



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

E-1

For the meeting of: September 16, 2008

Date: September 5, 2008
To: Board of Supervisors
From: Loretta Nickolaus, County Administrative Officer
Subject: Responses to the 2007-08 Grand Jury Report

RECOMMENDATION(S):

That the Board of Supervisors:

- 1. Review and modify the draft Board of Supervisors' responses to the 2007-08 Grand Jury Report, as needed;
2. Approve the documents, as may be modified, as the response from the Board of Supervisors;
3. Direct the Clerk of the Board, within five working days, to submit the final responses with an accompanying Board Order, to the Presiding Judge of the Superior Court; and
4. Direct the Clerk of the Board, within five working days, to submit two copies of all responses to the County Clerk/Recorder, one of which will be forwarded to the State Archivist, together with a copy of the original report.

SOURCE OF FUNDING:

General Fund and outside agency funds

Prepared by Amy S. Nilsen, Senior Administrative Analyst
CAO Approval Phillip Smith Hanna
REVIEW: Auditor County Counsel Personnel Risk Manager Other

TYPE OF ITEM:
Consent
X Departmental
Public Hearing
Other

PREVIOUS ACTION/REFERRAL:
Board Order No.
Meeting of:

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor WOOLLEY
Seconded by Supervisor NEELY
And unanimously carried by those members present,
The Board hereby adopts the recommended action contained in this report.

Dated: September 16, 2008
Kathy Hayes, Clerk of the Board
By: Jackie Turner

DISCUSSION:

The Grand Jury submits an annual report to the Presiding Judge of the Superior Court. Each department head or agency mentioned in the report is required to prepare a response. Responses from all appointed County officials are compiled by the County Administrative Office and submitted as a package to the Board of Supervisors.

Draft proposed responses from the Board of Supervisors are also included for consideration and modification as the Board deems appropriate. For the sake of providing a compilation of all responses in a single document, copies of the responses from six of the seven cities; the Manila Community Services District; Shelter Cove Resort Improvement District; the District Attorney; and the Sheriff are also attached.

In addition to the responses, the 2008-09 Grand Jury has made a textual correction to a portion of the 2007-08 Grand Jury report, and a revised report for 2008-AF-02 is attached. The textual correction concerns former County Counsel Tamara Falor. The correction replaces the word "dismissal" with "resignation". The 2007-08 Grand Jury report stated that Ms. Falor was dismissed. That was an erroneous statement, and Ms. Falor has asked that this misinformation be corrected. Ms. Falor in fact resigned from her position as County Counsel.

Although not required to respond, the Probation Department has provided a letter of clarification as well.

FINANCIAL IMPACT:

There is no financial impact related to compilation of the responses. Some individual responses may require expenditures.

OTHER AGENCY INVOLVEMENT:

All County departments and outside agencies referenced in the Grand Jury Report are involved.

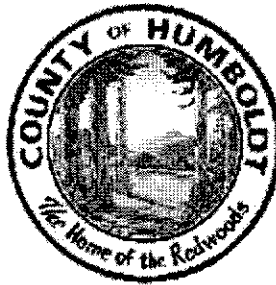
ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may elect to modify any response pertaining to matters under its control.

ATTACHMENTS:

Board of Supervisors Draft Response
Manila Community Services District Response
Shelter Cove Resort Improvement District Response
City of Arcata Response
City of Blue Lake Response
City of Eureka Response
City of Ferndale Response
City of Fortuna Response
City of Rio Dell Response
Sheriff Response
District Attorney Response
2007-08 Grand Jury Textual Correction
Probation Letter of Clarification

Cc: Grand Jury
All County departments and agencies listed above under "Attachments"



COUNTY OF HUMBOLDT
County Administrative Office
Interoffice Memo

DATE: July 31, 2008
TO: Board of Supervisors
FROM: Loretta Nickolaus, County Administrative Officer
SUBJECT: **Response to 2007-08 Appointed Department Head Evaluations**

In the 2007-08 Final Report, the Grand Jury made findings and recommendations regarding Appointed Department Head Evaluations. The County Administrative Office has reviewed the recommendations. This memo serves as the proposed County response to the Grand Jury:

APPOINTED DEPARTMENT HEAD EVALUATIONS (Grand Jury Report #2008-AF-02)

Finding/Recommendation 1:

There is no policy or procedure for annual written job performance evaluations for department heads appointed by the Board of Supervisors. The Board of Supervisors adopts policy and procedure for annual job performances evaluations for all department heads who report to the Board of Supervisors. Policy to include that such evaluation is kept as part of the employee's personnel file.

