

***Grand Jury Report 2010-HESS-04
County Government Accounting Standards***

Recommendation 5:

That both elected County officers and appointed department heads abide by any resulting new standards for accounting that may be implemented or adopted by the County. Among these, that the Board of Supervisors adopts a policy regarding aging of Accounts Receivable (collectable funds) that is in keeping with generally accepted accounting principles (GAAP).

Response to Recommendation 5:

The recommendation has been implemented.

The District Attorney recognizes the ongoing responsibility of his Department to abide by the administrative, financial and personnel policies of the County, when said policies do not conflict with the position's State Constitutional duties, State or Federal law and/or the State or Federal Constitutions.

***Grand Jury Report 2010-LJ-01
Victim-Witness Program***

Finding 1:

The Victim-Witness program grant fund reimbursements for at least two quarters of FY 2006-07 were not submitted, resulting in the loss of significant reimbursement monies to the County.

Response to Finding 1:

The respondent, District Attorney, disagrees with the finding.

All quarters for the Victim Witness grant were submitted for the Fiscal Year 2006-2007. These documents were provided to the Grand Jury as attachments on June 2, 2009, along with copies of cancelled checks from the State of California and copies of Summary of Revenue Deposits into the Victim Witness Revenue Account.

As there is generally a delay in reimbursement from the State, Federal, and other "grantor" entities. The reimbursement is frequently received, deposited and captured into the correct budget unit in the following fiscal year(s). Therefore, accounting for grants can only be understood if one reviews the complete cycle of that particular grant.

A review of the complete cycle of the grants at issue will reveal both: (1) that all quarters for the Victim Witness grant were submitted for the fiscal year 2006-2007, and; (2) the County lost no reimbursement monies.

Finding 2:

County General Fund monies made up the Victim-Witness reimbursement shortfall.

Response to Finding 2:

The respondent, District Attorney, disagrees with the Finding.

Please refer to the Response make in Finding 1.

Finding 3:

Grant applications have not always been properly processed, resulting in the loss of potential funds to the County.

Response to Finding 3:

The respondent, District Attorney, disagrees with the finding.

Grant applications are processed in accordance with the grantor's letter of Request for Applications (RFA) or Request for Proposal (RFP). The total operating budget for the District Attorney's Office for FY 2010-2011 is \$5.1 million. The General Fund contribution is \$2.2 million. The \$2.9 million balance of the total District Attorney budget comes from grants awarded to the District Attorney's Office.¹ This equates to 57% of the District Attorney's Office operating expenses coming from grant funds. Furthermore, these grant funds pay for the salaries of 23.75 full time equivalent permanent positions. That is 45.7% of District Attorney's Office staff.

The grant process is difficult. It requires extensive investment of time and effort, enormous coordination and collaboration between the District Attorney's Office, law enforcement and other grant partners. In addition, the District Attorney's Office has 15² separate grants. Each grant has specific rules and reporting requirements (programmatic and fiscal). Due to State and Federal budget issues, grants are increasingly competitive, with mandatory participation are becoming more prevalent. Despite this, the District Attorney's Office continues to seek out and obtain grant funds to maintain, expand and enhance the services it provides to the District Attorney Office for the People of Humboldt County.

Finally, the District Attorney supports the recommendation to implement a countywide grant management system to track and monitor each department's grants.

Finding 4:

Nepotism effectively exists in the District Attorney's Office and adversely affects staff.

Response to Finding 4:

The respondent, District Attorney, disagrees with the finding.

County Policy states: "SECTION 11. EMPLOYMENT OF RELATIVES OF EMPLOYEES. No person shall be employed by an appointing power who is a relative of the appointing power, and no person shall be assigned to a position that would cause him to directly supervise or be supervised by a relative, except in cases where female prisoners require escorts, or, upon approval of the Personnel Director, in positions requiring peculiar or

¹ In FY 03-04 the District Attorney's Office received 2.4 million dollars from grants.

