

The Grand Jury
of Humboldt County



2011-2012
Final Report



Grand Jury
County of Humboldt
825 Fifth Street
Eureka, California 95501-1153
(707)476-2475

June 30, 2012

Honorable Bruce Watson; Presiding Judge
Superior Court of California
County of Humboldt

The Grand Jury thanks you for the advice and guidance that you have provided this term. We are pleased to announce that the 2011-2012 Grand Jury has completed its duties. The following report is the result of numerous hours of voluntary service by the nineteen members of the Jury, all of whom are residents of Humboldt County.

The 2011-2012 Grand Jury considered 31 complaints inclusive of 2 continued from last year's term. The Jury conducted approximately 100 interviews, inspected several public facilities located throughout Humboldt County, and examined a broad range of documents provided by both public and private parties. The following individual reports were produced for those general topics or specific complaints that, when investigated, resulted in specific recommendations or are mandated by statute.

The 2011-2012 Grand Jury extends our sincere appreciation to County and other local government personnel as well as the private citizens who have aided us in accomplishing our work. We thank all of the concerned citizens of the County who have brought issues to our attention. We particularly wish to thank the County Counsel, the Chief Administrative Officer, Superior Court staff, and County support staff for their indispensable assistance. Finally, we would like to thank the Humboldt County Board of Supervisors for their collective support of the Grand Jury and serious consideration of the reports that we have offered.

Respectfully Yours,

Gary Payne
Foreman
Humboldt County Grand Jury

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2011-2012 Grand Jury of Humboldt County

Foreman	Gary E Payne	Eureka
Pro-Tem	Darlene Hicks	Arcata
Sgt. of Arms	Douglas Masten	Eureka
Recording Secretary	Ginger Vance	Fortuna
Corresponding Secretary	Jodie McPowell	Fortuna
Office Manager, Librarian	Carolyn Green	McKinleyville
Budget Chairman	Darlene Hicks	Arcata

Other Members:

Michael Adams	Eureka
Daniel Coleman	Fortuna
Rebecca Crosby	Eureka
Robert Dunlap	Eureka
Bonnie George	McKinleyville
Harlan Hansen	Eureka
Sigmar Hoffmann	Fortuna
Louise Jacobson	Eureka
Larry Myers	Eureka
Michael Risso	Willow Creek
Michael Rhodes	McKinleyville
Ellsworth Royer	Eureka
Roger Ward	Fortuna

2010-2011 Committee Chairs

Administration & Finance	Larry Myers
Cities & Districts	Michael Adams
Continuity	Douglas Masten
Editorial	Robert Dunlap
Health, Education & Social Services	Harlan Hansen
Jails	Douglas Masten
Law & Justice	Robert Dunlap
Public Works	Michael Risso

Office Support Members

Office Management	Carolyn Green
Budget & Payroll	Darlene Hicks

2011-2012 Humboldt County Grand Jury



Pictured left to right: Back rows – Michael Rhodes, Douglas Masten, Michael Adams, Harlan Hansen, Michael Risso, Louise Jacobson, Roger Ward, Daniel Coleman, Honorable Judge Bruce Watson, Ellsworth Royer, Rebecca Crosby, Sigmar Hoffmann, Larry Myers. Pictured left to right: front row - Jodie McPowell, Gary Payne, Ginger Vance, Bonnie George, Darlene Hicks, Robert Dunlap. Not pictured: Carolyn Green.

Introduction

Mission, history, and operation of the Humboldt County Grand Jury

Mission:

The Grand Jury is a civil institution that operates under the direction of the State Superior Court of the County of Humboldt. Its mission is to monitor the performance of local governments; notably County, City, Special Districts, certain Boards, and Commissions. The local Grand Jury authority does not extend to Federal or State government. A voluntary panel of citizens serve a twelve month term, during which time they consider and report upon issues raised by the citizenry, mandated by statute, or periodically examined as a matter of due diligence.

History:

The grand jury system began in England shortly after the Norman conquest of 1066. By 1176, the concept of a Grand Inquest by 24 knights selected by the county sheriff was used, and the rights of common citizens recognized. Grand juries were independent of the crown by the end of the 17th century, and having introduced the concept of secrecy, became a model for the system that remains today.

The first formal grand jury in North America was established in colonial Massachusetts in 1635. By 1683 grand juries had been adopted in some form in all of the colonies. In California grand juries have been drawn in each County annually since 1850. Grand jury oversight has now contributed to local government oversight for more than 160 years. The State Constitution provides that a Grand Jury be impaneled annually in each of the 58 counties.

Operation:

The 2011-2012 Humboldt County Grand Jury consists of 19 citizen volunteers selected, formally charged with their responsibilities, and sworn to oath by the Presiding Judge of the Superior Court. Confidentiality regarding the identity of complainants, witnesses, and their statements is a core component of the oath. The Grand Jury has endeavored to responsibly consider all matters brought before it, bearing in mind constraints imposed upon its jurisdiction. Generally, the Grand Jury cannot consider matters that fall within the sole purview of State or Federal law or matters currently under litigation. Our deliberations do not necessarily result in a published report for every item considered. Only those matters that, upon conclusion of investigation, result in particular findings and constructive recommendation have engendered the following published reports. Some of the reports we have produced have already gained response. Those responses are included as “attachments”, appended to the relevant report, and published herein.

GRAND JURY REPORT 2012-HESS-01

Who's Watching The Water?

SUMMARY

The HESS committee of the Humboldt County Grand Jury investigated the Public Health Department's Division of Environmental Health's public drinking water sampling program.

GLOSSARY

DEH Division of Environmental Health

HESS Health, Education and Social Services

BACKGROUND

The Humboldt County Division of Environmental Health (DEH) is charged with protecting the public from environmental hazards as well as unsafe food and drinking water.

DEH promotes the health and safety of food and water sold or offered to the public at the retail level. This includes restaurants, bars, markets, delis, schools, mobile food vendors, bed and breakfasts, snack bars, coffee shops, and temporary food facilities.

It also assists individuals with onsite drinking water systems, and users of small water systems serving 5 to 14 connections. They issue permits for drinking water wells and private water systems (either well or surface water) not served by county or municipal water service.

The Grand Jury has been concerned with the sampling process that applies to private water systems that serve the public. Many of these systems are in remote areas of the county. The Grand Jury is concerned with the chain of custody of privately obtained water samples, improper sample collection and frequency of sampling,

APPROACH

The HESS committee interviewed personnel from the Consumer Protection Unit of DEH to get an understanding of the sampling process. We also interviewed a member of a private laboratory who performs water analyses for the County.

DISCUSSION

Safe drinking water should be used and served in all public establishments. Current health codes for water used in restaurants using independent water sources allows for sampling of the water to be carried out by the owners three times a year and by DEH once a year. The current system helps with DEH staffing shortages but allows for possible problems with sample integrity and chain-of-custody of the

samples. The owners are not specifically trained in sampling techniques; instead, they are given a short instruction sheet. The Grand Jury is concerned with the chain of custody of these private samples and the possibility of improper sample collection. The current monitoring system is based solely on trust.

FINDINGS

- F1. There is only one person that does water sampling at DEH, while there are four food inspectors.
- F2. Food and water inspections are done separately by different inspectors.
- F3. Private property owners bring in their own water samples for testing but they are not “trained” water samplers, and there is no mechanism for assuring the integrity of these samples. (e.g. Is the sample actually from where it is supposed to be from?).
- F4. DEH monitors public food establishments that use their own water systems once per year.
- F5. There are no signs to inform the public when private water systems were last inspected by DEH.

