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should inform the Grand Jury when that occurs so it may seek legal advice from the District Attorney. The Grand Jury also recommends that County Counsel and DHHS adopt procedures for properly responding to future Grand Jury requests for confidential information.

Grand Jury Report # 2004-AF-03
“BENEFIT ALLOWANCE”

A SIMPLE PARTIAL SOLUTION TO HUMBOLDT COUNTY’S BUDGET DEFICIT
(This report was released as an early “Interim Final Report” in June 2004)

EXECUTIVE SUMMARY:

Humboldt County faces a projected budget deficit of \$8.4 million for fiscal year 2004-2005. All county departments were requested to reduce their budgets by 20%. The Grand Jury has cooperated in the need to reduce the deficit by reducing its own budget by more than 20%. To assist the Board of Supervisors in reducing the deficit, the Grand Jury reviewed budget documents including Personnel Salary Projections dated March 1, 2004.

One column of the projections is entitled “Benefit Allowance” and is budgeted for 221 positions consisting of elected and appointed officials, and management and confidential employees. Every one of these employees receives all normal benefits: health, life, and dental insurance, plus a retirement program. In addition, each one gets an additional \$10,000 life insurance and two extra weeks vacation which the other 1,971.5 county employees do not get, plus amounts ranging from a base of \$3,200 to \$11,759 per year. These “Benefit Allowance” amounts totaled \$786,389. Since this qualifies as compensation under Internal Revenue Service rules, the County’s cost for Social Security and Medicare is an additional \$60,159, bringing the total cost to \$846,548, or approximately 10% of the projected budget deficit.

The Grand Jury determined that the benefit allowance was established in 2000 with the adoption of Resolution 2000-67, and no justification was given in the Resolution for providing the benefit to this select group.

The Grand Jury recommends that the Board of Supervisors immediately revisit the “Benefit Allowance” sections of Resolution 2000-67 with the intention of suspending, reducing, or possibly eliminating these expenditures until the county’s fiscal condition warrants reconsideration.

Grand Jury Report # 2004-CD-01

**AN INVESTIGATION INTO VIOLATIONS OF THE BROWN ACT BY THE
KLAMATH-TRINITY JOINT UNIFIED SCHOOL DISTRICT GOVERNING BOARD**
(This report was released as an early “Interim Final Report” in February 2004)

EXECUTIVE SUMMARY:

An investigation of a citizen’s complaint involving the Klamath-Trinity Joint Unified School District (K-TJUSD) was dismissed as having no merit. However, from documents received and testimony taken during the course of its investigation, the Grand Jury determined that the K-TJUSD Governing Board (Board) had violated several provisions of Government Code Sections 54950-54963, commonly known as the Ralph M. Brown Act (Brown Act). Under certain circumstances each member of a legislative body who violates the Brown Act is potentially guilty of a misdemeanor (Government Code Sec. 54959).

This conclusion and findings of fact led to recommendations that all Board members be required to be trained in all aspects of the Brown Act by a person competent in requirements of the Brown Act; that the Board operate in accordance with the Brown Act; that closed and open sessions of Board meetings be tape recorded and that those recordings be securely preserved for a period of at least three years.

Grand Jury Report # 2004-CD-02
A REVIEW OF THE HUMBOLDT COUNTY
LOCAL AGENCY FORMATION COMMISSION

EXECUTIVE SUMMARY:

In 1963, legislation created Local Agency Formation Commissions (LAFCO or Commission) in all California counties. Their primary function was to regulate local government boundary issues. The counties were required to fund all LAFCO operating costs. The law remained basically unchanged for 35 years. Recognizing the dramatic changes in population and development that had taken place during that time, the law was amended in 2000 with the enactment of the Cortese-Knox-Hertzberg Act (the Act).

New mandates imposed by the Act include the requirements to promote affordable housing, preserve open space and agricultural lands, encourage efficiency in government services, and compile within five years an inventory of all infrastructure and services within the county. Also, LAFCO operations are now required to be funded equally by the county, cities and special districts within the county.

The Grand Jury has not issued a report on LAFCO since 1971. Given the major changes in the law, it was deemed appropriate for the 2003-2004 Grand Jury to review LAFCO and evaluate how the Commission was meeting its newly assigned tasks. After reviewing documents and interviewing staff, the Grand Jury determined that the Commission has so far met the requirements mandated by the Act, and with the aid of partnerships formed with cities and districts, expects to complete the remainder on time. Further, the Grand Jury is impressed that through internal reorganization LAFCO *under expended* its 2002-2003 budget of \$37,632 by 8%, and *reduced* its projected expenditures for 2003-2004 by another 9%.

The Grand Jury has no findings or recommendations. Based on the above facts and conclusions, the Grand Jury commends the LAFCO Commissioners and staff for responding positively and professionally to their mandated obligations in a fiscally responsible manner.

Grand Jury Report # 2004-CD-03
SPECIAL DISTRICT AUDIT PROGRAM IN JEOPARDY
(This report was released as an early "Interim Final Report" in April 2004)

EXECUTIVE SUMMARY:

Government Code Section 26909 requires the Auditor/Controller to ensure that special districts are audited periodically. The 1999-2000 Grand Jury recommended that the Board of Supervisors (Board) and the Auditor/Controller intensify their efforts to assist special districts to comply with the law.

Both the Board and Auditor/Controller accepted and implemented the recommendation. A senior accountant-auditor position was funded, and through the efforts of this employee all but two of the 48 special districts in Humboldt County were in compliance at June 30, 2003. Due to the retirement of the Auditor/Controller in 2003 and subsequent promotions within the Auditor/Controller's office, this position was left vacant and not funded in the current fiscal year.

This finding of facts led to a recommendation that the Board immediately restore funding to the Auditor/Controller's office to permit this position to be filled permanently, and allow this beneficial program to continue.

Grand Jury Report # 2004-HS-01
AN INVESTIGATION INTO HUMBOLDT COUNTY'S
ADULT PROTECTIVE SERVICES
AND IN-HOME SUPPORTIVE SERVICES

EXECUTIVE SUMMARY:

This Grand Jury investigation was precipitated by the death of a disabled person who had been a client of two units of Humboldt County's Department of Health and Human Services (DHHS), Adult Protective Services (APS) and In-Home Supportive Services (IHSS). APS services are governed by Senate Bill 2199, which was passed to "...remedy situations of immediate danger to vulnerable elders and dependent adults" which result from abuse and neglect. IHSS services are provided pursuant to Assembly Bill 1682 (AB 1682), which mandates that counties provide in-home caregiver assistance to elderly and disabled persons so they may remain safely in their homes rather than being placed in an institution.

AB 1682 requires counties to assist recipients in finding a caregiver, to provide caregiver training, and to investigate the qualifications and background of potential caregivers. The state does not provide funding for the county to carry out these mandates, although it does fund the caregivers' salaries. DHHS only requires training and background investigation for caregivers who are selected by recipients from a local registry. Recipients are allowed to choose non-registry caregivers, who may be nurturing family members but may also be scam artists, drug addicts, or convicted felons. Even though some of these caregivers may constitute a threat to the physical, emotional and financial welfare of the recipients, the county continues to approve payment for their services.

The DHHS policy is based on the decision-making principle of "freedom over safety," which deems the "free-will" of a client (who may be under the influence or duress of an abusive or unscrupulous caregiver) to be more important than the client's ultimate safety. At least one county has taken the opposite position that it will discontinue approving IHSS payments to an abusive caregiver. This decision was upheld in a Fair Hearing on the grounds that the county was "under a duty to protect the individual."

Like IHSS, APS also adheres to the principle of "freedom over safety," pursuant to which it will close out a case when an elderly or dependent client refuses further case management services, even though the client may be at risk of abuse or neglect.

At the time of death, the deceased individual in this case weighed only 60 pounds and had numerous bone-deep bedsores. The caregiver, with no file documentation of having undergone any formal training or background investigation by Humboldt County, continued to receive IHSS approval for payment until the person died. APS had closed the case about four months earlier, without following proper department procedures, and in spite of the fact that the caseworker believed the individual needed continued monitoring.

The Grand Jury's investigation has determined that DHHS fails to safeguard the county's vulnerable elderly and dependent adults by:

- Closing cases rather than providing ongoing case management;
- Following the principle of "freedom over safety";
- Failing to require background checks, fingerprinting, and training for all caregivers;
- Inadequately documenting cases;
- Inadequately communicating with other involved agencies, and between staff and management; and
- Failing to establish a centralized system for cross-checking caregivers' time cards to verify services were provided, and to prevent fraudulent payments.

In addition, it was determined that APS fails to adequately adhere to the county's guidelines for mandated reporters and that the Humboldt County Sheriff's Department has no written policy with respect to mandated reporting of abuse or welfare checks.

It is the Grand Jury's opinion that DHHS' current interpretations of the laws governing APS and IHSS create a potential risk of liability to the county by using taxpayer dollars to pay abusive, neglectful, or incompetent caregivers. DHHS maintains that the lack of funding prevents it from changing its practices and that its only recourse is to continue lobbying the state for assistance in carrying out the legislative mandates. However, this does not protect those persons for whom the county is responsible.

The Grand Jury recommends that:

- DHHS begin background checking, fingerprinting, and training for all IHSS caregivers.
- DHHS discontinue approval of payment to caregivers who are abusive or unqualified.
- DHHS permanently disqualify caregivers who have committed fraud.
- DHHS establish a centralized system for cross-checking caregiver timecards.
- DHHS implement a written policy for ongoing case monitoring when the physical safety of the client is in question.
- DHHS establish a multi-disciplinary team to determine case closure when client safety is at issue.
- DHHS provide mandatory training for proper case documentation.
- DHHS adjust caseworker caseloads to provide adequate client support.
- DHHS implement a process of sharing case information with workers in other DHHS units/divisions.
- The Sheriff's Department develop a written policy and provide training for deputies to follow in mandated reporting of abuse and conducting welfare checks.

Grand Jury Report # 2004-HS-02 HUMBOLDT COUNTY'S FOSTER CARE PROGRAM NEEDS HELP NOW

EXECUTIVE SUMMARY:

This investigation of the Child Welfare Services (CWS) unit of the Humboldt County Department of Health and Human Services (DHHS) was initiated by a physician's complaint about serious shortcomings in the county's foster care program. A four-year project to redesign the county's foster care program is underway. However, certain matters of serious concern affecting the county's foster care children must be addressed now.

Personnel: CWS has a high turnover rate for caseworkers, which creates tension, stress and turmoil for foster children and their families as well as in the department. Caseworkers are not permitted overtime or flex scheduling to help manage their caseloads and, as a result, they resort to shortcuts to meet demands. Due to a shortage of caseworkers, caseloads are nearly double state guidelines. At the same time, in the past two years, there has been an increase in the number of supervisors, who never work directly with or even see the children or families. Supervisors who have no first-hand case knowledge often override caseworkers' decisions. In addition, communication between caseworkers and those in the supervisory chain of command is discouraged beyond the level one supervisor.

Children/Families: The instability in CWS staff adds to the lack of security already felt by foster children. Their caseworkers, foster parents, and counselors are constantly changing, they frequently must change schools and doctors, and too often siblings are separated from one another. Little attention is paid to what is best for the child. Although the foster care program is mandated to encourage family reunification and family maintenance, current programs for improving parenting skills are ineffective.

Foster Families: There is a serious shortage of licensed foster homes and recruitment of new foster parents is difficult. Testimony attributed this in large part to department policies and practices, which result in tension between the department and foster parents. Decisions affecting foster families are made at supervisory levels without meeting with the child, the biological parents, or the foster parents. Families

are dealt with inconsistently from the time a case is opened through its investigation and court appearances.

Services: Children in crisis need reliable, expert support and the best possible services. The support and services CWS provides to foster children fall short of this standard. Caseworker requests for expenditures have to go up the chain of command, and may take months for approval. A rotating contingent of interns at Humboldt County Mental Health provides services and may see a child only one hour per week. CWS sometimes refuses to authorize payment for court-ordered services and does not always follow medical doctors' opinions and recommendations for treatment, often citing cost as the reason. Dental care is difficult to obtain because few dentists accept MediCal.

Court Proceedings: Frequent continuances of court hearings result from lack of preparation and absences by both attorneys and caseworkers. Delays in legal proceedings prevent timely resolution of important issues in the foster children's lives, frustrate and inconvenience the families involved, add to the caseworkers' workload, and overload the court's calendar.

DHHS attributes many of the deficiencies in its CWS foster care program to lack of money for hiring more caseworkers, obtaining better medical, dental and counseling services from private practitioners, and providing training for caseworkers, supervisors, parents, and foster parents.

The Grand Jury recommends that DHHS reduce caseloads, establish flexible hours, provide ready access to funds for caseworkers to use for clients' emergency needs, and provide regular, mandatory training for caseworkers and supervisors in conflict resolution and preparation for court appearances. The Grand Jury also recommends that DHHS make no critical supervisory decisions without meeting with the caseworkers, the children, and the parents and/or foster parents, and without reviewing all relevant information. The Grand Jury recommends that CWS staff make it a priority to place children with relatives within 15 days of involvement in order to avoid the court taking jurisdiction. When court orders are made, CWS should seek modification rather than ignore them or assert cost as a justification for failing to comply. In addition, the Grand Jury recommends that DHHS improve relations with foster parents and work with child development specialists to design and implement new approaches to parent-child visits and parental training. Finally, the Grand Jury recommends that DHHS reallocate funds to better provide for foster children's physical and emotional needs.

Grand Jury Reports # 2004-JL-01 through #2004-JL-10 HUMBOLDT COUNTY'S JAILS AND HOLDING FACILITIES

EXECUTIVE SUMMARY:

Pursuant to California Penal Code Section 919(b), the Grand Jury inspected each prison facility, jail, and holding facility within the County. Ten such facilities are addressed in the reports referenced above. Two additional facilities operated by law enforcement agencies in the County were also inspected and are mentioned in these reports.

The following facilities were found clean and well maintained and warranted no Findings or Recommendations: Arcata Police Department, Eureka Police Department, Fortuna Police Department, Sheriff's Agricultural Farm, Eel River Conservation Camp, and High Rock Conservation Camp. These facilities are described in Reports # 2004-JL-01 through # 2004-JL-05.

Inspection of five additional facilities resulted in Findings and Recommendations that require responses from the operating agencies. These facilities are described in Reports #2004-JL-06 through #2004-JL-10. The Grand Jury's Recommendations are essentially as follows:

Sheriff's Substation – Hoopa 1) Steel security screens should be retrofitted to eliminate a potential hazard in the event of fire. 2) Two deteriorating concrete toilet units should be replaced.

Sheriff's Substation – Garberville 1) The building should be made compliant with the Americans With Disabilities Act. 2) The building should be remodeled and enlarged to accommodate increased law enforcement activities occurring on holidays and special events. 3) Items held in the evidence/storage locker for a long time should be disposed of or stored in the Sheriff's central evidence locker in Eureka.

Juvenile Hall The building should be made compliant with the Americans With Disabilities Act.

Regional Facility Damaged acoustical ceiling tiles in two day rooms should be replaced.

Humboldt County Correctional Facility – Computer System 1) A new state-of-the-art computer system should be purchased as soon as possible. 2) The terms of purchase for any future computer system should incorporate the authority and ability by the County to upgrade, enhance, and expand the system.

**Grand Jury Report # 2004-LJ-01
PUBLIC DEFENDER, COUNTY CONFLICT COUNSEL,
AND ALTERNATE CONFLICT COUNSEL**

EXECUTIVE SUMMARY:

The Grand Jury made an independent review of the offices of the Public Defender, the County Conflict Counsel, and the Alternate Conflict Counsel. The three offices employ 17 attorneys, four investigators, and eight legal/clerical staff; they handled over 5,000 cases in the fiscal year ended June 30, 2003. In that fiscal year the three offices spent \$2,423,245, of which \$1,654,257 was provided by the County's General Fund.

**Grand Jury Report # 2004-LJ-02
HUMBOLDT COUNTY SHERIFF'S STORAGE YARD**

EXECUTIVE SUMMARY:

On December 16, 2003, members of the Grand Jury inspected the Sheriff's Storage Yard and found that many items have been retained there in disarray for as long as ten years. Evidence and lost-and-found property is stored there for safekeeping; evidence is marked by an assigned case number. The Grand Jury recommends that the Sheriff install and use a computerized inventory system, identify items still needed in the legal system, and store those items in a neat and logical manner. The Grand Jury further recommends that the Sheriff dispose of property which is lost-and-found but cannot be returned, is obsolete, or no longer needed in the legal system.

**Grand Jury Report # 2004-PW-01
CITIZEN COMPLAINTS ABOUT COMMUNITY DEVELOPMENT SERVICES (CDS)**

EXECUTIVE SUMMARY:

A Grand Jury investigation in response to citizen complaints discovered that no adequate system of filing, storing, tracking or analyzing customer complaints has been developed at CDS. This is despite past promises to the contrary, and an acknowledgment that such a system is desirable. In addition, the Board of Supervisors spends considerable time responding to constituents' inquiries regarding complaints and status of projects. Many complaints concern delaying factors that were unknown to the applicant at the beginning of the process. Therefore, the Grand Jury recommends that CDS develop a customer complaint system that facilitates analysis of the complaints, that the complaint policy be clearly communicated to consumers, and that the existing informational brochures be revised to show both complaint procedures and delaying factors.

