced crisis skills. Approximately eighty volunteers have received disaster training and are ready to support OES in times of emergency. The Red Cross stores emergency supplies throughout the county and maintains two mobile units, each equipped with medical supplies and staples. The main office, located at 406 11th Street in Eureka, is also

equipped with Ham radio equipment. Current information regarding earthquakes, tsunamis, and other disasters is available at <http://humboldtredcross.org>.

Local Ham radio operators provide a free valuable service in times of disaster. They have operated in Humboldt County since 1947. The Eureka Ham Radio Operators (EHRO) function as a communication center in times of major emergencies. During major emergencies, at least one operator is stationed at the OES center. Ham operators must learn radio theory and pass an exam before they are licensed. There are about eight hundred Ham operators in Humboldt County. For more information about EHRO, visit <http://www.humboldt-arc.org>.

The Community Emergency Response Team (CERT) was a concept developed in Southern California after the Whittier Narrows earthquake. The Federal Emergency Management Agency (FEMA) recognized that citizens will have to provide for their own needs during a catastrophic disaster and a need exists for training in survival and rescue skills. In 2003, FEMA directed Homeland Security to make CERT available to communities nationwide. The purpose was to harness the power of individuals through education, training, and volunteer services. Funding from Homeland Security initially went directly to counties. That is no longer the case. CERT is no longer organized in Humboldt County as the state now controls and allocates available funding.

The aforementioned organizations work together to insure citizens will be served in the event of natural disaster or other emergencies.

Grand Jury Report # 2008-CD-01 Sewer Treatment Systems

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- The **Sewer District Management of Manila and Shelter Cove** shall respond to Finding and Recommendation 1.
- The **City Managers of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, and Rio Dell** shall respond to Finding and Recommendation 1.

Report:

The Grand Jury studied sewer treatment systems including those serving Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Manila, Rio Dell, and Shelter Cove. The jury discovered a common problem involving Inflow and Infiltration (I & I). The aging infrastructure and I & I are negatively impacting the wastewater treatment plant (WWTP) of each sewer system. The Grand Jury, in its investigation, concluded the problem exists systemically with all Humboldt County sewer districts.

Inflow is the immediate introduction of rainwater into a sewer collection system. Inflow is caused by roof drains and/or storm drains improperly connected to the sewer collection system, or by breaks in main sewer lines allowing rainfall to quickly enter the system.

Infiltration is the siphoning of rainwater into the sewer collection system through small cracks or leaks during periods of sustained heavy rainfall. Many older homes have sewer lines constructed of terra cotta tile pipes laid end-to-end. Over time, the grouted joints develop cracks through which water is pulled into the sewer system when the ground is saturated.

During winter months, when rainwater and surface run off are at their highest flows, the sewer treatment plants struggle because of I & I. In some systems, the flow can be as much as five times the normal summer rate. Many systems have infrastructure containing sewer lines in excess of fifty years old. Several of the systems studied are so deteriorated that building a new sewer collection grid is the only effective solution. In extreme circumstances involving imminent threats to public health, grant money may be available for infrastructure upgrades. In the absence of grant money, the management is forced to increase user rates to pay for upgrades. The rate increases must also reflect the increasing cost of system operation and maintenance over the useful life of the improvements.

Sewer systems are designed to treat wastewater, not excessive amounts of rainwater. Successfully addressing the I & I problem requires long-term planning and on-going efforts. This is not only to mitigate the negative impacts of the I & I, but also to satisfy the state regulatory North Coast Regional Water Quality Control Board (NCRWQCB). In recent years, the NCRWQCB has aggressively enforced regulations. Large fines and moratoriums on new sewer connections, due to water quality violations related to high I & I flow rates, have negative impacts on home construction and business development.

Wastewater treatment plants operated by large cities or districts normally have more financial resources available. They can typically afford to hire professional managers and engineering firms for necessary technical assistance involving the ever-growing complexities in operating municipal wastewater systems. Smaller systems have limited resources and are at a disadvantage. Management responsibility often falls on volunteer boards in the community, not paid professionals larger systems can afford. Many of the functional issues facing small districts are the same ones facing larger districts, but the small district cannot always afford to hire adequate staff.

As each special district is independently operated, it individually contracts with different engineering firms for technical advice and long-term planning. Consistency in such services is sometimes interrupted by changes in local political will resulting in changes to district leadership. Inconsistency in leadership can be problematic when dealing with the technical aspects of WWTP operation and planning.

The Grand Jury received testimony regarding potential benefits of consolidating certain elements of small sewer system management. Joint efforts by cities, special districts and the county are not new. Sewer districts are political subdivisions of the county and have the ability to become part of a Joint Powers Authority (JPA). In the early 1990's, several small cities, sewer districts, and the county worked toward the establishment of a JPA to manage and operate a centralized sewer sludge compost site. Although those efforts did not come to fruition, the example can be used to facilitate long-term planning to reduce the impact of I & I on our local WWTP's.

Economies of scale could be realized by the consolidation of engineering services. Local governing board members could then be free to act in an advisory capacity and not burdened by technical aspects of long-term planning. Further study is needed to determine whether other elements could be similarly consolidated, such as human resources, billing, and customer services. As a possible model, Lake County has a separate department operating many of their special districts, including sewer districts.

Findings and Recommendations:

Finding 1:

Economies of scale could be achieved by consolidation of some management elements with local sewer treatment systems.

Recommendation 1:

The sewer districts listed in this report should explore the possibility of joint efforts for workable solutions to their common problem of Inflow and Infiltration, including the consolidation of long-term engineering and planning services. Consideration should be given to include all sewer districts within Humboldt County, for the purpose of opening dialogue concerning relative issues.

RESPONSES

Finding 1: Economies of scale could be achieved by consolidation of some management elements with local sewer treatment systems.

Manila Community Services District: *General Manager Partially Disagrees.*

Shelter Cove Resort Improvement District: *The Resort Improvement District #1 (District) disagrees wholly with the findings of the Grand Jury Report #2008-CD-01, Sewer Treatment Systems. Economies of scale cannot be achieved by consolidation of some management elements with local treatment systems.*

City of Arcata: *The City agrees with Finding 1.*

City of Blue Lake: *We agree with the finding to the extent it applies to City of Blue Lake.*

City of Eureka: *Agree - The City agrees with this finding that economies of scale could be achieved by consolidation of some management elements. However, we believe this finding applies more to smaller districts that are at a disadvantage due to their lack of resources. While the districts share a common problem of l&I due to aging infrastructure, each district is also unique in many ways. Consolidation of some management elements will need to be carefully considered. Government should always look for opportunities to consolidate efforts and we believe there are many examples locally in the areas of sewer systems, fire, police and solid waste.*

City of Ferndale: *The City of Ferndale Agrees.*

City of Fortuna: *Partially agree.*

City of Rio Dell: *The City of Rio Dell City Council and Public Works Department agree.*

Recommendation 1: The sewer districts listed in this report should explore the possibility of joint efforts for workable solutions to their common problem of Inflow and Infiltration, including the consolidation of long-term engineering and planning services. Consideration should be given

to include all sewer districts within Humboldt County, for the purpose of opening dialogue concerning relative issues.

Manila Community Services District: *Although Inflow and Infiltration (I&I) may present a common problem for most sewer systems, Manila's system is unique among those listed in that it is of Septic Tank Pumping System (STEP) design. Unlike conventional gravity sewers lines, which often are constructed of concrete or clay, pressure sewer lines are made of polyvinyl chloride (PVC) or high-density polyethylene. The joints are solvent weld or rubber gasket and the system usually employs cleanouts or pigging ports instead of manholes, reducing the possibility of inflow and infiltration of storm water and groundwater.*

This system is particularly susceptible to I&I (since electricity is required to pump all effluent within the pressurized system). Due to this susceptibility, the system is designed to be sealed from I&I. The district has identified I&I exposed sites and has implemented a simple, cost effective plan to minimize I&I from the sites.

In our opinion, any pooled resources in regard to engineering and management for our system are very limited. Lastly, the district would not want to dilute the efforts of gravity type systems mentioned in the report.

Shelter Cove Resort Improvement District: *The District has aggressively pursued rehabilitation of its sewer collection system for more than ten years and invested hundreds of thousands of dollars in its effort to reduce Inflow and Infiltration (I&I). These efforts have resulted in a significant reduction in wet weather flow to our wastewater treatment facility. Management elements of this program are an insignificant portion of the program expense because the District's staff supervises the long range program as well as annual rehabilitation projects. Nearly all of the District's expenses for this program are directly related to inspection, repair and replacement of infrastructure. Shelter Cove is a very remote location and no tangible benefit or discount could be expected from combining construction projects or sharing management resources with any other sewer collection/treatment system.*

The District disagrees wholly with the recommendations of the Grand Jury Report #2008-CD-01, Sewer Treatment Systems. Joint efforts with the other sewer districts listed in the report would be impractical considering the distance between these facilities, and the unique nature of each sewer system's problems.

As explained above in our response to the findings, The District has already identified its specific I&I problems and has been correcting these problems annually in a prioritized sequence within the limits of its financial resources. The District will continue with these efforts until I&I is reduced to an acceptable level.

City of Arcata: *The recommendation has not been implemented, but plans for better dialogue have been initiated through the formation of the North Coast Water Resources Association. The City believes its continued effort to support and participate in the formation and work of the Association will fulfill this recommendation. An initial membership meeting is scheduled for mid October 2008.*

Background on the North Coast Water Resources Association:

The City of Arcata recently participated in a collaborative effort to assist the County of Humboldt with the completion a Humboldt County Infrastructure Technical Report. This technical report was used to provide information for the update to the County's General Plan. This same

technical report called for the initiation of the North Coast Water Resources Association in the hopes of continuing the efforts initiated by the report's collaborative efforts. Humboldt County Planning and the Rural Community Assistance Corporation are currently organizing the formation of this new group. The initial intention for the group is to: exchange information and experience, pool resources, establish working groups to address issues affecting all members, develop and deliver free or low cost training, develop programs and procedures that will reduce duplication of effort, coordinate more effectively with county, state and federal assistance programs, respond to regulatory or political issues with a strong and united voice, coordinate with non-profit technical assistance providers to develop and share standardized templates, and provide all the benefits of membership at the lowest cost possible. The City intends to continue our effort to participate in the North Coast Water Resources Association as it develops.

