

**HUMBOLDT  
COUNTY  
GRAND JURY**



**FINAL REPORT  
2002-2003**

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# 2002-2003 HUMBOLDT COUNTY GRAND JURY FINAL REPORT

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“A”  
**GRAND JURY MEMBERS**  
**2002-2003**

**The Honorable Marilyn Miles**

Shirley A. Morse  
Russell M. Lewis  
Judith D. Schmidt  
Penny Elsebusch  
Russell M. Lewis  
Deborah Plantagenet

Robert Boyce  
Warren Bullis  
Laura Clark  
George Criswell  
Don Davis  
David Elsebusch  
Penny Elsebusch  
Arnold Jensen  
Mike Kears  
Russell M. Lewis  
Gerald McClosky  
Deborah Plantagenet  
Shirley A. Morse  
Keath North  
Wally Obie  
John Phillips  
Judith D. Schmidt  
Bill Strickland

**Presiding Judge**

Foreperson  
Foreperson Pro Tem  
Corresponding Secretary  
Recording Secretary  
Budget Chairman  
Librarian

Eureka  
Eureka  
Fortuna  
Hydesville  
Eureka  
McKinleyville  
McKinleyville  
Trinidad  
Eureka  
Fortuna  
Fortuna  
Arcata  
Arcata  
Hydesville  
Hoopa  
Fortuna  
Orick  
Eureka

The 2002-2003 Humboldt County Grand Jury dedicates this report, in appreciation, to member Bob Mathis who took such great pride in his service as a grand juror. During his third term as a grand juror he resigned due to poor health and subsequently passed away on October 24, 2002. Bob, we thank you for your dedicated service to the citizens of Humboldt County.

## **“B”**

### **THE HUMBOLDT COUNTY GRAND JURY**

The grand jury is part of the judicial branch of government. Consisting of 19 citizens drawn from a pool of volunteers, it is an arm of the court, yet an entirely independent body. The presiding judge of the superior court, the district attorney, the county counsel and the state attorney general all act as its advisors.

The civil grand jury is an investigative body having for its objective the detection and correction of flaws in government.

The primary function of the grand jury is to examine all aspects of county and city government (including special districts and joint powers agencies), to see that monies are handled judiciously, and that all accounts are properly audited. In general, the grand jury seeks to assure honest, efficient government in the best interest of the people.

The grand jury serves as ombudsman for citizens of the county. It may receive and investigate complaints by individuals concerning the actions and performances of county or public officials.

Members of the grand jury are sworn to secrecy, and conduct most of the juries' work in closed session. All testimony and deliberations are confidential. Breach of confidentiality is a misdemeanor punishable under the penal code.

Grand jurors may act only through the grand jury as a body. Individually they have no official standing, power, or authority. A grand juror may take no official action without the prior approval and authorization of a majority of the grand jury. The foreperson is the only official spokesman for the grand jury.

Grand jurors, in their official capacity, are permitted access to, and the right to inspect prisons, jails and other government facilities and to review official books and records to which other citizens are denied access, with limited exceptions. Because of their extraordinary privileges and responsibilities, grand jurors have a special obligation to exercise their authority and carry out their duties in a proper and responsible manner within the boundaries of the law.

Grand jurors serve one year, and some jurors may serve for a second year to provide an element of continuity from one jury to the next. Continuity of information also is provided by documents collected and retained in the grand jury library. The penal code provides for the transmission of information from one grand jury to the next.

Grand jury service calls for diligence, impartiality, courage and responsibility. Selection for service is an honor. It provides a unique opportunity to learn about government and to be of value to the community.

**CITIZEN COMPLAINT FORM**

**HUMBOLDT COUNTY GRAND JURY  
Humboldt County Courthouse  
825 Fifth Street  
Eureka, Ca. 95501**

**All information on this form is strictly confidential.  
Please write legibly. Please be specific and concise.**

**Your Name:** \_\_\_\_\_ **Date** \_\_\_\_/\_\_\_\_/\_\_\_\_

**Your Address:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Complaint**

**Complaint involves which Agency, City, District or County Department?**  
\_\_\_\_\_

**Address/Location** \_\_\_\_\_

**Complaint involves a specific official or employee of the entity you named above.**

**Official or Employees name** \_\_\_\_\_

**Complaint involves a specific event? Time:** \_\_\_\_\_ **Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**Location:** \_\_\_\_\_

**Complaint details. Please state your specific complaint, including additional names, locations, witnesses, and other supportive facts.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Your signature is required here**

**Attach additional sheets if necessary**

**GRAND JURY REPORT NO. 03-AF-01**  
**AUDIOVISUAL ACCESS TO BOARD OF SUPERVISORS' MEETINGS**  
**Administration & Finance Committee**

**INTRODUCTION:**

California's "Open Meeting Law," the Ralph M. Brown Act, (California Government Code Sections 54950-54962) reads in part ". . . public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly." To assess this, the grand jury recently undertook an investigation of the Humboldt County Board of Supervisors (Board) and their conduct of the people's business. An analysis was made of agenda requirement compliance, conduct of meetings, as well as the adequacy of the Board's meeting facilities.

The agendas were generally found to be well prepared and the meetings conducted with every indication of a desire to openly discuss the often important, sensitive or controversial matters before them. Serious problems were noted, however, with the adequacy of the public's access to what exactly is being said in the conduct of the people's business.

Several jurors attended portions of meetings and found that some comments made by Supervisors were often unintelligible due to weak audio levels when the Supervisor was turned away from the stationary microphone or the microphone was not turned on. Worse yet, many comments made by persons addressing the Board were completely unintelligible to audience members due to variations in height and voice qualities of those speaking as well as their not being instructed to speak into the microphone. The fact that the audience is seated behind the speaker's podium aggravates the problem. If members of the community, staff and Supervisors are unable to adequately see and hear the communication between each other during a meeting, they may not understand action taken by the Board. As a result, important community concerns may not be shared by everyone present, and the deliberations of the Board may be hampered.

Poor audio quality was also noted in the televised sessions broadcast live by Cox Cable, to those unable to attend meetings in person, again exacerbated by failure to turn the microphones on or speak directly into them. The video equipment currently used to record the meetings was donated with the understanding that a copy of the taped meetings would be promptly distributed to Cox Cable for re-broadcast at prime times (as does the City of Eureka and City of Arcata); a practice which has not happened. Doing so would dramatically increase the public's opportunity to access and monitor the people's business. The county is presently renegotiating its contract with Cox Cable. This is a great opportunity for the county to better utilize the dedicated public government access channel.

**FINDINGS AND RECOMMENDATIONS**

**F1:** Often comments made by individual Supervisors cannot be heard clearly, either by those in attendance at or observing the public broadcast of the Board of Supervisors' public meetings, because the microphones are not turned on or not spoken directly into, thus inhibiting the open conduct of the people's business.

**BOARD OF SUPERVISORS' RESPONSE TO F1:**

Agree, although each microphone in the Board of Supervisors' Chambers has recently been replaced with a longer microphone to enhance the audio quality.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Board of Supervisors: (a) Purchase lapel microphones to enhance thorough communication by individual Supervisors to all in attendance. (b) The Clerk of the Board and the Supervisors should ensure that all of the microphones are turned on for the entire meeting, so that the deliberative process is fully communicated.

**BOARD OF SUPERVISORS' RESPONSE TO R1:**

Recommendation (a) to purchase lapel microphones will not be implemented because it is not warranted. Each of the microphones in the Board of Supervisors' Chambers has recently been replaced with a longer microphone to enhance audio quality. Staff is working on adjusting the volume for each microphone to ensure that the Supervisors, staff and the public can be clearly heard over the sound system. Recommendation (b) has been implemented.

**GENERAL SERVICES RESPONSE TO R1:**

The recommendation will not be implemented because it is not warranted or is not reasonable. All the microphones in the Board of Supervisors' Chambers have been replaced with a longer microphone. We are currently working on adjusting the volume for each microphone to ensure that Supervisors, staff and the public are heard over the sound system. This is an ongoing process that is more cost efficient than having each Supervisor wear a lapel microphone. Also, the microphones are turned on every meeting.

**F2:** Comments by those testifying often cannot be clearly heard by those in attendance, either at or observing the broadcast of the meetings, thus inhibiting the open conduct of the people's business.

**BOARD OF SUPERVISORS' RESPONSE TO F2:**

Agree, although each microphone in the Board of Supervisors' Chambers has recently been replaced with a longer microphone to enhance the audio quality.

**GENERAL SERVICES RESPONSE TO F2:**

Disagree partially. This was true prior to replacing the microphones, currently we have intermittent issues with people hearing the testimony.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the Board of Supervisors: (a) Research the feasibility of purchasing an adjustable podium or microphone so those who testify can be clearly heard. (B) The Board Chair will also instruct all who testify, staff and the public, to speak clearly into the provided microphones.

**BOARD OF SUPERVISORS' RESPONSE TO R2:**

Has been implemented. There is an adjustable microphone on the podium for public speakers that has been replaced in the past six months. The microphones at the staff table have also been replaced, and adjustments continue to be made to adjust the volume to ensure staff and the public can be clearly heard over the sound system. All the microphones in the Board of Supervisors' Chambers are adjustable. When public testimony cannot be heard, the Board Chair requests the individual providing testimony to speak into the microphones provided.

**GENERAL SERVICES RESPONSE TO R2:**

The recommendation has been implemented. There is an adjustable microphone on the podium for public speakers that has been replaced in the past six months. The microphones at the staff table have been replaced as well. We are currently working on adjusting the volume for the staff microphones. All the microphones in the Boards' Chambers are adjustable.

**F3:** Public awareness and disclosure of Board of Supervisors' meetings could be improved if Board meetings, which are presently only broadcast during the meetings, were re-broadcast at a variety of times by promptly transmitting a tape copy to Cox Cable as the county had agreed to do when the video equipment was originally donated.

**BOARD OF SUPERVISORS' RESPONSE TO F3:**

Agree.

**GENERAL SERVICES RESPONSE TO F3:**

Agree

**R3. Recommendation pertinent to F3:** The grand jury recommends that the Board of Supervisors: (a) Provide a meeting tape to Cox Cable promptly after each meeting for re-broadcast. (b) Utilize the public government access channel available at Cox Cable. This would improve the ability for the public to view the conduct of the people's business.

**BOARD OF SUPERVISORS' RESPONSE TO R3:**

Has been implemented. Arrangements have been made with Cox Cable for the evening rebroadcast of Board of Supervisors meetings to take place Wednesdays at 8:00 p.m. This will begin with the Board meeting of September 2, 2003.

**GENERAL SERVICES RESPONSE TO R3:**

Has been implemented. Arrangements have been made with Cox Cable for the evening rebroadcast of Board of Supervisors meetings to take place Wednesdays at 8:00 p.m. This will begin with the Board meeting of September 2, 2003.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-AF-01 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to R1, R2 and R3.**
- 2. The General Services Administration Director shall respond to R3.**

**GRAND JURY REPORT NO: 03-AF-02**  
**REAL PROPERTY DIVISION**  
**Administration & Finance Committee**

**INTRODUCTION:**

The Humboldt County Grand Jury conducted a routine investigation of the operations of the Real Property Division (RPD). The RPD is supervised by the General Services Director. The staff consists of one Senior Real Property Agent whose function, in spite of having an extensive job description implying considerable authority, more resembles that of a clerical position. Although the RPD works closely with various department heads and the County's architect in filling the space requirements of County government, little real authority is given to act as the County's advocate in the resulting real property transactions. The grand jury's investigation included analyzing two real estate transactions, one a purchase, the other a long-term lease. Several personal interviews were also conducted and document reviews of both transactions were made.

Early in the purchase transaction, the seller's agent declared themselves a "dual agent", representing both the buyer and the seller. In the real estate business, dual agency means that the interests of both parties to the transaction must be uppermost in all the agent's actions and recommendations. It is difficult, if not impossible, to serve two such divergent interests. The potential for inadequate representation is present as well as the temptation to minimize potential risks, costs and liabilities. Although the agent in this transaction correctly identified the potential existence of lead paint, firm estimates or bids to mitigate the hazard were not sought and renovation costs ballooned to over three times the preliminary estimate, largely due to environmental hazards abatement. The RPD should have the authority to conduct its own due diligence and negotiate all terms, including a reduction in the purchase price to reflect the value of its contribution to the transaction. Traditionally, a commission paid by the seller of a property is split between the seller's agent and the buyer's agent. If the RPD is doing the work of the buyer's agent when the County buys real property, the County should benefit proportionately. The final purchase price should be negotiated downward to reflect the value of one-half of a standard real estate commission.

In the long-term lease transaction, a relatively new Request for Proposals process was used. The process was flawed from the beginning; the proposed location map included the entire area of greater Eureka, when in fact only those proposals near the courthouse were to be seriously considered. This fact was specified within the documentation, but the prominence of the misleading map may have caused several respondents to discount the importance of proximity to

the courthouse, resulting in the needless expenditure of tens of thousands of dollars for proposals having no chance of success. It appears that the selection committee may have used arbitrary methods to assign rankings to the subjective criteria intended to fairly compare the competing proposals. Ironically, the ranking criteria were not shared with the project sponsors until after the final decision was made. Rankings were not done using specific quantitative guidelines, but involved open discussion leading to consensus. The makeup of the committee included several employees of the affected department along with the department head. No minutes of these important sessions were kept. When two of the three “finalists” dropped out of contention, reportedly a sense of urgency felt by the department head on the committee caused them to not reconsider two other highly competitive projects. Lease costs, although purportedly a “special” ranking consideration, were not weighted as to proposed annual increases; the winning proposal was the most expensive. No final price negotiation was attempted by the County, although the County had that right.

### **FINDINGS AND RECOMMENDATIONS:**

**F1.** In the purchase transaction, Humboldt County was represented by the seller’s real estate agent acting as a dual agent.

#### **GENERAL SERVICES RESPONSE TO F1:**

Agree

**R1. Recommendation pertinent to F1:** The grand jury recommends that when the County is the buyer in real estate transactions, it not be represented by a real estate agent who also represents the seller.

#### **GENERAL SERVICES RESPONSE TO R1:**

The recommendation will not be implemented because it is not warranted or is not reasonable. It is the Real Property Division’s responsibility to represent the County in any purchase transaction. The County has employed a former real estate agent in the Real Property Division to address this issue. If there is a situation where the County is purchasing property and a need arises, then the County will determine whether a dual agent or buyer’s agent is appropriate for the particular transaction.

**F2.** The sole employee of the RPD is a licensed California real estate agent, but cannot maintain membership in the Humboldt Association of Realtors. The association is a valuable local source of continuing education and other real estate related information.

#### **GENERAL SERVICES RESPONSE TO F2:**

Disagree partially. The current employee has made her license inactive to prevent a conflict of interest for her in working for the County. We agree that the employee is unable to maintain membership in the Humboldt Association of Realtors.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the RPD become an affiliate member of the Humboldt Association of Realtors to better stay informed of changes in issues and laws affecting the real estate industry, as well as take advantage of locally-offered continuing education opportunities.

**GENERAL SERVICES RESPONSE TO R2:**

The recommendation will not be implemented because it is not warranted or is not reasonable. According to the Humboldt Association of Realtors, the County would have to become the affiliate member of the association and not the agent. The affiliation would allow the County to have access to the Multiple Listing for \$125.00 annual fee. The County does not need access to the Multiple Listing for commercial transactions and this action would not be cost effective. Also, the affiliation would require that the Real Property Division employee be associated with a broker, which raises a conflict of interest.

**F3.** In neither the purchase nor the lease transaction was authority granted the RPD to act as the County's advocate to obtain the best financial deal for the public. If the Real Property Division is to effectively assist the County to obtain the best terms in its real estate transactions, it must be granted more authority to negotiate all terms of the transaction.

**GENERAL SERVICES RESPONSE TO F3:**

Disagree wholly. The County's lead on any lease or purchase transaction is the Real Property Division who is responsible to obtain the best financial deal for the public. If there is a Request for Proposal (RFP), then the RFP response is either accepted or rejected based on the RFP parameters.

**R3. Recommendation pertinent to F3:** The grand jury recommends that the General Services Director review the RPD staffing and function, granting the necessary authority to act as the County's advocate in real estate negotiations.

**GENERAL SERVICES RESPONSE TO R3:**

The recommendation has been implemented. The County's lead on any lease or purchase transaction is the Real Property Division who is responsible to obtain the best financial deal for the County. If there is a Request for Proposal (RFP), then the RFP response is either accepted or rejected based on the RFP parameters.

**F4.** No minutes were taken of deliberations by the selection committee charged with assessing the relative suitability of proposals received as a result of the Request for Proposals.

**GENERAL SERVICES RESPONSE TO F4:**

Agree

**R4. Recommendation pertinent to F4:** The grand jury recommends that minutes be taken and properly filed for future review should the need arise.

**GENERAL SERVICES RESPONSE TO R4:**

The recommendation will be partially implemented when we undergo the next process for evaluating long-term lease proposals. Although step-by-step minutes will not be taken of the selection committee discussions, the outcome of those discussions will be documented and retained in the applicable file(s).

**F5.** Some of the selection committee members may not have felt free to express their opinions because voting was done openly, not by ballot.

**GENERAL SERVICES RESPONSE TO F5:**

Disagree partially, because we are unable to verify if any selection committee member felt uncomfortable in expressing their opinion. However, it was an interactive process that allowed the participants to share their thoughts based on the criteria.

**R5. Recommendation pertinent to F5:** The grand jury recommends that a secret ballot process be implemented for use by future selection committees.

**GENERAL SERVICES RESPONSE TO R5:**

The recommendation will not be implemented because it is not warranted or is not reasonable. The selection process is based on evaluating the responding proposals both objectively and subjectively. After that evaluation, then a determination is made. It is not appropriate to use a secret ballot to make the final selection.

**F6.** Neither specific guidelines nor the ranking form used by the selection committee were made available to potential respondents.

**GENERAL SERVICES RESPONSE TO F6:**

Disagree partially. The original Request for Proposal (RFP) did indicate the guidelines (parameters) for the location being sought by the County.

**R6. Recommendation pertinent to F6:** The grand jury recommends that quantitative, specific guidelines and the selection criteria ranking form be made available to all parties by inclusion in the Request for Proposals documentation.

**GENERAL SERVICES RESPONSE TO R6:**

The recommendation has not yet been implemented, but will be implemented in the future. As stated earlier this was new process and the RFP did have guidelines (parameters) regarding the location the County was looking for, but did not indicate the ranking for the criteria. In future RFP for lease property, there will be a better handle on our needs, which will include the specific guidelines and selection criteria ranking in the actual RFP documentation.

## **RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-AF-02 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

**1. The General Services Administration Director shall respond to R1, R2, R3, R4, R5 and R6.**

**GRAND JURY REPORT NO: 03-CD-01**  
**CITY OF EUREKA UTILITY USER'S TAX - Measure X**  
**Cities & Districts Committee**

### **INTRODUCTION:**

The Eureka City Council (City) placed Measure X on the November 5, 2002 ballot. The measure asked voters to extend, for a second time, a 3% utility user's tax (UUT) on electric, gas, cable television, and intrastate long-distance telephone services. The measure passed by a very slim margin. The ordinance (#576 C.S.), originally adopted as a temporary measure in 1994, then extended in 1998 until 2003, will now remain in effect until July 1, 2007. The tax currently provides an estimated \$1,100,000 annually to the City of Eureka.

During a particularly bitter campaign, the City contended that extension of the UUT was necessary to maintain adequate levels of public safety. Indeed, in an October 2001 Memorandum of Understanding (MOU) with the Eureka Police Officer's Association (EPOA), the City agreed to a 6% pay raise subject to extension of the UUT in the upcoming November 2002 election.

In ballot arguments, the City said that a June 11, 2002 report by the Eureka Finance Advisory Committee was the primary cause for placing the measure on the ballot, however, the agreement to a future pay raise, as evidenced by the MOU, indicates that an obligation to place Measure X on the November 2002 ballot had already been made. Political support for the measure from the effected public employee group, the EPOA, as well as their political action committee, was assured. A permanent base salary increase for Eureka police personnel was, therefore, funded by a tax measure purported to be temporary.

Sufficient concern has been raised regarding the implementation of the UUT on cellular telephone service to prompt a special task force endorsed by the California League of Cities. Matters under study include the difficulty of separating intrastate from interstate long-distance services and whether the billing account address or the origin of the call should determine the applicability of the tax. Furthermore, it is not possible to segregate intrastate charges under all-inclusive long-distance plans. Only intrastate long-distance telephone services are subject to the tax, however, some cellular carriers charge the tax on basic services; others on all long distance charges; one local cellular company had not levied the tax at all until after inquiries began by this grand jury. The City of Arcata, which has a very similar utility user's tax ordinance, does not collect the tax on cellular telephone services due to the complexities involved.

An unfair competitive advantage in subscription television services has also been alleged due

to the fact that cable TV customers are taxed, while satellite TV customers are not.

The City's utility tax ordinance caps the maximum annual tax for each location to \$1,000 per year and requires the taxpayer to keep track of payments and request termination of collection of the tax when the cap is reached. Approximately 18 customers are taking advantage of the cap and pay \$1,000 annually directly to the City. The utility tax ordinance requires utility companies to keep records of taxes collected and remitted for a period of three years. According to the ordinance, requests for refunds of overpayments must be made within three years of the date of overpayment. However, current policy is to make refunds directly to the taxpayer as far back as October 6, 1994, when the original ordinance was enacted.

Acting upon complaints received from several concerned citizens, the grand jury conducted a series of interviews and reviewed appropriate documents concerning the implementation and enforcement of the Eureka UUT.

### **FINDINGS AND RECOMMENDATIONS:**

**F1.** The City accepts lump sum payments from those collecting the UUT. There are no itemized statements of the amounts collected from each taxpayer and no audits are performed by the City to determine whether the utility companies are collecting taxes from all residents who owe them, collecting from those who do not owe them, or remitting the correct amounts

**R1. Recommendation pertinent to F1:** The grand jury recommends that the City conduct periodic audits to provide an appropriate level of confidence to taxpayers and require each utility company to provide an itemization of monthly remittances to serve as an audit trail.

### **CITY OF EUREKA'S CITY COUNCIL AND CITY MANAGER RESPONSE TO R1:**

Partially Agree.

Certain utility service providers cite confidentiality concerns and have consistently refused to provide the City with individual rate payer information. This account information would enable the City to "audit" the Utility Users' Tax paid by any individual utility customer, thereby assuring the correct amount of tax is being collected. Because this information is not available, the City has taken the following steps to insure the Utility Users' Tax is collected properly:

1. Each quarterly exemption list provided by PG&E is reviewed and any noted errors are brought to the utility's attention for correction.

2. Each utility service provider has been provided a listing of each separate address located within Eureka's geographic city limits with instructions to collect Utility Users' Tax *only* from customers receiving services at one of the listed locations.

3. The City continues to notify all high consumption utility customers of the maximum annual Utility Users' Tax limit of \$1,000 per contiguous service location. In addition, steps have been taken to place more high consumption utility customers on the City's direct billing program, thereby exempting them from having the tax collected by individual utility service providers.

**F2.** The complexities involved with fairly applying a UUT on cellular telephone and subscription TV services are numerous and seemingly unsolvable at this time.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the City follow the

correct legal procedures to eliminate the UUT on those telecommunications service providers until the complexities can be resolved.

**CITY OF EUREKA'S CITY COUNCIL AND CITY MANAGER RESPONSE TO R2:**

Disagree.