RESPONSE: The Board agrees with the finding. The Board will work with the County Administrative Officer and the Personnel Director to establish a policy and procedures.

Finding/Recommendation 2:

There is a lack of clarity among the Board of Supervisors and subcommittees as to who is responsible for evaluation of appointed department heads. The Board of Supervisors should either conduct regular performance evaluations through a subcommittee of the Board or do what is necessary to direct the Chief (County) Administrative Officer to conduct performance evaluations, with the authority necessary to make the process timely and effective. Such direction to include making the evaluations part of the employee's personnel file.

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

Finding/Recommendation 3:

No evaluation of the Chief (County) Administrative Officer is conducted by the Board of Supervisors on a regular basis. Conduct an annual evaluation of the Chief (County) Administrative Officer, at which time goals consistent with the priorities of the Board can be established.

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



Manila Community Services District

1901 Park Street • Arcata, CA 95521 • 707-444-3803 • Fax 707-444-0231

August 12, 2008

The Honorable John T. Feeney, Presiding Judge
Superior Court of California
825 5th Street
Eureka, CA 95501-1153

Below is the response to the Grand Jury Report # 2008-CD-01 from Manila Community Service District:

Who Shall Respond:

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

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

Findings and Recommendations:

Finding 1:

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

Response to Finding 1:

General Manager Partially Disagrees:

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

This system is particularly susceptible to I&I (since electricity is required to pump all effluent within the pressurized system). Due to this susceptibility, the system is designed to be sealed from I&I.

The district has identified I&I exposed sites and has implemented a simple, cost effective plan to minimize I&I from the sites.

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

Regards,
Christopher Drop

General Manager
Manila CSD
707-444-3803
manilacsd1@sbcglobal.net

To: Awilson
JA

**RESORT IMPROVEMENT DISTRICT NO. 1
SHELTER COVE – HUMBOLDT COUNTY – CALIFORNIA**

9126 Shelter Cove Road, Whitethorn CA 95589

707-986-7447, Fax: 707-986-7435, info@sheltercove-ca.gov, www.sheltercove-ca.gov

August 20, 2008

County Administrative Office
County Of Humboldt
825 5th Street, Suite 111
Eureka, CA 95501-1153

RE: RESPONSE TO GRAND JURY REPORT 2007-2008

Dear Sirs:

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

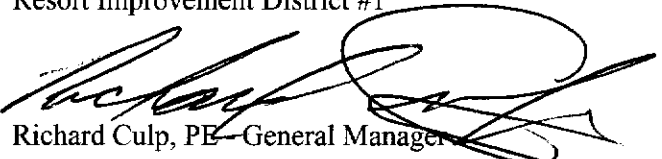
- The District has aggressively pursued rehabilitation of its sewer collection system for more than ten years and invested hundreds of thousands of dollars in its effort to reduce Inflow and Infiltration (I&I). These efforts have resulted in a significant reduction in wet weather flow to our wastewater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

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

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

Sincerely,

Resort Improvement District #1



Richard Culp, PE – General Manager

RECEIVED
AUG 22 2008
CAO



CITY OF BLUE LAKE

Post Office Box 458, 111 Greenwood Road, Blue Lake, CA 95525
Phone 707.668.5655 Fax 707.668.5916 E-mail BlueLakeCity@aol.com

July 8, 2008

Honorable John T. Feeney
Presiding Judge
Humboldt County Superior Court
825 Fifth Street
Eureka, CA 95501

Re: Response to Grand Jury Report Numbers 2008-CD-021 and 2008-LJ-01

Dear Judge Finney:

The 2007-2008 Humboldt Grand Jury has requested that the City Council of City of Blue Lake respond to finding and recommendation 1 of Grand Jury Report No. 2008-CD-01. This letter constitutes the response of the City Council prepared and submitted in accordance with Penal Code Section 933 and the Humboldt County Standard Format for Responses.

FINDING 1: THE GRAND JURY FINDS THAT ECONOMIES OF SCALE COULD BE ACHIEVED BY CONSOLIDATION OF SOME MANAGEMENT ELEMENTS WITH LOCAL SEWER TREATMENT SYSTEMS.

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

RECOMMENDATION 1: THE GRAND JURY RECOMMENDS THAT THE SEWER DISTRICTS LISTED IN THIS REPORT SHOULD EXPLORE THE POSSIBILITY OF JOINT EFFORTS FOR WORKABLE SOLUTIONS TO THEIR COMMON PROBLEM OF INFLOW AND INFILTRATION, INCLUDING THE CONSOLIDATION OF LONG-TERM ENGINEERING AND PLANNING

SERVICES. CONSIDERATION SHOULD BE GIVEN TO INCLUDE ALL SEWER DISTRICTS WITHIN HUMBOLDT COUNTY, FOR THE PURPOSE OF OPENING DIALOGUE CONCERNING RELATIVE ISSUES.