The City of Arcata concurs that inflow and infiltration (I & I) are real infrastructure struggles, which affect local wastewater systems. Thirty years ago the City of Arcata installed a wetland treatment wastewater system designed in part to accommodate the I & I that was measured within the system at that time. Over the past five years the City has spent \$2.1 million repairing over three miles of sewer pipe, predominantly within the Sunny Brae neighborhood. The City Council recently authorized an additional \$500,000 be allocated to I & I reduction over the next two fiscal years, these funds are drawn from a combination of wastewater funds and re-development grant funds.

The City of Arcata, along with the City of Eureka and the Humboldt Community Services District, are participants in the Shellfish Technical Advisory Committee. Information sharing via this technical advisory committee has proven useful in developing regional solutions, which in this case pertains to the Humboldt Bay watershed.

City of Blue Lake: *This recommendation requires further analysis. The City will make contact with the other listed sewer districts within Humboldt County to explore the possibility of implementing the recommendation. Since implementing this recommendation would require the collaboration of a number of public agencies, it is impossible for Blue Lake alone to set forth a timeline for its implementation.*

City of Eureka: *This recommendation requires further analysis.*

First, it is unclear if this recommendation applies to the City of Eureka since we are the largest WWTP in the county and as mentioned in the report have more financial resources to address long-term planning issues. It appears the recommendation applies more to smaller sewer districts as indicated by the report that mentions Grand Jury receiving testimony regarding potential benefits of consolidating certain elements of small sewer system management.

Even though the focus of the report may be on the smaller districts, the City of Eureka supports regional efforts in working together whenever possible and believe those efforts are ongoing. The City owns and operates the Elk River Wastewater Treatment Plant and the collection system within the city limits. By agreement, we accept and treat all sewage from Humboldt Community Services District. The City and District have a history of working together and sharing resources whenever possible. The City and District are currently working together on a Facility Planning effort for the WWTP and collection system.

Phase 1 of the Facility Plan focuses on determining condition and capacity of the collection system. The evaluation includes: a review of maintenance and management practices required for CMOM compliance; preliminary assessment of existing WWTP capacity; and to prepare a collection system capital improvement program focusing on l&I reduction.

Phase 2 of the Wastewater System Facility Plan addresses near and long term planning issues (20 years). The evaluation will include planning necessary for capacity re-rating of the WWTP and National Pollutant Discharge Elimination System (NPDES) permit renewal. The effort will culminate in a Facility Plan that meets regulatory requirements and identifies wastewater system improvements needed over the long term.

Even though the WWTP was designed to accept and treat MI, the City is committed to capital improvement projects to reduce MI in our system relieving the burden on the WWTP and improving the environment. The City has invested over twelve million dollars in capital improvement projects within the sewer system over the last eight years. Many of these projects focused on l&I reduction.

In addition to our close working relationship with Humboldt Community Services District, the City and other sewer districts work closely together to share resources and trouble shoot common problems. Examples include but are not limited to:

- Collaborative effort with Humboldt County developing the Humboldt County Infrastructure Technical Report;*
- Initiation of the North Coast Water Resources Association to develop a collaborative effort to address common problems and realize an economy of scales. Humboldt County Planning and the Rural Community Assistance Corporation are organizing this group. This group is consistent with the need to further evaluate this recommendation. The group intends to: exchange information and experience; pool resources; establish working groups to address issues affecting all members; develop and deliver free or low cost training; develop programs and procedures that will reduce duplication of effort; coordinate more effectively with county, state and federal assistance programs; and to respond to regulatory or political issues with a united voice.*
- Participation in the Shellfish Technical Advisory Committee with the Regional Board, oyster growers, and the City of Arcata and Humboldt Community Services District. The TAC is another opportunity to share solutions.*

City of Ferndale: *The recommendation has not been implemented, but will be implemented in the future. The City of Ferndale currently belongs to numerous county and regional groups that could be a vehicle for opening dialogue on this issue: Our Chief Wastewater Treatment Operator has recently joined the California Water Environmental Association, and this group talks about common challenges facing all of our communities such as inflow and infiltration into our sewer systems as well as all the other WWTP and Water issues. The Hazard Mitigation Plan Committee, represented by 27 other partners, touched on a number of issues concerning all of our communities. The City Managers of Ferndale, Rio Dell and Fortuna meet regularly and this issue is a common topic of discussion. We are constantly looking for ways to maximize our resources, whether sharing equipment or expertise.*

City of Fortuna: *The Grand Jury proposal is plausible only if there is mutual benefit to each of the independent public agencies, which is governed by officials elected by the users and ratepayers of the water and wastewater systems.*

It is possible to develop a joint work plan whereby public agencies can work together on similar wastewater infrastructure issues and share the costs. However in my opinion as the City

Manager of Fortuna, and with my previous experience as the former City Manager / Director of Public Works for the City of Blue Lake and the former General Manager of the Manila Community Services District I find that the Grand Jury recommendation is impractical and naive for a variety of reasons.

These reasons are:

1. Lack of a Compelling Financial Incentive to Work Together

Although the wastewater infrastructure problems experienced by all public wastewater system are somewhat similar in nature, there is no compelling requirement or incentive for the small special districts or cities to work together or have qualified and knowledgeable individuals available to direct the necessary remedial work.

Every California public agency operating a public wastewater system is regulated separately under the Federal and State Clean Water Act regulations by the State Water Resources Board, which also requires the employment of qualified and certified wastewater treatment operators. Permitting for the discharge of treated effluent is authorized by the Clean Water Act and regulated through the National Pollutant Discharge Elimination System (NPDES), which is administered and regulated by the Regional Water Quality Control Board. Each agency must acquire its own NPDES permit and is held responsible for operating the public wastewater system within the parameters of the permit and are subject to substantial fines for non-compliance. Each NPDES permit is unique to the specific wastewater treatment system for which it was issued.

In addition, each sewer collection system is unique in its design and operation. As an example, the Manila Community Services District sewer collection system is a 'pressure sewer' and not a "gravity sewer" as many sewer systems. Due to that design, it is not subject to the same Inflow and Infiltration (I&I) problems.

The Funds necessary to accomplish the remedial "work" and ongoing capital projects within each agency's jurisdiction will need to generated within that agency capabilities to raise the necessary funds⁴ otherwise one agency will be subsidizing the capital projects performed on another agency's system

Unless there is an identified and ongoing financial incentive and a mutually shared commitment by public agencies to work together, in my opinion the proposal by the Grand Jury is not viable.

2. Resistance by the Rate Payers to Bear the Cost

Although there may be economies of scale and efficiencies for small special districts or cities to combine their efforts by hiring professional consultants to help manage the ongoing infrastructure issues, sharing these costs equitably by each district can be the challenge. These additional costs will need to be funded by each district. Some of the districts may qualify for grants or low-interest loans from the State Water Resources Board or other sources, but more then [sic] likely the wastewater user rates of each district may need to be raised to pay for the each agencies share of costs to design and construction of the necessary capital repairs and improvements.

Experience has shown that water and sewer ratepayers tend to undervalue these important services and sometimes strongly oppose proposed rate increases for these necessary

system repairs and improvements. They voice their strong opposition to the elected officials and due to this opposition; the elected officials sometimes lose their political will to proceed and may ultimately abandon the necessary improvements and repairs to their public system.

If several public agencies joined together under a mutual cost sharing agreement to work on capital infrastructure issues as previously discussed and if one or more agencies decide to opt out of the cost sharing agreement due to political pressure from ratepayers, the entire arrangement could fall apart.

In my opinion and from my experiences, the ratepayer's opposition to higher rates is one of the primary reasons these types of joint public agency water and sewer projects are impractical to implement since there needs to be a compelling need and financial advantage for independent public agencies to work together.

City of Rio Dell: *The City of Rio Dell is working with the Regional Water Quality Control Board, and Rural Community Assistance Corporation, as we develop our new Waste Water Treatment and Reuse Plant. We meet regularly with Fortuna and Ferndale to share information and experience, pool resources when possible, and have worked together to address issues affecting the Eel River. We also hope to work with Scotia to bring them into our new Wastewater Treatment and Reuse Plant.*

We are very open to joint efforts for workable solutions to our Inflow and infiltration problems.

Grand Jury Report # 2008-AH-01 North Coast Rail Authority

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

The Grand Jury studied the North Coast Rail Authority (NCRA) and its operations for two years. In the ensuing investigation, the Grand Jury interviewed NCRA officials, unaffiliated experts in railway operations, geologists, earthquake experts familiar with the Eel River Valley, and others who expressed an interest in NCRA activities. The Grand Jury also reviewed a study¹ of the long-term financial feasibility of the proposal to restore the rail line between Willits and Eureka, as well as other internal administrative documents. While NCRA operations are in the four counties of Humboldt, Mendocino, Sonoma, and Marin, this investigation concerned the Eel River corridor.

Rail service between Eureka and San Francisco began in 1914. In 1982, the Southern Pacific Railroad started proceedings to abandon the portion north of Willits because of high maintenance costs. Southern Pacific estimated maintenance for that section was two to three times that of their other nationwide operations. In 1984, Southern Pacific sold the northern portion to a new operator, Eureka Southern, who ran the railroad for about two years before declaring bankruptcy

¹The Long Term Financial and Economic Feasibility of the Northwestern Pacific Railroad, 2003, Parsons Brinckerhoff Quade & Douglas, Inc.

in 1986. In 1989, the State of California, not wanting to see the rights to the railroad corridor lost, created the NCRA. The NCRA used state funding to buy Eureka Southern out of bankruptcy.

The NCRA contracted with Northwest Pacific Railway to operate the line. Prior to any train operation, the NCRA was required to bring the tracks to a minimum FRA Class I standard, with a maximum freight train speed of ten miles per hour.

This report is not intended to argue either side of the public debate on the railroad issue. It is intended to report on facts that arose from the Grand Jury investigation. It should be noted these facts may not bear the same weight in the future as they appear to have today. Conditions and needs change as communities grow and develop. Humboldt County is no exception.

As of this date, it has been over ten years since trains traversed the Eel River Valley. Tracks are broken and twisted with large portions of rail bed entirely missing. This condition is due to highly unstable ground throughout the region and lack of maintenance. Local geologists familiar with the area testified that the effects of earthquakes and natural erosion, in the Eel River Valley, are amplified because of particular soil types found there.

A 2003 study² examined the long-term financial feasibility of the Northwestern Pacific Railroad. The study, a thorough examination of anticipated revenues, expenses, and conditions that could produce both, concluded that income generated could not meet expenses over the next twenty-five years. The study did not speculate on operating costs of the railroad.