The City believes it is in conformance with the City Ordinance and State and Federal laws governing the collection of local utility taxes. The City's Tax Administrator monitors developments in law affecting the application, administration and collection of Eureka's Utility Users' Tax. Should a court of competent jurisdiction, State or Federal law, or regulatory agency having authority over such tax matters determine Eureka's Utility Users' Tax is nonconforming with the law, the Tax Administrator will consult with the City Attorney to identify the legal implications to the City. The City Attorney, the City Manager, and the Tax Administrator will advise the Mayor and City Council on laws, court decisions, or regulatory determinations affecting Eureka's Utility Users' Tax and will make such recommendations to correct any defect in the Utility Users' Tax as may be necessary.

**F3.** Because there is no method to track the total amount of tax paid by any one taxpayer, some large utility users have been overcharged by paying in excess of the \$1,000 annual cap.

**R3. Recommendation pertinent to F3:** The grand jury recommends that the City prevent over-collection of the tax by establishing an effective monitoring procedure and by making periodic reminders to large utility users of the existence of the cap as well as detailed refund procedures.

**CITY OF EUREKA'S CITY COUNCIL AND CITY MANAGER RESPONSE TO R3:**

Agree.

The City provides each business owner with a notice regarding the maximum annual Utility Users' Tax limit of \$1,000 per contiguous service location every year when business license renewal notices are sent out. In addition, every new business applying for a business license gets a copy of the maximum taxation notice. City staff has begun a program of identifying potential high consumption utility customers who likely expend more than \$33,333 annually in utility bills. These utility customers are contacted by the City and offered the opportunity to participate in the City's direct billing program and be exempted from collection of the Utility Users' Tax by individual utility service providers.

**F4.** A discrepancy exists between the refund procedure authorized in Ordinance #576 C.S. and the policy currently being followed by the City.

**R4. Recommendation pertinent to F4:** The grand jury recommends that the City either conform to Ordinance #576 C.S., which limits refunds of overpayments to three years, or follow the correct legal procedures to amend the ordinance to reflect the current practice of making refunds available as far back as 1994.

**CITY OF EUREKA'S CITY COUNCIL AND CITY MANAGER RESPONSE TO R4:**

Agree.

Action by the Eureka City Council on July 1, 2003, reconfirmed the three (3) year limitation on refunds. This is consistent with the specific language governing refunds found in Eureka Municipal Code Section 35.143.

**F5.** The City has funded a long-term base salary increase for police department personnel via a temporary tax.

**R5. Recommendation pertinent to F5:** The grand jury recommends that the City continue to research alternatives for long-term replacement of revenues generated by the UUT.

**CITY OF EUREKA’S CITY COUNCIL AND CITY MANAGER RESPONSE TO R5:**

Disagree with the Finding; Agree with the Recommendation.

The City Council and the City’s Finance Advisory Committee in consultation with the City Manager and staff continue to evaluate all viable options currently available to the City as sources of stable, long-term revenue.

**F6.** Police personnel, and their political action committee, were encouraged to support Measure X for their own monetary self-interests.

**R6. Recommendation pertinent to F6:** The grand jury recommends that the City of Eureka refrain from promising future salary increases subject to voter’s approval of a taxing measure.

**CITY OF EUREKA’S CITY COUNCIL AND CITY MANAGER RESPONSE TO R6:**

Disagree.

The City will continue using prudent fiscal judgment in allocating existing and/or traditional revenue sources to ongoing operating expenditures. In those cases where the continuation of a particular revenue source is uncertain, the City will take reasonable steps to assure loss of revenue can be matched with corresponding reductions in operating expenses. Conversely, tying increased operating costs to expected revenue increases, or new revenue sources, demonstrates fiscal responsibility by the City.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-CD-01 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Eureka City Council shall respond to R1 through R6.**
- 2. The Eureka City Manager shall respond to R1 through R6.**

**GRAND JURY REPORT NO: 03-CD-02**  
**SPECIAL DISTRICTS**  
**Cities & Districts Committee**

**INTRODUCTION:**

As a routine matter, the Humboldt County Grand Jury undertook a survey of all 48 special districts operating within the county. Special districts provide water, sewer, parks, harbor and recreation, street lighting and other basic services for much of the county. Most are controlled by a board of directors comprised of local residents, thus constitute government at its purest and, theoretically, at its most responsive level. In spite of this local control, many of these local boards operate without much public scrutiny at all. Well-managed districts publicize their activities and solicit ideas from the public. The media, interest groups and active citizens who frequently observe the actions of city and county governments, understandably, do not participate at the same level in special district governance.

All special district board meetings are required to be “open and public” by California Government Code Sections 54950 - 54963, also known as the Ralph M. Brown Act (Act). The grand jury’s survey found certain deficiencies as to the letter and spirit of the Act. The Act states that agenda items should be given a brief general description of approximately 20 words; in other words, a description so complete that a person attending his or her first district board meeting would be able to gain an understanding of the item to be discussed. This requirement ensures that the public is aware of, and can participate in, deliberations on matters of interest to them. The grand jury found only a few special districts in the county adequately complying with this requirement. Many districts shorten the agenda description to as little as one word, thus preventing the average citizen from knowing or understanding what the board is to discuss or take action upon. Too commonly, action is taken on items not listed on the agenda at all. Whether inadvertent or not, the failure to follow proper agenda procedures short-circuits public accountability of our special districts and those who operate them.

According to the Act, agendas must be posted at least 72 hours prior to regular board meetings, and must state that the public will be allowed to comment on any agenda item. Most districts surveyed reported practicing the legal minimum requirement by posting meeting agendas only at district headquarters – locations rarely frequented by members of the public. None routinely use newspapers or other media to make their activities known to their customers.

Only a few districts maintain Web sites that provide information on their mission, purpose, activities and finances. The public often may not have enough information to determine that decisions made by their special district boards properly address the priorities of their communities.

While most board members are volunteers and receive no compensation, many districts provide a modest compensation. But the taxpayers and ratepayers in some districts pay for significantly higher meeting stipends and even health, dental and life insurance benefits. The following table illustrates the range of compensation:

<u>District Type</u>	<u>Name</u>	<u>Monthly Compensation</u>	<u>Other Monthly Compensation</u>
COMMUNITY SERVICES	Briceland, Carlotta, Miranda, Orick, Orleans,	\$0	\$0
	Patrick Creek, Phillipsville, Riverside, Weott, Westhaven		
	Willow Creek	\$25	\$0
	Palmer Creek	Free Sewer	\$0
	Fieldbrook, Loleta, Manila, McKinleyville,	\$50- \$100	\$0
	Humboldt CSD	\$200 + Medical/Dental/Life	\$514/\$61/\$2
FIRE PROTECTION	Ferndale, Garberville, Kneeland, Loleta,	\$0	\$0
	Myers, Petrolia, Redway, Rio Dell, Telegraph Ridge, Whitethorn, Willow Creek		
	Blue Lake	\$10	\$0
	Fortuna, Samoa Peninsula	\$25	\$0
	Arcata, Humboldt No. 1	\$75	\$0
HARBOR & RECREATION	Humboldt Bay Harbor District	\$400-\$500	\$0
WATER	Alderpoint	\$0	\$0
	Jacoby Creek	\$35-\$100	\$0
	Hydesville	\$50	\$0
	Humboldt Bay Municipal	\$80-\$160	\$0
OTHERS	Reclamation District #768, Fortuna Cemetery	\$0	\$0
	Humboldt County Resource Conservation, Janes Creek Drainage, Northern Humboldt Recreation & Park, North Coast Air Quality, Petrolia Cemetery, Rohner Recreation & Park, Southern Humboldt Community Health Care		
	Resort Improvement District No. 1	\$50	\$0

One large district recently voted to award cash reimbursements for medical co-payments to employees, in spite of having been advised by its legal counsel in an open, public meeting that the award may be considered a gift of public funds. Some districts' operations are dominated by entrenched leadership. The behavior of one mid-county community service district board member has contributed to contention on that board and unusually high turnover of personnel and board members, resulting in poor management practices, excessive citizen complaints, legal action and persistent vacancy on the board. Some actions taken during meetings attended by grand jurors were conducted in violation of the Act and the district's own written policy procedures. Few of the smaller districts have written operations or policy procedures. Inexpensive resource information and educational seminars on district operations are readily available through the California Special Districts Association (<http://www.csda.org>). Membership is not required, but members receive a discount for the publications and training sessions. County governments are welcome as affiliate members for a nominal fee.

Some districts are apparently still not aware of audit requirements. Although the grand jury has been monitoring special district audit compliance for several years, many districts remain unaware of all the options available to them, such as biennial audits and lower cost services. In 2000, the County Board of Supervisors responded to a grand jury recommendation by creating a position in the Auditor's office to perform special district audits. Although much progress has been made, four districts are not current.

The grand jury does not make judgments about individual districts in this report; not because they shouldn't be judged, but because they should be judged by the people they serve.

More public participation is needed to strengthen and preserve the vitality of this important element of local government.

### **FINDINGS AND RECOMMENDATIONS:**

**F1.** Many small special districts have no written policy or operations procedures to guide board members and employees.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Humboldt County Board of Supervisors join the California Special Districts Association as an affiliate member and send informational letters to all special districts informing them that resource materials relating to district operations and the Brown Act are available at a discount.

### **BOARD OF SUPERVISORS RESPONSE TO R1:**

This recommendation will not be implemented because it is not warranted. There are already a number of special districts in Humboldt County that are members in good standing of the California Special Districts Association (corrected web address is <http://www.csda.net>) and include Big Lagoon Community Services District, Fieldbrook Community Services District, Garberville Sanitary District, Humboldt Bay Harbor, Recreation and Conservation District, Humboldt Community Services District, Jacoby Creek County Water District, Loleta Community Services District, Manila Community Services District, McKinleyville Community Services District, Miranda Community Services District, North Coast Air Quality Management District, North Humboldt Recreation and Park District, Orick Community Services District, Orleans Community Services District, Redway Community Services District, Resort Improvement District #1, Westhaven Community Services District and Willow Creek Community Services District. The California Special Districts Association is responsible for making its services known to the various special districts and solicitation of membership in their organization.

**F2.** In spite of the progress made by the Auditor's Office, four small districts are still not current with audit requirements.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the Humboldt County Auditor's Office send an informational letter to each district containing copies of the code relating to audit requirements as well as the fact that low-cost audits are now available through the Auditor's office.

**F3.** There is generally too little public interest in special district operations and too little attendance at public meetings for most constituents to be aware of important issues affecting them.

**R3. Recommendation pertinent to F3:** The grand jury recommends that the Board of Supervisors designate a "Special Districts Month" to draw attention to the importance of citizen participation in their own special districts.

### **BOARD OF SUPERVISORS RESPONSE TO R3:**

This recommendation will be implemented. The Board's assistant will prepare an agenda item to designate a "Special Districts Month" within the current fiscal year.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-CD-02 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to R1 and R3**
- 2. The Humboldt County Auditor's Office shall respond to R2.**

**GRAND JURY REPORT NO. 03-HS-01  
HUMAN RIGHTS COMMISSION  
Health, Education & Social Services Committee**

**INTRODUCTION:**

The Humboldt County Grand Jury conducted an investigation into the scope and operation of Humboldt County's Human Rights Commission (HRC). The Commission is composed of 15 volunteers appointed to four (4) year terms by the Board of Supervisors (BOS) and, like most other BOS appointed commissions, receives no financial support from the county. The purpose of the investigation was to ascertain (a) the ability of the HRC to monitor and review incidents of alleged discrimination in the county and (b) to determine what procedures are already in place to deal with these situations, and what, if any, new measures should be taken to mitigate the problems of discrimination and intolerance.

**FINDINGS AND RECOMMENDATIONS**

**F1:** Without an integrated filing/computer database program in place, it is difficult for the county to maintain and monitor an on-going complaint reporting system.

**GENERAL SERVICES RESPONSE TO F1:**

Disagree partially. The General Services Department has no information regarding this issue.

**R1. Recommendation pertinent to F1:** The grand jury recommends the installation of a computer-based complaint reporting work station in the courthouse that allows access and report preparation by HRC commissioners.

**BOARD OF SUPERVISORS' RESPONSE TO R1:**

This recommendation requires further analysis. The General Services Department will contact the Human Rights Commission to discuss the need for a computer-based complaint system within the next 60 days. If there is a demonstrated need for such a system, the cost for acquisition and installation will need to be considered in concert with all other budgetary requests.

**GENERAL SERVICES/INFORMATION SERVICES RESPONSE TO R1:**

The General Services Department will contact the Human Rights Commission to discuss the need for a computer-based complaint system within the next 60 days.

**F2:** Information obtained by the grand jury reports the existence of filing cabinet resources for use by the HRC located in the BOS staff room office. No such cabinets were found upon investigation. If such cabinets were to exist, they would not be accessible to members of the HRC because of their physical location in a restricted area.

**GENERAL SERVICES RESPONSE TO F2:**

Disagree partially. The General Services Department does not have independent knowledge of whether the filing cabinets are available or not. The General Services Department will contact the Human Rights Commission to discuss their need for filing resources in addition to the need for a computer-based complaint system within the next 60 days.

**R2. Recommendation pertinent to F2:** The grand jury recommends a centralized filing system resource be made available to members of the HRC in an area of the courthouse where access could be controlled.

**BOARD OF SUPERVISORS' RESPONSE TO R2:**

This recommendation requires further analysis. Staff is unaware of the existence of the referenced filing cabinet resources. The General Services Department will contact the Human Rights Commission within the next 60 days to discuss the need for filing resources and will evaluate whether those needs can be reasonably met.

**GENERAL SERVICES/INFORMATION SERVICES RESPONSE TO R2:**

Requires further analysis. The Human Rights Commission will be contacted within the next 60 days to discuss the need for filing resources in addition to the need for a computer-based complaint system.

**F3:** The weekly meeting agenda of the BOS does not routinely include considerations of HRC related issues.

**BOARD OF SUPERVISORS' RESPONSE TO F3:**

Agree.

**R3. Recommendation pertinent to F3:** The grand jury recommends that the HRC monthly reports be integrated into the regular BOS agenda.

**BOARD OF SUPERVISORS' RESPONSE TO R3:**

This recommendation will not be implemented because it is not reasonable. The Board of Supervisors has over forty (40) appointed boards, committees and commissions. To have a

standing monthly item for any one of these entities would possibly raise concerns of perceived higher importance of this particular commission over all of the other entities. If any of these 40 entities would like to report to, or request action of the Board of Supervisors, they can request through a Board member to have a specific agenda item scheduled for a specific Board meeting date.

**F4:** Vacancies on the HRC frequently remain open for extended periods of time.

**BOARD OF SUPERVISORS' RESPONSE TO F4:**

Agree.

**R4. Recommendation pertinent to F4:** The grand jury recommends the BOS fill vacancies on a timelier basis.

**BOARD OF SUPERVISORS' RESPONSE TO R4:**

This recommendation has been implemented to the extent possible. Vacancies on all of the over 40 appointed boards, committees and commissions are filled as quickly as possible with the limited staff resources.

**F5:** The HRC predicts a constantly increasing complaint level in incidents of alleged discrimination, racial tension and situations that occur as a result of economic polarization within the county as well as a result of the conflicts associated with the timber industry.

**R5. Recommendation pertinent to F5:** The grand jury recommends the BOS foster the development of programs that work to mitigate tensions within the county.

**BOARD OF SUPERVISORS' RESPONSE TO R5:**

This recommendation is too broad and generic for a specific response, but it is believed that individual members of the Board as well as the Board as a whole encourages the development of programs that work to mitigate tensions within the county.

**F6:** The HRC reports a pervasive insensitivity to gays, lesbians and ethnic groups in city and county law enforcement agencies.

**R6. Recommendation pertinent to F6:** The grand jury recommends the HRC continuously monitor and review cultural diversity/sensitivity training programs for all city and county law enforcement personnel.

**BOARD OF SUPERVISORS' RESPONSE TO R6:**

This recommendation requires further analysis. The Board supports cultural diversity/sensitivity training programs for city and county law enforcement personnel as well as personnel assigned to other departments, but defers to the Human Rights Commission as to whether this is a project the Commission is ready and willing to accept as part of their stated function to "aid in eradication of discrimination in housing, employment, education and public accommodation."

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-HS-01 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to R1 through R6.**
- 2. Information Services shall respond to R1.**
- 3. The General Services Administration Director shall respond to R2.**

**GRAND JURY REPORT NO. 03-HS-02  
CARE GIVERS & IN-HOME HEALTH CARE  
Health, Education & Social Services Committee**

**INTRODUCTION:**

Because the Humboldt County Grand Jury received a complaint in the death of an invalid receiving in-home health care, it looked into the issue of the care of invalids and disabled people in the county and learned that care givers are not required to be registered and that no level of training is required. Those care givers who are hired under the auspices of In- Home Health Services (IHHS) are currently paid by the State of California which has enacted legislation to make Humboldt County the "employer of record." The state has no training requirements and no background investigation on in-home health care providers. They are hired by the individual needing care, paid by the state and now the county is mandated to be the employer of record. This raises concerns over liability and responsibility in the event of fraud, abuse, neglect or even wrongful death to either the client or the care giver.

Confidentiality laws made to protect the privacy of individuals have been cited by county agencies and departments as reason to deny access to information by the grand jury. The grand jury is an investigative and entirely confidential (California Penal Code Sec. 924) "watchdog" Body charged by law (P.C. 914) to investigate or inquire into county matters of civil concern and to safeguard the public from malfeasance, nonfeasance and misfeasance by county departments and agencies. When this grand jury requested information from Adult Protective Services (APS) regarding that agencies' reasons for closing a case, it was refused the information based on Welfare & Institutions Code 10850. Thus, legislation enacted to protect the public's right to privacy is used to thwart grand jury investigations.

**FINDINGS AND RECOMMENDATIONS:**

**F1:** Training for care givers and a registry of trained care givers exists in the area.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Humboldt County Board of Supervisors (BOS) continue to support care giver training and maintain a registry of care givers.

**BOARD OF SUPERVISORS' RESPONSE TO R1:**

The recommendation has been implemented. A Care Giver Support Project supported by the

County has been operated by the Area 1 Agency on Aging since August 2000, using funding from the California Endowment and the Humboldt County Department of Health and Human Services-Social Services Branch. The Support Project, which includes a care giver registry and training operated under contract with the Humboldt Senior Resource Center, ended on July 31, 2003. However, on June 24, 2003, the Board of Supervisors in its role as the Governing Board of the Humboldt County Public Authority for In-Home Supportive Services (IHSS) approved a \$146,667 agreement with the Area 1 Agency on Aging (A1AA) to continue to operate a care giver registry for providers of IHSS beginning August 1, 2003. In addition to the care giver registry, the agreement will include a provider referral service for IHSS recipients and background checks of providers. Assembly Bill 1682, the legislation that required public authorities to maintain IHSS provider registries, appears to require access to training, the meaning of which is currently under analysis at State and county levels. The County will assist care givers in accessing trainings or provide trainings when possible within the County's resources.

**F2:** A small percentage of care givers are now hired from the registry.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the BOS pursue publicizing the registry.

### **BOARD OF SUPERVISORS' RESPONSE TO R2:**

The recommendation has not yet been implemented, but will be implemented in the next three to six months. The registry of care givers, currently operated by the Humboldt Senior Resource Center under contract with the Area 1 Agency on Aging as part of its Caregiver Support Project, will end on July 31, 2003. On August 1, 2003, the A1AA will begin operation of a care giver registry for In-Home Supportive Services (IHSS) providers and recipients, under contract with the Governing Board of the Public Authority for IHSS. The registry will be publicized by the Humboldt County Public Authority; by Humboldt County IHSS Social Workers; by the Advisory Board on the IHSS Program; and, following contractually required approval by the Public Authority, by the A1AA through press releases and public service announcements.

**F3:** This grand jury investigation was stymied by the way county departments and agencies used and interpreted confidentiality laws.

### **COUNTY COUNSEL'S RESPONSE TO F3:**

Respondent disagrees wholly with the finding. In rendering the opinion upon which the county departments relied, the Office of the County Counsel did not set out to stymie (block, thwart, hinder, obstruct, frustrate) the grand jury investigation. Confidentiality laws are objectively interpreted by Office of the County Counsel based on the content of the applicable law, and legally relevant facts, no matter what person or entity is requesting the confidential information.

**R3. Recommendation pertinent to F3:** The grand jury recommends the BOS encourage county departments and agencies to provide the jury with information to further its investigations, and that County Counsel reassess its interpretation of confidentiality laws as they pertain to grand jury investigations.

**BOARD OF SUPERVISORS' RESPONSE TO R3:**

Recommendation with regard to encouraging County departments and agencies to provide the jury with information to further its investigations has been implemented, to the extent such information does not violate the laws of confidentiality and/or disclosure. The Board defers to its legal counsel with regard to disclosure of specific records.

**COUNTY COUNSEL'S RESPONSE TO R3:**

The recommendation will not be implemented because it is not warranted. The advice of County Counsel was given based on the applicable State Law and Regulations. County Counsel will continue to advise county departments not to release confidential information to anyone, including the Grand Jury, except as permitted by law. Specifically, in this instance, Welfare and Institutions Code Section 10850 was applicable to the records requested, and this code section did not permit disclosure of the requested records to the Grand Jury.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-HS-02 ARE REQUIRED PURSUANT TO P.C. 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to R1, R2 and R3.**
- 2. The Humboldt County Counsel shall respond to R3.**

**GRAND JURY REPORT: NO: 03-JL-01**  
**SHERIFF'S BOATS**  
**Jail Committee**

**INTRODUCTION:**

Members of the Humboldt County Grand Jury visited the Humboldt County Sheriff's boats located at the Woodley Island Marina and the impound lot near Redwood Acres in east Eureka. Members of the grand jury met two deputies from the Sheriff's Department and were given a tour

of the 44 foot boat docked at the marina. The deputies are responsible for the maintenance of the boat as well as the Safety Program. The boat docked at the marina is a 1972, 44 foot, United States Coast Guard (USCG) rescue boat acquired from the USCG in Tillamook, Oregon. The USCG gave this boat to the Sheriff's Department along with \$30,000 worth of spare parts. The boat has retained the same systems it had when received. Two Global Positioning Systems and dual controls, one outside and one inside the cabin have been added. It has two diesel engines with 200 horsepower each. There is space at the aft of the boat where prisoners could be secured. The Sheriff's old boat was sold to the Humboldt Bay Harbor, Recreation & Conservation District for \$1. The Sheriffs' Department also received reduced slip fees from \$1,740 to \$870 per year. The Sheriff's Department receives funds from Boating Registrations and the California State Boating and Waterways Department of \$140,000 a year which is used to maintain and operate this boat and pay a major portion of the Deputies' salaries. The Sheriff's deputies seem to work well with the USCG. At the impound lot the grand jury inspected six

smaller boats assigned to the Sheriff's Department. All boats appear well maintained and the small boats are stored on trailers and ready for use.

### **FINDINGS AND RECOMMENDATIONS:**

**F1:** Most of the calls they receive are to tow boats into the harbor for which there is no charge.

#### **SHERIFF DEPARTMENT'S RESPONSE TO F1:**

Disagree. Most of the boat tows conducted by our Boating Unit occur during their routine underway law enforcement patrol operations as they come upon boaters in trouble. We do not routinely get our boats underway because someone is requesting a tow. These calls normally go to the United States Coast Guard and/or Coast Guard Auxiliary. We consider those tows as a legitimate function of our duties and responsibilities.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Sheriff's Department consider charging a fee for towing.

#### **SHERIFF DEPARTMENT'S RESPONSE TO R1:**

This recommendation has not been implemented; it requires further analysis, and we will monitor this type of activity during this year.