Grand Jury Report # 2004-PW-02
THE LEGALITY OF COUNTY BUILDING INSPECTION
DIVISION "RAPID CHECK" AND "RAPID PROCESS" SURCHARGES

EXECUTIVE SUMMARY:

The Grand Jury investigated a citizen complaint regarding certain fees charged by the Building Inspection Division (BID) of Humboldt County Community Development Services (CDS) for checking plans that are submitted in order to obtain building permits. Ordinarily, the plan checks are performed by the Plan Checker or the Chief Building Official on a first-come, first-served basis. The time it will take for a particular set of plans to come to the top of the pile will vary throughout the year, depending on the number and complexity of the plans submitted before it. Fees are charged for plan checks according to a Fee Schedule that is approved by the Board of Supervisors and enacted by ordinance.

In fiscal year 1999-2000, BID instituted "rapid check" and "rapid process" for checking plans on an expedited basis for applicants who pay a surcharge to avoid having to wait their ordinary turn. Under "rapid check," plans are checked and returned within a day or two after they are submitted, for a 50% surcharge over the basic plan check fee. "Rapid process" includes the expedited plan check plus follow-up assistance in completing other steps necessary to obtain a permit, for a 100% surcharge over the basic fee. The service is not publicized by BID or CDS because it is available solely at the discretion of the Plan Checker and the Chief Building Official, who perform the expedited service only on overtime. While the surcharges are intended to cover the overtime cost of the expedited service, BID and CDS do not keep adequate accounting records to confirm this. The "rapid check" and "rapid process" surcharges are not listed in the BID Fee Schedule, nor was CDS able to provide documentation that these surcharges were approved by the Board of Supervisors before they were instituted.

Based on the information the Grand Jury obtained during its investigation, including advice from the County Counsel, the Grand Jury concluded that the "rapid check" and "rapid process" surcharges are invalid under the applicable Government Code sections because (1) they were not created through the required legal procedures, and (2) they are arbitrary figures that cannot be related to the actual cost of providing the service with the current record-keeping system. The Grand Jury, therefore, recommends that "rapid check" and "rapid process" be discontinued until they are properly adopted by the Board of Supervisors, following which CDS should develop a method of keeping accurate records to account for the amounts spent and received performing the service. The Grand Jury also recommends that, if the surcharges are properly adopted, the general public be informed of their existence through brochures and the CDS website.

Finally, the Grand Jury also noted that Humboldt County has only one full-time Plan Checker, and that hiring a replacement through normal county hiring procedures may take as long as six months. The Grand Jury recommends that CDS develop a plan for dealing with an unanticipated long-term or permanent absence of the Plan Checker, to avoid the serious adverse effect this would have on residential and commercial construction in the county's jurisdiction.

Grand Jury Report # 2004-CC-01
FOLLOW-UP ON RESPONSES TO THE GRAND JURY FINAL REPORT OF 2001-2002

EXECUTIVE SUMMARY:

The 2003-2004 Grand Jury is obligated to review responses to the 2001-2002 Grand Jury Final Report, to see if actions agreed upon by departments had been taken.

That report contained 205 findings, 58 conclusions, and 45 recommendations. Of the recommendations, 24 were implemented, nine were to be implemented, and 12 were not to be implemented because of reasons given.

The 2003-2004 Grand Jury verified responses to the 24 “implemented” recommendations. Nine “will be implemented” responses to recommendations were investigated. Of the nine, six of the County Parks’ items were checked and found to be largely compliant. Three Sheriff’s items were found to be still lacking after more than one Grand Jury recommended an agreed-upon action: Americans with Disabilities Act inaccessibility at the Garberville substation, stainless steel toilets not yet installed at the Hoopa substation, and inadequate computer tracking at the evidence room.

Grand Jury Report # 2004-CC-02
FOLLOW-UP ON RESPONSES TO THE GRAND JURY FINAL REPORT OF 2002-2003

EXECUTIVE SUMMARY:

The 2003-2004 Grand Jury reviewed written responses to the 2002-2003 Grand Jury Report, which contained 89 findings and 64 recommendations. Recommendations which officials agreed to implement, and those which were to be studied for possible implementation, were verified through document inspection and official testimony, to see if actions or studies agreed upon had been made.

Americans with Disabilities Act compliance continues to be a problem in the county, both in Parks and at the Garberville Sheriff’s Substation. Both the Regional Facility and the Sheriff’s Department received commendations for fulfilling recommendations. The Redwood National Park Building in Orick does not provide visitor services as required by local zoning regulations.

GRAND JURY REPORTS

Grand Jury Report #2004-AF-01 THE ABSENCE OF ETHICS CODES IN HUMBOLDT COUNTY

WHO SHALL RESPOND:

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-AF-01 shall be provided as follows:

- The Humboldt County Board of Supervisors shall respond to Findings and Recommendations 1, 4, and 5.
 - The Humboldt County Chief Administrative Officer shall respond to Finding and Recommendation 5.
 - The City of Blue Lake shall respond to Findings and Recommendations 1 and 4.
 - The City of Eureka shall respond to Findings and Recommendations 1 and 4.
 - The City of Ferndale shall respond to Findings and Recommendations 1 and 4.
 - The City of Rio Dell shall respond to Findings and Recommendations 1 and 4.
 - The City of Trinidad shall respond to Findings and Recommendations 1 and 4.
 - The City of Fortuna shall respond to Findings and Recommendations 2 and 4.
 - The City of Arcata shall respond to Findings and Recommendations 3 and 4.
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The citizens of Humboldt County are entitled to have fair, ethical and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be independent, impartial and fair in their judgment and actions; and
- Use their public office for the public good, not for personal gain.

With these principles in mind, the Grand Jury conducted a study regarding codes of ethics in response to citizens' concerns about potential conflicts of interest on the part of local elected officials.

In one instance, the Grand Jury took note of the public debate that arose when a majority of County Supervisors voted against the District Attorney's request for funding to hire outside counsel to prosecute a fraud lawsuit against a corporation doing business in the county. In numerous letters to the editor, editorial opinions, and newspaper articles, there were conflicting opinions as to whether, by voting on this matter, one or more of the Supervisors violated conflict of interest laws or ethical rules of conduct.

The Fair Political Practices Commission has jurisdiction over financial conflicts of interest pursuant to the Political Reform Act (Government Code Sections 81000-91014). However, the debate continues because of a belief by some members of the public that principles of ethics other than purely financial conflicts of interest should have led one or more of the Supervisors to abstain from voting on this particular issue.

This prompted the Grand Jury to inquire of the County Administrative Office whether Humboldt County has adopted an "ethics code" of any kind, which might have addressed the concerns voiced by troubled citizens and offered guidance to the officials in deciding whether they should abstain from voting. The County has no such code.

The Grand Jury also surveyed 54 of the other counties in California. Although ethics codes are not a legal requirement, of the 41 counties that responded, ten have either adopted formal ethics codes or incorporated various ethical principles and guidelines into their administrative policies. After reviewing these counties' ethics codes and the ethics codes adopted by a number of cities – two of which have become statewide models – the Grand Jury concluded that a number of these codes contain provisions which address the situation that confronted the aforementioned Humboldt County officials.

These provisions pertain to a concept known as the “appearance [or perception] of impropriety.” This is not a phrase lacking in legal significance. It appears more than a hundred times in the reported cases of the California Courts of Appeal and Supreme Court, in Opinions of the California Attorney General, and even in the Code of Judicial Ethics. It is expressed in simple language in the City of Mountain View’s code of conduct for its City Council:

“When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest, however participation still does not ‘look’ or ‘feel’ right, that public official has probably encountered the appearance of impropriety. For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists . . . For the good of the community, members who encounter the appearance of impropriety should step aside.”

The Grand Jury concurs with this principle. Furthermore, there are other provisions in the ethics codes the Grand Jury reviewed which address additional situations that have generated controversy and distrust in the community over the conduct of other elected officials.

In the second instance, in response to a citizen’s complaint, the Grand Jury investigated an alleged conflict of interest by a city council member in one of the county’s seven municipalities. One of the responsibilities of the city council is to review – and either approve or reject – the recommendations of the city’s planning commission, the members of which are appointed by the mayor and approved by the city council. There was evidence that a particular council member became involved as an agent and advocate for a property owner’s proposed subdivision project and lobbied before the city planning commission on its behalf.

The council member claimed to have been acting as a “private citizen,” disclaimed any financial interest in the proposed subdivision property and, therefore, saw no conflict of interest. However, there are guidelines in several of the ethics codes reviewed by the Grand Jury which specifically address this troubling scenario. For example, the City of Sunnyvale’s Code of Ethics (one of the recognized models) provides:

“In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.”

Yet another disturbing fact the Grand Jury encountered in the same investigation of the city council member’s conduct before the planning commission was the absence of any sense on the part of the other city council members who were interviewed that they had either the responsibility or authority to address what had occurred. They disapproved of it, they believed it created a bad impression, they were concerned that it cast doubt in the minds of the public about the integrity of the city’s procedures, and they believed the errant council person should be confronted with the problem and counseled about the appearance of impropriety and potential conflicts of interest. However, they took no action to rectify the problem.

The reticence of elected officials to confront a difficult situation involving “one of their own” has been anticipated and addressed by several of the ethics codes the Grand Jury reviewed. For example, the Sunnyvale Code of Ethics states that:

“Members [of the city council] themselves have the primary responsibility

to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. . . . The chairs of boards and commissions and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics are brought to their attention. . . . The City Council may impose sanctions on members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or committee assignment, or budget restriction."

Finally, the Grand Jury believes, based on interviews it conducted of a number of elected officials in both county and city governments, that there is a pervasive lack of understanding that the Political Reform Act is just one of several sets of laws concerning ethics and conflicts of interest by which they should conduct themselves in office. The answer to this problem, of course, is education and training. Several ethics codes incorporate such a requirement, e.g., the Sunnyvale Code of Ethics which states:

"...ethical standards shall be included in the regular orientation for candidates for City Council. . . . Members entering office shall sign a statement affirming they read and understood the City of Sunnyvale Code of Ethics. In addition, the Code of Ethics shall be annually reviewed by the City Council, boards and commissions."

In this regard, Humboldt County's Administrative Office is to be congratulated for sponsoring a half-day Ethics Workshop in October of 2003 for department heads and their assistants. The leader was trained at the Josephson Institute of Ethics in the Workplace, and 41 people attended at a cost of \$26.90 each. Several city officials indicated they would have been interested in attending such a workshop if they had been notified. Although they were informed of the workshop, none of the members of the Board of Supervisors attended. According to the County Administrative Officer:

"The workshop was well received. The feedback I had from most was that we should do this more often. I have given thought . . . to developing a local ethics program that would further define standards of conduct, train and educate employees, and integrate behavior that is reflective of core ethical values of trustworthiness, respect, responsibility, fairness, caring and citizenship."

Based on the foregoing, the Grand Jury has reached the following findings and recommendations:

FINDING 1: Humboldt County and the cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, and Trinidad have adopted by ordinance the financial conflict of interest regulations required by the Political Reform Act. However, Humboldt County and the cities of Blue Lake, Eureka, Ferndale, Rio Dell, and Trinidad have not formally adopted ethics codes or any similar codes of conduct that identify and incorporate other important public policies and principles of law regarding ethics and conflicts of interest.

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

FINDING 2: In 1998, the City of Fortuna adopted Rules of Conduct for its City Council. Although one of these eight rules contains a general directive that conflicts of interest must be avoided, the City Council has no actual code of ethics.

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

FINDING 3: The City of Arcata has adopted a Code of Ethics which is found in the Appendix to its City

Council Protocol Manual. This Code of Ethics consists of a statement of 12 “principles,” and is based on the ethics code which the International City Managers Association originally adopted in 1924 and revised in 1998. Its content is directed more to the activities of managers and administrators than to elected officials such as City Council members.

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

FINDING 4: Generally accepted principles of good government indicate that citizens have more confidence in the integrity and fair operation of their local government when their views are given consideration in decision-making and the formulation of policy.

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

FINDING 5: The Ethics Workshop sponsored by the Humboldt County Administrative Office was well-received.

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

Grand Jury Report #2004-AF-02
GRAND JURY ACCESS TO ADULT PROTECTIVE SERVICES FILES

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2004-AF-02 shall be provided as follows:

- The Humboldt County Counsel shall respond to Findings and Recommendations 1 and 2.
 - The Humboldt County Department of Health and Human Services shall respond to Finding and Recommendation 2.
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The Grand Jury is one of the “clients’ to whom Humboldt County Counsel provides legal advice. Its other “clients” include the county and its various departments, which are subject to investigation by the Grand Jury pursuant to the Grand Jury’s “watchdog” function.

A prior Grand Jury received a complaint regarding the death of a disabled person who was receiving services from the county’s Adult Protective Services Division (APS). APS is part of the Social Services Branch of the Department of Health and Human Services (DHHS). The Grand Jury wrote a letter requesting the APS file on the deceased. In response, the Director of Mental Health, another branch of DHHS, refused to provide the APS file over which it had control. APS staff was also instructed not to answer questions about the case. The Director contended that this information was confidential pursuant to Welfare and Institutions Code Section 10850, and could not be obtained by the Grand Jury despite its investigative authority.

The prior Grand Jury turned to County Counsel for assistance in obtaining the file and examining witnesses. However, County Counsel simply agreed with the Director of Mental Health regarding the confidentiality of the information. County Counsel gave no explanation for its position, did not mention the legal authorities that are inconsistent with its position, and did not suggest to the Grand Jury that there might be procedures available to obtain the file other than a letter request.

These events were the subject of a prior Grand Jury Report, in which the Grand Jury recommended that County Counsel reconsider its interpretation of the confidentiality provisions of Welfare and Institutions Code Section 10850 in the context of a Grand Jury investigation. County Counsel refused, stating in

response that “The recommendation will not be implemented because it is not warranted.”

This year, the 2003-2004 Grand Jury also decided to investigate APS’s handling of the deceased person’s case and turned to the District Attorney’s office for assistance. The District Attorney’s office quickly obtained subpoenas and a court order that required APS to produce the deceased client’s file and required APS and other DHHS staff to testify regarding the case. The subpoenas and court order were served, the APS file was produced, and the witnesses testified before the Grand Jury without further objection.

It is the opinion of this Grand Jury that the earlier investigation was derailed because County Counsel did not advocate for the right of one “client” (the Grand Jury) over the interests of another (APS), frustrating an investigation contemplated by the laws which establish, govern, and empower that “client.” This is unacceptable. The Grand Jury is composed of 19 ordinary citizens from diverse backgrounds who volunteer to serve a one-year term. Typically, they have no formal training or education in legal matters and, at times, must rely on the expertise of their advisers, including County Counsel, to fulfill their responsibilities to the citizens of Humboldt County.

DHHS has acknowledged the Grand Jury’s right to obtain information about the handling of APS cases by its responsiveness to the subpoenas and court order that were served. County Counsel should acknowledge that right, as well. Both entities should take steps to insure that future Grand Juries do not have to reinvent this wheel.

FINDING 1: There is an inherent conflict of interest in County Counsel’s role as adviser both to county departments and to the Grand Jury which investigates those county departments. Despite efforts which County Counsel undertakes to minimize that conflict, in some matters County Counsel’s advocacy on behalf of a county department may interfere with its advocacy on behalf of the Grand Jury.

RECOMMENDATION 1: The Grand Jury recommends that County Counsel be alert to those instances in which its advocacy on behalf of a county department have a potential to interfere with its advocacy and, when that occurs, inform the Grand Jury so that it may determine whether to seek advice from the District Attorney.

FINDING 2: Although certain information concerning APS clients may be confidential pursuant to Welfare and Institutions Code Section 10850, the Grand Jury is entitled to review APS client files, and to interview case workers and supervisors regarding the handling of APS cases, under the authority granted to it by Penal Code Sections 925 through 933.6.

RECOMMENDATION 2: The Grand Jury recommends (a) that County Counsel and DHHS prepare a written policy for DHHS to adopt setting forth the procedures to be followed in responding to Grand Jury requests for APS client files and case handling information; (b) that the written policy be submitted to the District Attorney for review; and (c) that a copy of the policy be provided to the Grand Jury.

Grand Jury Report #2004-AF-03
“BENEFIT ALLOWANCE”
A SIMPLE PARTIAL SOLUTION TO HUMBOLDT COUNTY’S BUDGET DEFICIT

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-AF-03 shall be provided as follows:

- The Humboldt County Board of Supervisors shall respond to Finding and Recommendation 1.
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The County Administrative Officer (CAO) has announced that Humboldt County faces a projected budget deficit for fiscal year 2004-2005 of \$8.4 million. All departments were requested to reduce their budgets by 20%. The 2003-2004 Grand Jury has cooperated in the need to reduce the potential deficit by reducing its own 2004-2005 budget by more than 20%. In an effort to assist the Board of Supervisors in meeting this challenge, the Grand Jury reviewed budget documents, including Personnel Salary Projections dated March 1, 2004, and submitted to the CAO, to determine if the Grand Jury could make any useful recommendations.