Humboldt County does not give significant money to the NCRA. Supervisor John Wooley's time and effort appears to be the county's only contribution. There is no agreement or plan the county will or will not have financial obligation to the NCRA in the future. It is currently anticipated governmental costs for railroad restoration and operation would be borne by state and federal resources.

The NCRA proposal to restore the rail line, from Willits to Eureka, depends heavily on the development of Humboldt Bay and its port facilities. It appears these projects go hand in hand and neither would be viable without the other. The Grand Jury did not examine the link between harbor development and railroad restoration. The connection is only mentioned because of its importance.

The Grand Jury concluded that the principal objection to the restoration of the rail line is the enormous cost likely to be incurred. Any benefits from such a project would be other than monetary and limited in scope for the foreseeable future.

²Ibid.

Grand Jury Report # 2008-HS-01
Big Lagoon Union Elementary School District

Executive Summary:

The Grand Jury investigated certain conduct and practices of the Big Lagoon Union Elementary School District Superintendent and Governing Board due to a citizen's complaint. The complainant alleged California Education Code and procedural violations, in district operations, pertaining to its relationship with the Big Lagoon Charter School. Based on investigation, the Grand Jury found the allegations unsubstantiated.

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

The Grand Jury interviewed employees of the Big Lagoon Charter School (BLCS), the superintendent, several employees and board members of the Big Lagoon Union Elementary School District (BLSD), and an official from the Humboldt County Office of Education. Additionally, the jury reviewed district board minutes, letters, memos, notes, police reports, and other communications relevant to school years 2005-06 and 2006-07.

According to www.USCharterSchools.org,

Charter schools are nonsectarian public schools of choice that operate with freedom from many of the regulations that apply to traditional public schools. The 'charter' establishing each such school is a performance contract detailing the school's mission, program, goals, students served, methods of assessment, and ways to measure success. The length of time for which charters are granted varies, but most are granted for 3-5 years. At the end of the term, the entity granting the charter may renew the school's contract. Charter schools are accountable to their sponsor- usually a state or local school board- to produce positive academic results and adhere to the charter contract. The basic concept of charter schools is that they exercise increased autonomy in return for this accountability. They are accountable for both academic results and fiscal practices to several groups: the sponsor that grants them, the parents who choose them, and the public that funds them.

Allegations and Findings:

- 1) Violations of the Ralph M. Brown Act by the BLSD Governing Board:

The Brown Act governs public meeting conduct in the State of California, including posting agendas, action on items on the agenda, providing for public input, limitations on closed sessions, and reporting on actions taken in closed session. The Grand Jury found no evidence of Brown Act violations.

- 2) Wrongful termination of a BLCS teacher:

The governing board appeared to act within the authority of the California Education Code when they elected not to reemploy an untenured BLCS teacher (specifically a teacher not fully credentialed).

3) Unauthorized control of public monies by BLSD:

The BLCS administration erroneously believed it had unrestricted access to funds earmarked for the charter school in the overall BLSD budget. In fact, pursuant to state law, the authority for all expenditures lies with the sponsoring district's governing board. Therefore, the BLSD acted correctly.

4) Creation of a hostile environment resulting in a climate of fear for children, teachers, and parents:

The Grand Jury found the allegation unsubstantiated, with no credible evidence showing the BLSD Superintendent or Governing Board created a hostile environment.

5) BLSD administration hampered the charter school renewal process:

It was alleged BLSD disseminated false information and failed to cooperate during the accreditation process. The Grand Jury found the allegation unsubstantiated. The burden of completing the renewal process belongs with the charter school administration, not with the BLSD administration. There was further evidence the BLSD administration actually assisted in the accreditation process.

Conclusion:

Upon completion of the investigation, the Grand Jury found no substantiation of the aforementioned allegations. In some instances, the contrary was found. There are no recommendations.

**Grand Jury Report # 2008-HS-02
Humboldt County Suicides**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Necessary**

Report:

The Grand Jury conducted an investigation into the incidence of suicide in Humboldt County. Law enforcement and mental health agencies have different functions and responsibilities in addressing the problem. The jury interviewed the coroner's office, law enforcement, and mental health officials in completing their inquiry.

Law Enforcement

When law enforcement is called to investigate a person in danger of committing suicide as exhibited by actions or statements, they may take the subject into custody under California Welfare and Institutions Code 5150. The person is then taken to a mental health facility for up to seventy-two hours for evaluation and treatment.

When law enforcement is called to investigate a suspicious death which is determined to be suicide, they turn further inquiry over to the coroner's office. The coroner reports on all suicides and gathers data pertaining to the victim's cause of death, age, and background. Each suicide case report, completed by the coroner, is provided to and reviewed by the Humboldt County Department of Health and Human Services (DHHS), Mental Health Branch (MHB).

Department of Health and Human Services, Mental Health Branch

The MHB maintains a twenty-four hour, seven days-a-week hotline at 445-7715. If it receives information of a person at risk, law enforcement is contacted and provided all pertinent information for a welfare check. MHB personnel respond to assist police when they have the available resources.

The Mental Health Services Act (MHSA), enacted in 2004, provides funds to the MHB to assist in expanding and developing mental health services. Within the context and strategic plan of the DHHS and MHB, the following initiatives for planning and implementation have been developed:

- Suicide prevention and early intervention program
- Program concerning youth identified with mental illness
- Program aimed at reducing stigma and discrimination associated with mental illness

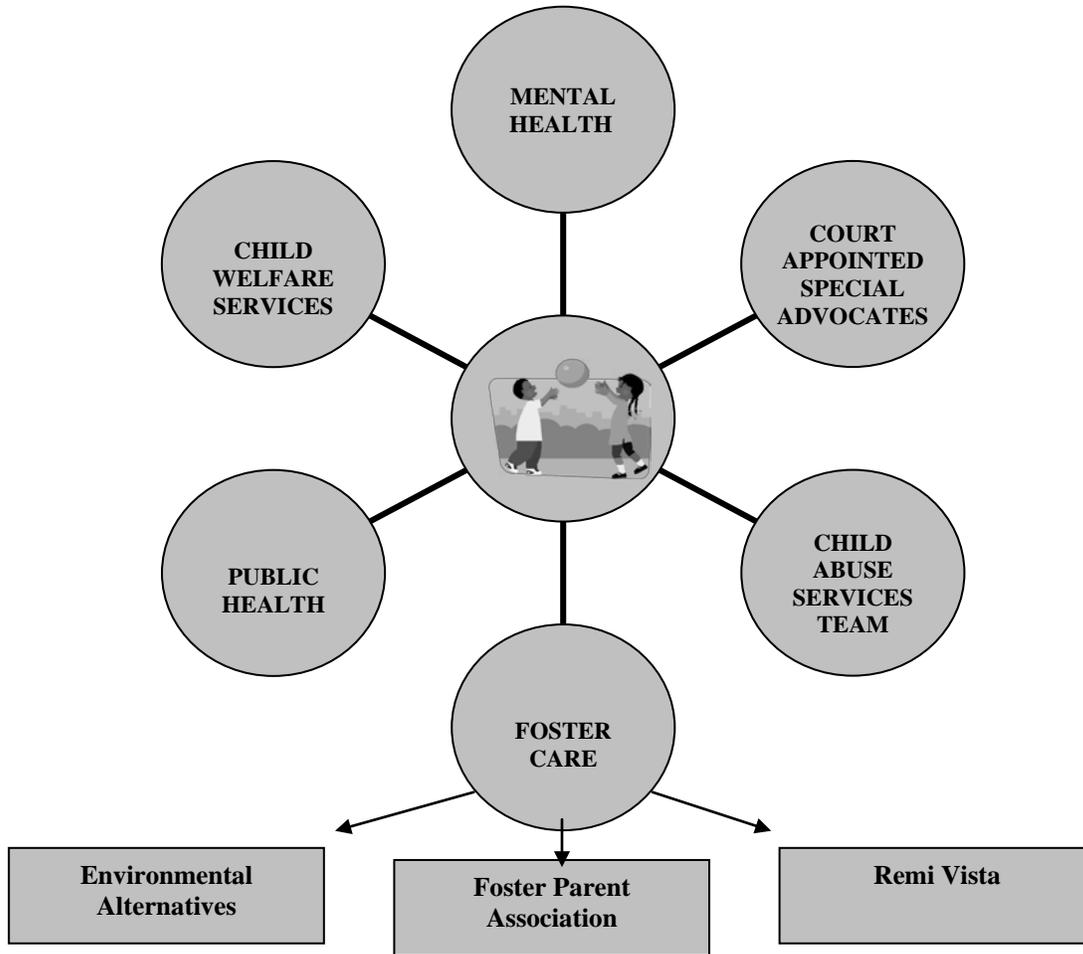
DHHS recognizes that MHSA provides the opportunity to engage interested agencies in initiatives concerning suicide and suicide prevention, an issue which affects the entire community and requires a community response. The MHB and law enforcement are presently taking on a proactive role in suicide prevention.

Statistics

The Jury obtained the following information, from the coroner, on suicides for 2006, 2007, and a portion of 2008:

- Humboldt County is in the top ten per capita for suicides in California.
- In 2006, there were thirty-four suicides as follows:
 - fourteen females
 - twenty males
 - average age of forty-six years
 - eight with prior mental health agency contact
 - twelve cases were alcohol or drug related
- In 2007, there were twenty-two suicides as follows:
 - four females
 - eighteen males
 - average age of fifty-two years
 - six with prior mental health agency contact
 - twenty cases were alcohol or drug related
- In 2008, up to April 8th, there were eleven suicides as follows:
 - two females
 - nine males
 - average age of forty-three years
 - one with prior mental health agency contact
 - two cases were alcohol or drug related

**Grand Jury Report # 2008-HS-03
Services for Children in Humboldt County**



Executive Summary:

This report covers elements of the organizational safety net provided for abused, indigent, and neglected children in Humboldt County. The involved agencies include local child welfare services, foster care services, public and mental health services, a child abuse investigation team, and a special advocates program. What began as an investigation of a complaint from within the system evolved into an overview of the system.

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Necessary**

Child Welfare Services:

Child Welfare Services (CWS), a division of the Department of Health and Human Services (DHHS), is faced with the difficult task of providing adequate services to Humboldt County's children in need. There are ever-present challenges associated with funding sources, budget cuts, and staffing of existing, mandated, and new programs. To remedy some of these problems, six formerly independent departments were consolidated into DHHS. The consolidation resulted in saving and enhancing valuable health and human services. The increased flexibility of intra-departmental budgeting greatly assisted the process.

