

Humboldt County
Grand Jury



2013-2014
Final Report



Humboldt County Grand Jury
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July 31, 2014

Honorable Dale Reinholtsen, Presiding Judge
Superior Court of California
County of Humboldt

Dear Judge Reinholtsen:

The 2013-2014 Humboldt Grand Jury has completed its duties, and offers the following report on the work it has accomplished. During the past thirteen months, the jury has investigated nineteen citizen complaints, conducted several investigations into matters of public interest, and interviewed numerous individuals in an effort to satisfactorily resolve issues, as well as, learn and understand more about the community in which we live.

The Grand Jury consisted of Humboldt County residents who volunteered their time, spending many hours per week studying documents, analyzing data, and writing the material that went into this report. Sometimes the problems the jury encountered were easily solved; other times they led into wider, more comprehensive issues. In conducting inquiries, the Jury learned that often County departments were aware of the issue(s) which promulgated the complaint but those public officials did not have the financial resources to satisfactorily address the problem leading to the complaint.

Violations of the Brown Act have been a recurring theme in this year's investigations. We regret that several of our local government agencies apparently failed to take the State's "sunshine law" seriously. The Grand Jury reminds all citizens that the business of the public must be conducted publicly, and recommends that all public entities with elected officials, board members, or commissioners take all measures possible to ensure that these officials receive training on the Brown Act and on the methods and procedures in conducting open meetings, as well as, appropriate Board/Commission member interaction outside of public meetings.

Our work could not have been done without the cooperation of County Counsel Wendy Chaitin, District Attorney Paul Gallegos, Sheriff Michael Downey, County Administrative Officer Phillip Smith-Hanes, and the staff and managers of numerous other departments and agencies, both from the County of Humboldt and the incorporated cities and districts within its borders. We wish to thank the Board of Supervisors for their cooperation and input. We also thank the private citizens who had the courage and integrity to step forth and call our attention to issues they perceived as problematic.

Finally, the Grand Jury wishes to thank you, Presiding Judge Reinholtsen, for your guidance and support of our work.

Respectfully,

Richard A. Yeider, Foreperson
2013-2014 Humboldt County Grand Jury

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HUMBOLDT COUNTY GRAND JURY 2013-2014

Phyllis Coy

Roy Dahlberg

Marc Delany

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Allan Edwards

Sigmar Hoffmann *

Larry Hourany

Judith Little

Fred Mazie *

Bob McPherson

Kemset Moore

Judi Pollace

Carl Ratner

Don Thompson

Janet Waddell

Elaine Weinreb

Richard Yeider

Philip Young

The above listed jurors are residents of Arcata, Bayside, Cutten, Eureka, Fortuna, McKinleyville, Myrtle town, Shelter Cove, Trinidad, and Westhaven.

* Did not complete the term of service.

INTRODUCTION

MISSION, HISTORY, AND OPERATION OF THE HUMBOLDT COUNTY GRAND JURY

MISSION

The Grand Jury is a civil institution that operates under the direction of the State Superior Court of the County of Humboldt. Its mission is to monitor the performance of local governments—county, cities, special districts, and certain boards and commissions. The purpose of the Grand Jury is to provide oversight over elected and appointed officials and the departments they operate. One of the Grand Jury's goals is to make sure that citizens are getting the services they pay for with their tax dollars. Another goal is to make sure that all citizens are treated fairly by their local governments.

The Grand Jury consists of a voluntary panel of citizens, serving a twelve-month term. Some of the issues it investigates originate with citizen complaints; others are mandated through state law; and others may originate with the jury members' observations of potential problems.

The Grand Jury does not deal with criminal issues, and if these come up during the course of an investigation, the investigation is turned over to the District Attorney for further action.

The Grand Jury has no authority over state or federal government agencies, or Indian tribes, and cannot investigate them.

HISTORY

The Grand Jury system originated in English law during the Middle Ages, and was brought to America by the first colonists. Each of the colonies subsequently adopted some form of the Grand Jury system. The California State Constitution requires that a Grand Jury be impaneled annually in each of the 58 counties.

OPERATION

The 2013-2014 Humboldt County Grand Jury consisted of 19 citizen volunteers selected, formally charged with their responsibilities, and sworn in by the Presiding Judge of the Superior Court. Confidentiality regarding the identity of complainants, witnesses, and their statements is a core component of the oath taken by the jurors.

The 2013-2014 Humboldt County Grand Jury studied several issues in depth, and formal reports on those issues follow. Many additional issues were studied that did not result in formal reports, either because the initial complaint proved to be without merit, or because the government agencies involved were already on their way to solving the problems.

HUMBOLDT COUNTY ROADS

*A little neglect may breed mischief ... for want of a nail, the shoe was lost;
for want of a shoe the horse was lost; and for want of a horse the rider was lost.*

-Benjamin Franklin
Poor Richard's Almanac, preface (1758)

SUMMARY

The Grand Jury received a written complaint from a Humboldt County resident claiming unsafe roadway conditions resulting from lack of roadway maintenance. The Grand Jury was concerned with determining if County practices favored one area of the county over others with regards to road maintenance. Given the small sample size of our analysis and the uniqueness of Humboldt County rural roads, it was difficult to do a comparative evaluation of this issue. Overall, it appears the Public Works Department is providing appropriate and above levels of care and maintenance given its limited resources and the complex nature of rural roadways.

We did determine that roadway maintenance work is limited at times by a lack of available materials. Deferred maintenance due to lack of materials eventually will have a negative effect on the economic well being of Humboldt County.

BACKGROUND

One member of the Grand Jury, Philip Young, recused himself from this investigation and report to avoid any potential conflict of interest due to his affiliation with the Resort Improvement District #1 in Shelter Cove.

The deferred maintenance issues reported to the Grand Jury included deteriorating asphalt, overgrown roadside vegetation, and clogged drainage channels. This Humboldt County resident's complaint identified both Humboldt County and the Resort Improvement District # 1 as those responsible for road maintenance.

Consequently, we decided it was appropriate to determine how and where County dollars are spent on the maintenance of rural roads. During the investigation, we noticed potential inadequate funding for roadway maintenance and expanded the scope of our inquiry.

The Resort Improvement District #1, while within the geographic area of the complaint, is not responsible for the maintenance outlined in the citizen's complaint. As a result, the Resort Improvement District #1 was not included in as a component of this investigation. Humboldt County Public Works is also responsible for the maintenance of 168 bridges; these bridges, plus roadway signage, and culverts were not included in this investigation.

APPROACH

We divided the investigation into several components.

We wanted to:

- Understand the County Public Works budget, with a focus on funding levels for roadway maintenance,
- Understand the County policies for determining when and where County Road Maintenance occurred,
- Learn how complaints to the Public Works Road division are handled, and
- Review Public Works expenditures on various rural roads areas to see if maintenance expenditures were equitable.

The Public Works Committee interviewed several staff of the Humboldt County Public Works Department and toured rural Humboldt County roads, physically and by virtual means (Google Earth). In addition, the Humboldt County Public Works Department provided road maintenance schedules by maintenance areas for striping, sweeping, ditch cleaning, traffic signs and signals, and traffic studies, plus roadway maintenance costs for eight specific rural roads in Humboldt County.

We reviewed the Humboldt and Del Norte County Budgets and a report on road conditions; *Final Report, California Statewide Local Streets and Roads Needs Assessment*. Nichols Consulting Engineers, January 2013.

DISCUSSION

Humboldt County Public Works is responsible for approximately 1200 miles of roads of which 300 miles are gravel. These do not include State, City or privately owned roads. Furthermore, the County is divided into six maintenance areas: Garberville, Rohnerville, Ferndale, Freshwater, McKinleyville, and Hoopa. Seven to nine crewmembers and associated equipment are assigned to each of these maintenance areas. The crewmembers and the supervisor are responsible for inspecting and maintaining the roadways in their areas. No chemicals, pesticides or herbicides are used in roadside maintenance, thus ditch maintenance is either manual or mechanical. Well-maintained drainage features such as culverts and ditches are an integral component of roadway maintenance, hence the maxim; control the water, control the road.

The County contracts out road paving projects, such as the recent work on Humboldt Hill for repaving plus American Disability Act curb and sidewalk upgrades. The County does plan and engineer these types of projects.

Roads are rated with a roadway condition index where an index of 100 is considered a new road, and 0 is a road that has failed. From the *Final Report, California Statewide Local Streets and Roads Needs Assessment*, roads with a good to excellent pavement index greater than 70 are

candidates for pavement preservation techniques, such as chip seals, applied every five to seven years as traffic volumes indicate. A pavement index ranging from 25 to 69 indicates the structural adequacy of the pavement needs to be addressed, usually requiring asphalt repaving of varying thicknesses. For a pavement index of less than 25, total reconstruction is recommended.

In 2012, Humboldt County roads rated a pavement index of 64. This number, while appearing robust, indicates Humboldt County Roads are in need of structural treatments to avoid further deterioration. Unfortunately, due to budgetary constraints, the most frequent roadway treatment is chip sealing; a preservation treatment, not a structural treatment. Without proper maintenance and repair, paved roads will eventually revert to gravel roads. It is more cost effective to keep a road in good repair than to reconstruct a failed road.

According to the American Society of Civil Engineers, “Infrastructure is the physical framework upon which the U.S. economy operates... with degrading surface transportation, trips can still be made, but they would take longer and be less reliable, and travel could be less safe.” While these remarks are addressing the United States as whole, the same statements are applicable to Humboldt County. In a letter to the Board of Supervisors, dated April 16, 2013, the Public Works Director indicated a shortfall of \$687,000,000 for pavement needs over the next ten years.

Budget and Funding

The Public Works Roads fund has \$29,449,232 allocated for total expenditures adopted in the Humboldt County 2013-2014 Budget. Based on prior budgets and as reported by Public Works staff, the actual funds available for roadways are less than adopted. In 2013 road funds were frozen two months into the fiscal year. This places constraints on the purchasing of materials needed for roadway repair as the price of these materials, primarily petroleum products, is steadily increasing while the dollar amount reserved for materials has not kept pace.

Unfunded mandates such as compliance with the American Disabilities Act of 1990, National Pollutant Discharge Elimination System, and traffic signage upgrades place additional constraints on the Roadway budget.

Public Works Roads actively seeks and works with partners to increase road maintenance effectiveness and maximize limited funding. Those partners include some of the cities within Humboldt County, the Humboldt County Association of Governments and the State of California. Public Works staff indicated the willingness to further develop these partnerships.

Policy

The County Public Works tries to maintain as many roads as possible while staying within the confines of its budget. Each maintenance area has a schedule for tasks, delineated by specific roads within that area. The roadway work limits are further described by post miles. For example; the Hoopa area crew is expected to annually ditch (that is, clean a roadside ditch to ensure the water flow path is maintained) on Titlow Hill Road from Post Mile 0.0 to 3.6. Maintenance duties include ditch work, striping, sweeping, and sealing. Roadside vegetation is kept clear within County Right of Way property limits.

Area maintenance supervisors are responsible for determining how to spend the budget for their jurisdiction. Often, those plans for maintenance work are interrupted by emergency work such as sanding for icy conditions, and small landslides or roadway slipouts. In addition, budgetary constraints, such as a freeze on the purchasing of materials, limit roadway maintenance work. There is no written policy for determining road maintenance budgetary priorities; it is dependent upon the experience of area supervisors.

For paved roads the County's goal is to chip seal 10% of the miles per year, and to grade gravel roads once a year, more often for higher traffic volume gravel roads. However, budgetary constraints preclude the Road Division from meeting the chip seal goal.

Complaints

Complaints about roadway maintenance are handled through the County Dispatch and routed to the appropriate maintenance area. Calls coming into the Public Works Department are recorded onto a daily log.

Comparison

We decided to compare similar rural road maintenance expenditures in Humboldt County to determine if roadway expenditures were equitable. Given that Humboldt County geology places additional burdens for road maintenance in the form of unstable slopes and slipouts, we attempted to focus on those roads with similar gradients, traffic volume, and roadside vegetation and roadway widths.

We studied Alderpoint, Kane, Maple Creek from Blue Lake Road to Butler Valley Road (Maple 1), Maple Creek from Butler Valley road to the end (Maple 2), Old State Highway near Orick, Patrick's Point Drive, Shelter Cove west of Briceland/Thorne roads and Scenic Drive.

Humboldt County Public Works Department provided five years worth of information. We considered only road maintenance funding provided by local revenue streams. A measurement of roadway use is an Average Daily Traffic count, determined by traffic studies conducted by the Road department.

We compared roadway maintenance costs per mile over a five-year period, an average cost over one year, and by Average Daily Traffic. While this gave us an overall view of roadway maintenance and use, short roads with high or low traffic volumes and roadways with exceptional geotechnical needs skewed the results. In reviewing the information with these caveats, we found no meaningful difference in roadway expenditures.

Portions of Humboldt County along the coast require more brush clearing than drier, interior areas. Topography, cooler weather with fog and higher rainfall amounts contribute to increased vegetation growth. Brush clearing is necessary to minimize fire hazards and improve visibility along the roadway.

Humboldt County spends approximately the same as Del Norte County with regards to dollars spent per road miles for roadway maintenance.

FINDINGS

- F1. There are missed opportunities for roadway maintenance if an area supervisor runs out of materials to do the necessary work.
- F2. There is no easy cost effective means to manage roadway maintenance with insufficient materials to do the necessary work.
- F3. In order to do the needed road work, it is necessary to retain skilled full time staff.
- F4. Roadway area supervisors have discretion to perform necessary roadway work. However, a logical plan of road maintenance and servicing is impossible without the necessary supplies to maintain the County's roadways. The result can only be a gradual deterioration of the road infrastructure over time.
- F5. Humboldt County rural road expenditures for maintenance appear to be distributed equally in all areas of the County. We were unable to determine specifically if any areas of the county received preferential or substandard roadway maintenance given the limited study size, the variable nature of Humboldt County Roads, and constrained roadway maintenance funding.
- F6. Complaints are handled appropriately, given the Public Works Department's limited funding.

RECOMMENDATIONS

- R1. Increase the dollar amount allocated to material purchases. (F1, F2)
- R2. Encourage and develop partnerships with cities, special districts, and other outside agencies. (F1, F3)
- R3. Continue to support the best possible use of limited maintenance funds while ensuring the latitude for decision-making authority for each area supervisor. (F4)
- R4. The County is encouraged to establish the Debt Capacity Ad Hoc Committee, mentioned in the Mid Year Budget report, for the possibility of a future bond issue to improve County facilities and infrastructure. (F1, F2)
- R5. The County is encouraged to research and acquire funding for economic development in non-urban areas. (F1, F5).

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the following responses are required:

- The Humboldt County Board of Supervisors; respond to R1 and R5.

The Grand Jury invites the following individual to respond:

- The Humboldt County Director of Public Works: respond to R2, R3, and R4.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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GETTING COUNTY CODE COMPLAINTS ON TRACK

SUMMARY

The Humboldt County Grand Jury began investigating the Humboldt County Code Compliance Unit of the Planning and Building Department as a result of allegations made in a formal citizen's complaint. The allegations described a lack of action towards specific code violations cited in the complaint, as well as, a lack of response from the Planning and Building Department.

Through the course of the committee's investigation, the Grand Jury determined that the County lacks a comprehensive beginning to end complaint resolution process for code violation complaints. The processes currently in place are not standardized throughout County departments. There is very little interdepartmental coordination for citizen complaints which span several departments. Lack of closure and/or follow-up with citizens creates frustration, confusion, and disappointment regarding County customer service to users. In addition, a citizen may not know which department should be the recipient of their complaint.

During the course of our investigation, the Planning and Building Department improved its procedures and shuffled staff to achieve better customer service results for code compliance complaints.

BACKGROUND

The Grand Jury received a citizen complaint regarding a code compliance complaint not being satisfactorily resolved. The complaint in question involved code violations for multiple County entities including the Planning and Building Department, Division of Environmental Health of the Department of Health and Human Services, Sheriff's Office, as well as the Humboldt Bay Fire District.

Through the course of its investigation, the Grand Jury determined there was a systemic failure by County departments to adequately address complaints spanning multiple departments. This failure stemmed from the County lacking a standardized method to track complaints, forwarding them on to other departments when required, with only a cursory system to follow-up with those departments to which the complaint may have been passed. Successful resolution of an interdepartmental issue relied upon a telephone call to the department, if a staff member remembered to check upon the matter. We discovered that frequently a department would "drop the ball" on code compliance complaints.

We conducted interviews with the Planning and Building Department, Division of Environmental Health, received information from the Sheriff's Department, and collected two weeks of complaints logged by the Public Works Department. We also interviewed a Humboldt Bay Fire District official and one County Supervisor, regarding a specific incident which occurred around Christmas Eve on Elk River Road, which contributed to the investigation.

APPROACH

We began our investigation with the Planning and Building Department. As a result of this interview, we decided to interview several other County departments which had responsibility for different elements in the complaint; in some cases the interviewees were supervisors and in other cases staff. Information obtained from the Sheriff's Department regarding this investigation was provided through e-mail only.

As information was obtained from each department, we would discuss new discoveries as well as verify facts already obtained through previous interviews. It was during these interviews that we learned more about the County's OnTrack system used for building permit application tracking. Because a few departments use this system already, it appeared to the jury that perhaps an automated system to pass information among departments already existed.

DISCUSSION

On at least two occasions known to the Jury, citizens have complained to the Planning and Building Department about perceived code violations. In both cases, the citizens did not realize that the problems concerned other county departments in addition to the Planning and Building Department. From our interviews with the Planning and Building Department staff, and with other departments, we learned that the Planning and Building Department staff did not communicate the citizens' concerns to the other departments involved.

We learned that the Division of Environmental Health, which was involved in both citizens' complaints, has the most comprehensive complaint investigation process, using a sophisticated database to track the complaints, including follow-up. When receiving a referred complaint from another department (referral), the Environmental Health Services Department staff also enters this information into the database.

The Planning and Building Department, however, uses primarily a paper system which relies entirely on staff remembering to follow through on matters. During the course of the investigation Planning and Building improved its procedures and reassigned staff to achieve better customer service results for code compliance complaints.

We learned that the Planning and Building Department also uses an electronic software system called OnTrack. OnTrack was originally developed to expedite the tracking of building permit applications. It is used primarily to track permitting, building inspections, billing, and time sheets.

We received specific information about the OnTrack system and learned of its current capabilities. We realized after this interview that the OnTrack system could be expanded by the County to provide a comprehensive, interdepartmental system of handling citizen code compliance complaints. A few other departments, including Public Works and Code Enforcement, also use OnTrack. The OnTrack system is modular, meaning that other departments can be added on with minimal expense. It can be accessed via the Internet. At

present, the public logs on via one portal, county departments log on via other portal(s). We learned that the confidentiality of a complaint could be maintained in OnTrack.

FINDINGS

- F1. While some county departments do a reasonably efficient job of following up on complaints that involve them directly, they do not have a consistent process of referring complaints to other county departments, nor of following up on referrals to those departments.
- F2. County departments could be more transparent and fair, save staff time and have better relations with the public if there were a more efficient and uniform way of handling complaints.
- F3. An automated system to pass information among departments already exists, called OnTrack. This system could be expanded by the County to provide a comprehensive, interdepartmental system of handling citizen code compliance complaints throughout multiple departments.
- F4. All county departments that deal with the public could link on to the OnTrack system, enabling interdepartmental communication, and giving the public access to information regarding the status of their complaints.
- F5. OnTrack currently has a citizen portal and an internal County portal.
- F6. Although the Planning and Building Department has made significant strides to improve their customer service throughout our investigation process, the department remains understaffed in its efforts to improve customer service to County citizens.