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

The 2007-2008 Humboldt Grand Jury has also requested that the City Council of City of Blue Lake respond to findings and recommendations 1, 2, and 3 of Grand Jury Report No. 2008-LJ-01. This letter constitutes the response of the City Council prepared and submitted in accordance with Penal Code Section 933 and the Humboldt County Standard Format for Responses.

FINDING 1: THE GRAND JURY FINDS THAT THE COMPLAINT PROCEDURE FOR THE BLUE LAKE POLICE DEPARTMENT IS NOT FOLLOWED.

RESPONSE: Agree with the finding.

RECOMMENDATION 1: THE GRAND JURY RECOMMENDS THAT THE BLUE LAKE CITY COUNCIL SHOULD INSURE THAT THE BLUE LAKE POLICE DEPARTMENT CITIZEN COMPLAINT POLICY IS FOLLOWED BY CITY STAFF AND BLUE LAKE POLICE DEPARTMENT PERSONNEL.

RESPONSE: The City Council acknowledges that there were instances when the complaint procedure was not followed. However, it is not possible to implement this recommendation at this time because the City Council disbanded the Blue Lake Police Department effective 20 May 2008 and entered into a contract for services with the Humboldt County Sheriff's Department as of 1 July 2008. If the City of Blue Lake ever does re-establish its own police department, this recommendation will certainly be adopted at that time.

FINDING 2: THE GRAND JURY FINDS THAT SUPERVISION OF THE CHIEF OF POLICE BY THE CITY MANAGER, IN OPERATION AND ADHERENCE TO BLUE LAKE POLICE DEPARTMENT COMPLAINT PROCEDURE, IS INADEQUATE

RESPONSE: We agree with this finding.

RECOMMENDATION 2: THE GRAND JURY RECOMMENDS THAT THE BLUE LAKE CITY COUNCIL SHOULD EVALUATE THE PERFORMANCE OF THE CITY MANAGER AND DETERMINE HOW THE CITY MANAGER'S SUPERVISION OF THE CHIEF OF POLICE CAN BE IMPROVED.

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

FINDING 3: THE GRAND JURY FINDS THAT SEVERAL BLUE LAKE CITY COUNCIL MEMBERS ARE INSUFFICIENTLY INFORMED OF BLUE LAKE POLICE DEPARTMENT POLICIES AND PROCEDURES.

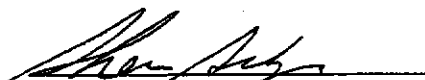
RESPONSE: Agree with the finding.

RECOMMENDATION 3: THE GRAND JURY RECOMMENDS THAT ALL BLUE LAKE CITY COUNCIL MEMBERS SHOULD FAMILIARIZE THEMSELVES WITH BLUE LAKE POLICE DEPARTMENT POLICY AND PROCEDURE.

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

ever does re-establish its own police department, this recommendation will certainly be followed at that time.

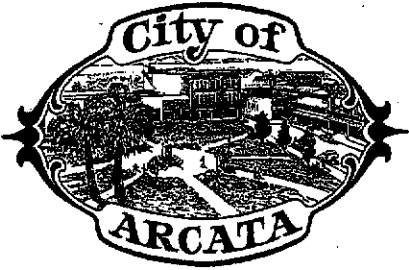
Respectfully Submitted,



Sherman Schapiro, Mayor
City of Blue Lake

cc: Board of Supervisors
Loretta Nickolaus, Humboldt County CAO

mailed 9/3/08
COPY AHC



736 F Street
Arcata, CA 95521

City Manager (707) 822-5953	Environmental Services 822-8184	Police 822-2428	Recreation 822-7091
Community Development 822-5955	Finance 822-5951	Public Works 822-5957	Transportation 822-3775

September 3, 2008

Presiding Judge of the Superior Court
Humboldt County
825 5th Street
Eureka, CA 95501

RE: Grand Jury Report #2008 – CD – 01 – Sewer Treatment Systems

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

City Response: The City agrees with Finding 1.

