



# HUMBOLDT COUNTY SHERIFF'S OFFICE

MICHAEL T. DOWNEY, SHERIFF

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DATE: May 12, 2015

TO: THE HONORABLE JOYCE HINRICHS PRESIDING JUDGE OF  
THE SUPERIOR COURT

FROM: MICHAEL T. DOWNEY, SHERIFF

RE: RESPONSE TO GRAND REPORT 2013-2014

## THE TRANSPORTATION OF INDIGENT DETAINEES IN ACCORDANCE WITH CALIFORNIA PENAL CODE SECTION 686.5

The Humboldt County Grand Jury noticed Sheriff Michael T. Downey on March 16, 2015 of findings and recommendations contained in the Humboldt County Grand Jury report for 2013-2014. The inquiry has to do with implementation of section 686.5 of the California Penal Code regarding the transportation of indigent detainees to their place of arrest upon release.

*In any case in which a person is arrested and released without trial or in which a person is arrested, tried, and acquitted, if such person is indigent and is released or acquitted at a place to which he has been transported by the arresting agency and which is more than 25 airline miles from the place of his arrest, the arresting agency shall, at his request, return or provide for return of such person to the place of his arrest. Penal Code Section 686.5*

### Findings

1. There are people arrested in the outlying areas of Humboldt County, brought to the Humboldt County Correctional Facility who qualify for California Penal Code Section 686.5 mandated travel assistance, who are not being informed they have legal right to request such assistance.
2. The refusal to inform those that qualify under California Penal Code Section 686.5, that they have the legal right to ask for assistance is currently the deliberate practice of the Humboldt County Correctional Facility under the direction of the Humboldt County Sheriff.

I would like to respond to the Findings as well as the Recommendation. Finding #1 is partially correct, but I would like to point out that there is no mandate or provision in Penal Code section

686.5 that directs correctional facility staff (or any other person) to inform a qualifying arrestee of his or her right to be returned the place of arrest.

Regarding Finding #2, HCSO has never deliberately refused to inform those that qualify of their rights under Penal Code Section 686.5. Once the code section was brought to our attention, efforts began to ensure my office would come into full compliance with Penal Code Section 686.5, as described below. The characterization of a refusal of deliberate practice of the Sheriff's Office is not supported by the facts.

Prior to the Grand Jury investigation, the Humboldt County Sheriff's Office (HCSO) was unaware of Penal Code Section 686.5. In reaching out to other counties and correctional facilities, HCSO has since discovered that many counties throughout the state were/are likewise unaware of Penal Code section 686.5 and do not have policies and procedures in place to (a) inform inmates of this code section and/or (b) provide for their transportation to the place of arrest.

Once this code section was brought to the attention of HCSO, HCSO sought the advice of counsel and experts in the field of California Corrections, and collaborated with county and state agencies to determine how best to inform inmates of their rights under this section and how to provide transportation for qualifying inmates who are arrested by HCSO within existing the existing budgetary framework and practical limitations. HCSO has now developed and implemented policies and procedures to notify inmates of their rights under Penal Code section 686.5 and to provide transportation to qualifying inmates who request it.

Any new policy or change to existing policy must be scrutinized and a legitimate plan to execute such change must meet the standards and spirit of the legislation. It would be unwise to implement such a change without sound counsel and direction as is afforded by Humboldt County Counsel; HCSO has taken these steps.

### **Recommendation No. R1**

- R1. The Humboldt County Grand Jury recommends that Humboldt County Correctional Facility Officers, as part of the release process, inform those people, who qualify under California Penal Code 686.5, that they are eligible for transportation assistance back to the place of their arrest and that they have legal right to ask for such assistance.

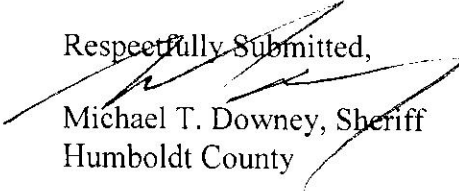
The recommendation has been considered and modified

The Humboldt County Correctional Facility now displays signage in the booking area and each housing unit. The signage is legible and contains the verbiage, as detailed in 686.5, regarding the arrestee's right to request transportation back to the place of arrest if that location is 25 or more air miles from the correctional facility.

There is no legal obligation under 686.5 of the Penal Code that requires correctional facility staff to inform an arrestee of his or her right to transportation to the place of arrest. However, in the spirit of the recommendation, I opted to provide the information in the form of the posted

signage as detailed above. I believe this will allow for proper notification and goes above and beyond the legal obligations detailed in Penal Code Section 686.5.

Respectfully Submitted,

  
Michael T. Downey, Sheriff  
Humboldt County

Cc: Philip Smith-Hanes, County Administrative Officer