RECOMMENDATIONS

The Humboldt County Civil Grand Jury makes the following recommendations to streamline citizen code violation complaints, improve interdepartmental handling of complaints when necessary, and expedite resolution of all such complaints:

- R1. The County's existing OnTrack system should be expanded to create a complaint resolution system capability. Because OnTrack is currently shared by multiple departments, the current capabilities should be expanded and the interdepartmental sharing of current data leveraged to enable sharing of citizen complaint information. (F3, F4)
- R2. The County Board of Supervisors should strongly encourage each of the departments currently using OnTrack to expand this system's capabilities to handle citizen complaints to those departments and also encourage those departments to reallocate resources to accomplish this. (F2, F3, F4)
- R3. The County Board of Supervisors should also approve funding or reallocate resources to expand OnTrack to departments which do not currently use OnTrack to allow them to

implement this system's capabilities. By moving to a more automated system of information sharing, cost savings could potentially be realized through savings of staff time. (F2, F3, F4)

- R4. OnTrack currently has a citizen portal and an internal County portal. This inherent capability can be expanded to allow citizens to check the status of their complaint. (F4, F5)
- R5. One staff member should be added to the Planning Department to assist in the handling of citizen complaints. Although the department has made significant strides to improve their customer service throughout the investigation process, the department remains understaffed in its efforts to improve customer service to County citizens. (F6)
- R6. The County Board of Supervisors should establish a policy mandating that the department receiving a citizen complaint immediately assumes ownership of the complaint on behalf of the County, regardless of department responsibility, and does not cede control of the complaint until a positive, verifiable hand-off to the appropriate department is achieved. (F1)

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the following responses are required:

- The Humboldt County Board of Supervisors (R-1 through R-6)
- The Humboldt County Sheriff (R1, R4)

The Grand Jury invites the following individuals to respond:

- The Director of Humboldt County Planning and Building Department (R1, R4, R5)
- The Director of Humboldt County Department of Health and Human Services (R1)
- The Director of Humboldt County Public Works Department (R1)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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COMPLAINT AGAINST THE CITY OF FORTUNA, CITY MANAGER

SUMMARY

The Grand Jury of Humboldt County received a complaint, identified as 14-AF-7, and assigned it to the Administration and Finance Committee for investigation. The complaint alleged a misuse of Fortuna city funds by the City Manager.

Upon thorough investigation, the Grand Jury found no misuse of funds by the City Manager, but did find that there was a lack of communication about the new City Manager's goals and objectives to revitalize the Fortuna business community. The Grand Jury found further that a written reimbursement policy for business expenses needs to be developed.

BACKGROUND

Accompanying the complaint were a number of expense receipts, credit card statements, reimbursement requests for relocation expenses, and copies of the subsequent reimbursement checks that the City of Fortuna issued to the City Manager. A city employee had obtained these documents through a Freedom of Information Act request. In addition to the aforementioned documents, the Administration and Finance Committee further requested and received a copy of the City Manager's employment contract. Additionally, the Grand Jury received testimony from two City Officials affirming the accomplishments of the City Manager during his first year, and that these were directly tied to his goals and objectives as set forth by the City Council.

The committee interviewed a number of city employees and city officials regarding business expense reimbursement policies and procedures for city employees.

Additionally, two members of the committee paid a visit to the City of Fortuna and requested to see the May and June expense packages in order to review the process of checks and balances the city uses for the reimbursement requests. The committee members found everything to be exactly as one would expect: a clear, concise and transparent reimbursement procedure, with triangulation procedures for all expenses, signed off by the appropriate department head, the City Manager himself, and a member of the finance department in charge of maintaining all reimbursement records.

During the interviews it became apparent that city employees were not aware of the details regarding the goals and objectives set forth by the City Council to the new City Manager. Since the City Manager was new to the area, it was incumbent upon him to be out in the community to build strong and trusting relationships with business owners, private community members and local government agencies.

In order to become acquainted with the needs of the City of Fortuna and to allow the business community to become acquainted with him, the City Manager set out to achieve this objective by personally visiting with the businesses in Fortuna city-proper and the surrounding areas. Many of these visits occurred during weekends and evenings. In an effort to remain above possible suspicion or appearance of receiving "favors" or gifts, the City Manager maintained a consistent

policy of paying for all entertainment transactions with community members he met over coffee or meals. All of those expense requests for meals with business owners and city officials were appropriate and budgeted.

Another part of the City Manager's obligation was to attend various training and development seminars, some of which required traveling out of the county. Expenses for those outings included food, lodging, and travel expenses. All expenses were budgeted and valid business expenses, for which there was always the supporting documentation attached to reimbursement requests.

The City Manager was given a relocation allowance of \$10,000. He was also given a monthly subsidy of \$350 plus mileage for his automobile expense.

Rather than hiring a moving company to transport his belongings to Fortuna, the City Manager rented a U-Haul truck and, over the course of several weekends, brought his household goods up by himself, thus saving the City of Fortuna several hundred dollars. In fact, the two committee members who visited the City Manager and his accounting clerk discovered that the City Manager saved the city over \$4,000 in moving expenses by doing it his way.

Shortly after being hired as City Manager, he re-clarified the terms of his contract regarding his monthly automobile expense, choosing to use city vehicles rather than use his personal car on a daily basis. This action saved the City of Fortuna several thousand dollars for the first year he was in office, but made some members of the community suspicious that he was wasting the city's resources.

The Grand Jury believes that most of the suspicion about the City Manager's "wasting the city's money" was due to two situations: 1) the lack of clear communication from the City Council to staff and members of the community regarding the goals and objectives set forth for the new City Manager, and 2) the way the new City Manager "did things differently" than his predecessors.

According to a Fortuna city official, the City Council sought a new City Manager who would be a "people person," who could work well with the business community, the citizens of Fortuna, and the members of city government. According to this official, the last two City Managers were more focused on public works, and it was the City Council's desire that the new City Manager be more directly involved with the business community, bring the staff together, and work on community development.

Since meeting with business owners and working to strengthen the Fortuna business community were not well communicated, some employees and/or community members questioned the expenses of the new City Manager, whose directed goals and objectives included ways to improve business in Fortuna.

APPROACH

To determine the accuracy of the citizen complaint against the new City Manager, the Grand Jury employed several methods upon which to make its findings:

- Interviews with staff and city government;
- Review of ten months of receipts and check requests supplied by the complainant;
- Review of the City Manager's employment contract;
- Review of the City Manager's appointment calendar;
- Review of two months of receipts in the City Manager's office with him and his Finance Clerk;
- Review of the City Managers accomplished Goals and Objectives which were presented through witness testimony who possess direct knowledge of his accomplishments;
- Review of expense documents obtained by a Fortuna city employee through a Freedom of Information Act request regarding the alleged misuse of funds.

DISCUSSION

After the Grand Jury collected receipts, conducted interviews with city officials and community members, and made an on-site inspection, it found that the office of the City Manager was efficiently organized and prudent in its approach to expenditures. While the calendar sent to the Grand Jury seemed incomplete, an examination of the City Manager's *personal calendar*, which he voluntarily submitted to the Grand Jury, matched the reimbursement requests submitted for meals, conferences, and transportation. The Grand Jury also discovered that rather than *costing* the city of Fortuna extra money, the policies and decisions of the City Manager actually *saved* the city money. For instance, the City Manager did, in fact, receive a \$350 allowance, plus mileage, for the use of his personal automobile. However, the City Manager decided to use city vehicles as often as possible for local destinations, thereby saving the city from having to reimburse him for mileage at the current government rate of \$.565 per mile, since the city's vehicles already had their fuel supplied. That saved the City of Fortuna thousands of dollars during the period investigated by the Grand Jury.

What seemed to stimulate the complaint against the City Manager re: use of automobiles was the employees and citizens lack of awareness that the City Manager had both the permission as well as the blessing for using city vehicles for his local travels, thus *saving* rather than *costing* the city extra money.

After all documents, interviews, and visitations were concluded, the Grand Jury could not find where the City Manager erred, other than not effectively communicating to city employees that there would be some changes in the way he would execute his duties and responsibilities.

FINDINGS

- F1. The Humboldt County Grand Jury found that the complaint against the Fortuna City Manager was without merit.
- F2. The Fortuna City Council and the Fortuna City Manager failed to adequately and or effectively communicate to city staff members the goals and objectives of the new City Manager, and how those goals would impact day-to-day expenses.
- F3. The City of Fortuna does not have a clear, written policy regarding reimbursement of business expenses for city employees.
- F4. The City Manager's submitted his office appointment calendar (Outlook) did not completely match the reimbursement requests submitted for meals, conferences, and transportation; however, the personal calendar he provided did.
- F5. The City Council of Fortuna sought a "people friendly" City Manager who would work to help revitalize the City of Fortuna's business interests.
- F6. The City Manager was fiduciarily responsible and actually saved Fortuna a substantial amount of money by executing his duties in the manner he did, especially as it regards his moving allowance and automobile stipend.
- F7. The new City Manager elected to use city vehicles rather than the monthly transportation stipend, thus saving the City of Fortuna a few thousand dollars in the first year of his tenure in that position.

RECOMMENDATIONS

- R1. The Grand Jury recommends that the Fortuna City Council and the Fortuna City Manager improve internal methods used to communicate with the city's staff. (F2, F3)
- R2. The Grand Jury recommends that the Finance Office of the City of Fortuna write a clear and transparent policy for all city employees using city-issued credit cards, explaining the procedural steps for reimbursement of business expenses. (F3)

WHO SHALL RESPOND

The Grand Jury requires that both the Fortuna City Council and the Fortuna City Manager respond to Recommendations 1 and 2.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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May 13, 2014

Richard Yeider, Foreperson
Grand Jury of Humboldt County
Administration and Finance Committee
825 5th Street
Eureka, CA 95501

Re. Grand Jury Report 14-AF-7

Dear Foreperson Yeider,

Please accept this letter as the formal response from the City Council of the City of Fortuna and the Fortuna City Manager regarding Grand Jury Report 14-AF-7. The City of Fortuna is in receipt of your detailed report and concurs with all of the Findings except F3. You will see attached a City Policy dated December 27, 1996 that clearly addresses in writing the reimbursement of business expenses for city employees. Please also note that despite the City not being in disagreement with Recommendation R1, that the City has an extensive listing of "communication opportunities" currently available to all City Staff.

Regarding Recommendation R1 and R2 of the Grand Jury, the City of Fortuna is providing the following details to satisfy formal actions to address the recommendations.

R1 – The Grand Jury recommends that the Fortuna City Council and the Fortuna City Manager improve internal methods to communicate with the city's staff. (Findings 2 and 3)

- **Recommendation 1 has been implemented and will continue to be implemented.**
- The City Manager Report, which is currently published twice per month as part of the formal City Council Agenda, will continue.
- The existing and regularly scheduled monthly "brown bag" meeting opportunity for all staff to spend time with the City Manager will continue.
- The City Manager will publish his open door policy for communication both up and down the organization in June.
- The City will continue the practice of setting special full day meetings twice per year to evaluate Citywide Objectives and Accomplishments.

R2 – The Grand Jury recommends that the Finance Office of the City of Fortuna write a clear and transparent policy for all city employees using city-issued credit cards, explaining the procedural steps for reimbursement of business expenses. (Finding 3)

- **Recommendation 2 has been implemented and will be improved by the end of the calendar year.**
- The City of Fortuna has an existing Policy regarding reimbursement of business related expenses.
- The City Manager and Finance Department are creating a new "per diem" Policy for City Council review. Once approved by the City Council, the per diem rates will be added to the City Policy

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

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

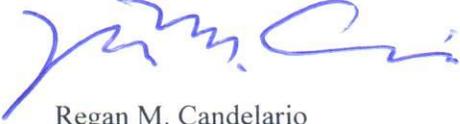
Parks and Recreation
(707) 725-7620
Fax (707) 725-7576
5 Park Street

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

document. This task will be completed by the end of the calendar year. A copy of the existing City Policy is attached for your review as attachment 1.

The City is happy to have closure of this report. Thank you for your time and efforts regarding this case. The actions of the Grand Jury are a wonderful asset to the Community. If you have any questions or comments, please do not hesitate to contact me directly at 707/725-1410 or via email at rc@ci.fortuna.ca.us.

Sincerely,



Regan M. Candelario
City Manager, City of Fortuna

Cc Mayor and City Council, City of Fortuna
Linda Jensen, City Clerk
Phillip Smith-Hanes, County Administrative Officer

Attachments:

1. Existing City Reimbursement Policy

Reimbursement Policy for Conferences and Training

Admin

December 27, 1996

To provide a uniform travel payment policy for employees and other City personnel attending training conferences and seminars. This policy is implemented in accordance with Rule XIII, Section 2 of Fortuna's Rules and Regulations as amended.

Elected officials are not subject to this policy and will conduct travel under separate regulations.

A. Types of Training:

Department heads will assess training needs and requirements of employees and other City personnel assigned to their respective department. The City Manager will approve all travel and training.

B. Modes of Travel:

The least expensive mode of travel, taking into consideration distance, time and cost of public transportation, should be used. Staff may use commercial airlines, personal vehicles, rental autos or city pooled vehicles for travel purposes.

Most of the time, employees will be expected to use a city vehicle when attending training. If a city vehicle is not available, with City Manager authorization, employees may use their own personal vehicle and receive reimbursement at the established mileage rate.

If a personal vehicle is used when a City pooled vehicle is available, the City will pay the actual cost of fuel as evidenced by a receipt. Proof of insurance will be required.

C. Lodging, Meals, Misc.:

Monies may be advanced for room, board and miscellaneous expenses to attend conferences and seminars. Receipts for all expenses must be maintained and will be submitted to the Finance Department upon return. Reconciliation of costs against advance will be conducted.

Police Employees receiving POST reimbursements for training expenses shall receive the current per diem rate established by POST for meals and customary tips. The travel reconciliation shall state the total amount received by the police employee per day.

The City will pay for transportation, parking/tolls, lodging, registration, course materials, meals and customary tips.

The City will only pay travel expenses of the staff member and receipts must be submitted for reimbursement.

D. Location:

Training will be confined to locations within the State. Attendance at out-of-state conferences shall be approved by the City Manager upon recommendation of the Department Head.

E. Approval Process:

Requests for training shall be submitted through their respective Supervisor. The request must include a statement identifying the type of training, location, attendance dates and estimated expense.

A training advance may be granted from the estimated expense report. A completed Travel Expense Record and receipts for actual expenses must be submitted to the Finance Office for reconciliation. Participants will receive reimbursement for approved costs exceeding the advance or will refund monies not expended.

**HUMBOLDT TOURISM
BUSINESS IMPROVEMENT DISTRICT
FOLLOW-UP REPORT**

SUMMARY

The Humboldt County 2012-13 Grand Jury issued a report (2013-AF-01) on the newly-created Humboldt Tourism Business Improvement District, and the non-profit agency which manages it, called the Humboldt Lodging Alliance. The 2012-13 Grand Jury's Final Report investigated the Humboldt Tourism Business Improvement District and the Humboldt Lodging Alliance; and made one finding and one recommendation. The 2013-14 Grand Jury interviewed officials from the County and from the Humboldt Lodging Alliance to determine what progress had been made on the previous Grand Jury's recommendation.

BACKGROUND

On July 1, 2012, a Tourism Business Improvement District was formed in Humboldt County. All jurisdictions except the cities of Blue Lake and Rio Dell joined the district. The district is financed by a 2% assessment on all overnight lodging bills, and every motel, hotel, vacation rental, bed & breakfast inn, and campground operator within the district is required to collect this surcharge from visitors. The Tourism Business Improvement District is managed by a non-profit agency called the Humboldt Lodging Alliance, which was formed specifically to manage the district. The 2% tax is collected by the County and given to the Humboldt Lodging Alliance for purposes of promoting local tourism.

The County of Humboldt and the Humboldt Lodging Alliance have a contract which delineates this arrangement. It requires, among other things, that the Humboldt Lodging Alliance follow a specified District Management Plan, that it provide a yearly report on its activities, and that it follow the Brown Act.

The Humboldt Lodging Alliance made a contract with another local agency, the Humboldt Convention and Visitors Bureau, to manage its operations. The two agencies have the same address, phone number, and executive director, but have different boards of directors, and different corporate identities. Some concern was expressed about the possibility of the two agencies commingling their funds.

Lodging businesses in many local communities also pay a Transient Occupancy Tax, which can be up to 10% of the overnight bill charged to customers. However, the Transient Occupancy Tax goes directly into the General Fund of the city or the County (in unincorporated areas) in which the business is located, and it need not be used for tourism promotion.

FINDING OF THE 2012-2013 GRAND JURY REPORT

The Humboldt Lodging Alliance is a new agency handling public funds, and one without much obvious experience in such matters. It has, however, signed a contract with the County, in which the County provides oversight.

RECOMMENDATIONS OF THE 2012-2013 GRAND JURY REPORT (Summarized)

- R1. The County should provide training in the Brown Act and the Public Records Act to appointed officials of the Humboldt Lodging Alliance.
- R2. The County should monitor the operations, minutes, and financial records of the Humboldt Lodging Alliance to ensure that the Brown Act is being followed.
- R3. The Humboldt Lodging Alliance expenditures should conform to the requirements of the District Management Plan.
- R4. The County should ensure that there is no commingling of funds between the Humboldt Lodging Alliance and the Humboldt County Convention and Visitors Bureau.

Responses were requested from the following: The County Administrative Office, the Humboldt County Board of Supervisors, and the Humboldt Lodging Alliance.

RESPONSES TO THE 2012-2013 GRAND JURY RECOMMENDATIONS

All three parties agreed with Recommendation 1 (R1) concerning Brown Act and Public Records Act training. The Board of Supervisors and the County Administrative Office both stated that the Administrative Office with the assistance of County Counsel would provide training and educational materials concerning these laws. This training has not yet been provided but is tentatively scheduled for the end of May 2014.

The Humboldt Lodging Alliance agreed with Recommendations 2 through 4 (R2-R4) concerning monitoring of its activities and records, and stated, "The above documents," namely operations, minutes and financial records, "are available for inspection and may be requested through our administrator, the Humboldt County Convention & Visitors Bureau."

The 2013-2014 Grand Jury finds this response troubling. It is not at all clear what form such a request would have to take. The website of the Humboldt Lodging Alliance is inadequate for this purpose. As of the date this is written, there are no meeting agendas posted. There is one set of minutes posted, from May 2013. There are no reports of activities, though the organization has existed for almost two years.

On February 25, 2014, the executive director of both the Humboldt County Convention and Visitors Bureau and the Humboldt Lodging Alliance presented an annual report to the Board of Supervisors. This presentation was referred to in both the agenda and the minutes for that meeting as a report from the Humboldt County Convention and Visitors Bureau. Witnesses to

that presentation testified that it was unclear as to whether or not, and to what degree activities of the Humboldt Lodging Alliance were included in that report. There was neither a copy of the report attached to the meeting minutes nor a copy of this report posted to either the Humboldt Lodging Alliance or the Humboldt County Convention and Visitors Bureau websites.

We note that the Agreement for Services between the County of Humboldt and the Humboldt Lodging Alliance, dated June 12, 2012, Section 7.1 states “Notwithstanding any other provision of the Agreement, should Contractor fail to perform any of its obligations hereunder, within the time and in the manner provided, ...County may terminate this Agreement by giving Contractor written notice of such termination, stating the reason for termination, if Contractor does not cure the reason given within 10 days of receiving written notice.” The Humboldt Lodging Alliance is explicitly obliged to prepare and submit an annual report on its activities under the Agreement for Service with the County.