In addition to regular salaries and benefits, the Personnel Salary Projections included a column labeled "Benefit Allowance" that was not budgeted for employees across the board, but only applied to a select group referred to as Elected Officials, Appointed Officials, and Management and Confidential Employees. After researching the Board of Supervisors' Clerk records, the Grand Jury determined that this Benefit Allowance was established by the adoption of Resolution No. 2000-67 on August 22, 2000. This resolution implemented a compensation plan for fiscal years 2000-2001, 2001-2002 and 2002-2003 that included benefits not offered to the other 1,971.5 county employees. Included were such items as a deferred compensation plan, an increase in life insurance coverage of \$10,000, and an additional two weeks of vacation above the regular amount earned. More importantly, it also provided for a "Benefit Allowance." The allowance was to be phased in over the years 1999-2003, when it reached the base annual sum of \$3,200 per affected full-time equivalent position. No explanation was given in the Resolution for the purpose of the "Benefit Allowance," nor was a maximum amount stated. In addition, each employee also receives all normal benefits: health, life, and dental insurance, plus a retirement program.

An analysis of projected individual department personnel budgets for 2004-2005 revealed the following:

- 12 elected County officials, including the Board of Supervisors, are to receive amounts ranging from \$3,920 to \$11,759; the total for these 12 officials will be \$106,789.
- 15 appointed officials are to receive \$3,920 each; the total for these 15 officials will be \$58,800.
- 194 management and confidential employees are to receive \$3,200 each; the total for these 194 employees will be \$620,800.
- The total of direct payments to this select group of 221 officials and employees will be \$786,389
- Since this is compensation under Internal Revenue Service rules, the County must also pay Social Security and Medicare taxes of \$60,159, bringing the total cost to \$846,548.
- This is approximately 10% of the projected 2004-2005 budget deficit.
- No justification for payment of this "Benefit Allowance" was given in Resolution No. 2000-67.

FINDING 1: In the face of a projected 2004-2005 budget deficit of \$8.4 million, Humboldt County is proposing to pay a select group of 221 elected and appointed officials and designated employees the sum of \$846,548 (including Social Security and Medicare costs) with no justification in Resolution 2000-67.

RECOMMENDATION 1: The Grand Jury recommends that the Board of Supervisors immediately suspend, reduce, or eliminate the "Benefit Allowance" sections of Resolution 2000-67 until the county's fiscal condition warrants reconsideration.

Grand Jury Report #2004-CD-01
AN INVESTIGATION INTO VIOLATIONS OF THE BROWN ACT BY THE
KLAMATH-TRINITY JOINT UNIFIED SCHOOL DISTRICT GOVERNING BOARD
(This report was released in February 2004 and the Agency's response is included)

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-CD-01 shall be provided as follows:

- The Klamath-Trinity Joint Unified School District Governing Board shall respond to Findings and Recommendations 1, 2 and 3.

A citizen's complaint involving the Klamath-Trinity Joint Unified School District (K-TJUSD) was investigated by the Grand Jury. Based on documents examined and testimony of five witnesses taken between August 18 and October 14, 2003, the Grand Jury concluded that the complaint had no merit.

However, in reviewing the K-TJUSD Governing Board (Board) agendas and minutes, and considering testimony given by witnesses, the Grand Jury determined that the Board had violated several provisions of Government Code Sections 54950-54963, commonly known as the Ralph M. Brown Act (Brown Act).

The Brown Act was enacted to require that public agencies conduct their deliberations and take actions openly. The Brown Act requires that specific steps be taken to publicize matters to be considered at agency meetings, in both closed and open session, through the posting of comprehensive agendas (Government Code Sec. 54954.1 and Government Code Sec. 54954.2).

During a closed session meeting on May 8, 2001, the matter of the District's enrollment in the Domestic Partners insurance program offered by the North Coast Schools Medical Insurance Group was discussed by the Superintendent with the Board. Witnesses stated that "...by consensus, equivalent to a vote..." the Board supported the Superintendent's action to enroll the District in the program. After a review of the Superintendent's job description and contract, the Grand Jury determined that the Superintendent had acted within the scope of his authority to take such action without Board approval. Nevertheless, this matter of a request for support was not recorded on the agenda for the closed meeting, nor was the action taken by the Board reported to the public in open session. Further, this was not an item that can be discussed by the Board in closed session. By these acts and omissions, the Board violated the following closed session provisions of the Brown Act:

- Government Code Sec. 54954.2
At least 72 hours before a regular meeting, the legislative body shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.

This matter was not included on the agenda.

- Government Code Sec. 54954.5
The issues that can be considered in closed session are specifically enumerated.

This was not a matter included in that enumeration.

- Government Code Sec 54957.1
The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon.

No such vote was recorded or reported.

The same, and possibly more serious, violations occurred when the Board met in closed session August 12, 2003. During that meeting, an affidavit was signed by five of the seven Board members attesting to their "consensus" in the meeting of May 8, 2001, admittedly as an attempt to legitimize their action at that meeting. Again, this action was not listed on the agenda for the meeting, the action taken was not reported in the open session that followed, and it was an improper item to be considered in a closed session. Further, according to the official minutes, it is possible that one or more of the Board members who signed the affidavit on August 12, 2003, were not present during the closed session of May 8, 2001. Their action at the meeting of August 12, 2003, indicated they either had imperfect knowledge of the Brown Act or were deliberately intending to cover up the original violation.

The Grand Jury does not make a judgment as to the intent of the Board and Superintendent at the meeting of August 12, 2003. However, after considering the above facts and Board violations of the Brown Act, conclusions reached by the Grand Jury lead to the following findings and recommendations:

FINDING 1: The Klamath-Trinity Joint Unified School District Governing Board has committed several documented violations of the Brown Act.

DISTRICT RESPONSE TO FINDING 1: The District agrees with the first finding/conclusion of the Grand Jury. However, the second conclusion, above, requires hypotheses as to what the law might have required and other hypotheses regarding compliance. Since the District does not [sic] know the language of a hypothetically changed statute, it cannot agree or disagree with the second finding/conclusion.

RECOMMENDATION 1: The Grand Jury recommends that both current and newly elected Board members be required to be trained in all aspects of the Brown Act by a person competent in requirements of the Act.

DISTRICT RESPONSE TO RECOMMENDATION 1: This response has been implemented and implementation is continuing. The District's legal counsel, Robert S. Shelburne, senior attorney in the Education Law Practice Group of the Law Firm of Kronick, Moskovitz, Tiedemann & Girard, attended the regular meeting of the Board on February 10, 2004, at the Board's direction and in public session he provided training for the Board which focused on the Brown Act's regulations of closed session meetings of school boards, including (a) the exclusive legally permissible subjects for closed session consideration and action, (b) the requirements for Board agenda items for closed sessions, and (c) the requirements for public reporting of certain types of actions taken by Board in closed sessions.

Because the Brown Act contains many requirements that regulate matters unrelated to closed sessions, the Board of Trustees scheduled a special Board meeting for February 25, 2004, to receive additional training on the law regulating Board meetings. On February 25, 2004, Mr. Shelburne continued with additional training on Brown Act requirements. Not all Board members were in attendance. Since the Grand Jury's recommendation is that ALL Board members should be trained in the law's requirements, the Board of Trustees will make arrangements for another training session for the Board members who were absent on February 25 as well as another training session for all Board members to complete the training in the law's requirements.

In addition to training on the Brown Act requirements, Mr. Shelburne is providing training on the statutory requirements regulating school board meetings that are contained in the Education Code (at sections 35140, *et seq.*)

Mr. Shelburne has also prepared and distributed to each Board member and to the Superintendent a handbook containing a comprehensive discussion of all of the laws regulating meetings of school boards and a copy of each of those laws. At the CSBA Conference, the Board Chair, with district funds, purchased a book on the Brown Act for each Board member. In addition, the District has purchased and distributed to each Board member a book on the operations of school boards and their meetings.

FINDING 2: Any training in the legal requirements and responsibilities of Board members to keep the public informed of their actions in both open and, particularly, closed meeting sessions has not been effective.

DISTRICT RESPONSE TO FINDING 2: The District agrees with this finding/conclusion of the Grand Jury.

RECOMMENDATION 2: The Grand Jury recommends that since certain violations of the Brown Act are misdemeanors and individual members of the legislative body are potentially subject to criminal prosecution, all members of the Board should operate in accordance with the provisions of the Brown Act.

DISTRICT RESPONSE TO RECOMMENDATION 2: The recommendation has been implemented and implementation is continuing.

FINDING 3: No minutes or other recording of the discussions or actions taken during closed sessions were made, and documented evidence reveals that the Board has repeatedly violated several provisions of the Brown Act during closed sessions.

DISTRICT RESPONSE TO FINDING 3: The District disagrees partially with this finding/conclusion of the Grand Jury. It is true that in the situations that occurred in the Board meetings on May 11, 2001 and August 12, 2003, the Board of Trustees' deliberations on and development of a consensus and later actions of signing the affidavit in closed session were not in compliance with the Brown Act. However, there is not evidence that the Board of Trustees has made it a practice of violating the Brown Act. The violations cited by the Grand Jury were aberrations, i.e., unintentional departures from the Board's regular practice of compliance with the Brown Act's requirements. Over the years Board members have attend [sic] several in-service training sessions on the requirements of the Brown Act, and they are committed to compliance with this law. However, trustees are elected and leave office periodically, so the District must and will make an effort to provide periodic training in this law so that all trustees receive the necessary training.

RECOMMENDATION 3: The Grand Jury recommends that although there is no legal requirement to do so, that the Board have their deliberations and decisions in both closed and open sessions tape recorded, and that those recordings be securely preserved for a period of at least three years from the date of the meeting.

DISTRICT RESPONSE TO RECOMMENDATION 3: The recommendation has been implemented and implementation is continuing.

**Grand Jury Report #2004-CD-02
A REVIEW OF THE HUMBOLDT COUNTY
LOCAL AGENCY FORMATION COMMISSION**

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-CD-02 shall be provided as follows:

- No responses are required for this report.

In 1963, legislation was enacted creating Local Agency Formation Commissions (LAFCO or Commission) in all California counties. As independent quasi-legislative agencies, LAFCOs were given the mandate to review and approve the incorporation of cities, annexations to cities, and creation, consolidation and dissolution of special districts. Although modestly amended from time to time, the law governing LAFCOs remained basically unchanged for 35 years.

Recognizing the dramatic changes of urban development, population growth and financing of local agencies that had taken place since 1963, a commission was formed to study the effectiveness of LAFCO law to deal with these changes. The result of the study was the enactment of Assembly Bill 2838 known as the Cortese-Knox-Hertzberg Act of 2000 (the Act). In addition to regulating local boundary issues, LAFCOs were further charged with promoting affordable housing, preserving open space and agricultural land, encouraging efficiency in providing government services, and compiling within five years an inventory of all infrastructure and services in the County.

The Act made a significant change in the funding of LAFCOs, which were formerly financed entirely by the county. The Act now requires that funding of operation costs be shared jointly and equally by the county, cities, and special districts within the county. Also, LAFCOs could choose to have staff and facilities independent of the county.

The Grand Jury has periodically reviewed LAFCO, but has not issued a report since 1971. Given the expansion of duties of LAFCO, the widening in the scope of activities and influence, the required timetables for the new tasks, and change in funding, it was deemed appropriate for the 2003-2004 Grand Jury to revisit LAFCO. From documents reviewed and testimony of staff during the period January 20 to February 9, 2004, the Grand Jury determined the following facts:

LAFCO is governed by a board of seven commissioners. Six of the commissioners are elected officials of the county, the cities, and the special districts, who then appoint a seventh member from the public. A reduction in the meeting schedule from six times a year to four times has allowed staff more time for productive work and also resulted in a reduction of budgeted expenditures. The Commission and staff have encouraged active participation by cities and districts in completing certain phases of their tasks, and in some cases have sought and received grant funding to help defray the added costs incurred. An example is a \$150,000 U. S. Forest Service grant that was obtained to assist local fire departments in identifying the location and mapping of every fire hydrant in the County, and the most direct route to access a specific hydrant. The benefits from this program are increased public safety and a potential improvement in fire insurance ratings. The due dates of the requirements mandated by the Act have so far been met, and the remainders are expected to be completed on time.

As mentioned, the county, cities and districts now fund LAFCO equally. The Grand Jury determined that LAFCO's budget for the fiscal year ended June 30, 2003, was \$37,632. Actual expenditures, however, were only \$34,558, which was \$3,074 (8%) less than budget. The adopted budget for fiscal year ended June 30, 2004 is \$34,382, a *reduction* of \$3,250 (9%) from the prior year. Actual expenditures through November 30, 2003 (42% of the year) were \$10,516, or 31% of budget.

Based on the above facts, the Grand Jury reached the following conclusions:

- LAFCO Commissioners and staff are commended for executing the mandated activities of the Cortese-Knox-Hertzberg Act in a timely and professional manner.
- They are also commended for fostering partnerships with local government agencies to promote and carryout the specific requirements of the Act.
- Lastly, the Commissioners and staff are commended for accomplishing the above in a fiscally responsible manner.

Grand Jury Report #2004-CD-03
SPECIAL DISTRICT AUDIT PROGRAM IN JEOPARDY
(This report was released in February 2004 and the Agency's response is included)

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report # 2004-CD-03 shall be provided as follows:

- The Humboldt County Board of Supervisors and the Humboldt County Auditor/Controller shall respond to Finding and Recommendation 1.

The 1999-2000 Grand Jury recommended that the Auditor/Controller and the Board of Supervisors (Board) of Humboldt County continue and intensify their efforts to comply with the provisions of Government Code Section 26909, which requires that special districts be audited annually or by special request to the Board biennially, or depending on the district's budget, an audit covering a five-year period. Both units of County government embraced and implemented the recommendation.

The Grand Juries of both 2001-2002 and 2002-2003 found that excellent progress was made toward the special district audit program. The 2003-2004 Grand Jury commends the Board and Auditor/Controller for authorizing, funding and filling a senior accountant-auditor position necessary to perform the audits. This employee assisted 14 special districts with multi-year audits at a cost the districts could afford, and

as of June 30, 2003, all but two of the County's 48 special districts were in compliance with state law, thus increasing the confidence of their respective communities in the proper expenditure of public funds. However, the retirement of the Auditor/Controller occasioned the promotion of others in the department. This left a senior accountant-auditor position vacant. That position is now un-funded, leaving no one available to audit special districts.

FINDING 1: The 2003-2004 Grand Jury finds that the lack of a dedicated senior accountant-auditor position to conduct special district audits will once again result in special district audit delinquencies and non-compliance with Government Code Section 26909, and jeopardize this beneficial program.

THE BOARD OF SUPERVISORS RESPONSE TO FINDING 1: Disagree with finding. Government Code Section 26909 allows for the county auditor to “. . . contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special purpose district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided.” There is no requirement for any such audit to be performed by in-house staff, and as is the case in some other counties, staffing reductions may result in the need for the Auditor to contract for such a service. This same Government Code Section provides that any costs incurred in making the audit shall be borne by the applicable special district. The Board of Supervisors understands and supports the need for the Auditor to contract for these services to assure compliance with the Government Code.

RECOMMENDATION 1: The Grand Jury recommends that the Board of Supervisors immediately restore funding to the Auditor/Controller's office to allow this position to be filled permanently.

THE BOARD OF SUPERVISORS RESPONSE TO RECOMMENDATION 1: The recommendation will not be implemented because it is not reasonable in the face of severe budgetary constraints, and is not necessary for reasons as set forth in the response to the Finding.

THE AUDITOR-CONTROLLER RESPONSE TO RECOMMENDATION 1: In November of 1998, a Senior Accountant-Auditor position was added back to the Auditor-Controller's staff with the condition that Special District audits were performed on a continuing basis by this or another staff member. Through the end of 2002, Special District audits were made a priority and performed on a regular as-needed basis by a Senior Accountant-Auditor. In December of 2002, long-time Auditor-Controller, Neil Prince, retired and although staffing positions and duties was reassigned, no additional accountants were added and the staffing was one position short. This vacancy caused Special District audits to become sporadic and eventually to be discontinued, as the time required for out of office duties tends to be much less productive than work processed in the office. As of July 1, fiscal year 2004-2005, we will be losing another Accountant-Auditor position so that the accounting positions will be down two to a level of four. With the current staffing level, audits of Special Districts take on a lower priority and the Auditor-Controller cannot guarantee completion of said audits.

**Grand Jury Report #2004-HS-01
AN INVESTIGATION INTO HUMBOLDT COUNTY'S
ADULT PROTECTIVE SERVICES
AND IN-HOME SUPPORTIVE SERVICES**

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-HS-01 shall be provided as follows:

- The Humboldt County Department of Health and Human Services shall respond to Findings and Recommendations 1, 2, 3, 4, 5, 6, 7, 8 and 9.
 - The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 10 and 11.
 - The Humboldt County Board of Supervisors shall respond to Finding and Recommendation 2.
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The 2003-2004 Grand Jury conducted an investigation of Adult Protective Services (APS) and In-Home Supportive Services (IHSS). Both are divisions of the Social Services Branch of the Department of Health and Human Services (DHHS). We also took a close look at the legislation that governs how the county provides APS and IHSS services and the practical effect of that legislation on the citizens of Humboldt County.