² In FY 03-04 the District Attorney's Office had 10 grants.

exceptional qualifications of a scientific or expert character. "Relative" as used herein shall mean wife, husband, parent, child, grandparent, grandchild, brother or sister."

The District Attorney's Office employs Drew Duncan. He is the son of Jeannie Duncan, the Legal Business Manager. He is assigned as the Archives Clerk. His assignment consists of creating new case files, closing and archiving closed case files in the DocStar system, placing and retrieving files in storage. He works under the direct supervision of Jean Gomes, the Legal Office Services Manager. He is not under the direct supervision of a relative. Any staff confusion that might exist over assignments, chain of command or direct superior will be remedied.

Drew Duncan currently fills a position that was vacated due to the medical leave of a permanent employee whose position cannot be filled until that person is classified with Permanent Medical Leave Status.

The Office also employs Jim Dawson. He is the father-in-law of Mike Hislop, the Chief Investigator. Jim Dawson currently fills a grant position. He is assigned to the Auto Fraud Grant. He works three days a week. His assignment consists of investigating all cases that fall under the Auto Fraud Grant. He takes most of his direction from the State Insurance Fund, since the agency sends him their investigations. He also deals directly with State Insurance Fund on all grant issues. However, he is directly supervised by Chief Investigator Mike Hislop. While he is not a "relative" as defined by county policy, his employment and assignment was approved by the Personnel Director and in compliance with County policy.

Jim Dawson has over 40 years experience as a law enforcement officer. He worked for the District Attorney's Office for 18 years and was employed as the Chief Investigator for 10 years. Jim Dawson is a retired annuitant. He is a highly skilled and experienced investigator. Drew Duncan is assigned to a low level, low-skill clerical position that is temporarily vacant because of an employee's medical leave. Neither position is a permanent position. Neither of them is seeking permanent employment or advancement. Neither is afforded favoritism or benefit because of their relationship to a supervisor in the office.

Both positions have clearly defined responsibilities that can be objectively evaluated. Both positions would result in failure if the person assigned to them failed to perform adequately. Jim Dawson, while, supervised in the office, is effectively monitored by outside agencies. If Drew Duncan is unable to open, archive and store files, his inefficiencies will create bottle neck impeding work flow, which would in turn, require immediate remedial measures.

Both positions are difficult to fill due to the impermanence associated with them. Both positions are necessary functions of the office and must be filled. Both Drew Duncan and Jim Dawson are employed in "extra-help" status. As such, they do not accrue vacation, sick leave or other benefits that permanent employees are entitled to.

Favoritism would be unsustainable, in either position.

Finding 5:

Response to Finding 5:

The respondent, District Attorney, agrees in part with the finding.

Personnel evaluations have not been consistently and systematically completed by all sections of the District Attorney's Office dating back to 1991. While the Administrative and Victim Witness Sections have consistently performed employee evaluations, there have been gaps between 1991 and present that some employees did not receive consistent employee evaluations or there is not record in the employee file to differ. In addition, routine verbal and periodic employee performance evaluations are conducted and communication throughout the year to the employee as issues and concerns arise in order to provide feedback to the employee and gather input on potential inefficiencies. The District Attorney has completed the annual employee evaluations for all Administrative and Victim Witness staff for the 2009 period.

Personnel evaluations of attorneys are routinely accomplished and communicated to the attorneys, both in individual and group type settings. Formal, written personnel evaluations of attorneys are not completed, because they are unnecessary. Attorneys get regular feedback and input on their individual and group performance.