With respect to Recommendations 2 through 4 (R2-R4) of the 2012-13 report, the Board of Supervisors and the County Administrative Office both noted that the County does not have the resources necessary to offer the oversight proposed. The Grand Jury has learned that the county has a variety of agreements with numerous nonprofit organizations as well as other governmental or quasi-governmental entities. Each of these organizations has requirements to provide information to the County on a regular basis. However, there is currently no systematic method for tracking whether the required information is at least being submitted in a timely fashion. The 2013-14 Grand Jury acknowledges that the County may not have sufficient resources to engage in the intensity of monitoring recommended by the 2012-13 Grand Jury. However, the County could lessen its long term administrative burden by creating a systematic monitoring system, such as an Excel spreadsheet, that would list what reports, information, and documents are required from each of these agencies. It would then be a simple matter to determine when and if the agencies are in compliance with these requirements. If, after systematically monitoring these submissions, the County staff find evidence that information is not being submitted in a timely fashion, the County should consider reassessing the contract with the entity that is failing to respond.

When the County develops new contracts or modifies existing contracts are modified with such agencies, the contract should contain clauses about the need for the agency to submit required information in a timely manner, and the consequences that that will result if the agency fails to submit such information.

FINDINGS OF THE 2013-2014 GRAND JURY

- F1. There is no unequivocal evidence that the Humboldt Lodging Alliance has been submitting the information required by its contract with the County and the applicable state laws referenced therein to the County on a regular and timely basis.
- F2. The County Administrative Office does not have a systematic method for logging or documenting the submissions of the reports and other documents required in its contract with the Humboldt Lodging Alliance. Indeed, it does not have a method for logging the

required information from any of the organizations or associations that have contractual relationships with the County.

RECOMMENDATIONS OF THE 2013-2014 GRAND JURY

- R1. The Humboldt Lodging Alliance needs to devote resources to establishing and maintaining its web site. It further needs to proactively provide the information required by its contract with the County, and the applicable State Laws referenced therein. (F1)
- R2. The County Administrative Office should pursue identifying a student intern, work-study student, or other volunteer who can undertake the effort to systematically identify the information, documents, and records that are required to be submitted to the County by the many organizations with which it has contracts, and to create an Excel file or other tracking grid so that the County employees can easily log whether the information is in fact being submitted. This project should also include noting the consequences for these organizations if they fail to comply with timely submission of required information. (F2)

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the following:

- The Humboldt Lodging Alliance (R1)
- The Humboldt County Board of Supervisors (R2)

The Grand Jury invites the following individuals to respond:

- The Humboldt County Administrative Office (R2)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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HOW DO WE DEAL WITH CHILDREN IN CRISIS?

SUMMARY

The 2013-2014 Humboldt County Grand Jury received a complaint stating that the complainant witnessed the police handcuffing a child less than 13 years old. The Grand Jury thought this case might reveal an underlying policy problem, and investigated the policies used in dealing with children in crisis. We learned that unless a child is already a client of the social services system or has a Court Appointed Special Advocate, the only available respondents for children in crisis are the police. Sempervirens has an emergency unit for children but the child has to be brought to the facility for treatment. Although some law enforcement officers receive Crisis Intervention Training, this training does not address the special needs of children under the age of 16.

All witnesses interviewed for this investigation confirmed that the lack of crisis intervention services for this age group is a serious problem. The Grand Jury's recommendations include making Crisis Intervention Training mandatory for all law enforcement officers. We also recommend that the training be expanded to include appropriate responses to children under the age of 16.

BACKGROUND

In response to this complaint, an official representing the Eureka Police Department stated the police were called to a shelter because of a child who was having a serious crisis. The child was out of control, and had to be restrained by the adults around him. The official stated the police used standard procedures and described the complaint as unfounded.

The complainant described a different version of the event. He stated that while he was out one morning, he witnessed the police handcuffing a young child whom he described as being compliant and confused.

We inquired if other options were available or feasible for children in crisis, such as setting up a rapid response mobile unit staffed by mental health personnel. Some other counties and cities do have such mobile crisis units. The law enforcement personnel we interviewed stated a situation such as the one described above was rare.

APPROACH

We first interviewed the complainant who had witnessed the child being handcuffed. We then interviewed a juvenile parole officer, a staff member of Court Appointed Special Advocates, a staff member of the County Department of Health and Human Services, a crisis intervention trainer, and a police officer.

DISCUSSION

A child was in crisis at the shelter where he was staying, and the police were called in to assist. The police were in the process of handcuffing the youth, as the complainant came upon the scene. Upon observing the handcuffing, he stopped and watched the process. The complainant claimed the child was not resisting, and was handcuffed and put in the police car without incident. He believed that there must be a better way to handle an apparently depressed and compliant child other than by handcuffing him.

At present there is no other alternative in handling this type of situation in our county. We found that in some more affluent counties, mobile first responder units, comprised of social workers and officers, are called to handle similar situations. Our county does not have this service available for troubled youths. We also found that with the exception of one law enforcement agency, police officers are not required to take Crisis Intervention Training, and that the training available in Humboldt County does not address dealing with children younger than 16. Although Crisis Intervention Training is available to all law enforcement personnel in the cities and the County, several witnesses said that less than 1/3 of officers participate in it.

FINDINGS

- F1. There are very few public services available for young children in crisis who are not connected with a social welfare system. Children connected to a social service system may have more resources available.
- F2. At present there is no alternative to police being the first respondents to young children in crisis who do not have a social worker. Children who are connected to the social service system may have a wider choice of first responders.
- F3. Some police officers take Crisis Intervention Training on a voluntary basis, but with the exception of one law enforcement agency, this training is not mandatory for all.

RECOMMENDATIONS

- R1. Crisis Intervention Training should be mandatory for all law enforcement officers. The Citizen Enforcement Liaison Committee and the Department of Health and Human Services have offered to pay for such training. (F3)
- R2. The curriculum of Crisis Intervention Training should include responses to children younger than 16 in a life-threatening situation. (F3)
- R3. Professionals of Child Welfare Services (CWS) should be called as first responders in addition to police when children are in crisis, whether or not such children are already CWS clients. (F1, F2)

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the following responses are required:

- The Humboldt County Board of Supervisors (R1, R2, R3)
- The Humboldt County Sheriff (R1, R2, R3)
- The City Council of Arcata (R1, R2)
- The City Council of Blue Lake (R1, R2)
- The City Council of Eureka (R1, R2)
- The City Council of Ferndale (R1, R2)
- The City Council of Fortuna (R1, R2)
- The City Council of Rio Dell (R1, R2)
- The City Council of Trinidad (R1, R2)

The Grand Jury invites the following individuals to respond:

- The Director of the Humboldt County Department of Health and Human Services (R3)
- The Arcata Chief of Police (R1, R2)
- The Blue Lake City Manager (R1, R2)
- The Eureka Chief of Police (R1, R2)
- The Ferndale Chief of Police (R1, R2)
- The Fortuna Chief of Police (R1, R2)
- The Rio Dell Chief of Police (R1, R2)
- The Trinidad City Manager (R1, R2)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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ARE WE READY FOR DISASTER ON THE NORTH COAST?

By failing to prepare, you are preparing to fail!

Ben Franklin

SUMMARY

When the 2013-2014 Grand Jury first convened, we decided it would be prudent to see how well prepared we are in the event of a large scale natural disaster such as a major earthquake. From that idea we chose to investigate **ARE WE READY?** for unpredictable, certain to happen, natural disasters. Great earthquakes, those shaking for more than one minute, have the potential if they occur near to the coast, to cause major damage to our infrastructure, and possibly isolate us from the outside world for a lengthy time period, from a few hours to many days. Distant tsunamis caused by great subduction zone earthquakes have done considerable damage to the North Coast, especially to Crescent City in Del Norte County.

Some of the questions we asked ourselves early in our investigation were: “Who will take care of the injured?” “Who will come to our aid?” and “Who will feed us and provide shelter for us if our homes become uninhabitable or are destroyed?”

As we began interviewing people responsible for mitigating disasters, it became obvious that we were asking the wrong questions from the beginning! **ARE YOU READY?** is the appropriate question to ask, for it is obvious, that no matter how well our county workers are prepared, it is up to individuals to prepare for such disasters. Although there is a well thought out plan in place for coordinated first responders to assist communities during any disaster, most of us will be on our own for several days, and we need to make plans for this eventuality. At the end of this report, we offer suggestions and websites as to how individuals can be proactive and help themselves survive what nature sends our way. Remember, **COMPLACENCY IS NOT A PLAN!**¹

APPROACH

We first interviewed staff from the Humboldt County Sheriff Department and of the Office of Emergency Services. Following those interviews, we visited the Emergency Management Center located in a self-contained bunker under the Humboldt County Courthouse. Humboldt County Ordinance 2203 established the Humboldt Operational Area and identified the Sheriff as Director of Emergency Services for the County. The Humboldt Operational Area is composed of the County of Humboldt, serving as the lead agency, and all political subdivisions (Cities and Special Districts) within the County. The Office of Emergency Services assists the Sheriff in controlling and directing the efforts of the emergency organizations of the County².

Next, since earthquakes are one of our most serious natural disasters in our area, we interviewed a seismologist and other experts on North Coast earthquakes and local or regional tsunamis. Following that, we then called in a person familiar with Community Emergency Response Training to speak on training of lay people and the creation of neighborhood response teams. Some of our members also went to local help organizations for seniors and neighborhood watch groups. We also interviewed a county employee with knowledge of the Emergency Management Operation Plan. The county has prepared this plan in an effort to ensure the efficient coordination

with all political subdivisions of government and the most effective use of all resources (both materials and personnel) for maximum benefit and protection of the population in time of emergency³. This plan was written to ensure that agencies, which adopted the plan, will be immediately eligible for Federal Emergency Management Agency resources.

BACKGROUND

We live in a beautiful part of the state of California, a region sometimes referred to as “Behind the Redwood Curtain,” separated from the rest of the state by vast forests on three sides, with the ocean on the fourth. We can easily be isolated from the rest of the state by closures of the main routes that service our area: US 101 to the north and south, and State Route 299 to the east. Total and partial closures of these vital arteries have happened in the past during earthquakes, floods, massive landslides and fires, and effectively changed our daily routines. Because of our geographic isolation, it is paramount for all of us to think about what might occur as a result of a natural disaster.

We live astride the Mendocino Triple Junction, which is the southern portion of the Cascadia subduction zone⁴, one of the most problematic seismic hazards in the world. We will have large Magnitude = 9.0+ damaging earthquakes in the future. We will experience strong and most likely damaging ground shaking during future local earthquakes: 30 seconds from a M.=7.0, 45 seconds from a magnitude 7.5, 60 seconds from a magnitude 8.0, and over 2 minutes from a magnitude 9.0.

With the inevitable occurrence of future damaging earthquakes, it would be sensible for all of us to think about and prepare for the associated shaking, landslides, ground disturbance and tsunamis that accompany this type of natural disaster. Other hazards we need to consider are forest fires in the inland part of our county, dam failure, hazardous materials spills, extreme weather events, and 100-year floods along the major rivers. Two such “100-year floods” occurred in 1955 and 1964, isolating communities for days with only helicopter and boat travel possible.

DISCUSSION

What we discovered during our investigation was that our county benefits by having many well-informed people tasked with responding to natural disasters. Humboldt County, working with multiple Federal, State, local governments, and educational groups, is proactive with community education and tsunami warnings⁵. Tsunami run-up zones or areas of potential flooding caused by tsunamis of either local or regional origin are modeled. Citizens are encouraged to know evacuation routes out of the tsunami run-up zone in which they live. We now have yearly tsunami siren warning tests as well as communities practicing evacuations out of tsunami run-up zones. The Office of Emergency Services is staffed, with its headquarters under the northwest corner of the Humboldt County Courthouse (partially beneath 4th Street). This Office has prepared a plan for North Coast disasters. The response and functionality of the Office of Emergency Services has been tested by major earthquakes in 1992, 1994, and 2010; floods in 1986 and 1997; forest fires in 2004, 2007 and 2013; and tsunami alerts in 2004, 2009, 2010 and

2011. Thus far, the preparation and training of our emergency responders seems to be working, for there were no obvious deficiencies that stand out in any of those emergencies.

The North Coast Tsunami Working Group is an *ad hoc* educational outreach group, comprised of experts in earthquake and tsunami research that strives to educate the public on how to respond to these naturally occurring disasters.

Ham radio operators play a key role in communication during any disaster and are linked into Office of Emergency Services, thus establishing an additional communication link to the world outside of Humboldt County.

Humboldt County has been a leader in tsunami preparedness; other counties are following our lead. The Office of Emergency Services, National Oceanic and Atmospheric Administration, North Coast Tsunami Working Group, the Red Cross, and countless volunteers started doing evacuation drills for communities in 2007 and began testing tsunami sirens in 2008. Tsunami run-up zone maps for the North Coast are available online (see important websites at end of report).

A Disaster Scenario

Imagine that a large earthquake occurs in the middle of winter when the ground is saturated with rainfall. Let us also assume it is not the largest that we could experience, but that the shaking lasts 60 seconds, equivalent to an earthquake with a magnitude of 8.0; last experienced in Humboldt County in 1906⁶. Since the ground is thoroughly saturated in most winters, landslides would occur everywhere in the county. Roads in Humboldt County would be impassable, possibly preventing first responders' arrival for days. Communications could be disrupted, fire and police would encounter problems responding, and even the personnel trying to get to the Office of Emergency Services command center could be faced with travel obstacles. Power most likely would be disrupted, some structures would be compromised, and gas leaks could cause serious life-threatening situations.

And What You Can Do To Prepare?

Here is where you can help yourself: Rather than being surprised by such a crisis, preparation for any disaster can pay huge dividends and even save lives of friends and family and neighbors. While most people within our county expect "the government" to come to their aid, this will most likely not happen as quickly as we might hope. Take the steps now to think about how you and your family and neighborhoods can mitigate the problems you will face during a disaster such as this. *Living on Shaky Ground*, a free publication available from the Earthquake Education program in the Geology department at Humboldt State University, has many suggestions on how to prepare for such a disaster.⁶

Community Emergency Response Training or CERT is becoming more commonplace across the United States, and the sight of volunteers' green vests is becoming more recognizable identifying prepared responders. Cost of the training ranges from \$30-100 per person, depending on

available sponsors, and the time commitment is about 20 hours. Many communities across the nation have found grant monies or companies to subsidize the costs of this type of training.

At the end of this report, we have compiled a short list of important web sites that provide further information to help YOU understand and plan for disasters as well as suggestions

About what YOU can do beforehand that can help YOU survive! **Remember, COMPLACENCY IS NOT A PLAN!! By failing to prepare, you are preparing to fail!**

FINDINGS

- F1. After a serious disaster, citizens most likely would be on their own for days, or possibly weeks. People need to have a plan to take care of themselves, their loved ones, the dependent elderly, and pets.
- F2. The Office of Emergency Services Director has decades of experience with several types of natural disasters, but plans on retiring in the next year.

RECOMMENDATIONS

- R1. Individuals need to be proactive and get their emergency plan in place, for it is very likely no one will or can come to their aid for 72 hours following a disaster. This means that you should build an emergency supply kit including pet food and medical supplies, talk about a family emergency plan, be informed what disasters you might experience, and know how to turn off your gas and power. Your plan should include a text tree (using cell phones to contact friends and relatives), food, water, medicine, and shelter. First aid kits, flashlights and a battery or manually powered radio are also recommended. (F1)
- R2. **KNOW YOUR ZONE!:** If the disaster is an earthquake and it shakes for more than 30 seconds, first and foremost, the main idea is to remain calm and try to get through the shaking: duck, cover and hold. You then need to decide what zone you are in, and if you are in a tsunami run-up zone, head immediately to higher ground and away from the coastline. In the mountains, watch for falling rocks, landslides, and/or falling trees (limbs). Know your way out in forest fire-prone areas. Know dangerous/past flood zone areas. (F1)
- R3. The Office of Emergency Services should continue in its efforts to inform citizens of Humboldt County about the Community Emergency Response Training program to increase their knowledge of disaster survival techniques. (F1)
- R4. The Board of Supervisors should work quickly to replace the retiring Office of Emergency Services Director to insure continuity in this very important position. (F2)

REQUESTS FOR RESPONSES

Pursuant to Penal Code section 933.05, the following responses are required:

- The Humboldt County Board of Supervisors (R3 & R4)

The Grand Jury invites the following Office to respond:

- The Humboldt County Office of Emergency Services (R1 & R4)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

IMPORTANT WEBSITES

<http://co.humboldt.ca.us/sheriff/oes/> : Describes the Office of Emergency Services and its relationship with State and Federal Offices. One can find information on earthquakes, fires, Federal and State responses to emergencies, tsunami inundation maps, how to make family plans, and emergency kits and more. This is a very useful site for anyone trying to mitigate the negative effects of disasters, and to understand what to expect here on the north coast.

<http://www.calema.ca.gov/Pages/default.aspx> : The State of California Emergency Services Site, a virtual library of facts and information, including how the State is preparing for every type of natural disaster.

<http://www.fema.gov/>: The Federal Emergency Management Site.

http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/Pages/education.aspx:
Tsunami informational Site.

<http://www.humboldt.edu/rctwg/> : North Coast Tsunami Working Group educational site.

ENDNOTES

¹ *Marin County Grand Jury Report, 2011*, “Disaster Preparedness in Marin: Are You Ready?”

² <http://co.humboldt.ca.us/sheriff/oes/>.

³ <http://co.humboldt.ca.us/natural-resources/hazardmitigation>.

⁴ Dengler, L., G. Carver, R. McPherson, “Sources of North Coast Seismicity”, *California Geology*, Vol. 45, No. 2, (March/April, 1992): pp. 40-53.

⁵ Board of Supervisors Meeting (Minutes), March 18th, 2014.

⁶ Humboldt State University, Earthquake Education, Geology Department, *Living on Shaky Ground*. <http://humboldt.edu/shakyground/>.

HUMBOLDT COUNTY CHARTER SCHOOLS

SUMMARY

The 2013 – 2014 Grand Jury’s investigation into charter schools in Humboldt County is in two parts. The **Discussion, Part I** includes a brief summary of the 2004-05 Grand Jury Report on charter schools.¹ **Part I** of this investigation will address all charter schools with the exception of Mattole Valley Charter School, which will be addressed separately in the **Discussion - Part II** section of this report.

This year’s Grand Jury investigation of charter schools found the concerns of the 2005 report have been addressed, either through legislation since 2005 or by the charter schools’ own initiatives. The Grand Jury offers its congratulations to the county’s charter schools for addressing the issues illuminated by the 2004-2005 report.

The Grand Jury also found that the academic health of our county’s charter schools is very good to superior based on the Academic Progress Index reports.

What the Grand Jury did discover is that there are two issues needing to be improved, both of which are addressed in Part I of this report. They are:

- The correction of informational inconsistencies between the schools’ websites and the information published on the California Department of Education’s data websites (which is provided to the state by the individual schools);
- The inclusion of a clear, direct, and easy access on the schools’ websites to the School Accountability Report Card.

BACKGROUND

Humboldt County has 15 charter school networks.² Oversight authority and responsibility for those charter schools rests primarily in the Local Educational Agencies to which the charter schools are attached. A Local Educational Agency is a local, “regular” public school or district which sponsors a charter school and which is responsible for general oversight duties such as assuring the public that the teachers of the charter schools they sponsor hold the proper credentials, that the curriculum complies with the California Curriculum Standards, and that the charter schools comply with Education Code, part of which deals with transparency and easy accessibility of information given to the public about the schools.

