

The Grand Jury
of
Humboldt County



2004 - 2005
Final Report



GRAND JURY
COUNTY OF HUMBOLDT

825 FIFTH STREET
EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2475

June 28, 2005

Honorable Timothy P. Cissna, Presiding Judge
Superior Court of California
County of Humboldt

Dear Judge Cissna:

This report is the result of over 7000 hours of intense work by 21 Grand Jurors - including alternates - over the past year. We have studied local governments, considered issues raised by individuals and media, and investigated over 150 complaints brought to the Grand Jury. We interviewed over 155 witnesses, some several times, drove hundreds of miles, and inspected numerous facilities. We analyzed thousands of pages of documents, some highly technical. We could not report on everything we checked or every place we visited or every complaint we looked into, but we were diligent in working on the public's business.

As it is every year, the 2004-2005 Grand Jury of Humboldt County was composed of a cross-section of your fellow citizens. Our ages range from 36 to 86. We are or have been teachers, administrators, social workers, government employees, mechanics, consultants, nurses, real estate investors, and business owners. Some among us have always lived in Humboldt County; others came here after living and working all over the United States and the world.

We found that almost all of the people employed by the county, the cities, and the special and school districts work very hard. They share our hope that together we can make our government more efficient, more effective, and more ethical.

We trust our recommendations will be accepted in the spirit we offer them, to improve this wonderful place we love and call our beautiful home, Humboldt County. Thank you for the opportunity to serve.

Sincerely,

Darlene Marlow
Foreperson

2004-2005 Grand Jury of Humboldt County Final Report

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The full text of the 2004-2005 Grand Jury Final Report is also available at <http://www.co.humboldt.ca.us/grandjury>. When the responses are received, sixty days after publication, they will also be added to the website.

N.B. The Grand Jury thanks the CEDAR Program students at Arcata High School for designing our beautiful new logo.

2004-2005 Grand Jury of Humboldt County

Darlene Couch Marlow Russell Lewis Diane Lehman Sue Oringer Stacey Kaspari John Matthew Morehouse	Foreperson Foreperson <i>pro tem</i> Recording Secretary Corresponding Secretary Sergeant-at-Arms Budget Chairman
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Richard E. Beller Anne Christen Cindy L.H. Costa Allan B. Edwards Stephanie Head Claudia Johnson Stacey Kaspari Bettie Boyce Lee Willa Diane Lehman Russell Lewis Darlene Couch Marlow John Matthew Morehouse Patricia S. Nolan Sue Oringer Evon Stalker Samuel B. Trumbull	Eureka Ferndale Eureka McKinleyville Eureka Eureka Eureka Fortuna Garberville Fortuna Trinidad Arcata Fortuna Bayside McKinleyville Arcata
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The Grand Jury of Humboldt County

The Grand Jury is an arm of the court yet an entirely independent body. The 19 Grand Jurors are citizens drawn from a pool of volunteers. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel, and the State Attorney General all act as advisors to the Grand Jury.

The Grand Jury seeks to assure honest, efficient government in the best interests of the people. It is a civil investigative body having for its objective the detection and correction of flaws in government.

One 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.

The Grand Jury serves as ombudsman for citizens of Humboldt County. It may receive and investigate complaints by individuals concerning the actions and performance of public officials.

Members of the Grand Jury are sworn to secrecy and conduct most of their work in closed sessions. 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 spokesperson for the Grand Jury.

In their official capacity, Grand Jurors are permitted access to inspect prisons, jails, and other government facilities. They also have the right 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 for one year. Some Jurors may serve for a second year to provide an element of continuity from one Jury term to the next. Continuity is also 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.

To be a Grand Juror in Humboldt County, according to Penal Code 893, a person must be: a citizen of the United States; 18 years or older; a resident of Humboldt County for at least one year; be in possession of natural faculties, of ordinary intelligence, of sound judgment, and of fair character; and be able to speak English.

The person cannot be serving as a trial juror in any court, discharged as a grand juror within one year, convicted of malfeasance in office or any felony or other high crime, serving as an elected public official.

In Humboldt County, citizens volunteer by writing
Jury Commissioner Betty Finley, Superior Court
Humboldt County Courthouse, 825 Fifth Street
Eureka, CA 95501 Or by calling 707-269-1270

Each spring, announcements are made calling for volunteers for the Grand Jury. People who have volunteered throughout the year are also notified. After a person volunteers to be in the pool, he or she is interviewed by the Presiding Judge. If the person is accepted for the pool, he or she is invited to an orientation and training program of at least one day, generally at the end of June or the beginning of July.

Soon after orientation and training, prospective jurors assemble in the Judge's courtroom. Nineteen jurors are chosen at random, less any jurors holding over from the previous jury with the Judge's permission. At least three alternates are also chosen, to fill in during the year should anyone chosen be unable or unwilling to serve the entire year. Then the Judge swears the new jurors in and admonishes them about Grand Jury secrecy, and they begin work.

Grand Jurors meet on Monday mornings from 9:00 to noon and on Tuesdays from 9:00 to 3:00. Sometimes committee work requires jurors to meet at other times to inspect a county facility or interview a witness or gather other information. Grand Jurors are paid a stipend of \$15.00 for every seven hours they are in session, not counting outside interviews or report-writing. Grand Jurors also get paid mileage from their homes to the Courthouse and back. The Grand Jury takes off the last two weeks of December but otherwise meets every week for the year term.

Grand Jury service calls for diligence, impartiality, courage, and responsibility. Selection as a Grand Juror is an honor. It is a unique opportunity to learn about government and to provide a valuable service to the community.

The Grand Jury would like to have members from all over the county who have diverse backgrounds, skills, and interests to assist with the work of helping county and local governments perform effectively, efficiently, and ethically.

Citizen Complaint Form

Grand Jury of Humboldt County
Humboldt County Courthouse 825 Fifth Street Eureka, CA 95501
707-476-2475 <http://www.co.humboldt.ca.us/grandjury>

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

Your Name: _____ Date: _____

Address: _____

Telephone Number and e-mail: _____

Complaint about which Agency, City, District, or County Department?

Address/Location: _____

Does complaint involve specific official(s) or employee(s)?

Name(s): _____

Does complaint involve a specific event? Date: _____ Time: _____

Location: _____

Please state your specific complaint, including names, locations, witnesses, and supporting facts. Use the back and attach additional sheets if necessary.

Your signature is required here

Grand Jury Report # 2005-AF-01 Animal Control Services

EXECUTIVE SUMMARY:

Beginning in 1998, Humboldt County experienced large increases in the costs of animal control services. The Board of Supervisors did not prepare to assume

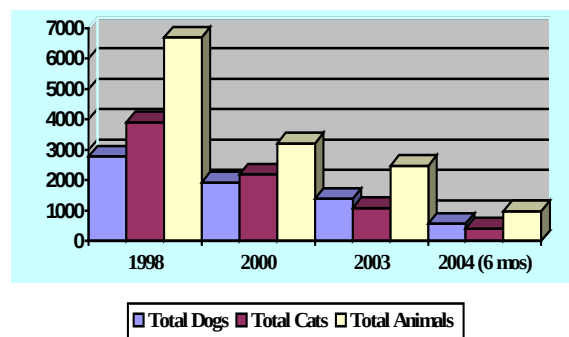
responsibility for animal control services. Relevant departments failed to respond to the Agricultural Commissioner's attempt to review and monitor the animal control services contract to insure the county received appropriate services for its money. The Grand Jury recommends more stringent accountability and oversight in all county contracts.

	DOGS				CATS			
Year:	1998	2000	2003	2004 (6 mos.)	1998	2000	2003	2004 (6 mos.)
TOTAL Animals Received:	2781	1928	1391	578	3913	2191	1091	414

WHO SHALL RESPOND:

Pursuant to Penal Code Sections 933 & 933.05, responses to the Findings and Recommendations of Grand Jury Report # 2005-AF-01 shall be as follows:

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



REPORT:

In May 2004, the Grand Jury received a citizen's complaint regarding the cost of animal control services. An investigation was undertaken to determine:

- If animal control costs had risen substantially over the past decade.
- If the process involved in contracting for animal control services was appropriate.
- If a competitive bid process was followed.
- If steps were taken to minimize contract overspending.

The Grand Jury studied Senate Bill 1785, passed in 1998, known as the Hayden Bill. It imposes additional requirements for animal shelter facilities (see http://www.leginfo.ca.gov/pub/97-98/bill/sen/sb_1751-00/sb_1785_bill_19980218_introduced.html). Although the animal control provider, Sequoia Humane Society (hereafter referred to as SHS), as a private non-profit organization, does not fall within the jurisdiction of the Grand Jury, the organization was helpful in providing information and background data.

Records provided the Grand Jury showed the following:

- On February 21, 2001, SHS offered to enter into a long-term contract with the county to provide animal control services. Although SHS had been providing such services for many years, they gave notice to the county of their intention to become a "no-kill" facility by 2010. SHS asked for the county's response no later than June 1, 2002.
- In their proposal to the county, SHS announced a surcharge of \$14,013 to be added to the

monthly cost of approximately \$21,000 for animal control services, the extra money to be used to finance the building of an enlarged and improved facility for animal control.

- In November and December 2001, SHS met with county and city representatives about the proposed contract, and again requested a response by June 2002. As of April 30, 2002, no response from the county had been received.
- SHS also notified the county of an increase in monthly fees from \$20,877 to \$21,921.
- On April 30, 2002, the Agricultural Commissioner, whose job it was to oversee the animal control contract for the county, recommended to the Board of Supervisors that a Request for Proposals for animal control services be developed rather than continue its relationship with SHS. In the meantime, the county and SHS agreed to maintain a month-to-month agreement for animal control services.
- On May 28, 2002, SHS appeared before the Board of Supervisors and cited the county's lack of response to SHS's proposal for a long-term contract. SHS again reminded the Board of SHS's intent to become a "no-kill" facility. Since the county appeared uninterested in entering into a long-term contract for animal control services, SHS offered a contract from 1/1/03 to 6/30/04, with a monthly fee of \$21,399 plus an additional fee of \$14,013 per month that would be used not for a building fund, but for an enhanced spay/neuter program.
- On May 28, 2002, the county offered a counter proposal to SHS that did not include the additional fee of \$14,013. SHS rejected the county's proposal, as it did not allow them to become a "no-kill" facility.
- On August 30, 2002, SHS again reminded the county that its current agreement for animal control services would end on 10/31/02. SHS once again submitted a proposal calling for the county to pay a fee of \$36,297 per month for animal control services.
- On December 17, 2002, the Board of Supervisors approved a contract between the county and SHS. The contract would run from 1/1/03 to 6/30/04, at which time the county would assume responsibility for animal control services and SHS would become a "no-kill" humane society.

SHS had regular independent audits to meet business and legal requirements, copies of which were provided to the Grand Jury. Until 2001, monthly bills submitted to the county by SHS itemized census figures on animals received, adopted, returned to owners, or euthanized. SHS continued to maintain such records, as required by the Hayden Bill, and provided those records to the Grand Jury. However, SHS acknowledged that those records were not provided to the county between January 2003 and June 2004. However, the records received by the Grand Jury show that SHS charged \$36,297 per month for the period of January 2003 to June 2004, an increase of nearly 50 percent for services to less than half the number of animals handled in 1998.

The Board of Supervisors, County Counsel, the Agricultural Commissioner, and the Auditor/Controller did not obtain a breakdown of the costs charged by SHS over the course of the last contract. County officials did not receive monthly, quarterly or yearly figures justifying the amount charged to the county for animal control services during this period. Discussions with the Humboldt County Sheriff's Department, Animal Control Division, revealed that comparisons of Humboldt County with neighboring counties show similar costs for animal control. This may indicate that SHS's charges were justified; however, this is only an assumption since no one in county government other than the Agriculture Commission received information or questioned the amount charged in order to determine whether the county's expenditure was justified.

During the course of SHS's last agreement with the county, animals continued to be euthanized for a variety of reasons, including viciousness, severe health problems, or non-adoptability. While this was contrary to SHS's desire to become a "no-kill" facility, SHS continued to exterminate animals on a regular basis. Charges included in the \$36,297 monthly rate included: food, clean up, medical care, paperwork, processing licenses and fines, accounting, staff expenses, extended open hours as mandated by the Hayden Bill, training, and inventory.

When the county elected not to enter into a long-term contract, SHS told the Board of Supervisors that the augmented portion of the contract funds would be used for spay/neuter services rather than for a new building. However, in the final contract between the county and SHS, there was no stipulation as to how the additional monies were to be spent. Furthermore, there were no specific figures showing costs per animal, making it impossible for county officials to determine whether costs per animal were reasonable and justified, even though The Hayden Bill added some extra expenses. These include:

- An extensive increase in paperwork and documentation.
- More hours of public access to shelters.
- A larger volume of animals handled by animal control.

Information received by the Grand Jury indicated that since 2002, despite repeated requests for information from SHS for an accounting of charges and expenses, such information was not provided to the county official responsible for oversight of the contract. The Board of Supervisors approved a contract with SHS. At the same time, the County Agriculture Commissioner was seeking an accounting for past contracts with SHS. The Grand Jury received testimony that no one wanted to “rock the boat” and mount a more aggressive inquiry into animal control costs. While no allegations of misconduct on the part of SHS are alleged, common business practices demand an accounting of charges incurred for services rendered. Because SHS did not bill in excess of the contracted amount, the county did not audit the contract for animal control services. Thus, the fault lies with the county for failing to develop a contract containing specific accountability language.

Some county officials were not aware of the specifics of SHS’s contract with the county until they reviewed it at the request of the Grand Jury, which provided copies. After reviewing the contract, the officials believed it did not specify a breakdown of specific services for the contracted amount of the agreement. The contract did allow for extra charges, such as \$14 a day for quarantine fees. The county never audited SHS because they were in compliance with the contract, which called only for a monthly payment and did not require documentation except for quarantine fees. When the county has a contract for a specific and set amount, an audit would not be triggered unless the contractor began charging amounts in excess of the contract. Furthermore, the county does not audit for operational performance.

When asked by the Grand Jury, county officials answered that County Counsel always reviews and approves all county contracts as to legality, but officials do not monitor compliance. The Grand Jury believes monitoring for contract compliance should be the responsibility of the signatory agency. Without monitoring, billing accuracy is difficult to determine. The Grand Jury also recommends that a clause specifying how long past records must be maintained should be included in all contracts. No such specifics were included in SHS’s contract with the county for animal control services.

The Grand Jury concludes that the monitoring of cost and accountability of contracts between the county and outside providers must have a higher priority than occurred in the contract with the Sequoia Humane Society. Significant cost increases in contracts between the county and SHS had occurred for at least three years. Heightened oversight of contracts for goods and services paid for with public funds will result in more resources available for other projects. The Grand Jury believes these times of budget crisis require greater care in monitoring expenditures.

Findings and Recommendations

Finding 1: The final contract between the county and Sequoia Humane Society did not stipulate how the augmented portion of the monies were to be spent, nor was there a specific cost per service or item. Therefore, there was no way for the county to determine whether the contract costs were reasonable or justified.

Recommendation 1: Specifics such as fees per unit of service need to be included in all contracts along with a means to regularly monitor compliance and expenditures.

Finding 2: County Counsel reviews contracts for legality but not accountability or oversight responsibility.

Recommendation 2: County Counsel should ensure that each county contract include provisions for a specific county department to be accountable in a measurable way and include a provision for a specific department to have oversight responsibility for the contract.

Finding 3: The Board of Supervisors failed to assume timely responsibility for animal control services, thereby creating a situation which made it necessary to enter into a non-negotiable contract that did not assure best value for public dollars.

Recommendation 3: The County must assure that county departments adequately track contract expirations, so that a competitive bid process or at least negotiations can be initiated in time to insure cost-effective services without a break.

Grand Jury Report #2005-CD-01 An Investigation into the First Time Home Buyer and Housing Rehabilitation Programs in the City of Rio Dell

Executive Summary

The Grand Jury finds that the First Time Home Buyer and Housing Rehabilitation Programs are not being adequately monitored by the City of Rio Dell.

In July 2002, the city entered into a contract with state and federal agencies to establish a revolving loan fund of \$500,000 to be loaned to low-income families to purchase a first home. The funds were also available for home rehabilitation loans. The loans are to be repaid to make the funds available for others. Although the contract states specific responsibilities for all parties, the City failed to meet the contractual responsibilities.

The City contracted with Redwood Community Action Agency to administer the funds and manage the projects for a fee. The City Council authorized three First Time Home Buyer loans, one a combination of both the First Time Home Buyer and Housing Rehabilitation programs.