Adult Protective Services (APS)

In 1998, the Legislature found serious deficiencies statewide in the ability of county APS programs to respond to the tragedy of elder and dependent adult abuse that was being brought to light by mandatory reporting laws. Senate Bill 2199 (SB 2199) was enacted in 1998 in response to an urgent need to establish and fund comprehensive, statewide APS programs “to remedy situations of immediate danger to vulnerable elders and dependent adults.”

Following a series of interim directives, the regulations that implemented SB 2199 were adopted on October 19, 2001. These regulations set out the manner in which all counties are required to respond to and investigate reports of abuse or neglect, provide emergency shelter, and provide case management services within specific timetables and goals. Each county was responsible for developing its own program to comply with those regulations.

In response to this mandate, Humboldt County’s APS staff was increased in numbers, given training in the new regulations, and assigned the task of bringing the existing and steadily increasing APS caseload into compliance with the new regulations. The average monthly APS caseload now consists of approximately 200 cases, which are fairly evenly divided between elderly and dependent adults. Approximately 45 existing cases are closed each month and about the same numbers of new cases are opened. The ongoing APS caseload is handled by a staff of four social workers and two Public Health nurses.

When a report of suspected abuse or neglect has been received and screened by an APS Intake Team member, a case may be opened and referred for investigation. While the goal of the APS program is to remedy and prevent the abuse, neglect, and exploitation of elders and dependent adults, the regulations specify that it is “not intended to be a long-term, ongoing ‘case management’ activity.” Instead, its intent is “to create a stable environment where the individual can safely function without requiring additional intervention.” Furthermore, it “is neither intended to interfere with the life style choices of elders or dependent adults, nor to protect those individuals from all the consequences of such choices.”

Cases are closed when protective services are no longer needed or when a client declines or withdraws consent, moves out of the jurisdiction or into a long-term placement facility, dies, or cannot be located. Abused elders or dependent adults are entitled to refuse APS services even though it may be against their interests, although cases may remain open when APS believes the client is acting under influence or duress.

In-Home Supportive Services (IHSS)

Assembly Bill 1682 (AB 1682) requires each county to provide in-home supportive services to elderly and disabled persons who cannot perform those services for themselves or safely remain in their home without them. IHSS services include personal care (bathing, dressing, feeding, assistance with medications and prosthetic devices, etc.), heavy cleaning, accompaniment to medical appointments, and paramedical services. IHSS does not employ the caregivers who perform the in-home supportive services. Rather, IHSS performs necessary administrative services that include determining initial and ongoing recipient eligibility, opening case files, assessing and re-assessing recipients’ needs, auditing time sheets, and forwarding payroll data to the state. Payment for caregivers’ services comes from a combination of federal, state, and county funding sources.

As the 2002-2003 Grand Jury reported, Humboldt County established a “Public Authority” to meet the AB 1682 mandate that it assist IHSS recipients in finding caregivers to deliver in-home supportive services.

The Board of Supervisors serves as the Public Authority. AB 1682 states that “any Public Authority...shall provide for all of the following functions:”

- Assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.
- Investigation of the qualifications and background of potential personnel.
- Establishment of a referral system.
- Training for providers and recipients.

Also, AB 1682 gives recipients the right to choose a person as their caregiver who is not on the Public Authority registry, though it also states that the caregiver must be “qualified” without defining “qualified.” Although AB 1682 states that the Public Authority is required to investigate “the qualifications and background of potential personnel,” Humboldt County DHHS interprets AB 1682 to mean that only those caregivers in its registry must be fingerprinted, background checked, and trained. Humboldt County DHHS does not require that the background of non-registry caregivers be investigated or that they be trained or qualified for the level of care that is to be provided. According to information provided by DHHS, approximately 1,900 Humboldt County residents receive IHSS services each month. Individual IHSS social worker caseloads are about 275, which exceeds the state recommendation of 178.

The Case Under Investigation

The facts of the case under investigation are grim. Prior to death, the individual suffered from a severely debilitating disease, which confined the person to a wheelchair or hospital bed. The individual was incontinent, could not walk or stand, and could not eat, dress, or bathe without help. In short, the client, who lived in a condemned trailer, was 100% dependent on the caregiver for all daily living needs. APS became involved with the client in August 2000, in response to a report of self-neglect. The client was agreeable to receiving assistance, and the APS caseworker established a service plan, which included in-home caseworker visits, MediCal benefits, and health services from local physicians, physical therapists, and counselors. The individual was also eligible for IHSS benefits, which consisted of payment to the caregiver for the maximum of 283 monthly allowable hours.

Rather than selecting a caregiver who had documented training and had undergone background checks, the individual insisted on having a live-in friend designated as the caregiver. In-home medical services being provided by a health care contractor were discontinued when the caregiver appeared to threaten a worker. In March of 2002, eighteen months after the case was opened, the deceased individual's extremely emaciated body was brought to the emergency room weighing only 60 pounds and covered with bedsores, some bone-deep. The coroner's report identified “lobar pneumonia due to contaminated pressure sores...” as the primary cause of death. One investigator stated that this was the worst case the investigator had seen in 25 years in law enforcement.

In late October of 2001, four months before death occurred, the individual's APS case was apparently closed, though the appropriate paperwork was not completed and signed off by supervisors. Although the caseworker was still concerned for the individual's well-being when APS closed the case, the individual indicated that APS case management services were no longer wanted or required, and, that the caregiver could arrange for medical and any other services that might be needed. What is unknown, of course, is the degree to which the individual's statements were made under the influence or duress of the caregiver.

Because the case was closed, the APS caseworker who had previously been in frequent contact with the client was unaware of the escalating physical decline. In January of 2002, an out-of-state family member reported suspected abuse by the caregiver to an APS supervisor. However, the case was not officially reopened until March of 2002. The caseworker's attempt to contact the client was unsuccessful and the individual died a few days later. Throughout this entire time, the caregiver continued to receive IHSS payments.

In this case, the APS caseworker tried on three occasions to obtain conservatorship for the client, but conservatorship is based on mental competence rather than physical disability. Three doctors who

treated the individual were unwilling to make that determination.

In the course of its investigation, the Grand Jury conducted 16 interviews, obtained written responses to requests for information from DHHS and the Sheriff's Department, and reviewed volumes of documents provided by the Social Services branch of DHHS.

With respect to the APS handling of the deceased individual's case, it is important to note that during this time the department was adapting its procedures and training staff to comply with the relatively new regulations of SB 2199. The Grand Jury concluded that, while the APS caseworker and supervisors were not in perfect compliance with all regulations, particularly in documenting case activities, the caseworker's handling of the case was resourceful and dedicated. However, the failure to properly document and communicate caseworker and department actions creates a significant informational void for future work on a case and exposes the county to risk of liability. Without adequate documentation, no proof is available of home visits or other interventions.

The investigation also revealed a serious error by IHSS in terminating in-home supportive services to the deceased person shortly before death, in that the IHSS caseworker did not follow the correct regulatory requirements and verification procedures to discontinue services.

The true problem lies elsewhere, however. Although the purpose of APS is to protect vulnerable members of society from abuse, neglect, and exploitation, and the purpose of IHSS is to provide assistance that will enable them to live safely in their own homes rather than be institutionalized, both agencies follow an opposing department policy that "when interests compete, freedom is more important than safety." The facts of this case certainly indicate that a department policy which allows a client's freedom over safety can lead to great risk to a client.

The principle of "freedom over safety" is also evident in the regulations that govern caregivers. Recipients of the IHSS funding are not required to hire caregivers from the registry, ones who have had training and background checks. To the contrary, they have the freedom to hire anyone they want. They may hire relatives and trusted friends, or they may—and sometimes do—hire drug addicts, convicted felons, scam artists, and raving psychotics. Nevertheless, it is the practice of IHSS, as it interprets AB 1682 and its implementing regulations, to pay the caregiver selected by a recipient even when that caregiver is known to be unqualified or abusive. The pay for these caregivers comes out of taxpayers' pockets.

Furthermore, whether or not the supportive services that are being paid for with taxpayer dollars are actually being provided by the caregiver is beyond the control of IHSS. As a practical matter, the IHSS caseworkers sometimes don't have time to conduct even the required annual home visit to each client, much less make random visits to verify provision or quality of care. Timesheet auditing merely counts the hours but does not verify performance. Testimony revealed also that there is no auditing system in place to prevent caregivers with multiple clients from claiming 24 hours a day or more because they turn in separate timesheets for each IHSS client, and there is no internal cross-checking of caregiver hours. The system is riddled with fraud, but even when fraud is investigated and confirmed, the IHSS recipient still may designate that person as caregiver. Unless the caregiver is in jail, he/she will be paid according to the hours submitted on his/her timesheet(s).

The flaw in the caregiver system is exemplified by this case. The caregiver the individual selected (indeed, insisted upon) to provide the in-home supportive services required for the individual's very survival has been described by witnesses as volatile and threatening. It was while in the "care" of this person that the individual's weight dropped from 110 to 60 pounds in four months and the individual died extremely emaciated and ridden with bedsores due to severe neglect. While "freedom over safety" may be the controlling principle here, as the regulations have been interpreted locally, it is a questionable state of affairs when government is complicit and taxpayer dollars funded such a painful and destructive end.

It is the Grand Jury's opinion that IHSS regulations, which allow recipients to choose abusive, exploitative, and unsafe caregivers, must be changed to require investigation of the background and

qualification of both registry and non-registry caregivers and to permit IHSS payment only to those caregivers who meet certain standards of acceptability. Humboldt County representatives (including at least one from the Board of Supervisors and the Director of DHHS) have, in fact, joined other counties in lobbying the State for stricter laws and guidelines relating to background checks, training, and qualifications of these non-registry caregivers. To date, their efforts have not been successful.

The first and only legal challenge to date appears to have been in a State Hearings Division “Fair Hearing” case involving the Riverside County IHSS (Hearing No. 2003197126) in which that county addressed this issue of abuse by a caregiver. The Administrative Law Judge (ALJ) upheld the IHSS refusal to reinstate payments to a caregiver who had been accused of mental and physical abuse by the recipient. The recipient had designated another caregiver, then recanted the abuse allegations against the first and wanted to hire him back. The ALJ concluded that the county acted reasonably and in accordance with regulations in terminating the caregiver once there was direct evidence of abuse or failure to properly provide services, and that the county “is under a duty to protect the claimant from further injury or risk.” One California county has requested that this ALJ decision be considered “precedent setting.” This is a first step toward that county’s attempt to formulate a policy which would include refusal to pay for and ability to terminate abusive care providers in the name of protection and safety and would address the resulting potential liability to the county. Such a decision would further strengthen counties’ need to implement more stringent policies – which are allowed by state regulations – than they are currently following and would aid APS/IHSS staff in fulfilling their protective role with the vulnerable adults in their care.

The decision to close the Humboldt County APS case was certainly in conformity with the APS and IHSS principle of “freedom over safety” and with the fact that adult protective services are not intended for long-term case management/monitoring. However, regulations do not preclude Humboldt County DHHS from instituting its own APS procedure for long-term case management/monitoring which includes risk factors as a basis for keeping a case open. In fact, regulations include a case closure process, and testimony from management staff revealed that there is opportunity for first, second, and third level supervisors to determine whether or not a case should remain open. One manager stated that if risk or safety factors are an issue, the department’s job would be to take those factors into consideration when determining whether or not to close a case. However, if DHHS had such a procedure in place at that time, it was not in writing, nor was it followed in this case. The APS caseworker remained concerned about this case and felt that it should remain open. This effort was denied without having gone beyond the first level supervisor. Following the department’s stated process of involving three supervisory levels might have led to a different result in this case. It might also help prevent similar occurrences in the future.

Finally, the Grand Jury is compelled to comment upon an aspect of this case that pertains to the Humboldt County Sheriff’s Department (HCSD). Law enforcement personnel, including HCSD deputies, are mandated by law to report suspected or known abuse of elders or dependent adults to APS, and may be involved in the APS investigation of such abuse. Law enforcement personnel are also called upon to perform “welfare checks” at the request of people who are concerned about the safety of family members, friends, or neighbors, in the course of which they may encounter occurrences of abuse.

Following APS’ closure of the disabled person’s case, an HCSD deputy was assigned to make two welfare checks at the request of a concerned relative. The second assignment was just one month before death occurred. The deputy’s report documenting those two visits was written from memory one week following the individual’s death and one month after the deputy’s last visit. The deputy’s report of the condition of the mobile home is inconsistent with testimony received by the Grand Jury from other witnesses and from photographs taken of the trailer shortly after the individual’s death.

The Grand Jury learned that HCSD does not have a written policy, procedure, or a training program that covers mandatory reporting of abuse or welfare check procedures.

In summary, this Grand Jury is concerned that the county is exposed to liability because:

- DHHS has not required that all caregivers be investigated and deemed qualified.

- DHHS fails to prevent fraud by caregivers.
- DHHS fails to take adequate protective measures to ensure the safety of each recipient.
- DHHS continues to pay abusive caregivers.
- DHHS fails to adequately communicate potential risk to clients, county personnel, and involved agencies.
- DHHS fails to adequately document case files on actions taken to demonstrate that proper procedures, regulations, and policies have been followed.

Based on the foregoing, the Grand Jury makes these findings and recommendations:

FINDING 1: Regulations do not prohibit APS from establishing a policy of, and procedures for, ongoing case management/monitoring when there is a valid concern for the physical safety of an APS client.

RECOMMENDATION 1: The Grand Jury recommends that DHHS develop and implement a written procedure for ongoing long-term case management/monitoring of APS cases where it is determined that closure of the case presents an unacceptable threat to the physical safety of the client; that DHHS communicate the formalized policy to all staff for use in critical cases; and that the procedure for determining which cases should have long-term case management/monitoring include participation of the caseworker as part of a multi-disciplinary decision-making team.

FINDING 2: DHHS does not require background checks, fingerprinting, and/or training for potential non-registry IHSS caregivers, thereby putting itself at considerable risk of liability in cases in which abuse is involved.

RECOMMENDATION 2: The Grand Jury recommends that DHHS develop a certification system and procedures for background checking, fingerprinting, and mandatory training for all IHSS caregivers assigned to provide supportive services to elderly and dependent adults in Humboldt County. Because this will be a cost item for the county, the procedures should include a mechanism for recovering the actual costs of the certifications and training from the potential caregivers as a condition of their employment.

FINDING 3: IHSS social worker caseloads are over 60% above state-recommended levels.

RECOMMENDATION 3: The Grand Jury recommends that DHHS take action now to relieve the current social worker caseloads whether by re-assigning supervisors or eliminating supervisor positions and hiring additional social workers.

FINDING 4: APS and IHSS caseworkers are inconsistent in their documentation of client visits and interventions.

RECOMMENDATION 4: The Grand Jury recommends that DHHS continue to emphasize the importance of case documentation and provide ongoing mandatory documentation training. Random auditing of caseworker documentation is also recommended.

FINDING 5: DHHS follows a policy of “freedom over safety” in its management of elderly and dependent adult cases. This creates safety issues for clients and risks potential liability for the county.

RECOMMENDATION 5: The Grand Jury recommends that DHHS develop a written set of objective criteria to measure levels of potential risk to elderly and dependent adult clients. Where safety is an issue cases shall not be closed without convening a multi-disciplinary team, including first, second and third level supervisors and other involved professionals.

FINDING 6: DHHS continues to pay caregivers who are suspected or known to be abusive and/or unqualified to serve as caregivers. This puts the county at serious risk of liability.

RECOMMENDATION 6: The Grand Jury recommends that DHHS discontinue use of taxpayer dollars to pay caregivers who are not providing the levels of care approved for the client, particularly when physical, emotional, or financial abuse is involved.

FINDING 7: DHHS has no centralized system of cross-checking caregiver timecards to verify actual hours of service to clients, leading to fraud.

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

FINDING 8: DHHS continues to approve payment for caregivers who are known to have committed fraud.

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

FINDING 9: Lack of communication between APS and IHSS workers in shared cases creates gaps in critical knowledge and case progress and interventions.

RECOMMENDATION 9: The Grand Jury recommends that a cross-file of shared cases be instituted so that APS and IHSS caseworkers have access to information and status of an individual's case within the other division. When the status of a case is shared, caseworkers and supervisors from both divisions should be included in a multi-disciplinary decision-making team. APS caseworkers whose clients are also IHSS recipients should assist IHSS by verifying authorized caregiver services during regular visits to the client and reporting findings to IHSS.

FINDING 10: The Humboldt County Sheriff's Department has no written policy or procedure for mandatory reporting of abuse or welfare checks.

RECOMMENDATION 10: The Grand Jury recommends that HCSD develop a written policy and establish procedures for mandatory reporting of abuse and welfare checks, including requirement for the documentation of deputy visits and findings immediately following those visits.

FINDING 11: The HCSD has no formal training for deputies in the areas of mandatory reporting of abuse and welfare checks.

RECOMMENDATION 11: The Grand Jury recommends that, when the new policy and procedures have been developed, annual mandatory training in the newly established policy and procedures regarding mandated reporting of abuse and welfare checks be instituted and a documented record of attendees maintained.