RECOMMENDATIONS

- R1. Cross-train food inspectors to do water sampling. (F1, F2)
- R2. Train food inspectors to take a water sample at the same time they are performing their routine inspections. This would relieve the water system owner from taking a sample, delivering it to a private laboratory and paying for that service. The cost of County lab work could be added to the yearly permit required by DEH without a significant increase of cost to DEH and a potential savings to the owner. (F2)
- R3. Have DEH conduct all water sampling to ensure sample integrity. (F3)
- R4. DEH should inspect private water systems serving the public quarterly instead of annually. (F4)
- R5. Post signs indicating the date of the last inspection. (F5)

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

- Humboldt County Division of Environmental Health to respond to Recommendations R1 through R5
- Humboldt County Board of Supervisors to respond to Recommendations R1 through R5

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

Attachment 2012-GJ-01

Board of Supervisors Response to Grand Jury Report 2012-Hess-01



BOARD OF SUPERVISORS

COUNTY OF HUMBOLDT

825 5TH STREET

EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

INTEROFFICE MEMORANDUM

TO: HONORABLE JUDGE WATSON, PRESIDING JUDGE - SUPERIOR COURT
FROM: NIKKI TURNER, DEPUTY CLERK OF THE BOARD OF SUPERVISORS
SUBJECT: RESPONSE TO 2011-12 GRAND JURY REPORT 2012-HESS-01
DATE: MAY 9, 2012

The 2011-12 Grand Jury has issued report 2012-HESS-01 and the Board of Supervisors is required to respond to recommendations R1 through R5. I recommend that the Board respond as follows:

Recommendation R1: *Cross-train food inspectors to do water sampling.*

The recommendation has been implemented.

The Department of Health and Human Services, Division of Environmental Health, Consumer Protection program works to prevent illness and injury caused by unsafe or unsanitary conditions through inspections of food facilities, pools, water system testing, public education and enforcement. One staff person is primarily responsible for water program inspections including sampling. However, according to the Department all field staff in the Consumer Protection program are also trained in water sampling, and can collect samples as needed.

Recommendation R2: *Train food inspectors to take a water sample at the same time they are performing their routine inspections. This would relieve the water system owner from taking a sample, delivering it to a private laboratory and paying for that service. The cost of County lab work could be added to the yearly permit required by DEH without a significant increase of cost to DEH and a potential savings to the owner.*

This recommendation will not be implemented, because it is not warranted or reasonable.

Having DEH collect water samples would probably not decrease the costs to the operator because food inspections would not necessarily align with water sampling schedules required by state law and could require additional trips for quarterly or monthly sampling. Having DEH take on water sampling responsibility would increase costs to the Department because significant additional sampling would be required. Additionally, DEH does not have the authority to require operators to utilize the County for sampling so any charge would need to be separate from the yearly permit fee.

Recommendation R3: *Have DEH conduct all water sampling to ensure sample integrity.*

This recommendation will not be implemented, because it is not warranted or reasonable.

Under *California Code of Regulations section 64212. Bacteriological quality monitoring*, state small water system operators shall collect at least one sample quarterly and submit the results to the local health officer. Food facility water system operators also have the responsibility for sampling under state law. If all food facility and state small water system samples were collected by DEH, an estimated 100 additional water collection trips would be required annually. Providing this service would result in significant additional costs to the program and require additional staff and fees to the operators. Additionally the Board of Supervisors does not have legal authority to require operators to utilize DEH for all water sampling.

To help insure sampling integrity the County initially provides operators written and verbal instructions on water sample collection as well as a demonstration of proper sample collection techniques. DEH has knowledge of the water systems falling under County regulation and collects at least one sample a year.

Recommendation R4: *DEH should inspect private water systems serving the public quarterly instead of annually.*

This recommendation will not be implemented, because it is not warranted.

Changing the inspection of private water systems from once per year to four times per year would result in a significant cost increase to the water system owners. Providing this additional level of regulatory oversight would increase expenses for the program and require additional staff. These expenses would ultimately be passed on to the operators in the form of increased fees for the program. DEH believes that a once per year County inspection combined with required sampling and State inspections is an adequate level of regulatory oversight for protection of public health and safety for a food facility or small water system. The California Department of Public Health also inspects the public water systems in Humboldt County once every two to five years. These inspections are very thorough and include a review of the physical setting, condition of the water system components, maintenance records, testing results, an interview with the operator, and possibly the collection of a water sample.

Recommendation R5: *Post signs indicating the date of the last inspection.*

This recommendation will not be implemented, because it is not warranted.

Food facility operators are required by state law (*Health and Safety Code section 113725.1 Inspection report availability*) to maintain a copy of the most recent routine inspection report and make it available to the consumer upon request. The operator is also required to post a sign advising that a copy of the most recent inspection report is available for review by any interested party. The condition of the water supply is indicated on the inspection report. If there is a condition with the water supply threatening the public safety, then there will be a boil water notice posted in public view or the food facility will be closed. The Board of Supervisors does not have authority to require operators to post a sign indicating when the water system was last inspected.

GRAND JURY REPORT 2012-JAILS-01

Jails Site Visit Report

SUMMARY

The Jails Committee of the 2012 Humboldt County Grand Jury conducted a series of site visits in accordance with the Jury's statutory duties.

BACKGROUND

Penal Code Section 919(b) provides that the Grand Jury "shall inquire into the conditions and management of the public prisons within the County". To fulfill this responsibility, the Grand Jury of Humboldt County annually assigns to its Jails Committee the task of visiting and evaluating the physical conditions and management of each jail and holding facility located within the County of Humboldt. The Grand Jury also visited the Coroner's Facility and the County's Animal Shelter as has been done in previous years.

APPROACH

Each facility is visited at least once by no fewer than two members of the Jails Committee. The Committee then reports its observations, findings, and recommendations to the full Grand Jury. The Grand Jury then issues an annual report.

The following facilities were visited during the 2011-12 Grand Jury term:

Sheriff's Department:

Humboldt County Correctional Facility
Main Evidence Room
County Animal Shelter
Hoopa Sheriff's Station
McKinleyville Sheriff's Station
Garberville Sheriff's Station and Evidence Room
Sheriff's Work Alternative Program (SWAP) Wood Yard

City Police Departments:

Eureka Police Department
Arcata Police Department
Fortuna Police Department and Animal Shelter
Ferndale Police Department
Rio Dell Police Department

Humboldt County Probation Department:

Juvenile Hall
Northern California Regional Facility (NCRF)

State of California Sites within Humboldt County:

Eel River Conservation Camp #31
High Rock Conservation Camp #32

Other facilities visited:

Coroner/ Public Administrator

FINDINGS

The Grand Jury found most of the facilities visited to be clean, well maintained and in good order. The members of the Jails Committee were met by friendly, helpful staff who were happy to answer any questions and provide a tour of their facilities. The Grand Jury commends the pride, professionalism and courtesy exhibited to them by the management, sworn officers and civilian employees of all the agencies visited.

The following facilities were found to be in need of improvements:

1. Humboldt County Correctional Facility (HCCF)

The HCCF was visited by the members of the full Grand Jury on September 7, 2011.

It is the primary facility for the detention and incarceration of individuals either accused or convicted of crimes. The facility employs electronic control systems for the majority of operations. The modern infrastructure allows a minimal staff to manage the population while maintaining a high degree of security and safety. However, two particular items require attention. The visitation area where inmates are allowed to talk with visitors and/or legal counsel appeared secure and clean yet suffering from vandalism. The glass partitions between inmates and visitors were severely cracked in three cubicles. This gives the impression that the area is not adequately maintained and sends a message that security is lax. We were told that the windows are very expensive and cost-prohibitive to repair.