Problems with this combination project became apparent very soon. Alarming structural and safety issues were ignored in favor of superficial cosmetic repairs. An investigation by the Grand Jury revealed that the program was not being monitored. For example, termite and structural reports were not being appropriately analyzed and corrective action was not taken. Serious health and safety issues were not addressed. Construction was done without an approved set of plans or a permit. The contract specifically requires both. While it is understandable that the small city finds it necessary to contract for the services of a project manager, it is essential for the city to maintain supervision of this third party.

The Grand Jury recommends that the City of Rio Dell meet its oversight responsibilities as well as establish and implement procedures which will assure that health and safety issues take precedence in all home purchases and rehabilitation projects using public funds.

Who Shall Respond:

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-CD-01 shall be provided as follows:

- Rio Dell City Council shall respond to Findings and Recommendations 1, 2, 3, and 4
- Rio Dell City Manager shall respond to Findings and Recommendations 1, 2, 3, and 4

Report

In response to a citizen complaint, the 2004-2005 Grand Jury conducted an investigation into the First Time Home Buyer/Rehabilitation Programs specifically in Rio Dell. The problems the Grand Jury found in Rio Dell could occur in First Time Home Buyer/Rehabilitation Programs similarly administered

throughout Humboldt County.

The City of Rio Dell signed a contract with the state Department of Housing and Community Development and the federal Department of Housing and Urban Development. This agreement was in force from July 15, 2002, until March 31, 2005. The City Manager recently announced the city's application for a new contract with these agencies.

The contract provided for a revolving loan fund in the amount of \$500,000. The funds were to be loaned to low-income families to permit them to purchase and rehabilitate homes for themselves. The program could benefit both the families and communities involved.

Rio Dell is small, and most city employees serve in a number of capacities. The city hired Redwood Community Action Agency (RCAA), an outside non-profit agency, to administer the program. From then on, the City of Rio Dell allowed work to be done without plans or building permits, did not require timely inspections, failed to monitor progress of the project, and dispersed funds with virtually no oversight, approving without adequate review whatever the RCAA project manager proposed. Unfortunately, as a representative of RCAA later admitted, RCAA did not have sufficient experience to perform the tasks required.

RCAA assigned a long-time employee, a Housing Programs Manager, as project manager. This individual had managed the two previous First Time Home Buyer projects, as well as several previous Housing Rehabilitation projects done in Rio Dell. A representative of RCAA later pointed out that their Housing Programs Manager had never supervised a project combining both programs. Everyone involved underestimated the complexity of this combined project.

The project manager approved the house for the combined program and helped facilitate the purchase, indicating that the problems of the building would be corrected under the Housing Rehabilitation program. The buyer occupied the home as planned during the rehabilitation.

A termite inspection was done on July 22, 2003. The project manager did two work write-ups. The first, done on July 24, 2003, was for the buyer. The project manager sent the second to the Office of Historic Preservation, a division of Department of Parks and Recreation, state of California, on September 29, 2003, for approval of the rehabilitation of the historic dwelling. The write-ups do not mention the extensive termite and dry-rot repair recommended by the termite report. The City of Rio Dell ignored this important inspection, which directly relates to health and safety issues.

Cosmetic issues were the focus of both write-ups. Both include work on siding, paint, windows, doors, wiring, floor coverings, and replacing the water heater, as well as restoring a functioning bathroom and kitchen. In the Historic Preservation write-up, installation of a heating system was included for the first time.

Other than the 2003 termite inspection, no structural inspection was ordered until August of 2004. The structural inspection revealed that many of the problems in the house were long-standing: overstressed beams, a failing post and pier foundation within the perimeter foundation, dry rot, and recurring water damage. The house had actually been moved once in its seventy-year history. Had an adequate investigation been done prior to the beginning of the project, the house would never have been accepted for the program. According to a report dated September 21, 2004, from the state CDBG (Community Development Block Grants) Program of the Community Development Section of the Department of Housing and Community Development of the State of California, "...if RCAA staff had done all their due diligence at the beginning of the project, then it could not have been approved by the city loan committee."

Increasingly aware of health and safety issues which were not being addressed, the home buyers agitated for further action. At their insistence, an inspection and investigation was done by two inspectors from the federal Department of Housing and Urban Development (HUD) on September 16 and 17, 2004.

As required by HUD's investigation, the City of Rio Dell was directed to advance up to \$50,000 as a grant to the home buyers above the amount loaned. These funds were designated to clear the problems in the lead-based paint report, clear the problems in the termite report, replace existing floor coverings, repair the roof, install vents, install a sump pump with surface drain line, finish or repair the waste vent, and install a forced air heating system. The grant also included the cost of an independent project manager, all permits required by Humboldt County rather than Rio Dell, and relocation costs for the home-buying family to vacate the house for thirty days during major repair work. This situation would not have arisen had the City of Rio Dell required and analyzed adequate inspections prior to approving the loan.

While this action resolved problems for the home buyer, these funds were taken from the revolving loan fund as a grant. These funds will not be paid back; therefore, the funds will not be available for others in the community. The funds available through these state and federally-funded programs can make a tremendous difference to low-income families in Humboldt County. They need to be administered judiciously.

The Grand Jury investigation determined that the City of Rio Dell did not exercise due diligence in the oversight of the First Time Home Buyers and Housing Rehabilitation programs. Such oversight is required by the contract: "Obligations of Grantee (the City) With Respect to Certain Third Party Relationships The Grantee (the City) shall remain fully obligated under the provisions of this agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the program with respect to which assistance is being provided under this agreement to the Grantee."

Findings and Recommendations

Finding 1: The City of Rio Dell failed to exercise due diligence in the oversight of RCAA in its role as project manager of the First Time Home Buyers/Housing Rehabilitation programs.

Recommendation 1: The Grand Jury recommends that the City Council, the City Manager, and city employees establish and implement procedures to insure that pertinent inspections, work write-ups, contracts, permits, and invoices are reviewed and verified.

Finding 2: Project invoices were paid when no permit had been issued.

Recommendation 2: The Grand Jury recommends that a system of checks and balances be instituted which insures that no payments are made unless and until a permit has been issued.

Finding 3: The City of Rio Dell frequently does not respond appropriately to complaints from citizens involved in programs which should be overseen by its staff and officials.

Recommendation 3: The Grand Jury recommends that the City of Rio Dell develop and implement a standardized citizen complaint form and procedures for appropriate response.

Finding 4: The City of Rio Dell did not periodically review the project or maintain files of the work in progress in the city offices as required by contract.

Recommendation 4: The Grand Jury recommends that the City Council, the City Manager, and appropriate staff periodically review these projects and maintain proper records as required by the contract. If it is necessary to hire an outside agency to administer project, a representative of that agency should report regularly to the City Council and the City Manager. Oversight of these projects must be a priority.

Executive Summary

Manila Community Services District (MCSD) provides and manages both water and sewer services, and public recreation and parks. Water and sewer operations are self-supporting through the charge of user fees to customers. Recreation and parks operations are primarily funded by government grants, charitable donations, and fund-raising events. Recreation and parks do not charge significant user fees. Water and sewer funds are “loaned” to cover recreation and parks shortfalls; these “loans” are rarely repaid. Since water and sewer operations are vital to health and safety, greater priority needs to be given to system replacement, updates, improvements and repairs. While recreation and parks enhance culture and quality of life, costs and finances for such aesthetic civilities must not be allowed to overwhelm water and sewer operations.

The Grand Jury recommends that MCSD discontinue using the water and sewer fund to subsidize recreation and parks. The Grand Jury further recommends that MCSD establish and maintain prudent reserves and comply with audit recommendations.

Who Shall Respond:

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-CD-02 shall be provided as follows:

- The Board of Directors of the Manila Community Services District shall respond to Findings 1 through 6 and Recommendations 1, 2a, 2b, 2c, 3, 4, 5, and 6
- The General Manager of the Manila Community Services District shall respond to Findings 1 through 6 and Recommendations 1, 2a, 2b, 2c, 3, 4, 5, and 6

Report

The Grand Jury conducted an investigation of the Manila Community Services District (MCSD) in response to citizen complaints. The MCSD was established in 1965. Among the purposes for which MCSD was organized were water and sewage services and public recreation and parks.

As the MCSD is now organized, the water and sewer functions are funded by user fees, and are self-supporting. These fees are designated as "Enterprise Funds." The recreation portions of the MCSD are supported by grants, charitable fund-raisers, and rent for the community center building. These are designated as “Non-enterprise Funds.”

The recreation operations provide numerous programs that meet a vast array of diverse needs within the community. The level of community spirit, commitment and volunteerism in Manila is outstanding. Members of the MCSD Board exhibit this spirit. Unfortunately, spirit alone is not enough. Board members need to have familiarity with practices common to non-profit public Boards: adherence to their own policy and procedural manual, willingness to incorporate auditor’s recommendations, and ability to maintain records adequate for auditing purposes. The turnover rate of Board members is substantially higher than expected; often, elected Board Members resign and must be replaced with new appointments.

The recreation branch of MCSD frequently experiences budget shortfalls. These shortfalls are sometimes covered by shifting Enterprise Funds into the Non-enterprise portion of the budget. This means that money paid by water and sewer customers is transferred to pay for parks and recreation programs. These budget adjustments are supposed to be temporary.

The shortfalls are most often caused by problems with grant applications and award schedules resulting in delays in payment and lower levels of funding than budgeted. One problem with “lending” money to the grant-supported recreation programs is that the terms of such grants preclude their use for debt reduction. When money does come in, it cannot be used to repay the Enterprise Funds. As a result, the only source of repayment of the water and sewer money is from public fund-raising events.

In the past, a substantial percentage of the fund-raising income was from a concession booth at Reggae on

the River. MCSD has lost its Reggae on the River concession, a loss of about \$20,000 per year. As yet no substitute for this income has been found.

Over a period of years, the Non-enterprise programs have not returned the “borrowed” Enterprise Funds. This pattern of non-repayment has accumulated a debt of about \$50,000 by recreation to water and sewer. A permanent transfer of Enterprise Funds to Non-enterprise Funds is not allowed under California Government Code 61000 et seq. MCSD may not authorize a gift of water and sewer money to the parks and recreation programs.

The community center and park buildings incur utility expenses, including water and sewer fees. In July 2004, the MCSD Board forgave \$5882 in 2003-2004 water and sewer charges to the community center and park funds. More recently, in a creative effort to reduce operating costs of the community center, the Board has considered reimbursing the community center and park funds for past water and sewer charges. The Grand Jury questions the retroactive reimbursement of several years of water and sewer charges to the community center and park funds.

The Grand Jury finds that funds needed for maintenance and improvement of water and sewer systems are being depleted by these fund transfers. Also, there are no formal loan documents outlining conditions of loans and repayment, as mandated in MCSD’s policy manual Section 6000-Financial. The Grand Jury finds that such transfers are not prudent. Recovery of these funds is difficult because the sources of income for parks and recreation are uncertain, unpredictable, and restricted.

The fund transfers have made it extremely difficult for MCSD to establish and maintain a prudent reserve. Population growth and aging infrastructure dictate the need to be prepared for improvements and increased maintenance of both water and sewer systems. The continued neglect of this issue could lead to dire consequences including astronomical rate increases.

The 2004 annual financial audit notes that MCSD “...has not complied with the requirements of the Environmental Protection Agency (EPA) regarding user charges for the grant funded wastewater treatment facility. The EPA requires that sewer rates include sufficient income to fund the cost of system replacement. Approval of remaining rate increases recommended by the rate study performed previously [1998] will help build reserves for sewer system replacement and insure the District’s compliance with EPA requirements.”

MCSD responds inadequately to audit recommendations. Several annual audits have recommended implementation of the 1998 sewer rate analysis, but have not been acted on. Action is long overdue. Other accounting irregularities repeatedly noted in annual audits – such as improper purchasing practices by recreation personnel, inadequately documented receipts, and insufficient checks and balances - also remain uncorrected. In addition to giving scant attention to audit recommendations, MCSD has neglected to monitor mid-fiscal year shortfalls. Frequent and aggressive budget analyses should be performed periodically throughout each year. Problems should be addressed as they arise. When recreation and park costs exceed income, their budget should be adjusted accordingly, rather than covering the shortfall from water and sewer funds.

Findings and Recommendations

Finding 1 The Grand Jury finds that the MCSD has not ordered a rate analysis as recommended since their 1998 and subsequent audits.

Recommendation 1 The Grand Jury recommends that MCSD order a rate analysis and implement appropriate rate increases immediately.

Finding 2 The Grand Jury finds that the fiscal practices of MCSD preclude the establishment of necessary and prudent reserves.

Recommendation 2a The Grand Jury recommends that recreation and parks repay all water and sewer funds owed.

Recommendation 2b The Grand Jury recommends MCSD discontinue the practice of “temporary” transfers of funds from water and sewer to recreation and parks.

Recommendation 2c The Grand Jury recommends that MCSD establish and maintain prudent reserves for water and sewer system replacement, updates, improvements, and repairs.

Finding 3 The Grand Jury finds that MCSD has neglected to monitor and failed to respond appropriately to mid-year deficits.

Recommendation 3 The Grand Jury recommends that MCSD perform frequent and aggressive budget analyses throughout each year. When shortfalls occur, MCSD should adjust the budget accordingly instead of transferring water and sewer money to the recreation and park fund.

Finding 4 The Grand Jury finds that MCSD responds inadequately to audit recommendations.

Recommendation 4 The Grand Jury recommends that MCSD comply with audit recommendations.

Finding 5 The Grand Jury finds that MCSD has failed to repay “transfers” from the water and sewer Enterprise Funds made to the recreation and park Non-enterprise Fund.

Recommendation 5 The Grand Jury recommends that MCSD adopt a plan to reduce and eventually eliminate the debt owed by recreation and park funds to the water and sewer fund.

Finding 6 The Grand Jury finds that some decisions of the MCSD Board of Directors suggest a lack of familiarity with practices common to non-profit public Boards.

Recommendation 6 The Grand Jury recommends that members of the Board of Directors take special training for board members of non-profit organizations. Training is available free or at minimal cost from both Humboldt Area Foundation and College of the Redwoods.

Grand Jury Report #2005-HS-01 Visit to Humboldt County’s Family Connection Center

Executive Summary:

The Grand Jury interviewed employees and toured the Child Welfare Family Connections Center, a facility providing supervised visits for parents whose children are placed in temporary custody. The frequency and type of visits are determined by court order with transportation furnished by Child Welfare, if needed. Times of visits are arranged to meet children’s and parents’ schedules taking into consideration school and work.

The facility is child-friendly, colorful, brightly-lit and welcoming. Books, activities, toys, craft supplies, games and comfortable furniture help provide a healthy atmosphere for the visits. Transportation of parents and children to the facility is sometimes inconvenient when car seats and cars are in two different locations.

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to GRAND JURY REPORT #2005-HS-01 shall be provided as follows:

- No responses are required for this report

Report

Following receipt of a citizen’s complaint, the Grand Jury interviewed employees and toured the Child Welfare Family Connections Center, a facility providing supervised visits for parents whose children are placed in temporary custody. The frequency and type of visits are determined by court order with transportation furnished by Child Welfare, if needed. Times of visits are arranged to meet children’s and

parents' schedules taking into consideration school and work.

The facility is child-friendly, colorful, brightly-lit and welcoming. Books, activities, toys, craft supplies, games and comfortable furniture help provide a healthy atmosphere for the visits. Transportation of parents and children to the facility is sometimes inconvenient when car seats and cars are in two different locations.

The Department of Health and Human Services, through its Social Services Division and Child Welfare Services, is to be commended for establishing a safe, welcoming environment that encourages and nurtures the child-parent relationship. By removing or lessening barriers to regular child-parent visitation, the Family Connection Center assists families in the sometimes difficult task of reunification.

Grand Jury Reports # 2005-HS-02 through 09

A REVIEW OF THE CHARTER SCHOOLS OF HUMBOLDT COUNTY

Executive Summary of Grand Jury Reports #2005-HS-02 through 09 Charter Schools -- Public Education's Alternative

The Grand Jury's investigation into charter schools in Humboldt County was initiated by citizen complaints, state and national media attention on charter school effectiveness, and a general lack of public knowledge about charter schools.¹

The Grand Jury cannot emphasize strongly enough that charter schools are *public* schools, open to all applicants. Charter schools are supported by tax money and are subject to most of the laws and regulations that govern all public schools in California, especially those laws dealing with credentials, testing, non-discrimination, and finance. Charter schools are alternative public schools providing parents and students greater flexibility in reaching educational goals than might be found in regular public schools.