All charter schools, just like “traditional” schools, are statutorily mandated to ensure that the public has access to certain information useful for parents in choosing which charter school they may wish to send their children. Therefore, the California Department of Education publishes the School Accountability Report Card³ for all to see. School Accountability Report Cards contain

¹ <http://co.humboldt.ca.us/grandjury/reports/2004-2005/2004-05finalreport.pdf>

² <http://www.cde.ca.gov/ds/si/cs/ap1/countyresults.aspx?id=12>

³ <http://www.cde.ca.gov/ta/ac/sa/>

the schools' test results of all students in publicly financed schools as well as some general financial and demographic information about the schools, including the credentials held by a school's teaching staff, teacher and administrator salaries, ethnicity of students, and school test rankings in comparison to other schools. The information contained in the School Accountability Report Card is intended to offer the public a clear, transparent overview of a school. It is important for the schools to provide that information in a clear, easily-accessible format. Because charter schools are *public schools*, they are subject to the laws covered in the California Education Code, and it is statutorily mandated that the charter schools' administration to make all relevant information about the schools easy and convenient for the public to access.

Financial and academic misconduct by a few charter schools in the state triggered the passage of Assembly Bill 1994 (October, 2003) which calls for increased oversight of charter schools by county offices of education and those "traditional" public schools or districts that sponsor charter schools. Assembly Bill 1994 also mandates increased transparency and accountability of charter schools by requiring increased visitation and inspection of sites by county superintendents and/or sponsoring Local Educational Agency administrators to assure compliance with state law and the state educational standards.

Additionally, Assembly Bill 1994 requires that charter schools demonstrate and report to the public a certain level of academic achievement in order to receive funds and/or have their charters renewed. Charter schools are now required to test 95% of all students attending those schools. The results of the various state-mandated tests are compiled into what is known as the schools' Academic Progress Index, a 1000 point Index that reflects how well students respond to questions focusing on English, Math, Science, and History (see chart this page). It is the goal of the state that as instruction improves with the implementation of the California Common Core Curriculum; schools will reach and/or exceed the score of 800 on their Academic Performance Index.

As of the school year beginning in 2005, all new and existing charter

State Assessment Tools Used in Creating the 1000 point API Score

California Standards Tests (CSTs)

- English-language arts, mathematics, history-social science, and science
- Grades two through eleven

California Modified Assessment (CMA)

- English-language arts, mathematics, and science
- Grades three through eleven

California Alternate Performance Assessment (CAPA)

- English-language arts and mathematics
- Grades two through eleven

California High School Exit Examination (CAHSEE)

- English-language arts and mathematics
- Grade ten (and eleven and twelve if the student passed)
- Passed = score of 350 or above

<http://www.cde.ca.gov/ta/ac/ap/documents/apiexcsu>

schools must comply with state-established academic performance requirements by giving the various Annual Performance Indices. The intent of the legislation is to assure the communities' citizens that charter schools are as academically sound as traditional public schools, and that the testing to prove such academic soundness is identical to that of traditional public schools.

APPROACH

The Humboldt County Grand Jury decided to review the 2004-05 Grand Jury Report to discover if the charter schools have maintained compliance with the issues raised in that report. In addition to the charter school topics studied by the 2004-05 Grand Jury, an additional focus of this year's Grand Jury investigation is on the transparency and ease of access to information that ought to appear on all school websites:

- The School Accountability Report Card , focusing on:
 - the 2007, 2010, and 2013 school years, which will include students' academic progress (with a specific focus on English, Math, Science and History),
 - credentials of teachers in core courses,
 - teacher / administrator salaries,
 - the amount of funding expended per student (see Appendix, Table 3);
- Transparency in student admission policies;
- Access to the school's testing and demographic information (School Accountability Report Card).

The Grand Jury of Humboldt County used four methods in determining its findings of facts for this investigation:

- Research of the charter schools' public information web sites, which are supposed to contain easy access to the School Accountability Report Card;
- Interviews with various employees of the Humboldt County Office of Education and the charter schools of Humboldt County;
- Questionnaires given to all of the charter schools, requesting all relevant information discussed in this investigation for the years 2007, 2010, and 2013;
- Review of schools' financial data provided online and on actual audits and financial documents requested by the Grand Jury.

DISCUSSION – Part I: All Humboldt County Charter Schools with the exception of Mattole Valley Charter School

The 2004-2005 Grand Jury made specific recommendations, addressing all charter schools generally:

- Establish clear and consistent methods of conducting annual oversight checks of all of the county's charter schools.
- Assure that sponsoring agencies of charter schools, the Local Educational Agencies, exercise vigilant oversight regarding the credentials held by teachers assigned to be the primary teachers of core high school courses (English, Math, History, and Science).
- Make application and admission policies transparent.

- Develop stricter guidelines for the maintenance of student records.
- Pay all employees directly, deducting appropriate taxes and retirement benefits, and pay premiums for state unemployment compensation and state workers' compensation.
- Check with the Federal and State tax agencies and the Federal and State Departments of Labor to verify the legal definition of "employee" and "independent contractor."
- Consult with authorities to determine the legitimacy of using a pass-through account to pay anyone who is already retired and receiving retirement system benefits.
- Confirm the legitimacy and legality of transforming a private school to a public school.
- Encourage participation with state-recommended testing in order to achieve the 95 percent student testing rate desired to track school accountability.

The 2013-14 Grand Jury discovered that all of the nine recommendations of the 2004-05 Grand Jury for the charter schools of Humboldt County were addressed. According to the data available for this year's report, teachers in charter schools addressed in Part I of this report are all properly credentialed and assigned appropriately according to the School Accountability Report Cards and the California Department of Education's data websites. All charter schools are properly allied to Local Education Agencies for oversight. Moreover, all charter schools, except the Montessori Del Mar Learning Center, now participate in the state's testing program at the mandated 95% level according to the California State Department's records. The Montessori Del Mar Learning Center, which is attached to the Mattole Valley Charter School, will be discussed Part II of this report.

The following schools are to be commended for meeting or exceeding state averages on the Annual Performance Index (API):

- | | |
|-------------------------|----------------------------------|
| ▪ Alder Grove Charter | ▪ Northcoast Preparatory Charter |
| ▪ Coastal Grove Charter | ▪ Redwood Preparatory Charter |
| ▪ Freshwater Charter | ▪ Six Rivers Charter High |
| ▪ Fuente Nueva Charter | ▪ South Bay Charter |
| ▪ Jacoby Creek Charter | ▪ Union Street Charter |
| ▪ Laurel Tree Charter | |

The goal of the state is that the Academic Performance Index of all schools in California reach or exceed the score of 800 on the API Index. Seven of the charter school mentioned in this report rank in the top 10% of all charter schools in the state; two of these schools occupy the top rank of all charter schools in the nation: Jacoby Creek Charter and Northcoast Preparatory and Performing Arts Charter.

Twelve of the 14 charter schools in Humboldt county (86%), noted in Part I of this report are serving the needs of students' education very well according to state API guidelines. Only one of the 15 charter schools reviewed in Part I of this report did not exceed average state API scores (Pacific View Charter), meaning 93% of Humboldt County's charter schools exceed the average state API scores for the school year ending in 2013. (See Appendix, Table 1 – API Scores for Humboldt County's Charter Schools.)

The Grand Jury has two concerns, however. California Education Code, section 33126(d) states that all schools, including charter schools, must provide the public with clear and consistent

accountability information. This should be *easily and clearly* available. Specifically, Education Code, Section 33126(d) states:

It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the School Accountability Report Cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.(Emphasis added.)

In addition to being “easy to read,” the Jury’s focus also turned to the phrase, “to **ensure** that local educational agencies with access to the Internet make available current copies of the School Accountability Report Card through the Internet.” The School Accountability Report Card is the vehicle by which schools are to deliver such information to the public. The law states the School Accountability Report Card is to be given to all parents of children attending a charter school as well as be posted on the schools’ websites. It is in the spirit of the law that such internet information be **easily accessed**. Such a law seems to us to be reasonable, and the law’s recommendations seem to be easily achievable, since all of the county’s charter schools have websites. However, members of the Grand Jury found accessing School Accountability Report Cards could be very difficult or even impossible for the average citizen who has but a modicum of ability with internet navigation. That difficulty minimizes the clarity and transparency required by Ed Code 33126 for parents to access information critical to parental concerns when they are choosing which school their children might attend. The transparency and ease of access required by Education Code, section 33126 was far from adequate in several cases.

As of December 14, 2013, the Grand Jury discovered that there were three distinct groups of schools:

- Those that had an easily-accessed, direct link to the School Accountability Report Cards;
- Those that had a secondary link to the School Accountability Report Cards, sometimes buried in another category;
- Those that had no direct link to the School Accountability Report Cards.

The following charter schools *did* have an easily-accessible link to the School Accountability Report Card: Coastal Grove Charter School; Freshwater Middle Charter School; Redwood Preparatory Charter School; and Union Street Charter School.

The websites of the following charter schools *did* have a **secondary** link that lead to the School Accountability Report Card under various titles: Alder Grove Charter School; Fuente Nueva Charter School; Laurel Tree Charter School; Pacific View Charter School; and Trillium Charter School. A “secondary link” refers to an additional “connecting link” that the reader must first access in order to access what a “direct link” to the School Accountability Report Card could do in the first place. For instance, a school’s website might have a link called “resources,” in which

the School Accountability Report Card is embedded. A person with limited computer skills might not understand how to access the School Accountability Report Card report through a secondary link. Additionally, a school website's categories under which its School Accountability Report Card is embedded might not be obvious for someone wishing merely to access the School Accountability Report Card.

The websites of the following charter schools did not contain a link to the School Accountability Report Card: Jacoby Creek Charter School; Mattole Valley Charter School (addressed in "Discussion – Part II" of this report); Northcoast Preparatory and Performing Arts; Redwood Coast Montessori Charter School; Six Rivers Charter High School; and South Bay Charter School.

Part of a school's complete report that is available to the public contains the salaries of the teachers and administrators. The Grand Jury found that Freshwater Elementary Charter School's Director/Principal's self-reported salary differs from the published California Department of Education information about that administrator's salary. Not only was the Grand-Jury-requested "self-reported" administrator's salary well below the state average for administrators' salaries, but it was also significantly lower than that of the school's average teacher salary,⁴ as reported on the California Department of Education information. In fact, the salary given in the "self-reported" information was well below the poverty level. Whether it is a clerical error or an irregularity in expenditure accounting, the Grand Jury believes that the self-reported administrator salary of the Freshwater Elementary Charter School is questionable. (See Table 2 in the Appendix.)

FINDINGS for Part I

- F1. As of November 13, 2013, there was no clear and **easily accessible access** to the School Accountability Report Cards on the first page of the following charter schools' websites: Northcoast Preparatory and Performing Arts; Six Rivers Charter High School; and Trillium Charter School.
- F2. California Department of Education published website data and self-reported, hard-copy data often appear to be inconsistent and / or contradictory, especially in the case of Freshwater Charter School's administrative salary / salaries.

RECOMMENDATIONS for Part I

- R1. The Northcoast Preparatory and Performing Arts, Six Rivers Charter High School, and Trillium Charter School need to display a clear one-step link to the School Accountability Report Card on the first page of their website, labeling that link "School Accountability Report Card (SARC)" in order to make the school's data easily accessible to the public and thereby comply with both the letter and the spirit of the law (Ed Code, section 33126(d). (F1)

⁴ http://internet.humboldt.k12.ca.us/freshwater_sd/FreshwaterElem_SARC%202012.html, December 13, 2013.

R2. All charter schools need to check the published California Department of Education data against their own “in house” records to make certain that the data the California Department of Education publishes is accurate. (F2)

REQUEST FOR RESPONSES for PART I

Pursuant to Penal Code § 933.05, the following responses are required; the Governing Boards of the following schools;

- Northcoast Preparatory and Performing Arts (R1, R2)
- Six Rivers Charter High School (R1, R2)
- Trillium Charter School (R1, R2)

The Governing Board of Freshwater Charter School should respond to recommendation 2 to clarify the published administrative salary found at the California Department of Education’s *Ed Data* website and the self-reported administrative salary submitted to the Grand Jury.

SUMMARY – PART II – Mattole Valley Charter School

When doing the investigation of Humboldt County’s charter schools, the Humboldt County Grand Jury found many problems with its attempt to obtain clear, transparent, and accurate data for the Mattole Valley Charter School on its website. Such a lack of accuracy and transparency is a violation of Education Code, section 33126(d). The Mattole Valley Charter School’s website also lacked easy access to the School Accountability Report Card and other information that parents might need in order to make informed choices for the education of their children.

DISCUSSION – PART II – Mattole Valley Charter School

The Mattole Valley Charter School is the least transparent with its public records of all schools the Grand Jury investigated this year. What should be a very simple internet search for the average person wishing to learn about the Mattole Valley Charter School – finding API scores, number of teachers, budgets, and general school qualifications – leads to a frustrating series of dead ends that offer little or no meaningful information without searching further on its website using a “hit or miss” method. The Mattole Valley Charter School Website is <http://www.mattolevalley.com/>, and it requires many steps to access any useful information. When Mattole Valley Charter’s information *is* finally accessed by going first to <http://www.mattolevalley.com/resources/student-parent-resources/>, one must select “resources,” which leads to another menu. On that menu, there is a link that leads to the School Accountability Report Card. However, when one searches the School Accountability Report Card for Mattole Valley Charter School, one does not know if the data is for Mattole Valley Charter School, its sponsoring agent, Mattole Unified School District, or both.

If this sounds confusing, it is. Just getting to Mattole Valley Charter School's School Accountability Report Card is hard enough for the average person making an inquiry into the school. Reading Mattole Valley Charter School's School Accountability Report Card is just as confusing for the average person with limited to average internet skills, because of the numerous references to its sponsoring agency (Mattole Unified School District). If a person were curious about the charter school, the School Accountability Report Card refers the person back to the sponsoring agent, for much of the information sought. Once on the Mattole Unified School District's website, the person searching information through the School Accountability Report Card is directed not to Mattole Valley Charter School, but to one of the smaller, traditional schools in the Mattole Unified District. And if one selects one of those schools' School Accountability Report Card, one discovers that he/she must now download a .pdf file and use the latest version of Adobe Reader in order to access any information.

If a person wished to inquire about any one of the 12 learning centers of the Mattole Valley Charter School network, one would discover that there is no statistical information about any of the learning centers. Instead, there is a description of the center and a link connecting the interested party to an application for information. There is also a link that leads the interested party back to the Mattole Unified School District website, which has a link leading to the charter school, which leads one back to the learning center webpage where the search began.⁵

There also appears to be a complete lack of specific School Accountability Report Card data generally on the Mattole Valley Charter's website for any of the individual "learning centers" that are spread throughout Humboldt County and the contiguous counties bordering Humboldt. Mattole Valley Charter School runs these "learning centers" and receives full funding for the enrollees. However, there is virtually no specific information for interested parents regarding the quality of information in these "learning centers." When one selects the "SARC" link on the Mattole Valley Charter School, the result as of December 13, 2013, is: "*Oops! That page can't be found.*" In short, the public must simply take on faith, rather than on hard data, that 1) there are revenue-generating students at those "Learning Centers," educated by qualified teachers; and 2) those students are, indeed, participating in the state's mandated testing program, a requirement for funding.

However, once the persistent person does access the School Accountability Report Card information of Mattole Valley Charter School by going to www.sarconline.org or a California Department of Education website for charter schools, one finds that the data can be accessed only with much difficulty, provided one knows

- The Mattole Valley Charter School is identified by the state's data sources as "Mattole Valley Charter (#159). Mattole Valley Charter School can be accessed via a secondary link through the Humboldt County Office of Education's website;
- The API report on the state website reflects that only 451 of the 747 students for the 2011-2012 school year provide the data for the school's aggregated API scores⁶ (only for the elementary school aged children in the case of the Mattole Valley Charter (#159)).

⁵ Mattole Valley Charter School website <http://www.mattolevalley.com/learningcenters.html>

⁶ <http://www.humboldt.k12.ca.us/sarcviewer/mattole-charter/>

451 students is not the 95% of all students mandated to be administered state examinations.

When one looks that the information available concerning the test scores, the number of attendees, the number of teachers employed, and the salaries of the teachers, the information is also inconsistent with data posted on the California Department of Education's *Data Quest* site (a site intended to be a cross-reference to the posted School Accountability Report Card information), as well as with hard copy data contained in the information sent to the Grand Jury by request. Another website⁷ that provides School Accountability Report Card data also offers information inconsistent with Mattole's website. In short, the data for the *entire* Mattole Valley Charter School is nearly useless for the person wishing to find out about the quality of education, test scores, finances, and characteristics of either the Charter School or the Unified District, due to all of the data from both institutions being "blended," one organization with the other.

Such inconsistencies would lead any reasonable person to recognize that there is a plentiful lack of transparency in the information that both the Mattole Unified School District and the Mattole Valley Charter school are presenting to the public concerning their nearly six million dollars in annual taxpayer funds received per the stated enrollment in order to operate their "blended" schools, the charter school and the unified district..

Another troubling finding is the blurred line between the positions of Mattole Unified District's Superintendent and Mattole Valley's Charter School's Director, two positions embodied in a single individual who has charge of both budgets. The potential for the appearance of using the charter school, to raise revenue for its sponsoring Local Educational Agency (Mattole Unified) is high. This "blurred line" of dual roles is exacerbated because of the witness testimony that neither the Superintendent of the Mattole nor the Director of the charter school (the same person) receive regular, formal, written evaluations.

The Mattole Unified District has a reserve account of more than 43% of the total budget of both the Unified District and the Charter Schools' annual income, which for the school year 2011 – 2012 was \$6,281,722 (See Appendix, Table 5). Mattole Unified School District's reserves were \$2,754,244. The California Department of Education recommends between a 5% – 7% amount of the total annual school budget to be in a reserve account. To achieve such a large reserve account, a district must overestimate the fiscal needs of the schools, which seems to be the case by looking at Mattole Unified's published income and expense per student.⁸ According to the latest California Department of Education budget information for Mattole Unified District (School Year 2011-2012), the income per student was \$26,472, which is 300% higher than the average income per student for the districts against which Mattole Unified was compared in this investigation. (See Appendix, Table 3) However, the expenses per student of the Mattole Unified indicates \$20,885, leaving a surplus of \$5,587 per student for that year. The amount of carry-over per student is huge. Such large carry-overs, whether real or in error, are nevertheless published by the California Department of Education and can raise questions which warrant

⁷ <http://www.zillow.com/petrolia-ca/schools/mattole-valley-charter-159-school-86843/>

⁸ California Department of Education - District Comparisons – income and expense per student http://www.ed-data.k12.ca.us/App_Resx/EdDataClassic/fsTwoPanel.aspx?#!bottom=/_layouts/EdDataClassic/fiscal/MC-Results.asp

explanations. (See Appendix, Table IV.) The surplus revenue from the Mattole Valley Charter School, according to the Mattole Unified District's own hard copy Audit Reports and witnesses testifying before the Grand Jury, is then transferred into the reserve of the Unified District, the charter school's own sponsoring school district. The sponsoring district of a charter school is charged with providing the oversight for the charter school. When the chartering sponsor, responsible for oversight of the chartered agency, are one in the same for all intents and purposes, the potential exists for lax or questionable oversight, especially if the chartered agency appears to be generating revenue for the charter's sponsor.

Furthermore, the data in the Appendix, Table 6 indicates that Mattole Unified District (the only Mattole Valley Charter School connected site) has 67 teachers and 50.6 Full Time Equivalent teachers for the 2011-12 school year. The figures for Mattole Valley Charter School are embedded into the figures for the Mattole Unified District. The California Department of Education's published figures are inconsistent with the facts of both the hard copy of the District's audit as well as the requested personnel sheet that displays all of the teachers by Full Time Equivalency. From the Mattole Valley Charter's own data sheets dated 7/1/2011, there were 39 Full Time Equivalent teachers and 11 administrative personnel.