The Grand Jury received conflicting testimony concerning success of the consolidation as it pertains to CWS. A significant caseworker turnover rate continues to be the most cited reason

for problems associated with lack of adequate services to affected children and families. According to the Grand Jury's 2003-04 report, "First-level supervisors are generally available and supportive to caseworkers, but caseworker communication with supervisors at the second, third, fourth, and fifth (top) levels are [sic] discouraged".

It should be noted CWS workers throughout the state have reportedly high levels of job stress and Humboldt County is no different. According to testimony, stress, heavy workloads, and low pay make it difficult to retain caseworkers. The jury was encouraged by evidence of upper-level management's awareness and desire to improve communication to help reduce stress.

Negotiations are under way to raise caseworker pay, hopefully improving recruitment and retention. Caseworkers have the closest contact with children in need and are the backbone of the system. Their role in assessment and case management is critical to the success of the services.

Foster Care Services:

It is a traumatic experience when courts, law enforcement, or CWS removes a child or children from their birth parents. Children need adults who are stable and consistent, a role many foster parents provide. Foster parents are of different ages, ethnicities, and income levels. They assume responsibility for providing food, clothing, shelter, love, guidance, structure, and appropriate discipline. Foster parents receive minimal financial support from government agencies.

Caseworker turnover, changing foster homes, and a shortage of specially trained therapeutic and educational staff contributes to difficult challenges for children and foster parents. Mentoring and annual training for foster parents has improved the foster care system, but more information and training is needed for coping with at-risk and special needs children. With each placement, the foster parent is to receive a health and education background of the child. New foster parents are not always given the child's history in a timely manner, which is crucial in establishing a positive new environment.

Because of the tremendous need for foster care, Humboldt County has contracted with non-profit private agencies including Environmental Alternatives and Remi Vista. These agencies provide additional caseworkers for each child and support for the foster parents. The Foster Parent Association is available for additional support and information.

Mental Health:

According to staff, the county is striving to provide a hundred percent assessment of foster children to determine mental health issues. There is also a \$3,000,000 expansion fund recently set aside for a county mental health program for minors. The Mental Health Branch has plans for a crisis residential center to serve minors, with mental health issues, who require additional help but not necessarily hospitalization. Minors could stay at the crisis center for up to thirty days and be provided better skills to live independently. The first phase of the plan includes hiring three mental health clinicians, one supervising clinician, and ten caseworkers. The county is now recruiting for these positions.

A minor placed at the Sempervirens mental health facility must have continual supervision. An outside security service generally provides this service at an additional cost to the county. If an adult inmate is admitted to the facility, the minor must be removed and transported out of the county for treatment, or released. This is also an added expense to the county.

Public Health:

The Humboldt County Public Health Branch (PHB) receives approximately \$490,000 annually from the Department of Health and Human Services. It also receives money from the state through various grants used for special programs for youth. Other programs available for children include bicycle safety, swimming safety, substance abuse prevention, and car seat safety instruction.

The PHB has an acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) unit for education, screening, surveillance, and testing of children. The PHB also facilitates numerous other health related programs for children including but not limited to immunizations, flu shots, a premature infant program, and a disabled child program. Many fees are on a sliding scale. No one is turned away due to financial difficulty.

The PHB also functions as the county's environmental health agency, facilitates the WIC (women, infants and children) nutrition program, organizes domestic violence programs, and youth driving safety programs. The public is encouraged to visit the PHB website for additional information.

Child Abuse Services Team (CAST):

The Child Abuse Services Team (CAST) began in Humboldt County in 1997, under the direction of the district attorney's office. It is a multi-disciplinary approach to investigating child abuse cases. One purpose of CAST is to avoid multiple interviews by different professionals at various times and places. The duplication of interviews can be difficult for the child victim.

In 2006, Humboldt County assigned a deputy district attorney and coordinator to insure all necessary specialists are present when victim interviews are conducted. This coordinated approach enables social services, law-enforcement, medical providers, therapists, the victim/witness coordinator, and other advocacy groups to collaborate on investigations. Timely completion of the investigation process benefits all concerned, especially the child and family.

The victim interview environment is non-threatening as possible. There is an area for the family, supplied with toys and games. This assists in providing a more comfortable surrounding for the child. All involved parties are given detailed information about the interview process. Bilingual counselors/ interviewers are provided when appropriate. Trained staff and volunteers offer parents and family members support and counseling. Funding may be available if continued services are needed.

Court Appointed Special Advocates (CASA):

Court Appointed Special Advocates, who are volunteers, provide consistency in a child's environment when foster parents or caseworkers suddenly change. Weekly contact with the same CASA volunteer helps assure the child that someone truly cares. In court appearances, the CASA volunteer represents the interests of the child during a potentially confusing and frightening experience. The pleasant atmosphere of new Eureka CASA center is helpful. Each year, CASA serves about half of the approximately three hundred children in the foster care system in Humboldt County.

Conclusion:

The Grand Jury commends the Department of Health and Human Services and its staff, as well as the other organizations mentioned in this report. The Grand Jury recognizes their innovation

and continued efforts in providing Humboldt County with high quality and consistent services to the best of their ability.

Grand Jury Report # 2008-JL-01 Coroner and Public Administrator

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury visited the coroner's office on October 22, 2007. The coroner, an elected official, administers an efficient and task-oriented service in spite of space limitations. Additional space would be helpful and some remodeling has been considered. The Grand Jury supports any attempt to provide additional workspace.

County-provided janitorial service is minimal and the coroner's office contracts with a private service to maintain its high level of sanitation.

The coroner's office is staffed with three sworn deputies to help the coroner in his investigations and three autopsy technicians are on-call to assist the pathologist. A local pathologist was recently contracted to perform the majority of autopsies required by the coroner. This will reduce the cost of transporting bodies outside Humboldt County. Although the pathologist is not board certified, his experience should serve the county well. Should greater forensic expertise be necessary, Humboldt County has an agreement with coroner's offices in Sonoma and Shasta Counties. In addition, a forensic medical group is available in the city of Fairfield.

The coroner conducts numerous criminal investigations as part of his law enforcement responsibilities. Of approximately seven hundred and fifty deaths last year, only a small number required investigation, and sixty warranted autopsies. The morgue can accommodate twenty-nine corpses and has contingency plans to handle more if necessary.

The autopsy room is well organized, well supplied, and sterile. No odors were detected in the facility. In addition to routine autopsies, the facility is rented about twenty times annually by two different tissue donor agencies, the Northern California Transplant Bank and the University of California San Francisco, as part of a statewide program. The two agencies provide their own personnel. The rental monies benefit the coroner's office.

In Humboldt County, the Coroner/Public Administrator is an elected office and one person serves both capacities. The County Coroner/ Public Administrator must adhere to a mandated statutory fee schedule and the Probate Code, both of which are set by the State of California. Public administrator duties require approximately twenty-five percent of the coroner's time. The money derived from court directed estate probates goes into the coroner's Revenue Fund. This arrangement has generated revenue averaging \$100,000 annually over the past six years. It represents close to twenty-five percent of the coroner's total budget, with the Humboldt County General Fund providing the remainder.

The coroner and his staff are commended for their high level of professionalism and for services provided to the County of Humboldt.

Grand Jury Report # 2008-JL-02
Fortuna Police Department and Animal Holding

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Fortuna Police Department:

On October 1, 2007, pursuant to California Penal Code, Section 919(b), the Grand Jury conducted its annual inspection of the Fortuna Police Department facility located at 621 11th Street. The overall appearance of the building, which also houses city of Fortuna offices, is well maintained. Due to a projected need for larger space, there are plans to construct a new facility.

The department is staffed with fifteen sworn officers and nine support personnel. The current space includes a reception area, offices, a conference/ interrogation room, dispatch room, basement squad room, and a secure evidence storage area. No bedding or meals are provided for persons held in the two holding cells because detainees are transported to the Humboldt County Correctional Facility within an hour of arrest. A video system is used to monitor the detainees until transport. The facility is cleaned daily by city of Fortuna staff. It has a well-stocked first aid kit and several fire extinguishers readily available. Three fire exits are clearly marked and accessible.

Fortuna Police Department Animal Holding Facility:

The recently enlarged Fortuna Police Department Animal Holding Facility, located at the city Corporation Yard, was also toured. Animals are temporarily housed at the facility prior to being claimed by owners or transported to Miranda Animal Rescue. The city has a contract with Miranda Animal Rescue to accept stray and unclaimed pets. The city facility is clean and well kept. In addition to a small office, there are six indoor pens and three larger outdoor areas. The City of Fortuna is commended for its successful management of animal control.

Grand Jury Report # 2008-JL-03
Ferndale Police Department

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury visited the Ferndale Police Department (FPD) on September 11, 2007. FPD consists of a chief of police with over twenty years law enforcement experience, three full-time officers, and a reserve officer. Communication systems are adequate and emergencies are well handled. After hour emergencies go directly to the Fortuna Police Department dispatcher and then forwarded to the FPD chief or his designee. The chief is rarely far from radio contact. Fortuna Police Department serves as backup for FPD. This arrangement works well.

There are no holding cells at FPD. Initial questioning is done in a police vehicle or at the station. If necessary, the subject is taken to the Humboldt County Correctional Facility for booking and confinement. The Grand Jury observed that records are well organized and evidence is secure and professionally handled.

The FPD heavily relies on the College of the Redwoods Police Academy for staffing. Newly sworn officers complete a field training program and serve a one-year probationary period. Training is an ongoing challenge and requires flexibility from the entire staff. The FPD meets the requirements of the community.

Grand Jury Report # 2008-JL-04
Humboldt County Sheriff's Department:
Hoopa Station

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury inspected the Humboldt County Sheriff's Department Hoopa Station on October 4, 2007. The facility is small and appears efficiently operated. It serves an important function in the community and is additionally used by the California Highway Patrol and Hoopa Tribal Police. The Hoopa station is located on tribal land.

Communication systems are adequate and evidence is handled in a secure and timely manner. The two holding cells are clean, but rather dark. One holding cell light fixture needs repair. The holding cells are sometimes used for overnight confinement. They are primarily used for temporary holding during booking procedures prior to transport to the Humboldt County Correctional Facility in Eureka.

The facility does not have adequate janitorial services as noted in previous Grand Jury reports. The garage area reflects a lack of custodial attention.

Grand Jury Report # 2008-JL-05
Trinidad Police Department

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury visited the relocated Trinidad Police Department (TPD) on February 11, 2008. The facility, a remodeled home, is spacious and suitable for police operations. The building is handicap accessible and well maintained. There are no holding cells. Police vehicles are sometimes used for confinement until a suspect is transported to the Humboldt County Correctional Facility.