Recommendation 1: The sewer districts listed in this report should explore the possibility of joint efforts for workable solutions to their common problem on Inflow and infiltration, including the consolidation of long-term engineering and planning services. Consideration should be given to include all sewer districts within Humboldt County, for the purpose of opening dialogue

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

Background on the North Coast Water Resources Association:

The City of Arcata recently participated in a collaborative effort to assist the County of Humboldt with the completion a *Humboldt County Infrastructure Technical Report*. This technical report was used to provide information for the update to the County's General Plan. This same technical report called for the initiation of the North Coast Water Resources Association in the hopes of continuing the efforts initiated by the report's collaborative efforts. Humboldt County Planning and the Rural Community Assistance Corporation are currently organizing the formation of this new group. The initial intention for the group is to: exchange information and experience, pool resources, establish working groups to address issues affecting all members, develop and deliver

free or low cost training, develop programs and procedures that will reduce duplication of effort, coordinate more effectively with county, state and federal assistance programs, respond to regulatory or political issues with a strong and united voice, coordinate with non-profit technical assistance providers to develop and share standardized templates, and provide all the benefits of membership at the lowest cost possible. The City intends to continue our effort to participate in the North Coast Water Resources Association as it develops.

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

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

Respectfully Submitted,



Michael Hackett
Arcata City Manager

To: Amy Nilsen
JN



CITY OF EUREKA

531 K Street • Eureka, California 95501-1146 • (707) 441-4200

MAYOR

August 19, 2008

Honorable John T. Feeney, Presiding Judge
Superior Court of California
County of Humboldt
825 5th Street
Eureka, CA 95501

Dear Judge Feeney:

The 2007-08 Humboldt County Grand Jury Report addressed two subject areas within the City of Eureka.

At the Eureka City Council meeting on August 5, 2008, the City Council discussed the Grand Jury findings, conclusions, and recommendations. As directed, the City Council provides their response for the 2007-08 Grand Jury's Report.

Sincerely,

Virginia Bass
Mayor
City of Eureka

Cc: Matt Morehouse, Foreperson, 2007-08 Grand Jury
County Administrative Office

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AUG 22 2008
CAO

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

Please accept the following response to Grand Jury Report #2008-CD-01. The City of Eureka largely agrees with the intent of the Grand Jury Report that there is a common problem involving Inflow and Infiltration (I&I) in Humboldt County due to aging sewer systems and that I&I may negatively impact wastewater treatment plants (WWTP). This problem of course is shared nationwide. The City also supports the discussion that WWTP's operated by large cities or districts normally have more financial resources available to address these problems and that smaller systems have limited resources and are at a disadvantage.

Findings and Recommendations:

Finding 1:

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

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

Recommendation 1:

The sewer districts listed in this report should explore the possibility of joint efforts for workable solutions to their common problem of I&I, including the consolidation of long-term engineering and planning services.

Consideration should be given to include all sewer districts within Humboldt County for the purpose of opening dialogue concerning relative issues.

This recommendation requires further analysis.

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

Even though the focus of the report may be on the smaller districts, the City of Eureka supports regional efforts in working together whenever possible and believe those efforts are ongoing. The City owns and operates the Elk River Wastewater Treatment Plant and the collection system within the city limits. By

agreement, we accept and treat all sewage from Humboldt Community Services District. The City and District have a history of working together and sharing resources whenever possible. The City and District are currently working together on a Facility Planning effort for the WWTP and collection system.

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

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

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

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

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

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

Findings and Recommendations:

Finding 1:

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

Agree

Recommendation 1:

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

The recommendation has been implemented.

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

Finding 2:

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

Agree

Recommendation 2:

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

The recommendation has been implemented.

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

Finding 6:

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

Disagree

Recommendation 6:

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

The recommendation requires further analysis.

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

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

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



August 29, 2008

The Honorable John T. Feeney
Superior Court of California
County of Humboldt
825 Fifth Street
Eureka, CA 95501

Your Honor:

The City of Ferndale thanks you for the 2007-2008 Grand Jury Final Report. We commend the Grand Jury for their commitment and service to Humboldt County Citizens.

We have the following response to Grand Jury Report #2008-CD-01; Sewer Treatment Systems:

Finding One: "Economies of scale could be achieved by consolidation of some management elements with local sewer treatment systems." The City of Ferndale Agrees.

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

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

Sincerely,



Jay Parrish, City Manager

Copy: Correspondence
Grand Jury File

August 29, 2008

Humboldt County Grand Jury
825 Fifth Street
Eureka, CA 95501

Dear Foreman and Members of the Grand Jury:

Thank you for your service to the citizens of Humboldt County and your efforts to put together the 2007-2008 Grand Jury Final Report.

Regarding Grand Jury Report #2008-CD-01 "Sewer Treatment Systems."¹

The Grand Jury required responses to the Findings and Recommendations of this Report #2008-CD-01 from the District Management of Manila and Shelter Cove and the City Managers of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, and Rio Dell. I am providing this response as the City Manager of the City Fortuna, however my perspective and response also reflects my tenure as the former City Manager / Director of Public Works for the City of Blue Lake and the former General Manager of the Manila Community Services District.