**F2:** The six smaller boats are mostly used for rescue in the rivers and lakes in the county. It takes several hours to transport a boat from the Eureka impound lot to the Hoopa area for rescue operations.

#### **SHERIFF DEPARTMENT'S RESPONSE TO F2:**

Partially disagree. Most of the smaller boats kept at our storage facility in Eureka, which would be suitable for river use, belong to the Sheriff's Marine Posse. At present the Hoopa Valley Tribal Department of Public Safety has a boat capable of use in river rescue and personnel trained in its use. We have a very good working relationship with the Hoopa Valley Tribal Police and will work with them to properly address these types of situations.

**R2. Recommendation pertinent to F2:** The grand jury recommends the Sheriff's Department consider stationing a boat at the Hoopa substation for search and rescue use.

#### **SHERIFF DEPARTMENT'S RESPONSE TO R2:**

This recommendation has not been implemented. Stationing a boat in Hoopa would require that our limited number of deputies put in additional time to maintain a boat and train to the high level necessary to properly and safely operate the boat on the river for rescues. This would impinge on the duties and requirements

already placed upon them. Seldom, if ever, would it take several hours for our highly trained Marine Deputies to obtain a boat and respond.

We are currently in the process of purchasing rescue "throw bags" and a line-throwing gun for the Hoopa Station deputies to carry with them for river rescue functions. This type of equipment will be very useful and a much more rapidly deployable and safer form of rescue technique.

We will continue to monitor the need for this type of response and further analyze this situation over the next twelve months.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-JL-01 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

**1. The Humboldt County Sheriff's Department shall respond to R1, and R2.**

**GRAND JURY REPORT NO: 03-JL-02**  
**FORTUNA CITY JAIL**  
**Jail Committee**

**INTRODUCTION:**

Members of the Humboldt County Grand Jury visited the Fortuna Police Department. They have two holding cells with toilets and washbasins, no bedding. The cells are monitored with cameras and audio devices. The cells are very clean. Most of the booking is done at the Humboldt County Correctional Facility (County Jail). Prisoners booked at the Fortuna Police Department for being drunk in public are usually held no more than four hours and released. The Fortuna Police Department has 16 Officers and seven correctional officers.

**FINDINGS AND RECOMMENDATIONS:**

None

**NO RESPONSES REQUIRED**

**GRAND JURY REPORT NO: 03-JL-03**  
**ARCATA CITY JAIL**  
**Jail Committee**

**INTRODUCTION:**

Members of the Humboldt County Grand Jury inspected the Arcata City Jail. There is one holding cell with a stainless steel combination toilet/sink unit and two concrete "beds" with no bedding. There are various offices for police officers, and a door leading to an outside area. The outside area is secure with a chain link fence and chain link overhead to prevent any potential escape. Most of the booking is done at the Humboldt County Correctional Facility (County Jail).

When an officer has knowledge that an arrestee has been in an accident or a fight prior to arrest, the Arcata Police Department has no policy of reporting the possibility of injury to the County Jail if there are no visible injuries and the arrestee is not complaining of an injury.

### **FINDINGS AND RECOMMENDATIONS:**

**F1:** An arrestee, who had been involved in a domestic fight, was booked into County Jail and subsequently died. The Arcata Police Department officer who had been informed that the arrestee had been kicked in the head did not include that information in the Humboldt County Correctional Facility Booking Report. According to the coroner's report, the arrestee died due to being "struck in the head."

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Arcata Police Department establish a policy requiring a report to the County Jail if the arrestee has been in an accident or fight even if there are no visible injuries or complaints of injury by the arrestee.

### **ARCATA POLICE DEPARTMENT RESPONSE TO R1:**

1. Pursuant to Penal Code section 933.05(a)(2), respondents, Arcata City Council and Arcata Police Department disagree wholly with finding F1 of the Grand Jury Report, as explained below.

2. Pursuant to Penal Code section 933.05(b)(4), respondents, Arcata City Council and Arcata Police Department, will not implement the recommendation because it is not warranted, as explained below.

### **Explanation**

The arrestee subject of the Grand Jury investigation and finding refers to Mr. Jack Navarro, who was arrested by an officer of the Arcata Police Department on or about September 27, 2001, and booked into the Humboldt County Correctional Facility. Enclosed herewith (and incorporated fully in this response as though set forth) is a statement by Ms. Nancy K. Delaney, Attorney at Law, who represented both the City of Arcata and the County of Humboldt in a lawsuit brought by the Navarro family after his unfortunate death in the county jail.

Ms. Delaney explains that the coroner's report alleging that the arrestee died due to being "struck in the head" is not supported by the facts. Specifically, the medical examiner found no visible signs of head injury, the CT scan found no fractures or soft tissue hematomas and Mr. Navarro actively and cognitively participated in his medical examination at the jail. Of utmost importance is that Mr. Navarro himself explained to the medical examiners about numerous preexisting medical conditions, such as seizures, high blood pressure, heart disease and emphysema, several of which could have been the cause of his sudden death.

Additionally, the Navarro family through their retained council had a pretrial opportunity to scrutinize the procedures followed by the arresting Arcata police officer, concluded that officer had acted properly, and dismissed the lawsuit. Specifically, the arresting officer transported Mr. Navarro and his partner to jail after interviewing Mr. Navarro at

the scene and finding him coherent and lucid. During the drive to the jail, the officer observed Mr. Navarro maintain a conversation with his partner.

The Grand Jury recommends that the Arcata Police Department establish a policy requiring reports of accidents or fights even if there are no visible injuries or complaints of injury. This type of policy is unwarranted. If a responding officer believes a subject is in need of immediate medical need, the subject will be taken to a hospital instead of jail. The responding officer determines medical urgency based on numerous facts and an overall assessment of the situation. A policy to report accidents, fights or complaints of injury when there is no sign of injury would unfortunately not have prevented Mr. Navarro's death since he himself advised the medical examiners of his medical condition. It would instead increase exposure of the Police Department and the City of Arcata to additional unnecessary cost and litigation.

Based on the foregoing, the Arcata Police Department and the Arcata City Council respectfully decline to implement the recommendation.

MITCHELL, BRISSO, DELANEY & VRIEZE

CLIFFORD B. MITCHELL  
PAUL A. BRISSO  
NANCY K. DELANEY  
JOHN M. VRIEZE  
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EMERY F. MITCHELL (1896 - 1991)  
WALTER J. CARTER (1949 - 1993)

August 14, 2003

*Hand Delivered*  
Nancy Diamond  
GAYNOR & DIAMOND  
Attorneys at Law  
1160 "G" Street  
Arcata, CA 95521

Re: Navarro v. County of Humboldt/City of Arcata  
Our File: 02-173

Dear Ms. Diamond:

It is my understanding that the Humboldt County Grand Jury has requested that the Arcata City Council and the Arcata Police Department respond to a recommendation that the Police Department establish a policy requiring its officers to report to County Jail staff if an "arrestee has been in an accident or fight even if there is no visible injuries or complaints of injuries by the arrestee."

By way of background, enclosed is a document entitled "Humboldt County Correctional Facility Medical Pre-Screening" developed for use by the medical staff and completed in the specific case referenced by the grand jury. In other words, although Mr. Navarro was under the influence of alcohol, he was able to provide a detailed medical history, identifying multiple pre-existing medical problems, including seizures, high blood pressure, heart disease and emphysema. He also signed the form in multiple places. Records from St. Joseph Hospital reflect that the CT scan revealed, "[n]o fractures or soft tissue hematomas" and the medical examiner found, "no visible contusion on the external scalp." The assessment by the emergency room physician at St. Joseph Hospital was: 1. Inner cranial bleed. 2. Chronic alcohol abuse. 3. Possible closed head trauma.

In summary, there is no real basis for the conclusion of the coroner that the arrestee died from being "struck in the head" and, the possibility that the domestic violence incident (kicked in head and legs by barefoot housemate) resulted in the injury that caused death but was of insufficient moment to produce any injury to the scalp, appears even more remote.

Nancy Diamond  
August 14, 2003  
Page: 2

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Further, we arranged for the attorney for the Navarro family to meet with the arresting officer and jail personnel and provided all medical records and applicable policies. The result of this was that the lawsuit has now been dismissed.

In other words, further scrutiny reflected that the arresting officer acted appropriately, that jail policies were followed and comport with (or in most cases, exceed) medical care requirements of state and federal law.

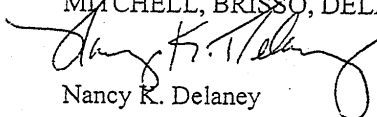
Indeed, if the arrestee were to be unconscious, he or she would be taken to a local hospital rather than the County Jail. Further, in the case that prompted the specific inquiry, the *only* information that the officer had of any purported injury came from the arrestee -- who provided a medical history to the jail. Even as the symptomology developed, the arrestee was examined by medical staff at the jail approximately ten hours after the arrest, and approximately twelve hours before he lapsed into unconsciousness, and related his symptoms to alcohol withdrawal, not the "kick" to the head.

All of this is a long way of saying that imposing an additional burden on law enforcement to relay what an arrestee is capable of self-reporting appears unnecessary and, upon careful review of the extensive records in the specific case that spawned the inquiry, could not be expected to alter the tragic outcome. Such a policy would likely encourage unwarranted litigation over what was said by the arrestee to the officer or by the officer to jail staff.

For all of the reasons set forth above, it is my recommendation that the Arcata City Council and Arcata Police Department respond to the finding and recommendation by indicating the finding is not accurate (or more correctly, "begs the question") and the recommendation should not be implemented. (Penal Code § 933.05(a)(2) and (b)(4).)

Very truly yours,

MITCHELL, BRISSO, DELANEY & VRIEZE

  
Nancy K. Delaney

NKD/kr  
Enclosure

**HUMBOLDT COUNTY CORRECTIONAL FACILITY  
MEDICAL PRE-SCREENING**

INMATE NAME: Richard Earl AKA: \_\_\_\_\_ DOB: 12-8-37  
 DATE: 9-27-01 TIME: 1:55 MNI#: 174766 BK#: 01-6386

OCCUPATION: Retired EMPLOYER: \_\_\_\_\_ INSURANCE: Health Net

**OFFICER OBSERVATIONS:**

1. Are there visible signs of trauma, wounds, illness, tremors and/or sweating? ..... Yes  No
2. Does the inmate appear to be under the influence of drugs or alcohol? ..... Yes  No
3. Are there visible signs of jaundice, needle marks, lice or crabs? ..... Yes  No
4. Does behavior suggest danger to self or others? ..... Yes  No
5. Level of orientation: \_\_\_\_\_ Yes  No   
 (alert, confused, oriented to time, place, person)
6. Does inmate appear to have any developmental disabilities like: \_\_\_\_\_ Yes  No   
 Hearing, sight, mental retardation, cerebral palsy, epilepsy, autism or physical disability ..... Yes  No   
 (Medical Staff, if yes to #6 call RCRC within 24 hrs at 445-0893)

**QUESTIONS:**

1. Have you had a serious illness or injury within the past 24 hours? ..... Yes  No
2. Have you been seen by a private doctor in an emergency room in the past 24 hours? ..... Yes  No   
 If yes: \_\_\_\_\_
3. Have you refused medical treatment from anyone within the past 24 hours? ..... Yes  No
4. Are you now under a doctor's care for medical or psychiatric reasons? ..... Yes  No   
 If yes: \_\_\_\_\_
5. Are you taking any medication? ..... Yes  No   
 If yes: \_\_\_\_\_
6. Have you had a cough for 3 weeks or more? ..... Yes  No
7. Have you been coughing up bloody sputum? ..... Yes  No
8. Have you had unexpected weight loss, night sweats and/or fatigue? ..... Yes  No
9. Do you now have or have you ever had any of the following? ..... Yes  No   
 Diabetes      High Blood Pressure      Tuberculosis      Heart Disease      AIDS      Emphysema  
 Seizures      Psychiatric Problems      Hepatitis      Venereal Disease      Asthma      Cancer  
 Comments: \_\_\_\_\_
10. Do you have any drug/alcohol use that could cause withdrawal problems? ..... Yes  No   
 a) Type/amount used daily? \_\_\_\_\_  
 b) Time of last dose or drink? \_\_\_\_\_
11. Have you ever thought of suicide? ..... Yes  No   
 a) Do you feel that way now? ..... Yes  No
12. Are you allergic to any food or medication? ..... Yes  No   
 If yes, What? \_\_\_\_\_
13. Are you on a special diet prescribed by a physician? ..... Yes  No   
 If yes, Type? \_\_\_\_\_  
 Females Only:
14. Are you pregnant, had an abortion or delivered a baby within the last six months? ..... Yes  No
15. Are you currently using birth control? ..... Yes  No   
 If yes, type \_\_\_\_\_
16. Has the inmate given birth within the last year and been charged with:  
 187 PC, 664/187 PC, or 273aPC on a minor child? ..... Yes  No

Sick Call procedures explained (Screening Officer Circle-one) ..... Yes  No

Officer's Signature: [Signature] PIN: 1022

Inmate's Signature: [Signature]

LOCATION: (Circle one and list cell number) (Notify Medical ASAP if placed in Sobering or Safety Cell)  
 N125 \_\_\_\_\_ Holding Cell 147m Sobering Cell \_\_\_\_\_ Safety Cell \_\_\_\_\_

Medical Staff Called? ..... Yes  No  Date 9-27-01 Time \_\_\_\_\_ Officers Initials / PIN \_\_\_\_\_

If yes, Medical Staff Signature: \_\_\_\_\_ Time: \_\_\_\_\_

Mental Health Referral:  Medical Staff advise Mental Health if box is checked - Advised Date \_\_\_\_\_ Time \_\_\_\_\_

DISPOSITION:  Refer to ER for clearance       Refer to classification for housing  
 Refer to next sick call       Isolation or special housing       Book and Release

CFMG-MPS-H      Original - Classification      Canary - Medical      Pink - Medical Classification

09/27/01  
0100006386

HUMBOLDT COUNTY JAIL

NAVARRO, JACK NMN

SA# 000174766

PRISONER CLOTHING INVENTORY

ISSUED CLOTHING AND BEDDING:

--Condition--				--Condition--			
Item	Qty	New	Used	Item	Qty	New	Used
BLANKETS (2)	_____	[ - ]	[ + ]	SWEATSHIRT (1)	_____	[ - ]	[ + ]
JUMPSUIT (1)	_____	[ - ]	[ + ]	SOCKS (1 PAIR)	_____	[ - ]	[ + ]
SHOES (1 PAIR)	_____	[ - ]	[ + ]	PILLOW (1)	_____	[ - ]	[ + ]
PILLOW CASE (1)	_____	[ - ]	[ + ]	SHEETS (2)	_____	[ - ]	[ + ]
UNDERSHIRT (1)	_____	[ - ]	[ + ]	BRIEFS (1)	_____	[ - ]	[ + ]
TOWEL (1)	_____	[ - ]	[ + ]				

I acknowledge receipt of the listed jail issue clothing and bedding, and understand that I will be held responsible and accountable for any damage to the issued items and for the return of said items at time of release from custody.

Signature of Prisoner

*[Handwritten Signature]*

I certify that the above inventory of the named prisoner's clothing and Jail issued clothing and bedding is correct to the best of my knowledge.

Signature of Officer

*[Handwritten Signature]*

Pin#

1148

I understand that any attempts to remove, tamper, discolor, or in any way alter or destroy my identification wristband will result in disciplinary action which may include the loss of good and work time credits. I also acknowledge receipt of the Prisoner Orientation Handbook.

Signature of Prisoner

*[Handwritten Signature]*

[ ] Prisoner refuse to sign agreement.

I have read the above statement to the prisoner on:

Date

09-27-01

Signature of Officer

*[Handwritten Signature]*

Pin#

1148



**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-JL-03 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Arcata City Council shall respond to R1.**
- 2. The Arcata Police Department shall respond to R1.**

**GRAND JURY REPORT 03-JL-04**  
**SHERIFF'S AGRICULTURAL FARM**  
**Jail Committee**

**INTRODUCTION:**

Members of the Humboldt County Grand Jury inspected the Humboldt County Sheriff's Agricultural Farm (Farm) located next to the Rohnerville Airport in the Fortuna area. Members of the grand jury met with two deputies from the Sheriff's Department and were given a tour of the Farm along with an explanation of its operation.

The Sheriff's Work Alternative Program (SWAP) inmates maintain the Farm. The SWAP inmates are required to work a minimum of one day a week which permits them to maintain regular outside employment. Each SWAP inmate is charged \$60 for administration cost to enter the program plus \$18 per day for each day worked. The fees pay for the cost of the program and their worker's compensation insurance, and the balance is deposited into the county General Fund. A day is deducted from their jail sentence for each day worked at the Farm.

The vegetables grown (lettuce, squash, beans, Swiss chard and garlic) are used at the Humboldt County Correctional Facility (County Jail) and Juvenile Hall with the excess given to a mission. There are no public sales of vegetables. The Farm can use the County Jail budget to purchase the vegetable seeds.

The Farm raises pigs and cattle for meat which is used at the County Jail. The Farm sells some pigs to the public and the funds received are deposited into the county's General Fund. This is the first year the Farm has raised cattle and eight calves were purchased at auction for a total of \$1,000.

In 2002, 83 pigs and 2,000 pounds of produce went to the County Jail for inmate consumption.

The pigs are fed a variety of surplus food from various sources. The pig pens are washed out every day, and straw is used for bedding. There was no odor, but flies were a problem.

The tractor at the Farm was obtained through a government surplus program at no cost to the county. It has a flail mower and a box blade, but does not have a bucket. The Sheriff's deputies stated that a bucket would be very helpful with moving bales of straw and to carry materials around the Farm.

The grand jury was informed that the Farm is totally self-supporting.

**FINDINGS & RECOMMENDATIONS**

**F1:** The tractor at the Farm has no bucket.

**SHERIFF DEPARTMENT'S RESPONSE TO F1:**

Agree.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Sheriff's Department obtain a bucket for the Farm tractor.

**SHERIFF DEPARTMENT'S RESPONSE TO R1:**

This recommendation will be implemented as soon as is feasible. The tractor currently in use at the Sheriff's Farm was acquired through the Defense Reutilization Program with negligible cost to the county. We will price the cost of purchasing a suitable bucket and also attempt to locate a suitable one in the Defense Reutilization Program system. Obtaining a bucket will be dependant upon the cost or ability to locate one in the DRMO system.

**RESPONSE:**

**THE FOLLOWING RESPONSE TO REPORT 03-JL-04 IS REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

**1. The Humboldt County Sheriff's Department shall respond to R1.**

**GRAND JURY REPORT NO. 03-JL-05**  
**HOOPA SHERIFF'S SUBSTATION**  
**Jail Committee**

**INTRODUCTION:**

On October 24, 2002 members of the Humboldt County Grand Jury inspected the Humboldt County Sheriff's Substation (Substation) located in Hoopa. A Sheriff's deputy conducted the tour of the Substation. The staff for the Substation consists of a Commander, five Deputies, one Correctional Officer and one Legal Office Assistant. The grand jury was informed that the Correctional Officer's position is funded by a grant. He is in charge of transporting prisoners from the Substation to the Humboldt County Correctional Facility. The Sheriff's deputies are also involved in river search and rescue operations.

The Substation has four cells with one of them set up as a detox cell. Two of the cells are set up with four bunks, each with mattresses. The remaining cell is used as an office and evidence locker. There are two cells with concrete toilets. The building has steel security screens bolted over the outside of the office windows. The maintenance and supplies for the Substation are provided by county building maintenance workers based in Eureka.

**FINDINGS AND RECOMMENDATIONS**

**F1:** The security screens bolted over the outside of the office windows pose a threat in the event of a fire, and there is the possibility of being trapped with no egress from the office.

**SHERIFF DEPARTMENT'S RESPONSE TO F1:**

Agree.

**R1. Recommendations pertinent to F1:** The grand jury recommends that the steel security screens be retrofitted so they can be opened from inside the office as a means of escape in the event of an emergency.

**SHERIFF DEPARTMENT'S RESPONSE TO R1:**

The grand jury recommends that the steel security screens be retrofitted so they can be opened from inside the office as a means of escape in the event of an emergency.

**F2:** There is no set schedule when the maintenance workers from Eureka will arrive at the facility to perform any needed work.

**SHERIFF DEPARTMENT'S RESPONSE TO F2:**

Agree.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the Substation be on a fixed maintenance schedule.

**SHERIFF DEPARTMENT’S RESPONSE TO R2:**

This recommendation will need to be implemented by another County Department. The maintenance of the station is subject to an agreement between the Hoopa Valley Tribe and the County of Humboldt as to whom is responsible for what type of maintenance to be done and janitorial service. This request will be forwarded through the County of Humboldt General Services Department.

**F3:** The Sheriff’s deputies have been involved in river search and rescue operations and have to depend on a boat being transported from Eureka.

**SHERIFF DEPARTMENT’S RESPONSE TO F3:**

Partially Disagree. Refer to response to 03-JL-01 “Sheriff’s Boats”, Finding F2, and subsequent recommendation response.

**R3. Recommendation pertinent to F3:** The grand jury recommends that a boat be stationed at the Substation to facilitate search and rescue operations.

**SHERIFF DEPARTMENT’S RESPONSE TO R3:**

*The grand jury recommends that a boat be stationed at the Substation to facilitate search and rescue operations.*

This recommendation will not be implemented at this time. Refer to response to 03-JL-01 “Sheriff’s Boats”, Finding F2, and subsequent recommendation response.

**F4:** The two concrete toilets cannot be properly cleaned as they are 46 years old and have deteriorated. On a second inspection in April, 2003, the toilets had not been replaced as stated in the Sheriff’s response to the 2001-2002 grand jury report.

**SHERIFF DEPARTMENT’S RESPONSE TO F4:**

Agree.

**R4. Recommendation pertinent to F4:** The grand jury recommends that the two concrete toilets be replaced with stainless steel combination sink and toilet units.

**SHERIFF DEPARTMENT’S RESPONSE TO R4:**

This recommendation will need to be implemented by another County Department. As pointed out, this problem was previously addressed in the 2001-2002 grand jury report; however, the problem still exists. This request will again be forwarded to the General Services Department for resolution.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-JL-05 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

**1. The Humboldt County Sheriff's Department shall respond to R1, R2, R3 and R4.**

**GRAND JURY REPORT NO: 03-JL-06**  
**SHERIFF'S GARBERVILLE SUBSTATION**  
**Jail Committee**

**INTRODUCTION:**

/

Members of the Humboldt County Grand Jury inspected the Humboldt County Sheriff's Garberville Substation (Substation). The Substation serves the Southern Humboldt area from Petrolia to the Mendocino County line, north to Redcrest and east to the Trinity County line. There are six Deputies, a Correctional Officer and a Legal Office Assistant.

There are three holding cells; one is designated a detox cell and the other two each have two beds with mattresses. Each cell has a stainless steel combination toilet and sink unit. The "Redwood Run" and "Reggae on the River" cause overcrowding in the holding cells, and prisoners are booked and transported to the Humboldt County Correctional Facility (County Jail) as soon as possible. When the Correctional Officer transports the prisoners to the County Jail he uses a deputy's patrol vehicle which leaves the Substation one vehicle short. At times Sheriff's deputies, from Eureka, or California Highway Patrol (CHP) help with the transportation.

The CHP brings intoxicated drivers to the Substation for Breathalyzer tests, booking and transport to the County Jail. The Department of Fish and Game and the Department of California Parks and Recreation also use the small Substation at times. The State of California pays the Sheriff's Department for the use of the facility and "Reggae on the River" pays approximately \$12,000 yearly for the deputies' services during the event.