The TPD has an excellent communication system that allows for rapid response to calls. The department has adequate equipment.

TPD has two full-time officers and two part-time officers. They also have a part-time records clerk and evidence manager. The chief of police has served the department for seven years. There are currently no reserve officers. Negotiations are underway for a graveyard shift to be funded by Cher-Ae Heights Casino. Staff turnover is not a major concern due to the chief's structuring of the department. This enables TPD to pay a slightly higher salary than like-sized departments. TPD contracts with Humboldt County Sheriff's Department dispatch for after-hours coverage. The sheriff's department provides back-up when requested.

Grand Jury Report # 2008-JL-06
Humboldt County Sheriff's Department:
McKinleyville Station

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury inspected the Humboldt County Sheriff's Department McKinleyville Station on September 24, 2007. The station provides law enforcement services to the residents of McKinleyville, Fieldbrook, Westhaven, Orick, and all unincorporated areas of North Arcata.

The community-funded building is well maintained. There is ample space, 1,800 square feet, for staff and evidence storage. There is a community conference room in the building. The communication system is excellent.

The facility has no holding cell. Suspects are transported to the Humboldt County Correctional Facility for booking.

The facility is staffed with one lieutenant and eight deputies. There is an officer assistant on site Monday through Friday from 8:00 a.m. to 4:00 p.m. Public access is good. Sheriff's Citizens on Patrol maintain an office in the building. Non-emergency calls may be made to the station during business hours. Emergency calls are handled by the sheriff's dispatch center. A phone for emergency calls is located outside the building. The Grand Jury commends the Humboldt County Sheriff's Department in its efforts to increase service to the northern county communities.

Grand Jury Report # 2008-JL-07
Arcata Police Department

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury conducted an inspection on September 24, 2007 of the Arcata Police Department. The facility is clean. It is maintained by the city Public Works Department. The overall appearance of the building is good. The Arcata Police Department has one holding cell

which is only used for short periods of confinement. When necessary, suspects are transported to the Humboldt County Correctional Facility. There is a large and secure evidence room maintained by an evidence technician. The dispatch center is well equipped, maintained by police personnel, and operates twenty-four hours. There is an emergency phone on the outside of the building, connecting to the dispatch center. Public access to the building is controlled from within the facility.

**Grand Jury Report # 2008-JL-08
Humboldt County Sheriff's Department:
Garberville Station**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury visited the Humboldt County Sheriff's Department Garberville Station on October 11, 2007. The building is old, but in good condition and reflects on-going maintenance. The facility has three holding cells, two with beds. The lighting is minimal. The cells are used for short stays until, if necessary, suspects are transported to the Humboldt County Correctional Facility.

The Garberville station is staffed with one sergeant and five deputies. There is a current restructuring plan to provide an additional deputy which would allow for twenty-four hour coverage. The plan also provides for an on-site officer assistant, Monday through Friday. This could make the station more efficient and provide greater public access. Other agencies using the Garberville facility would find this additional staffing helpful. Until the new position is in place, the Garberville station is only occasionally staffed. There is currently a telephone outside the station that connects directly to the Sheriff's Department in Eureka.

Evidence is secure and handled in a timely manner. When no longer needed on-site, it is transported to the Eureka evidence facility. It should be noted the Humboldt County Sheriff's Department has made improvements to the facility and is working toward improving the level of service in the Garberville area.

**Grand Jury Report # 2008-JL-09
Eel River and High Rock Conservation Camps**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

Members of the Grand Jury visited the Eel River #31 and High Rock #32 Conservation Camps on March 24, 2008. The camps are jointly operated by the California Department of Corrections and Rehabilitation (CDCR) and California Department of Forestry and Fire Protection (Cal Fire). This partnership has existed for over fifty years.

The Eel River camp encompasses over one hundred twenty acres and has a maximum capacity of one hundred thirty-two inmates. A 21,000 square foot warehouse is located on the property and capable of supplying ten of the nineteen camps in Northern California. The High Rock camp, located on six acres, averages about one hundred five inmates. The camps have no fences and are located in rural settings. Escape attempts are rare and usually unsuccessful. No firearms are carried by officers at the camps, but are available should the need arise.

The primary mission of the Eel River and High Rock camps is fire suppression and providing fire crews anywhere in California. All Cal Fire ground crews are inmates. In 2007, each camp logged approximately five thousand hours fighting fires. Each crew team is comprised of thirteen to seventeen men led by at least one CDCR staff member. During fire suppression, a staff member from Cal Fire and one from CDCR provide leadership. Only non-violent inmates with less than five years to serve are eligible for firefighting training at the California Correctional Center in Susanville. Once trained, inmates are assigned to the various camps to serve their remaining sentence. None are sent to the county of conviction. Selected inmates represent approximately two percent of the prison population in California. Seventy percent of conservation camp inmates are serving sentences for drug violations. While in the program, inmates receive two days credit for each day served.

Most inmates earn \$1.45 per day and skilled workers can earn up to \$3.90 per day. The majority has assigned jobs and some inmates assist with community projects. Inmate firefighters receive \$1.00 per hour when combating fires. Earnings go into personal inmate accounts; however, fifty percent of their income must go towards any required restitution. During the jury's visit, most of the fire crews were out working on projects.

The cost per year of maintaining one inmate at Eel River or High Rock camp is fourteen to sixteen thousand dollars annually. The cost per year for prison incarceration is approximately forty-five thousand dollars. Besides fighting fires, both Eel River and High Rock camps each contributed approximately fifty thousand hours in community service projects in 2007, with an estimated value of five-hundred thousand dollars. Schools, cities, and county and state agencies all benefit from the labor provided by the camps. The charge for one crew is one hundred sixty up to two hundred dollars per day. Some projects are completed without charge or for the cost of materials.

The Eel River camp can be used as a staging area and accommodate large numbers of fire fighters. During fire season, the camp can quickly turn into a large tent city with sanitation, showers, food, medical aid, and communication services. There is also a helicopter landing pad.

The entire camp and all vehicles are maintained by inmates. Inmate quarters consist of dormitories divided into cubicles. Each cubicle contains two cots and personal lockers. The living areas, restrooms, and showers appear clean and in order. Television viewing rooms, reading materials, exercise equipment, and a hobby shop are available for off-duty inmates. The exercise equipment at Eel River camp needs upgrading.

Food is solely prepared by inmates. Kitchen sanitation appears good and the food quality excellent. Eel River camp maintains a one-half acre vegetable garden to supplement the food budget. Inmates cite meal satisfaction and the risk of being returned to the main prison population as an incentive to follow rules. Inmates stated that serving time at a camp was preferred to the normal prison environment. All interviewed inmates were aware of the complaint process but felt no need to use it.

Inmates have an opportunity to improve vocational skills while serving their sentences. No formal academic classes are provided, but inmates are encouraged to participate in a General Equivalency Diploma (GED) program if they do not possess a high school diploma. Several retired educators assist in the GED program at the camps.

The Grand Jury commends the CDCR and Cal Fire for their joint commitment in operating very efficient programs. The state, county, local communities, taxpayers, and inmates benefit from the programs. The staff is also recognized for their contribution to the concept of inmate rehabilitation. Eel River and High Rock camps represent positive elements of California's vast correctional system.

Grand Jury Report # 2008-JL-10 Rio Dell Police Department

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Necessary**

Report:

On October 11, 2007, the Grand Jury conducted its annual inspection of the Rio Dell Police Department facility located at 675 Wildwood Avenue. Overall appearance of the building, which also houses city of Rio Dell offices, is good. The space includes a reception area, offices, a conference/ interrogation room, a squad room, and a secure evidence area. The facility is cleaned weekly by city of Rio Dell staff. A well-stocked first aid kit and several fire extinguishers are readily available.

The department is staffed with five full-time officers, one reserve officer, an animal control officer, and Chief of Police Graham Hill. Detainees are transported to the Humboldt County Correctional Facility within one hour of arrest. Emergency dispatch services are provided by Fortuna Police Department.

Grand Jury Report # 2008-JL-11 Humboldt County Correctional Facility

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **The Humboldt County Sheriff's Office** shall respond to Findings and Recommendations 1 and 2.

Report:

The Grand Jury inspected the physical plant and operations of the Humboldt County Correctional Facility (HCCF) located at 825 Fifth Street in Eureka. The facility is an impressive concrete structure capable of housing four hundred eleven inmates. Most inmates are housed in open dormitories. Women and men are housed in separate dormitories. Segregated housing is available for high-risk inmates, the medically quarantined, or the uncooperative. Mental health issues affect approximately one-third of the inmates. Interviewed HCCF personnel were forthcoming and appeared to be well versed in their respective areas of responsibility.

A biennial inspection was conducted by the California Department of Corrections and Rehabilitation in December 2007. The HCCF was found generally in compliance, with a minor record keeping deficiency related to retention of monthly fire inspection reports.

Recent Grand Jury reports found the HCCF well managed and efficiently operated. This jury found similar conditions. However, there were some areas of concern discovered via facility visits and interviews with management personnel.

In the course of its investigation, the Grand Jury viewed video of an inmate in a sobering cell. Although the inmate was visible, detail of his movements were partially obscured by poor video quality and camera angle. Images of a hallway, immediately outside the cell and taken from a different camera, were clear. Although the cell walls, floors, and fixtures are routinely cleaned between inmates, the ceiling-height camera housing is apparently not.

At the HCCF, access to and use of computers is determined by the department head, according to current policy. Inmate case information, such as court and release dates, is accessible on the secure county computer network. Accessing the internet, while on duty, is considered a useful tool by correctional officers. Training resources and other useful information is available on the internet, but there is potential for misuse.

Upon investigation, the jury determined no safeguards are in place to prevent viewing of unauthorized material or websites. The only scrutiny of computer use by a correctional officer would be initiated by complaint and then investigated by a supervisor. Although employees have no expectation of privacy, no routine monitoring is conducted.

Findings and Recommendations:

Finding 1:

The Grand Jury finds video images of sobering cells may not always be clear.

Recommendation 1:

The Grand Jury recommends measures be taken to insure clear and adequate images are captured, including but not limited to the cleaning of camera housings between inmate occupancy.

Finding 2:

The Grand Jury finds there is no procedure to routinely monitor computer use of on-duty correctional officers.

Recommendation 2:

The Grand Jury recommends periodic and random monitoring of computer use of on-duty correctional officers.