The County of Humboldt, Report of Employee Performance that the Grand Jury seeks to have filled out and provided to attorney staff has 12 categories: Skill; Quantity of Work; Knowledge; Dependability; Work Habits; Attendance; Relationships with People; Learning Ability; Initiative and Attitude; Personal Fitness; Ability as Supervisor; and Administrative Ability. These 12 categories are graded by X's on the following rating: Unsatisfactory; Below Average; Average; Above Average; Outstanding. Of the 12 performance measure categories, 2: Supervisor and Administrative Ability are not relevant to attorney staff as they do not fill either a supervisory or administrative position. If an attorney was below average in any of the remaining 10 categories, they would be immediately advised of that deficiency, provided a time period to cure that deficiency and, if they failed to cure it, their employment would be terminated. To remain on staff, attorneys are expected to perform at an Above Average to Outstanding level. That is communicated to them on a regular and frequent basis.

The attorneys that work for the District Attorney's Office were all hand picked and work on an "At-Will" basis. The attorneys are extremely intelligent, highly accomplished, self motivated and are able to work alone and/or together as a team. Expectations and directions are clearly articulated to them on a weekly and/or more frequent basis. The attorneys know that failing to meet those qualifications, expectations, performance levels, or accomplish stated goals can result in termination.

Many of the attorneys are assigned to specialized Units. Most of those assignments are grant funded, which require compliance with stated goals and/or performance goals set by the granting agency. Failure to comply with those goals and/or performance goals would result in loss of the grants or units. Therefore, goals and/or performance goals are clearly articulated and compliance with them is mandatory. Furthermore, compliance is objectively determined and monitored by the granting agency.

The Legal Unit is a small, effective and adaptable unit. The attorneys work closely with the District Attorney, the Assistant District Attorney and each other. Personnel problems, if and when they arise, can, therefore, be addressed and/or resolved as they develop.

Personnel evaluations of the Investigative Bureau staff are routinely completed in individual and group type setting. Formal, written personnel evaluations of investigators are not because they are unnecessary. Specifically, investigators are given regular feedback and input

on their individual and group performance. Formal, written evaluations add no additional information to the investigator.

The County of Humboldt, Report of Employee Performance that the Grand Jury seeks to have filled out and provided to attorney staff has 12 categories: Skill; Quantity of Work; Knowledge; Dependability; Work Habits; Attendance; Relationships with People; Learning Ability; Initiative and Attitude; Personal Fitness; Ability as Supervisor; and Administrative Ability. These 12 categories are graded by X's on the following rating: Unsatisfactory; Below Average; Average; Above Average; Outstanding. Of the 12 performance measure categories: Supervisor and Administrative Ability, are not relevant to investigator staff as they do not fill either a supervisory or administrative position. If an investigator was below average in any of the remaining 10 categories, they would be immediately advised of that deficiency, provided a time period to cure that deficiency and, if they failed to cure it, their employment would be terminated. To remain on staff, investigators are expected to perform at an Above Average to Outstanding level. That is communicated to them on a regular and frequent basis.

The average experience level of a District Attorney investigator is 26 years. They were all hand picked from agencies throughout Humboldt County based on their skills, expertise and commitment to excellence. They are highly intelligent, highly accomplished, self motivated and work together as a team. Expectations and directions are clearly articulated to them on a weekly and/or more frequent basis. The Criminal Investigations Bureau is a small unit and the investigators work closely with the chief investigator. If a personnel problem arises the issue is dealt with immediately and the problem is rectified.

Several investigators work with outside agencies such as the Child Abuse Services Team, the Drug Task Force, and the Del Norte, Mendocino and Trinity County District Attorney's Office. (Rick Grimm: Del Norte, Mendocino and Trinity County District Attorney's Office as Forensic Computer Expert. Mike Losey: Del Norte and Trinity County District Attorney's Office as Welfare Fraud Investigator.) If those investigators failed to meet expectations in any of these assignments there would be immediate feedback from those agencies.

Nonetheless, County of Humboldt, Report of Employee Performance reports will be completed on all investigator personnel, in order to comply with the Humboldt County Merit System Rules, effective January 2011. In addition, County of Humboldt, Report of Employee Performance reports will be completed on all attorney personnel, in order to comply with Humboldt County Merit System Rules, effective January 2011. The Administrative and Victim Witness Sections will continue to complete annual, routine employee evaluations.