FINDINGS for PART II

- F1. There is no clear and easily accessible access to the School Accountability Report Card listed prominently on the first page of the Mattole Valley Charter School. Instead, there is a School Accountability Report Card link on the first page of Mattole Valley's website that leads to a page listing School Accountability Report Cards for traditional schools in the Mattole Unified School District.
- F2. The website-published financial and School Accountability Report Card records of both Mattole Unified District and its sponsored Mattole Valley Charter School are "blended," blurring the transparency and clarity of information for both of those institutions
- F3. The position of Superintendent of Mattole Unified District and the Director of the Mattole Valley Charter School are performed by one individual for both institutions, blurring the line between the District's Local Educational Agency's oversight obligation for the sponsored Charter School.
- F4. California Department of Education published website data and self-reported; hard-copy data are inconsistent and / or contradictory with each other, especially as it relates to the number of teachers employed and average daily attendance (ADA) data for Mattole Valley Charter School.
- F5. The 12 "learning centers" of the Mattole Valley Charter School have no individual data published for the public, either on the Charter School's own website or on any California Department of Education website.

- F6. The Superintendent of Mattole Unified School District has not been given a formal, written evaluation for several years according to witness testimony.

RECOMMENDATIONS for Part II

- R1. Mattole Valley Charter School needs to display a prominent, single-click link to its School Accountability Report Card on the first page of its website, using the California Department of Education’s recommended format, and which clearly states “School Accountability Report Card (SARC)” in order to comply with the “spirit of the law” (Ed Code 33126(d). (F1, F2)
- R2. The Mattole Unified District needs to separate its demographic and financial data from those of the Mattole Valley Charter School on all publicly accessible websites, in order that the public may have a clear and transparent understanding of the charter school as differentiated from the traditional schools in the sponsoring district. (F2)
- R3. Two distinct positions need to be created with one clearly distinct person for each position: one person for the Superintendent of the Mattole Unified District and another person for the Director of the Mattole Valley Charter School in order to avoid any possibility of the appearance of a conflict of interest between the two institutions. (F3)
- R4. The Superintendent of the Mattole Unified School District or his designee needs to check the published California Department of Education’s data against the actual district data to make certain that both sets of data are accurate and consistent. (F4)
- R5. Mattole Valley Charter School needs to establish meaningful, easily navigated websites for each of its learning centers, including a separate School Accountability Report Card for each of the learning centers in order to assure the public that students in those “learning centers” are receiving sound education. (F5)
- R6. The Governing Boards of the Mattole Unified School District and the Mattole Valley Charter School are urged to give both the Superintendent of the District and the Director of the charter school an annual, formal, written evaluation. (F6)

REQUEST FOR RESPONSES for Part II

Pursuant to Penal Code section 933.05, the following responses are required:

- The Governing Boards of the Mattole Union School District and / or the Mattole Valley Charter School. (R1 through R6)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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California Department of Education – Data Quest <http://dq.cde.ca.gov/dataquest/>

California Department of Education - District Comparisons – income and expense per student
http://www.ed-data.k12.ca.us/App_Resx/EdDataClassic/fsTwoPanel.aspx?#!bottom=/_layouts/EdDataClassic/fiscal/MC-Results.asp

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Coastal Grove Charter School

http://coastalgrove.org/documents/SchoolAccountabilityReportCard_SARC_2011-12_CoastalGroveCharterSchool_02-15-13.pdf

Freshwater Charter Middle School http://internet.humboldt.k12.ca.us/freshwater_sd/charter.php
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml

Humboldt County Charter Schools <http://www.humboldt.k12.ca.us/charter-schools.php>

Humboldt County Grand Jury Report of 2004-05, pp 17 ff
<http://co.humboldt.ca.us/grandjury/reports/2004-2005/2004-05finalreport.pdf>

Jacoby Creek Charter School
<http://www.humboldt.k12.ca.us/jacobycreekschool/SARCJacobyCreekCharter1011English.html>

Laurel Tree Charter School http://www.laureltreelc.org/files/SARC_2011-2012.htm

Mattole Valley Charter (#159) <http://www.sarconline.org/SarcPdfs/Temp/12753821230135.pdf>
Northcoast Preparatory and Performing Arts Charter
http://www.humboldt.k12.ca.us/blagoon_sd/blcssarc.htm (no SARC since 2007)

Pacific View Charter School <http://www.humboldt.k12.ca.us/pacificview>

Six Rivers Charter School <http://www.nohum.k12.ca.us/srcs/ebridge/>

Trillium Charter School <http://trilliumcharterschool.org>

Union Street Charter School <http://www.unionstreetcharter.org/>

APPENDIX

Note: Redwood Coast Montessori is not included on this chart, because it does not use the California assessment instruments to measure student achievement.

Table 1 – Annual Performance Index (API) Scores for 2007, 2010, and 2013	Yr 2007	Yr 2010	Yr 2013
Alder Grove Charter	661	694	698
Coastal Grove Charter	735	777	826
Freshwater Charter	851	869	855
Fuente Nueva Charter	891	823	836
Jacoby Creek Charter	900	909	921
Laurel Tree Charter	--	--	714
Mattole Valley Charter	651	724	740
Northcoast Prep and Performing Arts	--	881	899
Pacific View Chart	573	616	577
Redwood Prep	--	--	878
Six Rivers Charter	778	780	741
South Bay Charter	--	--	741
Trillium Charter	--	702	761
Union Street Charter	868	929	926
State API Scores	689	729	657

Table 2 – Average Teacher and Administrator Salary compared to State Averages				
School	This School's Average Teacher Salary	State Average Teacher Salary	This School's Average Administrator Salary	State Average Administrator Salary
Alder Grove	\$46,339	\$55,637	\$92,241	\$99,473
Coastal Grove	\$41,871	\$55,637	\$70,774	\$99,473
Freshwater Charter	\$55,555	\$55,637	\$18,400	\$99,473
Fuente Nueva	\$44,916	\$55,637	\$55,400	\$99,473
Jacoby	\$62,443	\$55,637	\$100,000	\$99,473

Creek Charter				
Laurel Tree	\$40,000	\$55,637	\$41,000	\$99,473
NCP and Performing Arts	\$43,500	\$55,637	\$77,000	\$99,473
Pacific View Charter	\$40,000	\$55,637	\$68,092	\$99,473
Redwood Prep Charter	\$38,999	\$55,637	\$50,000	\$99,473
Six Rivers Charter	\$55,720	\$55,637	\$85,248	\$99,473
South Bay Charter		\$55,637		\$99,473
Trillium Charter	\$30,000	\$55,637	\$21,000	\$99,473
Union Street Charter	\$55,582	\$55,637	\$104,460	\$99,473

Table 3 District Comparison Results for Enrollment, Expenditures / Expenses per Student⁹

District	Enrollment	Expenditure per Student	Revenue per Student
Arcata Elementary	932	\$9,707	\$10,090
Fortuna Elementary	1,288	\$8,654	\$9,077
Fortuna Union High	1,075	\$8,934	\$9,101
Freshwater Elementary	332	\$8,747	\$8,329
Jacoby Creek Elementary	427	\$7,469	\$7,438
Kneeland Elementary	32	\$12,855	\$12,263
Mattole Unified	794	\$24,093	\$27,341
Northern Humboldt Union High	1,722	\$11,074	\$10,495
South Bay Union Elementary	849	\$8,552	\$9,490
For all CA Districts	*	\$8,674	\$8,794

⁹ <http://www.ed-data.k12.ca.us/Pages/Home.aspx>, April 19, 2014 (select “Compare Districts” and follow website instructions).

Table 4¹⁰

District Finance Comparison Results, Fiscal Year 2011-12¹¹
 (10 of 10 matches listed, sorted by District Name)

<u>County Name</u>	<u>District Name</u>	<u>Enrollment</u>	<u>ADA</u>	Revenues per Student	Expenditure per Student by Type
				<u>Total Revenue</u>	<u>Subtotal Expenditures</u>
Humboldt	<u>Arcata Elementary</u>	<u>913</u>	<u>483</u>	<u>\$9,314</u>	<u>\$10,165</u>
Humboldt	<u>Fieldbrook Elemeary</u>	<u>128</u>	<u>124</u>	<u>\$8,163</u>	<u>\$7,376</u>
Humboldt	<u>Fortuna Union High</u>	<u>1,150</u>	<u>1,075</u>	<u>\$8,683</u>	<u>\$8,387</u>
Humboldt	<u>Freshwater Elementary</u>	<u>326</u>	<u>264</u>	<u>\$9,151</u>	<u>\$9,059</u>
Humboldt	<u>Humboldt County Office of Education</u>	<u>467</u>			
Humboldt	<u>Jacoby Creek Elementary</u>	<u>443</u>	<u>428</u>	<u>\$7,341</u>	<u>\$6,819</u>
Humboldt	<u>Mattole Unified</u>	<u>724</u>	<u>59</u>	<u>\$26,472</u>	<u>\$20,885</u>
Humboldt	<u>Northern Humboldt Union High</u>	<u>1,711</u>	<u>1,386</u>	<u>\$11,055</u>	<u>\$10,803</u>
Humboldt	<u>Pacific Union Elementary</u>	<u>513</u>	<u>459</u>	<u>\$7,646</u>	<u>\$7,002</u>
Humboldt	<u>South Bay Union Elementary</u>	<u>739</u>	<u>411</u>	<u>\$9,575</u>	<u>\$8,965</u>

¹⁰ http://www.ed-data.k12.ca.us/App_Resx/EdDataClassic/fsTwoPanel.aspx?#!bottom=/_layouts/EdDataClassic/finance/MC-FinanceResults.asp, December 12, 2013

¹¹ http://www.ed-data.k12.ca.us/App_Resx/EdDataClassic/fsTwoPanel.aspx?#!bottom=/_layouts/EdDataClassic/finance/MC-FinanceResults.asp, December 12, 2013

Table 5¹²

GOVERNMENTAL FUNDS (01-60)
Mattole Unified, 2011-12

Fund	Description	Adjusted July 1 Beginning Balance	Total Revenues	Total Expenditures	Other Financing Sources/Uses	June 30 Ending Balance
General Fund (01-08)						
01	General Fund	\$346,971	\$1,573,788	\$1,253,319	\$(236,626)	\$430,814
Subtotal, General Fund		\$346,971	\$1,573,788	\$1,253,319	\$(236,626)	\$430,814

Table 6¹²
District Comparison Results, Fiscal Year 2011-12
(10 of 23 matches listed, sorted by Enrollment)

<u>County Name</u>	<u>District Name</u>	<u>Enrollment</u>	<u>Teachers</u>		
			<u>Number of Teachers</u>	<u>Full-Time Equivalents</u>	<u>Pupils per Teacher</u>
Humboldt	<u>Green Point Elementary</u>	<u>9</u>	<u>3</u>	<u>1.2</u>	<u>7.5</u>
Humboldt	<u>Maple Creek Elementary</u>	<u>14</u>	<u>3</u>	<u>1.1</u>	<u>12.7</u>
Humboldt	<u>Orick Elementary</u>	<u>17</u>	<u>4</u>	<u>1.9</u>	<u>8.9</u>
Humboldt	<u>Kneeland Elementary</u>	<u>30</u>	<u>4</u>	<u>3.2</u>	<u>9.4</u>
Humboldt	<u>Peninsula Union</u>	<u>39</u>	<u>4</u>	<u>3.6</u>	<u>10.8</u>
Humboldt	<u>Bridgeville Elementary</u>	<u>40</u>	<u>3</u>	<u>3.0</u>	<u>13.3</u>
Humboldt	<u>Big Lagoon Union Elementary</u>	<u>54</u>	<u>6</u>	<u>3.8</u>	<u>14.2</u>
Humboldt	<u>Garfield Elementary</u>	<u>61</u>	<u>7</u>	<u>3.8</u>	<u>16.1</u>
Humboldt	<u>Fieldbrook Elementary</u>	<u>128</u>	<u>11</u>	<u>7.0</u>	<u>18.3</u>
Humboldt	<u>Mattole Unified</u>	<u>724</u>	<u>67</u>	<u>50.6</u>	<u>14.3</u>
Averages	for all Districts	5,959	*	*	22.7

Note: * A statewide average for this value is not computed by the California Department of Education.

¹² http://www.ed-data.k12.ca.us/App_Resx/EdDataClassic/fsTwoPanel.aspx?#!bottom=/layouts/EdDataClassic/finance/AllFunds.asp?tab=1&reportNumber=4&level=06, December 13, 2013

TABLE 7

Special Revenue Funds (09-20)

09	Charter Schools Special Revenue Fund	\$1,019,901	\$4,653,889	\$4,256,213	\$222,426	\$1,640,003
13	Cafeteria Special Revenue Fund	19,591	49,004	64,229	14,200	18,567
17	Special Reserve Fund for Other Than Capital Outlay Projects	644,327	4,938	0	0	649,265
Subtotal, Special Revenue Funds		\$1,683,820	\$4,707,831	\$4,320,442	\$236,626	\$2,307,835
Permanent Funds (57-60)						

HUMBOLDT COUNTY JAILS SITE VISIT REPORT

SUMMARY

By law, the Grand Jury is required, annually, to visit and report on the conditions of all correctional facilities within Humboldt County. This report is the result of the Grand Jury's observations of these facilities. It also incorporates the responses to the findings and recommendations made in last year's report. We are not reporting any new Findings or Recommendations and thus no responses are requested.

BACKGROUND

Penal Code 919(b) provides that the Grand Jury "shall inquire into the conditions and management of the public prisons within the County." To fulfill this responsibility, the Grand Jury annually undertakes the task of visiting and evaluating the physical conditions and management of each jail and holding facility located within Humboldt County. Two or more members of the jury visit each facility at least once. As has been done historically, the jury also visited a number of facilities operated by law enforcement agencies that are not actually "public prisons."

After completing these inspections, the Grand Jury compiles a report of its observations, findings, and recommendations.

FACILITIES INSPECTED

- **Sheriff's Department:**
 - Humboldt County Correctional Facility (County Jail)
 - Main Evidence Room
 - Hoopa Sheriff's Station
 - McKinleyville Sheriff's Station
 - Garberville Sheriff's Station
 - County Animal Shelter
 - Sheriff's Boat Yard
 - Sheriff's Work Alternative Program (SWAP) Wood Yard
 - Sheriff's Work Alternative Program (SWAP) Farm

- **City Police Departments:**
 - Eureka
 - Arcata
 - Fortuna
 - Ferndale
 - Rio Dell

- **Humboldt County Probation Department**
 - Juvenile Hall
 - Northern California Regional Facility
 - Community Corrections Resource Center

- **State of California facilities located within Humboldt County**
 - Eel River Conservation Camp #31
 - High Rock Conservation Camp #32

- **Humboldt County Coroner**

DISCUSSION

Humboldt County Correctional Facility

In the Humboldt County Jail, inmates have substantial freedom of movement due to the way the facility is constructed. Most inmates are housed in large dormitory style compounds. Staff is encouraged to interact with the inmates in a non-threatening manner (sitting at tables with them, even playing games for a brief period). There seems to be adequate security when moving inmates for court appearances. Visitor rooms seemed in good condition. There is a sick bay area, though inmates have few diversions when they are there so that they do not feign illness in order to get more comfortable and more private accommodations. There did not seem to be evidence of overcrowding: this concern was raised in 2012-13 Grand Jury report because of prison realignment. If necessary, inmates can be double celled in the more secure wings of the facility. All movement of staff and inmates (to use elevators, to move from housing units to access court rooms, etc.) is controlled from the central command post where staff can maintain visual contact with all aspects of the facility via cameras. Inmates are provided a booklet that contains the facility's rules and regulations upon booking.

The 2012-13 Grand Jury recommended that the broken cameras in the women's cellblock should be repaired or replaced. The Sheriff's Department did submit a mid-year supplemental budget request to the Humboldt County Board of Supervisors but that request was denied. Funding for the necessary cameras is included in the department's 2014-15 budget request which is scheduled to be voted on in late May.

The 2012-13 Grand Jury recommended that a full-time maintenance worker be assigned to the jail. The Public Works Department is responsible for providing this kind of staff. The Public Works Department also submitted a supplemental budget request that was also denied. Funding for this staff position is included in the Department's 2014-15 budget request.

Animal Shelter

The County Animal Shelter is an impressive facility for lost animals. Every animal cage is cleaned daily. There are wings for isolating animals that may be ill or who need special medical attention. Each dog is exercised daily, either by staff or a team of dedicated volunteers. Cats have

a couple of large spaces for socializing. Staff seems very dedicated to the mission of this facility. Euthanasia is used only as a last resort.

Hoopa, McKinleyville

As has been noted in previous Grand Jury reports the Hoopa Sheriff's station has not been used for many years. The Sheriff's Dept. is of the opinion that if they wanted to put the space back into use, either as a work area or as a holding area, it would require significant refurbishing to bring it into compliance with OSHA and jail accreditation requirements. It is felt that that could be prohibitively expensive; there are no plans to do so. Last year's Grand Jury recommended that the County continue with attempts to secure funding for a more modern station. The Sheriff and the County agreed that such a facility would be desirable, but it is a very low County priority. The facility does have jail cells but it is obvious that they have not been used in the recent past.

The Sheriff's Department officers assigned to the Hoopa area share the California Highway Patrols' facility in Willow Creek. There are no holding cells in this building. Similarly, the McKinleyville Sheriff's Station does not have any holding cells.

Garberville

The Garberville Sheriff's Station facility is composed of a small office complex housing two support staff and the deputy assigned to the station, with space for deputies working the area to do paperwork. In addition, the facility contained four cells. Each cell contained two bunks and a toilet. We did not observe any shower facilities. We were told that the cells were very seldom used and only for short periods of time, e.g., while reports concerning arrested persons were prepared. From both the information we were given and the appearance of the cells we believe that these cells would not be used for any longer period of time than an arrestee might commonly be held in a patrol vehicle. We were also informed that the most common current use of the cells is to hold dogs that are awaiting transport to the animal shelter.

Evidence Room

The person conducting our tour of the County's evidence room and all employees of this unit are not sworn deputies. We were shown a group of lockers, all with individual locks. When the sworn deputies bring in evidence it is placed in these lockers and locked. At the next regular shift the person in charge of tagging, storing and retrieving the evidence opens each of the lockers and stores that evidence in the evidence room. The evidence room is located in the old jail which no longer houses inmates. Each cell has had shelves installed to hold items of evidence. There is one person who is responsible for the storing and retrieving of evidence.

Boatyard

When we visited the boat yard, we were unable to enter the evidence storage section so we cannot comment on last year's Grand Jury recommendation that a safe, controlled, and organized method of storing evidence be developed. We did observe the Sheriff's Department search and rescue vehicles and boats, as well as confiscated vehicles awaiting drug case forfeiture

determinations that are stored in this location. Volunteer rescue teams also store equipment there.

Sheriff's Work Alternative Program (Swap)

Committee members visited two permanent sites operated by the Humboldt County Sheriff's Work Alternative Program. The first of these was the "wood lot". The sheriff accepts downed trees from many sources, which is delivered to the wood lot. Participants cut, split and stack wood into measured cord containers and load the wood into recipients' vehicles. The cords of wood are sold at lower than market prices to eligible seniors. Recipients, who are means tested, buy the wood on an income determined sliding scale. Participants are subjected to an employment environment: they are expected to come to work on time and to work as they are instructed by correctional officers. Those with mechanical abilities also learn some maintenance skills. The wood lot is most active on weekends. One of the avowed purposes of the program is to allow participants to retain, or obtain, employment. In the past individuals could not participate unless they were able to pay a daily fee. Funding for the AB 109 realignment plan has allowed the sheriff to cease charging for participation. The wood lot is located near St Joseph's Hospital.