RESPONSES

Finding 1: The Grand Jury finds video images of sobering cells may not always be clear.

Sheriff's Department: *Partially Disagree*

Recommendation 1: The Grand Jury recommends measures be taken to insure clear and adequate images are captured, including but not limited to the cleaning of camera housings between inmate occupancy.

Sheriff's Department: *The recommendation has been implemented. The Humboldt County Correctional Facility operates a significant number of video monitoring cameras throughout the facility. A maintenance program is in place whereby video monitoring DVR system cameras are periodically replaced and/or upgraded as part of an ongoing maintenance program to maintain and/or improve the facilities video monitoring DVR system. When any adverse performance issue of a particular camera is discovered, timely action is taken to remedy the problem.*

Over the past fiscal year alone, as part of our normal maintenance, approximately sixteen cameras within the facility were replaced and/or upgraded, and improvements were made to the video monitoring DVR capabilities of some areas, which did include our sobering cells.

Finding 2: The Grand Jury finds there is no procedure to routinely monitor computer use of on-duty correctional officers.

Sheriff's Department: *Agree*

Recommendation 2: The Grand Jury recommends periodic and random monitoring of computer use of on-duty correctional officers.

Sheriff's Department: *The recommendation has been implemented.*

The County of Humboldt Information Technology Department has recently installed filtering/tracking software into the county system that provides the ability to review user Internet usage and to block specific Internet site access for county computers. Prior to this upgrade, routine filtering/tracking on the countywide system of individual employee use was more difficult and generally not practical.

Grand Jury Report # 2008-JL-12 Eureka Police Department

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

On September 18, 2007, the Grand Jury conducted an inspection of the Eureka Police Department (EPD) and holding cells. The building, erected in the mid-1980s, is showing age and needs to expand to accommodate the department's growth.

The building is also the location for the EPD communications section. The communication dispatchers work rotating shifts twenty-four hours a day, seven days a week. The department handles all 911 calls for the city. There is an outside phone available for after-hour emergencies. The EPD also provides the following services: patrol, traffic enforcement, animal control, parking enforcement, citizen patrol, records, training, and property/evidence.

The Eureka Police Department has three holding cells that are clean and audio monitored. Cell checks are done every thirty minutes, with detainees held no longer than six hours. They are then transported to the Humboldt County Correctional Facility. If medical treatment is needed, detainees are transported to the hospital prior to booking at the county jail.

The property room is in good order and evidence appears to be properly handled. Oversized property, i.e., bicycles, generators, etc., is stored outside in a covered and secure area, partially open to the elements. Plans are in process to complete an enclosed room for this type of storage.

The Eureka Police Department has a complement of approximately fifty sworn officers and forty professional staff members. It serves a population of approximately twenty-eight thousand six hundred and covers nearly ten square miles.

Grand Jury Report # 2008-JL-13 **Northern California Regional and Humboldt County Juvenile Hall Facilities**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

On October 29, 2007, the Grand Jury conducted an inspection of the Northern California Regional Facility (NCRF) and the Humboldt County Juvenile Hall (HCJH). The Probation Department of Humboldt County administers both facilities.

HCJH is designed for male and female detainees, ages eight to eighteen. The housing capacity is twenty-six, but can accommodate twice that number by double occupancy in cells. There are segregated shower facilities for detainees.

Detainees enter HCJH through a separate port to the intake room. Both areas are monitored by video and audio equipment. There is a separate area for medical examinations and a registered nurse is on full time duty for HCJH and NCRF together. The detainees' clothing is laundered on-site with other laundering needs contracted out. Cleaning of individual cells is the responsibility of detainees. The facility has a commercial kitchen with a large walk-in refrigerator and freezer. Meals are prepared for both facilities by civilian staff. No detainees are allowed to work in the kitchen.

Detainees participate in educational activities arranged to meet individual needs, such as General Educational Development or basic education. Instruction is provided by certificated teachers through the Humboldt County Office of Education. A variety of instructional, motivational, and cultural programs are offered in a classroom environment. Supplemental instructional aides are available. Discharged detainees, who remain on probation, can return to complete their educational goals. In lieu of incarceration, juveniles sometimes participate in the Juvenile Assigned Work Service (JAWS) program, where they have an opportunity to gain valuable work experience.

The Northern California Regional Facilities New Horizons Program is an intensive in-custody mental health treatment program. The juveniles are assigned to the program by court order and come from various Northern California counties. Individual treatment programs usually last from four to six months. There is also an on-site educational program.

The NCRF was built in 1998 and is in excellent condition. Housing is provided for eighteen juvenile detainees, ages twelve to eighteen. All cells have one bed, a lavatory, and comply with the Americans with Disabilities Act. They are clean and well maintained by detainees as part of their daily routine. Positive behavior and participation are encouraged through a point system where detainees can earn extra privileges. The staff expressed that the point system is very effective in behavior modification.

Grand Jury Report # 2008-LJ-01 Blue Lake Police Department Complaint Procedures

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **Blue Lake City Council** shall respond to Findings and Recommendations 1, 2, and 3.

Report:

The 2007-08 Grand Jury continued an investigation, from the previous Grand Jury, into Blue Lake Police Department's (BLPD) adherence to policy regarding handling citizen complaints. The jury examined the BLPD personnel complaint policy, complaints on file, personnel records of past and present sworn officers, and citizen complaints directed to the Grand Jury about BLPD and its officers. The Grand Jury also interviewed Blue Lake city officials and reviewed mandates contained within city ordinances.

The Grand Jury recognizes that any police organization, which effectively enforces the law and protects the community, will receive complaints. For this reason, procedures are established to evaluate complaints and determine validity.

The Grand Jury found BLPD procedure for handling citizen complaints is selectively followed. Records of complaints and their dispositions appear incomplete or non-existent. Investigations, required by the complaint policy, are generally cursory or not done. Responses to complaints tend to be more antagonistic than explanatory.

If a citizen's complaint against BLPD is not satisfactorily resolved, or if it is against the chief of police, it is the city manager's responsibility to investigate and decide the issue (per 1996 City of Blue Lake Ordinance 439). The Grand Jury found this procedure does not function as intended. Complaints involving the chief of police are ignored or inadequately investigated. Adequate complaint records are not retained by the city manager or any city official. The Grand Jury was unable to find a single example of the city manager investigating a citizen complaint against the chief of police, though such complaints exist. Procedural errors, false statements, and official misconduct are apparently allowed to stand, while citizen complaints are given little or no attention.

In one instance, a person moving to Blue Lake attempted on numerous occasions to register with BLPD as a convicted drug offender. That person was repeatedly rebuffed by the chief of police. The chief of police eventually responded by filing a criminal complaint charging the citizen with failure to register as a convicted drug offender. The charge was later dismissed or dropped.

Insufficient response to citizen complaints about BLPD and its officers is not a new problem. It has been evident from newspaper articles and public meetings for several years. Supervision of the police department is the responsibility of the chief of police. The chief of police is

supervised by the city manager who in turn is supervised by the city council. The city manager apparently has not fulfilled his responsibilities concerning the police and has not been corrected in this failure. Responsibility for this problem lies with the city council and ultimately the Blue Lake citizens.

The city council is apparently satisfied with leaving the supervision of all city departments to the city manager, regardless of his performance. Among some council members, the tendency is to be generally dismissive about complaints against the BLPD. Several city officials admitted they never read the BLPD complaint procedure or other police policy outlined in the BLPD procedure manual. Likewise, they were completely unfamiliar with city mandated directives regarding supervision of department heads.

Findings and Recommendations:

Finding 1:

The complaint procedure for the Blue Lake Police Department is not followed.

Recommendation 1:

The Blue Lake City Council should insure that the Blue Lake Police Department citizen complaint policy is followed by city staff and Blue Lake Police Department personnel.

Finding 2:

Supervision of the chief of police by the city manager, in operation and adherence to Blue Lake Police Department complaint procedure, is inadequate.

Recommendation 2:

The Blue Lake City Council should evaluate the performance of the city manager and determine how the city manager's supervision of the chief of police can be improved.

Finding 3:

Several Blue Lake City Council members are insufficiently informed of Blue Lake Police Department policies and procedures.

Recommendation 3:

All Blue Lake City Council members should familiarize themselves with Blue Lake Police Department policy and procedure.

RESPONSES

Finding 1: The complaint procedure for the Blue Lake Police Department is not followed.

Blue Lake City Council: Agree with the finding.

Recommendation 1: The Blue Lake City Council should insure that the Blue Lake Police Department citizen complaint policy is followed by city staff and Blue Lake Police Department personnel.

Blue Lake City Council: The City Council acknowledges that there were instances when the complaint procedure was not followed. However, it is not possible to implement this recommendation at this time because the City Council disbanded the Blue Lake Police Department effective 20 May 2008 and entered into a contract for services with the Humboldt

County Sheriff's Department as of 1 July 2008. If the City of Blue Lake ever does re-establish its own police department, this recommendation will certainly be adopted at that time.

Finding 2: Supervision of the chief of police by the city manager, in operation and adherence to Blue Lake Police Department complaint procedure, is inadequate.

Blue Lake City Council: *We agree with this finding.*

Recommendation 2: The Blue Lake City Council should evaluate the performance of the city manager and determine how the city manager's supervision of the chief of police can be improved.

Blue Lake City Council: *Although we agree with this finding, the recommendation will not be implemented because the City Council has already taken actions that obviate its need. First, the City Council has been in the process of restructuring City Government. Coincidentally with your recommendation, we are currently in the process of contracting services for an interim city manager and eliminating the city manager responsibility from our current merged position of city manager/head of public works. Additionally, the City Council disbanded the Blue Lake Police Department on 20 May 2008 and instead has engaged in a contract for services with the Humboldt County Sheriff's Department as of 1 July 2008, thus eliminating the need for such supervision at this time. However, if the City of Blue Lake ever does re-establish its own police department under the direction of a city manager, the second part of this recommendation will certainly be followed at that time.*

Finding 3: Several Blue Lake City Council members are insufficiently informed of Blue Lake Police Department policies and procedures.

Blue Lake City Council: *Agree with the finding.*

Recommendation 3: All Blue Lake City Council members should familiarize themselves with Blue Lake Police Department policy and procedure.