Finding 6:

Poor office management practices and communication continue to plague the District Attorney's Office, after first being noted in the FY 2004-05 Grand Jury report.

Response to the Finding:

The respondent, District Attorney, disagrees with the finding.

The office management under the current district attorney has improved substantially due to his effective leadership. The district attorney has strived to bring the current office into the 21st century, has established departmental policy and procedures that had been lacking, revamped the criminal division by establishing courtroom felony/misdemeanor mentorship,

developed more efficient and effective procedures for getting work accomplished within budget constraints, developed partnerships with local organizations to maximize our services to the People in our community.

Good leadership requires deep human qualities, beyond the traditional perceptions of authority. Leadership under the current district attorney is effective because it is concerned with people. This is what makes the current district attorney leadership style effective. His character qualities are of integrity, honesty, humility, courage, commitment, passion, determination, and sensitivity. This is why his staff is loyal and committed to the mission of the Office.

As the leader of the District Attorney's Office, the District Attorney has maintained an "Open Door Policy" of communication with all his staff; hired the right people in key leadership positions; maintained an informal atmosphere in order to encourage innovative thinking; and built a management team committed to achieving and supporting the mission of the District Attorney's Office.

The District Attorney's Office is separated into three organizational units: Prosecution/Legal Unit, Investigative Bureau, and Administrative Unit.

Prosecution/Legal Unit

The first unit is the Prosecution/Legal Unit, which is administered by Assistant District Attorney Wes Keat. Wes Keat has been employed in the District Attorney's Office since 1994. He was the Chief Prosecuting Attorney from 2003 to 2005. He has been the Assistant District Attorney since 2005.

Processing, reviewing, investigating, and prosecuting thousands of cases each year require highly skilled, seasoned prosecutors, and investigators, which this Office has been able to attract and retain. In addition, hiring less skilled prosecutors has been both economically and organizationally beneficial to the DA's department. Hiring at the entry-level has allowed the DA to "grow" and mentor the younger prosecutors by teaming each with a seasoned-skilled felony attorney assigned to the same courtroom. Economically, this management decision has allowed this Office to hire talented, promising attorneys at a lower salary scale, ensuring that the Office stays within its operating budget constraints.

Insomuch, the Office has continued to produce volumes of cases regardless of the budget constraints it has faced over the past three (3) years. Specifically, the Office has continuously reviewed over 11,000 new law enforcement agencies incident reports for charging annually and have consequently charged for criminal offenses over 67% of those new crimes. This equates to over 7,300 new case files that must be created, bar coded and electronically entered into our case management system by our administrative staff before our attorney's can charge and review the case file.

The attorney staff consists of Deputy District Attorneys Max Cardoza, Maggie Fleming, Arnold Klein, Allan Dollison, Ben McLaughlin, Christa McKimmy, Stacey Eads, Mary McCarthy, Kelly Neel, Jeremiah Ross, Nicole Bockelman, Ben Mainzer and Elan Firpo.

Deputy District Attorney's Max Cardoza, Arnold Klein, Allan Dollison, Ben McLaughlin and Jeremiah Ross are all assigned as the felony attorneys in Courtrooms One, Two, Three, Seven

and Eight. They are responsible for all cases in their courtrooms and for overseeing, although, not supervising, the misdemeanor attorney assigned to their courtroom.

Deputy District Attorneys Ben Mainzer and Elan Firpo are assigned as misdemeanor attorneys in Courtrooms One, Two, Three, Seven and Eight. They are responsible for all misdemeanor cases in those courtrooms.