The facility itself is aging. Deferred maintenance to accommodate budgetary constraints cannot suffice for long. The County should treat this as a high priority as the inmate population is predicted to swell in light of recent state mandates.

2. Evidence Room

The Humboldt County Sheriff's Evidence Room was toured and inspected by three members of the Jails Committee on November 4, 2011. Inspection of the Evidence Room revealed that

substantial progress is being made in moving from a manual to an electronic bar coding system for the tracking and storing of evidence. However, substantial challenges remain. There is currently only one full-time employee with occasional part-time help to oversee the entire area. Evidence from past cases is unorganized. Better communication is needed between the Courts and the Evidence Room to help clear out old evidence that is no longer needed and to free up more storage area.

Evidence is currently stored in boxes or bags on shelves that lack any kind of physical restraint. Not only are the shelves themselves not secured, but the shelves have no lip or other barrier for preventing evidence from tumbling during an earthquake and possibly severely injuring someone as well as scattering evidence everywhere.

There is water damage in the ceiling of the facility. Many ceiling tiles are missing having fallen to the floor in the past.

3. Hoopa Sheriff's Station

The Hoopa Station was toured and inspected by three members of the Jails Committee on September 14, 2011. The Hoopa station is located within a portion of a larger building which houses other facilities, most notably the court for the Hupa tribe. The entire building is owned by the tribe and is located on tribal land. The portion of the building used for the Sheriff's station is leased from the Hupa tribe by the County of Humboldt. It consists of two small office spaces, a small kitchenette, four holding cells (one of which is converted to an evidence locker), a storage garage, and an outdoor impoundment area surrounded by chain-link fencing.

The holding cells were found to be in good repair and clean. However, the lighting in this area was observed to be dim and flickering, suggesting an electrical problem. Poor lighting was also observed in the office areas due to failing overhead fixtures.

The garage area used for equipment storage was observed to be properly secured, however the automatic garage door opener and the A/C unit are not functioning.

A large sign is affixed to the east side of the building identifying the facility as the Hoopa Sheriff's Station and listing a phone number for after-hours non-emergencies. However, the number is not identified as a toll-free number nor is it listed in the local telephone directory.

4. Garberville Sheriff's Station

The Garberville Sheriff's Station was toured and inspected by three members of the Jails Committee on July 7, 2011. They were given a tour of the facility which included a room in an adjacent building used for evidence storage. The station is located on a narrow dead-end street and may be difficult to locate if one is not familiar with the area.

There are three holding cells, three offices, a kitchenette, shower facilities and a utility room at the station. The holding cells were found to be clean and well maintained. They are only used for holding prisoners until transportation to the Humboldt County Correctional Facility can be provided. The building housing the station is owned by the County of Humboldt, responsible for the building's maintenance. The adjacent building housing the evidence room is owned by the

local fire department and leased to the County. A condition of the lease includes a certain amount of maintenance to be provided by the County Public Works Department. The station is currently staffed by one resident Deputy, eight assigned deputies from the Eureka office, and a Legal Assistant.

The facility was found to be clean and well maintained. However, the informational sign on the roof is not accurate. The after-hours phone number is incorrect and in fact is a fax number. The sign also displays the name of the former Sheriff and is in a state of disrepair.

5. Humboldt County Juvenile Hall

Juvenile Hall was toured and inspected by three members of the Jails Committee on November 9, 2011. The facility is designed for both male and female detainees, ages eight to eighteen. The housing capacity is twenty-six, but can accommodate twice that number by adding an additional bed to each cell. At the time of the visit, there were a total of sixteen detainees. The facility was found to be very clean and well maintained. Security and monitoring of detainees is provided from a central control room that must maintain visual contact with all cells that are set up in two perpendicular rows. This has proven difficult, especially when the detainee capacity is high. We were told plans call for a new facility, but matching funds are required from the County, and these monies had not been allocated at the time of our visit.

6. Coroner/Public Administrator

The Coroner's Facility was visited by two members of the Jails Committee on January 17, 2012. The Coroner's Facility is a specialized medical facility. The facility is housed in the old General Hospital building at 3012 I Street in Eureka. It is an old facility in need of improvements to its infrastructure as noted in previous Grand Jury reports. In particular, the ventilation system is still inadequate in removing chemical vapors, such as formaldehyde, from the facility especially in the area where the deputy coroner works. In October 2009, the Board of Supervisors awarded a contract to improve the ventilation system. The project was completed in July 2010, but some issues still persist. It has been suggested that the Deputy Coroner's office move to a different location in the same building but none is available. Previous Grand Juries have recommended moving the deputy to a different office as well, but to no avail.

As noted by Grand Juries in the past, the loading ramp is sharply tilted. Bodies have fallen off the gurney and injuries have occurred to personnel. Previous Grand Juries have recommended fixing this situation, but to date the work has not been completed. According to the latest (Sept 2011) response from the Board of Supervisors, "the recommendation is currently being implemented". The response from the Board also indicated that "the Public Works Department has secured the design of an appropriate ramp and was scheduled to bring this to the Board in October 2011 to put the project out to bid" with an "expected completion date of February 2012". At the time of our visit no work was observed to have occurred. However, the Public Works Department and the County Administrator's Office have assured the Grand Jury that a contract for the work has been finalized. Work will proceed as weather conditions allow.

RECOMMENDATIONS

R1. Humboldt County Correctional Facility

- Repair the glass windows within the inmate visitation and consultation area.
- Consider the establishment of a sequestered fund devoted specifically to the maintenance of the facility.

R2. Evidence Room

- Improve the communication between the Court and the Evidence Room in regard to the disposition of cases in order to allow old evidence to be cleared out.
- Install physical restraints to all storage shelves and evidence contained therein.
- Consider better maintaining or remediation of the water damage in the ceiling area.

R3. Hoopa Sheriff's Station

- Retain the services of a qualified electrician to examine the electrical wiring within the building and repair or replace faulty components.
- Repair or replace the overhead lighting fixtures in the office area.
- Repair, replace or remove non-functioning A/C unit in garage as well as automatic garage door opener.

R4. Garberville Sheriff's Station

- The informational sign on the roof needs to be repaired and the information updated.
- Provide additional signage to help with locating the station.

R5. Juvenile Hall

- The Grand Jury recommends that the County appropriate matching funds for the upgrading of the facility.

R6. Coroner/Public Administrator

- Continue to work with the ventilation contractor to remedy the inadequacies of the ventilation system since the "upgrade" in October 2011. The health and welfare of the Coroner's staff should be of prime importance.
- Continue to pursue the relocation of the Deputy Coroner's office to a better ventilated area.
- Follow up on the awarding of a contract to repair the loading ramp and get the project finished before a regrettable accident occurs.

REQUIRED RESPONSES:

Pursuant to California Penal Code Sections 933 through 933-05, responses to the RECOMMENDATIONS of this report shall be provided as follows:

- Humboldt County Sheriff's Department to respond to Recommendations R1 through R5.