Blue Lake City Council: *I agree with this finding as I believe the Grand Jury drew this conclusion based on the fact that some of the City Council members it had interviewed had not displayed what the Grand Jury felt was adequate familiarity with said city documents relating to such procedures. The recommendation will not be implemented at this time because the City Council disbanded the Blue Lake Police Department on 20 May 2008 and there are no longer any policy and procedure in effect. However, if the City of Blue Lake ever does re-establish its own police department, this recommendation will certainly be followed at that time.*

**Grand Jury Report # 2008-LJ-02
Martin Frederick Cotton II**

Executive Summary:

This investigation concerns Martin Frederick Cotton II, arrested by Eureka Police Department and housed at the Humboldt County Correctional Facility on August 9, 2007. Cotton died while

in custody on the same date. This report focuses on policy and procedure used during Cotton's arrest, booking, and incarceration. The findings and recommendations cover myriad issues.

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- The **Humboldt County District Attorney** shall respond to Finding and Recommendation 1.
- The **Humboldt County Sheriff's Department** shall respond to Findings and Recommendations 1, 2, 3, 4, and 5.
- The **Eureka Police Department** and **Eureka City Council** shall respond to Findings and Recommendations 1, 2, and 6.

Report:

On August 9, 2007, Martin Frederick Cotton II was taken into custody by Eureka police officers when they responded to a disturbance call in front of the Eureka Rescue Mission. Subsequent to arrest, Cotton was incarcerated at the Humboldt County Correctional Facility (HCCF). Within a few hours, Cotton was pronounced dead and considered an in-custody death. The matter was investigated by the Humboldt County Critical Incident Response Team (CIRT). This team was composed of law enforcement personnel from the Humboldt County District Attorney's Office, the Humboldt County Sheriff's Department, and Eureka Police Department.

The Grand Jury received complaints in the matter of Cotton. In the ensuing investigation, the jury examined the CIRT report, the coroner's autopsy report, autopsy photographs, and video recordings of Cotton's booking and confinement at the HCCF. The jury also interviewed several witnesses to Cotton's fights before and during arrest, the pathologist who conducted the autopsy, and the supervising correctional officer on duty at the time of Cotton's booking and confinement.

As many witnesses observed, Cotton was involved in more than one physical altercation prior to police arrival. During those prior confrontations, Cotton was hit more than once after he physically assaulted others. These fights may have resulted in injury. Upon police arrival, Cotton resisted arrest. The officers used force to effect the arrest, which may have resulted in injury. When Cotton was placed in an HCCF cell, he exhibited bizarre behavior which possibly included banging his head against the wall or floor. Cotton's in-cell actions may have resulted in injury. The toxicology screen shows that Cotton had an unusually high amount of lysergic acid diethylamide (LSD) in his system. An interview with the pathologist revealed uncertainty about the *primary* cause of death.

Use of Force

The Grand Jury investigation uncovered possible police procedural violations. The information was obtained from several eyewitnesses describing the use of excessive force. Some of the witnesses were previously interviewed by law enforcement.

Witnesses described closed-fist punches to Cotton's head and forceful kicking to Cotton's kidney area and lower back. It was related both the punches and kicks were numerous, full force, purposeful, and not misplaced by suspect movement. Some witnesses believed the officers used excessive force and some believed they used the force necessary to make the arrest. It should be noted that police training indicates that forceful strikes to the head, lower back, and/or kidney area do not follow accepted police procedure for this type of incident.

The CIRT ended inquiry into the Cotton matter in August 2007. The District Attorney later stated no charges would be filed.

Mentally Ill Offender

Information was received from several sources indicating Cotton had a history of mental illness and took medication for it. Witnesses described Cotton, on the day in question, as exhibiting bizarre behavior.

There have recently been negative outcomes with local law enforcement and mentally ill offenders. Admittedly, negative outcomes are not unusual in these situations. Special training and care must be used when possible. Several cities nationally have pilot law enforcement (officer first responder) programs in dealing with this problem, to help deescalate potential violence associated with such individuals. When the local citizenry includes a large number of mentally ill persons, it may be helpful for law enforcement to look into the pilot programs which have been successfully implemented.

Booking and Incarceration

The Grand Jury found that according to HCCF Policies and Procedures,

- Medical screening is defined as, “A process that occurs at intake, *prior to acceptance for booking*, in which trained correctional staff document initial observations of arrestees and record their responses to questions pertaining to medical and mental health problems, developmental disabilities and communicable diseases. *Facility health care staff is available on site to assess or refer arrestees for medical clearance.*” [Italics added].
- Medical clearance is defined as, “Written documentation from a licensed health care professional indicating an individual is medically and/or psychologically fit for incarceration in the Humboldt County Correctional Facility.”
- “Facility health care staff will be called to assist in completing the medical receiving/screening form. *The same assessment done with non-violent arrestees must also be completed with violent arrestees.*” [Italics added].
- “To be placed in a sobering cell, the arrestee must be able to be aroused, able to respond to simple commands, have no difficulty breathing, not appear to be acutely ill, and able to walk to the cell with minimal assistance. When in doubt about an arrestee’s suitability for placement in a sobering cell, staff *shall obtain an assessment from the Health Services staff* as soon as possible, *prior to placement in the sobering cell.*” [Italics added].
- “The arresting officer shall accompany the arrestee” and, “remain present until the medical receiving screening process has been completed.” If the arrestee has been placed into a holding or sobering cell for safety, the arresting officer shall continue to accompany the arrestee to the holding area and remain until the medical screening process is complete.

On August 9, 2007, when Eureka police officers brought Cotton into HCCF for booking, it appears a medical pre-screening was attempted. Due to the subject appearing to be “disorientated” and “combative”, the screening questions were not completed and Cotton was moved to a sobering cell.

A review of the evidence, including videotape, revealed Cotton exhibited bizarre behavior. He also appeared to potentially be a danger to himself and/or others. Health care staff was apparently called to evaluate Cotton. The jury was unable to establish how long before health care staff initially responded. It appeared the arresting officer did not remain while health care staff completed the medical clearance of Cotton.

According to policy and procedure, any inmate placed in a sobering cell is videotaped. Although Cotton was videotaped while in the sobering cell, the video image was of poor quality. A complete and exact assessment of Cotton's physical movements (such as possible head banging), while in the sobering cell, was difficult to visually verify. Videotape of the hallway outside the sobering cell verified Cotton was checked every fifteen minutes or less, as required.

Findings and Recommendations:

Finding 1:

Concerning the investigation of Cotton, a perceived conflict of interest exists because two of the three represented agencies on the CIRT were directly involved in the Cotton incident.

Recommendation 1:

The CIRT should only be comprised of members from uninvolved agencies. Though it is understandable for an involved agency to conduct a parallel investigation, it should not be one of the primary investigating parties. Investigative assistance from outside agencies, such as the California Department of Justice or the Federal Bureau of Investigation, should be used when appropriate to avoid a conflict of interest or perceived conflict of interest.

Finding 2:

There is a significant population of mentally ill in Humboldt County who often has contact with local law enforcement.

Recommendation 2:

The Grand Jury recommends that local law enforcement continues to review and update policy and procedure concerning interacting with mentally ill offenders. Law enforcement should make an effort to maximize their effectiveness in dealing with the mentally ill.

Finding 3:

The video system located in the HCCF sobering cell, which housed Cotton, produced video of poor quality.

Recommendation 3:

Correct the video recording system to insure better quality images.

Finding 4:

The HCCF sobering cell is primarily constructed of concrete surfaces and is only partially padded.

Recommendation 4:

Upgrade the sobering cell to include padding or redesign of all surfaces where inmates can potentially injure themselves.

Finding 5:

The Humboldt County Sheriff Department's policy and procedure for booking and sobering cell procedures is well written, but may not have been completely followed with regards to Cotton's last incarceration.

Recommendations 5:

The Grand Jury recommends the Humboldt County Sheriff's Department reviews and updates (as necessary) policy and procedure, and trains and updates HCCF staff concerning subjects exhibiting bizarre behavior and/or a potential danger to self and/or others.

Finding 6:

Eureka Police Department's policy and procedure may not have been completely followed during Cotton's arrest.

Recommendation 6:

The Grand Jury recommends Eureka Police Department reviews and updates policy and procedure (as necessary), and trains and updates police officers concerning subjects exhibiting bizarre behavior and/or a potential danger to self and/or others.

RESPONSES

Finding 1: Concerning the investigation of Cotton, a perceived conflict of interest exists because two of the three represented agencies on the CIRT were directly involved in the Cotton incident.

District Attorney: *The District Attorney agrees with the finding, to wit: that there is a perceived conflict of interest in the investigation into officer involved deaths because investigated agencies are involved and/or take a lead role in the investigation.*

Sheriff's Department: *Agree*

Eureka City Council: *Agree*

Recommendation 1: The CIRT should only be comprised of members from uninvolved agencies. Though it is understandable for an involved agency to conduct a parallel investigation, it should not be one of the primary investigating parties. Investigative assistance from outside agencies, such as the California Department of Justice or the Federal Bureau of Investigation, should be used when appropriate to avoid a conflict of interest or perceived conflict of interest.

District Attorney: *The District Attorney agrees in part with the recommendation, to wit: investigations into officer-involved deaths should be conducted by non-involved agencies. The District Attorney believes it is the responsibility and the duty of the Office of the District Attorney to conduct such investigations. The District Attorney believes further that the Department of Justice and/or the Federal Bureau of Investigation are only necessary if and when there is a need for their involvement and their involvement does not supersede the District Attorney's responsibility and duty to investigate such deaths on behalf of the People of the State of California. The District Attorney believes*

further that existing systems allow for additional third party oversight or investigation when necessary.

Sheriff's Department: *This recommendation requires further analysis and will probably have to be reviewed on a case-by-case basis. I would agree that it is best, whenever possible, to avoid even the appearance of a conflict of interest and that whenever possible, the directly involved agency(s) should not be part of the CIRT investigation.*

However, CIRT investigations by their nature require a prompt and immediate response for a variety of solid investigative reasons. Evidence and event scenes need to be secured and processing begun as soon as practical. Witnesses and involved parties need to be located and statements taken as soon as possible. Generally time is of the essence in order to prevent the loss of or contamination of evidence.

Our local investigative resources of appropriately trained investigative and evidence collection personnel with advanced expertise are limited, but well qualified. While it would be nice to be able to utilize the California Department of Justice or the Federal Bureau of Investigation, this is not generally practical.

Department of Justices [sic] resources to this area are very limited. While we do routinely use local forensic personnel from the local DOJ laboratory facility to assist us in death investigations, if the Department of Justice could, at our request, send qualified investigative personnel to help investigate our incident they would have to come from out of the area. Their response, if they received approval, would generally take several hours. The decision on their part as to whether or not they can or could respond would also be made on a case-by-case basis. Their response availability would be based on their staffing availability and workload.

As for the Federal Bureau of Investigation, unless there is an apparent underlying federal violation they would generally not have the authority or jurisdiction to conduct a local investigation.

Eureka City Council: *The recommendation has been implemented.*

While the City of Eureka has faith in the professionalism and ability of the CIRT to independently evaluate events such as these, we recognize that there is at least a perception that such review might not be objective. Accordingly, the City of Eureka now refers all investigations concerning police responses that result in a death to the Attorney General's office for its independent investigation.

Finding 2: There is a significant population of mentally ill in Humboldt County who often has contact with local law enforcement.

Sheriff's Department: *Agree*

Eureka City Council: *Agree*

Recommendation 2: The Grand Jury recommends that local law enforcement continues to review and update policy and procedure concerning interacting with mentally ill offenders. Law enforcement should make an effort to maximize their effectiveness in dealing with the mentally ill.

Sheriff's Department: *This is already implemented. All our policies and procedures are routinely reviewed and updated as necessary to meet legal and reasonable evidence-based practices. Training regarding interacting with mentally ill offenders is a priority and is done.*

Eureka City Council: *The recommendation has been implemented.*

The City of Eureka has always maintained a close working relationship with the County Mental Health Services. In an effort to enhance the ability to deal with the increasing frequency and complexity of situations created by mentally ill offenders, more recently the City of Eureka has hired a professional mental health consultant to be on scene for critical incidents involving persons with potential mental health issues. This is in addition to on going training for all sworn police personnel and dispatchers in Crisis Intervention, and regular meetings with County Mental Health to review persons of common interest.

Finding 3: The video system located in the HCCF sobering cell, which housed Cotton, produced video of poor quality.

Sheriff's Department: *Partially Disagree*

Recommendation 3: Correct the video recording system to insure better quality images.

Sheriff's Department: *As stated previously, we have an on-going DVR maintenance program. The quality of the video images was sufficient to meet its intended purpose.*

Finding 4: The HCCF sobering cell is primarily constructed of concrete surfaces and is only partially padded.

Sheriff's Department: *Agree*

Recommendation 4: Upgrade the sobering cell to include padding or redesign of all surfaces where inmates can potentially injure themselves.

Sheriff's Department: *Will not be implemented. The current facility was built to required Title 24 standards and is currently in full compliance.*

Finding 5: The Humboldt County Sheriff Department's policy and procedure for booking and sobering cell procedures is well written, but may not have been completely followed with regards to Cotton's last incarceration.

Sheriff's Department: *Disagree*

Recommendations 5: The Grand Jury recommends the Humboldt County Sheriff's Department reviews and updates (as necessary) policy and procedure, and trains and updates HCCF staff concerning subjects exhibiting bizarre behavior and/or a potential danger to self and/or others.

Sheriff's Department: *Our policies and procedures are regularly reviewed and updated as necessary, and staff receive on-going training on the current best practices for dealing with subjects exhibiting bizarre and/or dangerous behaviors.*

Finding 6: Eureka Police Department's policy and procedure may not have been completely followed during Cotton's arrest.

Eureka City Council: *Disagree*

Recommendation 6: The Grand Jury recommends Eureka Police Department reviews and updates policy and procedure (as necessary), and trains and updates police officers concerning subjects exhibiting bizarre behavior and/or a potential danger to self and/or others.

Eureka City Council: *The recommendation requires further analysis.*

The City of Eureka disagrees with the finding that "the Eureka Police Department's policy and procedure may not have been completely following during Cotton's arrest." After interviewing available witnesses, the investigation found no credible evidence of any of the excessive force alleged by the unnamed witnesses cited by the Grand Jury.

Mr. Cotton was quite active, extremely and exceedingly combative and dangerous when taken into custody. His high level of energy and mobility did not indicate that he had suffered any serious or life threatening injury. His combative and aggressive behavior also made it infeasible to turn him over to medical professionals for their evaluation for injuries relating to his combat with citizens and officers.

Nevertheless, since every experience is an opportunity to improve strategies for dealing with difficult situations like this, since this event, the City has reviewed and updated its policies to include mandatory medical evaluation, when it is safe to do so, of all persons involved in violent physical confrontations with police where serious physical injury might have occurred.

Grand Jury Report # 2008-PW-01 Fencing At Murray Field Airport

Who Shall Respond:

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

The Grand Jury received a citizen's complaint that medical transport aircraft have been forced to utilize the McKinleyville airport for nighttime landings, causing potentially life-threatening

delays transporting to and from nearby hospitals. Such flights will not land at Murray Field because of the threat of deer on the runway due to the lack of proper fencing.

The Grand Jury contacted the Humboldt County Aviation Advisory Committee and received the following information:

- In August 2007, a plan to build a fence at Murray Field was received by the Board of Supervisors. It was for 8,000 feet of fencing and associated gates, with an estimated cost of \$600,000.00.
- The required environmental assessments and impact studies should be completed by August 2008.
- After the environmental documents are approved by the Federal Aviation Administration (FAA), an Airport Improvement Program grant application will be submitted to the FAA. The bidding schedule and construction is scheduled to occur in spring/summer of 2009.

Grand Jury Report # 2008-PW-02 Humboldt Transit Authority and Public Transit

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of this report shall be provided as follows:

- **No Response Required**

Report:

The 2007-08 Grand Jury reviewed public documents and conducted interviews to provide the following report on the Humboldt Transit Authority (HTA) and public transit within Humboldt County.

The HTA is a Joint Powers Public Agency consisting of the County of Humboldt and the cities of Arcata, Eureka, Fortuna, Rio Dell, and Trinidad. It was formed in 1976 to administer the Redwood Transit System (RTS), which currently runs from Trinidad to Scotia primarily along Highway 101. It operates thirty-two buses and manages various aspects of public transit within the county.

The HTA operates the Willow Creek Extension, a scheduled service, and the Southern Humboldt Rural Transit System, a paratransit service. Both are contracted through Humboldt County. Eureka contracts with the HTA to operate the Eureka Transit Service, with the city retaining authority over most of its operational responsibilities. HTA contracts with Arcata to fuel, store, and maintain its buses. It also has minor maintenance service contracts with City Ambulances of Eureka, Timber Ridge Assisted Living, Humboldt County Office of Education, and Klamath/Trinity Non-Emergency Transportation.

Approximately \$2,400,000 is needed to operate HTA programs. Funds from State and Federal grants, which vary from year to year, can only be used for capital purchases; however, \$1,000,000 in revenue is provided by the member entities from local sales tax-generated through the 1971 Transportation Development Act (TDA). This legislation was enacted to provide resources for public transit and provides \$4,477,578 to Humboldt County. In addition, HTA earns \$1,388,340 in transportation-related contracts and fares.

Under existing statutes, public transit programs must receive a designated percentage of their operating expenses in fare revenues. The percentage of fare revenues needed varies from a low ten percent to the twenty percent range, depending on when the service went into operation. HTA's fare percentages are in the higher ranges. Failure to meet fare requirements for three consecutive years could result in the loss of TDA funding. This is one reason for periodic increases.

General public transit fares provide approximately thirty-two percent of HTA's operating costs. Paratransit services recover approximately twelve percent of operating costs. Paratransit is an 'on-demand' service, such as Dial-a-Ride/Dial-a-Lift or subsidized cab fare, and is available only to individuals who are unable to use general public transit due to age, disabilities, or by special authorization from a physician. City Cab Corporation is contracted to provide for paratransit needs within the HTA service areas. Humboldt Community Access Resource Center receives a county subsidy to provide paratransit coverage to residents living outside existing service areas. General public transit (fixed route) subsidy is one dollar and ninety-five cents per passenger trip and seven dollars and seventy cents per paratransit passenger trip. HTA anticipates paratransit costs to lessen with the implementation of new software that will more efficiently route passenger trips. However, this new software program will require a twenty-four hour advance reservation, unlike the present system which dispatches paratransit vehicles as available.

Current transit statutes allow rural counties to use TDA funds for projects other than public transit. Before member entities can divert TDA funds from public transit purposes, there must be an annual finding on unmet transit needs. Humboldt County Association of Governments (HCAOG), in its capacity as the Regional Transportation Planning Agency (RTPA), has the responsibility to present this finding which is based on information garnered from public hearings and correspondence. In addition, RTPA must consult with the Social Services Transportation Advisory Council to identify needs, assess transit dependent groups, evaluate existing programs, and analyze potential needs. In a 2007-08 report, RTPA stated eighty-five percent of the county's transit needs were being met.

Fortuna and Rio Dell use TDA funds for road maintenance. Humboldt County budgeted about forty-one percent for roads of approximately \$2,388,340 in funds, with the remaining TDA revenues allocated to public transit.

According to a county analysis, nearly thirty-two percent of Humboldt County unincorporated residents live outside a public transit area or do not have access to specialized transportation services. Based on the 2000 census, over twelve percent of the county's population is over sixty years old. Studies suggest a dramatic increase in this demographic by year 2020, which will result in an increased need for public transit. The Area 1 Agency on Aging (AIAA) reported transportation has consistently been a top concern for seniors living in Humboldt County. The AIAA believes transportation services are critical in linking older adults with health care, social services, and other activities. The 2000 census also revealed a significant number of families and individuals in Humboldt County living below the poverty level, which could further impact public transit.

Increased fuel costs, higher insurance rates, county geography, and the California Air Resources Board emissions standards requirements all add to the challenges facing HTA and Humboldt County. The expense and availability of hybrid diesel/electric buses to meet the emissions standards requirements, and increased need for public subsidies, exacerbate fiscal burdens on the HTA and limits the ability to provide new service areas.

The level of ridership is higher within the main transportation corridors and reduced on the periphery, which makes rural services more expensive. However, HTA has experienced increased ridership, especially at the extreme ends of the corridor, since implementing new fare structures and fare boxes in February 2008. The new fare structure includes multi-ride cards and discounts for youth, seniors, and the disabled.

The Grand Jury of Humboldt County commends the Humboldt Transportation Authority, its member entities, Humboldt County, and the Regional Transportation Planning Agency for their proactive approach to the challenges facing public transit. We encourage the county to continue evaluating transit services for residents living outside current service areas and to explore using more of its TDA funds for public transit. The recommendation for additional service in developed unincorporated areas, stated in the 2007-08 HCAOG report on unmet transit needs, has merit and should be reviewed by the affected HTA members. The Grand Jury observed a high level of competence and dedication on the part of the various staff working to meet the public transit needs of Humboldt County.