Deputy District Attorney Stacey Eads is assigned to the Juvenile Justice Unit, Deputy District Attorney Kelly Neel is assigned to the Child and Adult Sex Crimes Unit, Deputy District Attorney Christa McKimmy is assigned to the Environmental and Consumer Protection Unit, Deputy District Attorney Mary McCarthy is assigned to the Worker's Compensation Fraud Unit, Deputy District Attorney Nicole Bockelman is assigned to the Domestic Violence Unit; and Deputy District Attorney Maggie Fleming is assigned to the Drug Offenses Unit; Arnie Klein is assigned to Public Integrity Unit. Attorneys assigned to specific units are responsible for all cases assigned to those units.

The Assistant District Attorney, under direction from the District Attorney, administers and coordinates all phases of the work of the District Attorney's Office. This necessarily includes the supervision of all staff and activities related to the District Attorney's Office. Some, but not all, of those duties include the planning, scheduling, supervising, reviewing and evaluating the work of attorney staff; evaluating attorney performance and counseling attorney staff.

Planning, scheduling, supervising, reviewing and evaluating the work of attorney staff; and evaluating attorney performance and counseling attorney staff takes place on a weekly and/or ongoing basis through both written and oral communications facilitated through personal communications and attorney meetings. Assignments and the cases associated with those assignments are discussed with assigned attorneys on a regular, frequent and ongoing basis. Oversight and feedback is provided to the attorneys by the Assistant District Attorney through both written and oral communications on a one-on-one and in a group meeting settings.

Always adapting to the scarcity of resources, including reductions in attorney, investigator, victim-witness and clerical personnel, in the face of burgeoning criminal caseloads, the hard-working men and women in this office have indeed performed with efficiency and effectiveness across the board. Under the leadership of the District Attorney, the organization has been successfully modernizing by procuring, customizing and implementing better case management software and improving its interoperability with other automated systems.

Recently, the Humboldt County District Attorney's Office received statewide recognition for the \$1.1 million settlement against Big Oil; for our participation in the \$677 million jury award against Skilled Healthcare, Inc.; and both state and nationwide attention for solving the Curtis Huntzinger murder.

Investigative Bureau

Under the current district attorney's leadership, the bureau has successfully identified and partnered with other law enforcement agencies to maximize grant opportunities in order to increase services to our community without impacting the County General Fund.

In addition, under the current district attorney's leadership, the bureau has established and expanded its investigative boundaries for its Fraud Investigative Unit to include a Memorandum of Understanding with both Del Norte and Trinity Counties.

The second unit is the Investigative Bureau, which is administered by Chief Investigator, Mike Hislop. Through the collaboration of Chief Hislop and Jeannie Duncan's leadership it has resulted in the District Attorney Office being awarded State and Federal grants. In addition, he has developed three new investigator positions without impacting the department's budget.

Chief Hislop has attracted the most talented law enforcement personnel in Humboldt County to the District Attorney's Investigative Team. Chief Hislop has equipped the investigators with state of the art equipment that enables the investigators to conduct thorough and highly technical investigations. This is completed without impacting the budget. The highly motivated and talented investigative team has conducted superior investigations that have resulted in felony convictions. These cases range from workman's comp stings, homicides, and public corruption. As an example, the investigation of Chad Larsen, which led to a solicitation for murder conviction, was exclusively undertaken by the investigative team.

Many times other agencies come to the District Attorney's Office with difficult and complex investigations. Many of the counties law enforcement agencies do not have the experience or resources to handle such cases. Our Investigation Bureau never hesitates to take these types of investigations on and see them through to a positive disposition.

The Investigation Bureau is routinely tasked with difficult investigations that strain their resources, but due to good management and dedicated investigators they are always completed in an accurate professional manner. Under Chief Hislop's leadership the Investigative Bureau has become the best Investigative Bureau in Northern California.

Recently, Humboldt County District Attorney Investigator Wayne Cox received both state and nationwide attention for solving the Curtis Huntzinger murder. As a result of his exceptional work he also was awarded the California District Attorney's Association's Investigator of the Year.

However, as with all organizations, there are occasions when work must be redone do to receipt of new information. There are delays in the timely completion of routine tasks caused by increases in the work flow. There are also times when there are failures in communications between office staff.

Administrative Unit

Under the leadership of the current district attorney, the overall management of the Administrative Unit has improved significantly.

Despite budget cuts and reductions in staff, the Office continues to strive to do with more with less and to become more accessible to the courts, law enforcement, victims and the community at large. We have implemented new technology and procedures and are always reevaluating the work we do to improve systems delivery. The quality and effectiveness of the District Attorney's Office administrative staff is exceptional. This quality and effectiveness is a direct result of our ability to attract and maintain high qualified and dedicated administrative personnel to Humboldt County.

The Administrative Unit, which is the third component of the District Attorney's Office, is administered by Jeannie Duncan, the Legal Office Business Manager. The Legal Office

Business Manager, under direction from the District Attorney, performs complex, difficult administrative, budgetary, financial management, programmatic and evaluation of work in support of multiple function areas. The duties necessarily include financial management, budget development/execution, legislation analysis and implementation, grant preparation/administration, personnel/payroll services, procurement/contract administration, and information technology.

The Administrative Unit is comprised of the Budget & Grant Administration Unit, Personnel/Payroll Services, Victim Witness Services Unit, the Check Enforcement Unit, the Technology Support Unit and the Legal Support Unit. The Victim Witness Services Unit is supervised by Joyce Moser. She supervises five Victim Witness Advocates. The Check Enforcement Unit is operated by Susan Vandermeer. The Technology Support Unit is operated by Tom Pinto. The Legal Support is supervised by Jean Gomes, the Legal Office Services Manager. The Personnel/Payroll Services is overseen by Michele Shoshani.

As in any establishment, there are occasions when work must be redone because it does not meet our standards. There are delays in the timely completion of routine tasks when our workload exceeds capacity. In addition, there are times when there are failures in communications between office staff. Despite budget cuts and reductions in staff, the Office continues to strive to do with more with less, and to become more accessible to the courts, law enforcement, victims and the community at large. We have implemented new technology and procedures and are always reevaluating the work we do to improve systems delivery. The quality and effectiveness of the District Attorney's Office administrative staff is incomparable. Their hard-work, dedication, and commitment to the mission of Office is evident in their long work hours, willingness to take on more tasks, and to just pitch in wherever the need arises. This quality and effectiveness is a direct result of our ability to attract and maintain high qualified and dedicated administrative staff to Humboldt County.

Effective communication within the office staff has at times been challenging. First, managing organizational change can be difficult for an outsider. Different people react differently to change. This Office has been successful in managing change because the current business manager has facilitated change by involving her employees, and supervisors in the process. She has gathered feedback regarding what processes work, which procedures lack efficiencies. In addition, she has welcomed full participation of her staff as new systems are created, policy and procedures are revamped.

Furthermore, communications systems have been upgraded in all aspects to maximize timely productivity. Supervisors assiduously ensure the uniformly high quality of their groups' outputs and coordinate work with the others while attorneys, clerks, secretaries, victim advocates and investigators work together as a team to make this community a safer place.

As part of the strive to move the Office into the 21st century, the Administrative Unit has implemented a number of processes worth noting. First, in collaboration with the Administrative Office of the Courts, we deployed the new case management system (Sustain) and the interface DA-Star, which allows our Office to electronically process Complaints, and Information's. This was a huge technological success. Currently, we are working on the next phase of DA-Star, which will be web-based and allow our local law enforcement agencies to have access in order to file their reports electronically.

In addition, our staff has modernized our Discovery section. We now provide discovery electronically. This has been reduced costs and increased efficiencies for this section of the Office. Moreover, we have begun eDiscovery Billing as well, in order to reduce costs.

Likewise, Ms. Duncan has ensured that all the Administrative staff is cross training in two or three stations in order to maximize each employee's skills and abilities. This becomes useful and effective when staff are on vacation, medical leave, or simply overloaded in their workstation. This has become a cost effective tool for the DA's Office.