- Humboldt County Board of Supervisors to respond to Recommendations R1 through R6.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.
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Attachment 2012-GJ-02

Board of Supervisors Response to Grand Jury Report 2012-Jails-01



BOARD OF SUPERVISORS

COUNTY OF HUMBOLDT

825 5TH STREET

EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

INTEROFFICE MEMORANDUM

TO: HONORABLE JUDGE WATSON, PRESIDING JUDGE - SUPERIOR COURT
FROM: NIKKI TURNER, DEPUTY CLERK OF THE BOARD OF SUPERVISORS
SUBJECT: RESPONSE TO 2011-12 GRAND JURY REPORT 2012-JAILS-01
DATE: MAY 14, 2012

The 2011-12 Grand Jury has issued report 2012-JAILS-01 and the Board of Supervisors is required to respond to recommendations R1 through R6. I recommend that the Board respond as follows:

Recommendation R1: Humboldt County Correctional Facility

1. *Repair the glass windows within the inmate visitation and consultation area.*
2. *Consider the establishment of a sequestered fund devoted specifically to the maintenance of the facility.*

Recommendation 1 will be implemented, when funds are available.

Although the Board of Supervisors agrees that the windows within the Jail visitation area should be replaced; such repairs will not be made until financial resources are available. The windows are still secure and due to the limited resources available for facility maintenance are not currently considered a priority project.

Recommendation 2 will not be implemented, because it is not warranted.

The County currently has a sequestered fund devoted specifically to the maintenance of facilities. However due to budget constraints the amount of money that can be allocated to the fund is not sufficient to cover required maintenance costs. Creating an additional fund devoted specifically to the Correctional Facility will not create the availability of additional funding. The Board of Supervisors supports maintenance of all County facilities however recent economic conditions have resulted in minimal options for funding these projects.

Recommendation R2: Evidence Room

1. *Improve the communication between the Court and the Evidence Room in regard to the disposition of cases in order to allow old evidence to be cleared out.*
2. *Install physical restraints to all storage shelves and evidence contained therein.*
3. *Consider better maintaining or remediation of the water damage in the ceiling area.*

Recommendation 1 has been implemented and will continue to be implemented.

The disposition of evidence as related to court cases and communication between the Courts and the Evidence section of the Sheriff's office has improved as the result of continued implementation of a records management system. The Sheriff's office has indicated that they will continue to work on improving communications with the Courts and clearing out old evidence.

Recommendations 2 and 3 will be implemented as resources allow.

According to the Sheriff some of the evidence shelving has been secured and a request has been made to secure the remaining shelving in the evidence room. The water damage is an ongoing problem that occurs during periods of heavy rain. Repairs are performed when damage occurs. Facility improvements are a priority for the Board of Supervisors. Unfortunately adequate funds are not available to take immediate action regarding permanent repairs or construction to solve drainage issues around the courthouse.

Recommendation R3: Hoopa Sheriff's Station

1. *Retain the services of a qualified electrician to examine the electrical wiring within the building and repair or replace faulty components.*
2. *Repair or replace the overhead lighting fixtures in the office area.*
3. *Repair, replace or remove non-functioning A/C unit in garage as well as automatic garage door opener.*

The three recommendations will be implemented as resources allow.

The Hoopa Tribe has notified the Sheriff's office that they will be pursuing a major remodeling project on the Hoopa station. Preliminary information indicates that the project will upgrade or replace lighting, electrical and water systems in the facility. These plans are tentative and a date for implementation of the project has not been set. The Board of Supervisors supports the Hoopa Tribe's plans for improvements to the Hoopa Sheriff's Station. Facility improvements for the Sheriff's Department in the Hoopa/Willow Creek area are a priority for the Board of Supervisors. Unfortunately currently County funds are not available to fund improvements to the facility.

Recommendation R4: Garberville Sheriff's Station

1. *The informational sign on the roof needs to be repaired and the information updated.*
2. *Provide additional signage to help with locating the station.*

Recommendation 1 will be implemented.

The Sheriff has indicated that a request has been made to have the sign updated and repaired by the next available sign painter assigned through the Sheriff Work Alternative Program (SWAP). The Board of Supervisors supports the Sheriff's implementation of this recommendation.

Recommendation 2 will be implemented.

The Board of Supervisors agrees that additional signage to assist the public with locating the Garberville Station is a reasonable recommendation.

Recommendation R5: Juvenile Hall

1. *The Grand Jury recommends that the County appropriate matching funds for the upgrading of the facility.*

This recommendation has been implemented.

As part of the FY 2011-12 budget adoption the Board of Supervisors allocated \$900,000 in matching funds for the new Juvenile Hall Facility from the Criminal Justice fund. This funding was appropriated to provide funding for development of the project. On April 10, 2012 the Board of Supervisors authorized the County Treasurer-Tax Collector to develop a financing plan to provide the remaining required matching funds of \$2,319,625, for construction of the new Juvenile Hall Facility.

Recommendation R6: Coroner/Public Administrator

- 1. Continue to work with the ventilation contractor to remedy the inadequacies of the ventilation system since the "upgrade" in October 2011. The health and welfare of the Coroner's staff should be of prime importance.*
- 2. Continue to pursue the relocation of the Deputy Coroner's office to a better ventilated area.*
- 3. Follow up on the awarding of a contract to repair the loading ramp and get the project finished before a regrettable accident occurs.*

Recommendation 1 has been implemented and will continue to be implemented.

On October 9, 2009 the Board of Supervisors authorized a project award for the Mental Health Branch Heating, Ventilation and Air Conditioning. At that time the project scope was expanded to include ventilation upgrades in the Coroner's Office.

The project was completed July 2010, but some issues with ventilation persist. The Board of Supervisors is aware that these vapors can potentially pose a health risk. The County will continue to work with the contractor to make improvements to the ventilation system to improve air quality as this impacts health for County employees.

Recommendation 2 has been implemented and will continue to be implemented.

In an effort to address air quality issues the three Deputy Coroners have been put in one office in the front of the facility. This is a better ventilated area but is too small to reasonably accommodate three Deputies. Unfortunately adequate space is currently not available in the building to take further action on this recommendation. The County Administrative Office and the Public Works Department continue to work on facility improvements, consolidation options, and possible courses of action to be taken to address facility/infrastructure issues in County facilities such as this one.

Recommendation 3 has been implemented.

On November 15, 2011 a contract for construction of a new concrete entrance loading ramp for the Coroner's facility was awarded. The Board of Supervisors accepted the project as substantially complete on May 8, 2012.

GRAND JURY REPORT 2012-PW-01

Improving Planning Division Customer Service

SUMMARY

The Public Works Committee of the Humboldt County Grand Jury investigated a citizen complaint submitted to the Grand Jury in July of 2011. The complaint alleged mistreatment by senior staff and management of the County of Humboldt Community Development Services Planning Division. This alleged mistreatment was in the form of purposeful delays and the imposition of personal agendas in the processing of an application for a Determinations of Status and related Certificates of Compliance for a number of parcels contained within a larger division of land.

GLOSSARY

County Counsel (CC): An office assigned to provide legal advice to various functions of County Government among other duties.

Community Development Services Department (CDS): A Department within County Government bearing primary responsibility for the application of law and policy relevant to land use and development among other significant authorities and responsibilities.

Planning Division (PD): This Division implements land use law and policy under the direction of the CDS.

Public Works Committee (PWC): A committee of the 2012 Humboldt County Grand Jury.

APPROACH

The PWC conducted interviews with the complainant, CDS management and staff inclusive of PD personnel, CC personnel, other persons serving in County Government, and persons in the private sector. In addition we reviewed the official case file provided by the PD and extensive documentation provided by the complainant.