We also visited the "hog farm", a small agricultural project near Fortuna where pigs are bred and raised. Pigs are sold either to 4H participants or others who want to raise them or are butchered and sold as meat or are used in the County Jail. Project participants perform the basic maintenance at the facility. There is also a smaller wood cutting operation and a field for truck farming. Produce grown there is used at the jail, as is some meat. A rancher runs a small herd of cattle on county owned land. The day of our visit the sheriff had custody of a couple of horses that had been rescued and was trying to find homes for them. There does not appear to be any custodial aspect to the program. Participants are free to walk away, or fail to arrive, and sanctions are imposed later.

Participants who have special skills that can be used within the program are encouraged to make those skills available. At the hog farm, a barn was built by a skilled contractor/builder who was participating in the program. Generally the program engages in barter and other negotiations to keep costs down. SWAP participants work in a variety of community service programs in addition to wood cutting and agriculture.

It was apparent that the correctional officers we met were motivated to make the program successful; indeed they expressed pride in it. Last year's Grand Jury recommended that the SWAP effort should be expanded to include more non-violent convicts. We were told that the number of people who could potentially participate in the program was substantially larger than the number who actually did participate, that is, the program could expand to serve more sentenced persons at little or no cost. It was suggested that one of the reasons for a relatively low participation rate was that the program did not offer credits that are granted to prisoners. If a person is sentenced to 60 days in jail and elects to spend that time in custody he or she will serve an actual total of 30 days. A person sentenced to 60 days who opts for the work alternative program must work for 60 days. Someone with a regular job who chooses to participate 2 days a week will be tied to the program for 30 weeks; a person who chooses instead to do jail time will be released in 30 days. The Sheriff's Department feels there are fairness issues at play. The

person opting for jail time will be locked up for 30 days; a person opting for the work program will spend only 8 hours each day working and goes home each evening. Staff suggested that if participation in SWAP could be tied to an educational component it might be easier to allow participants to obtain credits.

Fortuna, Ferndale, Rio Dell, and Arcata

The Fortuna, Ferndale, and Rio Dell Police Department facilities do not contain holding cells. The Eureka Police Department's holding cells have been converted to evidence rooms, and there are no plans to use them as incarceration cells in the future. The Arcata Police Department facility has one holding cell. It is used only once or twice a month when staffing does not safely allow transport to the County Jail. The cell is cleaned regularly.

Juvenile Hall

Juvenile Hall is a very old facility. The layout of halls with cells is awkward and creates a challenge for staff to maintain visible access of cells and inmates and thus security. It seems clean and well maintained. The cells are grim. There are large open spaces for recreation and activities, and a dedicated space for schooling. Wards have access to outdoor recreational facilities (shared with the Regional facility, though the two populations do not mix). There are special challenges related to the mix of youths who are held here. Some are incarcerated for only a few days, some for months or longer. The walls are covered with notices about programs and resources; wards earn points for good behavior, etc. Staff seemed very friendly and relaxed and relate to their charges well.

The Probation Department finally received approval to build a new facility on April 11, 2014 from the State Public Works Board. Probation has been working with architects since September 2013 on space needed and design concepts; that process will continue until the project is put out to bid to contractors in late spring or early summer. The Department hopes to occupy the new Juvenile Hall by September 2016 if everything goes as planned. The grant funding from Senate Bill 81 enacted in 2007 is in the amount of \$12,930,869. The County is contributing \$2.2 million from Certificates of Participation and another \$900,000 from the Criminal Justice Construction Fund, which comes from court fees and fines and can be used for projects such as this.

New Horizons Regional Facility

This is a relatively new facility that houses the New Horizons program for youths who have a serious criminal history and/or who have mental health issues. Wards stay here for about 6 months on average. There are rooms for counseling, visiting, recreation, and schooling. There is a courtroom in the same building where the legal proceedings for these youths are held. The facility is light and airy with an appealing mural painted by the inmates on one of the walls in the main hall. Cells are less dismal than those in Juvenile Hall. As noted above, wards have access to outdoor recreational areas. Again, staff seemed friendly and related to their charges well. Other counties send youthful offenders to this program. These counties pay Humboldt for using this facility.

County Corrections Resource Center

The County Corrections Resource Center is a new office just two blocks from the County Courthouse in downtown Eureka. This is a location where adult offenders under the supervision of the County Probation Department can access mental health, vocational, and other services. We were told that initially some neighbors of the new facility were wary about the clientele that this center serves. However, there have been no reports of any kinds of difficulties since it has opened. Staff likes the close location to the County Courthouse and Correctional Facility. This facility, run jointly by the Humboldt Probation Department and the Department of Health and Human Services, will likely be central to the hoped for success of Prison Realignment.

High Rock and Eel River Conservation Camps

Eel River Camp is a few miles northwest of Garberville/Redway and High Rock is about 25 miles further north off of Highway 101. These camps are operated by the California Department of Corrections and Rehabilitation (CDCR).

The camps provide inmate firefighters to CalFire, the state firefighting agency. Inmates involved in firefighting are organized into crews of approximately 8-10 with each crew under the command of a CalFire Captain. CalFire trains the inmates to fight fires and also takes charge of them during non-fire "grade" work, maintaining trails, cleaning roadways, etc. CDCR does not accompany these crews but maintains close contact. Inmates also supply much of the labor for maintaining the camps: food prep and service; much of the maintenance of buildings, grounds and vehicles; limited access clerical work; laundry. We were told by staff that inmates consider the camps a better place to do time than in a conventional prison and as a result there is far less aberrant conduct than in the prisons proper. The camps are not fenced but escape is infrequent and very seldom successful. We were also told that recidivism is markedly less than in CDCR proper, although we were given no statistics. Inmates are trained for firefighting and in other forest maintenance skills. Before being sent to the camp system inmates are given a two week preliminary training program at the camps' administrative center near Susanville, California Corrections Center (CCC). Inmates sometimes, but rarely, attain public firefighting jobs after release but there are numerous forestry related private enterprises that employ ex-inmates who have successfully completed their camp sentences. Inmates doing "grade" work, in a firefighting capacity or elsewhere, are encouraged and expected to maintain good physical condition. Both camps have exercise facilities. The camps maintain visiting areas, including conjugal facilities. Visiting occurs on weekends. Because of the distance from urban areas visits are less than commonplace. Both camps appear well-maintained. We did not interview inmates. All of the northern camps are administered from CCC. Both camps have facilities to provision fire crews in the field.

Eel River has a normal complement of about 110 inmates. It is also the site of a substantial warehousing operation that supplies necessary commodities (primarily food, but also bedding, clothing, etc.) to camps in the northern part of the state. This camp has also acquired a large surplus greenhouse which, in season, supplies fresh produce. There is a library of donated books and the camps trade books periodically. There are group areas primarily for television viewing. Inmates are housed in dormitories. We saw no evidence of severe crowding. This camp is

physically larger than High Rock and can serve as a staging area for non-resident crews in the event of a fire emergency. It has a heliport. There is a hobby area and inmates also work in a cabinet shop.

High Rock has a normal complement of about 100. A description of its facilities would mirror that above. The officers at both camps sought to give us the impression that these institutions are safe, well run and afford significant advantages to inmates who are able, and choose, to participate. While we visited on a weekday and there were few inmates present, the atmosphere seemed significantly more relaxed than is typically observed in mainline prisons.

The last Jails Committee report criticized the medical provisions available to inmates, stating that inmates who were ill or injured were kept without treatment for as long as several days awaiting transport back to Susanville on CDCR buses that serve all the northern camps on a regular basis. When we first contacted High Rock, our contact relayed an anecdote that High Rock had just sent an injured inmate to a local physician. We suspected that this might be a response to that report. The report appears to have created consternation significant enough to cause CDCR to send a high ranking official of the northern camps to accompany us. CDCR is currently operating under a number of federal court orders regarding, among other concerns, its provision of medical care to inmates and is unsurprisingly sensitive to such criticism. The officials we met with at both camps told us that they felt they failed to adequately explain inmate medical care to the last Grand Jury visitors. They were careful to not openly criticize that report but emphasized that they left an inaccurate impression. This was reinforced by the northern official, who we suspect was there for that purpose.

They told us that if an inmate is seriously ill or injured, (perhaps on a level which would require an emergency room visit), that inmate is transported to the nearest hospital, either Garberville for Eel River or Fortuna for High Rock. Depending on the level of the injury that transport may be done by ambulance. We did not discuss what would happen to an inmate admitted to the hospital but presumably that person would be transported to CCC as soon as is practicable. In less serious situations the inmate would either be in camp at the time of the illness or injury or would be transported back to camp. The inmate's symptomatology would be described to a nurse or other medical provider at CCC whose advice could range from "take two aspirin and call me in the morning" to "get him to a hospital now". If the situation called for more than minor medication available at the camp but not hospitalization the inmate would be transported back to CCC on the next available bus. We did not address the situation of persons who might require medical isolation, although that could presumably be handled at a local hospital. It might be important to note that camp inmates have presumably been medically screened and are in work situations that frequently result in minor injury. The anecdotes related to us ranged from a person who hit his foot with a splitting maul and who did not complain of significant pain and whose skin was not broken to another person who reacted to poison oak in the vicinity of his eyes. In any case it was clear that they wanted us to know that they do not leave seriously ill people in the camp for extended periods of time awaiting medical transport. (While many of the CalFire personnel are certified EMTs they would not provide care except for immediate injuries, such as stopping bleeding.)

It was also of interest to us that the camps are now beginning to accept "realigned" persons sentenced to substantial periods of county jail time. This is potentially relevant to those charged with implementing AB 109. There are approximately 4000 inmates in the conservation camps statewide; proportionately that might mean that 10-15 of those slots could go to Humboldt. These camps gave us the impression that they are always interested in inmates whose criminal and experiential histories might make them suitable candidates. It may be the case that the class of Humboldt County realigned inmates contains people whose crimes are non-threatening, who are in good physical health, who are experienced in woodland life and who may even have experience as volunteer firefighters. Both Eel River and High Rock are men only (CalFire personnel include women) but we were told there are camps that do accept women. The county would have to pay the not insignificant cost of maintaining its inmates at the camps.

Coroner's Office

The Coroner's office is located in the old General Hospital building at Harris and H Streets in Eureka. The space dedicated to the three deputies is cramped and leaves little opportunity for private interviews and/or conversation. When staff needs to interview privately they have to use the Coroner's personal office. Obviously that moves the Coroner away from his current work, which is inefficient.

The Deputies handle parts of their investigations by telephone. Because of the crowding there is no opportunity for private conversations. Confidentiality is a critical part of the Coroner's overall mission and duty to Humboldt County residents.

The Coroner, an elected official, told us he supports the elimination of the Coroner's Office in favor of a Sheriff-Coroner. Most California counties do combine these functions in a single elected office. In the past this change has been opposed here by some individuals who are concerned about possible lack of independence in investigation of Sheriff's Department related deaths. We also noted that much of the information technology in the office is outdated and should be modernized.

CONCLUSIONS

The Grand Jury is generally favorably impressed with the way in which correctional matters are handled in the County. Despite continuing uncertainties about budgetary matters and the still not fully realized ramifications of the state's realignment mandates for the County, the staffs seem genuinely committed to working with offenders so that offenders may resume healthy and productive lives. They seek ways to expand programs that are evidence based and that benefit the larger community as well as the offenders themselves. We hope all who live in Humboldt will join us in wishing them the best of luck.

LATE NIGHT/EARLY MORNING RELEASE

SUMMARY

The Humboldt County Grand Jury received a complaint asking it to look into several issues regarding late night/early morning release of inmates from the County Jail. The complainant expressed concern that release of persons in downtown Eureka late at night and with no resources--no money, no transportation, no housing-- was contributing to increased crime.

The Grand Jury investigated:

- The late night/early morning release of inmates from the Humboldt County Correctional Facility,
- The problem of inmates who have been arrested in distant areas of the county, and who are released in downtown Eureka,
- The return of cash to released inmates rather than the issuance of a check in lieu of the money surrendered at the time of arrest.

The primary focus of our investigation was on the policies and procedures utilized by correctional facility staff when dealing with people arrested for inebriation and held in the correctional facility for only a short time. However, our investigation also looked at the releases of all inmates, and we conclude that the same policies and procedures should be in effect for any inmate.

BACKGROUND

There have been three deaths in the last year that involved inmates released from the Humboldt County Correctional Facility either late at night or early in the morning. A "Town Hall" Meeting in April of 2014 at the Wharfinger Building was held for the citizens of Humboldt County. Representatives of many of the County's Law Enforcement Agencies were in attendance. When the meeting was opened to public comment, many people voiced the belief that the three deaths were attributable to late night/early morning release from the correctional facility.

The Sheriff has recently issued a press release (May 6, 2014) announcing modified release policies for those held only a short time for inebriation. Essentially the new policies require that, on release, correctional officers document that inmates are told that they can stay in the waiting area of the jail until morning if they so desire and that cash taken from those being held only for short periods of time be returned. It is of course too soon to be able to assess the impact of this modification of release policy. The Sheriff's press release indicates that only a small number of those released elect to stay in the jail, and many are still released without the return of the cash they had on their persons when arrested.

APPROACH

We received a copy of the Humboldt County Correctional Facility Policies and Procedures for detention in sobering cells, when inmates "are a threat to their own safety or the safety of others

due to their state of intoxication,” revised December 20, 2013. We include two portions of the policy here as it refers to times of release for those inmates who are arrested for intoxication.

Procedure NO. B-007

Inmates who are eligible to be released from custody after being held due to the level of their intoxication, may be released when the Shift Supervisor determines that they are no longer a threat to their own safety or the safety of others due to the state of their intoxication and are able to complete the booking and release procedures. (Paragraph #20)

The timeframe an arrestee is to remain in custody due to the state of their intoxication can vary and is to be determined by the Shift Supervisor. Generally, three to four hours from the time of arrest is a guideline Shift Supervisors may use to consider if an arrestee is ready for release. However, other factors may come into play that could reduce or extend the three to four hour time frame including, but not limited to, the intoxicating substance ingested (alcohol, drugs, glue, paint or a combination of substances), arrestee’s age, gender, weight and other medical or psychological issues, and the display of aggressive behavior. Health Services staff is to be consulted when there are any questions or concerns relative to the health and general physical well-being of the arrestee. When a Shift Supervisor deems it necessary to consult with Health Services staff, the Shift Supervisor shall write a report outlining the reasons for consulting the Health Services staff on the release. (Paragraph #21)

In addition to sobered inebriates, the jail regularly makes late night/early morning releases of inmates who have completed their sentences.

The Jury met with Humboldt County Correctional Facility officers to discuss the policy of early morning release, the interaction between law enforcement and mental health care providers, and the obligation and/or desirability of returning detainees to their place of arrest.

Members of the Jury met with the Department of Health and Human Services and with an executive from Humboldt Transit Authority as well as a Humboldt County Supervisor. Some members attended a “town hall” meeting where a panel of criminal justice officials discussed the events leading to the death of a local citizen.

DISCUSSION

Time of Release

The Sheriff and Humboldt County Correctional Facility decision makers told us they were concerned that detaining arrestees beyond the time when they were sober enough to not pose a threat to others or themselves could open the county to civil rights liability. California law provides that an arrestee must be brought before a court for arraignment within 48 hours of arrest. (Penal Code Section 825) The United States Supreme Court has held that, absent special circumstances such as punitive delays, arrestees can be held for up to 48 hours before either

being released or brought before a magistrate. (*County of Riverside v. McLaughlin et al* (1991)). [See also *Teter v. Newport Beach*, (2003) 30 Cal 4th 446 for the California Supreme Court's holding that persons arrested with the contemplation of release pursuant to Penal Code Section 849 (b)(2) (intoxicated persons) are prisoners and not civil committees.]

We were told that the Sheriff feels constrained by Penal Code Section 849(b) (2). In relevant part that section says "Any peace officer *may* release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever....The person arrested was arrested for intoxication only "***and no further proceedings are desirable***". Emphasis supplied.

It seems clear to the Jury that this section is discretionary. It says an officer may do certain things but is not required to do them. In a situation where the safety of the community is at issue, the Jury believes that it is extremely unlikely that any court will hold that the Sheriff is violating the law by deciding that the exercise of such discretion should not occur between the hours of 9 pm and 6 am when the exercise of that discretion can put the community at risk. The Sheriff should order that no decision as to whether or not "no further proceedings are desirable" will be made between the hours of 9 pm and 6 am.

We believe that it is unlikely that any person lawfully arrested could make a successful claim against the county because he or she was held until the morning following the arrest because the Sheriff has concluded that release between the hours of 9 pm and 6 am constitutes an avoidable hazard. Humboldt County Correctional Facility policy currently allows releasees to wait until morning in a lobby, but many releasees choose to leave the jail in the middle of the night. The people of Humboldt County would be better served if Humboldt County Correctional Facility stopped releasing inmates between 9 pm and 6 am.

Place of Release

California Penal Code Section 686.5 mandates that for an indigent person who is arrested "more than 25 airline miles" from where he or she is released from custody and who will not be charged, "the arresting agency shall, at his request, return or provide for return of such person to the place of his arrest". Humboldt County Correctional Facility staff told us they do not routinely follow this policy.

Through this investigation we learned that Humboldt County Correctional Facility officials could work with the Humboldt Transit Authority to arrange for arrestees from distant parts of the county to be provided with bus tickets to help them get back to their places of residence. We think that Humboldt Transit Authority would prove amenable to this procedure. Generally speaking the early morning buses are not crowded and making bus tickets available would be virtually cost free as the buses will run in any case. In some instances the place of arrest is not accessible by public transportation and Humboldt County Correctional Facility must make other arrangements.

Return of Monies

We discovered that Humboldt County Correctional Facility's current policy of confiscating all cash possessed by arrestees who are not to be imminently released and giving them a check in reimbursement is problematic. We were informed that when a person is arrested his / her cash is taken from that person, photographed and not returned on release. Instead of returning the cash, the Sheriff's Department returns a check to the inmate in the amount that was surrendered. We recommend that cash be photographed and placed into an envelope and sealed. An arrestee should be asked to sign an acknowledgement of that procedure. On release the arrestee would have available the money possessed upon arrest. The current policy of issuing checks to releasees is not helpful after the close of business, not only because banks are closed, but also because most merchants do not cash checks or money orders. We are aware that the Humboldt County Correctional Facility is also contemplating issuing debit cards rather than checks. We believe issuing debit cards would be of almost no more utility than issuance of checks. Again our concern is that releasees have adequate resources to be able to return home and not be left on the streets without the spendable resources they had at the time of arrest.

As noted above, the Sheriff has recently announced a change in policy such that for those persons detained for brief holds and who will not be charged, primarily public inebriates; their cash will be returned to them. We think this policy should apply to all persons arrested and then released.

FINDINGS

- F1. There are early release guidelines in the Policy and Procedures Manual from the Humboldt County Correctional Facility which allow release of arrestees at any time and arrestees are often released late at night or early in the morning,
- F2. Three deaths have occurred in the last year involving early morning releases from the jail,
- F3. Currently when inmates are arrested, whatever money they have on their person is taken from them. The money is tallied and on release they are given a check for that amount. If they are held only for sobering, their cash is returned to them upon release,
- F4. When inmates from eastern, northern and southern parts of the county are released, they are not returned to the place of their arrest, but let out onto the streets of Eureka. In many instances, this policy appears to violate Penal Code Section 686.5,
- F5. Public transportation is unavailable approximately between the hours of 11 pm and 6 am.