Humboldt County has seven charter districts or networks comprised of nineteen charter school sites. Oversight authority rests in the chartering agencies and the Humboldt County Office of Education (HCOE). The Grand Jury interviewed representatives from all seven networks, as well as HCOE, and found that charter schools in Humboldt County are fulfilling their mission to provide varied and diverse education. With few exceptions, Humboldt County's charter schools and charter networks comply with the state Education Code.

The Grand Jury found three charter school networks needing oversight improvement in at least one of the following areas: teacher credentials, admission policies, financial management, state testing, and/or required record-keeping.

One charter school network, Big Lagoon Charter School Network, raised questions in the minds of the Grand Jurors in the areas of teacher credentialing, admission practices, irregular financial arrangements, and record-keeping. The Mattole Valley Charter School Network and Pacific View Charter School need to improve participation in state testing. In spite of the irregularities noted, charter school students appear to be receiving both interesting as well as challenging educational opportunities.

Charter schools, like all other publicly funded institutions, must follow state and federal laws. Skirting the law, regardless of the outcome for students, is not acceptable. The ends do not justify the means.

¹ Grand Juror Allan Edwards voluntarily recused himself from participation in the investigation of the Big Lagoon Charter School Network because of a perceived conflict of interest.

The Grand Jury recommends that:

- The Humboldt County Office of Education establish a clear and consistent method of conducting annual oversight checks of all of the county's charter schools.
- The sponsoring agencies of charter schools and the Humboldt County Office of Education exercise vigilant oversight regarding the credentials held by teachers assigned to be the primary teachers of core high school courses (English, Math, History, Science).
- The Northcoast Preparatory Academy of the Big Lagoon Charter School Network make its application and admission policies transparent.
- The Big Lagoon Charter School Network develop stricter guidelines for the maintenance of student records.
- The Big Lagoon Charter School Network pay all its employees directly, deducting appropriate taxes and retirement benefits, and pay premiums for state unemployment compensation and state workers' compensation.
- The Big Lagoon Charter School Network check with the Federal and State Internal Revenue Services and the Federal and State Departments of Labor to verify the legal definition of "employee" and "independent contractor."
- The Big Lagoon Charter School Network consult with authorities to determine the legitimacy of using a pass-through account to pay anyone who is already retired and receiving retirement system benefits.
- The Equinox Center for Education of the Big Lagoon Charter School Network confirm the legitimacy and legality of transforming a private school to a public school.
- The Mattole Valley Charter School and the Pacific View Charter School encourage participation with state-recommended testing in order to achieve the 95 percent rate desired to track school accountability.

Introduction

The 2004 – 2005 Grand Jury of Humboldt County conducted an investigation of the county's charter school networks in response to the following:

- Citizen complaints.
- No review ever of charter schools in the county.
- State and national concerns regarding charter schools as reflected in national and local media.
- Lack of public knowledge concerning the operation and legal requirements of charter schools.

The focus of the Grand Jury's investigation of Humboldt County's charter school networks was four-fold:

- Admission practices.
- Compliance with record keeping and attendance regulations.
- Teacher qualification and certification.
- Financial compliance with state funding practices and laws.

In September 2004, the Grand Jury received citizen complaints about charter schools. One complaint alleged discriminatory admission practices and another alleged violations of the California Education Code, which governs the maintenance of pupil assessments and records. The first complaint involved a student's parents, who chose not to enroll their child in a particular charter school because they were given the impression students had to "pass" an interview process before being enrolled. The student in question had special learning needs.

The second complaint involved students returning to a traditional school from a charter school. The complaint focused on the students' cumulative records, including their Individual Educational Plans (IEP). One set of records was not filled out and the second was missing altogether, both of which are violations of California Education Code. Both of these students also had learning disabilities.

The Grand Jury conducted a series of interviews with school and county administrators, teachers, students, and representatives from all of the charter school networks in Humboldt County. Representatives from the Humboldt Arts Council were also interviewed.

Both the California Department of Education and the federal *No Child Left Behind Act* state that school districts as well as schools must make adequate yearly progress (AYP) in several areas, based primarily on student performance and participation. The percent of students in each subgroup taking the tests must meet or exceed 95 percent. Parents have the right to exempt their children from state tests.

Adequate Yearly Progress (AYP) 2003-2004
Perfect Score is 1000 - State goal is 800

Big Lagoon Charter Network	831 (over state goal)
Freshwater Charter Middle School	746
Jacoby Creek Elementary School	884 (over state goal)
Mattole Valley	634
Pacific View Charter School	No scores available – not enough tested
Six Rivers Charter School	No scores available – first year open
Trillium Charter School	743
Humboldt County (total average)	726
California (state total average)	692

History and Background of California Charter Schools

In 1992, California became second state in the nation to allow public charter schools with Senate Bill 1448. The intent of the legislation was to “provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure.” Charter schools provide educational experiences that can be tailored to meet the learning preferences of our growing, diverse population while still addressing the California State Educational Standards. It must be emphasized that charter schools are *not private* schools, but rather, *public* schools that offer diversity in programs and school day structure for all applicants.

In July 1998, California Assembly Bill 544 (AB544) strengthened both the independence and accountability of charter schools. AB 544 also changed the petitioning requirements for a charter by specifying that charter schoolteachers of core academic subjects (English, Math, Social Science, Lab Science) must hold certification “equivalent to what other public school teachers are required to hold.”

Financial misconduct by a few charter schools in the state has triggered passage of more restrictive legislation calling for increased oversight of charter schools by county offices of education and charter school sponsors in Assembly Bill 1994. In 2003, the legislature also increased the accountability of charter schools, requiring increased visitation and inspection of sites by county superintendents and sponsoring agency administrators to assure compliance with state law and the state educational code.

The state further requires that charter schools show and report a certain level of academic performance to have their charters renewed. For existing charters, this provision takes effect after they have operated for four years. However, beginning in 2005, all new charter schools must comply with state-established academic performance requirements. The intent of the legislation is to assure the state’s citizens that charter schools are safe, well equipped, and as highly qualified as the regular public schools. It is also the intent of the legislation to protect the purpose for which charter schools were created, namely to provide parents and students greater choice and flexibility in the kind of education they desire.

GRAND JURY REPORT # 2005-HS-02
A Review of the Humboldt County Office of Education's Charter School Oversight

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-02 shall be provided as follows:

- Humboldt County Office of Education shall respond to Findings and Recommendations 1 and 2

After interviewing principals, superintendents, program directors, students, teachers, and parents, and after making seven site visits to local charter schools, the Grand Jury is confident that Humboldt County's charter schools are sincere and diligent about providing quality education.

There are seven charter school districts or networks in Humboldt County, representing 19 charter school sites, each with individual characteristics. These charter schools are "alternative" public schools, funded by public money, with enrollment in each of the networks financing the individual schools. Because charter schools are funded by public money, they are subject to most of the same regulations as regular public schools, specifically regarding non-discriminatory admission policies, state academic standards, teacher credentialing, fiscal management, reporting, and record keeping. State Superintendent of Education Jack O'Connell, in a letter dated April 14, 2005, told all superintendents in California, "...charter schools must be held to the same high standards of accountability as all other public schools."

The Grand Jury found that both the sponsoring agencies and county offices of education have the legal responsibility to oversee charter schools, assuring the public that state laws and guidelines such as Education Code 47604 (c) are followed. While the Humboldt County Office of Education enthusiastically supports the diversity and innovation that charter schools bring to the students of our county, it exercises minimal direct oversight. The focus of Humboldt County's Office of Education's oversight is to assure that the charter schools are solvent. Beyond that, the Grand Jury found little evidence of vigilant oversight of teacher credentials, appropriate use of funding, background checks, non-discriminatory enrollment procedures, or state- and federal-mandated record-keeping as Title I and Special Education laws require.

The Grand Jury found far more qualities in Humboldt County's charter schools that merit praise than it found areas in need of improvement. With few exceptions, the county's charter schools comply with the Education Code and are both fiscally stable as well as fiscally responsible with the public's tax money.

Findings and Recommendations

Finding 1: Humboldt County Office of Education exercises minimal direct oversight of charter schools.

Recommendation 1: The Grand Jury recommends that the Humboldt County Superintendent of Education exercise greater oversight of the county's charter schools, especially concerning appropriate credentialing, admission practices, fiscal matters, and maintenance of required records.

Finding 2: The Grand Jury found no evidence of a consistent, clear system of oversight coordination between the individual charter schools or charter school networks and the Humboldt County Office of Education.

Recommendation 2: The Grand Jury recommends that the Humboldt County Office of Education establish with the charter school networks a clear and consistent method of conducting annual oversight checks of all of the county's charter schools regarding credentialing and appropriate teacher assignment; fiscal compliance with the law; and pupil achievement reporting. The oversight reports should then be sent to the County Office of Education for inspection before being sent to the California State Department of Education.

GRAND JURY REPORT # 2005-HS-03
A Review of Practices and Policies of
Arcata Elementary School District's Trillium Charter School

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-03 shall be provided as follows:

- No response is required.

Trillium Community Charter School is a K - 5th grade school in its third year of operation under the umbrella of the Arcata Elementary School District. Its enrollment procedure is open and transparent, accepting all applicants in a standard priority order: returning students, siblings of students attending, students from within the Arcata School District boundaries, and then applicants from outside the district. Financial management of state funds follows standard practices. The block grants from the state and the Title I funds are handled through the Arcata School District's office for a 12 percent administrative fee. No third-party pass-through accounts are used. Over 50 percent of the students qualify for free or reduced-price lunches.

All teachers at Trillium are fully credentialed with clear and California Language Acquisition Development (CLAD) credentials. One teacher is also a fully qualified Title I Resource Specialist who maintains accurate, up-to-date Individual Education Plans (IEP) on all students who have special learning needs. Students with special learning needs are welcome at Trillium. The school's calendar is identical to that of Arcata Elementary School District (180 days), which means that the amount of time spent in school exceeds by 20 percent the number of days and minutes required of charter school students. Participation in statewide testing is strongly encouraged and the participation rate at Trillium School is 100 percent. The Academic Performance Indicators (API scores) for the students exceeds state averages; a large gain has been made from 2003 – 2004.

GRAND JURY REPORT # 2005-HS-04
A Review of Practices and Policies of the Big Lagoon Charter School Network

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-04 shall be provided as follows:

- Big Lagoon Union Elementary District shall respond to Findings 2, 3, 4, 5, 6, 7 and Recommendations 2, 3, 4, 5a, 5b, 5c, 6, 7.
- Big Lagoon Charter School Network shall respond to Findings 1, 2, 3, 4, 5, 6, 7 and Recommendations 1, 2, 3, 4, 5a, 5b, 5c, 6, 7.
- Humboldt County Office of Education shall respond to Finding 7 and Recommendation 7.

The three schools of the Big Lagoon Charter School Network (BLCSN) offer 220 students a wide variety of educational opportunities. The chartering agency is the Big Lagoon Union Elementary District. It shares its site with the K – 8 Waldorf method charter school. The other two sites of the charter network are the Equinox Center for Education (formerly a private school before becoming part of the BLCSN) and the Northcoast Performing Arts and Preparatory Academy (NPA), both located in Arcata. Equinox serves K – 5 students and NPA is a 9 – 12 school.²

Each of the schools brings distinctly differing programs to its students. The Grand Jury commends the charter school network for its International Baccalaureate Program, its challenging curriculum, high test scores (31 points beyond the state goal of 800 on the Academic Performance Indicator [API]), and the

² Grand Juror Allan Edwards voluntarily recused himself from participation in this investigation because of a perceived conflict of interest.

accomplishments of its students in the areas of music, performing arts, and tennis. Also worthy of note is the enthusiastic support of the network's parents and students.

Each of the three schools in the BLCSN has differing application and admission procedures, two of which are transparent, straightforward, and non-discriminatory. Charter schools, like all public schools, are not allowed to hand pick their students, but must accept all applicants. However, NPA requires a pre-enrollment interview reflective of a private school's standard, which the Grand Jury learned in its investigation can have a discouraging effect on an applicant.

Charter schools shall meet all statewide standards according to the California Education Code and conduct all pupil assessments required of any traditional school. Charter schools shall evaluate pupils in accordance with all statewide standards authorized in the Education Code. The Grand Jury discovered that the BLCSN failed to conduct Individual Educational Plan updates on students returning to a regular public school. In one case, the records were missing altogether. School officials at the receiving school did not know where to place the students, since little or nothing in the students' Individual Education Plans (IEPs) had been maintained or kept current. The students had special learning needs.

The Big Lagoon Charter School Network's block grant is managed by its sponsoring agency, Big Lagoon Union Elementary District, for a fee of approximately nine percent. The Grand Jury learned through witness testimony that the Big Lagoon Union Elementary District and an individual - at the request of this individual - had made a special financial arrangement in the year 2000 concerning pay. The individual is retired, works part time, and is receiving California Public Employee Retirement System (CalPERS) benefits. This individual holds management positions in both the Big Lagoon Charter School Network as well as the business providing services to the charter school network.

According to the arrangement, the Big Lagoon Union Elementary District sent checks drawn from the Big Lagoon Charter School Network's block grant to the Humboldt Arts Council, a non-profit organization. From there, the money would be passed through to a business which has no business license. This business provides "music, drama, art and teacher training services provided to the ... Big Lagoon Charter School Network..." Therefore, the individual receives no direct compensation from the charter school's block grant for services rendered to the Big Lagoon Charter School Network, but receives money from the business.

The Humboldt Arts Council charges a four percent fee for these "pass-through" transactions, which is ultimately an expense paid for by taxpayers. Over the four years this arrangement with Big Lagoon Union Elementary District has been in existence, \$126,320 has passed through the non-profit account to the business. The cost of this arrangement through January 2005 was approximately \$5,100 of taxpayers' money in fees collected by the Humboldt Arts Council.

The individual with this special arrangement is not on the payroll as are all other employees of the Big Lagoon Charter School Network. Witness testimony indicated no payroll deductions such as state and federal taxes and CalPERS were taken for this individual. The individual is considered by the BLCSN to be a "volunteer," working over 40 hours per week. Witness testimony stated that the purpose of the pass-through account was to avoid the red tape and paperwork necessary to pay for sub-contracted services from artists and organizations. Evidence revealed that the Big Lagoon Union Elementary District paid for these services directly from the charter network's block grant.

The Equinox Center for Education, one of the two Arcata sites of the BLCSN, was formerly a private school named Equinox which closed due to financial difficulties shortly before becoming part of the public charter school network with public funding. 80 percent of the employees who worked for the private Equinox school are currently working for the public charter school site. Education Code 47602 does not allow private schools to become public charter schools.

It is unclear to the Grand Jury if non-credentialed or improperly credentialed teachers are instructing

students, or whether non-credentialed teachers are assisting “teachers of record” in their instruction at the NPA site. In one case, the credential for a teacher of a core course (math) was expired. In another case, a teacher assigned to instruct high school science is credentialed to teach core classes “in grades five through eight, and to teach any of the core subjects he or she is teaching to a single group of students in the same grade level as the core for less than 50 percent of his or her work day.” In a third case, the “teacher of record” of high school English has credentials only for grades 5 – 8.

Findings and Recommendations

Finding 1: The Grand Jury finds that the application and admission procedure of the Northcoast Preparatory Academy is not transparent.

Recommendation 1: The Grand Jury recommends that the Northcoast Preparatory Academy make its application and admission policies transparent so that no possibility exists in the mind of an applicant that he or she has to “pass” an interview test before gaining admission to a public school.

Finding 2: The Grand Jury finds that the BLCSN failed to prepare Individual Education Plan updates.

Recommendation 2: The Grand Jury recommends that the BLCSN, in cooperation and collaboration with its sponsoring agency, develop strict guidelines for the maintenance of student records, especially IEPs, and that the Big Lagoon Union Elementary District exercise stricter oversight regarding student records maintained by the schools of the Big Lagoon Charter School Network.

Finding 3: The Grand Jury finds no legitimate reason for the uncommon practice of using a pass-through account.

Recommendation 3: The Grand Jury recommends that the Big Lagoon Charter School Network immediately cease the use of pass-through accounts to pay for staff or services.

Finding 4: The Grand Jury finds the unnecessary use of a pass-through account by the Big Lagoon Charter School Network cost the taxpayers \$5100.

Recommendation 4: The Grand Jury recommends that Big Lagoon Charter School Network stop wasting taxpayer money on pass-through account fees.

Finding 5: The Grand Jury finds that the Big Lagoon Union Elementary District, acting on behalf of the Big Lagoon Charter School Network, made an arrangement with an individual to pay for staff or services without deducting federal and state taxes or CalPERS, or paying premiums for unemployment compensation insurance or workers’ compensation insurance.

Recommendation 5a: The Grand Jury recommends that the Big Lagoon Charter School Network pay all its employees directly, deducting appropriate federal and state taxes and CalPERS, and paying premiums for state unemployment compensation and state workers’ compensation insurance.

Recommendation 5b: The Grand Jury recommends that the Big Lagoon Charter School Network check with the Federal and State Internal Revenue Services and the Federal and State Departments of Labor to verify the legal definitions of “employee,” “independent contractor,” and “volunteer” to determine who shall have taxes and retirement deductions made, and for whom premiums should be paid for unemployment and workers’ compensation insurance.

Recommendation 5c: The Grand Jury recommends that the Big Lagoon Charter School Network consult with CalPERS to determine the legitimacy of using a pass-through account to pay a person who is already retired and receiving retirement system benefits.

Finding 6: Equinox, now a part of the Big Lagoon Charter School Network, was a private school with the same name on the same site and with most of the same teachers before it became a charter school.

Recommendation 6: The Grand Jury recommends that the Big Lagoon Charter School Network check with the California State Department of Education, Charter School Division, to confirm the legitimacy or legality of this metamorphosis.

Finding 7: The Grand Jury found conflicting evidence regarding teacher assignments and the

appropriateness of the teachers' credentials.

Recommendation 7: The Grand Jury recommends that either the sponsoring agency (Big Lagoon Union Elementary District) or the Humboldt County Office of Education exercise vigilant oversight regarding the credentials held by teachers assigned to be the primary teachers of the core high school courses of English, Math, History, and Science.

GRAND JURY REPORT # 2005-HS-05 **A Review of Practices and Policies of Freshwater Charter Middle School**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-05 shall be provided as follows:

- Freshwater Charter Middle School shall respond to Finding 1 and Recommendation 1.

Freshwater Charter Middle School has served 7th and 8th graders from the Freshwater District for four years under the umbrella of the Freshwater Elementary School District. Its enrollment procedure is open and transparent, accepting all applicants in a standard priority order: those in the Freshwater School District, those who attended the 5th and 6th grades at Freshwater; and any other student. The admission application states clearly that there will be no admissions tests, tuition, "nor any discrimination against any applicant on the basis of ethnicity, national origin, gender, disability, or socio-economic status." Instruction and assistance are available for students with special learning needs. The educational program serves students who desire and would benefit from the nurturing environment of a small school with high expectations for its students. The school is housed at Freshwater Elementary School, and has modern facilities.

Financial management of state funds follows standard practices, and the financial transactions are handled through the Freshwater District's business office. No third-party pass-through accounts are used. Financial oversight of public funds from its sponsoring agent is consistent with standard education code practices. All teachers at Freshwater Charter Middle School are fully credentialed. Counseling and special education resources are available on site. The school's calendar is consistent with the Eureka City Schools District calendar (180 days), exceeding by 20 percent the number of days and minutes required of charter school students. Participation in statewide testing is strongly encouraged and participation rate meets the state's recommended 95 percent.

Findings and Recommendations

Finding 1: Freshwater Charter Middle School has a reported ratio of 10.8 students per computer. The state average is 5 and the county average is 4.1. Today, computer knowledge is essential to basic education.

Recommendation 1: The Grand Jury recommends that Freshwater Charter Middle School invest in computer technology to the extent of its budget limitations.

GRAND JURY REPORT # 2005-HS-06 **A Review of Practices and Policies of Jacoby Creek Elementary School (a Charter District)**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-06 shall be provided as follows:

- No response is necessary.

Jacoby Creek Elementary School is a charter district serving 415 students from K - 8th grade. Fifty percent of the students come from outside the district borders. Jacoby Creek's application and admission

procedures are completely transparent and non-discriminatory. Students with learning needs are not discouraged from applying; more than ten percent of its students have special learning needs.

Jacoby Creek School has eighteen regular education teachers, ten classroom aides, one speech/ language specialist, one counselor, one special education teacher, one librarian, one administrator, one technology aide and six special program teachers including remedial reading, vocal music, instrumental music, Spanish, Gifted and Talented, and an artist-in-residence. All teachers are appropriately credentialed and teaching at the appropriate grade level or subject area.

The Grand Jury commends Jacoby Creek Elementary School for its outstanding work and prestigious awards. Not only has Jacoby Creek School been recognized for the past four years by the California State Department of Education for being a distinguished school, but it has also been named a national blue ribbon school. This award is given only to one-half-of-one-percent of the schools nationwide.

Financial management at Jacoby Creek School follows standard practices, and the financial transactions are handled through its business office. No third-party pass-through accounts are used, although there is a non-political, non-profit fundraising organization. The Jacoby Creek Children's Foundation is comprised of parents and community members, and was established to provide financial assistance for the enhancement of a superior educational environment within the Jacoby Creek School and community.

GRAND JURY REPORT # 2005-HS-07
A Review of Practices and Policies of Laurel Tree Charter School,
a satellite campus of the Mattole Valley Charter School (K-12)

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-07 shall be provided as follows:

- The Mattole Valley Charter School (K-12) shall respond to Finding 1 and Recommendation 1.

The Laurel Tree Charter School of Arcata serves 60 students in grades K – 2 and 5 – 12. The site also supports an after-school language program. Laurel Tree Charter School is one of ten satellite schools of the Mattole Valley Charter School Network.

Laurel Tree's admission policies and procedures are open and transparent, accepting in priority order its returning students, siblings of current students, and thereafter in accordance with a state-recommended first-come, first-served lottery system. There are no admissions tests, tuition, nor any discrimination against any applicant on the basis of ethnicity, national origin, gender, educational level, disability, or socio-economic status. Instruction and assistance are available for students with special learning needs through one of three special education teachers employed by the network. Financial management of state and local funds follows standard practices and is handled by the Mattole Unified School District's business office. No third-party pass-through accounts are used. Financial oversight of public funds from its sponsoring agent is consistent with standard education code practices.

All teachers at the Laurel Tree site are fully credentialed and qualified to teach their assigned courses. The school's hours are consistent with a standard school day, and the school calendar exceeds the minimum required number of days and minutes for charter schools. The Laurel Tree Charter School meets the 95 percent participation rate for state testing. However, the Mattole Valley Charter School Network does not. Soon, failure to achieve 95 percent participation in state testing will result in reduced funding. Parents have the right to exempt their children from state tests.

Findings and Recommendations

Finding 1: The Mattole Valley Charter School Network fails to meet the 95 percent participation rate for state testing.

Recommendation 1: The Grand Jury recommends that the director of the Mattole Valley Charter School Network encourage its staff to discuss with parents the importance of tracking measurable progress, encouraging them to allow their children to participate in the state-recommended testing program in order to achieve the 95 percent rate desired to track school accountability.

GRAND JURY REPORT # 2005-HS- 08 A Review of Practices and Policies of Pacific View Charter School

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-08 shall be provided as follows:

- Pacific View Charter School shall respond to Finding 1 and Recommendation 1.

The Pacific View Charter School serves 216 students through a variety of programs in grades K – 12, including classroom-based education and independent study programs. Pacific View’s admission policies and procedures are open and transparent, accepting in priority order its returning students, siblings of current students, and thereafter in accordance with a state-recommended first-come, first-served lottery system.

There are no admissions tests, tuition, nor discrimination of any kind. Instruction and assistance are available for students with special learning needs through one of two special education teachers employed by the network to work at the Eureka site. It is evident from enrollment figures that Pacific View Charter School welcomes students having special educational needs. Of its 216 students, 37 (17 percent) have been identified as having special learning needs.

The Loleta School District’s business office handles financial transactions following standard educational accounting practices. No third-party pass-through accounts are used. Financial oversight of public funds from its sponsoring agent is consistent with standard education code practices.

Pacific View Charter School does not meet the 95 percent participation rate for state testing. Soon, failure to achieve 95 percent participation in state testing will result in reduced funding. Only about 20 percent of Pacific View’s students took the state tests. Parents have the right to exempt their children from state tests.

All of Pacific View’s teachers are credentialed and qualified to teach their assigned courses. The school’s required number of days and minutes meets state requirements for charter schools (80 percent of the regular schools’ requirement), which is consistent with a standard school day, and the school calendar exceeds the minimum required number of days and minutes for charter schools.

Findings and Recommendations

Finding 1: Pacific View Charter School district fails to meet the 95 percent participation rate for state testing.

Recommendation 1: The Grand Jury recommends that the director of the Pacific View Charter School encourage its staff to discuss with parents the importance of tracking measurable progress, encouraging them to allow their children to participate with the state-recommended testing program in order to achieve the 95 percent rate desired to track school accountability.

GRAND JURY REPORT # 2005-HS-09
A Review of Practices and Policies of Six Rivers Charter School,
a Northern Humboldt Union High School District's school

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2005-HS-09 shall be provided as follows:

- No response is required.

Six Rivers Charter School is a 9th - 12th grade school in its first year of operation under the umbrella of the Northern Humboldt Union High School District (NHUHSD). Its enrollment procedure is open and transparent, accepting all applicants interested in attending either a classroom based or non-classroom based academy. Students with special learning needs are welcome at Six Rivers Charter School. The school offers a comprehensive high school education that focuses on the development of each individual student by creating a four-year study plan tailored to the students' wants and needs. It is housed on the Arcata High School campus and because of that can offer its students courses and experiences common to larger schools. Six Rivers Charter also works closely with the nationally recognized EAST Project (Environmental And Spatial Technology), where students receive project-based education using the most modern technology available. Financial management of state funds follows standard practices, and the financial transactions are handled through the NHUHSD's business office 12 percent administrative fee. No third-party pass-through accounts are used. Financial oversight of public funds from its sponsoring agent (NHUHSD) is strict. All teachers at Six Rivers Charter School are fully credentialed with clear and CLAD credentials. Counseling and special education resources are available through Arcata High School. The school's calendar is identical to that of the NHUHSD (180 days), which means that the amount of time spent in school exceeds by 20 percent the number of days and minutes required of charter school students. Participation in statewide testing is encouraged strongly and participation rate in state testing is 100 percent. API scores have not been posted because this is the school's first year. They will be available for the public in July 2005.

Grand Jury Reports # 2005-JL-01 through 16
Humboldt County's Jails and Holding Facilities

Executive Summary

Pursuant to California Penal Code Section 919(b), the Grand Jury inspected each prison, jail, and holding facility within the county. Eleven such facilities are addressed in the reports referenced above. Four additional facilities, Sheriff's Agricultural Farm, McKinleyville Sheriff's substation, Sheriff's Evidence room and yard, and Coroner's office, were also inspected and are mentioned in these reports.

Grand Jury Reports #2005-JL-01 through #2005-JL- 08 and 2005-JL-11 & 16

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Reports #2005-JL-01 through #2005-JL-08 and #2005-JL-11 & 16 shall be provided as follows:

- No responses are required for Grand Jury Reports #2005-JL-01 through #2005-JL-08 and 2005-JL-11 & 16

These eight facilities were inspected and found to be clean, well maintained, and in good repair. No Findings or Recommendations are warranted.

Arcata Police Department inspected August 16, 2004

Eureka Police Department inspected August 19, 2004

Fortuna Police Department inspected August 23, 2004

Regional Facility inspected August 30, 2004

Sheriff's Work Alternative Program (SWAP) woodlot inspected September 18, 2004

Humboldt County Correctional Facility inspected November 15, 2004

High Rock Conservation Camp inspected November 23, 2004

Eel Rock Conservation Camp inspected December 21, 2004

Grand Jury Report #2005-JL-09 Juvenile Hall

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Reports #2005-JL-09 shall be provided as follows:

- The Humboldt County Probation Department shall respond to Finding 1 and recommendation 1.
- The Humboldt County Department of General Services shall respond to Finding 1 and Recommendation 1.

Juvenile Hall was inspected on August 30, 2004. Students receive individual instruction in preparation for high school graduation. Each classroom is staffed with one teacher and one aide. If more than 26 students are present, a second aide is brought in. The Grand Jury commends the Juvenile Hall teacher, Cheryl Baer, for her rapport, skills, and eleven years of dedicated, innovative service to Humboldt County youth at the facility.

There is neither an elevator nor a ramp inside Juvenile Hall to go between the lower floor, which contains the gym and the high school classroom, and the upper floor which has the eating, sleeping, and living areas. A basketball court and a vegetable / flower garden are outside.

Findings and Recommendations

Finding 1: The facility does not comply with the Americans with Disabilities Act (ADA) because there is no wheelchair access between floors.

Recommendation 1: The Grand Jury recommends that the building be made ADA compliant.

Grand Jury Report #2005-JL-10 Sheriff's Agricultural Farm

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Reports #2005-JL-10 shall be provided as follows:

- The Sheriff shall respond to Finding 1 and Recommendation 1

The Grand Jury inspected the Sheriff's Agricultural Farm on September 20, 2004. It is located near Fortuna on Airport Road. The Farm provides work for the Sheriff's Work Alternative Program (SWAP) inmates and food for the Humboldt County Correctional Facility (HCCF). The Farm has animals and a large garden, which produced 1,200 pounds of vegetables and 9,850 pounds of pork in 2004. The farm tractor still lacks the bucket recommended by previous Grand Juries. A tractor bucket would be useful for Farm operations.

Findings and Recommendations

Finding 1: The Farm needs a bucket for its tractor.

Recommendation 1: The Sheriff obtain a bucket for the tractor from surplus inventory of the federal or state government.

**Grand Jury Report #2005-JL-11
McKinleyville Sheriff's Substation**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Reports #2005-JL-11 shall be provided as follows:

- No response is required to Grand Jury Report #2005-JL-11.

The Grand Jury inspected the station on September 27, 2004. While it contains no holding facilities, it does provide space for Sheriff's Deputies. It also provides room for Sheriff's Citizens on Patrol (SCOP). The building was funded by the community and built by students at McKinleyville High School building trades classes; the conference room is available to community groups. The Grand Jury commends the community for building this facility.

**Grand Jury Report 2005-JL-12
Hoopa Sheriff's substation and holding facility**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-JL-12 shall be provided as follows:

- The Sheriff shall respond to Finding 1 and Recommendation 1.

The Grand Jury inspected this facility on October 7, 2004. The Hoopa facility has two holding cells. The Grand Jury notes that the Sheriff and the Humboldt County Department of General Services installed the stainless steel toilet-sink units recommended by previous Grand Juries. There is no receptionist, secretary, or clerk. A deputy transports arrestees directly to Humboldt County Correctional Facility (HCCF) in Eureka. Roundtrip transport requires three to four hours of deputy time.

Findings and Recommendations

Finding 1: When one deputy is transporting an arrestee to HCCF, the other deputy is left to cover the whole area.

Recommendation 1: An officer be hired to answer telephone calls and transport arrestees to HCCF.

**Grand Jury Report #2005-JL-13
Garberville Sheriff's substation**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-JL-13 shall be provided as follows:

- The Sheriff shall respond to Finding 1 and Recommendation 1

The Grand Jury inspected the Garberville Sheriff's substation on October 21, 2004. The Grand Jury notes that the deputy in charge has cleaned up the long-term storage area, disposed of miscellaneous items, and organized the remainder as recommended by previous Grand Juries. Usually someone is available to answer the telephone. Transporting arrestees to Eureka to the HCCF takes four to five hours roundtrip.

Findings and Recommendations

Finding 1: When one Deputy is transporting an arrestee to HCCF, the other is left to cover the entire area.

Recommendation 1: An officer be hired to answer telephone calls and transport arrestees to HCCF.

**Grand Jury Report #2005-JL-14
Sheriff's Evidence Yard**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-JL-14 shall be provided as follows:

- No responses are required for Grand Jury Report #2005-JL-14

The Sheriff's Evidence Yard was inspected March 21, 2005. Items needed by the volunteer search-and-rescue team are stored at the yard. Evidence is labeled or tagged. Confiscated materials are warehoused until no longer needed in the justice system. Surplus materials are then sold at auction or on the Internet. Garden pots and plant-growing materials are contributed to local school programs. Surplus and abandoned clothing is donated to charitable programs.

**Grand Jury Report #2005-JL-15
Sheriff's Evidence Room**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-JL-13 shall be provided as follows:

- The Sheriff shall respond to Finding 1 and Recommendation 1 and 2.

The Sheriff's Evidence Room was inspected on March 21, 2005. It contains thousands of items of evidence collected over many years, each piece of evidence then tagged and inventoried. Fingerprint cards are filed in numerous cabinets. Items can be discarded only with the Court's permission. Evidence in murder cases must be retained indefinitely. There is also a computer to scan fingerprints and send them to national databases, including the FBI's.

Findings and Recommendations

Finding 1: In years past, the department had up to three full time sworn Deputy evidence specialists and a clerk. Now the department is staffed by one part-time Property Technician, a full-time Evidence Technician, and a part-time Property Assistant – none of whom is a sworn Deputy.

Recommendation 1: The Grand Jury recommends that the Sheriff add staff when finances permit.

Recommendation 2: The Sheriff eliminate duplicates in the fingerprint file.

**Grand Jury Report #2005-JL-16
Coroner's Office**

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-JL-16 shall be provided as follows:

- No responses are required to Grand Jury Report #2005-JL-16

Coroner Frank Jager invited the Grand Jury to visit the Coroner's facility on October 25, 2004. The offices are efficiently run, clean, and well-organized. Autopsies which need the services of a forensic pathologist are sent out of the county, as no forensic pathologist practices in Humboldt County. The office receives money from Homeland Security for disaster supplies. The Coroner can provide estate services for people who die intestate, whose executors cannot be located, or whose heirs request services.

These services provide \$105,000 in additional revenue to the Coroners office, which also receives \$201,098 in state tax money and \$158,436 in county funding. The total budget is \$464,534. The Grand Jury commends the Coroner's office for its efficiency.

Grand Jury Report #2005-LJ-01 **A Review of the Humboldt County Child Abuse Services Team**

Executive Summary:

A child who may have been sexually molested or physically abused may be seen by the Child Abuse Services Team (CAST). Team members, who are from the District Attorney's office, law enforcement, and social service agencies, observe from behind one-way glass as a trained interviewer talks with the child. Team members can tell the interviewer to ask particular questions through an ear microphone. The child, whose answers are video- and audio-taped, sees only the interviewer in a bright room filled with toys. Everyone agrees that CAST is valuable in increasing successful prosecution of child abusers, reducing trauma to abused children, and helping support families. Money is available for CAST.

However, the program is faltering. Fewer cases are referred to CAST by law enforcement. The District Attorney has diminished CAST's effectiveness by failing to attend Governing Board meetings, failing to send Deputy District Attorneys to child interviews, and reducing staff.

The Grand Jury recommends that the District Attorney make CAST a priority by attending the Governing Board meetings, appointing a Deputy District Attorney to the leadership position, and restoring staff levels to ensure that a qualified Deputy District Attorney is present at all child interviews. The Grand Jury also recommends that law enforcement agencies provide training in CAST procedures to new hires with regular "refreshers" to long-term employees.

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of the GRAND JURY REPORT #2005-LJ-01 shall be provided as follows:

- The District Attorney shall respond to Findings 1, 2, and 3 and Recommendations 1a, 1b, 2, and 3
- The CAST Governing Board shall respond to Finding 1 and Recommendations 1a and 1b
- The Department of Health & Human Services shall respond to Finding and Recommendation 3
- Humboldt County Sheriff shall respond to Finding and Recommendation 4
- Arcata Police Department shall respond to Finding and Recommendation 4
- Arcata City Council shall respond to Finding and Recommendation 4
- Blue Lake Police Department shall respond to Finding and Recommendation 4
- Blue Lake City Council shall respond to Finding and Recommendation 4
- Eureka Police Department shall respond to Finding and Recommendation 4
- Eureka City Council shall respond to Finding and Recommendation 4
- Ferndale Police Department shall respond to Finding and Recommendation 4
- Ferndale City Council shall respond to Finding and Recommendation 4
- Fortuna Police Department shall respond to Finding and Recommendation 4
- Fortuna City Council shall respond to Finding and Recommendation 4
- Hoopa Tribal Police Department shall respond to Finding and Recommendation 4
- Hoopa Tribal Council shall respond to Finding and Recommendation 4
- Rio Dell Police Department shall respond to Finding and Recommendation 4
- Rio Dell City Council shall respond to Finding and Recommendation 4
- Trinidad Police Department shall respond to Finding and Recommendation 4
- Trinidad City Council shall respond to Finding and Recommendation 4

Report

CAST began in Humboldt County in 1997, and was recently re-accredited by the National Children's Alliance. CAST is a multi-disciplinary team consisting of 29 separate agencies involved in the investigation and prosecution of offenders against children. Law enforcement agencies, the District Attorney, the Department of Health & Human Services, Native American organizations, and community-based organizations are partners in the CAST process. Written guidelines and by-laws are available from CAST to explain the local team process and the roles that the various agencies play.

CAST has several purposes:

- For law enforcement agencies, CAST provides forensic interviews that may enable a complete report to be forwarded to the District Attorney for possible prosecution.
- For the District Attorney, CAST delivers an audio- and videotaped interview of the child victim by an expert in child forensic interviews, allowing more informed decisions to be made as to what charges to file against the alleged perpetrator.
- For the Public Defender, the audio and videotaped interview may lead to an acceptance of a plea bargain, once the alleged perpetrator realizes the weight of the evidence against him or her.
- For Mental Health and Child Welfare Services, CAST minimizes the trauma to child victims of physical or sexual abuse by having the child undergo fewer interviews, and by conducting the interviews in a child-friendly environment where the child can feel safe in disclosing what has happened.

All CAST interviews are audio- and videotaped and are conducted by a Child Welfare Social Worker, specially trained in forensic interviewing of child victims. Other team members - including a Deputy District Attorney, a District Attorney Investigator, a representative from the law enforcement agency involved in the investigation, a Mental Health clinician, and a victim's advocate - may be present in an adjacent room with a one-way mirror into the interview room. Ideally, each forensic interview would include all of the team members listed above. If the evidence gained in the forensic interview supports the allegation of abuse, the Deputy District Attorney assigned to CAST prosecutes the case with CAST team support.

Law enforcement makes referrals to CAST, sometimes at the behest of child welfare agencies, medical facilities, and other mandated reporters. Funding for CAST comes from the Department of Health & Human Services (DHHS) and is set at a maximum of \$280,000 annually. This funding provides for two Deputy District Attorneys, a District Attorney Investigator, and a Senior Legal Office Assistant as well as overhead costs such as rent and supplies. DHHS also provides a social worker trained as a specialist in child forensic interviewing and a half-time Mental Health clinician. In addition, the District Attorney's Office receives a grant to partially fund a Deputy District Attorney to vertically prosecute child abuse cases. Vertical prosecution means the same attorney follows the case from referral to prosecution and sentencing.

Two strongly committed and experienced Deputy District Attorneys who were assigned to CAST have left the District Attorney's Office in the past year. Witnesses interviewed by the Grand Jury indicated the loss of these attorneys negatively impacted the CAST program. Current vacancies include one Deputy District Attorney position (vacant since June 2004) and a Senior Legal Office Assistant (vacant since March 2005). Top administrators of DHHS said they are committed to CAST and do not anticipate any changes in funding at this time. However, there is no contract or Memorandum of Understanding (MOU) for the funding which DHHS provides the District Attorney's Office. With only one Deputy District Attorney assigned to CAST at this time, it is very difficult for the Deputy District Attorney to be at all CAST interviews and to follow each case using vertical prosecution. Often, other Deputy District Attorneys have to fill in on child abuse cases with little time to prepare.

The Grand Jury conducted over 20 interviews relevant to CAST. Support for CAST and its mandate to

vigorously prosecute offenders is overwhelming among all individuals and agencies involved. The law enforcement agencies said that CAST is one of the best programs they have seen and it has their whole-hearted backing. Four law enforcement agencies stated that their new officers need more training from the CAST child interview specialist. College of the Redwoods also offers law enforcement training in child abuse in the police academy program. In the past, detectives or officers from law enforcement agencies were specifically assigned to child abuse or molestation cases, a luxury not presently afforded in these budget-crunch years. At this time, any law enforcement officer, trained or not, may have to respond to reports of child abuse and molestation. An untrained officer may inadvertently make prosecution difficult or impossible. Although the number of referrals to CAST has dropped during the past two years, no specific reasons were given to account for this decline by the various law enforcement agencies.

Statistics from 2002-2004 by witnesses revealed:

- CAST cases dropped from 98 in 2002 to 58 in 2004, a 40 percent drop.
- Prosecution of CAST cases declined from 2002 to 2004.
- Except in 2004, when both a Deputy District Attorney and a DA investigator were present during the interviews, the number of cases in which prosecution resulted is significantly higher than when only one representative from the DA's office is present. This suggests that it is important for both a prosecutor and an investigator from the DA's office to participate in CAST interviews.
- Deputy District Attorney attendance at CAST interviews dropped precipitously from 85 percent in 2002, to 46 percent in 2003, and to 25 percent in 2004.

During its recent compliance review of CAST, the National Alliance for Children recommended that a leadership person be named to improve communication and to oversee all CAST operations and decisions. At present, CAST has an Executive Board, a Governing Board, and an Advisory Board. The District Attorney, who is a member of the Governing Board, has failed to regularly attend meetings as documented by testimony, statistics, and meeting minutes. In the past, a Deputy District Attorney filled the leadership position by virtue of his commitment to the program. His departure in July 2004 left a leadership void detrimental to the effective operation of the program. The compliance review was generally favorable, and Humboldt County's CAST program was again certified and the \$10,000 annual grant was continued.

Findings and Recommendations:

Finding 1: There is a consensus within the CAST organization, augmented by a recommendation of the National Children's Alliance, that a leadership person is needed to coordinate and make decisions about CAST with recommendations from the Executive, Governing, and Advisory Boards.

Recommendation 1a: The Grand Jury recommends that the Cast Boards create a leadership position

Recommendation 1b: The Grand Jury recommends that a Deputy District Attorney with experience in and a commitment to CAST fill the leadership position.

Finding 2: Members of the CAST organization have identified a need for two Deputy District Attorneys and a Senior Legal Office Assistant. Current funding provides for these positions and is incorporated in the guidelines for CAST.

Recommendation 2: The Grand Jury recommends that two Deputy District Attorneys and a Senior Legal Office Assistant be assigned or hired and that CAST cases be the priority caseload for the attorneys assigned to CAST.

Finding 3: There is no Memorandum of Understanding (MOU) for funding or time-tracking between the District Attorney's Office and DHHS for CAST.

Recommendation 3: The Grand Jury recommends that the District Attorney's Office and DHHS arrive at a MOU for funding CAST. This MOU must include a method of tracking of CAST cases so that the DA's Office can properly bill DHHS for the costs of staffing CAST. A simple time study format - already a standard practice of DHHS - could provide this information.

Finding 4: Law Enforcement officials cited the need for continuing and timely training in forensic interviewing of child abuse victims by the Child Forensic interview specialist assigned to CAST. Furthermore, law enforcement agencies prefer to assign a trained and experienced officer to investigate child abuse cases and participate in CAST.

Recommendation 4: The Grand Jury recommends that training occur at least yearly and more often as needed for new officers, and that a trained and experienced officer from each law enforcement agency be assigned to child abuse cases.

Commendation: The Grand Jury would like to commend all members of the team for their outstanding service and support for all of our child victims. CAST has truly created a network of collaborating agencies whose focus is on protecting children and preventing future harm. Participating agencies include:

Arcata Police Dept.	Karuk Tribe of California
Bear River Band of the Rhonerville Rancheria	North Coast Rape Crisis Team
Big Lagoon Rancheria	Rio Dell Police Dept.
Blue Lake Police Dept.	Sexual Assault Response Team
Blue Lake Rancheria	Trinidad Police Dept.
Court Appointed Special Advocates	Trinidad Rancheria
Dept. of Health and Human Services	Two Feathers Indian Child Welfare
Eureka Police Dept.	Victim Witness Office
Ferndale Police Dept.	Yurok Council
Fortuna Police Dept.	
Hoopa Health Services	
Hoopa Tribal Council	
Hoopa Tribal Police Dept.	
Humboldt County District Attorney	
Humboldt County Probation Dept.	
Humboldt County Sheriff's Dept.	
HSU Police Dept.	

Grand Jury Report #2005-LJ-02 **An Investigation of the District Attorney Criminal Division**

Executive Summary

The Grand Jury investigation of the District Attorney's Criminal Division was prompted by citizen complaints and the fact that there had been no formal Grand Jury review of any Division of the DA's office in ten years.³

The past two-and-a-half years have been stressful for the DA's office. Staff has had to adjust to a newly-elected DA with no experience as a prosecuting attorney, who was not accustomed to administering a complex department with many employees, and whose management style is radically different from that of the previous DA. The department experienced severe budget cuts, was decimated by a disastrously high rate of staff turnover, and was seriously disrupted by a recall election. In spite of all this, the Grand Jury found the staff to be very hard-working and dedicated to the service they perform for the community. However, the informed, well-organized, diligent leadership essential during difficult times is missing. Operations are neither as efficient nor as effective as they must be.

Processing and prosecuting thousands of cases each year requires high-level legal skills including years of courtroom experience. The process generates an immense volume of paperwork. The work of the 13 prosecutors, including the District Attorney and the Assistant District Attorney, is supported by seven

³ It is to be noted that Grand Juror Stephanie Head voluntarily recused herself from any direct participation in the final consideration of this report because of a perceived conflict of interest.

investigators, a business manager, and 15 legal/clerical staff, the bare minimum necessary to carry on the work.

The Grand Jury found a shortage of staff creates backlogs in processing as well as major scheduling problems in providing prosecutors to cover trials and other courtroom appearances. A severe drop in the number of experienced, senior-level Deputy District Attorneys has left the office short of qualified people to handle the charging of cases and to cover special grant-funded assignments as well as limiting vertical prosecution. Experienced replacements for vacant Deputy District Attorney positions are extremely difficult to attract. The “at will” status increases the difficulty of recruitment. The District Attorney has shown a willingness to eliminate positions held by experienced Deputy District Attorneys and to replace them with newly graduated attorneys, and he has fired a long-term experienced prosecutor with no comparable replacement available.

The Grand Jury also found that weak leadership and poor managerial practices have led to problems in communication within the office itself, and, more seriously, with law enforcement agencies, the Board of Supervisors, and the general public. The District Attorney has failed to educate himself thoroughly in office operations and procedures, and does not employ many common, useful managerial tools: he does not meet regularly with the supervisors who oversee his staff; he does not meet regularly with Deputy District Attorneys; he does not meet regularly with law enforcement agencies; he does not provide “at will” employees with formal performance evaluations; he has no policy and procedures manual for the office; he has no written training documents for new hires. Finally, the Grand Jury found that Penal Code Sections 1192.6 and 1192.7 require that when plea bargains are negotiated by prosecutors of serious felonies, the reasons for the plea bargains must be contained in the record. The Grand Jury found that these reasons were not accessible in court minutes. Although not legally required to be placed in the court minutes, the Grand Jury finds that to make this information readily available to the public and media, it would be beneficial to place the reasons for the plea bargain in the court minutes.

The Grand Jury recommends that the District Attorney:

- hire more experienced prosecutors and clerical staff
- expand and improve communications with law enforcement
- develop and implement written policy and training manuals on handling communication with the public, especially victims of crime
- meet regularly with department heads
- develop a procedures and policy manual for the division
- improve the office answering system for off-hour calls
- provide written performance evaluations for “at will” employees
- refrain from firing long-term experienced prosecutors – or anyone – except for cause, unless a comparable replacement has been identified and retained
- reclassify “at will” prosecutors to provide them with more job security
- require prosecutors to request that the reasons for plea bargains be reflected in the court minutes of cases

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of the GRAND JURY REPORT #2005-LJ-02 shall be provided as follows:

- The District Attorney shall respond to Findings 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 and Recommendations 1a, 1c, 2a, 2b, 2c, 3a, 3b, 3c, 4, 5, 6, 7, 8, 9a, and 10
- The Board of Supervisors shall respond to Findings 1 and 9 and Recommendations 1b, 1d, and 9b.

Report

Since no formal review of the District Attorney Criminal Division has been conducted by a Grand Jury

since 1995, the Grand Jury undertook an investigation of the entire Criminal Division. The Grand Jury also looked into a number of complaints from citizens and agencies concerning the DA's office. During the investigation Jurors listened to nearly forty hours of testimony, interviewed more than two dozen witnesses, and reviewed many documents. The Grand Jury interviewed the District Attorney, supervisors, clerical support staff, investigators, and prosecutors as well as complainants, law enforcement personnel, and staff of other divisions that report to the DA.

As of May 3, 2005, the staff of the Criminal Division included the District Attorney (DA), the Assistant District Attorney (ADA), and 11 Deputy District Attorneys (Deputy DAs) who prosecute the majority of the cases. In addition to prosecutors, the office includes a Business Manager, seven Investigators including the Chief, two Clerical Supervisors, and a variety of 15 additional support staff. Among the 15 are two who log in police reports, a person who issues subpoenas, another who provides technical support, and one who prepares and enters complaints into the computer.

Process from Police Report to Court

As a group of lay people, the Grand Jury had much to learn about the workings of the criminal justice system in order to proceed intelligently with the investigation. The Grand Jury began by touring the office. The primary job performed by the DA's office is very complex. The process of moving a case from an initial police report to a trial or some other kind of resolution involves many decisions and reams of paperwork. The thousands of police reports received each year are sorted by type (felony or misdemeanor) and logged into the computer. At every step, priority must be given to "in custody" reports because a person who has been arrested can be held for only 48 hours maximum before being taken before a judge. Failure to meet this deadline could result in the release of a dangerous felon.

Once reports have been logged, they are distributed to various Deputy DAs who review and evaluate each one to decide if it contains enough information and admissible evidence to warrant filing a criminal complaint. Many police reports don't get beyond this point and are sent to the desk where rejections are logged. When a charge is filed, the case is sent to a legal office assistant who prepares the legal complaint and logs it into the computer. Staff must deliver the complaint to the Court before the strict 11:00 a.m. deadline, which can effectively shorten the 48-hour in-custody time limit.

The job of charging – making the filing decision – is a critical one, requiring the ability to weigh many variables and recognize cases which have a realistic chance of resulting in a guilty plea or conviction. Charging requires both expert knowledge of the law and years of courtroom experience. A case that is filed and later dismissed often represents a waste of money and staff time, both of which are in short supply.

Some cases are sent for charging to particular deputies who specialize in handling certain crimes such as child abuse, green dope (marijuana), and white dope (methamphetamine or cocaine). These special assignments are usually at least partially funded by grants and are intended to provide a single expert prosecutor to handle such cases from filing of charges on to final resolution. This is called vertical prosecution and is the most effective and efficient way to handle a case. It avoids duplication of effort and provides continuity of prosecution by a single Deputy DA who knows the background of the case, has a clear idea of what would be an appropriate disposition, and is able to provide consistent and responsive services to victims. Unfortunately this ideal arrangement often is not possible in a small, understaffed department like Humboldt's.

From January 1, 2003, until May 10, 2005, general felonies were charged by the Chief Charging Deputy, a title to which a great deal of responsibility was attached but no extra compensation. On May 10, 2005, the Chief Charging Deputy was promoted to Assistant District Attorney, with the associated raise in salary. His title changed but his duties, including those described later in this report, remain the same. He must deal with a huge volume of reports covering a wide range of offenses. Misdemeanors are generally routed to the misdemeanor deputies, but because of the shortage of experienced misdemeanor prosecutors, the Chief Charging Deputy is also responsible for charging a considerable portion of the

misdemeanor cases.

When a felony complaint is filed, a case evaluation is completed by the Deputy DA who charged the case. The evaluation includes a summary of the case, the criminal history of the defendant, a non-binding recommendation for disposition of the case, and a subpoena roster for the preliminary hearing. This case evaluation then accompanies the file; a copy is also sent to the DA for review and comment.

The first court appearance of the defendant is the arraignment, where he or she hears the charges and has the opportunity to obtain counsel. In a felony case, dates will be set for a felony intervention hearing and a preliminary hearing. At the intervention hearing, the Judge, the Prosecutor, and the Defense Attorney meet to try to resolve the case. This is essentially a plea-bargaining session. If the intervention hearing does not settle the matter, it then goes on to the preliminary hearing at which evidence is actually presented before a judge. If the Judge concludes there is enough evidence, the defendant is bound over for trial, technically "held to answer." At the preliminary hearing, the Judge can also reduce the charge or completely dismiss the case.

If the defendant is held to answer, a second arraignment is set and the DA's office has a limited amount of time to file additional paperwork. At this time, new charges may be added as a result of evidence presented at the preliminary hearing. Following the second arraignment, a pre-trial conference and a trial confirmation hearing are scheduled. Both are opportunities to settle without going to trial. If after all of this there has been no resolution, the case is set for trial. The work involved in a trial requires the Prosecutor to generate volumes of paperwork and to make many more appearances in court than just those for the trial itself. In a case that is not handled vertically, the Prosecutor to whom the case is assigned often has very little time to become familiar with the case and prepare to present it.

If the defendant is found guilty at the trial, or has pled guilty at some earlier stage, the case is sent to the Probation Department. After considering the defendant's prior criminal history, listening to input by victims, and weighing aggravating and mitigating factors, the Probation Department issues a report and recommendation for sentencing. A sentencing hearing is held before a judge where both prosecution and defense present arguments for an appropriate sentence. Victims also have a right to appear at this hearing. The Judge takes all this into consideration and makes the final decision as to the sentence. By the time the initial police report has progressed to this point, the process has amassed piles of paperwork and required many appearances by prosecutors.

One of the greatest challenges faced by the office is scheduling. Under the current DA, this daunting task had been handled by the Chief Charging Deputy until May 10, 2005, when his title was changed to Assistant District Attorney. Since his promotion to Assistant DA, his duties remain the same. Acting as "Chief of Staff," he handles many administrative duties: overseeing the production and flow of legal paperwork, representing the DA's office at numerous meetings, organizing and producing multiple schedules, and assigning cases to prosecutors. His job is greatly complicated by the way the Humboldt County Superior Court system is organized. Trials are held in the morning and prosecutors must be scheduled to cover all of them. Cases are randomly assigned to courtrooms. Therefore, a prosecutor may have cases scheduled simultaneously in different courtrooms. In such situations, vertical prosecution is not possible. This requires a second prosecutor to be appointed on short notice. The unpredictability of the length of trials and the limited number of felony prosecutors are constant scheduling problems.

Each week, the Chief Charging Deputy posts a jury trial schedule, a list assigning Deputy DAs to preliminary hearings, and a schedule for calendars which the Courts handle in the afternoons. Calendars include procedural and non-evidentiary matters such as hearings on motions, setting dates, deciding bail, and otherwise managing cases. There are five departments or courtrooms as well as juvenile court. Each must be covered by prosecutors five afternoons a week. Every week, each department hears two days each of felony and misdemeanor calendars and a miscellaneous calendar on Friday. Two prosecutors, one felony and one misdemeanor, are usually assigned to alternate days in each courtroom, with Fridays generally being covered by the felony prosecutor. This system is complicated by the fact that attorneys

are sometimes out of the office for such things as mandatory continuing legal education, sickness, compensatory time, or vacation. For a senior-level Deputy DA, vacation and compensatory time alone can add up to six weeks a year away from the office, or as much as ten weeks when vacation time has been carried over from a prior year. The Department does not have enough Deputy DAs to cover all the courtrooms without constant disruptive juggling of staff.

Matters concerning dozens of different cases may be dealt with during a single afternoon calendar session in any courtroom. The file for each case needs to be on hand for the prosecutor to refer to and to record what actions are taken. The files scheduled for action in each courtroom are taken from their filing cabinets upstairs and packed into a large rectangular plastic tub or “bucket” to be transported to the appropriate courtroom. The packing and unpacking of these buckets and re-filing of all the cases is a huge job for the clerical staff.

Lack of Leadership and Managerial Skill

Rather than remaining behind the scenes, focusing mainly on administrative duties as did his predecessor, the current DA performs the more prominent role of a trial prosecutor. For the most part he chooses what cases he will handle. He prefers to prosecute murder cases but, at the request of the Chief Charging Deputy he takes on other kinds of cases when scheduling difficulties demand it. The DA does not usually assist with charging, but he receives copies of the felony case evaluations and writes comments about how he wishes them to be handled.

The staff reports that the DA is pleasant and accessible. The DA frequently stops by their desks to ask how things are going. During its initial tour, the Grand Jury saw an office buried in mounds of file folders but humming with energy and purposeful activity. However, it appears to the Grand Jury from the testimony of various witnesses and from the examination of the office that the DA lacks the global perspective needed to keep the department operating efficiently. Although department staff members consistently speak of themselves as a team, the team is not effectively coached. Implicit in all evidence gathered by the Grand Jury – including interviews with the DA - is the unfortunate truth that the DA exhibits a limited understanding of how things are done in the department. As one staff member expressed it, “The DA does not fully understand the functionality of many of the things we do here.” Moreover, from witness testimony and our own examination of the office, the Grand Jury finds the DA fails to foresee the ways that a problem or even a subtle change in one part of the office can have ramifications for other parts, for the department as a whole, and for its interactions with other agencies and the public.

Poor Communication Within the Department

The DA does not hold regular meetings with his office supervisors at which he could acquaint himself with problems as they arise and help provide a coordinated approach to finding solutions. Instead, each section of the office is – to some extent – unaware or misinformed about the workings of other sections. Staff members report that when problems arise they usually devise solutions on their own. Problems are dealt with on an *ad hoc* basis, and staff does not receive or seem to expect direction from the DA, even on policy decisions.

Lacking guidance from the DA, staff members must depend on themselves. There is no procedure and policy manual to which staff can refer for guidance. DAs’ offices in other counties in California have manuals that could serve as a model for such a document.

Poor Communication With Law Enforcement

One area of difficulty faced by the office is in trying to meet the needs and expectations of agencies and individuals who interact with the DA’s office. Our investigation shows that among law enforcement and victims of crimes, there is frequently frustration with delays caused by backlogs at the logging desk. The problem is especially severe at the misdemeanor desk; some cases sit for as long as six months before moving on to be charged. Sheer volume causes delays in charging as well, even though the Deputy DAs who handle charging put in many unpaid overtime hours. Their Memorandum of Understanding does

provide token payment in the form of 80 hours a year of compensatory time off in lieu of overtime pay. For people who routinely work ten hours or more of overtime in each week, 80 hours is scant compensation.

Although the causes of delays are often understandable, it is important that law enforcement receive prompt feedback on cases that have been rejected so further action may be taken. Each week representatives of law enforcement agencies meet with the Chief Investigator and Clerical Supervisor. At this meeting, the agencies that attend are informed about felony reports that have been rejected – and why. Some of the law enforcement agencies fail to send representatives to this meeting and thus miss the feedback because the DA does not send a report to those not present.

Computer printouts are sporadically sent out to law enforcement agencies by the DA's office. These printouts contain information on charges filed and how cases were resolved. For rejected cases, a code indicates in very general terms the reasons for rejection. Law enforcement agencies complain that they need information that is more detailed and sent out on a frequent and regular schedule. Deputy DAs and clerical workers report they are making efforts to improve the quality of feedback to law enforcement agencies. No one interviewed was sure of the schedule for sending out these printouts. The DA appeared unaware that such printouts are sent out. Detailed and frequent reports would be a valuable tool for everyone involved, so the DA could see the flow of complaints and law enforcement agencies could evaluate whether they were providing adequate information needed by the prosecutors.

The Grand Jury received complaints about documents and paperwork being lost by the DA's office. Staff members admit that this happens. Law enforcement agencies are sometimes told to re-submit reports because originals have been misplaced. Later, if the original documents surface and are processed, they cause added confusion.

Poor Communication With the Public

Members of the public often need to communicate with the DA's office to get or give information about a case. The Grand Jury has received numerous complaints from victims of crime. When they call the DA's office, they have difficulty getting through and often receive no response when they do leave a message. Some complainants allege multiple unanswered inquiries, both calls and letters. Both visitors and callers complain that receptionists in the DA's office are often unsure where to direct their inquiries. In part, this is due to the inexperience of new, inadequately trained workers. Supervisory staff report that they have only recently begun to develop new procedures to deal with changed circumstances in the office. The loss of prosecutors - especially in child abuse cases - and the resultant reduction in vertical prosecution has made it more difficult to put a victim in touch with a prosecutor who is completely familiar with the circumstances of the case. Adding to the confusion, the Victim Witness Assistance Division, which is also administered by the DA, suffered a major cut in staffing last year and was forced to cut back services. Victims of some kinds of crimes can no longer be referred to that program. The people of the state of California are the DA's true clients and most often victims of crimes are the persons most affected by the DA's actions or inaction. To ignore and neglect their needs is to victimize them again.

The Grand Jury has first-hand experience with these frustrations in its contacts with the DA's office. The DA's office accepts messages only between 9:00 a.m. and noon and 1:00 and 4:00 p.m. on weekdays. Unless the caller knows the direct number of the employee, the caller cannot leave a message. The DA's own voice mailbox is often full and even has a message warning the caller of that possibility. When it is possible to leave a phone message, it frequently takes multiple calls to get a response. This is true of several other key people in the office as well as the DA. The Grand Jury often has not received timely replies to requests for information. Support staff tells the Grand Jury that handling correspondence, checking voice mail, and responding to messages often have a low priority for the DA. Even the Board of Supervisors has problems getting information from the DA's office. During recent public input on an agenda item on May 17, 2005, the Board of Supervisors complained that the DA had not given timely notice of the impending need to cut three of the four Victim Witness specialists who work directly with

victims of crime. These proposed cuts are a result of a grant denial that was received by the DA's office on September 29, 2004. The DA also failed to provide the Board of Supervisors with additional requested information about the Victim Witness grant problem in a timely fashion.

Staffing Difficulties

Between 1993 and 2003, the DA's Criminal Division functioned without an Assistant DA (ADA). At the request of the new DA, the Board of Supervisors gave permission to hire an ADA in January 2003, but did not provide additional money to fund the position. Funding was obtained from several positions that were currently vacant and were subsequently eliminated.

On May 10, 2005, this original ADA was replaced by the former Chief Charging Deputy. Prior to this change, the administrative and managerial duties of the ADA were unclear. No one interviewed was able to explain what he did other than work on two high-visibility civil cases (*The People of the State of California vs. The Pacific Lumber Company* DR 030070 and *The People of the State of California vs. Deborah G. August* CV 040307). The then-ADA very rarely covered trials or preliminary hearings. It was only since July, 2004, that he began regularly to cover one of the court departments for afternoon sessions. The Grand Jury was unable to discover what duties the then-ADA performed to merit the approximately \$8500 extra annual pay he received by virtue of his former job title. The former ADA remains with the Division as a Deputy DA at the lower salary commensurate with the job description.

The DA has eliminated eight positions since he took office in January of 2003. Three of the previous 13 Deputy DA positions were eliminated. Pay levels for Deputy DAs range from I (new, inexperienced prosecutors) to IV (long-term, experienced prosecutors), and each level is divided into steps A through E for years of service. Two of the eliminated positions had been held by highly experienced Level IV felony prosecutors. The office also lost three Investigator positions and the DA's Executive Secretary. However, the loss of positions is only a small part of the problem.

The office has endured a much more devastating loss that goes far beyond a mere reduction in the size of the staff. The **number** of positions lost is not nearly as critical as the **quality** of the people who vacated those jobs. The office is suffering the results of a disastrously high rate of turnover among experienced Deputy DAs. The resignations of several of the most skilled and experienced prosecutors, and the outright dismissal of another, has robbed the department of resources that realistically cannot be replaced.

When a position is vacant, it is extremely difficult to recruit experienced replacements with the expertise needed to handle felony prosecutions successfully. Humboldt County cannot offer salaries competitive with more urban areas. Even attorneys just beginning their careers have turned down employment here because of the low salary. It has been many years since Humboldt County DA's office has been able to hire a Deputy DA with significant prosecutorial experience. Consequently the highly skilled, experienced people who have left the office have had to be replaced by inexperienced entry-level prosecutors. Whatever the talents and potential of these new Deputy DAs, it will be years before they will equal what has been lost over the last two and a half years. The county will have to make a huge investment of time and training in these new people, and realistically, once they are more experienced, there is a high likelihood they will choose to relocate. The limitations of our location and county finances make a certain level of turnover inevitable. It is essential that we protect what is left of our pool of experienced prosecutors and do whatever is possible to enhance the County's chances of attracting and retaining comparably skilled replacements for those who have been lost.

In January 2003, nine (69%) of the department's 13 Deputy DAs were Level IV longtime step D or E employees. Today, only five (45%) of the 11 Deputy DAs are Level IV-E. This serious erosion of top-level know-how and experience among Deputy DAs has not happened by accident but rather is part of a seemingly intentional effort by the DA to replace expensive upper-level prosecutors with lower-cost attorneys. The department was faced with a 20 percent budget cut for fiscal year 2004-2005. Staff developed a budget that funded all of the then-currently filled positions, either by reducing hours or postponing scheduled salary increases. The DA rejected this plan and substituted a proposal calling for

the elimination of three Deputy DA Level IV-E positions and replacing them with Level I-A/B and Level II-A/B Deputy DA positions. In other words, replacing experienced people who had demonstrated their loyalty with new, unknown quantities. New attorneys require training. It is all very well to speak of training - as the DA often does - but training costs money and time Humboldt County's citizens can ill-afford.

Setting aside the problem of finding these new prosecutors, this proposed reorganization had other serious flaws that demonstrate a limited understanding of department operations. In the late spring of 2004, grants funded the salaries for three-and-three-quarters attorneys. These grants were Anti-Drug Abuse, Child Abuse, Domestic Violence, and Marijuana Suppression. The granting agencies require compliance with many rules, including assignment of senior level attorneys. Failure to assign senior level attorneys to these grants jeopardizes the funding. The DA's plan to eliminate so many Level IV prosecutors would make it impossible to remain in compliance with the grant requirements.

Cutting longtime employees would help balance the District Attorney's budget, but payouts for the accumulated benefits for the eliminated positions would have a significant negative impact on the county's budget. The approximately \$100,000 that would be required for payouts would come out of the General Fund and not the DA's budget. Therefore, it was not really saving as much of the taxpayers' money as claimed, helping the county cut costs, or balancing its budget.

The budget proposal that the DA finally took to the Board of Supervisors called for cutting two Deputy DA Level IV positions, leaving only 12 attorneys in the office. In his budget presentation before the Board of Supervisors, the DA warned, "The minimum short-term impact of such reductions will likely be a reduction in the filing [of] over 1000 criminal cases. The long-term impact cannot be calculated." The Board of Supervisors responded by adjusting the DA's budget upwards to save at least one of these positions. However, during this same time period in which the DA was warning that the county could not afford to lose any prosecutors, on June 9, 2004, he fired a senior-level, highly competent, long-term prosecutor. Soon after, another senior-level long-term prosecutor who was known to have been seeking employment elsewhere resigned. Thus the goal of removing "expensive" prosecutors was achieved. Moreover, the loss of the fired Deputy DA not only weakened the prosecutorial strength of the office as a whole, but dealt a crippling blow to the Child Abuse Services Team (CAST). Although the position had been paid for with special CAST funds, the Deputy DA had been available to cover a courtroom for calendars and to help out when trial schedule problems required it. As of May 24, 2005, this position has not been refilled despite special funding for the position being available.

Difficulties in Hiring Deputy DAs

Deputy DAs in Humboldt County hold their jobs "at will," meaning the DA can fire them at any time for any reason or no reason. The DA has demonstrated his willingness to exercise this arbitrary power. Although this arrangement may be workable and even advantageous in other parts of the state, it has serious drawbacks in a county such as Humboldt. When an experienced prosecutor is fired or leaves for any reason, it is very difficult to attract a quality replacement. Our limited financial resources make it impossible to compete with salaries offered by more urban counties.

It is true that Humboldt County offers prospective employees a quality of life not available in other parts of the state. However, our lovely rural and isolated location presents a great disadvantage to prosecutors who are fired, because they must relocate to continue their profession. The lack of job security makes applicants hesitate to consider employment here. A prosecutor who takes a job here must do so knowing he or she has no protection against arbitrary and unpredictable dismissal, and if fired has no other employment options in prosecution here. Low pay and no job security make Humboldt County an unattractive career choice for prosecutors. Wasting a valuable resource like trained, long-term employees is foolish. Humboldt County cannot afford the luxury of squandering prosecutorial experience and expertise with arbitrary firings, especially with no comparable replacements available to fill the void. Many counties in California do not give their DAs this power. A survey of seven counties identified by the DA as being comparable to Humboldt showed that three provide all Deputy DAs with some kind of

civil service job security and two provide job security to all but the top one or two Deputy DAs. In these five counties, prosecutors can be fired only for cause, not at the discretion of the top official.

Performance Evaluations

Performance evaluations are useful management tools. They inform employees of expectations and where they may be falling short. It is especially important for “at will” employees to have this kind of information in order to adjust to the philosophy and attitudes of the person who has control of their continued employment. No formal performance evaluations are given to senior level Deputy DAs.

As with the clerical support staff, the DA’s interaction with Deputy DAs is basically casual – stopping by individual offices to discuss particular cases or just to ask how things are going. There are no regularly-attended meetings between the DA and his Deputies where the DA might make clear his policies and philosophy or perhaps allow for an exchange of views about proposed new plans before putting them into action.

Concerns About Plea Bargains

In the course of learning about the process of prosecuting criminal cases, the Grand Jury researched the plea bargaining process in order to understand how this tool fits in to the prosecutorial picture. Plea bargains are a necessary and important part of the judicial process, to move cases along and prevent system logjams.

The law gives the DA wide prosecutorial discretion, and how he uses that discretion to negotiate plea bargains is beyond the scope of the Grand Jury’s authority to investigate. However, it is clear that the public is intensely interested in this subject and has widespread misunderstanding of how and why plea bargains are negotiated. The public needs to be able to be assured that a plea bargain is not the result of the prosecutor being “soft on crime,” inexperienced, or too rushed to become thoroughly familiar with the case. Citizens want to be certain that violent felons who abuse or sexually molest children; batter their spouses; or use firearms to injure, kill, or terrorize other people are being prosecuted to the limit of the law.

Section 1192.7 of the California Penal Code strictly limits plea bargains in serious, violent felony cases. In subsection 1192.7 (a), the only permissible reasons for reducing charges against such defendants are “insufficient evidence to prove the People’s case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.” Penal Code Section 1192.6 (a) states “In each felony case in which the charges contained in the original accusatory pleading are amended or dismissed, the record shall contain a statement explaining the reason for the amendment or dismissal.” When the Grand Jury researched several cases known to have been plea-bargained, it was unable to find the reasons in the court minutes of the cases. Although the explanation of a plea bargain must be contained in the court record, and is not required to be in the court minutes, the Grand Jury finds that the public would benefit by having the reasons stated in the court minutes as they would be more accessible to the public. This information needs to be accessible to the public and the media to avoid cynicism about the criminal justice system.

Findings and Recommendations

Finding 1: The Grand Jury finds that the DA’s office is seriously understaffed.

Recommendation 1a: The Grand Jury recommends the DA recruit and hire additional experienced felony prosecutors.

Recommendation 1b: The Grand Jury recommends the Board of Supervisors authorize and fund additional experienced felony prosecutor positions.

Recommendation 1c: The Grand Jury recommends the DA request additional clerical support staff positions from the Board of Supervisors.

Recommendation 1d: The Grand Jury recommends the Board of Supervisors authorize the DA to hire additional clerical support staff.

Finding 2: The Grand Jury finds that the DA's office does not provide timely or adequate feedback to law enforcement agencies on the status of their crime reports.

Recommendation 2a: The Grand Jury recommends the DA continue and expand regularly-scheduled meetings with law enforcement to inform them of cases rejected for lack of information and/or evidence.

Recommendation 2b: The Grand Jury recommends the DA's office produce regularly-scheduled reports for law enforcement showing the disposition of each case. These reports must contain all relevant information regarding each case from inception to final resolution.

Recommendation 2c: The Grand Jury recommends that the DA's office confer with law enforcement agencies to ensure the reports contain the information they need.

Finding 3: The Grand Jury finds that the DA's office fails to respond to inquiries in a timely fashion, whether these are from victims, witnesses, defendants, or the Grand Jury.

Recommendation 3a: The Grand Jury recommends the DA's office, in cooperation with the Victim Witness Office, develop a written policy stating who shall promptly respond to inquiries. Prompt response is especially important to victims of crime.

Recommendation 3b: The Grand Jury recommends the DA's office immediately develop a small, quick-reference office manual which includes how to handle correspondence and telephone calls so they will be dealt with in a timely manner. This would be especially useful for new hires.

Recommendation 3c: The Grand Jury recommends the DA personally provide a good example by responding to inquiries quickly.

Finding 4: The Grand Jury finds that the DA does not hold regular meetings with his supervisory staff.

Recommendation 4: The Grand Jury recommends the DA hold and attend regular meetings with his supervisory staff.

Finding 5: The Grand Jury finds that there is no procedure and policy manual for the office.

Recommendation 5: The Grand Jury recommends the DA develop a procedure and policy manual, to be completed by January 1, 2006.

Finding 6: The Grand Jury finds that the DA's office accepts telephone messages only from 9:00 a.m. to noon and from 1:00 to 4:00 p.m. on weekdays. Unless a caller knows someone's direct number, the caller cannot leave a message.

Recommendation 6: The Grand Jury recommends the DA install a voice mail system that allows callers to access the main office number and leave messages for anyone at anytime.

Finding 7: The Grand Jury finds that the DA does not provide performance evaluations for all "at will" employees.

Recommendation 7: The Grand Jury recommends the DA provide regular, written performance evaluations for all "at will" employees.

Finding 8: The Grand Jury finds that the DA has fired at least one experienced, highly-competent Deputy DA without having comparable replacements available.

Recommendation 8: The Grand Jury recommends the DA refrain from firing Deputy DAs – except for cause - unless comparable replacement prosecutors are identified and are willing to work in Humboldt County.

Finding 9: The Grand Jury finds that the "at will" employment status of Deputy DAs hinders the county in attracting quality, experienced prosecutors to work - or even to apply - in Humboldt County.

Recommendation 9a: The Grand Jury recommends that the DA develop and implement a system to provide job security for Deputy DAs protecting them from arbitrary firing. This should be done by January 1, 2006.

Recommendation 9b: The Grand Jury recommends that the Board of Supervisors be directly involved in working with the DA to develop and implement a system which provides job security for Deputy DAs.

Finding 10: The Grand Jury finds that the reasons for plea bargains in serious felonies as required by Penal Code Sections 1192.6 and 1192.7 are not documented in the court minutes.

Recommendation 10: The Grand Jury recommends that the DA require that when a serious felony case is plea-bargained, the Prosecutor shall request the Court to order that the reasons for the plea bargain be reflected in the court minutes of the case. This will make the information readily available to the public and the media.

Grand Jury Report #2005-LJ-03 Volunteer Patrols: A Boon to Law Enforcement

Executive Summary

The various volunteer police patrol organizations in Humboldt County provide valuable assistance to law enforcement. Each year the volunteers log many thousands of miles and provide many thousands of hours of volunteer time, saving the taxpayers many thousands of dollars. The Grand Jury urges interested citizens to contact the Sheriff's department or their local police department to volunteer.

Who Shall Respond:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of the GRAND JURY REPORT #2005-LJ-04 shall be provided as follows:

- No responses are required for this report

Report

The Law and Justice Committee of the Grand Jury reviewed three of the citizens' volunteer police programs, known in each community under a different name: SCOP (Sheriff's Citizens on Patrol), EVP (Eureka Volunteer Patrol), and CVPP (Community Volunteer Patrol Program of Arcata). While these programs differ in name, they are in fact very similar; they all exist to assist law enforcement agencies with routine but very valuable and time-consuming tasks. Other communities also have excellent volunteer patrols.

The men and women of these volunteer organizations become the "eyes and ears" of the various agencies they serve. With slight variations within individual departments, the volunteers act under these general guidelines:

- They must be at least 18 year of age and possess a valid California Driver's License.
- They must pass a training course and a criminal background check.
- They must wear a uniform when on duty.
- They must attend meetings and ongoing training sessions.
- They must be willing to serve at least eight hours a month.
- They are not permitted to carry weapons or make arrests.
- They must report suspicious activities immediately – usually by radio.

Typical Duties / Tasks and Responsibilities

1. Patrol streets and county roads in assigned areas.
2. Conduct night security checks/surveillance as assigned.
3. Conduct vacation security residence checks.
4. Conduct home and business security inspections.
5. Conduct safety checks on commercial properties and report any hazards.
6. Patrol around school grounds.
7. Patrol at designated park and forest locations.
8. Assist with traffic control at public events.
9. Report to law enforcement any hazardous or unusual conditions, such as missing street signs,

inoperable streetlights, graffiti, or abandoned vehicles.

10. Assist crime prevention unit in establishing neighborhood watch programs.
11. Engrave valuables for anyone who requests the service.
12. Update law enforcement emergency-related information on businesses within the community.
13. Assist in fingerprinting.
14. Assist victims of natural disasters.
15. Provide crime scene security.

The Grand Jury finds that the various citizen patrol organizations provide a valuable service to their communities at very little cost. The Grand Jury recommends that all qualified Humboldt County citizens who are interested in serving as volunteers contact the Sheriff's department or their local police department. They will be welcomed with open arms.

Grand Jury Report #2005-PW-01 Code Enforcement

Executive Summary

The County of Humboldt would reap substantial benefits through the creation of a staff position for a Code Enforcement Officer. In the past, an extra-help employee for code enforcement actions brought in revenue to the county in excess of the cost of a full-time employee with benefits. Establishment of a Code Enforcement Unit within the county Department of Community Development Services, Economic Development Division, will generate much-needed revenue as well as discourage violations of building and planning code provisions. **Note:** since the Grand Jury did this investigation, but before publication of the report, the Board of Supervisors authorized and the Economic Development Division hired a full-time employee with benefits to do this work. **The Grand Jury commends the Board of Supervisors for authorizing and the Economic Development Division for filling the position in Code Enforcement.**

WHO SHALL RESPOND:

Pursuant to Penal Code Sections 933 & 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-PW-01 shall be as follows:

- No response is necessary.

REPORT

The Public Works Committee of the 2004-2005 Grand Jury interviewed employees of the county's Department of Community Development Services, Economic Development Division. In the past, building, planning, and other code violations were often backlogged and not investigated. This resulted in an overall lack of enforcement of county regulations and loss of revenue the county could have collected in building/planning fees and fines. When violations were reported to the Department, a letter would be sent to the alleged offender but little or no follow-up occurred.

Approximately three years ago, the Economic Development Division hired an extra-help employee to follow up on code enforcement issues. This individual has vigorously pursued code violations and has recovered revenues that more than pay for the position. The former backlog of cases has dwindled markedly. The Department is now levying fees and fines that bring much-needed income to the county's General Fund.

In April 2005, the Board of Supervisors approved the position of Code Enforcement Officer, a full-time county position with benefits. In May, the Division filled the position. The Grand Jury commends the Board of Supervisors for approving an exception to the hiring freeze and authorizing the Department of Community Development Services, Economic Development Division, to develop a code enforcement function. The Grand Jury further commends the Division for hiring an employee to bring dedication, enthusiasm, and creativity to code enforcement activities and thus pay for the position.

Grand Jury Report #2005-PW-02 Community Development

Executive Summary

Development of affordable housing is a much-needed component of the county's General Plan and efforts to provide such housing are already underway. However, the county needs to consider the wishes of the community and its input into both the type and location of affordable housing projects. Many citizens believe that the county did not consider the community's wishes and input with regards to the Redwood Village project in Redway. The Grand Jury recommends that the county maintain careful supervision over such projects to ensure that future tenants have safe, well-built, and properly maintained housing.

Who Shall Respond:

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-PW-02 shall be as follows:

- Humboldt County Department of Community Development Services shall respond to Findings and Recommendations 1 and 2.

Report

For the past three years, the county has pursued grant funding in the area of affordable housing, an identified component of the county's General Plan. One such project is the Redwood Village complex, to be built in Redway. A county official testified that all necessary legal steps were taken to notify the community of the proposed affordable housing project. At least three community hearings were held and notices mailed as required.

There was, however, strong community opposition to the Redwood Village project once the project for construction was awarded. The Grand Jury received several citizen complaints regarding the project and conducted a preliminary investigation into the allegations. The community was not opposed to affordable housing, but was concerned that the specific site chosen for the complex was unsuitable. Some of the concerns are:

- The Redwood Village project calls for 20 units on 1.23 acres, an extreme housing density for the site. Apartments will include 1, 2, 3, and 4-bedroom units.
- Plans call for some Redwood Village buildings to reach three stories. However, the Redway Volunteer Fire Department does not have a fire truck or equipment that can reach a third story. The community has neither the resources to upgrade their equipment nor a building to house it.
- The existing road is too narrow for emergency equipment and cannot be widened.
- Inadequate parking, no safe play areas for children, inadequate access, and health and safety factors.

Although all necessary legal actions were taken by the Economic Development Division of the Community Development Services Department for the Redwood Village project, a substantial

number of members of the local community strongly felt their input was disregarded and that approval of the project was driven by the grant specifications. A county official stated additional steps will be taken in the future to inform and involve communities in local development. In this particular case, it appears that the county obtained an affordable housing grant after a lengthy application process but took little time to prepare a project that was acceptable to the community. The county appeared to disregard the community's criticism and alternative suggestions.

Findings and Recommendations

Finding 1 The Grand Jury finds that community concerns had no effect on the proposed Redwood Village project; critical decisions had been made long before the community was involved.

Recommendation 1 The Grand Jury recommends that the Economic Development Division of the Community Development Services Department must honor concerns to reach an agreeable consensus between communities and developers.

Finding 2 The Grand Jury finds that the county should have policies and procedures in place to check the backgrounds, financial history, construction history and other factors about contractors in the selection process for county contracts.

Recommendation 2 The Grand Jury recommends that the Economic Development Division of the Community Services Department closely monitor compliance with all components of the affordable housing complex in Redway, to ensure that the community and future residents receive safe, properly constructed and maintained housing.

Grand Jury Report #2005-CC-01 Follow-up on Responses to the Grand Jury Final Report of 2003-2004

Who Shall Respond:

Pursuant to the California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2005-CC-01 shall be provided as follows:

- No responses are required for items discussed in this report.
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Procedure

Penal Code Section 933(a) requires the Grand Jury submit to the Presiding Judge of the Superior Court a Final Report of its findings and recommendations that pertain to county government matters. Section 933(c) also requires comments from the governing body, elected county officer, or agency head to the Presiding Judge of the Superior Court on these findings and recommendations.

The responses and comments submitted were evaluated using Penal Code Section 933.05 which requires the agency, officer, or governing board to (I) agree or disagree, wholly or in part, with each finding, and to (II) provide one of four possible responses to each recommendation: (1) have implemented the recommendation, (2) will implement the recommendation, (3) will study the recommendation, with an implementation plan available within six months, or (4) will not implement the recommendation. The last response generally includes the reasons(s) why not.

The 2004-2005 Grand Jury reviewed written responses to the 2003-2004 Grand Jury Report, which contained 55 findings and 57 recommendations. All recommendations which officials agreed to implement, or to study for possible implementation, were verified through document inspection and official testimony. The review of the "Will Be Implemented" and "Will Be Studied" responses follows the chart. Officials have six months beyond the date of their first reply to study the issue and be prepared to discuss the issue further.

This is a brief summary of the recommendations and responses; to examine a full text, visit the website <http://www.co.humboldt.ca.us/grandjury>.

2003-2004 Grand Jury Final Report Recommendation Status 5/15/05

Report #	Title	Recom- mendations	Implemented	Will Be *	Will Not Be Implemented
AF-01	Absence of Ethics Codes	5	1	4	
AF-02	Access to APS Files	2	1		1
AF-03	"Benefit Allowance"	1			1
CD-01	Brown Act Violations by KTJUSD	3	2		1
CD-02	Review LAFCO	0			
CD-03	Special Dist Audit Program in Jeopardy	1			1
HS-01	APS & IHSS	9	2	3	4
HS-02	Foster Care	11	10	1	
JL-01 thru 05	Jails, Holding Facilities	0			
JL-06	Hoopa Sheriff Substation	3	1	1	1
JL-07	Garberville Sheriff Subst	4			4
JL-08	Juvenile Hall	2			2
JL-09	Regional Facility	1		1	
JL-10	HCCF Com- puter System	2			2
LJ-01	Public Defndr Conflict & Alt Confl Counsel	0			
LJ-02	Sheriff's Storage Yard	4	2		2
PW-01	Community Development Services	3		3	
PW-02	Legality of Rapid Check BID	5	1	4	

*Will be studied, or will be implemented.

**Reviews of the current status of these items
(Will Be Studied or Will Be Implemented) follow.**

**REPORT 2004-AF-01
THE ABSENCE OF ETHICS CODES IN HUMBOLDT COUNTY**

RECOMMENDATION 1: The Grand Jury recommends that Humboldt County and the cities of Blue Lake, Eureka, Ferndale, Rio Dell, and Trinidad review available model ethics codes and adopt their own codes of ethics, to apply to all officials, elected and appointed.

COUNTY ADMINISTRATIVE OFFICE RESPONSE TO R1: On September 10, 2004, the Humboldt County Board of Supervisors (BOS) directed the County Administrative Office (CAO) to draft an ethics code for its consideration; and return to the Board within the next six months.

- The 2004-2005 Grand Jury finds that in February of 2005, the Board of Supervisors decided not to adopt a code of ethics.

THE CITY OF BLUE LAKE RESONSE TO R1: The recommendation will not be implemented because it is not warranted. Members of Blue Lake City Council are already bound by the California Fair Political Practices Act and the conflict of interest code adopted pursuant thereto.

THE CITY OF EUREKA RESPONSE TO R1: Partially agree, never the less, the City Council of the City of Eureka will agendize discussion concerning a local code of ethics at the City Council meeting to be held prior to the end of 2004.

- The 2004-2005 Grand Jury finds that the City of Eureka plans to place this item for discussion on the City Council agenda prior to June 30, 2005.

THE CITY OF FERNDALE RESPONSE TO R1: The City has reviewed recommendation 1 and will not be adopting an ethics code.

THE CITY of RIO DELL RESPONSE TO R1: The City of Rio Dell has complied with the recommendations and has adopted a code of ethics.

- The 2004-2005 Grand Jury commends the City of Rio Dell for adopting a code of ethics.

THE CITY OF TRINIDAD RESPONSE TO R1: The Trinidad City Council agrees to study the adoption of a code of ethics.

- While the Trinidad City Council was tardy in its initial response to the report, the 2004-2005 Grand Jury commends them for adopting a code of ethics in March 2005.

RECOMMENDATION 2: The Grand Jury recommends that the City of Fortuna review available model ethics codes and adopt its own code of ethics, to apply to all officials, elected and appointed.

THE CITY OF FORTUNA RESPONSE TO R2: Partially agree. The City of Fortuna has not yet implemented the recommendation, but the recommendation will be implemented in the future along with a schedule for implementation. The City will need to perform further analysis of the recommendation.

- The 2004-2005 Grand Jury finds that the city of Fortuna is still considering the adoption of a code of ethics.

RECOMMENDATION 3: The Grand Jury recommends that the City of Arcata review other available model codes of ethics and consider modifying or supplementing its current code of ethics in accordance therewith.

THE ARCATA CITY COUNCIL RESPONSE TO R3: The Arcata City Council Protocol Manual is subject to revision in February following each city council election. Accordingly, the manual will be reviewed in February of 2005, and at that time follow the Grand Jury's recommendations to review other available model codes of ethics and consider modifying or supplementing its current manual.

- The 2004-2005 Grand Jury finds that the City of Arcata continues to discuss modifying their code of ethics.

RECOMMENDATION 4: The Grand Jury recommends that Humboldt County and the cities of Arcata, Blue Lake, Eureka, Ferndale, Rio Dell, and Trinidad include citizen participation in the development of their codes of ethics.

COUNTY ADMINISTRATIVE OFFICE RESPONSE TO R4: On September 10, 2004, the Humboldt County Board of Supervisors (BOS) directed the County Administrative Office (CAO) to draft an ethics code for its consideration; and return to the Board within the next six months.

- The 2004-2005 Grand Jury finds that in February of 2005, the Board of Supervisors decided not to adopt a code of ethics.

CITY OF ARCATA RESPONSE TO R4: The City of Arcata by policy and practice includes public participation in virtually all aspects of its policy development. The City Council Protocol Manual was adopted after public comment, and its review and/or update will also be subject to public comment.

THE CITY OF BLUE LAKE RESPONSE TO R4: Agree that the City of Blue Lake should include citizen participation in developing a code of ethics, if the City of Blue Lake were to develop such a code.

THE CITY OF EUREKA RESPONSE TO R4: The City Council of the City of Eureka will invite the public in its meetings and discussions concerning possible adoption of a local code of ethics.

THE CITY OF FERNDALE RESPONSE TO R4: The City has reviewed recommendation 1 and will not be adopting an ethics code. Accordingly, the City will not undertake the action outlined in recommendation 4.

RESPONSE TO R4: Agree. The City Council of the City of Fortuna will invite the public in its meetings and discussions concerning possible adoption of a local code of ethics.

THE CITY OF RIO DELL RESPONSE TO R4: The City of Rio Dell has complied with the recommendations and has adopted a code of ethics.

- The 2004-2005 Grand Jury commends the City of Rio Dell for adopting a code of ethics with citizen participation.

THE CITY OF TRINIDAD RESPONSE TO R4: The Trinidad City Council responded after the original deadline but later agreed to study the adoption of a code of ethics.

- The 2004-2005 Grand Jury commends the Trinidad City Council for adopting a code of ethics with citizen participation.

RECOMMENDATION 5: The Grand Jury recommends that the County Administrative Office regularly sponsor ethics workshops and expand the invitation list to all elected and appointed city and county officials.

RESPONSE TO R5: The last ethics workshop was conducted by a leader of the Josephson Institute of Ethics. It is expected that the opportunity to bring this representative to our community again will present itself later this spring or summer. I will make sure to let the Grand Jury know when the next event is scheduled.

- The 2004-2005 Grand Jury is looking forward to hearing when this workshop is going to be held.

**REPORT 2004-HS-01
AN INVESTIGATION INTO HUMBOLDT COUNTY'S
ADULT PROTECTIVE SERVICES and
IN-HOME SUPPORT SERVICES**

RECOMMENDATION 7: The Grand Jury recommends that a centralized system for cross-checking and verifying each caregiver's cumulative timecard hours and verifying client timecard signatures be established.

DHHS RESPONSE TO R7: This recommendation requires further analysis in order to determine if such a system is feasible, and if so the cost of implementing the system will allow implementation. An

analysis will be conducted by March 31, 2005.

- The 2004-2005 Grand Jury received this update from DHHS: An analysis for a centralized system has been completed. Currently, only one electronic system exists that scans time cards. It does not have the capability to compare signatures. This system would not meet the needs of this recommendation. A manual system of verifying signatures and cumulative hours for over 4000 timecards each month would require hiring additional staff. The cost of hiring additional staff would exceed the cost savings that would occur by implementing a manual system.

RECOMMENDATION 8: The Grand Jury recommends that when a caregiver's fraud has been legally confirmed, that caregiver be permanently disqualified as a caregiver in Humboldt County.

DHHS RESPONSE TO R8: This recommendation will be implemented by March 31, 2005.

- The 2004-2005 Grand Jury received this update from DHHS: A policy on excluding individuals as care providers in the IHSS program has been reviewed by county Counsel and Risk Management. Recommended revisions have been made and the policy is currently being reviewed by County Counsel and Risk Management. The finalization of the policy, staff trained, and beginning implementation is planned by June 30, 2005.

RECOMMENDATION 9: The Grand Jury recommends that a cross-file of shared cases be instituted so that APS and IHSS caseworkers have access to information and status of an individual's case within the other division.

DHHS RESPONSE TO R9: A formal written policy on cross-filing in each case file will be drafted and staff trained by March 31, 2005.

- The 2004-2005 Grand Jury received this update from DHHS: Workers and supervisors continue to confer and team cases in common. Written policies are in place and staff were trained and the policy was implemented in May 2005.

REPORT 2004-HS-02 HUMBOLDT COUNTY'S FOSTER CARE PROGRAM NEEDS HELP NOW

RECOMMENDATION 4: The Grand Jury recommends that DHHS develop team building, open communication between caseworkers and upper-level management, and respect the opinions and recommendations of those who work directly with children and families.

DHHS RESPONSE TO R4: The recommendation that DHHS develop team building and open communication between caseworkers and upper-level management has not yet been implemented, but will be implemented in the future. Management has identified the need for improvement in this area, and efforts are already underway to encourage dialogue between line staff and management. It is anticipated that this recommendation will be implemented by 8/31/05.

DHHS UPDATE ON 2/8/05: Child welfare services continue to address team building and communications between line staff and management, as described in the original response to the grand jury report. In addition to the strategies already in place, new strategies are being implemented. In addition to team decision-making, CWS is also re-visiting current procedures for staffing cases, to ensure that decisions are made by key staff who are well-informed about the specifics of the case.

- The 2004-2005 Grand Jury commends the DHHS for implementing these recommendations.
- Based on DHHS responses, the 2004-2005 Grand Jury decided to conduct "exit" interviews when appropriate.

REPORT 2004-JL-06 HOOPA SHERIFF'S SUBSTATION

RECOMMENDATION 2: The Grand Jury recommends yet again that the two aging toilet/sinks be replaced with stainless steel combination sink and toilet units without further delay.

THE COUNTY OF HUMBOLDT GENERAL SERVICES DEPARTMENT RESPONSE TO R2: The County replaced the two toilet/sink combinations in October 2004 with stainless combination sink and toilet units at the Hoopa Sheriff's substation.

- The 2004-2005 Grand Jury appreciates that this long-standing recommendation has been completed.

GRAND JURY REPORT 2004-JL-09 REGIONAL FACILITY

RECOMMENDATION 1: The Grand Jury recommends that all affected ceiling tiles be replaced.

HUMBOLDT COUNTY PROBATION DEPARTMENT RESPONSE TO R1: The ceiling tiles are in the process of being removed to be replaced with either new ceiling tiles or an alternative material to reduce ability to damage the ceiling in the future.

- The 2004-2005 Grand Jury found that the damage to the ceiling has been corrected.

GRAND JURY REPORT 2004-PW-01 CITIZEN COMPLAINTS ABOUT COMMUNITY DEVELOPMENT SERVICES (CDS)

RECOMMENDATION 1: The Grand Jury recommends that CDS develop a written customer complaint system of documenting and classifying complaints in a manner which facilitates analysis and reporting to top management.

RESPONSE TO R1: CDS concurs with this recommendation and will implement a complaint tracking and reporting system in fiscal year 2004-2005.

- The 2004-2005 Grand Jury finds that no complaint tracking or reporting system is yet in place. The department hopes to have the one they have developed implemented along with tracking by October 2005.

RECOMMENDATION 2: The Grand Jury recommends that a standardized customer complaint form and instructions be developed and made available with each new permit application as well as at the customer reception area and the website.

RESPONSE TO R2: CDS will complete the new customer feedback form and make it available as the Grand Jury recommends in fiscal year 2004-2005.

- The 2004-2005 Grand Jury finds that no complaint form is available at either the customer reception area or on the website, nor do personnel serving customers know anything about one. The Grand Jury is hopeful that this agreed-to action will be completed by October 2005.

RECOMMENDATION 3: The Grand Jury recommends that all brochures be reviewed and where appropriate, be rewritten to adequately describe the pitfalls and potential delaying factors in planning/building/permitting processes.

RESPONSE TO R3: CDS will improve applicant communications, including brochures, to better inform applicants how to efficiently move through the permit process. Communications will include the most common reasons that permit processes are delayed.

- The 2004-2005 Grand Jury finds that no improved brochures appear to be available. The department is optimistic that an employee hired in May 2005 can help with this process.

GRAND JURY REPORT 2004-PW-02
THE LEGALITY OF COUNTY BUILDING INSPECTION DIVISION
“RAPID CHECK” AND “RAPID PROCESS” SURCHARGES

RECOMMENDATION 1: The “rapid check” and “rapid process” surcharges are invalid because they were not created through the procedures required by Government Code Sections 66016 and 66018.

Community Development Services RESPONSE TO R1: The services of Rapid Check will be presented to Board of Supervisors in September 2004. Staff will be requesting approval of the program and adoption of the appropriate fees at that time.

Board of Supervisors RESPONSE TO R1: The recommendation has been implemented. The services have been discontinued until they can be presented to the Board for adoption of the appropriate fee.

- The 2004-2005 Grand Jury finds that Rapid Check has been discontinued but has not been presented to the Board of Supervisors.

RECOMMENDATION 2: The Grand Jury recommends that, if the “Rapid Check” and “Rapid Process” services and surcharges are properly established through the required legal procedures, CDS develop a method of keeping accurate payroll records. The method should include accounting for overtime hours worked, overtime wages paid, and compensation time earned in order to establish that its surcharges for “Rapid Check” and “Rapid Process” are not arbitrary and do, in fact, relate to the estimated reasonable cost of providing the services.

BOARD OF SUPERVISORS RESPONSE TO R2: The recommendation will be implemented.

CDS RESPONSE TO R2: Board report will be presented to the Board of Supervisors for adoption of the appropriate fee for this service.

- The 2004-2005 Grand Jury finds that, since the service is no longer available, this recommendation does not apply at this time.

RECOMMENDATION 3: The Grand Jury recommends that if the “Rapid Check” and “Rapid Process” services and surcharges are properly established through the required legal procedures, the general public be informed of their existence by all the usual written and oral methods, including informational brochures and the CDS website: www.co.humboldt.ca.us/planning.

CDS RESPONSE TO R3: The general public will be informed of expedited service options after adopted by the Board.

- The 2004-2005 Grand Jury finds that, since the service is no longer available, this recommendation does not apply at this time. If it is reinstated, the department will inform the public as required.

RECOMMENDATION 5: The Grand Jury recommends that BID keep complete accounting records of all overtime hours worked, which identify the category of the worked performed, for all employees including management.

CDS RESPONSE TO R5: Total overtime hours are tracked by CDS. CDS will segregate overtime hours by task when necessary for the cost accounting needs of individual programs, such as expedited services.

- The 2004-2005 Grand Jury finds that, since the service is no longer available, this recommendation does not apply at this time.