DISCUSSION

The Complainant submitted an application for Determination of Status/Certificate of Compliance on April 29, 2008 and paid the required fees. On June 21, 2011 the complainant received a final Determination of Status for all of the parcels examined, thus enabling the complainant to record in deed the ensuing Certificates of Compliance, however conditioned. The PWC investigation of the PD operating procedures and our interviews with those directly and indirectly involved in processing the complainant's application uncovered several opportunities for improvement in the functions of the PD. These improvements are suggested by recommendations to enhance the future performance of the CDS and the PD. The complainant's allegations of purposeful delay and imposition of agenda could not be substantiated by the PWC through either interview or documentation. Meanwhile, the fact that three years elapsed from the time of the complainant's application to final resolution is troubling.

The opportunities for improvement the PWC identified are specific to the case examined, an application for decision on a matter of administrative review under the purview of the PD. The current laudable actions of the CDS to improve its broader performance might be enhanced by the targeted investigation that we have pursued, with specific recommendations arising. Topics are presented below, each with further discussion meant to illuminate the findings and recommendations that follow.

Billing Practices:

A Determination of Status examination is a lawfully mandated service provided by the PD that is subject to cost recovery. Costs are recovered through fees paid by an applicant according to a fee schedule adopted by the County of Humboldt. An applicant for a Determination of Status begins the formal process with the payment of an application fee followed by consultation with PD staff. Staff consults with the applicant, revealing the process, documentary requirements, and an estimated total cost to conclude the transaction. Should the applicant wish to proceed, an additional deposit is required consistent with a published fee schedule. The application fee is specific to the processing and consultation relevant to the application itself. Ensuing fees, inclusive of the deposit, are fees for service. The final amount might exceed both the application fee and service deposit, but will not exceed a certain expressed “cap” amount in most circumstances. Upon conclusion of the transaction the applicant is presented with a final invoice and an accompanying detailed account of fees charged by date and service rendered. The PWC, while examining these billing documents, has found fault that should be addressed.

The fees for a particular service are described in a document attached to the applicant’s final invoice. This document examined in the particular case reviewed describes the date of service for a particular task, the person performing the task, a general description of the task, and an amount charged. The document generally lacks a specific description of the task performed, the hours expended, or the rate per hour such that the recipient of the bill might readily understand the nature and substance of the charges. The PWC understands that some recent revisions to the itemized statement have occurred due to software improvements, finally revealing time expended, yet still not revealing an hourly rate. The PWC understands that the capacity to refine task descriptions have been an available feature of both existing and recently improved software. A “field” for entering refined comments has long been available, but unutilized within the records examined. For example, one billing record revealed five instances entitled “consult with legal counsel” without further description. Presumably a series of inquiries with CC, yet undefined other than the identification of the PD person claiming and an amount in claim. In similar fashion, thirteen entries entitled “records check/research” are similarly billed without further explanation.

Finally, the structure of billing for service relies upon the assignment of a “burden” rate to a particular employee providing a billable service. The burden rate includes the cost to the County in both wages and benefits of employing a particular individual. The current practice contains a perilous pitfall in its construction. Two employees of equivalent rank, classification, and experience; each of whom are engaged in equivalent duties, might be assigned differing burden rates dependent upon the cost to the County of their individual benefit packages. One might be single without dependents while the other relies on County sponsored benefits to cover a broad family. The result is two different burden rates that have nothing to do with duty and only resolve around the personal circumstance of an individual employee. The PD has a current

practice that can result in any applicant being charged a different rate for equivalent service based upon the burden rate of the employee assigned to provide the service. Averaging the burden rate across classes of employees similarly assigned would easily resolve any potential disparity.

Integrity of Public Records:

Early in the course of its investigation the PWC requested and immediately received the full case file referenced by the complainant. As the investigation progressed it became apparent that the “complete” file was sadly lacking. The file obtained and purported to be complete did not contain financial statements. The file did not contain any registry of substantive telephone conversations between the applicant and the PD staff. Documents within the file, other than copies of electronic mail, were not stamped or otherwise identified as to the date and time of receipt. In short, the purportedly complete file was anything but complete. Further in our investigation we were informed that a customary practice exists to purge billing documents from files, such as we examined, upon conclusion of the transaction. We (PWC) do not know if this practice extends to other documentary records beyond ministerial or administrative review. The fact that the practice is in place for minor matters is itself disturbing. We suspect, but cannot confirm in fact, that other documents might not have been originally included in the file or might have been similarly purged.

One key dispute within the particular case examined was the belief of an applicant that a verbal agreement had been reached, only to be substantially altered by a following written document. The assertion of the complainant cannot be affirmed because there is no log of substantive telephone conversations contained in the record.

Assembling and maintaining documentary records are among the instrumental duties of an open government. Failure to do so can engender popular suspicion, constrain the ability of government to audit itself, and deprive the public of proper avenues of discovery.

Efficiency and Communication:

The particular case examined by the PWC revealed certain lapses in the timely service of the complainant’s application. The PWC cannot determine if the length of time taken to reach a conclusion by the PD was attributable to the PD or to the complainant. However, our examination of the course of events strongly suggests that small changes within the PD could go a long way in assuring the public they serve that an applicant’s matters are addressed with diligence.

The PD has complained of staffing shortages and budgetary constraints. The complaints are well founded. One avenue to success under these fiscal pressures is to emphasize a total force concept. In the case examined, a significant period of time elapsed during the course of processing an applicant’s petition for an administrative action. This period of time was apparently due to the lack of available personnel within either the PD or CC or both. Availing staff of equivalent rank and qualification the opportunity to train across their customary duties would serve both the PD and the public well.

A lack of communication in the case examined was apparent. The applicant engaged in a process that extended over three years seeking resolution of an administrative matter. The fault of delay might lie with either the applicant or the PD. The failure of the PD to alert the applicant of the expected date of completion of the administrative action was lacking throughout the process.

One could easily introduce a time estimate concurrent with the cost estimate that an applicant receives upon the conclusion of initial consultation. The PD might then endeavor to hold to the proclaimed time estimate or, if exigent circumstances arise, inform the applicant in writing of the delay with an expressed reason and an amended estimate.

The Grand Jury respectfully submits the following findings and recommendations. They are specific to ministerial and administrative actions undertaken by the PD. The recommendations are meant to augment ongoing improvement initiatives that have already been proposed or are currently underway, with minimal cost to either the County or PD customers.

FINDINGS

- F1. Hourly rates for the same service to an applicant may vary due to the “burden” rate used. The burden rate equaling an employee’s salary added to the cost of that employee’s benefits. We understand that individual burden rates are used, rather than an average rate calculated across a class of employees of equivalent rank and duty. As an example, a member of the public requesting services for a Determine of Status might pay a higher or lower hourly rate for the same service depending on which planner is assigned.
- F2. The hourly rate charged to the customer is not divulged on the billing statement. We understand that new billing software installed and in use since November of 2011 will provide more clarity to the customer and accountability within the PD. We understand that the new statements will show the time spent on a particular task but will not show the hourly rate; that calculation left to the recipient of the bill.
- F3. The billing statement shows an abbreviated description of the service provided for each task being charged. For ease of communication between the person performing the task and the person doing the billing, a billing code is used. While this is convenient for PD personnel, it is not for the customer paying for or trying to understand the service rendered. Current software provides for additional detail but is not consistently used.
- F4. We received and reviewed the official case file from the PD associated with the complaint examined for the purposes of comparing and confirming documents in the complainant’s file. We were unable to confirm the time line because documents in the official case file were not identified as to the date and time received
- F5. The official file in the case examined does not contain records revealing the content of substantive telephone conversations or verbal agreements even though such conversations apparently occurred. Records are confined to electronic mail transcripts.
- F6. We questioned apparent missing records in the official file and were informed that the files get purged following completion of the transaction. For example, billing records are purged.
- F7. We discovered that some PD personnel have assumed, or have been assigned by management, a degree of specialization apparent by their individual activities. We recognize that specialization might be needed to address complex transactions that require unique skills. However, this approach to the utilization of personnel cannot be reasonably justified in the routine processing of ministerial and administrative actions, core skills that any competent planner should possess. Personnel of equal civil service class should be able and available to accomplish the tasks that their class requires, readily substituting for a coworker who might be absent or diverted to other duties.