RECOMMENDATIONS

- R1. The Grand Jury of Humboldt County recommends that the Humboldt County Correctional Facility change its early release policy to eliminate releases between 9:00 pm and 6:00 am. (F1, F2)

R2. The Grand Jury of Humboldt County recommends that Humboldt County Correctional Facility return to the inmates the cash money that was taken at the time of arrest rather than issuing a check or debit card. (F3)

R3. The Grand Jury of Humboldt County recommends that Humboldt County Correctional Facility and the Board of Supervisors enter into an agreement with Humboldt Transit Authority to provide tickets for out of town inmates at the time of release to return them to the place they were arrested. If no public transportation serves the place of arrest, and it is more than 25 air miles from Humboldt County Correctional Facility, correctional staff must make other, appropriate arrangements pursuant to Penal Code Section 686.5. (F4, F5)

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the Grand Jury requests responses from the following:

- The Humboldt County Sheriff is to respond to recommendations 1, 2, and 3.
- The Humboldt County Board of Supervisors is to respond to recommendation 3.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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SAVING THE ARCHITECTURAL JEWELS OF TIME

SUMMARY

The Humboldt County Grand Jury investigated a complaint against the City of Arcata Department of Community Development. The complaint alleged that the design review process for a project in Arcata was contradictory, and that Arcata did not follow the Land Use Code, and as a result, the process was confusing and cost time and money.

We disagree with the complainant that the City of Arcata Department of Community Development did not follow their own municipal code, but we do agree, because of contradicting staff reports, the process was confusing.

BACKGROUND

To understand the discussion section of this complaint, we begin by defining and explaining some important terms and concepts: description of codes and plans used in our investigation, duties of commissions and committees outlined in those codes and plans, and the City Staff's authority to interpret those codes.

The Historic & Design Review Commission's function is to conduct preliminary review of buildings and site designs for proposed projects, and to assist applicants in developing designs compatible with adopted criteria and standards; with powers and duties as specified in the Arcata Land Use Code and as outlined in Arcata Municipal Code § 2212 to 2218.¹ This Commission can call upon the Historical Sites Society and the Historic Landmarks Committee for advice and recommendations concerning any historic resource, such as with the project we investigated. Once a building is deemed historic, the Historic and Design Review Commission has the regulatory power to designate which materials are appropriate to any discretionary permitting process.

The Historic Landmarks Committee's primary functions are to serve in an advisory capacity to the City Council, Commissions, or City Staff, as appropriate, in matters pertaining to structures, sites or neighborhoods having special character or special historic, architectural, cultural or aesthetic interest or value; to develop a Noteworthy Structure List and promote other historic preservation activities; to make recommendations to City Staff regarding the update of the City's historic resources inventory; and to provide community outreach and education concerning historic resource preservation and the benefits of landmark designation². The Historic Landmarks Committee has been tasked with updating the Noteworthy Structures List. Currently they are conducting a survey of Bayview, a Neighborhood Conservation Area, thus following one of their mandates.

The General Plan 2020³ sets goals for the City, and it is the City Council's duty to make sure that city staff is implementing these goals. Some of these goals, summarized below, and with underlining added for emphasis, need to be currently addressed by City Council and staff as to implementation.

The Guiding Principles and Goals in the General Plan's Historic Preservation Section are the following:

- A. Promote preservation of structures and sites that are representative of the various periods of the city's social and physical development.
- B. Preserve the historical character of the Plaza and the surrounding commercial district.
- C. Encourage owners of eligible structures to seek historic landmark status and to invest in restoration efforts.
- D. Conserve the many examples of early residential building styles found in the city's older neighborhoods, from Bayside to Arcata Heights.
- E. Assure that new construction and additions to existing historically-designated buildings maintain the character and livability of the historic neighborhoods.
- F. Promote interest in and appreciation of the value of Arcata's history and its heritage of historic buildings.
- G. Encourage tourism and economic development through historic resource preservation.
- H. Prevent destruction of archaeological and cultural resources and assure that any artifacts receive proper disposition.

The Land Use Code of Arcata⁴ includes language that has been written to help the Historic and Design Review Commission and the Historic Landmarks Committee make decisions regarding any project requesting changes, upgrades, preservation or maintenance to a historic resource. These codes and plans have sections pertaining to Historical Preservation of Resources, such as Chapter 9.53 of the Land Use Code. Pursuant to this section the City, with the Historic Landmarks Committee's help, is tasked to survey Arcata for historic resources, conduct historic reviews for buildings over 50 years old, and protect buildings that are considered eligible for inclusion on any register, or landmark status. Currently there is a disagreement between senior staff and the Historic Landmarks Committee as to how these codes are interpreted (see **DISCUSSION** section).

Historic Resource or Historic Landmark

There was confusion within the Grand Jury about the definitions of *historic* and *historic landmark*. We also wondered could a house be declared *historic* or a *historic landmark* without landowners' approval? The answer to our confusion follows.

Historic Landmark connotes that a historic structure has gone through a formal designation process with the consent of the landowner, and final approval by the Arcata City Council. Then it is officially added to the Historic Landmark list for Arcata. Without the consent of the landowner, a historic resource cannot become a landmark. It is this Historic Landmark list that city staff used in their staff report to make their determination that the Lord House was not a historic resource. The staff for the Historic and Design Review Commission had a different interpretation (see **DISCUSSION** below).

The criteria for determining whether a property is an **Historic Resource** is determined by Arcata's Land Use Code or the California Environmental Quality Act. A structure can be deemed a historic resource without the consent (or knowledge) of a landowner. Within §9.53.040 of Arcata's Land Use Code a building is deemed historic if:

- A. The building, site or area is a significant representative of a distinct architectural period, type, style, or way of life.
- B. The building, site or area is at least 50 years old, or in rare cases has achieved architectural or cultural significance in less than 50 years.
- C. The building, site or area is connected with a person or event important to local, state or national history.
- D. The architect or builder is famous or well-recognized.
- E. The building's style, construction method, materials, or finishes are unusual or significant.
- F. The building contains original materials or craftsmanship of high or unusual value.

According to witnesses, the relevant **California Environmental Quality Act** section pertinent to our investigation is one the City Staff did not use in a memo (see **DISCUSSION** section) when Staff decided that the complainants' structure was not historic. The California Environmental Quality Act §15064.5, and Public Resources Code §5024.1(g), indicate that any building identified in a historic survey shall be presumed to be historically significant. We learned this part of California Environmental Quality Act was not followed by City Staff, this will be outlined in **DISCUSSION** section below.

Also relevant to this investigation is the use of California Code of Regulations, Title 14, Division 6, Chapter 3, Article 19, Categorical Exemptions §15331 Class 31 exemptions for projects. When applying to the City of Arcata Department of Community Development, if an owner has a historic resource, and agrees to follow the U.S. Secretary of Interior's Standards, the owner can be granted a Class 31 California Environmental Quality Act Guidelines exemption, and not have to appear before the Historic and Design Review Commission, thus saving the owner and City staff time. If the applicant agrees to follow the U. S. Secretary of Interior's Standards for Rehabilitating Historic Buildings⁵, they are agreeing to restore the building to its original quality, use in-kind materials and craftsmanship, and to retain the original architectural integrity of the structure. We question why the City is not proactive in promoting this streamlined process for agreeable owners. The complainant's project in this investigation could have met these requirements, and would have also followed General Plan 2020 recommendations.

APPROACH

During our review of issues noted in the complaint, we became aware of a well known development project that appeared to highlight many of these issues. We therefore chose to review the processes involved with this project as the focus of our investigation. The building associated with this project is known as the Lord House.

We interviewed witnesses representing the City of Arcata Department of Community Development, the Arcata City Council, the Historic Landmarks Committee, and the Historic and Design Review Commission. We also interviewed a member of the public who assisted in

writing the Land Use Code for the City of Arcata, a contractor on the project, an author of a book listing historic buildings in Arcata, and the complainant.

In addition to the above interviews, we studied the relevant Land Use Code for the City of Arcata, sections of the General Plan 2020 that identify procedures to save historic resources, certain California Environmental Quality Act statutes, certain sections of the California Environmental Quality Act Guidelines, and the Secretary of Interior Standards for reviewing any existing structure as to whether it qualifies as a historic resource or landmark. The sources have all been referenced in the **BACKGROUND** section.

DISCUSSION

Confusion among Arcata City Staff

We discovered there was confusion between city staff, a regulatory commission and an advisory committee as to whether or not this project had a historically significant building on the property. The confusion existed as a result of a memo sent by senior staff on August 16, 2010, outlining an interpretation of the Land Use Code. This interpretation was challenged by a follow-up letter signed by the Historic Landmarks Committee, delivered by its staff liaison to the City Manager on May 8, 2012. The City Attorney gave options as to how to resolve the issue in a legal analysis summarized in a memo of August 17, 2012. There was an annual study session on August 22, 2012, as well as a scheduled city council meeting on this issue.⁶ The City Council did not make a decision in their September 4, 2013 meeting, as to which interpretation of the Land Use Codes to follow, but two council members did voice concern that the Zoning Administrator has no formal background in historic preservation. Another fact that led to our confusion was that the Zoning Administrator's interpretation stating how the Land Use Code should be interpreted, outlined in the August 16, 2010 memo, was posted online, without at least one City Council member's knowledge.

Two Contradicting Staff Reports

This confusion led to two conflicting staff reports generated in this permitting process. One report, prepared by senior staff, using the interpretation of the Land Use Code summarized in the August 16, 2010 memo, declared that the structure on the property to be renovated was not a historic resource. Specifically the staff report read "The Lord House is not a local Historic Landmark, nor is it on the Noteworthy Structures list. Furthermore, the Lord House is not on the National or State registers, nor has it been nominated to these registers. Finally, Historic Listing of the Lord House has not been initiated. Per the city's zoning ordinance, the project is not subject to the Historic Preservation section of the Land Use Code".

We agree with the first part of this finding that the Lord House was not on the Historic Landmarks list for Arcata, for this would require the owners' consent, and they stated repeatedly they were against any listing. We learned the Lord House was referenced in at least two important lists. First, it was mentioned in Susie Van Kirk's compilation of historically significant structures in her 1979 book "Reflections of Arcata's History: Eighty Years of Architecture". This book, a compilation of approximately 145 of the city's most architecturally important buildings,

funded by the State of California's Office of Historic Preservation, was done for the City of Arcata Planning Department. Furthermore, after her compilation of these structures, two leading experts in historic preservation came to Arcata and viewed every photo that was in her survey as to their local historic significance and National Register eligibility. During that visit, they decided that the Lord House was not only a significant historic resource, but is eligible for the National Register for Historic Places, the highest designation of preservation in the United States.

Second, we learned the Lord House was included in a list of Noteworthy Structures within Arcata, brought to our attention by a member of the Historic Landmarks Committee. The Grand Jury received hard copies of this list, indicating that it was referenced as Table HP-2, List of Noteworthy Structures and Sites, in the General Plan 2020 Design and Preservation Section. The Grand Jury discovered that this list was removed in the 2008 revision of the General Plan 2020, and we are unaware of its current status.

Historic or Not?

As to whether or not the Lord House is a historic resource, which is the fundamental issue in this investigation, witnesses referred to California Environmental Quality Act §15064.5, and Public Resources Code §5024.1(g) and reported that any building identified in a historic survey, shall be presumed to be historically significant. So by the California Environmental Quality Act, this building is to be considered historic. This was stated in a second City staff report to the Historic and Design Review Commission; this report identifies the Lord House as historic, follows the Historic Landmarks Committee interpretations of the code and processes the discretionary project properly. It is during the Historic and Design Review Commission review process of the alteration to the Lord House's exterior, with consultation from the Historic Landmarks Committee and the Historic Sites Society of Arcata, that we believe the Historic and Design Review Commission followed code, and used their regulatory power, as defined by Land Use Code, to require any replacement windows be of redwood. Here we disagree with complainant that the city did not follow their own municipal code, but we do agree, because of the contradictory staff reports, the process was confusing. It is at this stage of the review process that the owners had an opportunity to appeal the materials requirement imposed by the Historic and Design Review Commission, and they chose not to, citing time limits and the approximate \$2,000 cost of the appeals process.

When the project first came to the City of Arcata, the City could have applied the U.S. Secretary of Interior's Standards. The City staff could have followed the goals of the General Plan 2020 (see Background); by helping the owners understand the significant tax breaks they would have received by following the Standards. This could have expedited the process by the applicant receiving a California Environmental Quality Act Guidelines Class 31 exemption (see Background) to bypass the Historic Design Review Commission. If the City Council were to follow its General Plan, it would encourage the city staff to educate owners about the benefits of owning a historic resource.

We conclude this project was a prime example of a missed opportunity to streamline the historic review process, saving both City staff and the homeowners time and money.

FINDINGS

- F1.** The Historic and Design Review process could be streamlined if the U.S. Secretary of Interior's Standards are followed.
- F2.** The Zoning Administrator is empowered to interpret Land Use Code as to whether or not a building is eligible to be a historic resource in compliance with the California Environmental Quality Act.
- F3.** Arcata City staff was inconsistent as to whether the Lord House was historic.
- F4.** Confusion exists among Arcata City staff as to the process and protocol in the design review process.
- F5.** The City of Arcata, as lead agency, did not go through the review process as outlined in their Land Use Code or California Environmental Quality Act as to whether or not the Lord House was eligible as a historic resource.
- F6.** The owners/complainants were unclear as to which codes applied to their project.
- F7.** The Arcata City Staff sent out contradictory memos during the design review process for this project, and during interviews of city staff, they gave the jury conflicting and confusing testimony.
- F8.** A difference exists between how City Staff and the Historic Landmark Committee interpret Arcata's Land Use Code with respect to the designation of the Lord House as a significant historic resource.
- F9.** The Lord House is listed in Susie Van Kirk's book, a compilation of notable historic resources compiled by the city in 1979. Furthermore, the Lord House was found eligible for listing on the National Register of Historic Places, the highest designation for a historic structure.
- F10.** The Zoning Administrator's interpretation of the City of Arcata's Land Use Code is posted on the City of Arcata's website without approval of the Arcata City Council.
- F11.** The appeals process cost of approximately \$2,000 may be prohibitive to many landowners.

RECOMMENDATIONS

- R1.** The City of Arcata should direct staff to use the U.S Secretary of Interior's Standards for projects that have historic resources, thus streamlining the historic and design review process, saving both City staff and the affected homeowners time and money. (F1, F4, F5, F6, F7, F8, F10)

- R2.** The City of Arcata needs to continue its inventory of all architectural resources to assist the Historic and Design Review Commission and the Historic Landmarks Committee. (F2, F3, F5, F6, F7, F8, F9)
- R3.** The City of Arcata should simplify the design review process and make it less confusing for all applicants. (F4, F5, F6, F7, F8, F10)
- R4.** The City of Arcata needs to become proactive in educating landowners as to the benefits of owning a historic property. (F1, F6, F7, F8)
- R5.** The City of Arcata should request staff to provide applicants who have potentially eligible historic structures clear and unambiguous requirements for the permit process. (F1, F4, F5, F6, F8, F10)
- R6.** Documents pertaining to land use policy, codes and ordinances should be approved by the Arcata City Council prior to posting on the City’s website. (F2, F10)
- R7.** The appeals process should be less monetarily prohibitive. (F11)

REQUESTS FOR RESPONSES

Pursuant to Penal Code § 933.05, the Grand Jury requests a response from the following:

- The Arcata City Council to respond to Recommendations 1-7.

The Grand Jury invites a response from the following:

- The City Manager of Arcata to respond to Recommendations 1-7.
- The Historic and Design Review Commission to respond to Recommendations 1-7.
- The Historic Landmarks Committee to respond to Recommendations 1-7.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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www.cityofarcata.org/
click - Council Meetings
click - Year 2012
select - August 22, 2012 - City Council Study Session w/Planning and Historic & Design Review
click on video

HUMBOLDT COUNTY HOMELESS VETERANS

SUMMARY

The Grand Jury investigated the problem of homeless veterans in Humboldt County. This is an issue which we found complex and daunting to investigate. While the Grand Jury must limit investigations to agencies and issues that are local to Humboldt County, it was necessary to this investigation to at least review the scope and availability of State and Federal services in order to determine if there are unmet areas of need that the addition of local programs or resources may help to fill.

We found that many homeless, including veterans, are afflicted by serious mental illness and alcohol and/or drug abuse that result in serious problems for themselves and the community. There are numerous services available to veterans from which many may benefit. However, we also found some seemingly insurmountable barriers and restrictions in place, which could make it impossible for some veterans to participate in some or all of the programs from which they might benefit.

There are many organizations and county departments that provide a wide variety of services for veterans. While the Federal government often is the source of funding for many services, the County is often required to be the entity that seeks or approves application for funding resources to support locally administered programs.

We learned that homeless veterans, who can accept opportunities to take job training, live in transitional housing, observe curfews and other rules, will most likely be successful in reintegrating into mainstream society. Our investigation does not focus on these veterans; instead it addresses those who are unable or choose not to do so, and how the County may help them.

While it is impossible to do a thorough review of veterans services without noting State and Federal resources, we included such review only to clearly identify gaps in services, or gaps in access to services that local efforts or programs may help to fill. Some specific recommendations for local action were identified which could help to increase access to available services by veterans who currently fall within those gaps.

BACKGROUND

A vast majority of the problems encountered by homeless veterans are indistinguishable from those of the greater homeless population. Therefore, it is impossible to address the issue of homeless veterans without speaking to the concerns of the homeless in general.

The problems associated with the homeless and specifically homeless veterans, are not just a local problem. On any given night, nearly 63,000 veterans are homeless in the U.S. This is the figure estimated in Ann Jones' book; *They Were Soldiers: How the Wounded Return from America's Wars—The Untold Story* (2013). A similar survey by US Vets, a national veteran's

organization, confirms this figure and states veterans make up one fifth of the total homeless population.

Precise estimates of homeless people are difficult to obtain. Various surveys indicate up to 2,000 individuals are homeless in Humboldt County, of which 20-35% are veterans.

We discovered that many veterans are reluctant to admit to service providers and others that they are homeless and often that they are veterans. Many “just disappear” when approached by an outsider, according to witnesses interviewed by the Grand Jury.

Veteran’s organizations, mental health professionals, county officials, and veterans themselves all confirmed that there are a few shelters for women and children in Humboldt County but hardly any for single, adult men. Few have places to sleep, protection from the cold and rain, or a place to take showers or defecate. A report by the New Directions Program indicates most homeless individuals in encampments are longtime residents of Humboldt County.

The housing shortage for homeless is acute and rentals cost more than most homeless veterans can afford. Many veterans have animals as companions, and we learned that the veterans typically take good care of their animals, however; owning a dog eliminates many housing options for the homeless veteran. We were told by witnesses that permanent housing is extremely important for the mentally ill in order to be capable of benefiting from services that are available to them.

According to the 2014 Draft Housing Element of the Humboldt County General Plan Housing Element Update:

“The housing needs of the very low income and the shelter needs of the homeless are not being adequately met and the supply of land available for multi-family housing is constrained by infrastructure limitations and zoning.”

The plan also “seeks to provide housing and shelter opportunities for the homeless and extremely low income populations.”

APPROACH

The committee based this report on interviews with numerous individuals and organizations associated with veterans, veterans services, and the homeless. Our review of available services identified the following resources (Humboldt County local and governmental organizations are noted with an *):

***North Coast Veterans Resource Center (a nonprofit agency):** This Center assists eligible veterans with enrolling in and referring to available services. It offers transitional housing, opportunities to live or stay in permanent housing, residential and outpatient substance abuse treatment and counseling for mental illness. They also offer supportive services to the veterans’ families who are homeless or at risk. Assistance in finding employment is also an integral component. Since veterans must be sober for two weeks before they can be accepted

into the North Coast Veterans Resource Center program, the first task is often gaining admission to one of the available detoxification programs.

***Humboldt County Veterans Services:** Services offered include benefit counseling, claim preparation and assistance. They assist veterans, their dependents and survivors in obtaining benefits from federal, state and local agencies administering programs for veterans.

***The Mental Health Branch of the Humboldt County Department of Health and Human Services:** This County Agency provides outpatient services, inpatient services and alcohol and drug services. There are two vans that go to homeless camps on a monthly schedule. There is also a 30 foot long Mobile Engagement Center that provides many services to the homeless.

***The Humboldt County Housing and Homeless Coalition:** The coalition is made up of local businesses, housing advocates, elected officials and others interested in addressing homelessness in the county. The Coalition has received financial support from the Housing and Urban Development (HUD) during the last ten years to finance housing. Their accomplishments include acquiring Federal housing assistance vouchers for homeless veterans, opening extreme weather shelters in Eureka and McKinleyville and increasing access to permanent housing for the longtime homeless.

Department of Housing and Urban Development (HUD): This Federal agency has a Continuum of Care program that allows a local committee of city and county officials and other interested persons to apply as a group for funding for projects such as the Homeless Management Information System, point in Time Count, Arcata House Partnership (3 houses), emergency shelters, and permanent supportive housing. These grants are for various amounts, and over recent years have resulted in \$4,000,000 being awarded locally.

Veterans Administration: This Federal agency provides medical and financial benefits, home loans, and many other services to eligible veterans.

California Department of Veterans Affairs: This State agency services include Cal Vet Home Loans, California General Veteran's Services, Northern California Veterans Cemetery, Pensions and Widow's Benefits, and California Veterans Homes.

***The Eureka Rescue Mission:** The Mission offers hot meals and temporary shelter and in-house programs.

The Eureka Veterans Center: Eureka Veterans Center is a VA program that offers counseling for veterans suffering from PTSD and sexual abuse.

G.I. Rights Hot Line: The Hot Line crisis takes calls from veterans from all over the United States. The number for this Hot Line is 1 (877) 447-4487.

Stand Down Program: This community event is designed to reach out and give assistance to veterans and help them connect with services and benefits.

National Alliance on Mental Health (NAMI): NAMI provides education and training as well as support for families of those with severe mental illness.

New Directions: This program reaches out to homeless people with an opportunity to work, learn new skills and become independent of other programs. Unlike many other programs, it does not have any sobriety related restrictions on who can participate.

Veterans Administration Clinic: Although it is difficult to get doctors to come to Humboldt County, this new medical clinic provides many services to local veterans. Some procedures or general healthcare can be provided by a telenursing program which provides care without the burden of traveling to the nearest vet clinic.

Betty Chinn and Community and Church Volunteers: These dedicated groups of volunteers provide food and clothing to the homeless by taking food to those who are living in out of the way places.

Betty Kwan Chinn Daycare Center: In a single location this Center provides numerous services including housing search assistance, the Open Door Mobile Medical Van, assistance in enrollment for benefits and public assistance, referrals to community resources, and job search assistance. It also provides clients assistance in obtaining their General Education Diploma (GED), addiction and drug counseling, parenting classes, as well as other classes and a homeless court.

St. Vincent de Paul: This organization provides hot meals, clothing and other assistance. There are showers which are accessible to the disabled at their dining center.

College of the Redwoods Veterans Resource Center: The community college provides assistance to veterans who are students at the college.

Humboldt State University Veterans Resource Center: The University provides assistance to student veterans.

DISCUSSION

According to State law each county must provide a safety net for the poorest of the poor. Government services for veterans are provided with funding from federal, state, and county resources. There are numerous community and private organizations that provide services as well.

We learned that the camps where veterans stay are dangerous because fights and theft are daily occurrences. The police come every few months to clean out the camps for health and hygienic reasons. The homeless are then forced to move out, only to come back at a later time.

A member of the Human Rights Commission presented a letter to the Board of Supervisors during their February 9, 2014 meeting, declaring that, based on Government Code sections 8698-8698.2 and Senate Bill 2, there is a shelter crisis in Humboldt County. The letter also urged the

Board to authorize the building of sanctuary camps and micro villages exclusively for homeless veterans.

Homeless veterans who suffer from mental illness often have difficulty obtaining services and other benefits. According to US Vets, the most common illness returning veterans suffer from is Post Traumatic Stress Disorder (PTSD). Symptoms of this potentially crippling disease according to the website for military veterans, (<https://maketheconnection.net/conditions>) are:

- Feeling upset by things that remind you of what happened,
- Having nightmares, vivid memories or flashbacks of the event that made you feel that it is happening all over again,
- Feeling emotionally cut off from others,
- Feeling numb or losing interest in things you used to care about,
- Becoming depressed, thinking that you are always in danger, feeling anxiety, jittery, or irritated,
- Experiencing a sense of panic that something bad is about to happen,
- Having difficulty sleeping,
- Having trouble keeping your mind on one thing,
- Having a hard time relating to and getting along with your spouse, family or friends.

Many veterans with PTSD have not been diagnosed with the illness when they leave the service. Often symptoms may occur years later. Treatment of these symptoms is accomplished by a combination of medication and counseling. The Eureka Veterans Center offers counseling for veterans suffering from PTSD and sexual abuse and has about 300 clients at present.

A common barrier for homeless veterans wishing to access benefits is, not being able to come into an office and fill out the appropriate paperwork to get those services started. For some homeless veterans just getting to and entering a public building can be a challenge. For the seriously mentally ill, obtaining and completing a form can be overwhelming. Yet filling out these forms must be done if the veterans are to get assistance.

We learned that many veterans are denied benefits because they do not qualify or are not eligible. A fair number of veterans' organizations require personal and background information before services can be offered. Physical and mental illness, substance abuse, the lack of transportation, or other personal problems keep many homeless veterans from being admitted to or getting to many programs without someone to help them.

Veterans have confirmed that alcohol and drug abuse are serious problems among the homeless population. Heroin and methamphetamine abuse are widespread and many die of overdoses. Witnesses told us that marijuana, alcohol, heroin and methamphetamine are substances often used by veterans to numb their feelings of panic and anxiety caused by post-traumatic stress disorder (PTSD). Detoxification facilities are limited locally and participation in Veterans Administration detoxification programs requires leaving the area.

Many homeless veterans, like other troubled persons, experience divorce, domestic violence, rejection by their families, unemployment and impoverishment.

The homeless, including veterans, can be prevented by police from sleeping in their cars at night in certain areas. They can also be forced to move from place to place during the daylight hours. We learned in our interviews that many veterans who are in jail are released during the night without any money or other resources, only to remain on the streets.

POSSIBLE SOLUTIONS

According to the County Housing Authority, \$200,000 dollars from *U.S. Department of Housing and Urban Development (HUD)* was spent in Humboldt County last year. These were continuum of care funds to provide low cost housing to the homeless, including homeless veterans.

During our investigation, we learned of successful programs in other areas, such as: Opportunity Village in Eugene, Oregon, Dignity Village in Portland, Oregon and Camp Quixote in Olympia, Washington. These are “micro villages” that offer the homeless a safe place to live and reduces the number of homeless living on the street. The villages consist of very small housing units. These programs appear to be successful. Another alternative to help the homeless is to have certain areas designated as sanctuaries or safe havens where homeless veterans can set up tents and sleep without being disturbed.

The Department of Housing and Urban Development’s (HUD) current housing policy is to provide small permanent housing units rather than temporary transitional housing such as motels, homeless shelters and tent camps. The Coalition for Housing and Homelessness has received 4.6 million dollars in federal funds over a 10-year period. About 46% of that funding has gone toward permanent housing for the chronically homeless while around 43% went to transitional housing. Locally nearly \$500,000 was used for the Homeless Management Informational Systems which collects data on the County’s homeless population over an extended period of time.

FINDINGS

- F1. Affordable adequate housing is scarce, and homeless veterans often sleep outdoors, or on the streets.
- F2. Homeless veterans frequently encounter barriers preventing them from accessing services.
- F3. Services are not grouped in one location.
- F4. Participants in permanent housing programs tend to be more successful in being mainstreamed back into the community than those in temporary or transitional housing.
- F5. There are homeless veterans not receiving the benefits for which they are eligible.

RECOMMENDATIONS

- R1. The Humboldt County Board of Supervisors should designate in the Housing Element of the General Plan Update that certain areas be identified where sanctuaries and or campgrounds can be established. (F1).
- R2. The Board of Supervisors should encourage Department of Health and Human Services to obtain funding, jointly with other community agencies, through HUD and other sources to build "micro housing villages" and sanctuaries for homeless veterans.
- R3. The Board of Supervisors should encourage the Humboldt County Health and Human Services Department to expand alcohol and substance abuse treatment to include more local detoxification services.
- R4. The Board of Supervisors should explore ways to reduce barriers to accessing services.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the following responses are requested;

- The Humboldt County Board of Supervisors respond to Recommendations 1, 2, 3, 4.

The Grand Jury invites the following organization to respond;

- The Humboldt County Planning Department respond to Recommendation 1.
- Humboldt County Health and Human Services Department respond to Recommendations 2 & 3.

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Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

**LOCAL AGENCY FORMATION COMMISSION (LAFCO)
CONFLICT OF INTEREST COMPLAINT**

The Humboldt County Grand Jury conducted an investigation into LAFCO operations due to an allegation of conflict of interest between a private entity and LAFCO. One member of the Grand Jury, Robert McPherson recused himself from this inquiry because he is a member of LAFCO. The Grand Jury reviewed records, letters, and e-mails obtained from the County and interviewed officials from County departments and LAFCO. The Grand Jury determined that no conflict of interest exists between LAFCO and the private entity.

Information for district boundary determination at the county level, which had been submitted to a state agency for approval of new districts, did not meet the mapping guidelines for a County department. We discovered this occurred due to a difference in terminology used by California State agencies and County agencies. The Grand Jury discovered there is a difference between a County recognized “legal description” of a property line or district boundary and a State Board of Equalization accepted “metes and bounds” description of a property line or district boundary necessary for annexations. The technical differences between the two are slight; however, a legal description requires a licensed surveyor to write such a description. For an annexation description submitted to the State, no such requirement for a licensed surveyor is required. District Boundary documents submitted by LAFCO for certain districts did comply with State Board of Equalization “metes and bounds” descriptions. However, when these documents were submitted to the County, they did not meet the County’s “legal description” requirement. The County subsequently notified LAFCO of the requirement for a licensed surveyor to write the legal descriptions submitted to the County. When LAFCO was made aware of this, it informed all private planning businesses, which perform boundary descriptions for county districts, that they must use a licensed surveyor for this work.

The Grand Jury believed there were certain discrepancies that warranted investigation. After careful review of evidence, it was determined no conflict of interest exists.

**NORTHERN HUMBOLDT UNION HIGH SCHOOL DISTRICT BOARD OF TRUSTEES
BROWN ACT VIOLATION COMPLAINT**

The Humboldt County Grand Jury received a complaint about a possible Brown Act violation involving the Board of Trustees of the Northern Humboldt Union High School District. We conducted an investigation of internal communications, and we are gratified to know the District and the School Board realize the importance of the Brown Act and have contracted for ongoing, systematic training of its members.

LOCAL EFFECTS OF PRISON REALIGNMENT IN HUMBOLDT COUNTY

All of Humboldt County’s police and correctional staff, specifically, and the County’s population, generally, are dealing with the ramifications of the state law known as AB 109, commonly referred to as Prison Realignment. The Grand Jury decided that before we could develop a focused investigation of the

local effects, we needed a much deeper understanding of the historical events leading to passage of this act. This report is the result of our inquiry. We present a brief historical overview of incarceration in the state of California and then provide an account of what we found about the local implementation of AB 109. Because this effort is still in its early stages, there are no specific Findings or Recommendations. This report attempts to assess the impact of Prison Realignment on Humboldt County.

HISTORICAL BACKGROUND OF INCARCERATION IN CALIFORNIA

Through the early 1970's California's Department of Corrections imprisoned somewhere around 20,000 persons. Generally speaking, the physical institutions used for incarceration were old; medical care was considered adequate; there were small programs directed at rehabilitation: literacy, basic job skills. The prison system was a relatively small proportion of the state's budget.

In the middle 1970's, a major change occurred to California criminal law. Previously most inmates were sentenced to indeterminate sentences, for example 1 or 3 or 5 years to life, in some cases simply to life. How long an inmate was incarcerated was dependent on how good a job the inmate could do to convince a parole board, a committee of Corrections employees, that he, occasionally she, had learned how to be a productive member of society and was now a good candidate for release. Since the board's decision was subjective there was considerable sentiment that some individuals were treated unfairly.

In response to this criticism the state massively redesigned its sentencing scheme. Starting in 1976 individuals convicted of crimes would be given determinate sentences. A judge could select from a relatively narrow range of three sentences, a mitigated low term, a presumptive middle term and an aggravated upper term. There were also provisions for increasing sentences for factors that the legislature defined as aggravating and which, if the court found them to be true, could result in longer, "enhanced" sentences. There were also provisions added that allowed inmates to earn reductions in their sentences if they behaved acceptably while incarcerated. The sponsors of these new laws generally thought that while they would result in fairer sentences, the new scheme would not have a great impact on the amount of time any given inmate would serve for a given offense. There was a conscious effort to make the newly fixed sentences more or less equivalent to the sentences actually being served for any specific offense under the previous indeterminate sentencing law.

Coincidentally at about this same time capital punishment, which had been previously ruled to be in violation of the US Constitution, was redefined and reinstated. San Quentin's death row began growing.

The length of incarceration for a given individual was no longer determined, for the most part, by how the paroling authority viewed the crime and its perpetrator. Inevitably, inmates were released whose notoriety would have kept them imprisoned under the old law and the legislature came under pressure to increase the length of the determinate sentences. In practice, crime victims and other interested parties sought to increase the length of the determinate sentences whenever a particularly egregious crime occurred. When the legislature agreed, its only option was to increase the sentence for all individuals convicted of that offense. As sentences increased so did the population of the prison system. Over a thirty year period beginning about 1980 the number of inmates in California prisons increased almost eight-fold, from 20,000 to almost 160,000. This phenomenon was exacerbated by adoption of the "three

strikes” laws that significantly increased, sometimes to life, the punishment for some prisoners who had previously been convicted of certain offenses.

This ultimately led to the current situation in which California’s prison budget is substantially higher than its higher education budget and is, by all accounts, not sustainable. Although the state embarked on a very large prison construction effort it still found it necessary to double- and triple- cell inmates and to turn gymnasiums and cafeterias into dormitories crowded with triple bunks. Most rehabilitative efforts fell by the wayside and medical and emotional care of inmates suffered. Ultimately, the US Supreme Court ruled that the manner in which California provided medical and psychiatric care to prisoners violated the United States Constitution’s prohibition against cruel and unusual punishment, placing California’s prison system under Federal oversight. The Federal courts ordered California to reduce its prison population to 137.5% of design capacity. When that failed to happen the courts threatened contempt sanctions against the governor and prison managers.

At the Governor’s urging, the legislature responded in 2010 with the passage of Assembly Bill 109, the “prison realignment” plan which went into effect in late 2011.

Traditionally crimes in the United States have been divided into three categories; Infractions, Misdemeanors, and Felonies.

Infractions are crimes for which the punishment can only be a fine. (Refusal to pay a fine could be a crime itself which could lead to incarceration.)

Misdemeanors are crimes for which the most severe punishment is a sentence to the county jail. Punishment for any misdemeanor cannot exceed one year and prisoners could expect to earn one day of credit for each 2 days they served while staying out of trouble. Separate misdemeanors could theoretically be punished consecutively but this seldom happened, in part because county jails simply were not designed for long term incarceration.

Felonies were crimes for which perpetrators could be sent to state prison. In California periods of prison incarceration, which were imposed by the trial judge, ranged from a minimum sentence of sixteen months to life without possibility of parole. (Many people are convicted of felonies and not sentenced to prison. They are instead placed on probation. Often probation is accompanied by a period of incarceration in the county jail, almost always for not more than a year.) Everyone who was released from prison remained on parole for an additional period of time. During that time felons were supervised by state parole officers. When parolees violated rules or committed new offenses they would frequently be sent back to prison by a parole board. This procedure often eliminated the need for new trials for relatively minor offenses. A very large percentage of inmates held in state prison were parole violators, generally serving terms of less than a year. This punishment plan happened almost entirely under the authority, and financial responsibility, of the state.

In contrast realignment declares that most persons convicted of relatively minor felonies are no longer sentenced to state prison but rather are incarcerated in the counties’ jails. The exceptions to this rule are those crimes that the legislature has concluded are very serious, including most violent and sexual

crimes. Those offenders who are now incarcerated in county jails are convicted of "non, non, non"-non-violent, non-serious, non-sexual- offenses. The legislature determines which offenses are "non, non, non" and which are not. Under this plan the number of inmates under state control will fall significantly and those under county control will rise accordingly. Another aspect of realignment is that most current parolees who violate parole are sent back to county facilities rather than back to prison. Individuals sentenced to felony sentences in the county jails are no longer under the control of state parole but rather are supervised by county probation departments ("mandatory supervision"). Additionally there are some individuals sentenced to felony terms in the county jails who receive no community supervision at all upon completion of their jail terms. While in county custody these inmates earn two days credit for each day actually served.

Obviously all this means that counties will have much greater responsibility and the state will have less. And these responsibilities have costs. The realignment plan recognizes this and gives counties additional funding.

LOCAL IMPACTS OF AB 109

However, in all of the metropolitan areas of the state, and almost all of the rest, the jails are filled nearly to capacity. Certainly that is true in Humboldt. Now counties have to accommodate new felons and parole violators who previously would have been sent to state prison. The counties now must incarcerate people awaiting trial for any felony or misdemeanor and who are not released on bail or their own recognizance, people sentenced as a condition of probation and those convicted felons are no longer being sent to prison.

The state has made additional funding available but the counties are under significant pressure to keep their jails from becoming overcrowded. Humboldt County has unsuccessfully sought state funds to expand its correctional facility. The drive to keep the jail from becoming dangerously, and illegally, overcrowded led to inappropriate releases. The probation department, the jail, the courts and other stakeholders are working to find ways to minimize the inappropriate releases. While no one can predict the future, the instruments now being put into effect to determine who can be safely released pending adjudication of their crimes have been successfully implemented in other states.

California also has been spectacularly unsuccessful in managing to keep its prison releasees free of new offenses. Well over half those released have been returned to prison. Another of the aspects of realignment is greater emphasis on rehabilitation. Probation departments are ordered, and funded, to provide methods to help persons who have completed their initial sentence stay out of trouble and jail. In Humboldt County, more extensive probation services are available: probation officers will have more time to work with convicts to help them learn job and social skills; substance abuse rehabilitation is being expanded; mental health services that were previously unavailable to this population are now offered; a day reporting center has been implemented which offers guidance and assistance to help people remain crime free; there are limited reincarcerations in the county jail for individuals who get into new trouble but are not prosecuted for new crimes. All of these programs are to be "evidence based"; they are evaluated and modified to ensure effectiveness. Many people in the criminal justice

system feel that the new system lacks adequate punitive tools (reincarceration) to compel felons to participate in rehabilitative programs.

These programs are too new for us to evaluate but they are too important to the county for us to ignore. Each failure to help people to lead non-criminal lives has at least two victims, the person or other entity harmed by the crime and the criminal. For decades, California has been on a correctional path that doesn't correct much. The cost of our criminal justice system is bankrupting us. Criminology, the study of the causes of crimes, has been out of fashion for many years but we need to look anew at the questions raised by that discipline. If we can find answers to even a few of the questions of how to reduce criminality we have a meaningful chance to make California, and Humboldt County a better place. We all need to keep watchful eyes on the local successes and failures and benefits and costs of realignment. How will a jail designed to hold people for relatively short periods of time deal with individuals sentenced to multiple years? How will the probation department supervise parolees who, until recently, were the responsibility of the state? Who will bear the cost of all this?

It is the opinion of this Grand Jury that the people charged with putting this plan into effect are working hard to make it work. The people who live in Humboldt County need to keep informed of how this significant change is working. Such a major redesign of our penal system will have not only a bumpy road but no doubt some crashes along the way. We must be vigilant but we also must pay close attention and not rush to judgment.