**Grand Jury Report #2004-HS-02
HUMBOLDT COUNTY'S FOSTER CARE PROGRAM NEEDS HELP NOW**

WHO SHALL RESPOND:

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-HS-02 shall be provided as follows:

- The Humboldt County Department of Health and Human Services shall respond to Findings and Recommendations 1 through 11.
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In 1999 the Little Hoover Commission, an independent state agency charged with recommending ways to increase efficiency and effectiveness in state programs, issued a report on California's foster care system, which outlined a comprehensive strategy for reform. In 2003, the Commission weighed in again by

issuing a press release stating, “Three years have passed, but almost no progress has been made in reforming...[the] foster care system.” As a result, the California legislature adopted Assembly Bill 636 to bring serious focus to reform. Humboldt County is one of the eleven California counties currently engaged in pilot projects to redesign the state’s foster care system. The county will receive over two million dollars in the next four years to support its efforts at reform.

The 2003-2004 Grand Jury received a complaint regarding Humboldt County’s Child Welfare Service (CWS), a division of the Department of Health and Human Services (DHHS). A local medical professional alleged serious shortcoming in the foster care program which he believed had adversely affected one particular family. Because of this complaint and other concerns about the county’s foster care program, the Grand Jury investigated how the local program works for children and families. The investigation spanned July 2003 to April 2004 and included sixteen interviews of foster parents, current and former caseworkers, supervisors, and agency, medical, and court personnel. Jurors made two unscheduled facility visits, distributed surveys to 21 medical professionals, and reviewed numerous documents.

DHHS asserts that its mission is “to protect children from abuse, neglect and exploitation and to promote the health, safety and nurturing of children...” The Grand Jury found serious deficiencies in the way this mission is being fulfilled. Although the redesign pilot project is underway in the county, foster children, foster parents, and the system itself need help now.

Personnel

The Grand Jury’s investigation revealed that CWS is in a constant state of flux with an inordinate amount of caseworker turnover. Promotions, resignations, medical leaves (often stress-related), and employees rotating in and out of jobs have created turmoil and uncertainty for foster children and families. An independent California study demonstrated that “Most social workers’ caseloads are ... too high for them to meet all the requirements of the job.” Certainly, that is true in Humboldt County. Although state guidelines recommend caseloads of no more than 15 in the Family Maintenance and Family Reunification units, local caseloads currently stand at about 26-27. There are approximately ten vacant caseworker positions – out of 70 allocated – in the department.

Excessive overloading of cases creates major problems in caseworkers’ ability to deal with the children and families in their charge. A caseworker is expected to see each foster child and meet with the foster parent once a month. This is often not possible with the almost double caseloads currently being carried by CWS caseworkers. Therefore, they resort to telephoning families or sending forms to be completed rather than making in-person visits. These methods are of limited value for determining the actual condition of the child, the foster parents, or the foster home.

In addition, about a year ago, overtime in the department was eliminated. Caseworkers sometimes make evening and/or weekend visits on their own time in order to find people at home or to be able to complete their required tasks. They are “on-call” to handle after-hours reports of abuse or neglect a minimum of ten times a year. Testimony revealed that this further impacts caseworker effectiveness and morale.

Departmental training for caseworkers is inconsistent. Some training is on-the-job, some is based on computerized programs, and some is conducted by first-level supervisors. Core classes are provided annually for new hires through U.C. Davis. Even specialized training that is offered is not mandatory. There is no ongoing mandatory training, for example, in stabilized case management, conflict resolution, or preparation for court appearances.

Currently, for every five to eight caseworkers, there is a first-level supervisor. This represents an increase in the number of supervisors over the past two years, while the number of programs has increased and the number of caseworkers has decreased.

In spite of the fact that caseworkers are most familiar with family situations, their recommendations are often overruled by supervisors who do not meet with children and families. There is little opportunity for team decision-making or consensus-building in case management. First-level supervisors are generally

available and supportive to caseworkers, but caseworker communication with supervisors at the second, third, fourth, and fifth (top) levels are discouraged. This chain of command has created tension within the department. Resignations, early retirements, and stress leaves have decimated the department's staff, and caseworker morale is extremely low.

Children and Families

Social, emotional, and developmental costs to children in the foster care system are profound. Many have birth parents burdened with substance abuse, domestic violence, or mental health problems which create an environment of chronic fear and neglect. When children have experienced removal from birth parents, they need new adults in their lives who are stable and consistent.

Grand Jury investigation indicates that this is not happening for many foster children. From the moment of intake into the system or placement in a foster home, children experience a series of changing caseworkers, foster parents, and therapists, which adds to a child's feelings of insecurity. Too often these are paperwork transfers without personal knowledge, insights, or concerns passed on to the next caseworker or foster family.

Also, the Grand Jury was told by witnesses that some of the moves from one foster home to another are due to conflicts between CWS and the foster parents. Children's wishes are not necessarily considered. Oftentimes siblings are split between foster homes. Frequent moves have a negative effect on children's schooling, create disruptions in medical care, and cause lack of continuity in parenting.

Efforts to reunify families and to assist in maintaining the reunified family also fall within CWS' responsibility. The Family Reunification unit has a maximum of 18 months to return children to their biological parents. The Family Maintenance unit has a maximum of 12 months to determine a family's progress. During these time periods, CWS provides visitation for parents with their removed children as well as parental training to correct the behaviors which led to the children's removal. This training usually consists of nothing more than the parents' attendance at several weekly parenting classes.

Foster Families

Testimony revealed a major shortage of foster homes in Humboldt County and consistently attributed that shortage to department policies and practices. The number of foster homes licensed in the county varies from 100 to 125. Recruitment seems difficult because of tension between CWS personnel and some foster parents. Some foster homes have spaces available which are not being utilized due to conflicts with the department, while children may wait for weeks for a placement. In many cases they are held in the emergency shelter beyond the 30-day limit. A CWS supervisor may remove a child from a foster home even when the caseworker believes the placement is successful. CWS and foster parents alike need training in conflict resolution and sensitivity.

Because of the extreme need for foster homes, Humboldt County has entered into contractual agreements with two private agencies to provide them. This type of private agency placement does relieve some of the CWS caseworkers' responsibilities, such as the monthly visits.

Foster parents receive 12 hours of training annually through College of the Redwoods. However, insufficient numbers of foster parents are prepared to deal with children with extreme behaviors. Standard foster care homes may accept no more than six children; those designated as therapeutic foster care (TFC) homes are limited to a maximum of two children with extreme physical and emotional problems. Reductions in the number of children with TFC designations, which have higher than standard reimbursement rates, are being made without consultation with foster parents. Testimony indicated this is an attempt by CWS to save money. A Family Intervention Team (FIT) now makes decisions regarding placement of the most difficult cases without consulting the caseworker, the child, the family, or the foster parent. Witnesses testified that decisions are made with regard to money, not to the needs of TFC children.

Foster parents are supposed to receive a Health and Education Passport when a foster child enters their home. This Passport is meant to convey relevant background information about the child, not only to help

the foster parents understand and work more effectively with the child, but to warn of potential problems. Foster parents do not always receive this Passport. Oftentimes when they do, its information is incomplete or out-of-date. When that happens, the foster parent is unable to prepare adequately for potential problems such as fire starting, sexual deviance, et cetera.

Services

Foster children need expert mental health services, not necessarily the cheapest. Children who are extremely disturbed, dysfunctional, or violent need specialized therapies and care. Instead, over the past three years, services to children and families have been severely cut. Even for the high-risk TFC child, the majority of mental health services are made available through the Children, Youth, and Family Services units of the Department of Mental Health. They are provided by a rotating contingent of interns. One Licensed Clinical Social Worker oversees about ten interns who work directly with children. Interns may see the child one hour per week, which may not be adequate for high-risk children. The child may see four to six interns over a two-year span. CWS will not or cannot pay professional private therapists who do not accept MediCal. Dental care is also a problem for foster children because too few dentists accept MediCal and, again, CWS avoids paying non-MediCal rates. It may take weeks for caseworkers to obtain supervisory approval for any services or expenditures.

The Grand Jury received information that CWS does not always follow medical doctors' opinions and recommendations; see attached results of the medical professionals' survey. Even when services are court-ordered, CWS does not always provide funding for them. Sometimes CWS disregards a judge's order rather than going back to court to request modification.

Court Procedures

Continuances often result from caseworkers being unprepared, absent, or untrained in court protocol. This slows the process to the point where a child and family may be held in limbo for months without resolution of their issues. Finally, there can be a lack of consistency in how families are dealt with from the pre-court stage through the court process. This apparently stems, at least in part, from the fact that CWS both investigates and files the case.

**Medical Professionals Survey Results
(13 respondents of 21 pediatricians surveyed)***

Rate your professional relationship with:	Poor	Adequate	Good	Excellent
CWS	3	5	1	
Foster Parents	-	-	9	4
Rate CWS' responsiveness to your:				
Professional Opinion	7	2	1	1
Recommendations	7	2	1	1
Children's Needs	5	6	1	1
Foster Parents' Needs	4	5	3	1

Have your diagnoses/ treatment plans been respected/ followed by:	Yes	No	Sometimes
CWS	2	1	5
Foster Parents	7	-	2

*Not all respondents answered every question.

Summaries of Medical Community Comments:

1. CWS seems reluctant to open and carry cases, or they close them before it is safe.
2. CWS has a tendency to not adequately investigate or not take action when it appears to be warranted.
3. I have been appalled.
4. CWS sends children to live in homes without heat, or the same home as a convicted child molester, or back to parents who injured them, or allows visitations in jail for infants.
5. I have stopped thinking that CWS referrals would actually help children who need it.
6. Most referrals I made were not investigated or I received a note saying my accusations were not substantiated.
7. Numerous medical staff recommendations that newborn babies be removed from birth mothers due to danger to their infants have been ignored, often resulting in severe neglect, injury, or even death of infants by the very parent CWS was warned about.

Based on the foregoing, the Grand Jury makes the following findings and recommendations:

FINDING 1: The number of CWS supervisors has increased while the number of caseworkers has decreased in the past two years. Caseloads per caseworker have risen to nearly double state guidelines.

RECOMMENDATION 1: The Grand Jury recommends that DHHS take action now to reduce the current CWS caseworker caseloads, either by re-assigning supervisors or eliminating supervisor positions and hiring additional caseworkers.

FINDING 2: Caseworker work time is not flexible enough for expected job performance.

RECOMMENDATION 2: The Grand Jury recommends that DHHS develop a plan for flexible hours for those CWS caseworkers who need to make home visits on nights and/or weekends.

FINDING 3: Training is inconsistent, often not mandatory, and does not always prepare the workers to perform their duties.

RECOMMENDATION 3: The Grand Jury recommends that DHHS provide regular, mandatory training for all CWS caseworkers and supervisors. This should include case management, conflict resolution, and, for those employees who make court appearances, training in court protocol, case preparation, and presentation.

FINDING 4: CWS caseworker morale is extremely low because of stress, poor communication with their upper-level supervisors, lack of decision-making authority, and exclusion from team decision-making.

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

FINDING 5: Supervisors often make critical decisions affecting children and families without input from those who have first-hand knowledge, including the caseworker, children, parents, or foster parents.

RECOMMENDATION 5: The Grand Jury recommends that DHHS establish a policy that supervisors will make no critical decisions regarding a child's future placement or services without first meeting with the caseworker, the child, and the parent/foster parents, and making a careful review of all relevant information in the case file.

FINDING 6: CWS policies, poor recruiting practices, and failure to maintain good relations with foster parents adversely affect the number of citizens willing to serve as foster parents. Because too few foster homes are currently available, children are often held in the emergency shelter too long while awaiting placement.

RECOMMENDATION 6: The Grand Jury recommends that DHHS partner with foster parent associations to implement an active recruitment campaign for new foster parents and appoint an independent arbitration panel to resolve conflicts which arise between foster parents and CWS.

FINDING 7: Once in the system, children are moved frequently, have their wishes often ignored, and can be separated from their siblings.

RECOMMENDATION 7: The Grand Jury recommends that, in order to avoid the court taking jurisdiction and the child going into the foster care system, CWS follow a strict practice of contacting relatives, including those who might be out of the area, who would be willing and able to care for children being removed from biological parent(s). This contact and placement should be completed within the first 15 days of involvement.

FINDING 8: CWS decision-makers often override or ignore court orders rather than seeking modifications.

RECOMMENDATION 8: The Grand Jury recommends that CWS return to court seeking a modification order if the original order cannot or should not be carried out.

FINDING 9: Adequate funds are often not made available to caseworkers to manage immediate needs in a timely manner.

RECOMMENDATION 9: The Grand Jury recommends that CWS establish a more efficient process for approving funds for caseworkers to expend on the immediate needs of foster children.

FINDING 10: Contrary to its mission statement, some CWS decisions appear to be based on dollars rather than the welfare of children.

RECOMMENDATION 10: The Grand Jury recommends that DHHS re-allocate funds to better meet the physical, emotional, and social needs of the children in their care.

FINDING 11: Biological parent visits and training during the family reunification and maintenance processes are ineffective in improving parental skills.

RECOMMENDATION 11: The Grand Jury recommends that DHHS work closely with child development specialists to design and implement a new approach to parent-child visits and parental training.

Grand Jury Report #2004-JL-01-10
HUMBOLDT COUNTY'S JAILS AND HOLDING FACILITIES
Introduction

California Penal Code Section 919(b) provides that the Grand Jury may inspect all jail and holding facilities within the County. The Grand Jury completed an inspection of all such facilities. This inspection involved visiting each facility and interviewing its personnel.

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-01 through JL-05 shall be provided as follows:

- No responses are required for Grand Jury Reports #2004-JL-01 through #2004-JL-05.

Grand Jury Report # 2004-JL-01
EUREKA POLICE DEPARTMENT

The Eureka Police Department jail was inspected August 18, 2003. The holding cell area was clean and in good repair. All three holding cells are monitored by audio and the two interview rooms have audio-visual monitoring. No meals are served to detainees, who are held an average of 90 minutes before being transported or released. In the event a detainee presents a medical or behavioral problem which cannot be accommodated, that person is transported directly to the Humboldt County Correctional Facility in Eureka, or another appropriate facility. Jewelry and belts are removed and detainees who do not seem suicidal may retain shoes and shoelaces. Each cell may hold up to two detainees; no visitation is allowed. There are no detox or safety cells. No medical services are provided.

Grand Jury Report # 2004-JL-02
ARCATA POLICE DEPARTMENT

The Arcata Police Department jail was inspected on September 18, 2003. There is one holding cell with two concrete bunks, a stainless steel sink and toilet. The holding cell was clean and in good repair. This cell is not monitored by either audio or video devices; however, it is easily within earshot of the officers' work area.

There are two interview rooms, one of which is equipped with audio-visual monitoring. Detainees are held an average of 30 minutes before being transported or released. When booking at this facility is necessary, it typically takes 20-60 minutes. Booking photos are taken with a digital camera, which is integrated with a countywide computer system. In the event a detainee presents a medical or behavioral problem which cannot be accommodated, that person is transported directly to the Humboldt County

Correctional Facility in Eureka or another appropriate facility. Jewelry, belts, and pocket contents are removed. Unless detainees are to be held for an hour or more, they may retain their shoes and shoelaces. No visitation is allowed. No medical services are provided; no meals are served.

Grand Jury Report # 2004-JL-03
FORTUNA POLICE DEPARTMENT

The Fortuna Police Department jail was inspected September 24, 2003. The two holding cells are clean and well maintained, and are monitored by video and audio at all times. Detainees may be held up to four hours before being released, transported to the Humboldt County Correctional Facility in Eureka, or taken to another appropriate facility. Food may be provided in the form of TV dinners. First aid is given when needed. Female detainees are processed by female officers.

The Fortuna Police Department maintains an animal holding facility at the city's corporation yard which was inspected on September 24, 2003. The facility is approximately four years old, clean, very well maintained and ventilated, with ample sunlight for the animals. Ten holding pens are available for smaller animals and one area accommodates larger ones. Animals may be held in this facility up to five days, after which time they are taken to Miranda's Animal Rescue.

Grand Jury Report # 2004-JL-04
SHERIFF'S AGRICULTURAL FARM

The Humboldt County Sheriff's Department maintains an agricultural farm located on 22 acres adjacent to the Rohnerville Airport. The facility, inspected on September 25, 2003, has an average of 80 pigs and four cattle. In addition, produce is grown for use at the Humboldt County Correctional Facility (HCCF). The facility is for the most part staffed by participants in the Sheriff's Work Alternative Program (SWAP). These participants pay a one-time administration fee of \$60 and \$18 each day they work at the farm. This program is offered in lieu of serving jail time.

Although produce and livestock from the farm are primarily for inmate consumption, approximately 30 pigs are sold each year to the public for \$150 each. Revenue from the sale of pigs is held in a trust fund and used to purchase supplies for the farm operation. The pigs are inspected once a week by a state veterinarian and housed in a well-ventilated structure with a metal roof and concrete floor, which is cleaned and disinfected each day by SWAP personnel. Food fed to the pigs includes products picked up from local area donors. The animals are not fed table scraps or food that has had contact with the human mouth.

Produce grown at the farm includes corn for silage that is fed to the cattle. Root crops, cucumbers, tomatoes, and squash are grown to supply the HCCF. The farm also has a greenhouse that is used to start field crops and grow onions. The farm utilizes a tractor that was obtained from a U.S. government surplus program. However, the tractor has no bucket, which limits its use as a farm implement.

Grand Jury Report # 2004-JL-05
EEL RIVER AND HIGH ROCK CONSERVATION CAMPS

As mandated by California Penal Code Section 919(b), the Grand Jury inspected Eel River and High Rock Conservation Camps on January 21, 2004. This was the first inspection of these camps in the history of the Grand Jury. Both facilities were found to be clean, well-maintained, and well-managed. The morale of the inmates and staff appeared to be high.

The camps are jointly operated by the California Department of Corrections (CDC) and the California Department of Forestry and Fire Protection (CDF). Their main mission is to provide inmate fire crews for fire suppression in the Humboldt/Del Norte CDF Ranger Unit area. The CDC/CDF inmate crews may be dispatched anywhere in California and up to 25 miles into Nevada. In addition to fire suppression, CDC/CDF inmate crews provide a work force for flood control, environmental conservation and community improvement projects. Noteworthy projects include extensive work at South Fork High School and various other public schools, State parks, State/county roadways, U.S. land improvement, and a successful camp recycling program. The CDF maintains the camps, supervises inmate fire crews, and is responsible for the custody and safety of each inmate while on assignment. The CDC is responsible for the selection, security, supervision, health, welfare, and discipline of the inmates. CDC staff may accompany the inmate crews to provide additional security and care of inmates when assigned outside the local area. Inmates have 24-hour-a-day direct supervision while on projects and incidents. Especially noteworthy is the fact that these camps provide a cost avoidance (savings) to the taxpayers of California in excess of \$2,000,000 per year.

The CDC inmates are selected and trained at the California Correctional Center at Susanville. After receiving fire training inmates are assigned, on average, to serve the last nine months of their sentence in the camp. In order to be accepted for camp placement, inmates cannot have a history of escapes, arson, sex-related offenses, or have a high potential for violence. Most of the inmates are serving time for alcohol, drug-related, or property offenses. Inmates live in open dormitories with a dining hall staffed with inmate cooks supervised by CDC staff. The CDC staff provides around-the-clock, seven-day-a-week supervision of inmates while in camp.

Inmates are paid for their work. The majority are laborers who receive \$1.45 per day. Skilled inmates may earn up to \$2.56 per day. Skilled inmates include mechanics, clerks, plumbers, welders, carpenters, and electricians. The Lead Cook may earn up to \$3.90 per day. While assigned to fighting fires, inmates earn an additional \$1.00 per hour. Inmates may participate in crafts and other leisure-time activities during their off-work hours. Visiting is conducted during the weekends. Spiritual services are provided by community volunteers. Inmates learn skills that will help them upon release. They have the opportunity to build a strong work ethic, develop self-esteem, and perform important public service conservation work.

The camps are well-run and provide benefits to the inmates and to the taxpayers of California. The Grand Jury commends the CDC and the CDF for their success in operating the Eel River and High Rock Conservation Camps. The Grand Jury encourages local government agencies to avail themselves of the skills and services provided by these fine programs.

**Grand Jury Report # 2004-JL-06
HOOPA SHERIFF'S SUBSTATION**

WHO SHALL RESPOND:

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-JL-06 shall be provided as follows:

- The Humboldt County Department of General Services shall respond to Findings and Recommendations 1, 2, and 3.
- The Humboldt County Board of Supervisors shall respond to Finding and Recommendation 3.
- The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 1 and 2.

The Hoopa Sheriff's Substation was inspected on October 23, 2003. Budget cuts for fiscal year 2003-2004 have resulted in the loss of two positions at this facility. Current staffing now consists of one sergeant and five deputies. The facility was generally clean and well maintained.

The facility has four cells. One cell has been converted to an office and evidence locker. Two cells are equipped with four metal-framed bunk beds each, with one cell used for females or juveniles and the

other for adult males. The fourth cell is unfurnished and used as a detox cell. There are no electronic monitoring devices for any of the cells. Security screens are still bolted over the office windows as reported by the 2002-2003 Grand Jury. Two cells are equipped with 47-year-old concrete toilet/sink units, as reported by the last two Grand Juries.

No meals are served to detainees. Detainees are typically held 30 minutes before being transported or released but may be held four to six hours. In the event a detainee presents a medical or behavioral problem which cannot be accommodated, that person is transported directly to the Humboldt County Correctional Facility in Eureka or another appropriate facility. Jewelry, belts and pocket contents are removed. Detainees may retain their shoes unless they are deemed to be a potential danger to themselves. No visitation is allowed and no medical services are provided. Detainees are permitted no phone calls, except for emergencies.

FINDINGS AND RECOMMENDATIONS

FINDING 1: Security screens are bolted over the outside of the office windows, posing a threat in the event of fire. Staff may be trapped with no egress from the office.

RECOMMENDATION 1: The Grand Jury recommends yet again that the steel security screens be retrofitted forthwith to allow evacuation from the office in the event of fire.

FINDING 2: Two cells are equipped with 47-year-old toilet and sink facilities, which are difficult to maintain in a sanitary condition.

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

FINDING 3: Recommendations 1 and 2 above have been made numerous times by past Grand Juries. To date no action has been taken although such action has been promised. Obvious liability to the county exists should employees be trapped behind screens in case of fire if Recommendation 1 is not implemented. Recommendation 2, though less serious than 1, poses a health threat to inmates and should be implemented.

RECOMMENDATION 3: The Grand Jury recommends that the Board of Supervisors direct the Department of General Services and encourage the Sheriff to implement Recommendations 1 and 2 forthwith.

Grand Jury Report # 2004-JL-07 GARBERVILLE SHERIFF'S SUBSTATION

WHO SHALL RESPOND:

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-JL-07 shall be provided as follows:

- The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 2 and 3.
- The Humboldt County Department of General Services shall respond to Findings and Recommendations 1 and 2.

The Garberville Sheriff's substation, which is approximately 50 years old, was inspected on October 9, 2003. The facility has three holding cells, each with a newly-installed stainless steel toilet and sink unit. Two cells are equipped with beds and mattresses; a third cell is used as a detox cell with no furnishings. All cells are clean and well maintained. There is no audio/video monitoring of the three cells. According to substation personnel, the facility is too small to accommodate the various law enforcement agencies that use it. In addition, the evidence locker contains items that have been on the premises for several years. Maintenance and repairs for the facility are provided by the Humboldt County General Services

Department. Two previous Grand Juries pointed out several violations of the Americans With Disabilities Act, including wheelchair inaccessibility. Although General Services agreed to the recommendation to bring the building into compliance, no action has been taken.

FINDINGS AND RECOMMENDATIONS

FINDING 1: The facility is not in compliance with the Americans With Disabilities Act (ADA).

RECOMMENDATION 1: The Grand Jury recommends that the General Services Department develop a plan for making the building ADA compliant within six months.

FINDING 2: The substation is too small to adequately handle the volume of law enforcement activity which occurs on holidays and special event weekends in Southern Humboldt County.

RECOMMENDATION 2: The Grand Jury again recommends the building be remodeled and enlarged.

FINDING 3: The evidence locker/storage area contains items that have been on the premises for several years.

RECOMMENDATION 3: The Grand Jury recommends that these items be properly disposed of or transferred to the Sheriff's central evidence locker in Eureka.

Grand Jury Report # 2004-JL-08 JUVENILE HALL

WHO SHALL RESPOND:

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-08 shall be provided as follows:

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

The Juvenile Hall facility (Hall) was inspected November 17, 2003. The Hall houses male and female detainees from ages eight to eighteen years. The Hall is managed by the Humboldt County Probation Department. The Humboldt County Office of Education operates the Von Humboldt School on the premises. The two-story facility was built in 1970, with a substantial remodeling of the intake area and kitchen completed in January of 2002. There is no elevator. The Hall has a rated capacity of 26 beds. At the time of this inspection there were 23 detainees in residence, although overcrowding has been reported in previous years. Close monitoring and management have kept the facility at or below capacity for the first ten months of 2003, with only occasional overcrowding. Audio monitoring is available for the individual rooms; video monitoring is provided in several areas and in two of the individual rooms. Staff members carry personal safety alarms, which are monitored from the central control room. The Hall's computerized record system is connected to a statewide juvenile database. The facility has the services of a nutritionist; medical services are provided 40 hours per week by contract with the California Forensic Medical Group. The facility was generally clean and well maintained at the time of inspection.

COMMENDATION: Poor lighting in the multi-purpose room, hallways, bathrooms, and detainee rooms is now being upgraded. The upgrade is 80% completed and is projected to be finished by June 30, 2004. The new fixtures are a remarkable improvement. The Grand Jury commends the Probation Department for the lighting upgrade.

FINDINGS AND RECOMMENDATIONS

FINDING 1: The facility does not comply with the American With Disabilities Act (ADA). In particular, there is no wheelchair access between the two floors.

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

Grand Jury Report # 2004-JL-09 REGIONAL FACILITY

WHO SHALL RESPOND:

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-09 shall be provided as follows:

- The Humboldt County Probation Department shall respond to Finding and Recommendation 1.
 - The Humboldt County Department of General Services shall respond to Finding and Recommendation 1.
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The Regional Facility (Facility) was inspected on November 17, 2003. The Facility provides high-risk children who have been placed by the court with specialized long-term services. The Facility was built in 1998 to serve four counties in northwestern California; however, since its opening, fewer than five juveniles have been placed in the Facility from other than Humboldt County. The Facility, which is operated by the Humboldt County Probation Department, houses male and female juveniles from ages 12 to 18 years. At the time of inspection there were 17 detainees in residence. The Facility's rated capacity is 18, with each detainee in a single-occupancy cell. Detention here typically ranges from four to six months while each detainee undergoes structured, personalized education and rehabilitation programs.

Medical services are shared with Juvenile Hall through a contract provider. Food services are provided from Juvenile Hall next door. At the time of inspection, the Facility was generally clean and well maintained.

COMMENDATION: The clothes washer and dryer are non-commercial, receive heavy use, and have experienced venting problems. Plans and funds have been approved to replace this equipment and retrofit the venting system.

FINDINGS AND RECOMMENDATIONS

FINDING 1: Unsightly damage caused by detainees was observed in the acoustical ceiling tiles of two day rooms.

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

Grand Jury Report # 2004-JL-10 HUMBOLDT COUNTY CORRECTIONAL FACILITY AND ITS COMPUTER SYSTEM

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-10 shall be provided as follows:

- The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 1 and 2.
- The Humboldt County Department of General Services/Information Services shall respond to Findings Recommendations 1 and 2.
- The Humboldt County Board of Supervisors shall respond to Findings and Recommendations

Pursuant to California Penal Code, Section 919(b), the Grand Jury of Humboldt County inspected the Humboldt County Correctional Facility (HCCF). The facility was found to be clean and generally well maintained, resulting in no findings or recommendations for the physical plant itself. However, during the course of that inspection and other interviews with County officials, it was learned that the computer system known as "CMS+" which services the HCCF is an outdated, difficult to use, DOS-based system subject to frequent operational problems and does not interface with other county systems. The CMS+ system was purchased in 1993 and operates on proprietary software which the County has not been allowed to upgrade or expand since its installation. Although the County purchased the source code for the software, the County has been prohibited by the vendor from making any modifications to the system except for those directly associated with fixing program errors.

The CMS+ system has required an average of 43.4 trouble-shooting service calls for each of the past four years, approximately one call every eight days. On several occasions, the system required correction of items such as: incorrect inmate population, incorrect housing index, and erroneous SWAP Team listings. Several witnesses testified that the CMS+ system is difficult to use, prone to errors, and generally regarded as the least user-friendly system in the County. In addition, several times during the last ten years, inmates at the HCCF have been either released too early or held too long due to problems with the computer system. This situation places the County in a potentially liable position.

FINDINGS AND RECOMMENDATIONS

FINDING 1: The DOS-based CMS+ computer system is difficult to use, prone to errors, and not upgradeable or expandable.

RECOMMENDATION 1: The Grand Jury recommends that a new state-of-the-art computer system be purchased for the HCCF as soon as possible which will interface with other county systems as needed..

FINDING 2: The CMS+ computer system operates on proprietary software which the county cannot upgrade or expand under the present contract.

RECOMMENDATION 2: The Grand Jury recommends that the terms of purchase for any future computer system for the HCCF incorporate the authority and ability to upgrade and/or expand the system.

Grand Jury Report #2004-LJ-01 PUBLIC DEFENDER, COUNTY CONFLICT COUNSEL, AND ALTERNATE CONFLICT COUNSEL

WHO SHALL RESPOND:

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of the GRAND JURY REPORT # 2004-LJ-01 shall be provided as follows:

- No responses are required for this report.

The Grand Jury made an independent review of the offices of the Public Defender, the County Conflict Counsel, and the Alternate Conflict Counsel. The Public Defender unit was last reviewed by the Grand Jury in 1985 and the two Conflict units had never been reviewed. From testimony taken and documents reviewed in November, 2003, the Grand Jury determined the following facts:

The three offices employ 17 attorneys, four investigators, and eight legal/clerical staff. Defendants in criminal matters who cannot afford private legal counsel are assigned to the offices by the Judge at arraignment. In the fiscal year ended June 30, 2003, they handled more than 5,000 cases, including

3,500 misdemeanors, 820 felony charges, and about 850 juvenile and miscellaneous filings. Approximately 95% of the cases were plea-bargained or otherwise settled.

If a Judge assigns a case to the Public Defender, and the Public Defender has a conflict of interest either with the person, property, or action, that case is assigned to the Conflict Counsel. If the Conflict Counsel has a conflict of interest, then it is assigned to the Alternate Conflict Counsel.

Activities are funded primarily by the County's General Fund, supplemented by Proposition 172 and juvenile delinquency and dependency funds as shown in the following chart:

**PUBLIC DEFENDER, CONFLICT COUNSEL, AND ALTERNATE COUNSEL
SCHEDULE OF REVENUES AND EXPENDITURES – BUDGET AND ACTUAL
FISCAL YEAR JUNE 30, 2003 ***

	<u>Public Defender</u>		<u>Conflict Counsel</u>		<u>Alternate Counsel</u>	
	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>
REVENUES						
Humboldt County						
General Fund	\$795,139	\$809,253	\$99,463	\$434,108	\$358,155	\$409,890
Non-County Sources	<u>588,267</u>	<u>559,272</u>	<u>497,835</u>	<u>158,281</u>	<u>111,258</u>	<u>52,441</u>
Total Revenues	<u>1,383,406</u>	<u>1,368,525</u>	<u>597,298</u>	<u>592,389</u>	<u>469,413</u>	<u>462,331</u>
EXPENDITURES:						
Salaries and Benefits	1,232,998	1,218,744	541,007	538,122	418,079	413,458
Services, Supplies, Etc.	<u>150,408</u>	<u>149,781</u>	<u>56,291</u>	<u>54,267</u>	<u>51,334</u>	<u>48,873</u>
Total Expenditures	<u>1,383,406</u>	<u>1,368,525</u>	<u>597,298</u>	<u>592,389</u>	<u>469,413</u>	<u>462,331</u>
TOTAL REVENUE OVER						
EXPENDITURES:	\$0	\$0	\$0	\$0	\$0	\$0

• Source – Humboldt County Auditor's Office

**Grand Jury Report#2004-LJ-02
AN INSPECTION OF THE HUMBOLDT COUNTY SHERIFF'S STORAGE YARD.**

WHO SHALL RESPOND:

Pursuant to California Penal Code Section 933 and 933.05, response to the Findings and Recommendations of Grand Jury Report # 2004-LJ-02 shall be provided as follows:

- The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 1, 2, 3 and 4.

In response to a citizen's complaint, members of the Grand Jury inspected the Sheriff's Storage Yard on December 16, 2003. Evidence and lost-and-found property is stored there for safekeeping. Evidence is marked by an assigned case number. There is no computerized inventory system. A secure building contains the smaller and weather-sensitive items. However, unneeded items have been retained in this facility for as long as ten years. Periodically the excess items are auctioned at Carl Johnson's and on the websites www.propertyroom.com and www.stealitback.com.

FINDING 1: Much of the property stored in the Sheriff's yard is no longer needed in the legal system.

RECOMMENDATION 1: The Grand Jury recommends that the Sheriff identify items no longer needed in the legal system and make an attempt to return them to their owners or dispose of them at auction or by other means.

FINDING 2: Some lost-and-found items remain unclaimed after many years.

RECOMMENDATION 2: The Grand Jury recommends that the Sheriff identify lost-and-found property that remains unclaimed after one year and either auction or dispose of it in other ways.

FINDING 3: The contents of the facility are not well organized with many items scattered at random.

RECOMMENDATION 3: The Grand Jury recommends that the Sheriff organize and store all items in a neat and logical manner.

FINDING 4: No accurate inventory was available.

RECOMMENDATION 4: The Grand Jury recommends that the Sheriff complete the installation and use of a computerized inventory system.

Grand Jury Report #2004-PW-01
CITIZEN COMPLAINTS ABOUT COMMUNITY DEVELOPMENT SERVICES (CDS)

WHO SHALL RESPOND:

- The Humboldt County Community Development Services Department shall respond to Findings and Recommendations 1, 2, and 3.

In the course of investigating several citizen complaints, the Grand Jury conducted a series of interviews with officials of the Humboldt County Community Development Services (CDS), and others. The Grand Jury's inquiry spanned the period from August of 2003 through January of 2004.

CDS has 45 employees in six divisions: Building Inspection, Current Planning, Advanced Planning, Permit Assistance, Economic Development, and Support Services. The Grand Jury's investigation determined that CDS lacks an effective system of handling complaints received from the public about its services, particularly those involving the Building Inspection, Permit Assistance, and Current Planning Divisions. The three divisions share a common public reception area at CDS offices located in the Clark Complex at 3015 H Street in Eureka.

Approximately 28 brochures on various topics are available in the public reception area; 32 are available on the department's website: <http://www.co.humboldt.ca.us/planning>. However, nothing is available that explains CDS customer complaint policy or procedures for problem resolution. Customers should be informed of their rights, obligations, and the process by which to file a complaint.

The lack of a customer complaint system was specifically addressed in the 1995-96 Grand Jury report limited to the Building Inspection Division. The department leadership, in its response to the report, agreed to implement the recommendations, including: "... the department will revise our questionnaire to include an area for the public's compliments and concerns regarding personnel." In spite of past promises to the contrary, and an acknowledgment that such a system is desirable, no system of filing, storing, tracking, or analyzing customer complaints has yet been developed at CDS.

Many complaints and/or inquiries are handled by County Supervisors attempting to get quick answers for their constituents who are having problems with the inspection/permitting/planning process. Indeed, a survey of the Humboldt County Board of Supervisors revealed to the Grand Jury that in 2003 the Supervisors personally handled over 200 complaints about personnel and/or inquiries into the status of various projects. It appears that, at least in this area, the Board of Supervisors is fulfilling a major role as

a complaint resolution mechanism for the CDS. To complicate matters, the Supervisors have no direct access to the CDS computer system. They must take the time to telephone CDS personnel for information in an effort to resolve problems and inform complainants of the status of their project or application. The resolution often seems to be a simple matter of CDS determining and communicating the project status to all parties with an interest in the project, including the complaining party, along with reasons for the delay.

Land use regulations, environmental issues, and government agencies in addition to CDS are also often involved and complicate matters for less-experienced applicants. People who deal with permitting, planning, and land use issues on a regular basis naturally have fewer problems with the processes than the average citizen.

The current CDS Director was employed after the 1995-96 Grand Jury report and has made some progress in customer relations. However, there is still no comprehensive, centralized system of receiving, tracking, resolving, or using complaints as a learning tool. Written complaints are filed only in the related project file, which precludes any further analysis; telephoned or oral complaints are not routinely documented. Failure to learn from one's mistakes condemns one to repeat those mistakes.

FINDINGS AND RECOMMENDATIONS

FINDING 1: CDS does not have a system of recording, classifying, tracking, and resolving customer complaints that allows CDS to learn from its customers' experiences and feedback.

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

FINDING 2: No customer complaint forms with instructions are available.

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

FINDING 3: County Supervisors spend an inordinate amount of time researching and communicating the status of CDS project applications. They determine and explain delaying factors to constituents who were not warned about them at the beginning of the process.

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

Grand Jury Report #2004-PW-02 THE LEGALITY OF COUNTY BUILDING INSPECTION DIVISION "RAPID CHECK" AND "RAPID PROCESS" SURCHARGES

WHO SHALL RESPOND:

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-PW-02 shall be provided as follows:

- The Humboldt County Board of Supervisors shall respond to Findings and Recommendations 1 and 2.
- The Humboldt County Community Development Services Department shall respond to Findings and Recommendations 1, 2, 3, 4, and 5.

In response to a citizen complaint, the Grand Jury conducted an investigation of the manner in which certain fees are charged by the Building Inspection Division (BID) of Humboldt County Community Development Services (CDS), and whether those fees are proper. The investigation included interviews of five officials and employees of CDS between October and December, 2003. CDS provided various documents and data in response to a Grand Jury subpoena, and the Grand Jury obtained additional information from the County Administrative Office. The Grand Jury was also provided with a number of legal opinions by the office of Humboldt County Counsel.

By way of background, property owners who wish to build or modify existing structures on their property must submit written plans to BID for approval in order to obtain building permits. This process is called the plan check. Only one employee in BID (whose job title is Plan Checker) regularly performs the plan checks. He is assisted by one part-time Plan Checker who works one day per week. On occasion their supervisor, the Chief Building Official, also performs plan checks.

Plans are checked on a first-come, first-served basis. The length of time it will take for a particular set of plans to come to the top of the pile varies greatly, depending on the number and complexity of the plans that were submitted before it. In addition, there is increased customer demand during Humboldt County's non-rainy season, when the majority of construction takes place. Finally, the Plan Checker and Chief Building Official are entitled to sick days, holidays and vacation, which also may affect the time that lapses before a particular set of plans is checked.

There is a fee for the plan check service, which varies according to the type and extent of work to be done. These fees are included in the Humboldt County Schedule of Fees and Charges, which is reviewed by the Board of Supervisors on an annual basis and enacted via ordinance. Current fees and charges for the County are set forth in Ordinance No. 2312. Attachment 262B to this ordinance contains the fees which BID is authorized to charge (Fee Schedule).

Several years ago, BID instituted a system that it termed "rapid check" and "rapid process." Documents provided by CDS in response to a Grand Jury subpoena indicate it began in fiscal year 1999-2000. With this system, BID provides its plan check service on an expedited basis to applicants who pay a surcharge in order to avoid having to wait their ordinary turn. Under "rapid check," plans are usually returned within a few days after they were submitted – often as soon as the following day. "Rapid process" includes the expedited plan check plus follow-up assistance in completion of the remaining necessary steps toward obtaining a building permit (e.g., obtaining approval from other county departments as well as various state and federal agencies). The "rapid check" surcharge is 50% of the BID fees for checking a particular set of plans according to the BID Fee Schedule, and the "rapid process" surcharge is 100% of the scheduled fees.

Example: Mr. Smith submits plans for a second-story addition to his house to the BID. The fee for checking those plans is calculated to be \$500 according to the Fee Schedule. Mr. Smith pays \$500 and his plans go to the bottom of the pile in the plan checker's in-basket, to be checked in due course. Under "rapid check," Mr. Smith will pay a 50% surcharge of \$250, for a total of \$750, and his plans will be checked overnight by the Plan Checker. Under "rapid process," Mr. Smith will pay a 100% surcharge, for a total of \$1,000, and receive expedited plan checking plus whatever other assistance is necessary to obtain the permit.

There are a number of significant aspects to this "rapid check" and "rapid process" system:

- The 50% "rapid check" and 100% "rapid process" surcharges are not listed in the BID fee schedule.
- The availability of "rapid check" and "rapid process" is not advertised or made known by BID or CDS to the general public in any brochures, announcements, or other written materials. Applicants submitting plans may learn about the faster service by word of mouth from other applicants. They may also learn about it from BID staff if they ask if anything can be done when they find out there may be a long wait to have their plans checked.
- BID staff do not routinely inform applicants of "rapid check" and "rapid process" when they submit their plans to be checked, because the expedited service is not always available. The Plan Checker

and the Chief Building Official have total discretion as to whether they will perform the expedited service and which applicants will receive it.

- The Plan Checker and the Chief Building Official perform this expedited service only on overtime. The Plan Checker is paid for these overtime hours but the Chief Building Official, a management-level employee, does not receive overtime pay. It is unclear whether the “rapid process” portion of the work, which is additional to the expedited plan check and involves assisting the applicant in completing additional steps in the permit application process, is performed on overtime or during regular work hours.
- The surcharges for “rapid check” and “rapid process” are intended to cover the overtime pay of the Plan Checker. When a rough calculation was made by the Chief Building Official in the initial year the service was offered, it indicated that the surcharges did cover this additional budget expense. No additional analyses were performed in subsequent years.
- The Plan Checker performs overtime work in addition to “rapid check” and “rapid process.” His total overtime hours are recorded, but there is no distinction made between those overtime hours which are incurred in connection with expedited plan checks and those which are unrelated to them. Thus, when asked for a record of the number of overtime hours the Plan Checker had worked each year on expedited plan checks, CDS could only provide an estimate.
- When the Grand Jury requested an accounting of the amount paid for overtime work on expedited plan checks, CDS responded that it was not available because the Plan Checker also receives compensation time for some of his overtime work, in lieu of overtime pay. Thus, CDS could only provide an estimate of the overtime paid for the expedited service, which was itself based on an estimate of overtime hours worked.
- Because the Chief Building Official receives no overtime pay or compensation time for the expedited plan checks he performs on overtime hours, the applicants whose plans he checks on overtime are paying surcharges that bear no relationship whatsoever to the cost of the service.
- The Grand Jury requested an accounting of the amount of “rapid check” and “rapid process” surcharges BID had received. Again, CDS could only provide an estimate because it does not keep a running total of the amount of surcharges received from all applicants during any fiscal year. Instead, separate files are kept for each individual plan check application. In these individual files, the surcharges for the expedited plan check are sometimes combined with the basic fees rather than listed separately, due to “limited space.”

The Grand Jury was concerned that CDS could not provide documentation that the “rapid check” and “rapid process” surcharges described above had been approved by the Board of Supervisors before such surcharges were instituted. Advice about the proper procedures for obtaining that approval was sought from the Assistant County Counsel assigned as the Grand Jury’s advisor. County Counsel informed the Grand Jury that:

- County fees for building permits and other planning services may not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless the amount in excess of the estimated reasonable cost has been approved by a popular vote of two-thirds of the electors voting on the issue (Government Code Sections 65104 and 66014).
- In order for the Board of Supervisors to adopt new fees or service charges, or to increase existing ones, the county is required to hold at least one open and public meeting at which oral or written presentations are made. At least ten days before the meeting the county must make data available to the public which supports the amount of the cost or estimated cost that will be required to provide the service for which the new or increased fee is being proposed. These procedures must be followed unless there is voter approval of the new fee or service charge. The action taken by the county must be by ordinance or resolution. (Government Code Sections 66016 and 66018.)

Based on the evidence obtained during its investigation, and the information provided by County Counsel, the Grand Jury makes the following findings and recommendations:

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

RECOMMENDATION 1: The Grand Jury recommends that the “rapid check” and “rapid process” services be discontinued until they are adopted by the Board of Supervisors pursuant to the procedures required by law.

FINDING 2: The surcharges for “rapid check” and “rapid process” are invalid because they are arbitrary figures that do not relate to the estimated reasonable cost of providing the service as required by Government Code Sections 65104 and 66014.

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

FINDING 3: The general public is not informed about the existence of “rapid check” and “rapid process” through brochures or other written materials. These services are subject to being made available in an unfair, arbitrary and potentially discriminatory manner.

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

FINDING 4: The time required to hire a replacement Plan Checker through normal county hiring procedures takes as long as six months. Therefore, an unanticipated absence by the Plan Checker for a significant period of time – or permanently – would have a serious adverse effect on both residential and commercial construction in the county’s jurisdiction.

RECOMMENDATION 4: The Grand Jury recommends that CDS develop a plan for dealing with the possible long-term absence of its sole full-time Plan Checker which will ensure that plan-checking will proceed without delay in the event of his absence.

FINDING 5: Failure to keep a record of the overtime hours the Plan Checker and the Chief Building Official spend performing the expedited plan checks gives a skewed picture of BID’s staffing needs.

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

Grand Jury Report #2004-CC-01

FOLLOW-UP ON RESPONSES TO THE GRAND JURY FINAL REPORT OF 2001-2002

WHO SHALL RESPOND:

Pursuant to the California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report # 2004-CC-01 shall be provided as follows:

- No responses are required for items discussed in this report

Introduction

The Grand Jury of Humboldt County has the authority and responsibility to investigate and report on the functioning of local government. Entities which are the subject of Grand Jury reports are required by state statutes to reply to the Presiding Judge of the Superior Court within a specific time, using a limited range of responses, pursuant to California Penal Code Sections 933 and 933.05.

Grand Juries are obligated to monitor local governments' responses to the findings and recommendations of prior Grand Juries. This is to determine what actions have been taken by local governments regarding recommendations they agreed to implement or to study for possible implementation. Time allowed for items to be studied shall not exceed six months [Penal Code 933.05(b)(3)].

Procedure

The 2001-2002 Grand Jury Report contained 205 findings, 58 conclusions, and 45 recommendations. The 2003-2004 Grand Jury reviewed written responses to the 2001-2002 Grand Jury Report. All recommendations which officials agreed to implement, or to study for possible implementation, were identified for follow-up. Appropriate documents were inspected and officials were contacted to determine if there had been implementation of the recommended improvements.

Following is a brief summary of the recommendations and responses contained in the 2001-2002 Grand Jury Final Report and results of investigation into those areas where changes were expected to be implemented (at some future date):

2001-2002 GRAND JURY RECOMMENDATION STATUS AS OF 9/30/02

Report #	Title	Recommendations	Implemented	Will Be*	Will Not Be Implemented
02-01	Sheriff's Evidence Room	4	3	1	
02-02	Jail Facilities:	1			
	Hoopa	4	2	1	2
	Garberville	5	1	1	3
02-03	Regional Facility Juvenile Hall	3	2		1
02-04	Sheriff's Farm	1	1		
02-05	PACE ¹	2	2		
02-06	Parks	9	2	6	1
02-07	HMP ²	1	1		
02-08	Eureka Public Parking	4	3		1
02-09	County Counsel	8	6		2
02-10	CWS ³	2			2
02-11	Community Schools	1	1		
TOTALS		45	24	9 *	12

* Reviews of the current status of these items follow. To examine a full text of the recommendations and responses contained in the 2001-2002 report, visit any branch of the Humboldt County Library or the website <http://www.co.humboldt.ca.us/grandjury>.

¹ Probation Alternatives in a Community Environment
² Healthy Moms Program
³ Child Welfare Services

Report # 02-01 Sheriff's Evidence Room

Recommendation R-3 The 2001-2002 Humboldt County Grand Jury recommends that the evidence room has [sic] a computer database program to catalog the evidence.

Sheriff's response: This recommendation has not yet been implemented. The Computerized Records Management System implemented during Fiscal Year 2001-2002 has a separate property management module that will be added when all the problems are worked out of the base system.

- The 2003-2004 Grand Jury finds that as of March, 2004, the Sheriff's office is still in the process of correcting the flaws in the base system.

Report # 02-02 Humboldt County Jail Facilities

Hoopaa Recommendation R-2 The 2001-2002 Humboldt County Grand Jury recommends that toilets are [sic] replaced with stainless steel toilet and sink units in the Hoopa Sheriff's substation.

Sheriff's response: The recommendation has been partially implemented.

- The 2003-2004 Grand Jury finds that only one of the three replacement stainless steel toilet and sink units has been installed. Both the 2000-2001 and 2002-2003 Grand Juries also recommended that these same 48-year-old toilets be replaced; the Sheriff and the General/Administrative Services response was that the recommendation would be implemented. After being promised for four years, the work is scheduled for March, 2004. Although having agreed to do so for the past four years, neither the Sheriff's Department nor the General Services Department has complied with the Grand Juries' recommendations. As this is an ongoing health and safety issue, these toilets should be replaced immediately.

Garberville Recommendation R-2 The 2001-2002 Humboldt County Grand Jury recommends that the existing building be upgraded to A.D.A. standards.

Administrative Services' response: The recommendation will be implemented.

- The 2003-2004 Grand Jury finds that the Garberville building has not been upgraded to A.D.A. standards. The 2002-2003 Grand Jury also recommended that the Garberville building be upgraded to A.D.A. standards, and Administrative Services responded that the recommendation would be implemented. However, the Board of Supervisors has allocated only \$7500 for all A.D.A. compliance retrofits for county facilities in this fiscal year. The Americans With Disabilities Act was passed in 1990. Private property owners have been required to comply, but accessibility to public facilities for handicapped citizens of Humboldt County remains a problem that should be addressed immediately.

Report # 02-06 County Parks

Recommendation R-1 The 2001-2002 Humboldt County Grand Jury recommends that the County correct the county park brochure and make it readily available to the public.

Public Works Department's response: The brochure will be revised by January 2003.

- The 2003-2004 Grand Jury finds that the brochure has not been revised due to budget constraints but information on the county parks has been included on the Public Works web page <http://www.co.humboldt.ca.us/pubworks>.

Recommendation R-2 The 2001-2002 Humboldt County Grand Jury recommends that the County do an annual inventory of all park equipment.

Public Works Department's response: This will be done and completed by January 2003.

- The 2003-2004 Grand Jury finds that the Public Works Department has inventoried the equipment as of the end of June, 2002, and added new or replacement equipment to that inventory.

Recommendation R-3 The 2001-2002 Humboldt County Grand Jury recommends that the County provide funding to maintain all the parks in the county park system.

Public Works Department's response: Reallocation of general fund monies would be a policy decision to be made by the Board of Supervisors. The budget for fiscal year 2002-2003 will be adopted within the next three months. The Department may recommend additional funding at the final budget hearings. In addition, funds will be available within one to two months from the National Oceanographic and Atmospheric Administration grant.

- The 2003-2004 Grand Jury finds that funds were obtained from the National Oceanographic and Atmospheric Administration for seasonal park staff maintaining Humboldt County coastal parks for fiscal years 2002-2003 and 2003-2004.

Recommendation R-4 The 2001-2002 Humboldt County Grand Jury recommends that the County hire a park ranger to enforce park ordinances and the collection of the fees.

Public Works Department's response: The County does not currently have a position titled "Park Ranger." A possible alternative would be to have a sheriff's deputy assigned seasonally to enforce regulations in the parks provided said deputy is trained in the park ordinance regulations and enforcement. In addition, it would be beneficial to have all deputies informed of the contents of the park ordinance.

- The 2003-2004 Grand Jury finds that one grant-funded deputy sheriff was assigned to patrol all county beaches and enforce park ordinances but not to collect fees.

Recommendation R-5 The 2001-2002 Humboldt County Grand Jury recommends that the County, where possible, have one entry control point for each park.

Public Works Department's response: A single entry control point may not be necessary at all county facilities. Currently, the parks staff are focused on creating a single point of entry at parks which permit overnight camping. Clam Beach County Park has the greatest need for a singular entry point.

- The 2003-2004 Grand Jury finds that where possible, single-point entries have been established to overnight camping areas. At Clam Beach County Park camping has been restricted to the southern parking lot which has a single entry point.

Recommendation R-7 The 2001-2002 Humboldt County Grand Jury recommends that the County work with the residents of Southern Humboldt County to keep Tooby Park in the county park system.

Public Works Department's response: The Department is negotiating an arrangement with the current landowner, Southern Humboldt Working Together, whereby the County would obtain an easement over Tooby Memorial Park restricting its use to recreational purposes. In turn, after obtaining the easement, the County would contract with Southern Humboldt Working Together to maintain Tooby Memorial Park. This item needs to be taken to the Board of Supervisors for review and approval.

- The 2003-2004 Grand Jury finds that a final draft agreement has been developed as of March of 2004 and is being reviewed by Southern Humboldt Working Together. When it is returned to Public Works, it will be taken to the Board of Supervisors for final approval.

Grand Jury Report #2004-CC-02

FOLLOW-UP ON RESPONSES TO THE GRAND JURY FINAL REPORT OF 2002-2003

Introduction:

The 2003-2004 Grand Jury of Humboldt County elected to evaluate responses to Final Reports of both 2001-2002 (see Report #2004-CC-01) and 2002-2003 (this Report) in order to provide continuity with the work of previous Grand Juries in a timely fashion. This practice allows the Grand Jury to monitor the commitment made by affected agencies in their responses to the findings and recommendations in previous reports, and their progress toward these stated goals.

Procedure

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

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

The 2003-2004 Grand Jury reviewed written responses to the 2002-2003 Grand Jury Report, which contained 89 findings and 64 recommendations. All recommendations which officials agreed to implement, or to study for possible implementation, were verified through document inspection and official testimony.

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

WHO SHALL RESPOND:

Pursuant to the California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2004-CC-02 shall be provided as follows:

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

2002-2003 Grand Jury Recommendation Status as of 5/24/04

Report #	Title	Recommendations	Implemented	Will Be*	Will Not Be Implemented
03-AF-01	AV Board of Supervisors ⁴	3	3		
03-AF-02	Real Property Division	6	3		3
03-CD-01	Eureka Utility User's Tax	6	4		2
03-CD-02	Special Districts	3	2		1
03-HS-01	Human Rights Commission	6	2	3	1
03-HS-02	Caregivers & In-Home Health	3	1	1	1
03-JL-01	Sheriff's Boats	2		1	1
03-JL-03	Arcata Jail	1			1
03-JL-04	Sheriff's Farm	1		1	
03-JL-05	Hoopa Sheriff's Substation	4		3	1
03-JL-06	Garberville Sheriff Station	5		4	1
03-JL-07	Eureka Jail	1	1		
03-JL-08	Juvenile Hall	3	1	1	1
03-JL-09	HCCF ⁵	3	1	1	1
03-JL-10	Regional Facility	2	1	1	
03-LJ-01	Complaints to Law Enforcement	1			1
03-PW-01	A.D.A. ⁶	3		3	
03-PW-02	Animal Control	5	3	1	1
03-PW-03	RNP ⁷ Bldg.	6	3		3
TOTALS:	19 Reports	64	25	20	19

* Will be studied, or will be implemented. Reviews of the current status of these items follow.

⁴ Audiovisual Access to Meetings

⁵ Humboldt County Correctional Facility

⁶ Americans with Disabilities Act

⁷ Redwood National Park

Report # 03-HS-01 Human Rights Commission

Recommendation R 1 The grand jury recommends the installation of a computer-based complaint reporting work station in the courthouse that allows access and report preparation by HRC commissioners.

Board of Supervisors' Response to R 1 This recommendation requires further analysis. The General Services Department will contact the Human Rights Commission to discuss the need for a computer-based complaint system within the next 60 days. If there is a demonstrated need for such a system, the cost for acquisition and installation will need to be considered in concert with all other budgetary requests.

General Services/Information Services Response to R 1 The General Services Department will contact the Human Rights Commission to discuss the need for a computer-based complaint system within the next 60 days.

- The 2003-2004 Grand Jury finds that the General Services Director met with two Human Rights Commissioners, who stated they are not interested in a computer system to track their complaints because they have a program that sorts through their meeting minutes that allows them to tally their complaints.

Recommendation R 2 The grand jury recommends a centralized filing system resource be made available to members of the HRC in an area of the courthouse where access could be controlled.

Board of Supervisors' Response to R 2 This recommendation requires further analysis. Staff is unaware of the existence of the referenced filing cabinet resources. The General Services Department will contact the Human Rights Commission within the next 60 days to discuss the need for filing resources and will evaluate whether those needs can be reasonably met.

General Services/Information Services Response to R 2 Requires further analysis. The Human Rights Commission will be contacted within the next 60 days to discuss the need for filing resources in addition to the need for a computer-based complaint system.

- The 2003-2004 Grand Jury finds that General Services substantiated the need for a filing cabinet, has acquired one and reportedly has installed it.

Recommendation R 6 The grand jury recommends the HRC continuously monitor and review cultural diversity/sensitivity training programs for all city and county law enforcement personnel.

Board of Supervisors' Response to R 6 This recommendation requires further analysis. The Board supports cultural diversity/sensitivity training programs for city and county law enforcement personnel as well as personnel assigned to other departments, but defers to the Human Rights Commission as to whether this is a project the Commission is ready and willing to accept as part of their stated function to "aid in eradication of discrimination in housing, employment, education and public accommodation." Communication update indicates HRC will be offered the opportunity to be included on Humboldt County's web site to assist them in the management of information.

- The 2003-2004 Grand Jury finds that the Sheriff sends officers to training which stresses "understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment." A new mandated class on racial profiling has just recently become available at College of the Redwoods for officers. In addition, Probation officers, Mental Health and Social Service employees receive a number of cultural/sensitivity programs and newsletter articles.

Report # 03-HS-02 Care Givers & In-Home Health Care

Recommendation R 2 The grand jury recommends that the Board of Supervisors pursue publicizing the [caregiver] registry.

Board of Supervisors' Response to R 2 The recommendation has not yet been implemented, but will be implemented in the next three to six months. The registry of care givers, currently operated by the Humboldt Senior Resource Center under contract with the Area 1 Agency on Aging [A1AA] as part of its Caregiver Support Project, will end on July 31, 2003. On August 1, 2003, the A1AA will begin operation

of a care giver registry for In-Home Supportive Services (IHSS) providers and recipients, under contract with the Governing Board of the Public Authority for IHSS. The registry will be publicized by the Humboldt County Public Authority; by Humboldt County IHSS Social Workers; by the Advisory Board on the IHSS Program; and, following contractually required approval by the Public Authority, by the A1AA through press releases and public service announcements.

- The 2003-2004 Grand Jury finds that the caregiver registry has been publicized in regular public service announcements to newspapers, radio stations, and public access television; monthly articles in *Senior News*; broadcast faxes to local referral sources; and the *Caregiver Quarterly* sent to caregivers, recipients, and providers.

Report # 03-JL-01 Sheriff's Boats

Recommendation R 1 The grand jury recommends that the Sheriff's Department consider charging a fee for towing.

Sheriff's Response to R 1 This recommendation has not been implemented; it requires further analysis, and we will monitor this type of activity during this year.

- The 2003-2004 Grand Jury finds that of the few boat tows made, most occur during routine patrol operations and are not call-outs, which normally go to the Coast Guard or Coast Guard auxiliary, so a fee will not be charged. In addition, the State pays most of the boat operating expenses.

Report # 03-JL-04 Sheriff's Agricultural Farm

Recommendation R 1 The grand jury recommends that the Sheriff's Department obtain a bucket for the Farm tractor.

Sheriff's Response to R 1 This recommendation will be implemented as soon as is feasible. The tractor currently in use at the Sheriff's Farm was acquired through the Defense Reutilization Program with negligible cost to the county. We will price the cost of purchasing a suitable bucket and also attempt to locate a suitable one in the Defense Reutilization Program system. Obtaining a bucket will be dependent upon the cost or ability to locate one in the DRMO system.

- The 2003-2004 Grand Jury finds that the farm tractor – after several years of Grand Jury recommendations - still has no bucket.

Report # JL-05 Hoopa Sheriff's Substation

Recommendation R 1 The grand jury recommends that the steel security screens be retrofitted so they can be opened from inside the office as a means of escape in the event of an emergency.

Sheriff's Response to R 1 This recommendation will need to be implemented by another County Department. Maintenance of the station and the building it is located in is, by agreement, the responsibility of the Hoopa Tribe and the County of Humboldt Building Maintenance Department. This recommendation will be forwarded to the Risk Manager and Building Maintenance for action.

- The 2003-2004 Grand Jury finds that the General Services Department has not scheduled the retrofit of the security screens on the outside office windows; they need to inspect them to determine whether they can be retrofitted. General Services had no record that this information had previously been passed on to them, so they had not previously responded to the issue.

Recommendation R 2 The grand jury recommends that the substation be on a fixed maintenance schedule.

Sheriff's Response to R 1 This recommendation will need to be implemented by another County Department. The maintenance of the station is subject to an agreement between the Hoopa Valley Tribe and the County of Humboldt as to whom is responsible for what type of maintenance to be done and janitorial service. This request will be forwarded through the County of Humboldt General Services Department.

- The 2003-2004 Grand Jury finds that the maintenance is handled by the Hoopa Valley Tribe.

Recommendation R 4 The grand jury recommends that the two concrete toilets be replaced with stainless steel combination sink and toilet units.

Sheriff's Response to R 4 This recommendation will need to be implemented by another County Department. As pointed out, this problem was previously addressed in the 2001-2002 grand jury report; however, the problem still exists. This request will again be forwarded to the General Services Department for resolution.

- The 2003-2004 Grand Jury finds that General Services Department has not scheduled this replacement, as it will require two employees working for at least a week in Hoopa to do the work. It will be done as priorities allow the spending of resources, which should be before September of 2004.

Report # 03-JL-06 Garberville Sheriff's Substation

Recommendation R 1 The grand jury recommends that the Substation be enlarged.

Sheriff's Response to R 1 This recommendation will need to be forwarded to the General Services Department as a request for a capital project; General Services is the department that manages County real property and buildings.

- The 2003-2004 Grand Jury finds that General Services is conducting a space needs study and will add this item for review by the end of the year.

Recommendation R 3 The grand jury recommends structural modification to the door threshold for wheelchair accessibility.

Sheriff's Response to R 3 This recommendation will need to be implemented by another County Department. Since it is a county building, we will forward this request to the General Services Department.

- The 2003-2004 Grand Jury finds that General Services has completed its Transition/Barrier Removal Plan, with \$7,500 set aside for ADA improvements in the current fiscal year. No funds are available for next fiscal year because of budget constraints. The County is working on a plan to address required barrier removal issues but has no timeframe for completion because of budget issues.

Recommendation R 4 The grand jury recommends weed removal and maintenance.

Sheriff's Response to R 4 This recommendation will be implemented. Normally the weeds are removed for this very reason [fire danger when dry]. We will contact building maintenance and also look at the possibility of utilizing our SWAP program to assist in keeping up with proper weed abatement.

- The 2003-2004 Grand Jury found that the weeds were removed at the time of the next inspection, October 9, 2003.

Recommendation R 5 The grand jury recommends the janitorial schedule be increased.

Sheriff's Response to R 5 This recommendation should be implemented; however, janitorial service is provided through the General Services Department, Building Maintenance Division. This has been an ongoing problem based on budgetary concerns. We will again request increased janitorial service for the station.

- The 2003-2004 Grand Jury finds that General Services increased janitorial services hours to the facility.

Report # 03-JL-08 Juvenile Hall

Recommendation R 3 The grand jury recommends that when the washer and dryer need to be replaced, that they be replaced with a commercial grade washer and dryer.

Board of Supervisors' Response to R 3 This response requires further analysis, including a cost-benefit analysis of having commercial grade equipment. This analysis will be done when the washer and/or dryer need to be replaced.

Probation Department Response to R 3 The recommendation requires further analysis.

- The 2003-2004 Grand Jury finds that the analysis has been done for a similar recommendation at the Regional Facility, where the machines have been replaced with commercial models.

Report # 03-JL-09 Humboldt County Correctional Facility

Recommendation R 3 The grand jury recommends that in order to reduce suicide attempts paper bags be used for commissary goods delivery and trash containers in cells.

General Services Response to R 3 The recommendation has been implemented by the HCCF pursuant to information previously received from the HCCF.

- The 2003-2004 Grand Jury finds that the HCCF commissary items now come in plastic bags manufactured with several holes in them as a measure against any possible suffocation. They are collected in the open area general population dormitory units once the inmate has removed the items, and are removed at the time of delivery in all celled units. The Grand Jury commends the Sheriff for this change.

Report # 03-JL-10 Regional Facility

Recommendation R 2 The grand jury recommends that when the washer and dryer require replacement, they are replaced with commercial appliances.

Probation Department Response to R 2 The recommendation requires further analysis.

- The 2003-2004 Grand Jury finds that the washer and dryer are being replaced with commercial appliances. The Grand Jury commends the Regional Facility for finding a funding source for the new machines and the expanded venting required by them.

Report # 03-PW-01 Americans with Disabilities Act

Recommendation R 1 The grand jury recommends the County make these restroom facilities [Freshwater, Centerville Beach, Moonstone Beach, Tooby Memorial, Luffenholtz Beach and Mad River Boat Ramp] ADA compliant. However, due to the major remodeling costs involved in most of these locations, the County should provide ADA approved portable toilets in the interim.

Board of Supervisors' Response to R 1 Will be partially implemented, but some of the recommendation will not be implemented because it is unreasonable given the County's financial situation. ADA approved portable toilets will not fully resolve handicap accessibility in that infrastructure and other improvements would be necessary to secure access to the toilets, the cost of which is beyond current budget capabilities. There are, however, plans to remodel the restroom facilities at Freshwater and Luffenholtz Parks and Mad River Boat Ramp to include ADA compliance issues by using the 2002 per Capital [sic] Park Bond funding.

Public Works Response to R 1 Centerville Beach, Moonstone Beach and Tooby only have portable toilets. The cost to replace existing portable toilets with ADA approved toilets would cost an additional \$2,000 annually. The cost to put portable ADA approved toilets at the other three parks would be \$4,500. The current Parks budget could not absorb this additional cost. The department plans to remodel the restrooms and make them ADA compliant with 2002 Per Capita Park Bond funding.

- The 2003-2004 Grand Jury finds that 2002 Per Capita funds have only recently been released; the permitting process for the remodeling has begun.

Recommendation R 3 a. The grand jury recommends signs be placed along park walkways and entrances directing visitors to the location of restroom facilities and indicating their ADA status. b. The grand jury further recommends that all park literature indicated [sic] the ADA status of each Park restroom.

Public Works Response to R 3 a. Signage will be placed in accordance [with] the Americans with Disabilities Act Accessibility Guidelines and Title 24 of the California Building Code. Signage will appropriately identify accessible restroom facilities and associated routes as recommended in the Grand Jury findings. b. The County Park Information sheet will be updated to include restroom ADA status.

- The 2003-2004 Grand Jury finds that the signs, information sheets, and website will be revised as the remodeling nears completion.

Report # 03-PW-02 Animal Control

Recommendation R 5 The grand jury recommends that a clear line of responsibility to monitor and control animal abuse situations be established.

Board of Supervisors' Response to R 5 Requires further analysis. This may already be partially resolved through the implementation of new procedures for both Community Development Services and Health and Human Services, to refer unresolved nuisance complaints to the Code Enforcement Unit. This may be further resolved through a transfer of the animal control function to the Sheriff's Office scheduled to take place early in 2004. This will be monitored and further evaluated once the transition has taken place and new staff is in place commensurate with the opening of the animal care facility.

- The 2003-2004 Grand Jury finds that the transition of animal control to the Sheriff's Department has occurred. The Department has applied for funding for personnel to operate the new animal care facility and handle animal abuse situations.

Note on 03-PW-03: The Redwood National Park Building in Orick The County Planning Commission permitting approval – and the cascade of decisions that followed – was based on the proposition by the developer and the National Park Service that the building was to be visitor-serving. This triggered Ordinance Number 1687, allowing the approvals to be “ministerial” and thus quick and thorough. However, Grand Jury investigation indicates the building is not providing services to visitors at this time, nor has it been since opening. It is an office building and not a visitor service facility as required by the commercial recreational local zoning regulations.