- F8. The PD never constructively informed the applicant in the case examined of the length of time required to complete the transaction, neither at the time of initial consultation nor subsequently.

RECOMMENDATIONS

- R1. Burden rates used in the calculation of hourly billing rates for cost recovery purposes should be an average of the realized rate applicable to a given civil service employee class, rather than a specific employee. For example, the billed rate for work performed by a senior planner should be the same across that classification. (F1)
- R2. The billing software should be modified to allow for an hourly rate to be expressed; listed for each task appearing on the billing summary statement. (F2)
- R3. A detailed description of services rendered should be provided for each task appearing on the billing summary statement. Any billing for an activity lacking a coherent description should be subject to dispute by the applicant without penalty. (F3)
- R4. All documents received by the PD should be identified by date and time of receipt. Affixing an inked stamp revealing the date and time of receipt is preferred. All documents so received should reside within the official file established for the matter under consideration. (F4)
- R5. Detailed notes of substantive telephone conversations or other verbal conversations resulting in agreements, or possibly construed as understandings in principal, should be logged and a copy of such log entered into the applicable case file. (F5)
- R6. The full and complete file for all ministerial and administrative transactions should be maintained without purging for a period of time commencing with the conclusion of the particular transaction and concluding with the lapse of the statute of limitations applicable to civil action. (F6)
- R7. Personnel of equivalent rank and meeting the minimum qualification for their positions should be both capable of and available for substituting for their peers. All senior planners should be able and available to perform administrative and ministerial actions. They should stand ready to substitute for one another without delay to the queue of customers being served. Management should ensure that planning personnel are afforded training. Management might consider an internal program testing and certifying the skills of planners according to their ranks, ensuring consistency and competence. (F7)
- R8. Applicants should be afforded an estimate of the time required to process their applications concurrent with the cost estimates already provided at the time of initial consultation. The PD should then either complete the transaction within the estimated time period or, if unable to do so, transmit in writing an explanation for the delay to the applicant and enter a copy into the case file. The written notification would identify the reason for delay whether attributable to the applicant, County offices, or other parties. The notification would supplant the original completion time estimate with another date. If that ensuing date is not met, then the process would repeat. The use of this suggested system might allay future allegations of purposeful delay by establishing a clear and coherent record. (F8)

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- The Director of the Humboldt County Community Development Services Department is requested to respond to recommendations R1 through R8.
- The Humboldt County Board of Supervisors is requested to respond to recommendations R1 through R8.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

Attachment 2012-GJ-03

Board of Supervisors Response to Grand Jury Report 2012-PW-01



BOARD OF SUPERVISORS

COUNTY OF HUMBOLDT

825 5TH STREET

EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

INTEROFFICE MEMORANDUM

TO: HONORABLE JUDGE WATSON, PRESIDING JUDGE - SUPERIOR COURT
FROM: NIKKI TURNER, DEPUTY CLERK OF THE BOARD OF SUPERVISORS
SUBJECT: RESPONSE TO 2011-12 GRAND JURY REPORT 2012-PW-01
DATE: MAY 14, 2012

The 2011-12 Grand Jury has issued report 2012-PW-01 and the Board of Supervisors is required to respond to recommendations R1 through R8. I recommend that the Board respond as follows:

Recommendation R1: *Burden rates used in the calculation of hourly billing rates for cost recovery purposes should be an average of the realized rate applicable to a given civil service employee class, rather than a specific employee. For example, the billed rate for work performed by a senior planner should be the same across that classification.*

This recommendation will be implemented.

The Planning Division has stated that they will work to modify their billing system to use average hourly rates instead of individual employee hourly rates effective June 1, 2012.

Recommendation R2: *The billing software should be modified to allow for an hourly rate to be expressed; listed for each task appearing on the billing summary statement.*

This recommendation has been implemented.

This change was implemented by the department in January 2012. The billing software has been modified and billing statements should now show the time spent on a particular task as well as the hourly rate.

Recommendation R3: *A detailed description of services rendered should be provided for each task appearing on the billing summary statement. Any billing for an activity lacking a coherent description should be subject to dispute by the applicant without penalty.*

This recommendation will be implemented where warranted.

The Planning Division has committed to review all task descriptions and will make modifications as needed to make sure that the billing activity clearly communicates the work that was performed. However, it is not

evaluated and modified by Planning with a goal of promoting clear billing communication in the most cost effective manner. This will help minimize the costs to the applicant while improving the detail appearing on the billing statements.

There currently should not be a charge or penalty to customers for time spent by Planning answering billing questions or dealing with disputes and this practice is not anticipated to change.

Recommendation R4: *All documents received by the Planning Division should be identified by date and time of receipt. Affixing an inked stamp revealing the date and time of receipt is preferred. All documents so received should reside within the official file established for the matter under consideration.*

This recommendation will be partially implemented, because it is not possible in all cases.

The Board of Supervisors agrees that date stamping documents for official case files is an important practice. Planning will work to provide training and reinforcement to staff on the procedure of date stamping to ensure that it is done consistently on official documents. However, some original legal documents and maps that are ultimately filed with the Recorder cannot be date stamped.

Recommendation R5: *Detailed notes of substantive telephone conversations or other verbal conversations resulting in agreements, or possibly construed as understandings in principal, should be logged and a copy of such log entered into the applicable case file.*

This recommendation will be implemented.

The Board of Supervisors agrees that keeping records of verbal agreements with applicants in the applicable case files provides better documentation. Planning has stated that notes of key telephone conversations are routinely made by planning staff and permit specialists. This practice will be continued by Planning and training and reinforcement of the policy will be conducted to ensure that it is done consistently by all staff and that the records are put into the case file.

Recommendation R6: *The full and complete file for all ministerial and administrative transactions should be maintained without purging for a period of time commencing with the conclusion of the particular transaction and concluding with the lapse of the statute of limitations applicable to civil action.*

This recommendation will be implemented.

File retention policies and practices will be evaluated and modified as necessary to ensure that no records other than drafts and duplicates are purged prior to the close of applicable statute of limitation periods.

Recommendation R7: *Personnel of equivalent rank and meeting the minimum qualification for their positions should be both capable of and available for substituting for their peers. All senior planners should be able and available to perform administrative and ministerial actions. They should stand ready to substitute for one another without delay to the queue of customers being served. Management should ensure that planning personnel are afforded training. Management might consider an internal program testing and certifying the skills of planners according to their ranks, ensuring consistency and competence.*

This recommendation has been implemented and will continue to be implemented where warranted.

The Planning Division has already partially implemented this recommendation and currently has experienced employees that can and do substitute for each other for most planning functions. Creating a balance between specialized knowledge and skills and fully cross trained staff is a challenge faced by many County departments. For Planning there appear to be two factors that inhibit full implementation of personnel substitution for all cases. They are complexity of the function or of the specific project.