The City of Fortuna has placed a high priority on the effective and efficient operation of the City's water treatment and distribution system and the wastewater collection and treatment system including capital improvements and replacements. Even after years of diligent staff efforts working on the City's water and wastewater systems, the Fortuna City Council determined in 2005 that the City was continuing to fall behind on the replacement of deteriorating capital components in both systems. The deterioration of the system components was due to both age and use.

This dilemma was caused by the lack of Capital Replacement funds to pay for the replacement infrastructure. However, the City Council had the political will to resolve the problem through the adoption of a comprehensive long-term water and sewer rate structure that now produces the revenues needed to make these important capital replacements financially feasible well into the future.

The Grant Jury Report discusses and explores various ongoing issues related to the management and operation of public wastewater collection systems, specifically the issue of Inflow and Infiltration (I&I). The Grant Jury report also explores the premise that economies of scale and efficiencies could be realized if small special district's combined their efforts and hired qualified staff and professional consultants to work and resolve these technical issues and share these costs equitably.

RECEIVED

SEP 04 2008

CAO

¹ A copy of Grand Jury Report 2008-CD-01 is attached.

City Hall
(707) 725-7600
Fax (707) 725-7610
621 11th Street

Police Department
(707) 725-7550
Fax (707) 725-7574
621 11th Street

Parks and Recreation
(707) 725-7620
Fax (707) 725-7576
5 Park Street

Public Works
(707) 725-7650
Fax (707) 725-7651
180 Dinsmore Drive

The Grand Jury Report also identified a previous joint effort by public sewer agencies in Humboldt County for the purpose of securing a site and constructing a sewer sludge composting facility. The effort failed for a number of reasons, but the primary causes were:

- The lack of a shared need,
- The ability to secure the construction and operating revenues,
- Developing an equitable cost sharing allocation.

However, there are many other examples of public infrastructure agencies in the county successfully working together for their mutual benefit either as Joint Powers Authorities² or as the collaborative efforts of both the municipal and special district wholesale customers of the Humboldt Bay Municipal Water District³ (HBMWD).

There are many other examples of public water and sewer agencies in the County working together and sharing wastewater personnel and facilities because it is a mutually sound financial and/or regulatory decision for their respective agencies.

Some of these examples are:

- The Loleta Community Services District requested the City of Fortuna to operate and maintain their wastewater treatment plant because the District did not have a certified operator. This arrangement functioned for approximately a year and after the District was able to recruit a certified operator, the District resumed operating the plant.
- The City of Fortuna, under terms of a mutual agreement, treats all of the wastewater generated by the Palmer Creek Community Services District at the City's wastewater treatment facility.
- The City of Eureka treats Humboldt Community Services District's wastewater at Eureka's wastewater treatment facility.
- The City of Fortuna operates a certified testing laboratory and staff for verifying compliance requirements of the City's water and wastewater operations. The City also provides these services to other small cities and special districts for a significant cost savings for those agencies.
- The City of Fortuna purchased a testing device ("smoke generator") for the assessment of the City's leaky sewer collection laterals and mainline pipes. The City has also made this testing device available to small special districts for testing their sewer collection systems at no cost to those districts.

² Some examples are the Humboldt County Association of Governments, the Redwood Coast Energy Authority, and the Humboldt Waste Management Authority.

³ HBMWD is a Special District the supplies treated water to the Cities of Arcata, Blue Lake and Eureka as well as the Fieldbrook, Humboldt, McKinleyville and Manila Community Services Districts.

Therefore, as the Grand Jury Report clearly asserts, nothing prevents special districts and the small cities from working together on public sewer infrastructure issues. However, for this idea to be relevant, each agency will need to identify the cost savings benefits their agency would gain by participating in a collaborative effort as well as the political leadership necessary to accomplish and sustain these goals and tasks.

The elected members of the various special districts boards and city councils are ultimately responsible to their water and sewer system ratepayers to assure that the public agency's infrastructure is properly operated and maintained in good order well into the future. One of the primary components of sound infrastructure planning and engineering is a sound financial plan with an adequate stream of revenue to pay for the cost of operations, maintenance and capital replacements. This requires the adoption of a comprehensive user rate structure by each public agency which will generate the funds to accomplish this responsibility.

Finding/Recommendation #1. "Explore Joint Efforts for Sewer System Planning and Engineering with the County"

Response: Partially agree.

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

It is possible to develop a joint work plan whereby public agencies can work together on similar wastewater infrastructure issues and share the costs. However in my opinion as the City Manager of Fortuna, and with my previous experience as the former City Manager / Director of Public Works for the City of Blue Lake and the former General Manager of the Manila Community Services District I find that the Grand Jury recommendation is impractical and naive for a variety of reasons.