The Substation is not Americans with Disabilities Act (ADA) compliant. There is a door with a high threshold and no ramp. Wheelchairs have to be lifted over the threshold which is a two person job.

The building is small and neat in appearance. There is an asphalt parking lot and a small sidewalk in front with weeds growing next to the building. Janitorial staff cleans the Substation one hour weekly.

**FINDINGS AND RECOMMENDATIONS**

**F1:** The Substation needs a larger facility.

**SHERIFF DEPARTMENT'S RESPONSE TO F1:**

Agree.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Substation be enlarged.

**SHERIFF DEPARTMENT'S RESPONSE TO R1:**

This recommendation will need to be forwarded to the General Services Department as a request for a capital project; General Services is the department that manages County real property and buildings.

**F2:** The Substation could use another vehicle.

**SHERIFF DEPARTMENT'S RESPONSE TO F2:**

Partially Agree.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the Sheriff's Department consider another vehicle be supplied for prisoner transport.

**SHERIFF DEPARTMENT'S RESPONSE TO R2:**

This recommendation may be implemented at a later date but not at the present time. The Garberville Station currently has vehicles assigned to each individual deputy stationed there. There should always be a vehicle available for transport. It would certainly be more convenient to have an additional appropriate vehicle; however, this may not be fiscally responsible. We will monitor the situation over the course of the next several months to determine if we can afford to allocate another vehicle and whether or not it is fiscally prudent.

**F3:** The Substation is not ADA compliant.

**SHERIFF DEPARTMENT'S RESPONSE TO F3:**

**R3. Recommendation pertinent to F3:** The grand jury recommends structural modification to the door threshold for wheelchair accessibility.

**SHERIFF DEPARTMENT'S RESPONSE TO R3:**

Agree.

This recommendation will need to be implemented by another County Department. Since it is a county building, we will forward this request to the General Services Department.

**F4:** Weeds on the outside of building are a fire danger when dry.

**SHERIFF DEPARTMENT'S RESPONSE TO F4:**

Agree.

**R4. Recommendation pertinent to F4:** The grand jury recommends weed removal and maintenance.

**SHERIFF DEPARTMENT'S RESPONSE TO R4:**

This recommendation will be implemented. Normally the weeds are removed for this very reason. We will contact building maintenance and also look at the possibility of utilizing our SWAP program to assist in keeping up with proper weed abatement.

**F5:** The current janitorial schedule is insufficient.

**SHERIFF DEPARTMENT'S RESPONSE TO F5:**

Agree.

**R5. Recommendation pertinent to F5:** The grand jury recommends the janitorial schedule be increased.

**SHERIFF DEPARTMENT'S RESPONSE TO R5:**

This recommendation should be implemented; however, janitorial service is provided through the General Services Department, Building Maintenance Division. This has been an ongoing problem based on budgetary concerns. We will again request increased janitorial service for the station.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-JL-06 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

**1. The Humboldt County Sheriff's Department shall respond to R1, R2, R3, R4 and R5.**

**GRAND JURY REPORT NO: 03-JL-07**  
**EUREKA CITY JAIL**  
**Jail Committee**

**INTRODUCTION:**

The Humboldt County Grand Jury inspected the Eureka Police Department's (EPD) jail on November 18, 2002. The entire facility was clean and in good repair. There are three holding cells. One is currently being used as evidence storage. The other two are monitored by audio

only. Cell checks are done every 30 minutes. There are no meals served to detainees. There are no cells adequate for disabled persons. Jewelry and belts are removed but the detainees may retain their shoes with shoe laces unless they seem suicidal. Each cell can hold up to four detainees. There is no visitation. Detainees are held no longer than six hours in the holding cells. There are no detox or safety cells. No medical services are provided at EPD. If treatment is needed the detainees are transported to the hospital. All disabled, intoxicated or violent detainees are taken directly to Humboldt County Correctional Facility (HCCF).

Two freezers have been installed for evidence storage in an unvented closet in the old photography laboratory (Lab). It was reported that the freezers are noisy but due to overheating the door of the closet must be kept open. The Lab is used primarily for fingerprint processing and evaluation.

There are approximately 47 officers employed by EPD which include the Police Chief. There are 10 additional "Light Blue" officers and 10 office staff. The "Light Blue" officers do not have arrest powers but perform interviews regarding crimes and provide other assistance in investigations.

#### FINDINGS AND RECOMMENDATIONS

**F1:** The doors of the unvented closet that houses the freezers must be kept open due to overheating. Excessive noise levels are present in the Lab.

**R1. Recommendation pertinent to F1:** The grand jury recommends the Lab freezers be relocated to a vented area.

#### CITY OF EUREKA'S CITY COUNCIL AND CITY MANAGER RESPONSE TO R1:

Disagree.

The locked evidence freezer venting and noise issues were resolved by appropriate vents installed in April 2003. Additional room security deadbolts desired by the Department were also installed at that time.

#### RESPONSES:

**THE FOLLOWING RESPONSE TO REPORT 03-JL-07 IS REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Eureka City Council shall respond to R1.**
- 2. The Eureka Police Department shall respond to R1.**

**GRAND JURY REPORT NO: 03-JL-08**

**JUVENILE HALL**

**Jail Committee**

## **INTRODUCTION:**

Members of the Humboldt County Grand Jury inspected the Juvenile Hall (the Hall). The Hall houses male and female inmates (Detainees) from eight years of age to 19. This facility is managed by the Humboldt County Probation Department. The Humboldt County Office of Education operates the school (Von Humboldt) on the premises. The Hall's bed capacity is 26 but they have had as many as 40 Detainees in lock-up. During the time of the inspection on December 22, 2002\_ there were 33 Detainees locked up. The additional Detainees are doubled up two to a cell or they can use the day room, the holding area, or any other secure areas for sleeping. Detainees can be sent to sleep at the Regional Facility next door. Detainees entering the Hall come in through a Sally port and then into the intake room in which there are cameras providing both video and audio monitoring. There are four separate areas for medical exams. There is a holding area with a toilet and separate shower. There is a large shower area in the male wing and one in the female wing for the Detainees.

The school in the Hall is set up for 26 Students and one teacher. In the school the Detainees are called Students. When they have more than 26 Students a second teacher is brought in. The Student records are kept even when the Students are released so they can continue their studies if they return. Some Students have poor reading skills, reading at the first or second grade levels. The school has books printed for those Students who read at first or second grade level. We were informed that Students are strictly disciplined in the classroom and are not a problem in the classroom area.

There is a Registered Nurse (RN) on duty 40 hours a week, sharing the time with the Regional Facility next door. The RN usually spends 35 hours in Juvenile Hall and five hours at the Regional Facility. Access to a medical doctor is arranged through the Humboldt County Correctional Facility.

The Detainees' clothes are all washed on-site with a regular extra capacity washer and normal size dryer. Sheets and towels are sent out to be washed and blankets are sent out once each quarter to be cleaned by Mission Linen.

The Hall has a fairly new commercial kitchen, with a walk-in refrigerator and a large walk-in freezer. We inspected commercial appliances such as the dishwasher, slicers, mixers and juicers.

The Hall's computer system is connected to juvenile records and they have their own server, which is backed up every night. The computers are maintained by Information Services.

## **FINDINGS AND RECOMMENDATIONS:**

**F1:** Juvenile Hall is overcrowded and needs more cell space for beds.

**R1. Recommendation pertinent to F1:** The grand jury recommends that more space for cells with beds be provided.

## **BOARD OF SUPERVISORS' RESPONSE TO R1:**

Recommendation will not be implemented because it is not reasonable given the cost and budget constraints. The County has attempted unsuccessfully to obtain construction grants to expand

Juvenile Hall by 20 beds as recently as March 2002. With the current state of the economy at both the Federal and State level, it is unlikely that grant money for juvenile facility construction will be available in the next several years. The County budget situation does not reasonably allow for the County to allocate construction funds on its own or provide operational costs upon completion of construction. While Juvenile Hall continues to experience overcrowding, internal efforts have eased the situation to some degree, bringing the average daily population down from well over 30 in recent years to between 26-28 in the past quarter. Additionally, the Chief Probation Officer has convened a group of key stakeholders and decision-makers to address the crowding issue. The workgroup consists of representatives of the Court, the Board of Supervisors, CAO, law enforcement, education, the District Attorney and Public Defender, Native American service providers, Department of Health and Human Services, and others. The workgroup has focused efforts in three areas: population management, conditions of confinement, and disproportionate minority confinement. The group will continue to meet on a quarterly basis and offer input that could assist in easing the crowding situation.

**PROBATION DEPARTMENT RESPONSE TO R1:**

The recommendation will not be implemented because it is not reasonable.

Explanation: More sleeping rooms for juvenile offenders are needed. The Department and the County has attempted unsuccessfully to obtain construction grants to expand Juvenile Hall by 20 beds as recently as March, 2002. With the current state of the economy at both the federal and state level it is unlikely that grant money for juvenile facility construction will come available for several years. The County budget situation does not reasonably allow for the County to allocate construction funds on its own or provide operational costs upon completion of construction.

The Department has better managed Juvenile Hall population during the past year due to a refocus of limited Department resources on the problem. The Department has developed and implemented a Detainee Risk Assessment (DRA) tool that assists agency staff in determining the risks that offending youth present to the community and the need for detention. While Juvenile Hall continues to experience overcrowding, internal efforts in addition to the DRA have eased the situation to some degree, bringing the average daily population down from well over 30 in recent years to between 26-28 in the past quarter. However, some juveniles who commit misdemeanors or felonies, or violate probation are not appropriately brought into custody as a result of ongoing crowding. If admitted, their stay may be very brief if there is a parent or guardian to whom they may be released.

To further address this ongoing problem, the Chief Probation Officer convened a group of key stakeholders and decision-makers to address community concerns, analyze contributing factors and consider recommendations to the Department for ways to address the issue. The workgroup consists of representatives of the Court, the Board of Supervisors, CAO, law enforcement, education, the District Attorney and Public Defender, Native American service providers, Department of Health & Human Services, and others. The workgroup has focused efforts in three areas: population management, conditions of confinement, and disproportionate minority confinement. The group will continue to meet on a quarterly basis.

**F2:** Showers were in need of cleaning when they were inspected.

**R2. Recommendation pertinent to F2:** The grand jury recommends that a regular cleaning schedule for the showers be maintained.

**PROBATION DEPARTMENT RESPONSE TO R2:**

The recommendation has been implemented.

Summary of implemented action: Though cleaning of communal areas of Juvenile Hall are assigned to minors as part of the daily routine morning cleaning some areas such as the showers require an occasional extra scrubbing. When population levels rise these jobs may not be conducted due to program and security priorities. Due to the type of cleaning agents needed to do the best job it sometimes falls to staff to perform the job rather than exposing minors unnecessarily to more potent chemicals. This and other areas will be subject to a routine Board of Corrections inspection on July 15, 2003.

**F3:** The clothes washer and dryer get very heavy use.

**R3. Recommendation pertinent to F3:** The grand jury recommends that when the washer and dryer need to be replaced, that they be replaced with a commercial grade washer and dryer.

**BOARD OF SUPERVISORS' RESPONSE TO R3:**

This response requires further analysis, including a cost-benefit analysis of having commercial grade equipment. This analysis will be done when the washer and/or dryer need to be replaced.

**PROBATION DEPARTMENT RESPONSE TO R3:**

The recommendation requires further analysis.

Explanation: While the recommendation would seem to make sense considering the amount of laundry performed further analysis should be conducted on the cost-benefit of having a commercial grade washer and dryer. Taking into account the cost of high end residential machines and adding the cost of repair and maintenance as compared to the cost of commercial grade appliances with projected maintenance costs can be conducted should replacement of our machines become a necessity. Given the current Department and County budget dilemma it may be difficult to identify funds to replace the present machines. There are no CCR Title 15 or Title 24 regulations affecting the type of washer and dryer utilized in Juvenile Halls.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-JL-08 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to R1 and R3.**
- 2. The Humboldt County Probation Department shall respond to R1, R2 and R3.**

**GRAND JURY REPORT NO. 03-JL-09**  
**HUMBOLDT COUNTY CORRECTIONAL FACILITY**  
**Jail Committee**

## **INTRODUCTION:**

Members of the Humboldt County Grand Jury inspected the Humboldt County Correctional Facility (HCCF) December 9, 2002. HCCF is a direct supervision facility rated at 411 beds. The HCCF has a net budget of \$4,768,908 after receiving refunds for booking fees and other reimbursement from the state. The HCCF has a captain, a lieutenant, staff operations sergeant, and seven supervisors. There are 85 correctional officers and 20 senior correctional officers allotted. One lieutenant position is vacant and on an average, there are 15 vacant correctional officer positions. The staffing shortages have been reduced by active recruitment. Correctional officers have the opportunity, after serving three years, to take a test to qualify for the academy at College of the Redwoods at county expense to become a Sheriff Deputy.

HCCF has three large, open, general population housing units, one smaller sentenced inmate unit and two celled units for maximum security inmates. One of the maximum security areas is comprised of single cells for more disruptive or high profile inmates that may need segregation. The second maximum security area has double person cells for persons who are considered inappropriate for the open dorm setting due to their behavior. There is one celled unit for inmates who require protective housing. The protective housing unit has double person cells and an open day room area where meals are served. There is a medical housing unit which has a total of seven cells. Four of those are single person cells with hospital beds and televisions.

There is a specialized two cell area for inmates with known airborne diseases such as tuberculosis. These cells have hospital beds, televisions, private showers and a negative airflow system separate from the rest of the HCCF. The seventh cell is a safety cell with padded walls and is monitored by video camera along with direct officer observation. An inmate in this cell has to remove all clothing and is issued a padded, quilted gown with velcro closings to protect the inmate.

The HCCF kitchen is well equipped with commercial appliances. There are several walk-in coolers and a walk-in freezer. There are food storage rooms for canned goods and bulk items. The HCCF obtains bids on food purchases over \$1,000. The Sheriff Agricultural Farm supplies some of the vegetables used and also provides from 700 to 1,200 pounds of pork annually. Each pig saves the HCCF about \$300 on their food budget. The Farm raised cattle this year and they were sold at auction and the proceeds were applied to the HCCF budget. The cost of each inmate meal ranges from \$.92 to \$1.15. Over 40,000 meals a month are served. Dietitians review the menus. Inmates receive specialized diets when required and those with medical issues, such as diabetes, are furnished a late night snack. The correctional officers and staff eat meals at the HCCF, but are served different food than the inmates. Correctional officers work 12 hour shifts and must remain on the premises as they are on duty at all times in case of emergency.

The kitchen appears well managed and cost efficient. It has regular employees who work with inmate workers to prepare the food for the HCCF. As a benefit, the inmate kitchen workers eat the same food the correctional officers are served.

At the time of the grand jury inspection, water from the walk-in coolers was leaking onto the kitchen floor and had to be mopped up frequently as there was no drain system for water runoff.

Housing is determined by a classification process that starts in the booking/processing area. Prisoners are brought in by various agencies and enter a pat down search room separate from the main booking/processing area. It is in this room that prisoners are searched, jewelry and extra clothing items, including shoes, are removed and inventoried. Screening and intake forms are filled out and, if warranted, medical personnel respond to this room to do further evaluation prior to accepting the prisoner for booking. Once prisoners are accepted they enter the main processing area. Cooperative prisoners sit in an open area that has telephones, drinking fountains and restroom facilities. Uncooperative prisoners may be placed in holding cells or padded detox cells while awaiting the booking process.

The facility is run pursuant to a behavior based method. Correctional officers are encouraged to socialize with inmates and play cards, chess or board games with them. Good behavior is rewarded with more freedom of movement in the larger general population dorms. There is also the opportunity to work inside the facility as janitors, kitchen and laundry workers. Sentenced inmates with good behavior have the opportunity to work outside the facility under a California Department of Transportation contract. Inmates with good behavior and under 120 days to serve may be eligible to participate in the Sheriff's Work Alternative Program (SWAP).

There were four deaths in 2001 at the HCCF and the grand jury investigated by review of pertinent documents. One person was booked and jailed with an undetected head injury after a physical fight. The arresting officer did not pass on information that the arrestee had been kicked in the head. This may have contributed to the failure of medical personnel to diagnose a head injury severe enough to cause death. The inmate complained of pain and medical staff was called several times. The inmate became unresponsive and was transported to a hospital where he died. The Forensic Pathologist that performed the autopsy concluded the inmate died of a brain hemorrhage from blunt force injury to the head.

Another death occurred when an inmate attempted suicide by placing plastic bags over his head. The inmate was found unconscious in a cell and was transported to the hospital where he died when efforts to revive him were unsuccessful. The grand jury was informed that inmates can order writing supplies, candy or other such items from the commissary which are delivered in plastic bags. It is not required that the inmate give the bag back to the correction officer after removing the contents.

One arrestee who was to be held for six hours and released was held in the television viewing area near the processing center prior to booking. He went into the bathroom and hung himself from the bathroom doorknob with his socks and could not be revived. The doorknob was subsequently removed to prevent similar occurrences.

The fourth person was jailed while intoxicated. During one of the frequent cell checks, he was found to be unresponsive and not breathing within four hours of his arrest. He was transported to a hospital, but could not be resuscitated. The Coroner report concluded the cause of death was cardio-respiratory failure due to alcohol and diazepam intoxication.

There were nine unsuccessful suicide attempts in 2002. Most were inmates attempting to hang themselves. Some attempted to jump from the second floor railing.

There was an escape from the HCCF in 2002 when an inmate working in the kitchen seized an opportunity to breach security by using the kitchen elevator unnoticed. Security issues were identified and corrective action has been taken.

Overall, the HCCF appeared to be well managed, clean, secure and in good repair.

### **FINDINGS AND RECOMMENDATIONS**

**F1:** A risk of injury existed to workers in the kitchen who could slip on water from the walk-in coolers that leak onto the kitchen floor.

#### **GENERAL SERVICES RESPONSE TO F1:**

Disagree partially; General Services Department has no independent knowledge of this risk.

#### **SHERIFF DEPARTMENT'S RESPONSE TO F1:**

Partially Disagree. A highly non-slip floor was installed in the kitchen in August of 2002. This floor has drastically reduced, if not eliminated, the chances of slips due to wet floors.

**R1. Recommendation pertinent to F1:** The grand jury recommends that corrective action be taken to eliminate the risk of injury to workers.

#### **GENERAL SERVICES RESPONSE TO R1:**

The recommendation has not been implemented, but the General Services Department will inspect the area and determine what the problem is and what can be done to fix it within the next month.

#### **SHERIFF DEPARTMENT'S RESPONSE TO R1:**

This recommendation has already partially been implemented. We are aware of the specific issues regarding the cooler floors; and, budget permitting, we will repair or replace those this fiscal year.

**F2:** Prisoners waiting processing are sometimes forced to spend time in the HCCF barefooted. This subjects them, unnecessarily, to uncomfortable, unsanitary and possibly hazardous conditions.

#### **GENERAL SERVICES RESPONSE TO F2:**

Disagree partially; General Services Department has no independent knowledge of this risk.

**SHERIFF DEPARTMENT'S RESPONSE TO F2:**

Disagree. The HCCF meets and exceeds California State Board of Corrections Standards regarding both cleanliness and inmate clothing. The HCCF also recognizes the need for sanitary conditions and therefore uses an industrial strength sanitizer/cleanser at least twice a day on the floors. Unsanitary and hazardous conditions are cleaned up as soon as we are made aware of the condition

**R2. Recommendation pertinent to F2:** The grand jury recommends that all prisoners who are relieved of their shoes and are barefooted be issued either socks or slippers which are readily available from the HCCF inventories.

**GENERAL SERVICES RESPONSE TO R2:**

The General Services Department is unable to respond to these recommendations as this is not within the General Services Director's control.

**SHERIFF DEPARTMENT'S RESPONSE TO R2:**

This recommendation will not be implemented for reasons so stated in response to above 03-JL-09 Findings F2.

**F3:** Prisoners are given plastic bags from the commissary and use small plastic trash bags in their cell for garbage.

**GENERAL SERVICES RESPONSE TO F3:**

Disagree partially; General Services Department has information that the HCCF changed this practice within the past year.

**SHERIFF DEPARTMENT'S RESPONSE TO F3:**

Partially agree. The use of plastic trash bags was previously discontinued over a year ago and trash receptacles are available in each of the Housing Unit dayrooms. The Housing Officers collect the plastic commissary bags from the inmate after the inmate removes the commissary.

**R3. Recommendation pertinent to F3:** The grand jury recommends that in order to reduce suicide attempts paper bags be used for commissary goods delivery and trash containers in cells.

**GENERAL SERVICES RESPONSE TO R3:**

The recommendation has been implemented by the HCCF pursuant to information previously received from the HCCF.

**SHERIFF DEPARTMENT'S RESPONSE TO R3:**

This recommendation will not be implemented. This situation has already been dealt with as stated in response to above 03-JL-09 Finding F3.

### **RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-JL-09 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Sheriff's Department shall respond to R1, R2 and R3.**
- 2. The General Services Administration Director, Risk Manager shall respond to R1, R2 and R3.**

### **GRAND JURY REPORT 03-JL-10 REGIONAL FACILITY Jail Committee**

#### **INTRODUCTION:**

Members of the Humboldt County Grand Jury inspected the Regional Facility (Facility) on December 2, 2002. The Facility was built in 1998 next door to the Juvenile Hall and is managed by the Probation Department. The Facility is operated by eleven full time and three part time correctional officers. There is one teacher, an instructional aide and a part time special educational aide from the Humboldt County Office of Education. The Facility houses female and male juveniles who have been sentenced by the court. At the time of the inspection, the residents' ages ranged from 13 to 17-1/2 years, within the permitted ages of 12 to 18 years. The Facility appeared to be clean, efficient and secure.

Residents are schooled, have individual educational plans and also receive school credit for time spent on homework. There are 18 cells with stainless steel combination toilet and sink units. Each cell is occupied by only one resident. The bed consists of a mattress on a built in block. The residents are required to leave their shoes outside of their cells to discourage them from causing damage by kicking the cell door or other things while in their cells. The residents are allowed to have personal items such as pictures of family or posters.

The residents are served their meals at tables in a common area. The food is prepared and brought over from the Juvenile Hall kitchen. The Facility's food area has a large freezer and large refrigerators which are all commercial grade.

The grand jury was informed the non-commercial dryer had recently caught fire because the vent pipe in the wall makes a 90 degree turn and became clogged with lint. The dryer was repaired. The washer and dryer are of extra size capacity, household quality, and not commercial grade. Numerous loads of laundry are done daily.

### **FINDINGS AND RECOMMENDATIONS**

**F1:** A possible design flaw in the dryer vent system may have caused the accumulation of lint and a fire.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the dryer vent system be inspected by an expert to determine if a fire hazard exists and that corrective action be taken if recommended.

**PROBATION DEPARTMENT RESPONSE TO R1:**

The recommendation has been implemented.

The dryer in question was inspected by two different repair and service technicians. William Herrera of Commercial Laundry Repair (also employed by County Maintenance) stated the lint system backed up and the dryer overheated causing a small fire. RD of RD's Repair Service inspected the dryer and did not feel that a fire occurred. In his opinion, had a fire occurred the dryer would not have been useable and ruined. After ordering a part he repaired the dryer and instructed the staff to clean the lint out of the exhaust hose weekly. There have been no problems since repair. The dryer is inspected and freed of lint build-up during a weekly (Sunday) safety and security inspection conducted by staff.

**F2:** Due to the number of loads of laundry done daily, it is less efficient and economical for the Facility to utilize the non-commercial washer and dryer.

**R2. Recommendation pertinent to F2:** The grand jury recommends that when the washer and dryer require replacement, they are replaced with commercial appliances.

**PROBATION DEPARTMENT RESPONSE TO R2:**

The recommendation requires further analysis.

As with Grand Jury Report 03-JL-10, R 2 further analysis should be conducted on the cost-benefit of having a commercial grade washer and dryer. It should be noted that Juvenile Does more laundry as its population is considerably higher than the Regional Facility and the Regional Facility kitchen does most of its laundry at Juvenile Hall. Given the current Department and County budget dilemma it may be difficult to identify funds to replace the present machines. There are no CCR Title 15 or Title 24 regulations affecting the type of washer and dryer utilized in Regional Facilities.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-JL-10 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

**1. The Humboldt County Probation Department shall respond to R1 and R2.**

**GRAND JURY REPORT NO: 03-LJ-01**  
**CITIZEN COMPLAINTS TO LAW ENFORCEMENT AGENCIES**

## Law & Justice Committee

### **INTRODUCTION:**

The Humboldt County Grand Jury conducted a survey of citizen complaint procedures of the eight city and county law enforcement agencies under its jurisdiction. Compliance with the requirement to have written citizen complaint procedures in place was checked and confirmed in all eight agencies. The number of complaints filed with and investigated by each agency for the past three years and the disposition of those complaints were noted. The following tabulation was made of the results:

	<b># Investigated</b>	<b>Sustained</b>	<b>Not Sustained</b>	<b>Unfounded</b>	<b>Pending</b>	<b>Officer Dismissed</b>	<b>Other</b>
ARCATA	24	3	1	15	5		
RIO DELL	9	3	6				
SHERIFF	26	2	19	5			
FORTUNA	20	2	10	7			1*
TRINIDAD	3	2		1		1	
FERNDALE	0						
EUREKA	21	1	11	9			
BLUE LAKE	12	10	1	1		4	
<b>TOTALS</b>	<b>115</b>	<b>23</b>	<b>48</b>	<b>37</b>	<b>5</b>	<b>5</b>	<b>1*</b>

\* Referral to Other Agency

Information available on the State of California Attorney General's Office website shows that sustained complaints (those found to be true) have averaged 16% over the past 20 years statewide. Although the 20% average of sustained complaints in Humboldt County over the past three years is slightly higher than the state average, the unusually high percentage of sustained complaints from the cities of Blue Lake and Trinidad artificially boosts the average. Additionally, the number of cases pending in Arcata complicates any general analysis. With the exception of the Arcata Police Department, all the agencies conduct their investigations in-house, purportedly following the protocol outlined in their written procedures. According to their own investigations, the Sheriff's Department and the Fortuna Police Department have found 10% or less of citizen complaints investigated by their departments to be true; the Eureka Police Department has found less than 5% of complaints against their personnel to be true.

The grand jury received and investigated complaints from citizens against law enforcement personnel, including two against Eureka officers. The grand jury encountered reluctance on the part of those members of the Eureka department to cooperate with its investigation. Although there is no legal requirement to do so, three Eureka Police Department officers refused to voluntarily appear to answer the grand jury's questions regarding circumstances surrounding the incidents described in citizen complaints. Past grand juries, both locally and statewide, have reported similar difficulties when conducting investigations of some law enforcement agencies. A natural resistance to acquiescing to a "citizen review" appears to be prevalent. Additionally, a basic misunderstanding may persist among some that the Police Officer's Bill of Rights affords some kind of protection against grand jury investigations. It appears that internal politics and differences in department leadership may determine the level of cooperation. The 2002-2003 grand jury found it necessary to obtain a subpoena for one of the Eureka officers to appear for an interview.

### **FINDINGS AND RECOMMENDATIONS:**

**F1.** Written procedures for handling citizen complaints are in place at all eight city and county law enforcement agencies.

**R1. Recommendation pertinent to F1:** None

**F2.** The grand jury experienced that some officers of the Eureka Police Department would not voluntarily appear before the grand jury, when requested to do so by the grand jury.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the Eureka City Manager inform the Eureka Police Department of the authority grand juries have in conducting investigations into citizen complaints and encourage public officials to voluntarily cooperate with those investigations, without having the need of the grand jury issuing subpoenas.

**GRAND JURY REPORT NO: 03-LJ-01**  
**CITIZEN COMPLAINTS TO LAW ENFORCEMENT AGENCIES**  
**FINDINGS AND RECOMMENDATIONS**

**F2.** The grand jury experienced that some officers of the Eureka Police Department would not voluntarily appear before the grand jury, when requested to do so by the grand jury.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the Eureka City Manager inform the Eureka Police Department of the authority grand juries have in conducting investigations into citizen complaints and encourage public officials to voluntarily cooperate with those investigations, without having the need of the grand jury issuing subpoenas.

**CITY OF EUREKA'S CITY COUNCIL AND CITY MANAGER RESPONSE TO R2:**

In August 2002 Operating Engineers Union Local #3 began providing medical, labor and legal service to the members of the Eureka Police Officers Association. The Union recommends that invitations to appear before Grand Jury Committees be declined unless a subpoena is received. Since this issue arose, the Police Chief has spoken with the City Attorney and two outside attorney groups experienced in this area of law. All concur that public employees, including police officer, have the same rights as other citizens and may not be compelled to appear or be subject to discipline for declining an invitation to appear before a Grand Jury Committee.

While many City employees will choose to appear, other will be within their rights as employees and citizen in declining the Grand Jury Invitation, absent a subpoena.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-LJ-01 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Eureka City Manager shall respond to R2.**
- 2. The Eureka City Council shall respond to R2.**

**GRAND JURY REPORT NO: 03-PW-01**  
**AMERICANS WITH DISABILITIES ACT**  
**Public Works Committee**

## **INTRODUCTION:**

In response to a complaint from a concerned citizen the grand jury investigated the restroom facilities of the Humboldt County Parks for compliance with the Americans with Disabilities Act (ADA). In 2001, the Board of Supervisors (BOS) hired a consultant to do a study that outlined ADA deficiencies and estimated costs to bring each of these locations into compliance. Technically, none of the parks meet the specific requirements of the ADA. The parks were grouped into three categories and recommendations were made where applicable. The three categories are: (1) no restrooms (No recommendations are made for these parks which are Crab Park, Hammond Trail, M. Lockwood and Pedrazzini Boat Ramp.) (2) not accessible to the disabled and (3) accessible but not ADA compliant.

## **FINDINGS AND RECOMMENDATIONS**

**F1:** The restrooms at the following parks were not accessible to the disabled. They are Freshwater, Centerville Beach, Moonstone Beach, Tooby Memorial, Luffenholtz Beach and Mad River Boat Ramp.

### **R1. Recommendation pertinent to F1:**

The grand jury recommends the County make these restroom facilities ADA compliant. However, due to the major remodeling costs involved in most of these locations, the County should provide ADA approved portable toilets in the interim.

### **BOARD OF SUPERVISOR' RESPONSE TO R1:**

Will be partially implemented, but some of the recommendation will not be implemented because it is unreasonable given the County's financial situation. ADA approved portable toilets will not fully resolve handicap accessibility in that infrastructure and other improvements would be necessary to secure access to the toilets, the cost of which is beyond current budget capabilities. There are, however, plans to remodel the restroom facilities at Freshwater and Luffenholtz Parks and Mad River Boat Ramp to include ADA compliance issues by using the 2002 per Capital Park bond funding.

### **PUBLIC WORK'S RESPONSE TO R1:**

Centerville Beach, Moonstone Beach and Tooby only have portable toilets. The cost to replace existing portable toilets with ADA approved toilets would cost an additional \$2,000 annually. The cost to put portable ADA approved toilets at the other three parks would be \$4,500. The current Parks budget could not absorb this additional cost. The department plans to remodel the restrooms and make them ADA compliant with 2002 Per Capita Park Bond funding.

**F2:** The restrooms at the following parks are accessible and friendly to persons with disabilities but do not strictly meet the requirements of the ADA. They are A. W. Way, Big Lagoon, Clam Beach, Samoa Boat Ramp, Swimmers Delight, Pamplin Grove and Fields Landing Boat Ramp.

**R2. Recommendation pertinent to F2:** It is recommended that the County should immediately begin to bring these park restrooms into compliance with the ADA.



**BOARD OF SUPERVISORS' RESPONSE TO R2:**

Will not immediately be implemented because it is unreasonable given the County's financial situation. As was pointed out by the Grand Jury, the parks are accessible and friendly to persons with disabilities, and the County continues its ongoing efforts to provide full accessibility of all facilities in compliance with the Americans with Disabilities Act Accessibility Guidelines and Title 24 of the California Building Code. In February, 2001, the County released a Request for Proposals for an ADA Survey of its facilities to determine if the programs and services delivered are accessible to individuals with disabilities pursuant to the Americans with Disabilities Act and California's Title 24 provisions. This survey was conducted by Disability Access Consultant and presented to the Board on December 3, 2002, at which time the Board adopted the County's Transition Plan, appointed Kim Kerr, ADA Coordinator, and authorized Risk Management to form a committee to review the Transition Plan and return with priorities. Funds are appropriated each budget year to deal with accessibility issues and will continue to be appropriated each year until all noted ADA deficiencies are corrected.

**PUBLIC WORKS RESPONSE TO R2:**

In accordance with the ongoing efforts of the County of Humboldt to provide accessibility for all recipients of services and employees, facilities owned by the County were surveyed to determine accessibility in accordance with the Americans with Disabilities Act Accessibility Guidelines and Title 24 of the California Building Code. The County continues to comply with the tenets of Title II of the ADA act and related regulations with the current County of Humboldt ADA Transition/Barrier Removal Plan. Public Works continues its commitment to comply with the Current Transition/Barrier Removal Plan.

**F3:** The grand jury finds that park restroom facilities are not readily identified with signs as to location and ADA accessibility.

**R3. Recommendation pertinent to F3:**The grand jury recommends signs be placed along park walkways and entrances directing visitors to the location of restroom facilities and indicating their ADA status.

The grand jury further recommends that all park literature indicated the ADA status of each Park restroom.

**PUBLIC WORKS RESPONSE TO R3:**

- a. Signage will be placed in accordance the Americans with Disabilities Act Accessibility Guidelines and Title 24 of the California Building Code. Signage will appropriately identify accessible restroom facilities and associated routes as recommended in the Grand Jury findings.
- b. The County Park Information sheet will be updated to include restroom ADA status.

## RESPONSES:

**THE FOLLOWING RESPONSES TO REPORT 03-PW-01 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to R1 and R2.**
- 2. The Director of the County Public Works Department shall respond to R1 and R3.**

## **GRAND JURY REPORT NO. 03-PW-02**

### ANIMAL CONTROL **Public Works Committee**

#### INTRODUCTION:

Due to intense local concern over reports of animal neglect and abuse at the Band of Mercy animal refuge, the Humboldt County Grand Jury looked at the case record which reveals public nuisance complaints beginning in 1994 and ending eight years later. In 2002, the County condemned the residence and two people were arrested for animal abuse. Previously, in 1997, the Environmental Health and the Planning Departments sent violation letters which were subsequently dead-filed two years later even though the presence of rats and the offensive odors clearly evidenced a significant problem. However, due to the absence of governmental oversight, no County agency regulates non-profit animal rescue facilities. A lack of follow-up by government agencies as well as their failure to ask to enter the premises (due to some confusion over the authority to enter private property) exacerbated the problem. This public nuisance problem was allowed to continue until 2002 when Miranda's Animal Rescue and the Sheriff's department finally removed 34 cats and 19 dogs, most of whom needed to be euthanized due to gross neglect.

The grand jury interviewed employees and/or reviewed files from the Departments of Agriculture, Environmental Health, Planning, and Sheriff's Departments and the Code Enforcement Unit of the County Counsel's office.

Neither Planning nor Environmental Health availed themselves of a Code Enforcement Unit referral which might have resulted in appropriate enforcement of Penal Code 370 (PC 370), to correct a public nuisance defined as ". . . injurious to health or indecent or offensive to the senses . . .". It appears that government did not function properly in this instance with a lack of communication between the various agencies on these public nuisance complaints. As a consequence, a public health danger was allowed to continue for an entirely unacceptable period of time.

#### FINDINGS AND RECOMMENDATIONS

**F1:** No County agency or individual is responsible for setting standards or monitoring quality of care for non-profit animal rescue facilities.

**R1. Recommendation pertinent to F1:** The grand jury recommends that the Board of Supervisors adopt and implement an ordinance which regulates, licenses and provides for ongoing annual inspections for all facilities which provide services for animals outside of a professional veterinarian setting.

### **BOARD OF SUPERVISORS' RESPONSE TO R1:**

Will not be implemented because it is unreasonable or unwarranted. The current state of financial affairs is such that the county is not in a position to take on additional duties with regard to the adoption of additional regulations, the monitoring of such regulations and/or additional annual inspections. However, the Grand Jury acknowledges the existence of an appropriate enforcement tool (Penal Code 370) that might have prevented the specific situation from exacerbating to the degree that it did. New procedures have been implemented by Community Development Services and Health and Human Services, Environmental Health Division to assure nuisance complaints that are not resolved within defined time frames are documented and referred to the Code Enforcement Unit.

**F2:** There is a lack of effective policies and procedures in both the Environmental Health and the Planning Department which define how public nuisance complaints will be addressed in a timely fashion. In this case, this resulted in the non-enforcement of PC 370, Public Nuisance.

**R2. Recommendation pertinent to F2:** The grand jury recommends that the Environmental Health and the Planning Department establish and integrate new policies and procedures which are adequate to ensure the enforcement of PC 370, Public Nuisance.

### **BOARD OF SUPERVISORS' RESPONSE TO R2:**

Has been partially implemented. New procedures have been implemented by Community Development Services and Health and Human Services, Environmental Health Division, to assure nuisance complaints that are unresolved within defined time frames are documented and referred to the Code Enforcement Unit. Further, the Department of Health and Human Services Director has directed the Public Health Branch Director to initiate a meeting with pertinent staff from the Community Development Services Department related to the "integrations" portion of this recommendation. That meeting will be scheduled within 90 days of the release of the Grand Jury responses.

### **HEALTH AND HUMAN SERVICES RESPONSE TO R2:**

This recommendation has been partially implemented. The Health and Human Services Director has met and conferred with the Public Health Branch Director of the Department on the development of the Department's response to this recommendation. The Division of Environmental Health has long standing policies and procedures for investigation and enforcement of nuisance complaints and violations of Environmental Health law. These policies and procedures have been documented in clearly written form. The procedures and policies apply to all laws and regulations enforced by the Division of Environmental Health including provisions of Penal Code (PC) 370.

Further, the Department of Health and Human Services Director has directed the Public Health Branch Director to initiate a meeting with pertinent staff from the Planning Department relating to the "integration" portion of this recommendation. The Health and Human Services Director has also directed this meeting be scheduled within 90 days of the release of the Grand Jury Departmental Responses.

**COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R2:**

The Grand Jury finds a lack of effective policies and procedures in the Environmental Health and Planning Divisions for addressing public nuisance complaints. The Planning Division of CDS works closely with the Division of Environmental Health and the Code Enforcement Unit to continually improve response to public nuisance complaints. In the last two years, improvements include: hiring new staff, implementing new enforcement procedures and improving the operational capability for joint actions between the departments.

The Grand Jury recommends CDS and Environmental Health establish and integrate new policies to address public nuisance complaints. CDS concurs with this recommendation and will continue to work with Environmental Health and Code Enforcement Unit to improve the program, especially in the area of coordination and integration.

**F3:** Neither Environmental Health nor the Planning Department referred the Band of Mercy public nuisance complaints to the Code Enforcement Unit.

**R3. Recommendation pertinent to F3:** The grand jury recommends that both the Environmental Health and the Planning Department implement procedures to ensure public nuisance complaints are referred to the Code Enforcement Unit, when appropriate, to ensure enforcement of PC 370.

**BOARD OF SUPERVISORS' RESPONSE TO R3:**

Has been partially implemented. New procedures have been implemented by Community Development Services and Health and Human Services, Environmental Health Division, to assure nuisance complaints that are unresolved within defined time frames are documented and referred to the Code Enforcement Unit. Further, the Department of Health and Human Services Director has directed the Public Health Branch Director to initiate a meeting with pertinent staff from the Community Development Services Department related to the "integration" portion of this recommendation. That meeting will be scheduled within 90 days of the release of the Grand Jury responses.

**HEALTH AND HUMAN SERVICES RESPONSE TO R3:**

The Health and Human Services Director has met and conferred with the Public Health Branch Director of the Department on the development of the Department's response to this recommendation. This recommendation has been implemented in relation to the Environmental Health Division of the Department of Health and Human Services. As noted in the response to R2, Environmental Health Division policies and procedures for investigation and enforcement of nuisance and other complaints have been documented in written form and include referral to the Code Enforcement Unit when appropriate.

**COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R3:**

The Grand Jury finds that CDS failed to refer the Band of Mercy public nuisance complaints to the Code Enforcement Unit. The Planning Division did respond to two complaints on the property in 1996 and 1997. CDS wrote enforcement letters to the owner of the property but did not refer the case to the Code Enforcement Unit.

The Grand Jury recommends new procedures to ensure complaints are referred to the Code Enforcement Unit. CDS and Environmental Health have implemented this recommendation and now refer all code violations that are not resolved within defined time frames to the Code Enforcement Unit.

Supporting Information for Community Development Services Department  
Response to the Humboldt County 2002-03 Grand Jury Report

Report Number 03-PW-02 (R2, R3) – Band of Mercy Nuisance Complaints

- 1) April 22, 1996 Enforcement Letter
- 2) March 26, 1996 Enforcement Letter
- 3) March 18, 1997 Enforcement Letter



BUILDING INSPECTION DIVISION  
OF THE PLANNING AND BUILDING DEPARTMENT  
**COUNTY OF HUMBOLDT**  
30 15 H STREET, ROOM 2  
PHONE (707) 445-7245  
EUREKA, CALIFORNIA 95501  
FAX (707) 445-7446

April 22, 1996

Robert A & Linda L Fite  
2508 Erie Street  
Eureka, Ca 95501

Subject: Violation of Humboldt County Code  
Section(s) 331-11 of Humboldt County Code  
Location: 2504 Erie Street  
Parcel No. 16-131-14  
In Reply, Please Refer To Above Parcel No.

RECEIVED

APR 22 1996

HUMBOLDT COUNTY  
PLANNING COMMISSION

This department has received reports that a travel trailer has been placed on the above referenced parcel and is being used as a residence without the required approvals. The conditions reported in the complaints are in violation of the Humboldt County Code.

Failure to respond to this letter within 30 days will result in formal enforcement proceedings which may include abatement at your expense and/or criminal prosecution.

We want to assist you in every reasonable way in your efforts towards compliance. If you have any questions, please call our office between the hours of 8:30 a.m. and 5:00 p.m., Monday thru Friday at (707) 445-7245.

Respectfully,

BUILDING DIVISION OF THE HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT

Todd A. Sobolik  
Chief Building Official

By Michael Damian  
Michael Damian  
Building Inspector

Complaint # 96-037 (96)  
Certified Mail Return Receipt Number: Z 351 948 431



PLANNING DIVISION  
OF THE PLANNING AND BUILDING DEPARTMENT  
**COUNTY OF HUMBOLDT**  
EUREKA CA 95501-4484 3015 H STREET  
PHONE (707) 445-7541 FAX (707) 445-7446

March 26, 1996  
Robert A & Linda L Fite  
2508 ERIE ST  
EUREKA CA 95501-

Subject: Complaint(s) Regarding Alleged Recreational Vehicle (RV) Being Used as a  
Residence  
Assessor's Parcel Number 016-131-14

**Initial Contact Letter  
Code Compliance Program**

Dear Property Owner,

The Planning Department has received complaint(s) regarding an alleged RV being used as a residence on the above referenced parcel.

If the complaint is not valid, we would appreciate your help in responding to the person who is complaining.

If the complaint is valid, the activity is in violation of Section(s) 316-12) and 319-3 of the Humboldt County Code.

Please contact me in writing within 20 working days of the above date to help us resolve this matter.

Sincerely,  
Planning Division of the Humboldt County Planning and Building Department

Jim Baskin

cc: Complainants

f:\planning\current\violatio\01613114.v\_1 Certified Letter Number: Z-379-639-833



PLANNING DIVISION  
OF THE PLANNING AND BUILDING DEPARTMENT  
**COUNTY OF HUMBOLDT**  
3015 H STREET  
EUREKA, CALIF. 95501-4484 PHONE (707) 445-7541

March 18, 1997

Robert A. & Linda L. Fite  
2508 Erie Street  
Eureka, CA 95501

Subject: Complaint Regarding Commercial Auto Repair/Junkyard in a Residential Zone; Use of a Motor Vehicle as a Dwelling Unit, Animal Handling, Inappropriate Storage/Maintenance of Solid Waste A.P. Number 16-131-14; Situs: 2504 Erie Street, Eureka, CA

Dear Mr. and Ms. Fite:

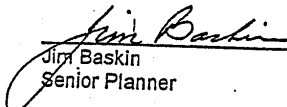
The Planning Department has received a report that you are conducting commercial auto repair and allowing persons to reside in an automobile on the above-referenced property. It has also been reported that you also be in violation of regulations regarding solid waste storage and disposal as administered by the Public Health Department, or have an accumulation of solid waste stored on the site to constitute a junkyard --- a land use not allowed in residential zones. Additionally, you may be in violation of Animal Handling Standards ("lease law") as administered by the County Animal Control Officer.

If the complaint is not valid, we would appreciate your help in responding to the person who is complaining.

If the complaint is valid, the activity is in violation of Sections 313-7(a), and 371-1 of the Humboldt County Code, copies attached.

Please contact Jim Baskin in writing within 20 working days of the above date to help us resolve this matter.

Sincerely,

  
Jim Baskin  
Senior Planner

/jb via Certified Letter Number Z 351 954 012

Encl: Excerpt, Humboldt County Code

cc: Complainant  
Animal Control Officer

§319-3 Any person, whether principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this code shall be guilty of a misdemeanor and shall be subject to the penalties provided for in Section 112-5 of the County Code.

§112-5 Whenever in this Code or in any other ordinance of the County or in any rule or regulation promulgated pursuant thereto any act is prohibited or made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided, the violation of any such provision of this Code or any other ordinance, rule or regulation of the County shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) and/or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Every day any violation of this Code or any other ordinance, rule or regulation of the County shall continue, shall constitute a separate offense.

**F4:** Inadequate training and staffing hindered Environmental Health's ability to respond in a timely or appropriate fashion to these nuisance complaints.

**R4. Recommendation pertinent to F4:** The grand jury recommends that the Director of Health and Human Services: (a) Implement new training standards which include the level of authority Environmental Health staff holds in a public nuisance situation. (b) Review the Environmental Health staffing levels and make an appropriate recommendation to the Board of Supervisors.

**BOARD OF SUPERVISORS' RESPONSE TO R4:**

These recommendations have been implemented.

- (a) The Division of Environmental Health has adopted an internal investigation and enforcement training and annual refresher program for all new and existing staff. Training includes an overview of adopted policies and procedures and review of legal authorities including public nuisance law.
- (b) The Health and Human Services Director and the Public Health Branch Director monitor staffing levels of all Divisions on an ongoing basis and assess training needs as issues are identified. During the period of the Grand Jury's investigation, there were up to five staff vacancies and three staff had less than one year's experience. Currently, the Division of Environmental Health has only one vacancy and additional staff are not required.

**HEALTH AND HUMAN SERVICES RESPONSE TO R4:**

These recommendations have been implemented.

- (a) The Division of Environmental Health has adopted an internal investigation and enforcement training and annual refresher program for all new and existing staff. Training includes an overview of adopted policies and procedures and review of legal authorities including public nuisance law.
- (b) The Health and Human Services Director and the Public Health Branch Director monitor staffing levels of all Divisions on an ongoing basis and assess training needs as issues are identified. During the period of the Grand Jury's investigation, there were up to five staff vacancies and three staff had less than one year's experience. Currently, the Division of Environmental Health has only one vacancy and additional staff are not required.

**F5:** There is no clear line of responsibility as to which County department has the authority to enforce animal abuse complaints.

**R5. Recommendation pertinent to F5:** The grand jury recommends that a clear line of responsibility to monitor and control animal abuse situations be established.

**BOARD OF SUPERVISORS' RESPONSE TO R5:**

Requires further analysis. This may already be partially resolved through the implementation of new procedures for both Community Development Services and Health and Human Services, to refer unresolved nuisance complaints to the Code Enforcement Unit. This may be further resolved through a transfer of the animal control function to the Sheriff's Office scheduled to take place early in 2004. This will be monitored and further evaluated once the transition has taken place and new staff are in place commensurate with the opening of the new animal care facility.

**GENERAL SERVICES DEPARTMENT RESPONSE TO R5:**

General Services Department has no responsibility regarding animal control or complaints.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 03-PW-02 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to R1, R2, R3, R4 and R5.**
- 2. The Humboldt County Health and Human Services Department, Environmental Health Division shall respond to R2, R3 and R4.**
- 3. The Humboldt County Community Services Department, Planning Division shall respond to R2 and R3.**
- 4. The Humboldt County Director of Health and Human Services shall respond to R2 and R3.**
- 5. The Humboldt County Director of General Services Administration shall respond to R5.**
- 6. The Humboldt County Sheriff's Department shall respond to R5.**

**GRAND JURY REPORT NO. 03-PW-03**

**The Redwood National Park Building in Orick  
**Public Works Committee****

**INTRODUCTION**

In the period of July, 2000 to November 2002, Larry DeBeni/developer, pursued approval of an office facility in Orick, Ca. on behalf of his client the National Park Service. The proposed (approximate) 25,000 sq.ft. building was to be constructed by Mr. DeBeni and leased to the park service for a period of 15 years. The initial approval of the proposed building was rendered by

the Planning Department, now known as the Planning Division of the Humboldt County Community Development Services (Planning Division), in October, 2000. Because the building site was within the Orick design control “D” combining zone designations, and outside of the coastal zone, it was required by law to submit the building plans to the Orick Design Control Committee (ODCC) for approval. Without having had a presentation of the details of the project the ODCC approved the building subject to several stipulations. This proved to be a case where non-professional members of a review committee relied upon verbal assurances or an oral understanding as to what the final project would be. The Planning Division was notified of the ODCC conditional stipulations by letter on Nov. 3, 2000. The Humboldt County Code section 314-19.1.6 states that no building permit shall be issued until it has been approved by the reviewing authority (in this instance the Orick Design Control Committee). In a stated opinion of the Humboldt County Counsel’s office, “the ODCC is not simply an advisory committee in that its decision stands and is final,” pending appeal and review by planning and/or the Board of Supervisors. In this regard, the Planning Division maintains that the ODCC is limited in its review authority to merely the building design, not its use. This is a very contentious issue inasmuch as *function (use)* frequently dictates or at least influences design and when changes in a project are dictated by use factors review by an advisory agency should come into play.

In November, 2002, a complaint was received by the Humboldt County Grand Jury to the affect that the building under construction deviated substantially from the originally submitted plans as well as from the conditional approval given to the project by the ODCC. On the basis of this complaint the grand jury initiated an array of interviews with private citizens, members of the design committee, and personnel of the Planning Division. In addition, members of the grand jury visited the construction site on several occasions and photographed the project in progress.

### **FINDINGS AND RECOMMENDATIONS**

**F1:** The Planning Division determined this project to be a “ministerial” project rather than a “discretionary project. Under the California Environmental Quality Act (CEQA) guidelines section 15369, ministerial “describes a governmental decision involving little or no personal judgment by the public official as to wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.” This regulation is pointed out in the annotated discussion in Friends of Westwood, Inc. V. Los Angeles (1987) 191 Cal.App.3d 259. In CEQA guidelines section 15357 “discretionary projects means a project which requires the exercise of judgment or deliberation when the public Agency decides to approve or disapprove a particular activity, as distinguished from situations where the public agency merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.” That this project should have been categorized as a discretionary project is evident from the changes which were allowed without ODCC or other agency review. These changes included, but were not limited to the exterior finish, the fencing materials, the height of the building and the definition of the zoning to which CEQA was applicable, but not applied by the Planning Division. Further, under CEQA guidelines section 15268 (d) ...”where a project involves an approval that contains elements of both a ministerial and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.” When planning made the discretionary decision on this proposed “office building” that the

building would meet the current zoning of “commercial recreation,” (Humboldt County General Plan, Volume II, Orick Community Plan, May 7, 1985, Section 2342: ‘campgrounds, RV Park, motel . . . and other visitor-serving uses such as gift shops, restaurants, bait shop,’ etc.) it automatically triggered the need to follow CEQA and the need to consider the potential impact on the environment. Numerous impacts have been identified as involving discretionary actions by the Planning Division while failing to comply with CEQA rules.

**R1. Recommendation pertaining to F1:** The grand jury recommends that the Planning Division of the Humboldt County Community Development Services distinguish between projects that are ministerial or discretionary so as to avoid the misapplication of CEQA or other zoning regulations that may affect the project.

**BOARD OF SUPERVISORS’ RESPONSE TO R1:**

Will be implemented as part of the General Plan Update and subsequent revision of the County land use regulations.

**COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R1:**

The Grand Jury concludes that the building permit for the Redwood National and State Parks Administrative Building in Orick was a discretionary action subject to the California Environmental Quality Act (CEQA). The Grand Jury cites Section 15369 of the CEQA Guidelines to support this finding.

CDS respectfully disagrees with this Grand Jury finding. Section 15369 of the CEQA Guidelines states “A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows the structure to be built in the requested location...” CDS determined that the structure was principally permitted in the zone through a formal information request process. By Humboldt County ordinance, the issuance of a building permit to a principally permitted structure is a ministerial action not subject to CEQA.

The Grand Jury suggests CDS distinguish between discretionary and ministerial projects as they pertain to CEQA. CDS feels the County land use regulations adequately distinguish the difference in the case of building permits. Less clear, in the County ordinances is the applicability of CEQA to design review of proposed structures. Some jurisdictions in California have codified the need for CEQA review for any building project subject to design review arguing that design review decisions are discretionary in nature. The County will be considering this issue in the General Plan Update and subsequent revision of the County land use regulations.

**F2:** In its stipulations to the Planning Division the ODCC specifically noted the exterior of the project was to be redwood or some color replicating redwood. However, when the project was nearing completion a non-redwood like paint finish was applied to the exterior surface. When questioned during the grand jury investigation, the Planning Division personnel acknowledged the ODCC’s stipulation, but admitted to their failure to communicate accordingly with the ODCC as required and stated they were, in fact, unaware of the changes made by the developer in the selection of an exterior finish.

The barbed wire topped chain link fencing around the perimeter is clearly contrary to the

original specifications approved by the ODCC in their meeting on November 3, 2000. No such fencing appears in the originally submitted renderings by the architect/developer or presented for approval to the ODCC in their meeting on November 3, 2000. The wording of the ODCC fencing stipulation was quite different..."six feet or under cyclone/wood slatted fence for vehicular enclosure and wrought iron fencing for perimeter".

**R2. Recommendations pertaining to F2:** The grand jury recommends that the Planning Division follow the ODCC's original stipulations as to exterior appearances by requiring the developer to change the exterior color appearances to meet the design committee's original stipulations and to install the fencing materials stipulated by the ODCC.

**BOARD OF SUPERVISORS' RESPONSE TO R2:**

Will not be implemented because it is unwarranted or unreasonable. Community Development advises that the chosen color is consistent with the Orick Design Control Committee stipulations, and further advises that the alternative fencing design was properly approved by that Committee.

**COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R2:**

The Grand Jury finds that the final structure was not painted or fenced in accordance with Orick Design Control Committee (ODCC) stipulations. The ODCC approved a modification of the fencing stipulations at their meeting of May 21, 2003. The project architect presented colored renderings of the building to the ODCC on October 27, 2000. The ODCC stipulated that the exterior of the building should have a redwood looking finish consistent with the colored renderings. The building was painted as shown in the renderings with a combination of two colors manufactured by ICI Paints called "Century Brown" and "Old Redwood." According to the project architect, the colors were chosen to reflect redwood bark and wood tones.

The Grand Jury recommends that the building be re-painted and re-fenced in accordance with the original ODCC stipulations. CDS does not agree that the building should be re-fenced given the ODCC's approval of an alternative design. CDS does not believe the building should be re-painted; the chosen color is in keeping with the ODCC stipulation. On May 21, 2003, the ODCC toured the building after the paint was applied and at that time, nor subsequently, did the ODCC or any individual member express dissatisfaction with the final color or state that the chosen colors were inconsistent with the original ODCC stipulation.

**F3:** In the Planning Division's records of the project specifications, the height of the building was shown as 40 feet. However, the actual height of the building approximates 52 feet. This difference exceeds the Humboldt County rule of allowing discretionary changes of 10% in specifications (Humboldt County Code Section 312-11.1.1.3). The Planning Division explanation for the difference is the addition of a raised facade above the first floor. In fact, where does the actual height of a building end; at its very top or somewhere between top and ground level?

**R3. Recommendations pertaining to F3:** The grand jury recommends that the Planning Division incorporate in its policies relating to the physical specifications, that the height of a building is the distance measured from the ground to the very highest extremity of the building.

**BOARD OF SUPERVISORS' RESPONSE TO R3:**

Will be implemented as soon as feasible. The inspection form will be changed to specify the maximum height to be the distance measured from the ground to the highest point of the building.

**COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R3:**

The Grand Jury states that the actual height of the building exceeded the original project specifications received by CDS. The building height as constructed is identical to that originally proposed to CDS and the ODCC for review and approval. The 40 feet height referenced by the Grand Jury was recorded on a site inspection application and was not a part of ODCC's review of the structure. The 40 feet referred to the height of the top story of the structure and did not include the central architectural peak. The peak height rises 11 feet above the height of the second story of the building as reflected in the plans submitted to CDS and ODCC. The 51 feet peak height is below the 75 feet maximum building height allowed in the zone.

The Grand Jury recommends that the Planning Division prepare policies to clarify that the height of the building should be based on the distance measured from the ground to the very highest extremity of the building. CDS agrees that the inspection application form can be misleading. The blank for the number of stories is immediately above the blank for the height. Forty feet was entered because the project representative thought the form was requesting story height and not the maximum building height. The inspection form will be changed to specify maximum height consistent with the Grand Jury recommendation.

**F4:** Changes in the building specifications included converting space originally designated as storage space on the balcony to offices. In the initial presentation by the architect and developer to the ODCC the building was defined as a one story building with an interior balcony. A press release in the Times Standard, dated May 31, 2003, reads: "The facility has two floors. The second houses the park's library and its irreplaceable museum collection." David Pierce, the project architect, speaking about the second floor is quoted as saying: "this is probably the most important special design of the building." When asked what defines a one story building with a balcony, a Planning Division staff member's response was: "I don't know." The fact is that the ODCC understood when they made their approval stipulation that this building had originally been represented to the ODCC by the architect and developer as a one story building with an interior balcony yet the architect and the Planning Division now refer to it as a two story building.

This conversion required the installation of an elevator not originally designated in the specifications. Using their discretionary authority, the Planning Division allowed the offices and the elevator with two notable consequences: (1) it deviates from what was applied for and approved (2) converts a one story project into a multi-story project. A member of the Planning Division staff stated that minor changes are not reviewable or appealable and that the definition of a minor change is similarly not reviewable or appealable.

**R4. Recommendation pertaining to F4:** The grand jury recommends that because these and numerous other changes in the building were allowed by the Planning Division without the required review by the ODCC and other agencies, the matter should be reviewed by the Humboldt County Board of Supervisors (BOS) to determine what measures are needed to

prevent this from happening on future projects.

**BOARD OF SUPERVISORS' RESPONSE TO R4:**

Will not be implemented because it is unwarranted. The changes in the building specifications as noted by the Grand Jury were related to internal modifications that did not affect the exterior appearance. Design review committees do not have jurisdiction over interior design or uses.

**COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R4:**

The Grand Jury finds that interior changes were made to the building that should have been submitted to the ODCC for review. The Grand Jury states the interior changes resulted in a re-characterization of the building from one to two stories. An area of the building originally designed as attic space for storage and heating and ventilating equipment was red-designed during the permit process to accommodate office space. The occupancy or use of the building did change from a "one-story" to a "two-story." This was a major modification requiring review by the appropriate authorities and re-analysis of conformance to the building to Uniform Building Codes. The changes, however, did not affect the exterior of the building and were not material to ODCC design stipulations.

The Grand Jury recommends that the Board of Supervisors review this matter to ensure that design changes such as these are adequately reviewed by Design Review Committees and other agencies. Internal modifications that do not affect the exterior appearance are not reviewed by design review committees. CDS completed a substantial conformance design review of the proposed changes on August 22, 2002 and was correct in not seeking ODCC approval of the interior modifications.

**F5:** The Planning Division has a format that is to be sent to all advisory boards and district agencies that are affected when material plan changes are contemplated. In this case that involved some 18 agencies. The ODCC as well as the Orick Community Services District, California Department of Fish and Game among other agencies were not notified of some of the changes allowed by the planning division

**R5. Recommendations pertaining to F5:** The grand jury recommends that the Planning Division institute and follow firm procedures and guidelines that prohibit changes from being made until such time as all authorized parties and agencies have been sufficiently notified and have signed off on the proposed changes.

**BOARD OF SUPERVISORS' RESPONSE TO R5:**

Will not be implemented because it is unwarranted. Community Development advises that all appropriate agencies were notified of changes to the project during the permitting process. The Orick Design Control Committee was not notified of interior design changes because design review committees have no jurisdiction over such matters.

**COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R5:**

The Grand Jury finds that agencies were not notified of some of the building changes allowed by the Planning Division. With the exception not notifying the ODCC of interior design changes,

all appropriate agencies were notified of changes to the project as they occurred.

The Grand Jury recommends instituting procedures to ensure that the proper agencies are notified as changes are made to projects during the permitting process. CDS has systems in place and while they are continually being improved they functioned appropriately in this case.

**F6:** Many of the deviations from the stipulations of the ODCC were brought to the attention of the Planning Division as early as 2002 either by the ODCC directly in their communications with the Planning Division or by concerned citizens residing in Orick. In each instance the Planning Division was aware of these concerns and nevertheless moved ahead with changes. The Environmental Health Division of the Humboldt County Department of Health and Human Services allowed the developer to install a low pressure sewage disposal system at a time when the county was recording the highest April rainfall in its history in spite of the fact that the general specifications for installing this system carries a prohibitive warning..."this system may not be installed during wet weather."

**R6. Recommendation pertaining to F6:** The grand jury recommends that waivers and changes offered to meet arbitrary deadlines or special requests by the developer should be prohibited by the Planning Division when said changes and requests are in conflict with regulations.

#### **BOARD OF SUPERVISORS' RESPONSE TO R6:**

Has been implemented. With respect to planning issues, Community Development advises that none of the changes approved were in conflict with the regulations. With respect to environmental issues, the Environmental Health Division advises that no waivers or special conditions were given for this project. The system was not installed in April, but was installed in May. Some work began in April but was discontinued until early May due to the high rainfall. Soil conditions were dry at the time of installation as verified through an onsite visit by Division of Environmental Health staff on May 7, 2003. There was no indication of groundwater or saturated soil conditions at the time of installation. Conditions were satisfactory for installation of the system on May 7 and the final approval of the installation was given on May 19, 2003.

#### **COMMUNITY DEVELOPMENT SERVICES RESPONSE TO R6:**

The Grand Jury finds that many of the deviations from the stipulations of the ODCC were brought to the attention of the Planning Division but were not addressed. The Grand Jury recommends that waivers and changes should be prohibited when such changes are in conflict with the regulations. The only deviation from ODCC stipulations was the fence design which was approved by the ODCC on May 21, 2003.

Supporting Information for Community Development Services Department  
Response to the Humboldt County 2002-03 Grand Jury Report

Report Number 03-PW-03 (R1-R6) – Redwood National and State Parks Administration  
Building

F1 and R1:

- 1) First CDS Response to Zoning Conformance Information Request – July 7, 2000
- 2) Response from Redwood National and State Parks – October 16, 2000
- 3) CDS Zoning Consistency Determination – October 19, 2000

F2 and R2:

- 4) Orick Design Control Committee (ODCC) Stipulations – November 3, 2000
- 5) ODCC Minutes Approving Fence Modifications – May 21, 2003
- 6) Letter from David Pierce Architect – June 5, 2003
- 7) CDS Design Review Clearance Letter – June 17, 2003

F3 and R3 through F6 and R6:

- 8) Presite Application – June 7, 2001
- 9) Letter from David Pierce Architect – March 28, 2003
- 10) CDS Substantial Conformance Review Finding – August 22, 2002



PLANNING DIVISION  
OF THE PLANNING AND BUILDING DEPARTMENT  
**COUNTY OF HUMBOLDT**

3015 H STREET  
EUREKA CA 95501-4484    PHONE (707) 445-7541    FAX (707) 445-7446

July 7, 2000

Mr. Larry DeBeni  
537 Seventh Street  
Eureka, CA 95501

RE: Information Request for APN 520-161-09  
Case No.: IR-99-79

Dear Mr. DeBeni:

The Planning Division has completed an initial review of your request, submitted on your behalf by Mark Burtchett, for information relative to the development of an office building that is to be occupied by the National Park Service on the subject property (APN 520-161-09). The subject parcel is located in the Inland portion of the County, and is zoned Community Commercial with Qualified, Recreation, and Design Control combining zones (or C-2-Q-X-D). The property is designated Commercial Recreation (or CR) by the Orick Community Plan. Pursuant to Section 315-6 of the Inland Zoning Regulations (enclosed), the Q combining zoning:

"is intended to be combined with any principal zone in situations where sound and orderly planning indicate that specified principal permitted uses or conditional uses otherwise allowed under the principal zone shall not be allowed with or without a use permit. The qualified uses shall be specified in the ordinance applying the Q zone to specific property."

For this property, Ordinance 1687 (enclosed) is the ordinance that establishes the allowable uses. Section 3 of Ordinance 1687 states that the principal and conditionally permitted uses otherwise allowed in the C-2 zone are limited to commercial recreational uses. In other words, the Q zone restricts the allowable uses on the subject property to commercial recreation. Commercial recreation uses "include campgrounds, R-V parks, hotels and motels, and visitor-serving uses such as gift shops, restaurants, taverns, and bait and tackle shops." It is our understanding, based on my conversations with Mark Burtchett at the counter and over the phone, that you intend to build an office building that is to house administrative offices for the National Park Service. The building will also include facilities for the visiting public. To date, no further information has been provided to this office as what these visitor-serving facilities will constitute. Provided the building is designed to accommodate the visiting public, this office could find the proposed building to be consistent with the provisions of Ordinance 1687.

(5)

Gallis rptproj.frx

Project Report for DeBENI, Larry

Project No. IR-99-79

Part 1 - Staff Costs

Run Date 07/07/00

Period Covered From 06/01/00 To 07/07/00

Page 1

Date	Staff	Taskcode	Task Description	Time	Rate	Cost
06/29/00	Michelle Nielsen	120	IR-99-79 Consult with Senior Staff Discussed proposal's consistency w/ Ozons w/ Supervising Planner (SP); left voicemail messages & spoke to agent.	0.42	38.66	16.24
06/30/00	Michelle Nielsen	120	IR-99-79 Consult with Senior Staff Discussed proposal's consistency w/ Ozons w/ Supervising Planner (SP).	0.42	38.66	16.24
07/03/00	Michelle Nielsen	182	IR-99-79 Prepare Correspondence Written on response ltr.	0.68	38.66	22.42
07/06/00	Steve Werner	182	IR-99-79 Prepare Correspondence Edit/writes draft IR letter re: NPS office in Colek	0.60	63.66	26.83
<b>Total Staff Charges</b>						<b>81.73</b>

P &  
 7/27/00  
 REC #  
 137606



United States Department of the Interior  
California Department of Parks and Recreation

Redwood National and State Parks  
1111 Second Street  
Crescent City, California 95531



IN REPLY REFER TO:

L1425

October 16, 2000

Kirk Girard, Director  
Community Development Services  
3015 H. Street  
Eureka, California 95501

RECEIVED

OCT 18 2000

HUMBOLDT COUNTY  
PLANNING COMMISSION

Dear Mr. Girard:

On October 11, 2000, Redwood National and State Parks (RNSP) was officially informed that the General Service Administration had awarded to Mr. Larry DeBeni a 15-year term lease for approximately 25,000 sq.ft. of rental space in Orick, California. Mr. DeBeni requested a letter be sent to your office detailing the allowable use for the new facility in order to ensure conformance to local zoning ordinances.

The facility will provide office and related space for park personnel, furnishings and equipment to serve as RNSP's primary center at the southern entrance to the parks. The facility will provide office space for approximately 55 employees as well as limited visitor services. The building will be open to the public and the specifications for the lease include a provision for 20 parking spaces for public parking within easy access to the building's main entryway. The building will include an entry foyer with information for visitors on the area and a receptionist to direct visitors to the appropriate office and answer inquiries on park facilities. Within the building there will be a 1,500 sq.ft. conference room to accommodate meetings and serve as a training room for park staff. The conference room will also provide a location to conduct public meetings, field seminar programs, conferences involving local, state and federal agencies, and special interpretive events. The facility will provide adequate storage and protection for RNSP's extensive museum collections and enhance the availability of collections for research and interpretive program development.

We trust the above information adequately details the visitor services to be provided within the facility to be built by Larry DeBeni. If you require any additional information, please feel free to contact Amy Robertson, Chief of Administration, at (707) 464-6101, extension 5010.

Sincerely,

Andrew T. Ringgold  
Superintendent



PLANNING DIVISION  
COMMUNITY DEVELOPMENT SERVICES  
**COUNTY OF HUMBOLDT**  
3015 H STREET  
EUREKA, CALIF. 95501-4484      PHONE (707) 445-7541

October 19, 2000

Mr. Larry DeBeni  
537 Seventh Street  
Eureka, CA 95501

RE: Information Request for APN 520-161-09  
Case No.: IR-99-79

Dear Mr. DeBeni:

The Planning Division is in receipt of the letter from Andrew T. Ringgold, Redwood National and State Parks Superintendent, dated October 16, 2000. Based on this letter, Kirk Girard, Director, has determined that the 25,000 square foot facility that will be built and then leased by the Redwood National and State Parks on APN 520-161-09 is visitor serving, and is consistent with Ordinance 1687. Therefore, the proposed use is a principally permitted use on the above referenced parcel.

As indicated in my letter dated July 7, 2000, the parcel has a Design Control combining zone. Prior to issuance of the Building Permit to construct the structure you must obtain approval from the Orick Design Review Committee. For more information on what information will need to be provided to the Committee, please contact Gloria Zuber, Chairwoman, P.O. Box 97, Orick, CA 95555.

I hope you find the above information useful. If you have any further questions or need additional information, please call me at 707-445-7541.

Sincerely yours,  
HUMBOLDT COUNTY COMMUNITY DEVELOPMENT SERVICES

Michelle Nielsen  
Planner II

Cc: Andrew Ringgold, Superintendent (Reference No. L1425)  
Kirk Girard, Director (without enclosure(s))  
IR-99-79 Project File

Crick, CA  
11/3/00

Humb. Co Planning Dept  
3015 H. St  
Eureka, CA 95501  
ATTN: Michelle Nicken

RECEIVED  
Nov 06 2000  
HUMBOLDT COUNTY  
PLANNING COMMISSION

Re: RNSP Office Bldg.  
APN 520-161-09

The Crick Design Committee met Friday,  
Oct. 27, 9:00 AM, Palm Cafe. Members present:  
Blanche Blankenship, Honaine Johnson, Ed Salcedo,  
Gloria Zuber. Absent - Martha Peals.

Guests: David Peircu, Architect, Larry DeBeri

An hour discussion was held. No decision.

Chair adjourned meeting to Friday, Nov 3, 8:30 AM

Palm Cafe. Present all Committee members.

Following lengthy discussion, the Committee  
approved the plan with the following stipulations:

note

see Director's  
determination

wood slates  
noted.

- ✓ 1. Hook-up to Crick Water System
- ✓ 2. Underground all utility lines
- ✓ 3. Exterior of building Redwood larking finish
- ✓ 4. One story with balcony
- ✓ 5. Mound type waste water system
- ✓ 6. Landscaping
- ✓ 7. Six foot or under cyclone/wood slatted fence  
for vehicular enclosure - Wrought iron  
fencing for perimeter.
- ✓ 8. All County Regulations to met  
Passed Unanimously by Board.

Sincerely,  
Gloria Zuber

ORICK DESIGN CONTROL COMMITTEE  
MINUTES  
MAY 21, 2003

Members Present: Blanche Blankenship, Kimberly Hufford, Rainie Johnson, Martha Peals & Ed Salsedo

Others Present: Larry DeBani & David Pierce

Chairman Blanche Blankenship called meeting to order at 9am in the McNamara meeting room.

Member Ed Salsedo expressed his concern regarding Member Kimberly Hufford being allowed to sit in on this meeting. Kimberly worked as an employee of Hufford Construction on the DeBani project. Mr. Salsedo perceives that she therefore has a conflict of interest regarding this project. Martha Peals stated that she too might have a conflict of interest regarding financial gain from this project, because of people eating at her Restaurant as well might Mr. Salsedo from his Bar.

Member Ed Salsedo announced that at the end of this meeting he will resign from the committee.

Chairman Blankenship explained to committee that landowner Larry DeBani APN 520-161-09 Case No. 1R-99-79 asked to call a meeting of this committee to discuss the fencing around his office building. In the Orick Design Control Committee minutes of October 27, 2000, #7 Six foot or under cyclone/wood slatted fence for vehicular enclosure and wrought iron fencing for perimeter.

Ed Salsedo moved and Rainie Johnson seconded to table this issue until we get further information from The County on the possible conflict of interest of Kimberly Hufford and more direction on what we are supposed to do regarding the DeBani project. Motion failed

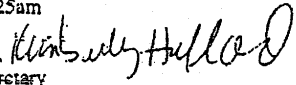
Landowner Larry DeBani and project architect David Pierce explained their concerns for a solid slatted fence running parallel to the front of the building.

Ed Salsedo left the meeting at 9:40am

Guests and committee members took a field trip to site.

Martha Peals moved & Kimberly Hufford seconded that this project should remain, as it is, no slats in fence, after Blanche speaks with the County. Motion carried.

Meeting adjourned 10:25am

Respectfully submitted,   
Kimberly Hufford, Secretary

# DAVID PIERCE ARCHITECT

346 OESCHGER LANE, FERNDALE, CALIFORNIA, 95536  
PHONE 707-786-4266 FAX 707-786-4966

June 5, 2003

Mr. Todd Sobolik  
Building Official  
Humboldt County Building Division  
3015 H Street  
Eureka, CA 95501

Re: Redwood National and State Parks, Town of Orick  
Final Occupancy  
Design Review Approval of the Fence

Dear Todd,

As a condition for receiving a temporary Occupancy Permit, Larry DeBeni was required to resolve the fence slat issue with the Orick Design Review Board. The original Design Review approval letter required slats in the chain link fence. On May 21 Larry DeBeni and David Pierce met with the Orick Design Review Board and asked if they really wanted the slats in the fence or if they preferred the fence as it was installed (no slats). The Board took a short field trip to the site to look at the fence first hand.

The Board decided that they preferred the fence as it was installed, and gave their approval for issuing the final Occupancy Permit.


Sincerely,



David A. Pierce,  
Architect, C14818

Orick Design Review Board

MEMO:

DATE: June 17, 2003  
TO: Todd Sobolik, Chief Building Official  
FROM: Steve Werner   
SUBJECT: DeBeni / National Park Service Office Building

I have reviewed the letter and attachment you provided me from David Pierce Architect for the DeBeni project in Orick. Attached to his letter of June 5, 2003, were the minutes for the May 21, 2003, Orick Design Review Committee meeting. Addressed at this meeting was the clarification of the Committee's earlier condition regarding fence design. Per the referenced Minutes, the Committee found the current installation (chain link fencing without "slates") acceptable, and authorized the issuance of the final Occupancy Permit.

The decision by the Orick Design Review Committee became effective and final on June 5, 2003.

This last issue having been resolved, the Planning Division has no objection to your release of the final Occupancy Permit.

Please see me if you have any questions.

Cc: Director Girard  
Grand Jury File  
Project File

PRESITE APPLICATION

Owner:  
 HESS DOUGLAS  
 786-4266 DAVID  
 Contractor  
 LUCCHESI NICK

Mailing Address:

BUYER: LARRY & LISA DEBENI  
 P.O. BOX 79  
 CUTTEN, CA 95534

Project Location:

Parcel No. 520-161-09

0121200 HWY 101

Project Description:

*North Hwy Rd. on left past Palm Cafe. North Hwy Rd. on left past Palm Cafe. North Hwy Rd. on left past Palm Cafe.*

CONSTRUCT OFFICE BUILDING AND COVERED ENTRYWAY FOR NATIONAL PARK SERVICE

Inspector District: 7	Approx. Sq. Ft.: 26400	Est. Proj. Val: \$0
Public Water: Y	No. of Stories: 2	No. of Units: 1
Public Sewer: N	Height: 40	To Presite? Y
Garbage Disp:	Bedrooms: 0	
Parking Spaces: 20-117	Fire SRA: Y	
Improv. Level:	SRA Exempt: N	Public Road? N

I attest to the above and hereby grant right of entry for inspection purposes: X

*[Signature]*

COUNTY OF HUMBOLDT  
 Presite Receipt

Date: 06/07/01  
 Time: 16:43:19

Receipt No. 22999

Parcel No. 520-161-09  
 Applic. No. 15030

PS Inspection	\$61.50
Plan Chk Dep.	0.00
Health	795.00
SRA FEE	22.00
	0.00

Name and Address of Payee:

HESS DOUGLAS  
 BUYER: LARRY & LISA DEBENI UM  
 P.O. BOX 79  
 CUTTEN CA 95534  
 Phone No. 786-4266 DAVI

Total Due	\$878.50
Amount Paid	878.50
Balance Due:	\$0.00
Ca/Ck/Cr	CK

Fee Expiration Date: 12/04/01

Received by: DMJ

15030

DEBENI, LARRY

06/07/01

APN 520-161-09

02-0967

# DAVID PIERCE ARCHITECT

346 OESCHGER LANE, FERNDALE, CALIFORNIA, 95536  
PHONE 707-786-4266 FAX 707-786-4966

March 28, 2003

Mr. Todd Sobolik  
Chief Building Official  
Humboldt County Building Department  
3015 H Street  
Eureka, CA 95501

**RECEIVED**  
APR 03 2003  
HUMBOLDT COUNTY  
BUILDING DEPT.

Re: Redwood National and State Parks Building  
Town of Orick  
Design Review

Dear Todd,

This letter is to confirm that the referenced project as currently designed is essentially the same as the one presented to the Design Review committee.

The gross building area is 26,400 square feet. In the letter that accompanied the materials submitted to the Orick Design Review Committee, the stated size of the building was 26,500 square feet.

The site plan and rendering shown to Design Review Committee is attached.

The concept design rendering depicts a building that is one story in height but appears to have two stories at the center, entry area. Behind the windows was to be a mechanical room housing heating and ventilating equipment. The higher peaked roof is for architectural effect only. This was done so that the building would be better proportioned, so it would not look like an overly long, boxy industrial building, but one with some architectural articulation so that it would be a more appropriate structure for a downtown. The proposed building was technically two stories because of the mechanical room. This was not intended, however, to be open to the public.

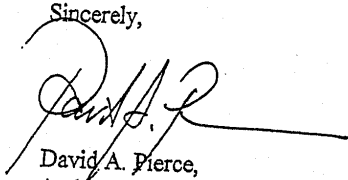
During the design process, the National Park required that a portion of the building be moved to the second floor. The area required to be on the second floor is a storage area for artifacts that are rotated into the museums and interpretive centers in the park. The collection is irreplaceable. It includes Indian artifacts and even some specimens of extinct animals. Even though this particular site is considered above the 500 year flood plain by FEMA, in the event that the Redwood Creek levee failed, this site could be inundated. Having the collection on the second floor was an extra level of insurance the Park needed. This Collections storage area, an Archival Library and several offices for those responsible for the collection are on the mezzanine along with the mechanical equipment that was originally planned to be there. When this requirement was presented to the planning staff, they agreed that the design intent of the original sketches was

being followed. The second floor windows seen from the front still open into a mechanical equipment mezzanine. The second floor is still accessible only to NPS staff.

We did try to make contact with the Design Review committee at the time but Gloria Zuber, the chairperson, had recently passed away and we had no other Design Review contact.

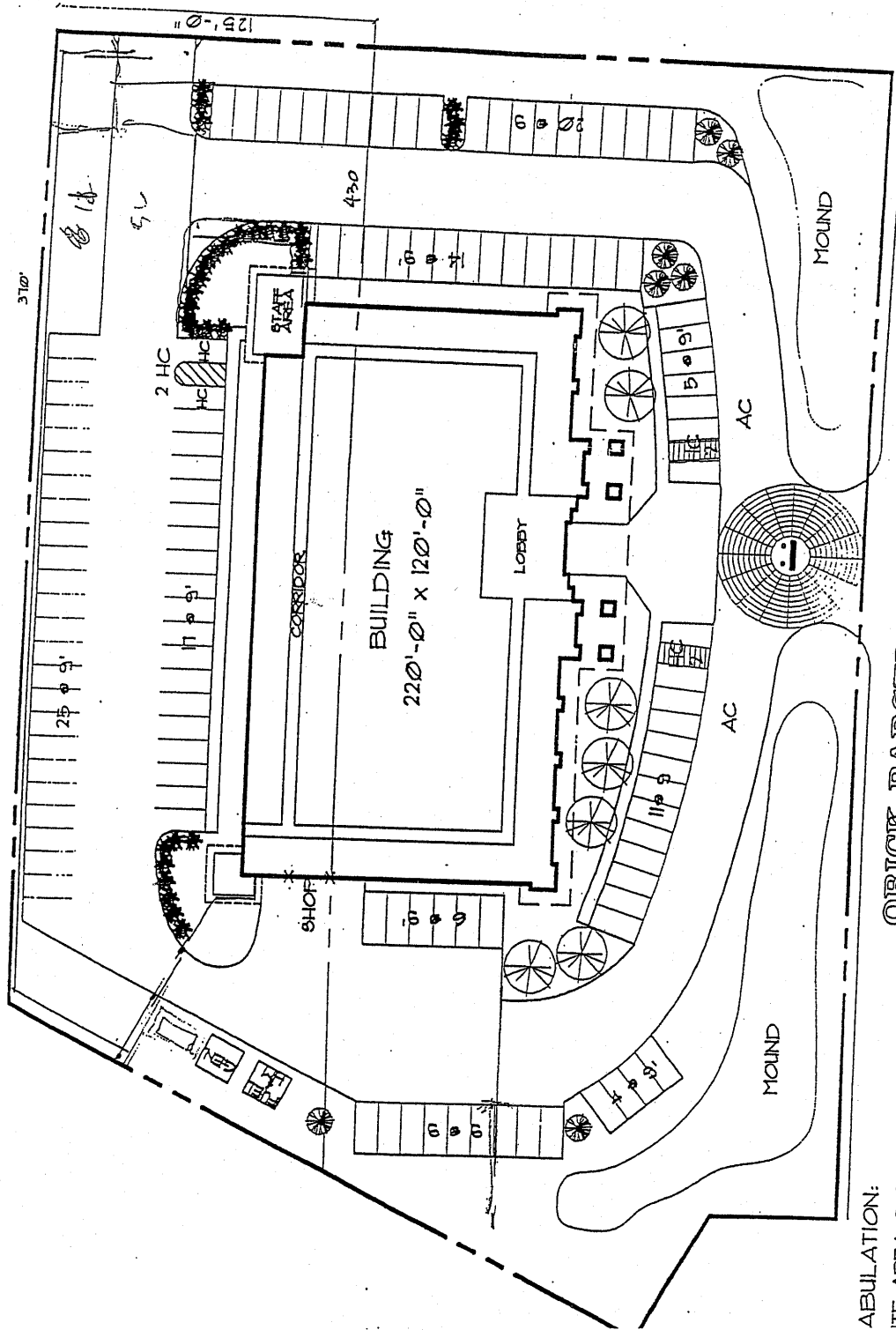
The height of the building has stayed substantially the same since those initial sketches. The highest main roof is at approximately 38 feet above the surrounding grade with the central architectural projection extending to about 51 feet. This is essentially what was graphically depicted on the original concept sketch, although the rendering did not include dimensions.

Sincerely,

A handwritten signature in dark ink, appearing to read "D.A. Pierce", with a long horizontal flourish extending to the right.

David A. Pierce,  
Architect


Cc: Larry DeBani



**ABULATION:**

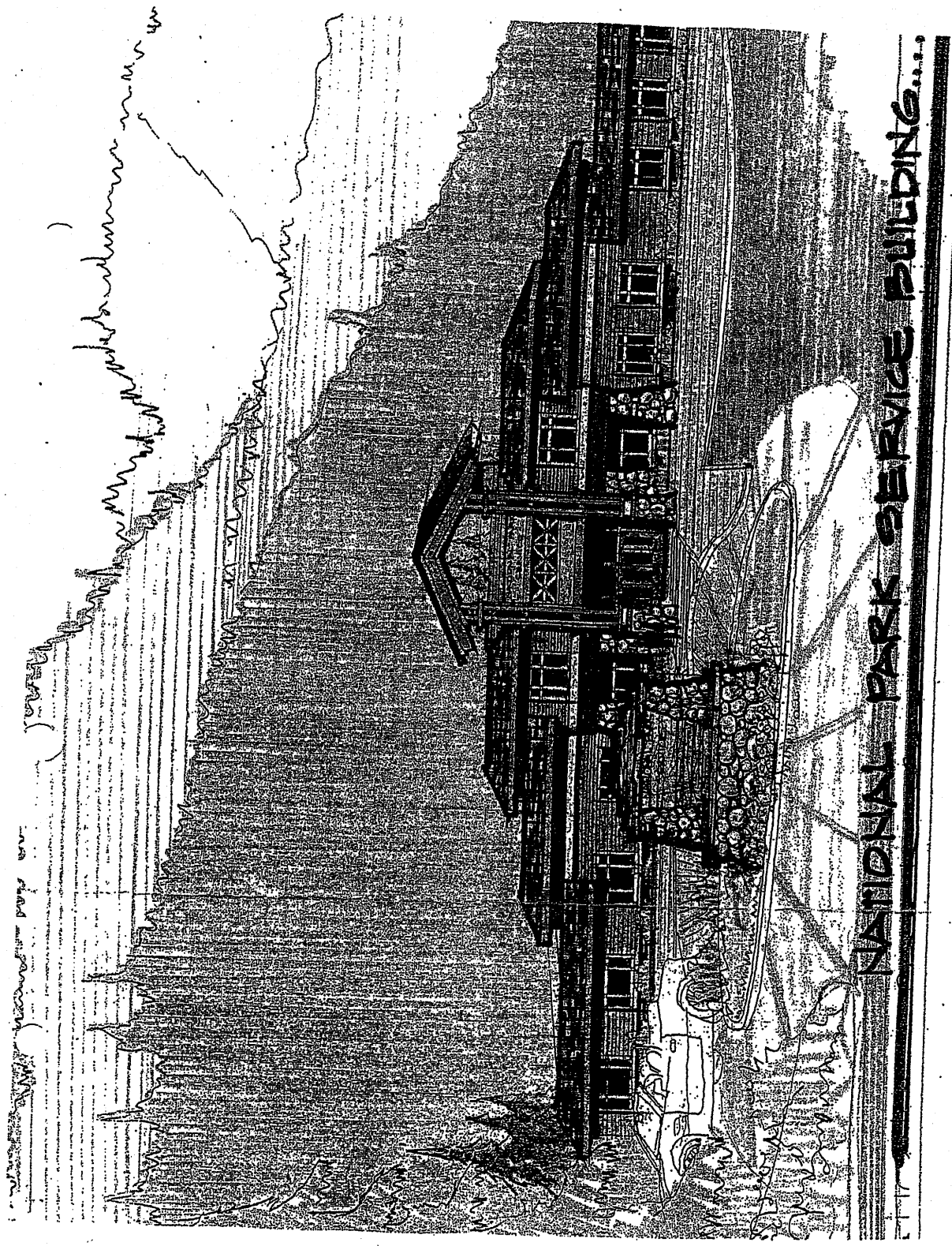
SITE AREA: 3 ACRES  
 LDG. AREA: 26,400 SF  
 PARKING SPACES: 117  
 PAVING AREA: 60,000 SF  
 PERMIT #: 520-161-09

**ORICK PARCEL**


**SITE PLAN**  
 8/29/00 SCALE: 1/32" = 1'-0"

US 101

**DPA**  
 DAVID PUGH AND ASSOCIATES



County of Humboldt  
Planning Division

MEMORANDUM

DATE: August 22, 2002  
TO: File  
FROM: Kirk A. Girard, Director of Planning and Building  
Prepared by: Steve Werner, Supervising Planner (SW)  
SUBJECT: Substantial Conformance Review Finding; Debeni, L., Applicant; APN  
520-161-09; Orick Area

After review of the project file, including the Building Plans and the Design Review Committee letter of November 3, 2000 regarding the above application, the Director has re-affirmed his earlier determination that the proposed office building is in substantial conformance with the conditional approval granted by the Committee.

The street view of the building per the elevation drawing is predominately a single story building with balcony. The use of the center raised portion of the building for storage and office space does not alter the building facade as reviewed by the Committee. Further, the balcony feature remains as previously described and the building height at its highest point remains under the permissible building height for the zoning.

Based on the above, the Director has authorized release of the Planning clearance for this building permit.

## CONCLUSION

Input and opinion from the representatives of Orick was ignored or at best marginalized. This was best demonstrated in a letter from the project architect dated April 4, 2003 explaining why certain changes were made..." We did try to make contact with the Orick Design Review Committee at the time (of these changes) but the chairperson had recently passed away and we had no other Design Review contact." This statement was made in spite of the fact that (a) the chairman had passed away a year and a half prior to writing this letter, and (b) the architect had met with three other members of the review committee and had access to membership from contact with the Planning Division. Missing from this process was the intent and the effort to communicate. Citizens have no control over developers. However, they do have government agencies to act as their representatives. When these agencies fail to act in the public interest they fail in their obligations and responsibilities to their constituents. In the case of the Orick project it is clear that the public interest was secondary to the interests of others. The stated position of the Planning Division is that citizen dissatisfaction with the project is more a complaint residing "in the eye of the beholder." The Planning Division failed to see a building in utter disproportion to the hillside that serves as a backdrop or an exterior out of keeping with the environment of the redwood forest, and out of compliance with the Humboldt County General Plan, Volume II, Orick Community Plan (May 7, 1985) and Humboldt County Code Section 314-19.1: "It is the purpose of the Design Control Combining Zone to . . . provide controls and safeguards to preserve and enhance areas of historical, scenic, civic or cultural values of the County." Most important to the citizens of Orick, the Planning Division, the developer and his client failed to understand that in every word and deed they sold the citizens of Orick a building plan that would be a fitting and picturesque addition to their community and delivered, instead, a large building, completely out of proportion with the community and the surrounding pastoral area; in other words they sold the citizens of Orick a horse, but in the end delivered a mule. To quote one member of the Orick community: "The Planning Division forced their decisions down our throats."

### COMMUNITY DEVELOPMENT SERVICES RESPONSE TO CONCLUSION:

The Grand Jury refers to a letter prepared by the project architect as evidence that input and opinions from the ODCC were not considered. The letter dated March 28, 2003, refers to the changes made to the interior of the building. The project architect and CDS had no obligation to refer these changes to the ODCC because they did not affect the exterior appearance of the structure. The completed building is the same as the original architectural rendering presented and approved by the ODCC on November 2, 2000. The Redwood National and State Parks Administrative Building permit process was conducted in full conformance with County General Plan policies and land use regulations.

## RESPONSES

**THE FOLLOWING RESPONSES TO REPORT 03-PW-03 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

- 1. The Humboldt County Board of Supervisors shall respond to recommendations R1**

through R6.

2. The Humboldt County Community Development Services, Planning Division shall respond to R1 through R6.

## REPORTS

### **GRAND JURY REPORT NO. 03-CC-01 FOLLOW-UP TO THE 2000-2001 GRAND JURY REPORT Continuity Committee**

## INTRODUCTION

The Humboldt County Grand Jury is charged with the authority and responsibility to investigate and report on the functioning of local government. Local government entities, which are addressed in grand jury reports, are required by state statutes to reply to the Presiding Judge of Superior Court within a specific time frame using a limited range of responses, pursuant to California Penal Code, section 933.05 (PC 933.05)

One continuing obligation of the grand jury is to monitor the actions of local government entities in response to the findings and recommendations of prior grand juries. The purpose of this monitoring process is to determine what actions local government officials have taken regarding recommendations they agreed to implement or to study for possible implementation. The time frame allowed for items to be studied shall not exceed six months. [PC 933.05,(b),(3)].

## PROCEDURE

The written responses provided by local government officials to the 2000-2001 Humboldt County Grand Jury Report were reviewed by the 2002-2003 grand jury. All responses concerning recommendations which officials agreed to implement, or to study for possible implementation, were identified for follow-up investigation. Appropriate documents were consulted and officials were contacted to determine what actions had been taken toward implementing the agreed to recommended improvements.

The following information is a synopsis of the recommendations and responses contained in the 2000-2001 grand jury report and investigation results for those areas in which changes were expected. For a full text of the recommendations and responses to the 2000-2001 grand jury report, please contact the Humboldt County Library to examine a copy of the 2000-2001 Humboldt County Grand Jury Final Report and Responses.

***Note: No responses are required for items in this Continuity Report 01-01***

### **Report 01-02    INFORMATION SERVICES DIVISION**

## INTRODUCTION

The Information Services Division (ISD) is responsible for assisting the County Board of Supervisors, all county administrative offices, managers, and staff in improving work methods and productivity through the application and use of a variety of automated services and methodologies. ISD maintains the integrity and security of official county information as the county conducts its business.

THE HUMBOLDT COUNTY 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING  
R-3 Personnel require extensive background checks on all new ISD staff  
INFORMATION SERVICES RESPONSE

The recommendation will require further analysis. The procedures and costs of background checks must be determined with resource and budget issues identified. After appropriate analysis, the issue will be brought to the Board of Supervisors prior to December 31, 2001.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F1:** All employees in ISD are finger printed and have background checks through the sheriff's department, which uses Live Scan. This is a state system that maintains criminal history records.

**Report 01-03 HUMBOLDT COUNTY SHERIFF'S FARM**

**INTRODUCTION**

Members of the Humboldt County Grand Jury visited the Humboldt County Sheriff's Farm located next to the Rohnerville Airport in the Fortuna area. Members of the grand jury met with two officers from the Sheriff's department and were given a tour of the farm and its operations. There were Sheriff's Work Alternative Program (SWAP) personnel performing work at the farm during the visit.

THE HUMBOLDT COUNTY 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:

R-1 A tractor located at the Sheriff's boat yard be transferred to the farm.

SHERIFF'S RESPONSE:

Partially agree.

The tractor located at our boat yard is used frequently in moving large and sometimes extremely heavy equipment. We need a tractor for this same purpose.

We have since obtained an additional tractor with a front-end bucket and a backhoe. We are using this tractor at the farm to good advantage.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F1:** There is a tractor at the farm, but it has neither a front-end bucket or backhoe capability.

**Report 01-04 HUMBOLDT COUNTY CHILD WELFARE SERVICES**  
**HUMBOLDT COUNTY DEPARTMENT OF MENTAL HEALTH**

## INTRODUCTION

The Humboldt County Grand Jury received a citizen's request to investigate the handling of a case by Child Welfare Services (CWS) and the Humboldt County Mental Health Department (MH). The case involved the murder of a 14-year-old boy by his mentally ill mother who was a client of MH.

## PROCEDURE

The grand jury in its investigation interviewed fifteen individuals. These included personnel from the departments of mental health, social services, school personnel, concerned citizens and family members. The grand jury reviewed police reports, Suspected Child Abuse Reports, the California Penal Code, California Welfare and Institutions Code, section 827 and the California Child Abuse and Neglect Reporting Law (Humboldt County Guidelines for Mandated Reporters), and other documents.

## FINDING

### The 2002-2003 grand jury makes the following finding:

**F1:** Of the many findings and recommendations most were responded to with favorable explanations or had been implemented. Those regarding the refusal to allow the grand jury access to juvenile records deemed confidential per California Welfare and Institutions Code, sections 827 and 10850 the department was unable to respond to. No further improvements were anticipated on the basis of the responses provided.

## Report 01-05 HUMBOLDT COUNTY CHILD WELFARE SERVICES HUMBOLDT COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES

## INTRODUCTION

The Humboldt County Grand Jury has been asked by members of the Yurok Tribal Council to investigate the removal of two children, perceived to be covered by the Indian Child Welfare Act (ICWA), from a relative's foster care by Child Welfare Services (CWS).

## PROCEDURE

The grand jury in its investigation of this matter interviewed nineteen individuals. These were social service professionals, representatives of the tribal community, and friends of the family. The grand jury has reviewed many documents including copies of court records and proceedings, California Penal Code, several publications related to ICWA, written testimonials of friends and neighbors, California Child Abuse and Neglect Reporting Laws, Welfare and Institution Code, section 827, and a Resolution of the Yurok Tribal Council concerning one of the children.

## FINDING

### The 2002-2003 grand jury makes the following finding:

**F1:** Most of the responses given by the Humboldt County Department of Health and Human Services and the Child Welfare Service to the many findings and recommendations cited Welfare and Institutions Code sections 827 and 10850 as reasons for being unable to respond. Others were responded to with favorable

explanations or had already been implemented. No further improvements were anticipated on the basis of the responses provided.

**Report 01-06   ARCATA - EUREKA AIRPORT**

**INTRODUCTION**

The Arcata-Eureka Airport was first developed by the federal government during World War II as a place to train pilots in bad weather flying. Sometime after the war, this airfield was turned over to Humboldt County for civilian purposes. Humboldt County has existing leases at the airport. The grand jury reviewed two tenant leases during a routine examination.

**THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

**R-1** If it is decided to extend the trap and skeet club license agreement, any extension includes a provision for ownership and/or removal of all above ground improvements.

**BOARD OF SUPERVISORS RESPONSE**

Will be implemented at time of new lease agreement, June 30, 2002.

**FINDING**

**Finding of the 2002-2003 grand jury pertinent to R-1:**

**F1:** With no further access to the airports runways, which were a concern of the FFA, the county and Humboldt Trap and Skeet Club installed a new fence at no cost to the county. A new license agreement, which is a rental agreement, will have new updated language pertaining to land use and new cost to the club.

**THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

**R-2** The County provide for regular examination of Security Servicing Corporation financial records

**BOARD OF SUPERVISORS RESPONSE:**

Will not be implemented since existing lease is not based on income produced by the company and an audit of records therefore serves no purpose.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F2:** No action is expected.

**THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

**R-3** All obsolete and unusable materials, equipment, and debris be disposed of.

BOARD OF SUPERVISORS RESPONSE TO R-3

This recommendation has been implemented and is in process. The removal of obsolete and unusable materials, equipment and debris is an ongoing process. Because of the large amount of accumulated debris, a portion is budgeted for removal each year. Considering budget constraints, it will take several years to fully complete this recommendation.

**FINDING**

**The 2002-2003 grand jury makes the following finding pertinent to R-3:**

**F3:** The removal of obsolete and unserviceable equipment is an ongoing process at the airport.

**THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

R-4 The remaining underground fuel storage tanks installed by the federal government be removed.

BOARD OF SUPERVISORS RESPONSE:

Partially completed and the remainder is in process. Most of the underground tanks have been removed. The remaining tanks will be processed for removal through a contract with Winzler and Kelly.

**FINDING**

**The 2002-2003 grand jury makes the following finding pertinent to R-4:**

**F4:** Two underground fuel tanks were removed this year (2002) at a cost of \$25,000.00 per tank with the others to be removed at later dates. One other 50,000-gallon concrete fuel tank has been cleaned and will not be removed.

**THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

R-5 Upgrade the airport to include an air traffic control tower.

BOARD OF SUPERVISORS RESPONSE

Has been implemented. A mobile tower (temporary) has been secured and set up and is operational. Also funding for a permanent tower has been placed in the Federal budget by Representative Mike Thompson.

**FINDING**

**The 2002-2003 grand jury makes the following finding pertinent to R-5:**

**F5:** The airport is still waiting for the permanent tower. Until then the airport will continue with the fully operational mobile tower.

**Report 01-08      HANDICAP PARKING ACCESSABILITY IN CITY OF EUREKA**  
**PUBLIC PARKING LOTS**

**The 2002-2003 grand jury makes the following finding:**

**F1:** The 2001-2002 grand jury published a report on public parking in the city of Eureka which included

findings and recommendation in regard to ADA compliance. Therefore the 2002-2003 grand jury did no follow-up on this report.

**Report 01-09     CARLOTTA COMMUNITY SERVICES DISTRICT**

**INTRODUCTION**

The Humboldt County Grand Jury received two complaints about the Carlotta Community Service District. The Board of Supervisors on April 6, 1965, passed Resolution No. 2089; at that time, Carlotta Community Services District was formed pursuant to the provisions of Title 6 Division 2 of the California Government Code. Currently the Carlotta Community Services District Board consists of five members elected at large and a secretary: hereinafter known as the board. The Carlotta Volunteer Fire Protection Services was formed in the early 1950s. The Carlotta Volunteer Fire Department at this time has fifteen members: hereinafter known as the fire department. Lawsuits have been filed between the board and the volunteer fire department.

**PROCEDURE**

The grand jury interviewed members of the board and the fire department. In addition the grand jury inspected the two fire halls and equipment.

**NOTE:** The response to this report was inadvertently left out of the 2000-2001 grand jury final report and responses. There was a note in that report indicating that, "No response from Carlotta Community Services District has been submitted through the County." The response was in fact submitted on August 31 2001 and was published in its entirety in the Final Report and Responses of the 2001-2002 grand jury.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F1:** All recommendations made by the 2000-2001 grand jury have been implemented.

**Report 01-11     HUMBOLDT COUNTY GARBERVILLE VETERANS BUILDING**

**INTRODUCTION**

The Humboldt County Grand Jury received a complaint from a member of the Veterans of Foreign Wars, Garberville Post 6354 concerning the lease with the County of Humboldt for the Garberville veterans building. The last lease agreement between the county and the Veterans of Foreign Wars was signed in 1985 and expired in 1987.

**THE HUMBOLDT COUNTY 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

R-1 The parties involved continue to negotiate as often as is necessary until differences are resolved and a lease signed.

**BOARD OF SUPERVISORS RESPONSE:**

Has been implemented and is in process. Negotiations to date have almost led to a mutually acceptable agreement, and the county intends to persevere as long as necessary to reach agreement.

### **FINDING**

#### **The 2002-2003 grand jury makes the following finding:**

**F1:** The agreement was executed and signed on September 17, 2002 between the County of Humboldt, the American Legion Post No. 494 and Veterans of Foreign Wars Post No 6354.

### **Report 01-12 HUMBOLDT COUNTY JAIL FACILITIES**

#### **INTRODUCTION**

Each year the Humboldt County Grand Jury inspects all jail and holding facilities in the county, pursuant to California Penal Code, section 919 (b). When warranted, follow-up visits are made to verify improvements or changes that may occur during the year. The following is a report of the grand jury's findings and recommendations for all facilities inspected during FY 2000-2001.

#### **Humboldt County Correctional Facility:**

##### **THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

R-1 The Board of Supervisors provides funding to hire and retain sufficient personnel for the Humboldt County Correctional Facility.

##### **BOARD OF SUPERVISORS RESPONSE:**

Has been implemented and further work continues in process. Law enforcement recruitment and retention issues are common throughout the region and the state. Sufficient funds are already budgeted to provide for mandated staffing levels. In addition, the Board has recently adopted a recruitment incentive plan to provide for bonuses to current employees for delivering successful Correctional Officer candidates. Other promotional opportunity incentives are also being considered to encourage additional applicants.

### **FINDING**

#### **The 2002-2003 grand jury makes the following finding:**

The Board of Supervisors continues to provide incentives for the recruitment of Correctional Officer candidates. These incentives include: a 5% salary increase, a \$500.00 referral bonus for delivering successful candidates, advancement incentives including paying for tuition at the Police Academy and continued salary during this training. Success of these efforts is indicated by the reduction of Correctional Officer vacancies from 26 in 2000 to 12 currently in 2003.

#### **Juvenile Hall and the Northern California Regional Facility:**

THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:

R-2 The Board of Supervisors provide sufficient funding and authorization to accomplish major remodeling of Juvenile Hall , addressing in particular, the bed capacity, kitchen facilities, and intake area.

BOARD OF SUPERVISORS RESPONSE:

Has partially been implemented. In March 1999, Probation Department was authorized to submit an application to the Board of Corrections (BOC) for a juvenile hall construction grant. In May 1999, the BOC awarded Humboldt County a construction grant in the amount of \$944,533, which requires a 25% local match and a commitment to fund staffing and operational costs necessary to support the project. The construction grant provides for remodeling of the juvenile hall including the addition of a secure and separate intake area, enlargement of the public lobby, upgrading of the facility perimeter and internal security systems and an expansion of the kitchen/food services area. Construction work began in April 2001 and is expected to be completed by January 2002.

With regard to the bed capacity, this requires further analysis. In February 2001, the Board considered the submission of two grant applications to provide for the addition of a 20-bed housing unit and classroom to the existing juvenile hall and provide for the renovation and upgrade of existing juvenile hall living units. These grants require a 25% local match, as well as a commitment to fund additional staffing and operational costs as may be associated with the project. It was determined that the county fiscal position made it impossible to make the financial commitment necessary for submission of the grant applications at that time. This will be reconsidered and evaluated during the next funding cycle.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F2:** The kitchen has a fairly new commercial kitchen and a new secure intake area called a sally port. The bed capacity has not been increased.

**City and County Jail Facilities:**

THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:

R-3 Replace toilets in Garberville Substation:

R-4 Provide sufficient mattresses in Hoopa Jail.

R-5 Continue to recruit a person for custodial service for the Hoopa Substation.

R-6 Replace toilets in the Hoopa Jail:

R-7 Replace the rear door at the Hoopa Substation:

R-8 Replace the fire door at the Hoopa Substation with one that meets state standards:

R-9 Modify the Hoopa Substation to comply with American Disability Act (ADA) standards:

BOARD OF SUPERVISORS RESPONSE TO RECOMMENDATIONS R-3 - R-9:

R-3 to R-8: The Board of Supervisors has no direct knowledge regarding this recommendation and defers to the response from the Sheriff.

R-9: Requires further analysis.

THE SHERIFFS RESPONSE TO RECOMMENDATIONS R-3 THRU R-9:

Agree.

**FINDINGS**

**The 2002-2003 grand jury makes the following findings:**

**F3** Pertinent to R-3: The toilets have been replaced in the Garberville Substation.

**F4** Pertinent to R-4: There are mattresses in the Hoopa Substation.

**F5** Pertinent to R-5: Custodial and maintenance is provided by the county building maintenance employees in Eureka

**F6** Pertinent to R-6: As of April 2003 the toilets in the Hoopa Substation had not been replaced.

**F7** Pertinent to R-7 The rear door has been repaired in the Hoopa Substation.

**F8** Pertinent to R-8 Did not determine if the fire door at the Hoopa Substation meets State standards

**F9** Pertinent to R-9 The Hoopa Substation does not meet ADA standards.

**Report 01-13 CLARK COMPLEX**

**INTRODUCTION**

The Humboldt County Grand Jury inspected the Clark Complex, located on Harris Street between H and I Streets. A survey conducted by the 1999-2000 grand jury of custodial and maintenance procedure highlighted certain problems with the Clark Complex. The original building was built around 1916 as a hospital. The Clark addition was added in the late 1950s. The hospital moved out in the late 1970s. This complex now houses county offices for the following departments: public works, planning, election's office, coroner's office, mental health, Sempervirens, rehabilitation center and various outbuildings used for storage.

**THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:**

R-1 The County meet ADA access standards at the main building of the Clark Complex.

**BOARD OF SUPERVISORS RESPONSE:**

Will be implemented. The county has currently contracted with a firm to conduct an evaluation of all county buildings for disability access. Changes identified as a result of this evaluation will then be prioritized and budgeted.

GENERAL SERVICES RESPONSE:

Agree. Access to the building for the disabled currently is from the ground floor. A phone allows people to contact Planning, Elections and Public Works who will open the locked doors and escort the person or persons to the elevator from which the elevator can be accessed. The county has two disabled employees at Clark who routinely use this access for the building. The county currently is updating its facilities, evaluations for all buildings, including Clark, which will be used to complete an ADA transition plan.

FINDING

The 2002-2003 grand jury makes the following finding:

**F1** The Board of Supervisors retained a consultant to assess the Clark Complex compliance with ADA. The consultant's report was received and approved in November 2002. A committee was formed under the direction of the Humboldt County Risk Manager, to comply with the consultant's recommendations. As of June 1, 2003 the committee had not met to set priorities for bringing the Clark Complex into ADA compliance. The committee chairperson recognizes need to do so at the first possible opportunity, but is restrained by budget considerations and the complexity and magnitude of the required upgrades. An upgrade presentation of priorities must be developed and presented to the BOS for their approval. No date for said presentation has been set.

Report 01-15 HUMBOLDT COUNTY VETERANS BUILDINGS

INTRODUCTION

The Humboldt County Grand Jury reviewed five existing Veterans building management agreements between veteran associations and the County of Humboldt. Pursuant to Chapter 2 Division 6 of the California Military and Veterans Code and California Senate Bill 544, the County of Humboldt may provide space, which may be used as a meeting place by the "Veterans Associations." Whenever a county has provided space for a meeting place to be used by the Veterans associations, its acceptance by the Veterans association constitutes a dedication for public purpose. The County of Humboldt may provide structural maintenance and improvements. Whenever a county has provided space, along with structural maintenance and improvements, and this action is accepted by the Veterans associations, it constitutes a dedication for a public purpose.

In all five of the Veterans building management agreements that were reviewed, the County of Humboldt has agreed to provide utilities. The County of Humboldt can use these buildings as disaster care centers or other emergency facilities during any state of emergency declared by the Board of Supervisors. The Veterans associations are required to submit budget reports to the Board of Supervisors.

THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:

R-1 The Board of Supervisors budget sufficient funds for Veterans buildings.

BOARD OF SUPERVISORS RESPONSE:

Will not be implemented due to budget constraints.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F1:** According to a memo from the Administrative Services Director dated December 2, 2002," the approved priorities for allocating \$200,000 (were) approved by the Board of Supervisors for deferred maintenance on Veterans' buildings. There will be an update to this in January as cost/bids are firmed up."

THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:

R-3 Veterans associations submit required budget reports to the Board of Supervisors.

BOARD OF SUPERVISORS RESPONSE:

Will be implemented. The Director of Administrative Services is hereby directed to remind associations of this requirement and provide a status report to the Board no later than December 2001.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F3** According to Administrative Services letter dated December 3, 2002, the county receives annual budget reports from Arcata, Eureka, Ferndale, Fortuna, Rio Dell and Weott Veterans associations. The county should also receive an annual budget report from the Garberville Veterans now that an agreement has been signed.

**Report 01-16 HUMBOLDT COUNTY GANG ACTIVITY**

**INTRODUCTION**

The Humboldt County Grand Jury investigated the gang problems in Humboldt County. Chiefs of Police from Eureka, Arcata, Fortuna, the Humboldt County Sheriff, and the coordinator of the Gang Risk Intervention Program (GRIP) appeared before the grand jury. GRIP is operated by the Humboldt County Office of Education.

THE 2000-2001 GRAND JURY RECOMMENDED THE FOLLOWING:

R-1 All law enforcement agencies and the Gang Risk Intervention Program (GRIP) continue working together.

R-2 All municipalities and the County seek additional funding from the California Department of Justice and other sources to help law enforcement agencies and the Humboldt County Office of Education GRIP deal with gang related problems.

BOARD OF SUPERVISORS RESPONSE

R-1 The BOS has no authority to control the actions of the elected Sheriff or the law enforcement officers from the various local entities.

R-2 Will be implemented and is in the process. The County will continue to take a proactive approach in seeking additional funds for all of its activities.

SHERIFF'S DEPARTMENT RESPONSE TO R-1 AND R-2

Agree

MUNICIPALITIES RESPONSE TO R-1 AND R-2

Agree

HUMBOLDT COUNTY OFFICE OF EDUCATION'S RESPONSES TO R-1 AND R-2

R-1 GRIP staff members collaborate with the Humboldt County Sheriff's dept. police departments in Eureka, Arcata Fortuna Blue Lake, Ferndale and RioDell, District Attorney, Probation Dept., Arcata, Eureka, Fortuna and McKinleyville High Schools.

R-2 The Eureka Police Dept., the District Attorney's Office, the Humboldt County Probation Dept. and the Humboldt County Office of Education have joined together to apply to the Office of Criminal Justice Planning's Gang Violence Suppression Program's Multi-Component Proposal for additional funding to combat gang activity. Our application is still pending at this writing.

The Humboldt County Office of Education's GRIP will continue to take a proactive approach in seeking additional funds for its activities. Current funding sources for the program have been received from the California Department of Education, the California Wellness Foundation, the Humboldt Area Foundation, and the Humboldt Art's Council. An additional funding proposal is pending with the McLean Foundation.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

**F1** Since nearly all of the funding for the Gang Risk Intervention Program (GRIP) comes from the State of California continued funding for this program is in serious jeopardy due to the state's current financial difficulties. The Humboldt County Office of Education has applied for federal funding, has received assurances of support from local law enforcement agencies, is working with local school districts to find ways to continue the program, and is committed to continuing the program as a top priority.

**Report 01-17    AMERICANS WITH DISABILITIES ACT TRANSITION PLAN  
OF THE CITIES OF ARCATA, EUREKA AND FORTUNA**

**INTRODUCTION**

As a result of recent publicity, the Humboldt County Grand Jury reviewed the Americans with Disabilities Act Transition plans of Arcata, Eureka and Fortuna. The Americans with Disabilities Act Public Law 101-338 (ADA) took effect January 26, 1992. Section 35.150 of Title II of the ADA required cities with more than fifty employees to complete a transition plan by July 26, 1992. The transition plan should show any physical barriers in the cities' facilities that limit accessibility of its programs, activities, or services to individuals with disabilities. The plan should show how the barriers will be removed and the date that they would be removed. Any structural modifications must be completed no later than January 26, 1995.

**PROCEDURE**

The grand jury reviewed documents from the U.S. Department of Justice regarding transition plans. They contacted employees in Arcata, Eureka and Fortuna and obtained copies of each city's transition plan. Each city was asked to provide a list of the barriers that it had removed and the date that the barriers were removed.

**THE 2000-2001 GRAND JURY MADE THE FOLLOWING RECOMMENDATIONS:**

R-1    The City of Arcata budget sufficient funds to complete their transition plan.

**CITY OF ARCATA RESPONSE**

The city of Arcata has and will continue to budget money to remove barriers as projects are designed and implemented.

**FINDING**

**The 2002-2003 grand jury makes the following finding:**

The City of Arcata has budgeted approximately \$170,000 in 2002-2003 to continue this work. They had removed disabled parking spaces from around the Plaza because they did not meet ADA standards but are currently in the process of installing new disabled parking spaces as part of the downtown redesign plan.

**COMMENDATION:** The 2002-2003 Humboldt County Grand Jury Continuity Committee commends the City of Arcata for continuing to budget funds for the removal of handicap barriers even though the city, like the State of California and other cities and counties, faces severe financial difficulties this year.

R-2    The City of Eureka budget sufficient funds to complete their transition plan.

**THE CITY OF EUREKA RESPONSE:**

Disagree. With the prior and currently proposed State take-a-ways, many city programs have been dramatically impacted or deferred. Staff hopes that as funds become available, the City Council will elect to allocate funds to proceed with barrier removal.

## **FINDING**

### **The 2002-2003 grand jury makes the following finding:**

The City of Eureka has budgeted \$178,157.82 in 2002-2003 to continue this work which includes \$63,157.82 to resurface and bring eleven City-owned parking lots into ADA compliance, \$20,000 to address "curb cuts" on city sidewalks, and \$95,000 for play structures and play surfaces at Highland Park to meet ADA standards.

**COMMENDATION:** The 2002-2003 Humboldt County Grand Jury Continuity Committee commends the City of Eureka for continuing to budget funds for the removal of handicap barriers even though the city, like the State of California and other cities and counties, faces severe financial difficulties this year.

R-3 The City of Fortuna budget sufficient funds to complete their transition plan.

### **THE CITY OF FORTUNA RESPONSE:**

The city cannot determine when the additional barriers will be removed. Each year the needs of the community are considered along with the revenues that are estimated to be available.

## **FINDING**

### **The 2002-2003 grand jury makes the following finding**

The City of Fortuna included a \$5,000 line item titled "Sidewalk Repair and ADA Program" in the Capital Improvements Project Schedule of the 2002/2003 Budget. In addition, the city has created an ADA Citizen's Advisory Committee to review the City's ADA Transition Plan.