The first limitation is related to the complexity of the subject matter and level of experience needed for the work. For example the Determination of Status process and the application of Subdivision Map Act requirements are some of the most complex planning functions of the Planning Division. Because of the difficulty it has not been feasible for Planning to train multiple staff on these functions and currently there is only one staff member responsible for this work. Over the last year, Planning has been training a second staff member to add more coverage in these areas.

The second limitation is related to the intricacy of ongoing project applications. The ability to substitute staff on projects varies with the complexity of the project and importance of the project history in processing and decision making. For a complex project, a planner that does not understand the project is not in a good position to help the customer without first becoming familiar with project details. In many cases due to the time involved to accomplish this it is not reasonable or cost effective to cross train staff on individual projects. Additionally having projects assigned to dedicated staff provides better continuity of service for the applicant.

Recommendation R8: *Applicants should be afforded an estimate of the time required to process their applications concurrent with the cost estimates already provided at the time of initial consultation. The PD should then either complete the transaction within the estimated time period or, if unable to do so, transmit in writing an explanation for the delay to the applicant and enter a copy into the case file. The written notification would identify the reason for delay whether attributable to the applicant, County offices, or other parties. The notification would supplant the original completion time estimate with another date. If that ensuing date is not met, then the process would repeat. The use of this suggested system might allay future allegations of purposeful delay by establishing a clear and coherent record.*

This recommendation will be implemented.

According to the Planning Division this practice is informally followed under current procedures and as such may not be applied consistently and/or in all cases. Based on the Grand Jury recommendation this practice will be formalized by the Planning Division and should be fully deployed effective June 1, 2012.

GRAND JURY REPORT 2012-A&F-01

Auditing the Audit

SUMMARY

The auditing firm initially contracted by the County to prepare the annual external audit for 2009-2010 was unable to complete that audit. A second firm was retained and the audit was completed in December 2011. Due to the one year delay in the audit completion the County was unable to complete and/or initiate grant proposals leading to a loss of funding opportunities.

BACKGROUND

An annual external audit is required by the County to be completed no later than six months from the end of the fiscal year (6/30). At the Board of Supervisors meeting on May 5, 2010 staff recommended to retain a particular independent auditing firm (Caporicci & Larson) for the preparation of the 2009-2010 audit. This decision was based upon their submitted bid, their reputation and their prior experience with government audits. The firm had previously prepared audits for at least six counties and about 75 cities in California.

In August 2010 the County contracted with Caporicci & Larson to prepare the external audit for 2009-2010 and for that audit to be completed by December 2010 for a fee not to exceed \$52,800. An initial pre-payment of \$15,000 was made to Caporicci & Larson.

In March 2010, prior to the contract finalization and pre-payment, the firm of Caporicci & Larson was purchased by Stonefield Josephson who in October 2010 merged with Marcum to form MarcumStonefield, a firm with little or no experience in major governmental audits. The parent company and its subsidiaries were unable to provide the necessary staff of qualified auditors to perform the contracted government audits acquired in the takeover and were therefore unable to complete the 2009-2010 audit for Humboldt county. On September 23, 2011 the County contracted with Galena LLP and the 2009-2010 audit was completed in January of 2012. The initially contracted auditing firm in addition to being unable to complete the audit has since submitted to the County a billing invoice of \$145,112.56 for their unsuccessful efforts in the preparation of the uncompleted audit.

APPROACH

During the course of investigation the Grand Jury conducted interviews with County and city officials, conducted a survey of all 58 California counties relevant to their audit experience, and reviewed public documents. We believe that the facts have been corroborated.

DISCUSSION

The failure of Caporicci & Larson to complete the independent audit by December 2010 caused several grant applications to go uncompleted and others to never be initiated at all. This represents a substantial loss in funding opportunities. One of the uncompleted grants might have yielded approximately \$750,000.

To date the County has paid \$15,000 to the initial audit company, received an invoice requesting an additional payment in excess of \$145,000 and has been unable to apply for grants that require an external audit as part of the application process. The County could through the County Counsel's office undertake appropriate legal measures to recover the initial fee, damages and the voiding of the outstanding invoices. It is our understanding that discussions have been held, but no formal action has yet been taken.

Other counties and cities including Eureka have reported similar problems and delays with audits being done by Caporicci & Larson. The auditors assigned to perform the work were reportedly too inexperienced to complete major government audits in a timely manner.

Significant time has elapsed since the initial contracted completion date. If the County Counsel's office is unable to undertake the required litigation for recovery of incurred losses due to staffing issues, current workloads or the prospect of a protracted legal battle, changes in the County Counsel's staff may be required. Outside firms specializing in litigation could be retained or the County could join with other counties and cities in a joint action suit.

The time required from the "close of books" in October for the completion of an external audit is two to three months. The one year delay in obtaining the final audit may be indicative of the initial contract not being canceled as early as an aggressive oversight procedure might have allowed for. A review of current oversight procedures for external audits may be necessary.

FINDINGS

- F1. The firm initially selected in May 2010 through the bid process, due to retirements, staffing changes and new ownership was not the same firm contracted in August 2010 and no longer able to complete the annual external audit. A review process was not in place to note changes in the firm's capabilities prior to entering into a contract with that company.
- F2. Once the County entered into a contract with a poorly performing company, County staff failed to protect the County by not making sure safeguards were in place for monitoring timelines and deadlines. The Grand Jury believes that the auditors were in breach of contract and that the initial contract should have been voided immediately upon discovery of deficient performance.
- F3. The one year delay in obtaining the 2009-2010 external audit caused several grant applications to go uncompleted and others to never be initiated at all. This represents a loss of substantial funding opportunities.
- F4. The County has not undertaken action against the auditing firm for the recovery of the initial fee, voiding outstanding invoices or seeking damages.
- F5. Other counties and cities within the state of California have reported similar problems with the firm initially retained for the preparation of the external audit.

RECOMMENDATIONS

- R1. The contract review process should involve a detailed investigation into the firm and qualifications of the individuals assigned to fulfill the contract. (F1)
- R2. An aggressive review process must be established to protect the County by making sure safeguards are in place for monitoring contracted work products, timelines and deadlines. (F2)
- R3. The County Counsel's office should pursue its remedies for loss and damages against the accounting firm, both compensatory and punitive. (F3)
- R4. The Board of Supervisors and its Administrative Staff needs to ensure itself that its legal counsel is sufficiently knowledgeable and experienced to handle all of the County's legal needs, including the capability for litigation. (F4)
- R5. The County should contact the State's attorney general's office to determine if the state feels that any action should be taken against the initial accounting firm for an apparent pattern of behavior occurring in multiple local government jurisdictions. (F5)

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Humboldt County Auditor / Controller to respond to Recommendations R1 & R2.
- Humboldt County Administrative Officer to respond to Recommendations R1 & R2.
- Humboldt County Counsel to respond to Recommendations R1 through R5.
- Humboldt County Board of Supervisors to respond to Recommendations R1 through R5.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

Grand Jury Report 2012-L&J-01

Humboldt County Planning Commission

SUMMARY

The Planning Commission is the designated planning agency for the County Of Humboldt. They consider Community Development Services Department staff reports related to scheduled items before the Planning Commission, testimony at hearings, and other evidence presented in record in order to reach determinations regarding a range of land use issues. Importantly, the Commission is responsible for implementing and periodically reviewing the General Plan. They seek to ensure long term comprehensive planning and development consistent with State and local law. This process involves, in part, the Commission reviewing and evaluating recommended changes presented by the Community Development Services Department. The General Plan update process has thus far consumed some twelve years without resolution. This delay might be attributable in part to the relationship between the Planning Commission and the Community Development Services Department. Items of concern include insufficiencies in necessary experience, expertise, training, resources, or allocated time needed to enable Planning Commission success.