These reasons are:

1. Lack of a Compelling Financial Incentive to Work Together

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

Every California public agency operating a public wastewater system is regulated separately under the Federal and State Clean Water Act regulations by the State Water Resources Board, which also requires the employment of qualified and certified wastewater treatment operators. Permitting for the discharge of treated effluent is authorized by the Clean Water Act and regulated through the National Pollutant Discharge Elimination System (NPDES), which is administered and regulated by the Regional Water Quality Control Board. Each agency must acquire its own NPDES

permit and is held responsible for operating the public wastewater system within the parameters of the permit and are subject to substantial fines for non-compliance. Each NPDES permit is unique to the specific wastewater treatment system for which it was issued.

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

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

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

2. Resistance by the Rate Payers to Bear the Cost

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

Experience has shown that water and sewer ratepayers tend to undervalue these important services and sometimes strongly oppose proposed rate increases for these necessary system repairs and improvements. They voice their strong opposition to the elected officials and due to this opposition; the elected officials sometimes lose their political will to proceed and may ultimately abandon the necessary improvements and repairs to their public system.

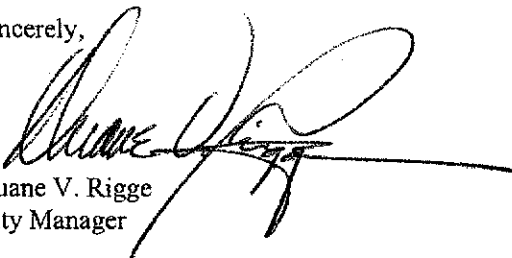
If several public agencies joined together under a mutual cost sharing agreement to work on capital infrastructure issues as previously discussed and if one or more agencies decide to opt out of the cost sharing agreement due to political pressure from ratepayers, the entire arrangement could fall apart.

⁴ Raising funds for capital replacements and repairs can be accomplished by a number of methods including; ratepayer revenues, and infrastructure loans through municipal bonds, and Federal and State loans and grants secured by ratepayer revenues.

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

Once again, thank you to all the members of the Grand Jury for your service to our communities. If you have any questions regarding this letter please contact the City Manager at 725-7600.

Sincerely,



Duane V. Rigge
City Manager

Copy to: Fortuna City Council

County of Humboldt Board of Supervisors

City Managers of the Cities of Arcata, Blue Lake, Eureka, Ferndale and Rio Dell

General Managers of the Fallbrook, Humboldt, McKinleyville and Manila
Community Services Districts, the Shelter Cove Resort Improvement District
and the Humboldt Bay Municipal Water District

Deputy Directors of Public Works (Fortuna) Department

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

Who Shall Respond:

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

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

GRAND JURY OF HUMBOLDT COUNTY
2007-2008 Final Report

Report:

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

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

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

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

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

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

As each special district is independently operated, it individually contracts with different engineering firms for technical advice and long-term planning. Consistency in such services is

GRAND JURY OF HUMBOLDT COUNTY
2007-2008 Final Report

sometimes interrupted by changes in local political will resulting in changes to district leadership. Inconsistency in leadership can be problematic when dealing with the technical aspects of WWTP operation and planning.

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

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

Findings and Recommendations:

Finding 1:

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

Recommendation 1:

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



CITY OF RIO DELL

675 WILDWOOD AVENUE RIO DELL, CALIFORNIA 95562-1597

CITY HALL
(707) 764-3532
FAX 764-5480

PUBLIC WORKS DEPARTMENT
(707) 764-5754

POLICE DEPARTMENT
(707) 764-5641
FAX 764-2569



July 15, 2008

Matt Morehouse, Foreman
Humboldt County Grand Jury
825 Fifth St.
Eureka, Ca. 95501-1153

Dear Mr. Morehouse,

Thank you and the Grand Jury for your commitment and service to our Humboldt County citizens. Please find herein our responses to your Report #2008-CD-01.

Finding & Recommendation #1: The City of Rio Dell City Council and Public Works Department agree.

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

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

Again, thank you for your service to our community.

Sincerely,



R. L. "Bud" Leonard

Mayor
City of Rio Dell

**HUMBOLDT COUNTY SHERIFF'S OFFICE
ADMINISTRATION**

DATE: AUGUST 5, 2008

**TO: THE HONORABLE JUDGE FEENEY
PRESIDING JUDGE OF THE SUPERIOR COURT**

FROM: GARY PHILP, SHERIFF

RE: RESPONSE TO THE 2007-2008 GRAND JURY REPORT

2008-JL-11 HUMBOLDT COUNTY CORRECTIONAL FACILITY

FINDING NO. 1:

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

SHERIFF'S RESPONSE TO 2008-JL-11:

Partially Disagree

RECOMMENDATION NO. 1:

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

SHERIFF'S RESPONSE TO 2008-JL-11 RECOMMENDATION NO. 1:

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

Over the past fiscal year alone, as part of our normal maintenance, approximately sixteen cameras within the facility were replaced and/or

upgraded, and improvements were made to the video monitoring DVR capabilities of some areas, which did include our sobering cells.

FINDING NO. 2:

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

SHERIFF'S RESPONSE TO 2008-J1-11 FINDING NO. 2:

Agree.

RECOMMENDATION NO. 2:

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

SHERIFF'S RESPONSE TO 2008-JL-11 FINDING NO. 2:

The recommendation has been implemented.

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

2008-LJ-02 MARTIN FREDERICK COTTON II

FINDING NO. 1:

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

SHERIFF'S RESPONSE TO 2008-LJ-02 FINDING NO. 1:

Agree.

RECOMMENDATION NO. 1:

The CIRT should only be comprised of members from uninvolved agencies. Though it is understandable for an involved agency to conduct a parallel

investigation, it should not be one of the primary investigating parties. Investigative assistance from outside agencies, such as the California Department of Justice or the Federal Bureau of Investigation, should be used when appropriate to avoid a conflict of interest or perceived conflict of interest.

SHERIFF'S RESPONSE TO 2008-LJ-02 RECOMMENDATION NO. 1:

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

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

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

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

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

FINDING NO. 2:

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

SHERIFF'S RESPONSE TO 2008-LJ-02 FINDING NO. 2:

Agree.

RECOMMENDATION NO. 2:

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

SHERIFF'S RESPONSE TO 2008-LJ-02 RECOMMENDATION NO. 2:

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

FINDING NO. 3:

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

SHERIFF'S RESPONSE TO 2008-LJ-02 FINDING NO. 3:

Partially Disagree.

RECOMMENDATION NO. 3:

Correct the video recording system to ensure better quality images.

SHERIFF'S RESPONSE TO 2008-LJ-02 RECOMMENDATION NO. 3:

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

FINDING NO. 4:

The HCCF sobering cell is primarily constructed of concrete surfaces where inmates can potentially injure themselves.

SHERIFF'S RESPONSE TO 2008-LJ-02 FINDING NO. 4:

Agree

RECOMMENDATION NO. 4:

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

SHERIFF'S RESPONSE TO 2008-LJ-02 RECOMMENDATION NO. 4:

Will not be implemented. The current facility was built to required Title 24 standards and is currently in full compliance.

FINDING NO. 5:

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

SHERIFF'S RESPONSE TO 2008-LJ-02 FINDING NO. 5:

Disagree

RECOMMENDATION NO. 5:

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

SHERIFF'S RESPONSE TO 2008-LJ-02 RECOMMENDATION NO. 5:

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

Respectfully submitted,

GARY PHILP, Sheriff
Humboldt County

GP:crm

OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF HUMBOLDT

PAUL V. GALLEGOS
District Attorney



WES KEAT
Assistant District Attorney
JEANNIE Y. DUNCAN
Legal Business Manager
MICHAEL R. HISLOP
Chief Investigator

August 28, 2008

The Honorable Judge John T. Feeney
County of Humboldt
Courtroom 8
825 5th Street
Eureka, CA 95501

Re: **Findings and Recommendations**
Grand Jury of Humboldt County 2007-2008

Dear Judge Feeney,

Finding 1:

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

Response to Grand Jury Finding 1:

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

Recommendation 1:

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

Response to Grand Jury Recommendation 1:

The District Attorney agrees in part with the recommendation, to wit: investigations into officer-involved deaths should be conducted by non-involved agencies. The District Attorney believes it is the responsibility and the duty of the Office of the District Attorney to conduct such investigations. The District Attorney believes further that the Department of Justice

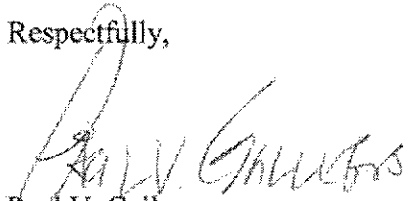
CRIMINAL DIVISION
825 5TH Street
Eureka, CA 95501
(707) 445-7411
(707) 445-7416 Fax

VICTIM/WITNESS ASSISTANCE
712 4th Street
Eureka, Ca 95501
(707) 445-7417
(707) 445-7490 Fax

Office of the District Attorney,
County of Humboldt
Letter to the Clerk of the Supreme Court
Page 2 of 2
August 28, 2008

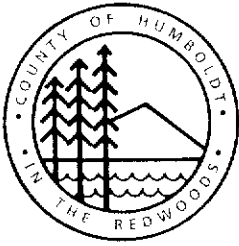
and/or the Federal Bureau of Investigation are only necessary if and when there is a need for their involvement and their involvement does not supersede the District Attorney's responsibility and duty to investigate such deaths on behalf of the People of the State of California. The District Attorney believes further that existing systems allow for additional third party oversight or investigation when necessary.

Respectfully,

A handwritten signature in cursive script, appearing to read "Paul V. Gallegos". The signature is written in dark ink and is positioned above the printed name.

Paul V. Gallegos
District Attorney

cc: Matt Morehouse, Foreman, Grand Jury, County of Humboldt



GRAND JURY
COUNTY OF HUMBOLDT

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

*To: Amy Nissen
Jh*

August 27, 2008

Loretta Nickolaus
County Administrative Officer
County of Humboldt
825 Fourth Street
Eureka, CA 95501

Dear Ms. Nickolaus:

The 2008-2009 Grand Jury of Humboldt County submits to the Board of Supervisors the attached Interim Report (2009-AF-01) as a clarification to Final Report 2008-AF-02 submitted by the 2007-2008 Grand Jury.

Sincerely,

Alan "Skip" Jorgensen

Alan "Skip" Jorgensen
Foreperson

**GRAND JURY OF HUMBOLDT COUNTY
2008-2009 Final Report**

**Grand Jury Report # 2009-AF-01
Language Clarification in 2007-2008 Grand Jury Report**

Who Shall Respond:

No response required.

Report:

As a result of its independent inquiry and investigation, the 2008-2009 Grand Jury of Humboldt County finds that the former County Counsel, referred to in last year's Grand Jury Final Report (2008-AF-02), did in fact "resign" from the position of County Counsel and was not "dismissed" as stated in that report.

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

Executive Summary:

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

Who Shall Respond:

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

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

Report:

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

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

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

There are adequate job descriptions and procedures for recruiting qualified candidates. Witnesses, interviewed by the jury, expressed concern over difficulty in attracting and retaining qualified managers. Positions sometimes attract no more than three to five qualified applicants or the position may remain open for extended periods due to a lack of qualified applicants. According to testimony, the reasons for this include a general shortage of qualified candidates,

reluctance to serve in positions open to public scrutiny, and the comparatively low pay in rural California counties such as Humboldt.

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

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

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

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

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

Findings and Recommendations:

Finding 1:

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

Recommendation 1:

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

Finding 2:

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

Recommendation 2:

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

Finding 3:

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

Recommendation 3:

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



COUNTY PROBATION DEPARTMENT
COUNTY OF HUMBOLDT

2002 Harrison Avenue, Eureka, CA 95501
Telephone (707) 445-7401 Fax (707) 443-7139

Date: July 30, 2008
From: Doug Rasines, Chief Probation Office
To: Amy Nilsen, Senior Administrative Analyst
RE: 2008-09 Grand Jury Report

When reviewing the 2007-08 Humboldt County Grand Jury Report, Section 2008-JL-13 regarding the Humboldt County Juvenile Hall (HCJH) and Northern California Regional Facility (HCRF), I discovered discrepancies in the report which I feel warrant clarification. Specifically,

1. In Paragraph 2, the report states that the juvenile hall bed capacity is 26, "*but can accommodate twice that number by double occupancy in cells*". This is not an accurate representation of the Juvenile Hall bed capacity or housing policy. The Juvenile Hall has 22 single rooms and 2 double rooms, creating a state approved rated capacity of 26 beds. When overcrowding of the facility occurs, we affect a contingency plan by housing up to 2 minors on fiberglass cots in each of our small, secured dayroom areas. Double bunking in single cells is not allowed except in the most exigent circumstances. Everything possible is done to maintain our daily population at or below our rated capacity of 26, and it is important that the Grand Jury report not give the false impression that our facility's capacity is actually 52 minors through the routine use of double occupancy.
2. In the Paragraph 3, third sentence the report indicates "there is a separate area for medical examinations and a *registered nurse is on full time duty for the HCJH and NCRF*". This statement is somewhat misleading. Although a nurse does work full time (M-F 8-5pm) providing medical services to both the HCJH and HCRF, after normal business hours, weekends and holidays, on-call medical staff are available to respond to health care needs at the facilities. When reading the statement in the report, it could be interpreted that we have 24hr-7day medical staff working at the facilities, which is not the case.