GLOSSARY

Humboldt County Board of Supervisors (BOS): Serves as the legislative and executive body of Humboldt County government and many special districts comprised of five, full time members elected by their respective districts.

Humboldt County Planning Commission (PC): This is a permanent committee of seven citizens who have been appointed by the County Board of Supervisors to serve as the County's planning agency with a mandate to render decisions on most matters related to planning and development.

Community Development Services Department (CSDS): Previously known as the Planning Department is a department within County Government bearing primary responsibility for the application of law and policy relevant to land use and development among other significant authorities and responsibilities. Included in these appurtenant duties is the function as technical advisor to both the Planning Commission and the Board of Supervisors.

Law and Justice Committee (L&JC): A committee of the 2012 Humboldt County Grand Jury.

BACKGROUND

The PC is a permanent committee of seven citizens (1 from each district and 2 at-large) who have been appointed by the BOS to review matters related to planning and development. The PC is the BOS's advisor on land use planning. The PC holds public hearings on a regular schedule to consider land use matters. These include such topics as the local general plan, specific plans, rezoning, use permits, subdivisions, and appeals.

Decisions made by the PC are subject to appeal to the BOS. When hearing an appeal the BOS naturally considers the record of decision arising from the PC deliberations, inclusive of the advice and evidence forming the foundation for the contested decision. Informed decisions by the PC are

thus founded upon the quality of the CDS D staff reports, testimony, other evidence presented, and the competence of the PC itself.

In order to render informed decisions on scheduled topics, inclusive of General Plan revisions, members of the PC must rely on materials provided by the CDS D as well as evidence provided during public hearings. Staff reports proffered by the CDS D are the apparent core, and sometimes singular, source of information expressing facts and supporting evidence relevant to any particular project subject to PC review. The PC must review those reports for conformance with State law and local ordinance at a minimum. Further emphasis on fairness and responsiveness to petitioning citizens and the population at large, while not legally mandated, is a general expectation of the citizenry. Such emphasis would weigh in favor of extended public comment and the ability of project proponents or opponents to introduce evidence directly to the PC without prior submission to the CDS D.

The CDS D which provides the total staff support for the PC is comprised of the following divisions:

- Planning – developing and maintaining the General Plan, Community Plan and Housing Element; recommending action on zoning and other land use ordinances; processing permit applications and appeals.
- Natural Resource Planning – developing and implementing water, environmental restoration, habitat conservation and climate change projects to advance natural resource goals set by the BOS.
- Building – providing information regarding building regulations; performing inspections during new constructions as to codes and standards compliance; issuing permits to alter, enlarge, remodel, or repair existing buildings; issuing permits and providing inspections for placements of mobile homes in unincorporated areas.
- Economic Development – Encouraging economic development by focusing on business retention and expansion, on the development of housing and infrastructure, and on workforce development; overseeing the Headwaters Fund, the Workforce Investment Board and Redevelopment Agency.

The Community Development Services Department (CDS D) has a staff of approximately 60 personnel assigned to serve these wide ranging and complex areas. This complexity encompasses residential, commercial, historic, industrial, open-space, resource-production, watershed, right-of-way, and related matters. Therefore, specialized training and experience is often required.

APPROACH

The L&JC relied upon inquiry and interviews to develop the findings in this report. Instrumental to the approach were interviews conducted with CDS D personnel, PC members, complainants, and members of the BOS.

DISCUSSION

In order to successfully analyze the recommendations and requests of the CDSO the PC members should possess knowledge and experience commensurate with that of CDSO's staff. The information needed for this analysis is obtained through CDSO staff reports and public hearings. The PC currently lacks independent support for validations of findings by the CDSO's specialists as well as publicly pronounced political guidance for implementations of recommendations. In addition, a frequent lament by PC members is that they receive the sometimes voluminous documentation from the CDSO pertaining to an agenzized topic without sufficient time for a detailed and comprehensive analysis of that material prior to meeting.

The PC is the nominal final decision maker on the majority of planning projects, barring appeal or a question of legislative authority. However, it's often strict reliance on the recommendations and actions of the CDSO is a fact that bears examination. The current construct of County ordinance assigns the CDSO to act as a professional and technical advisor to the PC. The CDSO also provides clerical and some administrative support. Meanwhile, the office of the County Counsel provides legal advice to both the PC and the CDSO. Without the necessary experience, expertise, time, or resources the PC can only lend the appearance of authority when rendering decisions based upon the recommendations of the CDSO. The PC should be a independent institution or, if not, at least availed of the resources necessary to seek independent investigatory and legal advice not clouded by the advocates of either a project proponent, opponent, or political factions within County government. California Government Code § 65100 et seq. appears to grant the BOS sufficient latitude to change or adopt ordinance attaining to those goals. The fact or perception of influence by the CDSO upon PC decisions regarding any agenzized topic could then be laid to rest.

FINDINGS

- F1. The members of the PC are not offered the opportunity for formal training for their responsibilities. On-the-job training by interaction with the CDSO or by learning from the recommendations of the CDSO is limited.
- F2. The PC has no independent staff to support them. The PC relies on the CDSO for support, knowledge, evaluations and background services to be able to come to their decisions.
- F3. Thorough review of the materials provided to the PC by the CDSO can be compromised by the limited time available for the evaluation of that material.
- F4. The presentations to the BOS of the PC decisions are not made by members of the PC but by members of the CDSO. Thus, questions from the BOS are answered by CDSO not the PC which performed the analysis of the materials presented. Some recommendations in the presentations by members of the CDSO have differed from those of the PC. Without direct input from the PC to the BOS, the PC can be overruled or sidelined by the CDSO.
- F5. Up until recently, the infrequency of the meetings of the PC appears to have resulted in lengthy delays of the update, review and publication of the General Plan.
- F6. Public input to the PC by citizens wishing to present material pertaining to their requests, appeals, or complaints is limited to 3 minutes and restricted as to the location as to where they may address the PC.

- F7. There are no term limits in place for PC members thus restricting the influx of fresh thinking and new ideas.

RECOMMENDATIONS

- R1. Provide training to the members of the Planning Commission. Perhaps having specialized training in different areas for different members could lend depth to the knowledge required for analyzing particular recommendations.
- R2. Provide support staffing to the PC for validating findings upon which planning decisions are based. Such support staffing needs to be independent of the CDSO. Also political guidance by the BOS may need to be provided for particularly sensitive recommendation to facilitate implementation of those recommendations.
- R3. Provide sufficient time to the PC for evaluating materials provided by the CDSO. Involving Planning Commissioners with expertise in a particular topic addressed within a given CDSO staff report during the development of that report could facilitate analysis and shorten evaluation time.
- R4. The PC should present their decisions upon appeal, or factual findings upon request directly to the BOS, and to be available to support their reasoning. Recommendations which differ from those of the PC should be independently presented to the BOS.
- R5. Increase the frequency of the PC's meetings.
- R6. The BOS should instruct the PC to request estimates of required time from citizens appearing before the PC before their appearance and schedule those citizens accordingly.
- R7. Establish a limit of two consecutive 4-year terms to assure a periodic turn over in the PC's make-up.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following individuals:

- R1 through R7: Humboldt County Board of Supervisors

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation
