

Mendocino County Grand Jury Final Report

2011





June 30, 2011

The Honorable Cindee Mayfield
Presiding Judge
Superior Court of the State of California
County of Mendocino
100 North State Street
Ukiah, CA 95482

RE: 2010-11 Mendocino County Grand Jury *Final Consolidated Report*

Dear Judge Mayfield,

Pursuant to Sections 933 (a) of the California Penal Code, the Mendocino County Grand Jury submits to you its final report. This *Final Consolidated Report* represents 11 final reports that were initiated through citizen complaints and 5 final reports that meet the requirements set forth in Penal Code. These reports fulfill the Grand Jury's mandate to investigate local agencies and review prisons within Mendocino County. The Grand Jury has carefully investigated these matters and developed a set of findings and recommendations on each topic, with the objective of representing the interests of the citizens of Mendocino County.

The Mendocino County Counsel has reviewed this final report and it is in compliance with California Penal Code Part 2 Title 4. Printed copies of this report are available for public review at the local libraries throughout the county. The report, appendices, and department/agency responses may also be found online at: <http://co.mendocino.ca.us/grandjury/>

It has been an honor and a pleasure to serve with the members of this Grand Jury. I hope you will find the report informative and that it brings attention to issues the members of this Grand Jury find worthy of public scrutiny.

Yours respectfully,

A handwritten signature in cursive script that reads "Katharine D. Wylie".

Katharine D. Wylie - Foreman

2010-2011
Grand Jury
Members:

- D Frediani
- R Girdauskas
- W Hook
- M Knight
- L Lockart
- R Martinez
- N Merling
- L Pacini
- R Saia
- J Schweig
- D Scoles
- M Slafkes
- S Stambaugh
- W Tarver
- R Tjepkes
- R Weinkle
- F Williams

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RICOCHET BULLETS – NO PROBLEM!

Public Safety Apparently Not a Concern to City or County

February 19, 2011

Summary

The 2010-2011 Grand Jury (GJ) conducted an investigation into the lease and operation of the Ukiah Rifle and Pistol Club, a.k.a. the Ukiah Gun Club (UGC) to discover what services are utilized by law enforcement agencies and if there is any possible danger to the public or liability to public agencies. The GJ discovered the property is owned by the City of Ukiah (City) and leased to the UGC, a private non-profit organization. Access is by membership only and members can bring guests.

Method

The GJ reviewed ordinances, zoning, and the permit process for the UGC. The GJ conducted various interviews with City and County officials, including law enforcement. Numerous documents were inspected, including the July 1, 2005 Agreement between the County and UGC (reportedly being updated). The GJ was denied access to tour the UGC facilities. The UGC declined to participate in the GJ interview process.

Background

The UGC, established in 1945, is currently located on Vichy Springs Road. In 1982, the facilities were *grandfathered in* with approximately 80 members. The UGC is used by various law enforcement agencies to maintain their professional skill levels. The UGC hours of operation are 7 a.m. to sunset, seven days a week, year round.

The UGC is located on property owned by the City and leased to UGC.

The UGC is used for rifle and pistol target practice (including Black Powder) and trap shooting. The physical property is comprised of multiple buildings, one of which is a clubhouse used for meetings and events.

There are also frequent weekend events during the summer attended by a number of members and guests.

Vichy Springs Road is a 2-lane road that serves as access to the UGC, a large housing development and leads to Vichy Springs Resort. The road has no outlet and only one entrance/exit into the UGC property. There is no turn lane into the UGC private road.

Findings

1. The UGC leases 96.82 acres of property owned by the City located outside city limits in Mendocino County.
2. The Sheriff's Office, functioning as an agent of the County, is operating under the Agreement with the UGC, which expired on July 7, 2005.
3. The Ukiah Police Department (UPD) does not have an Agreement with UGC.
4. The County and the City each disclaim responsibility as to who has planning/zoning jurisdiction over the property leased from the City and located outside the City limits.
5. When the City purchased the 96.82 acre property in 1993, for \$650,000; "the **appraised** value was \$800,000 to \$1,200,000¹".
6. The **assessed** value for the 96.82 acres, which the UGC leases from the City, is \$40,000.
7. The UGC rent to the City is \$5,000 annually plus 2% per year.
8. The lease between the UGC and the City terminates in 2044.
9. The UGC pays \$739.06 in property taxes annually to the County per the lease agreement with the City.
10. Only members and guests are allowed to use the facilities of the UGC.
11. Mendocino County Sheriff's Office (MCSO) deputies are signed in as guests and pay \$5 each per day.
12. Training for UPD officers is conducted at a Windsor police training facility and Chamberlain Creek Conservation Camp.
13. UPD Range Masters train new recruits at the UGC. The Range Masters' membership is paid by the City.
14. The UGC has one 1200-gallon septic system that serves one mobile home and the clubhouse. There are two port-a-potties on the property.
15. There are two restrooms and a kitchen at the clubhouse.
16. The Ukiah Valley Sanitation District staff stated there is no sewer hook up.
17. In 1993, the UGC requested the County to issue a Use Permit for an archery range.
18. In March 1994, the County issued Use Permit 27-93 to the Ukiah Archers for a range on the UGC property. The permit was withdrawn on October 17, 1994 at Ukiah Archer's request.
19. Metal targets and metal-framed targets are used at the ranges.
20. The ammunition rounds impact a rock-ridden hillside.
21. Ricochets have been reported and a gunshot wound from a ricochet bullet has been documented in the press.
22. A UGC internal newsletter verified that a ricochet problem exists.
23. Vichy Springs Road is one way in and one way out.
24. In 1982, the UGC was *grandfathered in* with non-conforming use.
25. The lease states that, "The lessee (UGC) shall not, without the lessor's (the City) prior consent, make any alterations, improvements, additions, changes or modification to, on, in, or upon the leased premises."

¹ Minutes of the City Council – December 15, 1993

26. The October 2010 UGC newsletter addressed the construction of a new pistol range, a second pistol range, and re-terracing the shotgun range. All three would be violations of the lease.

Recommendations

The Grand Jury recommends that:

1. the City and County resolve the disagreement over planning/zoning jurisdiction, (Finding 4)
2. the BOS enact an ordinance barring use of metal targets and metal framed targets, (Findings 19-21)
3. the BOS enact an ordinance requiring use of bullets, other than metal jacketed rounds for target practice, (Findings 19-21)
4. the BOS enact an ordinance requiring erection of hay bales or sand berms behind targets to alleviate possibility of ricochets, (Findings 19-21)
5. the City designate a department to oversee and enforce provisions of the lease, (Findings 2, 25-26)
6. the City or the County Planning Commissions ensure all buildings modified or built after 1982 be inspected for compliance, (Findings 2, 14-16, 26)
7. the Environmental Health Department inspect the kitchen premises for health code compliance, (Finding 15)
8. the County Planning and Building Department perform all required inspections of septic systems. (Findings 14-15)

Discussion

The UGC is a private, non-profit organization and although the MCSO trains and practices at the UGC, access to the UGC was denied to the GJ. Given the number of safety concerns and lack of oversight by either the City or County, the GJ feels an obligation to address these issues.

The City and County have been disputing jurisdiction regarding code enforcement. In March 1994, the County, at the request of the UGC Archery club, processed a request for a User Permit and issued that permit (U27-43) which indicates that the County has jurisdiction. The permit was withdrawn at the request of the Archery club. Their denial has resulted in confusion and concern over whether the facilities are up to code and safe.

Both City and County officials stated that unless there was a nuisance complaint they are content with the status quo. That is not acceptable since there are real safety issues. There is also concern about the County's failure to regulate this gun range, which potentially creates a liability for the County.

News articles have shown that lately other cities and counties have discovered this liability as an additional expense. A number of news articles have reported that several outdoor gun ranges have been shut down because of liability concerns including stray bullets and ricochets.

In addition, the City does not have a designated department to monitor and ensure adherence to the lease provisions. There have been alterations, improvements, changes, and modifications to, on, in, or upon the leased premises. The City will not address this issue unless there are specific complaints. This is not acceptable since a lease is a legal contract.

The GJ recognizes that this report can raise questions about other issues that are not addressed at any real extent in this report. This does not mean these issues are not important or substantial. However, these issues are not within the scope of this report – lead contamination, air quality, assessment, traffic and other issues.

Response Required

Mendocino County Board of Supervisors (Findings 2, 4, 14-15, 17-21;
Recommendations 1-4, 6-8)

Mendocino County Chief Executive Office (Findings 2, 4, 14-15, 17-21;
Recommendations 1-4, 6-8)

Mendocino County Sheriff's Office (Findings 2, 11, 19-21;
Recommendations 2-4)

Mendocino County Environmental Health Department (Findings 14-16;
Recommendation 7)

Mendocino County Planning Department (Findings 2, 4, 14-15, 17-18;
Recommendations 1, 6, 8)

Mendocino County Assessor Office (Findings 5-6, 9)

City of Ukiah City Council (Findings 1, 3-9, 15, 21-26; Recommendations 1, 5-6)

City of Ukiah, City Manager (Findings 1, 3-9, 15, 21-26; Recommendations 1, 5-6)

City of Ukiah Police Department (Findings 3, 12-13, 19-22)

City of Ukiah Planning Department (Findings 2, 4, 19-22, 24-26;
Recommendations 1, 5-6)

Response Requested

Ukiah Gun Club (Findings 1-3, 5-11, 13-15, 17-26; Recommendations 2-8)

Vichy Springs Resort (Findings 19-26; Recommendations 1-8)

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WON'T YOU PLEASE ADOPT ONE OF US?

A Report on Animal Control and Animal Care Services

January 25, 2011

Summary

The 2010-2011 Grand Jury (GJ) received a complaint regarding animal neglect and cruelty. Upon investigation of the complaint, the GJ found the issue had been resolved.

The Animal Control (AC) and Animal Care Services (ACS) became two separate departments on February 22, 2009 in an effort to provide better field enforcement service to the public. The GJ concluded that an overview of the new structure was in order.

AC is a division of the Mendocino County Sheriff's Office (MCSO). ACS is a division of the Mendocino County Public Health and Human Resource Agency.

Mendocino County is geographically unique; many areas in the County are small, solitary and isolated communities. The small communities are separated by many miles of mountainous terrain and require hours of drive time between each locale. A mobile spay/neuter vehicle, called the CARE-A-VAN, is used to provide services in these outlying areas.

The Mendocino County Board of Supervisors increased all fees related to Animal Care Services in September 2010, depending on services rendered.

Method

The GJ reviewed the following documents: the Policy & Procedure Manuals for the Mendocino County Sheriff's Office Animal Control Officer Field Operations and for the Animal Care Services, including the Code of Ethics for both entities.

The GJ interviewed Animal Control and Animal Care Services staff, officers, and administrators as well as the Mendocino County Sheriff's Office staff. The GJ conducted a site visit to the animal shelter facility in Ukiah on October 19, 2010.

Background

The ACS facility is located on Plant Road in Ukiah. It is the only county-run animal shelter in Mendocino County. The Ft. Bragg Animal Shelter was closed on July 31, 2010 due to budget constraints.

Since the shelter closed, the animals are taken to the Ft. Bragg Sheriff's substation, placed in an outdoor kennel and transported to the Ukiah shelter.

Findings - Animal Control

1. The Department of Animal Control/Animal Care Services became two entities on February 22, 2009.
2. Animal Control operates under the MCSO.
3. All service calls are dispatched through MCSO.
4. Animals, taken in by an Animal Control Officer, are housed at the Animal Care shelter located on Plant Road in Ukiah.
5. The Animal Control staff consists of:

- one Supervisor who works Monday through Thursday from 7 a.m. to 5 p.m.,
- two full time Animal Control Officers who work Monday through Friday, 40 hours per week, one in Ukiah and one in Willits,
- one part-time officer who works Tuesday through Friday, 30 hours per week,
- weekends are covered by the MCSO.

6. Animals, picked up outside the Ft. Bragg city limits, are held in outdoor cages at the substation until an officer can transport them to Ukiah. Officers generally make one or two transports per week, more if necessary. Animals are usually held approximately three to four hours until transported.
7. The MCSO has contracted to provide services to the following:

Hopland Band of Pomo Indians	Cahto Tribe of Laytonville	Manchester / Pt. Arena Rancheria
Redwood Valley Rancheria	Sherwood Valley Rancheria	Yokayo Rancheria
City of Pt. Arena	City of Willits	

8. The MCSO does not have a contract with the following:

Round Valley Reservation	Guidiville Rancheria	Pinoleville/Pomo Nation
Coyote Valley Rancheria	City of Ft. Bragg	City of Ukiah

9. At the time a dispatch call is made, circumstances such as location of animal, time, and other pending calls, determine how and when a response can be made.
10. The following field priorities for public safety require immediate response:

- loose vicious or bite dogs,
- livestock on the highway,
- loose dogs on the highway,
- dogs in livestock,
- rabies exposure to public (sick skunks/foxes/ raccoons/bats).²

² Mendocino County Sheriff's Office Animal Control Officer Field Operations Manual

11. The following are classified as *nuisance* in nature and are of the lowest priority:
 - stray impounds,
 - loose dog complaints,
 - barking dog complaints.
12. Citations can be issued for all complaints, except for rabies exposure to the public.
13. Animal Control Officers are not peace officers; however, they can perform peace officer duties in compliance with their assignments.
14. A Mendocino County Animal Control Officer can issue citations for violations of County Code and State Law. The more commonly used citations are for *Unlicensed Dogs* and *Dog at Large*.
15. The Animal Control website is not current or user friendly.

Findings - Animal Care Services

16. ACS is responsible for sheltering stray, abused, and unwanted animals in Mendocino County.
17. ACS is a program within a division of the Mendocino County Public Health and Human Resource Agency.
18. ACS staff consists of the following:
 - one full time Program Administrator,
 - contracted part-time Veterinarians,
 - one full time Spay/Neuter Adoption Coordinator,
 - one full time Registered Veterinarian Technician,
 - one full time Clinic Technician,
 - two full time Animal Control Assistants,
 - one full time Animal Facility Attendant,
 - two extra help Animal Facility Attendants, one full time and one part-time.
19. ACS staff hours of operation are limited to the public due to budgetary cuts. Hours of operation at the shelter are:
 - Wednesdays 10:00 a.m. to 7:00 p.m.,
 - Thursdays, Fridays and Saturdays 10:00 a.m. to 5:00 p.m.
20. Volunteer workers enrich the lives of the animals by bathing, grooming, and interacting with them. Volunteers are not allowed to clean cages (a union position task) or work at the counter (involves handling money).
21. A volunteer program through the MCSO and ACS allows two female inmates to assist at the shelter Wednesday through Saturday. The shelter provides transportation.
22. The fee to surrender dogs and cats by their owner, who resides *in* Mendocino County, is \$40.

23. The fee to surrender dogs and cats by their owner, who resides *outside* Mendocino County, is \$103.
24. According to State regulations, the *Hayden Mandate* provided that stray, non-aggressive animals could be held at the shelter for six business days before being euthanized, for the following reasons:
 - to give pet owners more time to locate lost animals,
 - to give unclaimed animals more time to be adopted or transferred to an animal rescue group.
25. In 2010, the *Hayden Mandate* was suspended, giving the individual counties discretion for the number of days before euthanizing animals. Mendocino County uses the four-business day exception.
26. Spaying and neutering fees for adopted dogs and cats are \$20.
27. Adoption fees vary; approximately \$150 for dogs and \$100 for cats, depending on the number of vaccinations, including spaying, neutering, heartworm testing, licensing, and microchip implant for identification.
28. Science Diet Company donates 1,000 pounds of dog food and 500 pounds of cat food per month. ACS pays for the shipping.
29. At the time of the GJ visit, the ACS housed 132 cats and 61 dogs. The shelter was found to be neat and clean. The GJ observed a spay/neuter procedure in progress
30. The *CARE-A-VAN* is a Mobile Spay/Neuter Adoption and Disaster Preparedness Vehicle. This vehicle is a 26-foot, state-of-the-art “surgery on wheels” and can service up to 25 pets per day.
31. In 2009, the *CARE-A-VAN* provided services to over 359 animals.
32. Currently, the *CARE-A-VAN* provides spay/neuter and vaccination services two times a month to the following towns and Rancherias:
 - Laytonville,
 - Cahto Tribe of Laytonville,
 - Covelo,
 - Ft. Bragg,
 - Hopland Band of Pomo Indians,
 - Point Arena Inland Humane Society for Mendocino County.
33. There are certain days of the year, advertised through the Ukiah Food Bank and Homeless Shelter, that the *CARE-A-VAN* provides spay/neuter services without cost to the transients with pets. These services are also available at the shelter with a voucher provided by Anderson Valley Animal Rescue or other non-profit agencies.
34. Vouchers for animal services may be obtained through the following agencies: Spay/Neuter Assistant Program (SNAP), Anderson Valley Animal Rescue, Second Chance Animal Rescue, and the Eileen Hawthorne Fund.
35. There is a ten-day time period for an owner to return an adopted animal to the shelter. The Mendocino County Auditor’s Office refunds the adoption fee within 30 days.
36. At the time of the GJ visit, the ACS website was not current.

Recommendations

The Grand Jury recommends that:

1. Animal Control Department readjusts its schedule to provide weekend coverage by an Animal Control Officer. (Finding 5)
2. Animal Care Services utilize the *CARE-A-VAN* to expand services throughout the County for more than two days a month. (Findings 30-31)

Discussion

The GJ, after reviewing the new structures for ACS and AC, finds that the services provided to the citizens and the animals have diminished.

People with limited incomes cannot afford fee increases resulting in a larger number of animals being abandoned rather than taken to AC. This could also result in more animals running wild.

The Ft. Bragg community is actively involved in trying to decrease the impact created by the closure of the animal shelter.

The ACS website is currently updated.

The GJ believes the AC and ACS are doing the very best they can with such limited resources, both monetary and staffing.

Response Required

Mendocino County Board of Supervisors (All Findings; All Recommendations)

Mendocino County Sheriff (All Findings; All Recommendations)

Mendocino County Public Health and Human Resource Agency (Findings 15-34; All Recommendations)

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ARE WE TALKING YET?

A Report on Miscommunication between County Departments

February 8, 2011

Summary

The 2010-2011 Grand Jury decided to review the communication between the Assessor's office, the Planning and Building Services, and the Sheriff's Office over the issue of unassessed and unpermitted structures in the County.

The Grand Jury found that there are communication barriers in place through practices that have been handed down through the years. Most of these practices have not been reduced to writing; yet they seem to hold the sway of enacted laws.

There is expressed concern that, when inspecting property that is potentially involved in marijuana production, the county employees doing the inspections may be subject to violent attacks.

Method

The Grand Jury inspected County Ordinances and State Codes. Numerous County Officials were interviewed and various meetings between County Officials were attended and observed.

Background

Mendocino County is a rural county with many areas difficult to reach by any form of transportation. This type of terrain allows structures to be built and inhabited without the required permits, inspections, or taxes, being applied and assessed.

Findings

1. The Assessor's office is responsible for assessing property in Mendocino County for real estate tax purposes.
2. The Assessor's office has eight employees working on the inspection of properties for the purpose of establishing value for assessment.
3. The caseload for the appraisers is approximately 120 cases each at any given time. A total of approximately 800 to 1000 cases are resolved each year.
4. Planning and Building Services is responsible for issuing and insuring compliance with required permits for construction of all buildings, property improvements and septic systems in the County.

5. Planning and Building Services has six employees inspecting structures and improvements to comply with permit requirements.
6. There are in excess of 1200 backlogged nuisance abatement cases in Planning and Building Services.
7. Currently the Assessor's office, Planning and Building Services and County Counsel meet on a regular basis to review *Williamson Act* contract renewals. *Williamson Act* contracts involve reductions to assessed tax due to agricultural use.
8. All of the **land** that is privately owned in Mendocino County is assessed and on the tax rolls.
9. The tax rolls are public information and available for public inspection during work hours when the Assessor's office is open.
10. There is no written procedure that provides for the notification of Planning and Building Services when a **structure** is found by the Assessor's office or Sheriff's Office that is not on the tax rolls.
11. There is no written procedure calling for the Assessor's office to notify Planning and Building Services when a new structure is **appraised**.
12. The Assessor's office does not inform Planning and Building Services when a new structure is **assessed**.
13. The Assessor's office does not inform the Sheriff's Office when a new property is appraised. The Grand Jury was informed that this is to protect the safety of the Assessor employees.
14. According to the Assessor, there are laws that prohibit directly informing other departments of County government when a new structure is appraised and added to the tax rolls.
15. According to County Counsel, Revenue and Taxation Code §408.3 states that a "property characteristics information form" is subject to disclosure. The Assessor prepares a form that matches this description. This is the information that Planning and Building Services needs. A property characteristic form includes at least the following items:
 - year of construction of improvements,
 - square footage,
 - number of bedrooms,
 - number of dwellings.
16. Planning and Building Services, the Assessor's office, and the Sheriff's Office do not meet to coordinate actions regarding newly found structures.
17. Planning and Building Services must review assessed tax rolls on a regular basis to find newly assessed structures in order to determine if any required permits were not obtained.
18. Planning and Building Services informs the Assessor's office when an issued permit is inspected and the structure is determined as completed.
19. The Sheriff's Office purchased software licenses to be able to research the Assessor's tax rolls in order to determine if a property being investigated is on the tax rolls.

20. There is no written procedure for notification of the Assessor's office when the Sheriff's Office finds a structure that is not shown on the tax rolls. All contact is left to the discretion of the Sheriff's Deputies. The contact consists of a phone call and potentially a visit with the appraiser to the suspect property.
21. There is a publicly available complaint form that can be filed with Planning and Building Services. The Sheriff's Office can use this form when an apparently unpermitted structure is found.
22. Planning and Building Services provided an amnesty program for building permits that waived the investigative penalty fee, where the owners self-reported their failure to obtain the required permits. This amnesty program expired on December 31, 2010.
23. As of January 1, 2011, new state mandated rules for buildings became effective. These rules will increase the cost of building a structure in California and will require additional inspections.
24. Planning and Building Services is not considered an enterprise department.
25. Planning and Building Services could generate enough in fees from code enforcement for that operation to become an enterprise department if staffing was increased.

Recommendations

The Grand Jury recommends that:

1. the Assessor's office notify Planning and Building Services upon the assessment of a newly appraised building. (Findings 10-12)
2. the Assessor's office, Planning and Building Services and Sheriff's Office meet on a regular basis, not less than quarterly, to discuss problems and concerns about unpermitted and unassessed properties. (Findings 10-20)
3. the Assessor's office, Planning and Building Services and Sheriff's Office coordinate and establish written procedures to easily exchange information regarding unpermitted and unassessed properties. (Findings 10-20)
4. the Assessor's office, Planning and Building Services and Sheriff's Office establish written procedures for deputies to accompany county employees on potentially dangerous inspections of property in the County. (Findings 2,5,13,16)
5. Planning and Building Services clear all backlogged nuisance abatement cases. (Finding 6)
6. the Board of Supervisors designate Planning and Building Services' code enforcement operations as an Enterprise department and increase staffing, realizing increased staffing will be offset by increased revenues from the code enforcement process. (Findings 23-25)

Discussion

There are areas ripe for improved communication between the various departments of our County government. Given the current dire straits of our County's finances, it requires the highest level of cooperation between offices. To that end, the Grand Jury is calling for notification of other departments when a department finds unassessed and/or unpermitted structures. This notification must be prompt so that all other departments that might have a concern over these properties are aware of the problem as soon as possible. This will allow the County to insure public safety and recover fees due to the County.

The current state of affairs allows unpermitted septic systems to continue to function outside of the requirements of the law, allows potentially dangerous dwellings to remain out of code and allows properties to remain unassessed for periods of time that are unreasonable.

All of these actions endanger the public safety and fiscal health of our County and should be of concern to us all.

Response Required

Mendocino County Board of Supervisors (All Findings; All Recommendations)

Mendocino County Assessor (Findings 1-3,7-19; Recommendations 1-4)

Mendocino County CEO (All Findings; All Recommendations)

Director, Mendocino Planning and Building Services (Findings 4-12,14,16-18,21-25; Recommendations 1-6)

Mendocino County Sheriff (Findings 10,13,16,19-21; Recommendations 1-4)

Mendocino County Counsel (Findings 14-15,23-25; Recommendations 5-6)

FORT BRAGG POLICE DEPARTMENT

A Report on the Ft. Bragg Police Department

March 14, 2011

Summary

The Ft. Bragg Police Department (FBPD) is centrally located in the town of Ft. Bragg. Budget cuts have impacted FBPD's resources leaving the department short staffed. Additional burdens include officers being subpoenaed by Mendocino County District Attorney's office (MCDAO) to testify in the Ukiah courts.

Method

On September 29, 2010, the Mendocino County Grand Jury (GJ) conducted a site visit and inspected the FBPD facility, including holding cells, booking area, sally port, and evidence room. The GJ interviewed officers and staff, reviewed the budget and documents, including the Annual Report of Citizens Complaints against Peace Officers.

Background

California Penal Code §919(b) states: "the Grand Jury shall inquire into the condition and management of the Public Prisons within the county". The 2010-11 GJ complied with the State mandate by inspecting the FBPD facility.

Findings

1. Present staff consists of one Chief of Police, one Captain, three Sergeants, and 16 Officers. There are also two Community Service Officers, two Service Technicians, and one Administrative Assistant.
2. On February 10, 2010, there was a 10% reduction in staff resulting in the elimination of one officer position, one Community Service Officer and one Technician. This leaves staff at the 1990 level.
3. Officers are scheduled to work three twelve hour shifts one week, and four twelve hour shifts the next week.
4. FBPD has one canine unit, and is exploring options for obtaining another canine, which would be specialized in drug recognition.
5. Software was created by Mendocino County Information Technical Services (IT) for FBPD to identify dismissed or adjudicated cases, using data from the MCDAO.
6. Since the software became available, the evidence room is able to purge unneeded evidence and clear the backlog.

7. A court order is required to release or dispose of evidence that is considered contraband, such as drugs and guns, or other evidence obtained with a search warrant.
8. The FBPD evidence room uses a bar code system to identify evidence, and continues to be current in its disposition of evidence.
9. The FBPD evidence room also serves as storage for the defendant's personal property or lost and found items.
10. The FBPD evidence room now has two blood-drying cabinets, which diminish the chance of cross-contamination of any evidence.
11. Dispatch services continue to be provided by Ukiah Police Department (UPD), thereby increasing available statistical information.
12. The most frequent issues that FBPD deals with are vandalism, transients, and the homeless. Gang activity is limited.
13. FBPD has a booking area available to other law enforcement agencies, such as the California Highway Patrol or California Fish and Game, for a \$50 fee per occurrence.
14. Persons, who are arrested and booked, are transported to Mendocino County Jail in Ukiah; others may be cited and released. Transporting prisoners to Ukiah leaves FBPD short staffed.
15. Misdemeanor cases are handled at the 10-Mile Branch Superior Court in Fort Bragg. Felony cases are handled at the Mendocino County Superior Court in Ukiah.
16. When the MCDAO subpoenas one or more officers to testify, the officers must travel to Ukiah and are required to allot a minimum of four hours, leaving the FBPD short staffed. Cases can be pleaded or dismissed while the officer(s) is in transit.
17. If an officer is in transit between Fort Bragg and Ukiah on Highway 20, there is limited communication by cell phone or radio.
18. FBPD has two police bicycles used to patrol the community and for special events.
19. Officers are encouraged to participate in activities and community service.

Recommendations

The Grand Jury recommends that:

1. the FBPD hire retired officers on a part-time basis to transport prisoners to the Mendocino County Jail. (Findings 14, 16)
2. the FBPD obtain a second K-9 Unit. (Finding 4)

Discussion

The FBPD facilities were found to be neat and well maintained. FBPD continues to operate efficiently even though budget cuts have drastically limited their resources.

Response Required

Fort Bragg City Council (All Findings; All recommendations)

The Fort Bragg Chief of Police (All Findings; All recommendations)

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ARE WE HAVING FUN YET?

A Report on Mendocino County Festival Fees and Temporary Permits

March 15, 2011

Summary

The 2010-2011 Grand Jury (GJ) conducted a comprehensive review of the festival fee and permit process in Mendocino County. The purpose was to determine if the cost of festival permit fees is sufficient to cover the actual cost to the County.

The main intent to issue the *Outdoor Festival License* is to provide for public health and safety, since each applicant has to prove that they will provide adequate security and sanitation facilities.

Festival and special events require permits and approval from County departments. Each department has different requirements, depending on the location, type of event, and the level of attendance. Permits must be obtained prior to the issuance of any required license.

The *Outdoor Festival License* process is quite different than the normal business license, although it is issued on the same form as a business license. There are numerous requirements that must be met before the outdoor festival packet is submitted to the Board of Supervisors (BOS) for approval.

An *Outdoor Festival*, as described in County Code 6.16, includes any outdoor gathering of one thousand (1000) or more persons with the primary purpose of attending, participating and/or observing any of the following events to which the public is admitted, with or without admission charges:

- a musical or theatrical performance,
- a fair, meaning any exhibition of crafts, agricultural or industrial products, or any other handiwork or product.

Method

The GJ interviewed County staff, including Mendocino County Environmental Health Division (EHD), Mendocino County Planning and Building Services (P&BS), Mendocino County Sheriff's Office (MCSO), Mendocino County Treasurer-Tax Collector (MCTTC), and the Anderson Valley Volunteer Fire Department (AVVFD) staff.

Documents reviewed were obtained from EHD, P&BS, MCSO, MCTTC, and AVVFD, including applications, fee schedules, County codes and resolutions concerning outdoor festivals and permits. Documents obtained from the MCSO

included the budget and accounting with actual expense information and reimbursement of costs.

Background

California Proposition 218, approved by voters in November 1996, states "...the amount of the fee may not exceed the cost to the government to provide the service".

The departments involved in issuing festival permits calculate the cost of the fees differently. Some use hourly rates, others divide the total work by the cost of employees' time and/or charge for use of equipment and inspections.

Findings - General

1. Several departments in Mendocino County are involved in issuing permits and collecting fees. The principal departments responsible are: Mendocino County Treasurer-Tax Collector, Planning and Building Services, Environmental Health Division, and Mendocino County Sheriff's Office.
2. Any organized festival or event in Mendocino County requires a permit.
3. MCSO staff could not recall that any citation has ever been issued for a festival or event that was held without a permit.
4. Each department has different permit requirements, depending on the location, type of event, and the number of people attending.
5. Functions on private property - such as weddings, and non-profits who serve only their own members and guests but not the general public, are exempt from the permitting process.
6. Conditions contained within a permit may include:

food handling/safety	facility use
sanitation (port-a-potties, waste disposal)	security/fire prevention/electrical
traffic control	alcohol

7. The departments involved in issuing *Outdoor Festival Permits* calculate the cost of the fees differently. Some use hourly rates, others divide the total work by the cost of employees' time and/or charge for the prorated use of equipment and inspections.
8. California Proposition 218, approved by voters in November 1996, state, "...the amount of the fee may not exceed the cost of the government to provide the service."

Findings - Mendocino County Treasurer-Tax Collector

9. Veterans and non-profit organizations, under Mendocino County Code, Title 6, Chapter 6.16, Section 6.16.080, are exempt from *Outdoor Festival Permit* fees with proper documentation. Veterans must provide a copy of Form DD-214 with the application; non-profit organizations must provide their Federal

- Tax ID Number and Articles of Incorporation with the application.
10. The MCTTC issues an *Outdoor Festival License* intended to protect the health and safety of the public. The current fee schedule for *Outdoor Festival License* issued by the MCTTC has remained the same for the last 30 years.
 11. The MCTTC issues six to seven *Outdoor Festival Licenses* each year; however, most applicants are non-profit and the MCTTC receives no fee for the service provided.
 12. Mendocino County Code, Title 6, Chapter 6.16, Section 6.16.10, establishes the *Outdoor Festival License* for events of *1000 or more persons* attending festivals, with or without the payment of admission charges. Resolution 80-406, passed by the Board of Supervisors in 1980, establishes fee for service including *for less than 1000 people* based on actual cost of providing specific County services.
 13. The MCTTC fee schedule for *Outdoor Festival License* is based on daily attendance:

0-499 people — \$ 50	500-749 people — \$ 75
750-999 people — \$ 100	1000 or more people — \$150

14. Fairgrounds operated by the State of California, County of Mendocino, or other public entities are exempt from fees.
15. The application for an *Outdoor Festival License* shall be filed with the MCTTC no later than three weeks prior to the event, and shall be accompanied by a non-refundable fee. Either a Use Permit or Administrative Permit must accompany applications from P&BS, if applicable.
16. Property zoned General Commercial (C2), requires no permit from P&BS; organizers may be required to pay a license fee to the MCTTC.

Findings - Planning and Building Services

17. A temporary *Use Permit* is required for a circus, carnival, concert, religious assembly, or other forms of entertainment with a temporary structure, and may be permitted in any location except for residential areas zoned R1 and R2.
18. Permits issued to festival organizers by the Mendocino County Planning and Building Services use the following criteria:
 - if the crowd is under 100 persons, no permits are required,
 - if the crowd is over 100 persons, but less than 1000, an *Administrative Permit* may be required,
 - if the crowd is 1000 or more persons, a *Minor Use Permit* is required.
19. An *Administrative Permit* fee can be up to \$1500; the fee for *Use Permits* can be up to \$4000. Fees may be higher within the coastal zone. Fees are not waived for non-profits or veteran organizations, unless the Board of

Supervisors grants a waiver.

20. A *Use Permit* requires a different application and process than a standard *Building Permit* and must be approved by the Board of Supervisors, the Planning Commission, or the Zoning Administrator.
21. A permit is required at a public gathering if an admission fee is charged.
22. Mendocino County does not require that a festival organizer submit Proof of Insurance for commercial general liability.
23. Planning and Building Services reported three *Outdoor Festival Use Permits* and six *Administrative Permits* were issued between 2007 and 2010. Temporary permits are not electronically recorded.
24. *Outdoor Festival Event Permit* applications for annual events may require less time to process; however, the fee charged remains the same.
25. Due to budget constraints, Mendocino County has one Code Enforcement Officer stationed on the coast, responsible for several duties, including compliance of *Outdoor Festival Permits* within the County.

Findings - Environmental Health Division

26. Environmental Health Division (EHD) issues permits for community events. The organizer of a festival is required to obtain a *Community Event Permit*. The fee for less than 15 food vendors is \$158; for 15 or more food vendors is \$303.
27. All vendors who sell food to the general public at special events or festivals require a permit, issued by EHD.
28. Each vendor must pay for his or her own individual permit. Non-hazardous foods (i.e. potato chips) permits are \$47, and for potentially hazardous foods (meat, beans, dairy) permits are \$64, if the application is filed within 5 days prior to the event. If the application and fee are received less than 5 business days prior to the event, the fee for non-hazardous foods is \$84; for potentially hazardous food is \$113.
29. The permits issued by EHD may have requirements for sanitation facilities based on the number of persons expected to attend.
30. The EHD requires fees to be submitted with the original application and cannot accept faxes or photocopies. Temporary food vendors must apply at least five days prior to the event or be assessed a late fee.
31. Permits must be clearly posted at each food vendor station.
32. *Food Handlers Certificates* for temporary food vendors are not required.
33. When the food inspector discovers a vendor without a permit, or operating with an expired permit, the vendor must pay for the permit on site, including a late fee. If the vendor refuses to pay, the inspector has the authority to require the vendor to leave the event.
34. Veterans and non-profits with proper documentation are exempt from fees, but are not exempt from a penalty fee for late submittal of their application.
35. The number of street corner produce vendors has increased in the last few years and are often found to be operating without a permit.
36. EHD maintains electronic records of the number of permits issued each year

for permanent food facilities, including groceries, restaurants, and delicatessens. In 2010, the number of annual permits invoiced was 714. EHD has no readily available information on the number of festival permits issued.

Findings - Security and Fire Prevention

37. The Mendocino County Sheriff's Office (MCSO) may provide law enforcement services for private events. If the deputy is assigned during regular scheduled time, the event coordinator is charged the actual cost. If the deputy is assigned to the event during his day off, then reimbursement is at over-time rate. According to MCSO staff, this arrangement does not compromise public safety.
38. The MCSO does not allow deputies to provide private security services.
39. For events where liquor is sold, the MCSO reviews the Alcohol Beverage Control (ABC) applications and checks the applicant's background for *Temporary Liquor Sales*.
40. MCSO was charging \$176 to process the ABC application for alcohol sales. Veterans and non-profit organizations are not exempt from this fee. At the time of the GJ review, the fee schedule is being revised and has not been implemented.
41. If a citizen requests, a fire department may provide committed stand-by service at special events for a fee.
42. Fire department personnel on standby at an event are free to pursue other emergency calls if there is no commitment to an event.

Recommendations

The Grand Jury recommends that:

1. Mendocino County Planning and Building Services continue to enforce County Codes, (Finding 3)
2. the departments involved in issuing permits establish uniformity in their permit process and requirements, (Finding 4)
3. the Mendocino County Board of Supervisors revisit Resolution 80-406 and County Code 6.16, to resolve the conflict found in the Outdoor Festivals fee schedule, (Findings 10, 12-13)
4. the Mendocino County Planning and Building Services require Proof of Insurance for a temporary *Use or Administrative Permit*, (Finding 22)
5. the Mendocino County Planning and Building Services record all temporary permits electronically, (Finding 23)

6. the Mendocino County Environmental Health Division record all temporary permits electronically, (Finding 36)
7. the Mendocino County Planning and Building Services permits for annual events, requiring less time to process, be billed at reduced cost, (Finding 24)
8. the Mendocino County Planning and Building Services require a Code Enforcement Officer to cite organizers of non-permitted events. (Finding 3)

Discussion

The Grand Jury found it difficult to distinguish between the various types of permits and licenses. The GJ found no uniformity in the application process for permits. Each department allows some latitude in their requirements for permits.

County revenue may be lost by unpermitted events. However, California Proposition 218, states that a government entity may not charge more than it costs for the service provided.

The GJ could not determine if the County recovers the actual costs associated with all permitted festival activities. However, the Sheriff's Office does recover the full cost for any law enforcement services provided for private parties or other functions.

The GJ found departmental staff to be helpful. However, information regarding the permit applications needs to be coordinated and shared with other participating departments.

Response Required

Mendocino County Board of Supervisors (Findings 10, 12-13, 22;
Recommendations 3-4)

Mendocino County Planning and Building Services, Director (Findings 1-9, 17-25;
Recommendations 1-5, 7-8)

Mendocino County Environmental Health Department Director (Findings 1-2, 4-9,
26-36; Recommendations 2, 6)

Mendocino County Treasurer-Tax Collector (Findings 9-16)

Mendocino County Sheriff (Findings 1,3,21, 37-40)

PLEASE HELP ME

A Report on Mendocino County Victim Witness Program

March 16, 2011

Summary

The 2010-2011 Mendocino County Civil Grand Jury (GJ) received a complaint regarding the Victim Witness Assistance Program (VWP). The GJ reviewed the VWP's procedures and concluded that the complaint had no merit because the victim did not complete the program.

The VWP operates under the umbrella and direct supervision of the Mendocino County District Attorney's Office (MCDAO), and is funded through the State, MCDAO, and grants. The VWP provides comprehensive services to victims and witnesses of all types of crime in Mendocino County.

The VWP goals are to reduce trauma and insensitive treatment of victims/witnesses and to assist them in participating in the criminal justice system, while at the same time improving the system's understanding of the victims' needs. The VWP is victim driven, which means the victim must be willing to participate and complete the program.

The VWP staff assists in arranging law enforcement protection for the victim, notification of court dates, counseling referrals, and in filing applications to the California State Victim Compensation Fund.

Method

The GJ interviewed staff from MCDAO, Mendocino County Sheriff's Office (MCSO), VWP, and Project Sanctuary (PS); reviewed budgets, program documents, and the 2008 Victims Bill of Rights, known as *Marsy's Law*.

Background

The California Victim Witness Assistance Program, under Penal Code §13835, was established in the early 1970's and is administered by the Governor's Office of Criminal Justice Planning.

On November 4, 2008, the people of the State of California approved Proposition 9, the Victims' Bill of Rights Act of 2008, known as *Marsy's Law*, named after her boyfriend killed a female student in 1983. The justice system failed to notify the family that the defendant was released on bail.

Every major newspaper in California opposed Marsy's Law, yet the people passed the measure with a 54% vote, which placed California in the forefront of the National Victim Rights Movement. The law became the most comprehensive Constitutional Victims' Rights Law in the United States with 16 rights for victims of crime, as defined in the California Constitution, Article I §28.

In 2010, the State of California discontinued funding for the Battered Women's Shelter Program. This represented a 25% loss of revenue for Project Sanctuary, resulting in lay-offs and reduction of services. In 2011, funding was reinstated due to pressure from the public.

Findings – General

1. Current funding for VWP is provided by California Emergency Management Agency (CalEMA), the District Attorney's budget, and various program grants.
2. The VWP serves women, children, men, and elder victims of violent crimes.
3. Non-profit organizations, local law enforcement agencies, and the MCDAO refer victims to the VWP.
4. The MCDAO provides VWP with copies of reports involving victims of violent crimes.
5. The Victim Witness Advocate contacts the victims and informs them of the following services offered by the program:

- | | | |
|----------------------------------|--|--------------------------------|
| • crisis intervention | • emergency assistance | • criminal protective order |
| • court escort service | • translation/interpreter | • victim impact statement |
| • notification of court dates | • counseling referrals | • transportation to court |
| • property return | • employer notification | • community resource referrals |
| • advisement of case disposition | • orientation to the Criminal Justice System | • restitution assistance |

6. The VWP is victim driven. Victims should be willing to cooperate with follow-up investigations and the criminal justice process. Not every victim continues to use the VWP services.
7. The VWP has a Memorandum of Understanding (MOU) with the MCDAO, Project Sanctuary, Mendocino County Youth Project, and law enforcement agencies within the County.
8. The VWP staff consists of one Coordinator/Grant Writer, two Assistant II, and four Victim Advocates, two of which are bi-lingual. The program has three vehicles at their disposal, purchased with grant funds and used for victim/witness transportation and staff training. The VWP serves 3500 square miles in Mendocino County.
9. The California Victim Compensation Program (CVCP), under the California Victim Compensation Government Claims Board (CVCGCB) can provide assistance to pay bills and expenses that are the direct result of a violent crime. Victims must meet basic eligibility. The CVCP is the payer of last resort.

10. A VWP Advocate may assist the victim in completing an application to the State Victim Compensation Program, which may provide assistance with emergency relocation, wage loss, medical/dental, funeral/burial, and mental health counseling. Services are based on application approval.
11. The MCDAO notifies the VWP of any changes in case status and disposition, including any changes of court dates and times.
12. The VWP administers the Special Emphasis Victim Assistance (SEVA) Program, serving Native American and Latino victims; program goals are to reduce trauma and insensitive treatment of victims.
13. Historically, the Hopland Band of Pomo Indians has been supportive of the VWP by writing a letter in support of grant applications for Indian Gaming Distribution Funds, when available. The availability of Indian Gaming Distributions Funds has been negatively impacted by the economy.
14. The Victim Witness Protection Program is a separate program, which relocates the victims or witnesses of serious felonies with new identities, and is not administered by the VWP.

Findings - Project Sanctuary

15. Project Sanctuary, Inc. (PS) is a private non-profit organization supported by State and local funds, United Way, and contributions from individuals.
16. PS began in the Fall of 1977, in response to the need for emergency shelter and support for abused women. In the Fall of 1980, a Rape Crisis Service was added to provide emergency response and counseling to survivors of sexual assault. In 1991, PS established an office in Fort Bragg to serve the coastal communities.
17. PS, a mandated reporter of crimes against children, offers services to prevent and lessen the effects of violence against adults and children by providing the following:
 - 24-hour crisis line, collect calls accepted
 - counseling
 - paralegal assistance
 - shelter for women and children
 - support groups
 - education, including self-defense classes

18. Budget reductions prevent PS Advocates from escorting clients to court.

Findings – Civil and Criminal Justice Process

19. A domestic violence restraining order is a civil court order, signed by a judge that orders the abuser to stop the abuse or face serious consequences. It offers civil legal protection from domestic violence to both female and male victims. A victim should not rely on a restraining order for protection; they should provide for their own safety.
20. In order to obtain a Domestic Violence Protective Order in California, one of the following must occur to the victim by the perpetrator:

- causes or attempts to cause physical injury
- threatens or harasses victim, either in person or through phone calls, emails, etc.
- sexual assaults
- destruction of victim's personal property
- molests, attacks, strikes, batters, or stalks victim
- disturbing the peace of the victim

21. There are three types of Domestic Violence Restraining Orders:

- Emergency Protective Order, with the approval of the judge, can be issued by the arresting officer in the field; it is good for five business or seven calendar days and gives the victim time to go to court to ask for a domestic violence order,
- Temporary (ex parte) Restraining Order is obtained in court; valid until the court hearing date for the restraining order; at which time the victim can request a "peaceful contact order." The judge could order *peaceful contact* or order the abuser to leave the home and have no contact with the victim,
- Restraining Order After the Hearing: a judge can grant to a victim a restraining order lasting up to five years; however, if there is no termination date, the order will last three years after the date of issue.

22. A victim can obtain a criminal protective order under Penal Code §136.2, either before trial or after trial, as a probation condition when a criminal charge is filed. A victim can also obtain a domestic violence restraining order (Family Code §6300 et seq.) in civil court regardless of whether or not criminal charges have been filed.

23. The victim may request the restraining order to be withdrawn and may discontinue participation in the VWP.

24. If the victim has no physical injuries, the perpetrator may be charged with a misdemeanor. If there are physical injuries, the perpetrator may be charged with a felony.

25. Bail can be provided by a bail bondsman for a 10% fee, which can be financed. The on-call judge may increase the bail beyond the bail schedule in extreme circumstance.

26. Upon the victim's request, the MCSO can notify the victim of the defendant's release from jail.

Findings – The Vine Program

27. The Victim Information and Notification Everyday (VINE) is a national, free, confidential service, available 24-hours a day, seven days a week, in English and Spanish.

28. The VINE system is an anonymous, computer based telephone program that provides victims with two important services: information and notification of defendant status. A victim should not solely depend on the VINE service for protection, and should take precautions.

29. The VINE system can now notify victims by e-mail.

30. Problems arise when the victim changes their telephone, email address, or cell number and fail to notify the system.

Recommendations

The Grand Jury recommends that:

1. Mendocino County District Attorney's Office continue to provide the grant support to the Victim Witness Assistance Program from their budget, (Finding 1)
2. Mendocino County District Attorney's Office utilize asset forfeiture funds to augment Victim Witness Assistance Program funding, (Finding 1)
3. Victim Witness Assistance Program continue *outreach* to encourage those who drop from the program to continue, (Findings 6, 23)
4. Victim Witness Assistance Program staff continue to actively pursue annual grants for program funding, (Findings 1,8,12-13)
5. the arresting/investigating officer be required to inform the victim that *upon request*, s/he can be notified by the Mendocino County Jail staff when the offender is released from custody, (Finding 26)
6. the arresting/investigating officer must inform the victim that, if the offense warrants, an Emergency Protective Order is available immediately and will be issued on site, (Finding 21)

Discussion

The VWP fulfills its grant and program obligations by having communication and cooperation with the following agencies; the MCDAO, law enforcement, non-profit organizations, including Project Sanctuary and Mendocino County Youth Project.

Before the Victims' Bill of Rights, *Marcy's Law*, was enacted, victims did not receive public attention. Since the Law passed, victims are receiving the consideration and respect they deserve.

In the past, domestic violence offenses were not taken seriously. In recent years, law enforcement has given victims more consideration and understanding. Victims should be given the opportunity by officers, to receive a Temporary Restraining Order, or a *No-Contact Order*, when the offense warrants it.

The public should be aware and report to law enforcement any abusive behavior they observe.

Response Required

Mendocino County District Attorney's Office (Findings 1, 3-4, 7, 11, 19-26;
Recommendations 1-2)

Victim Witness Program (Findings 1-14, 23; Recommendations 3-4)

Mendocino County Sheriff's Department (Findings 21, 25-26; Recommendations
5-6)

City of Fort Bragg, Chief of Police, (Findings 21, 25-26; Recommendations 5-6)

City of Willits, Chief of Police, (Findings 21, 25-26; Recommendations 5-6)

City of Ukiah, Chief of Police, (Findings 21, 25-26; Recommendations 5-6)

Response Requested

Project Sanctuary (Findings 15-18)

WALK THE TALK

A Report on Search Warrants and Officer Conduct

March 22, 2011

Summary

The 2010-2011 Grand Jury (GJ) received citizen complaints regarding officer misconduct while conducting searches, and allegations involving inappropriate officer conduct. After conducting an overview of the search warrant process, Officer Code of Conduct and Ethics, training, supervision and disciplinary policy, the GJ determined that the complaints were valid.

Court decisions, regarding search and seizure, frequently change case law and are subject to interpretation. Search and seizure decisions can be very complex and fact-driven. There are thousands of state and federal cases that discuss and refine search and seizure principles.

Citizens have a reasonable expectation of privacy. In order to conduct a search, law enforcement is legally required to have: a valid search warrant, an exigent circumstance, or valid consent.

Search warrants are required for a residence, areas of a business closed to the public, and locked compartments of a vehicle. Parolees and probationers do not have a right to privacy and are subject to search at any time.

When an officer conducts a search, a hard-copy of the warrant is not required to be shown or left at the scene of the search. Forced entry may occur if no immediate response is received to a door knock and officer identification, to prevent destruction of evidence.

California Penal Code §3012(e) requires the Department of Justice (DOJ) to collect, compile, and publish in its annual report, the number of citizen complaints received by law enforcement agencies.

Method

The 2010-2011 GJ interviewed City, County and State law enforcement personnel, obtained and reviewed Policies and Procedures, General Orders, California Penal Code, Code of Conduct, Code of Ethics manuals, and organizational charts.

Background

The Mendocino Major Crimes Task Force (Task Force) operates under the California Department of Justice, Bureau of Narcotics Enforcement, who funds the Commander's salary and the office rent. Each local law enforcement agency contributes \$3500 annually for office administration and supplies. The Mendocino County Probation Department (MCPD) no longer contributes \$3500 to the Task Force.

Findings – General

1. Search warrants served and executed by Federal, State, and local law enforcement agencies, are necessary to search private property.
2. State agencies and local law enforcement include the following:
 - California Fish & Game Department (CF&G)
 - Fort Bragg Police Department (FBPD)
 - Ukiah Police Department (UPD)
 - California Highway Patrol (CHP)
 - Mendocino Major Crimes Task Force (Task Force)
Dept. of Justice, Bureau of Narcotic Enforcement
 - Mendocino County Sheriff Office (MCSO)
 - Willits Police Department (WPD)
 - Mendocino County Probation Department (MCPD)
 - Bureau of Land Management (BLM)
 - CAL FIRE, DMV, ABC, and others

Findings - Search Warrant Process

3. There are three main bodies of the search warrant process: Affidavit in support of the search warrant, the search warrant, and the return of the search warrant.
4. The search warrant procedure involves investigation, documentation, affidavit preparation, execution, and return to the court including a list of any property taken, and status of that property.
5. All search warrants require probable cause: search for person(s), search for evidence, or combined search for person(s) and evidence.
6. For safety, it is advisable that an officer does not serve a warrant alone.
7. An officer may not physically enter any area where an individual has a reasonable expectation of privacy to conduct a search or seizure without one or more of the following: a valid search warrant, exigent circumstances, or a valid consent.
8. Exigent circumstances may include any of the following:
 - medical emergency
 - officer safety, as a suspect may be armed
 - imminent escape of a suspect
 - imminent danger of injury or death
 - serious damage to property
 - prevention of destruction of evidence
9. A search by consent is only valid if all of the following criteria are met:

- voluntary
- does not exceed the scope of consent
- given by a person with authority
- valid consent can be withdrawn at any time

10. When valid consent has been obtained, entry into a location is permitted for the purpose of conducting a search for any item reasonably believed relevant to any investigation.
11. A condition of County probation may or may not include a search and seizure consent clause; however, a condition for State parole is that the person, his/her property or residence can be searched at any time without a warrant.
12. Depending on the circumstances, expectation of privacy requiring search warrants is: highest (dwelling), medium (area of business closed to the public), and lowest (a vehicle, with the exclusion of any locked area).
13. An officer obtains a search warrant after completing an application/sworn affidavit with a description of the property or person to be searched, probable cause, and evidence expected to be found. The sworn affidavit must be reviewed and signed by a judge before a warrant is issued.
14. It is not required that an officer have a hard copy of the search warrant in hand. There is no immediate remedy for a citizen to dispute the execution of a search warrant while the search is in progress.
15. When officers arrive at a residence to serve a search warrant, they knock on the door and announce themselves (MCSO General Order section 342.00), unless exigent circumstances prevent announcing their presence (Policy 200). If there is no response to the knock within a reasonable time, forced entry may take place. The officers' concern is the delay may allow the destruction of evidence.
16. Depending on the circumstances, it is not required that the warrant be shown or a copy be left with the person whose property is searched; however, Penal Code §1535 states that a receipt is required for any items taken.
17. Court decisions dictate the process and authority for sealing a Search Warrant Affidavit, which is generally done to protect information sources from harm or to avoid compromising further investigations.
18. Law enforcement has conducted searches at incorrect property addresses.

Findings - The Task Force

19. The Task Force, created in 1984, operates under the direction of the County Law Enforcement Executive Board and is supervised by the DOJ, which funds the Commander's salary and office rent.
20. The primary goal of the Task Force is to investigate major crimes, which may include homicide, rape, eradication, cultivation, production, distribution and sales of illegal marijuana, methamphetamine, and other illegal drugs.
21. The Task Force team includes the Commander and the following:
 - two Deputies and one canine from MCSO
 - one Officer from FBPD
 - one Secretary
 - one Officer from UPD
 - one Officer from CHP
 - one Evidence Technician

22. WPD and Mendocino County Probation Department do not contribute an officer to the Task Force at this time, but do serve on the Task Force Executive Committee.
23. Each law enforcement parent agency that assigns an officer to the Task Force is responsible for the behavior and actions of their assignee.
24. The Task Force Commander is responsible for the immediate supervision of the officers assigned to the Task Force, without authority to discipline or terminate any team officer for misconduct. The Commander can make recommendations to the parent agency.
25. The Task Force accepts and investigates all verbal complaints, but refers formal complaints to the parent agency of the officer involved.
26. The Task Force served 143 search warrants in 2009. Investigation and documentation for each search warrant required an average of 15 hours of officer time to complete the procedure.

Findings – Training, Conduct, and Supervision

27. Officers receive training at the police academy and mandated training continues throughout their service. A rigorous background check and psychological tests are required for all new recruits.
28. Experienced officers applying for a position with another law enforcement agency are subject to an extensive background search, which will include a review of their administrative files (performance/evaluations).
29. California Penal Code §13012(e) requires the DOJ to collect, compile, and publish in its annual report, the number of citizens' formal complaints received by law enforcement agencies.
30. Officers are held to a higher standard of behavior than the general public. Each local law enforcement agency has similar policies for conduct, ethics, and behavior. Officer misconduct includes: lying, theft or embezzlement, use of profanity, speeding without emergency lights, use of excessive force, intoxication while on duty, absenteeism, tardiness, sleeping on duty, and violating safe working practices.
31. Officers who engage in misconduct are subject to progressive discipline:
 - oral/written reprimand
 - administrative leave
 - suspension without pay
 - time off/additional training
 - demotion
 - termination
32. An officer can be terminated for lying or committing serious crimes. An officer subject to severe disciplinary action is entitled to an administrative *Skelly* hearing, after Internal Affairs completes an investigation.
33. An excerpt from the Ukiah Police Department, *Search Protocol*, Policy 322, states members of the Department³:

³ The GJ chose to use this excerpt on search protocol as an example; other law enforcement agencies policies are similar.

- will conduct person searches with dignity and courtesy,
- will conduct property searches in a manner that will return the condition of the property to its pre-search status, when possible,
- when the person to be searched is of the opposite sex of the officer, an officer of the same gender should be summoned to the scene to conduct the search, if available,
- if no same gender officer is available, then the supervisor or another officer will witness the search; the searching officer will use the back side of their hand to search the person,
- the officer will explain to the person being searched the reason for the search and how the officer will conduct the search.

34. Each officer of a higher rank supervises subordinate officers.

35. A supervising officer will exercise responsibly the discretion vested in his position regarding the conduct of the subordinate officer.

36. The manner and style of supervision varies among supervisory officers; this discretion may lead to confusion among officers.

37. Recently, the County paid a \$35,000 settlement to a person who suffered an injury when a search was conducted at an incorrect address.

Recommendations

The Grand Jury recommends that:

1. law enforcement review their *Code of Conduct and Ethics* on a quarterly basis and annually participate in sensitivity training and random psychological testing. (Findings 27, 31-33)
2. the Task Force Commander immediately report any complaints of misconduct to the parent agency. (Findings 23-25, 30-33)
3. law enforcement officers treat all persons with dignity, respect, and courtesy at all times with conditions permitting. (Findings 33, 37)
4. the Task Force team explore the use of video recorders to be worn and activated at all times, except while conducting sensitive investigations. (Finding 26)

Discussion

It is a common misconception that a search warrant must be shown prior to entering a residence or that a copy of the warrant must be left at the scene by law enforcement. This misconception was the basis for one of the complaints that the Grand Jury accepted for investigation. Television Crime programs and movies give the public the impression that officers carry search warrants in hand, present it as they are executing the warrant, and explain why the warrant is being served.

It is unrealistic to expect law enforcement officers to explain to the person why his/her property is being searched, and how the search will be conducted in every circumstance; however, citizens should be treated with courtesy and respect.

Verbal or written complaints about officer misconduct are reported to the appropriate law enforcement agency, District Attorney, Sheriff, Chiefs of Police, or Tribal Police. Complainants are interviewed, but rarely choose to make a formal complaint, due to fear of reprisal or have changed their mind after venting their frustrations.

Most officers are honest and professional. They discharge their duties in a respectful manner, consistent with their sworn oath of office. Unfortunately, a few rogue officers' unethical behavior places a black cloud over all officers.

Law enforcement continues to meet the challenge of maintaining public safety as their priority, despite drastic budget and staff reductions caused by the harsh economic climate.

Response Required

Mendocino County Sheriff (Findings 1-18, 27-36; Recommendations 1-3)

Chief of Police, Fort Bragg Police Department (Findings 1-18, 27-36; Recommendations 1-3)

Chief of Police, Ukiah Police Department (Findings 1-18, 27-37; Recommendations 1-3)

Chief of Police, Willits Police Department (Findings 1-18, 27-36; Recommendations 1-3)

Commander, Mendocino Major Crimes Task Force (All Findings; All Recommendations)

Response Requested

Captain, California Highway Patrol (Findings 1-18, 27-36; Recommendations 1-3)

DOING THE BEST WE CAN, WITH WHAT WE GOT

A Report on the Willits Police Department

March 31, 2011

Summary

The City of Willits Police facility is located in a County owned building. The roof has leaked since the building was first occupied in 1988. Annual repairs by General Services have not corrected the problem. The sign, indicating the location of the facility, is still missing.

The City of Willits budget cuts resulted in the Willits Police Department (WPD) being short-staffed, increasing overtime costs. One vacant officer position remains unfilled.

An officer must be on the premises at all times when detainees are in holding cells. To save time and cost, detainees are taken directly to Mendocino County Jail to be booked. The cost of transporting detainees from WPD to Mendocino County Jail is an additional financial burden on the WPD.

Method

The Grand Jury (GJ) conducted a site visit of the WPD on August 19, 2010 and inspected the facilities, including the holding cells. WPD officers and staff were interviewed.

The following documents were collected and reviewed: Annual Budget Report, Complaint Investigation Procedure, Employee Feature Tracking Summary, Background Instructions for Applicants, Pre-investigative Questionnaire, California Personal History Statement for Peace Officer and for Public Safety Dispatcher and Applicant Screening Examination, Polygraph Pre-test Questionnaire, Request for Pre-employment Credit Report, Code of Ethics, and a copy of the COPS grant application.

Background

The California Penal Code §919(b) states: "...the Grand Jury shall inquire into the condition and management of the public prisons within the county". The 2010-11 GJ complied with the State mandate by inspecting the WPD facility.

Findings

1. At the time of the GJ visit, the WPD staff consisted of one Chief of Police, four Sergeants, and seven Officers. There is one Reserve Officer, one Community Service Officer, four full time and one part-time Dispatchers, who

- also maintain records. One officer is qualified to be on the SWAT (Special Weapon and Tactic) team when needed; one Officer position is vacant.
2. WPD dispatchers are receiving more cellular 911 calls each year due to the accessibility of cell phones.
 3. WPD currently does not contribute an officer to the Task Force.
 4. The WPD does not have a K-9 Unit, due to budget constraints. The K-9 unit was discontinued in 1996.
 5. At the time of the GJ visit, no officers had been hired in the last sixteen months.
 6. Two officers are bi-lingual. *RosettaStone* software is available to help officers become bilingual.
 7. Officers work 12-hour shifts, four days per week, resulting in overtime.
 8. The Chief of Police is required to do routine patrol when multiple incidents occur simultaneously, even though off duty.
 9. Current applicants for officer positions must be experienced, since officers in field training are not allowed to work without supervision. Patrol cars are currently staffed by one officer.
 10. Individuals detained under Penal Code §5150 (danger to themselves or others) are taken to the local hospital. The officer remains with the detainee at the hospital until a mental health worker arrives and determines the status of the detainee.
 11. Gang activity exists in Willits; gangs are multi-racial.
 12. Persons who commit minor offenses may be cited and released. Others, who commit more serious offenses, are taken into custody and transported to Mendocino County Jail.
 13. An officer is required to remain in the building when a prisoner is held in one of the four holding cells.
 14. To save time and cost, prisoners are taken directly to Mendocino County Jail for booking.
 15. Transporting prisoners to the Mendocino County Jail is costly, often requiring overtime, affecting WPD staffing.
 16. Since the closure of the Willits branch of the Mendocino County Superior Court, Officers must travel to Ukiah or Fort Bragg to testify, leaving WPD short staffed.
 17. Officer testimony can create overtime cost. There is a minimum of three hours pay when an off duty officer is called to testify.
 18. At the time of the GJ visit no complaints have been filed against WPD.
 19. The shooting range for the City of Willits' is located the watershed property and is used for gun training. Lead-free frangible ammunition is used for training. Lead ammunition is only fired into the bullet-trap. Lead-free bullets are used for pop-up target training or off-trap training.
 20. The sign, directing the public to the WPD facility, is missing and currently stored at the Willits Department of Public Works.
 21. General Services maintains WPD's emergency generator.
 22. The WPD uses County IT and shares information with the Sheriff's Office using the *Report Management System* program.

23. The WPD current budget includes additional funding of \$100,000 from the State COPS (Citizens Options for Police Services) Grant. The goals of the grant are:
- bring Willits Justice Center temporary holding facility into compliance with State laws, rules and regulations,
 - to relieve field operation officer of the booking, processing, and transporting of arrestees,
 - learn the evidence functions of the Willits Police Department,
 - ensure a safe and humane environment for arrestees, as well as for officers and the general public,
 - continue parking enforcement and administration program.
24. Asset forfeiture (AF) funds may be used to support anti-gang and training programs, equipment, and officer overtime expenses.
25. Law Enforcement Administrators Association (LEAA) funds are a portion of AF distribution used for the sole purpose of funding programs to combat drug use, anti-gang programs, and for educator/parent/community organizations, and local businesses to involve their interest in the programs.
26. The WPD disbursed \$33,200 of LEAA funds between March 2010 and August 2010 to local middle and high schools for youth, sports, and after school programs with primary emphasis on drug and gang prevention. Also, receiving funds were Youth Based Emergency Services Summer Camp (YES Camp), Alcohol and Other Drug Programs (AODP) and Gang Resistance is Paramount (GRIP).
27. WPD is located in a County owned building. The roof has leaked every year since 1988 when the building was first occupied. Repeated repairs by General Services have not been successful. Leaks are known to cause structural damage and mold.

Recommendations

The Grand Jury recommends that:

1. the City of Willits provide funding for the vacant officer position. (Findings 1, 5, 8-9)
2. the Willits City Council approve the hiring of a retired officer for a part time position to augment the current police force. (Findings 1, 5, 8-9)
3. the City of Willits Public Works Department re-install the sign identifying the location of the WPD, (Finding 20)
4. the General Services department consult an outside engineer to determine if the leaking roof has caused structural damage, including mold; and to recommend a solution. (Findings 21, 27)

Discussion

In light of the drastically reduced budget, the WPD continues to operate efficiently, regarding public safety as their foremost priority.

Response Required

City of Willits, City Council (All Findings; All Recommendations)

City of Willits, Chief of Police (All Findings; All Recommendations)

City of Willits Public Works Department (Finding 20; Recommendation 3)

Mendocino County General Services Director (Findings 21, 27; Recommendation 4)

Reponse Requested

CAL-OSHA (Finding 27)

A POT PARADOX OR BUD BINGO?

A Report on Medical Marijuana Dispensaries in Mendocino County

April 20, 2011

Summary

Mendocino County does not currently have a Medical Marijuana Dispensary (MMJD) ordinance to regulate or monitor the number or types of medical marijuana dispensaries that operate inside its county boundaries. Given the fact that Mendocino County has gained worldwide attention for the apparent ideal conditions for the production of marijuana, the 2010-2011 Mendocino County Grand Jury (GJ) investigated the issues surrounding the county's proposed adoption of a Medical Marijuana Dispensary ordinance. These businesses, designated by the County, are authorized or regulated under the County Code to dispense Medical Marijuana (MMJ). The GJ concludes that the County is wise to adopt a countywide MMJD ordinance, with the benefits of adoption outweighing the risks of not taking some sort of action in response to the matter. Without the presence of an ordinance, the legality of existing MMJD's in Mendocino County is uncertain.

Background

Many of the 58 California Counties have struggled or are struggling with the issues surrounding the adoption of MMJD ordinances. While Mendocino County has currently not taken action on the adoption of such an ordinance, a number of dispensaries have been opened by individuals in this county. Across the State of California, county MMJD ordinances vary in degree, and range from outright prohibition of dispensaries, to legally-worded complex rules that include in their ordinances who, where, and how dispensaries can be established or maintained.

Findings

1. Mendocino County has not adopted any ordinance concerning Medical Marijuana Dispensary regulation, or whether or not dispensaries are collectives.
2. Other city and county jurisdictions in California have enacted marijuana dispensary ordinances that govern the location, size, and number under either planning or zoning ordinances, or by action of their Board of Supervisors.
3. The Treasurer-Tax Collector is unable to accurately state how many MMJDs or Collective business licenses have been issued.
4. A proposed ordinance named *Ordinance adding Chapter 9.32 of Title 9 of the Mendocino County Code Entitled Medical Marijuana Dispensing Collective*

Regulation by County Counsel was introduced to a committee of the Mendocino County Board of Supervisors (BOS) in October 2009⁴.

5. A BOS committee of 2, instructed County Counsel to cease work on the ordinance, and the draft was never considered for action by the BOS.
6. An undetermined number of MMJDs have been established within the county boundaries.
7. Two dispensaries have recently been established in Mendocino Township. These dispensaries are located within 1000 feet of areas frequented by school-aged children in the town.
8. The Sheriff publicly stated that 30% of his staff's time is devoted to marijuana issues.
9. Effective March 1, 2010, San Jose city residents voted for Measure U, City Ordinance 4.66, in favor of a special marijuana 7% business (gross receipt) tax.
10. After the passage of Proposition 26 in November 2010, a super-majority of the voters in Mendocino County would have to support a gross receipt tax on MMJDs to be enacted in Mendocino County.
11. Due to the lack of a MMJD ordinance:
 - any number of dispensaries can be established anywhere in the county with merely the acquisition of a business license,
 - there is no enforcement/abatement actions of existing public nuisance codes under Mendocino County Ordinance 9.31 against establishing or operating MMJD,
 - the needs of neighbors and communities to be protected from public safety impacts of MMJDs is not met,
 - there are no grounds for denial by the county, of a MMJD except the limitations imposed by the business license process.

Recommendations

The Grand Jury recommends that:

1. the BOS adopt a Medical Marijuana Dispensing ordinance, (All Findings)
2. the BOS consider a 60-day grace period for existing Medical Marijuana Dispensaries to be in compliance with an adopted ordinance, (All Findings)
3. the adopted ordinance address mobile dispensaries, (All Findings)
4. the adopted ordinance address public and neighborhood safety/surveillance, (All Findings)
5. the adopted ordinance address the production and sale of related food-based MMJ products and paraphernalia, (All Findings)

⁴ Appendix A – Proposed 9.32 Ordinance

6. the adopted ordinance address the issues surrounding onsite production of MMJ and its associated food products and paraphernalia, (All Findings)
7. the adopted ordinance address the establishment of fees and penalties that cover the actual cost of regulation and enforcement, (All Findings)
8. the adopted ordinance address patient/caregiver relationships, (All Findings)
9. the adopted ordinance address MMJ transportation issues within the county, (All Findings)
10. the adopted ordinance include a definition of a mature female MMJ plant, (All Findings)
11. the adopted ordinance include a minimum age limit for anyone entering a MMJ Dispensary, (All Findings)
12. the BOS pass a moratorium suspending the establishment and operation of new MMJDs in Mendocino County, which would expire upon adoption of an ordinance, (All Findings)
13. the BOS define a MMJD, and whether or not it should be a collective, (All Findings)
14. the Treasurer-Tax Collector develop a system to accurately track the number and type of MMJ Dispensary business licenses issued, (Finding 3)

Discussion

The licensing of MMJDs raises the issue of whether, by enacting an ordinance, the County of Mendocino would have liability for and be complicit in violating Federal Marijuana laws. This is a concern that has been raised in many of the counties that have either passed an ordinance or are considering an ordinance.

The regulation of MMJ varies considerably across the country. MMJ is legal in Washington, D.C., and 15 states. Many of them have minimal regulations aimed at limiting the amount of marijuana that a patient can legally possess and cultivate. Other regulations tend to be a patchwork: some states require patients to register, but some don't; some allow dispensaries, while others rely on patients to grow the marijuana themselves or obtain it from registered "caregivers".

New Jersey, Arizona and Washington, D.C., are all working on comprehensive regulation. Meanwhile, individual cities and counties in many states are busy drafting restrictions. The federal government's legal challenges over large-scale grows seem to be part of a broader federal effort to bring the state's booming medical marijuana industry into order.

Other issues not addressed in this report include these topics:

- MMJ existing either as a food or a drug commodity, and the associated applicability of Williamson Act Provisions,
- Civil vs. Criminal enforcement of Federal Drug and Tax Laws,
- Implications of income, employment or excise taxes on the cultivation, production and sale of MMJ.

The Grand Jury believes that this issue is a far-reaching topic worthy of serious and immediate attention by the BOS. In order to avoid any appearance of conflict of interest, the Grand Jury feels that members of the BOS, who may have in the past, or may be currently involved in the production of MMJ, recuse themselves from any vote on this matter.

The Grand Jury is calling for the regulation of MMJDs before damage is done to the health, well-being and safety of our county. Is it possible that in Mendocino County, MMJ could be converted from a cost center to a legitimate government revenue center?

Response Required

Mendocino County Board of Supervisors (All Findings; All Recommendations)

Mendocino County Sheriff (All Findings; All Recommendations)

Mendocino County Counsel (All Findings; All Recommendations)

Mendocino County District Attorney (All Findings; All Recommendations)

Mendocino County Tax Collector (Findings 1-4,6-7,9-11; Recommendations 1-13)

Mendocino County Clerk/Recorder (Findings 1,3,4,6,10-11; All Recommendations)

Mendocino County Building & Planning, Director (Findings 1-4,6-7,11; Recommendations 1-13)

Mendocino County Department of Environmental Health, Director (Findings 1,4,6-7,11; Recommendations 1-9, 11-14)

MASTERS OF FIXING DISASTERS

A Report on Parlin Fork and Chamberlain Creek Conservation Camps

April 30, 2011

Summary

The California Department of Corrections and Rehabilitation (CDCR) operate Parlin Fork and Chamberlain Creek Conservation Camps, in conjunction with CAL FIRE. Both camps are located in the Jackson State Demonstration Forest on Highway 20, between Fort Bragg and Willits. The camps are for low-risk male felons. Fire prevention and fire suppression are the two primary goals.

Inmates receive fire training at the California Correctional Center (CCC) located in Susanville. When not fighting fires, inmate crews clear brush in the forest, perform various labors for government and certain non-profit organizations.

Inmate crews contribute to the community by performing charitable deeds. They also donate hobby crafts to charitable organizations for fund raising; inmates are required to use their own time, tools, and materials.

There are educational opportunities for the inmates, correspondence courses for both G.E.D. and college. Inmates are taught various skills which can be valuable to them upon their release.

Parlin Fork (PFCC) and Chamberlain Creek (CCCC) are tobacco free honor camps with no fencing. *Out of Bounds* signs are clearly posted.

Method

California Penal Code §919(b) states that, "...the Grand Jury shall inquire into the conditions and management of public prisons within the county." The 2010-2011 Mendocino County Grand Jury (GJ) visited Parlin Fork Conservation Camp on October 29, 2010 and Chamberlain Creek Conservation Camp on December 9, 2010.

The GJ interviewed CAL FIRE personnel and CDCR Officers, reviewed documents, and inspected both facilities.

Background

Parlin Fork is the oldest conservation camp in Northern California, established on August 8, 1949, and is the second oldest in the State. Chamberlain Creek was opened on June 8, 1959. Inmate crews are over-seen by CAL FIRE when not in camp.

The Mendocino County Sheriff's Office and the Ukiah Police Department SWAT teams train at Chamberlain Creek gun range.

Findings - Both Camps

1. PFCC and CCCC are staffed by CAL FIRE and California Department of Corrections and Rehabilitation (CDCR) and are located on Highway 20 in the Jackson State Demonstration Forest. One Administrative Assistant is shared by both camps and CAL FIRE.
2. Each camp maintains five fire crews comprised of 13-17 inmates for emergency deployment year around. Each crew is overseen by one Fire Captain. One crew remains in camp at all times.
3. CDCR is responsible for the supervision, care, and discipline of inmates. CAL FIRE maintains the camp, supervises the work of inmate fire crews, and is responsible for custody of inmates under the daily CAL FIRE project activity.
4. During emergencies, such as fires or floods, CDCR staff accompanies the inmate crews to assist in the care and the security of the inmates, and provide support to the CAL FIRE staff
5. Inmates committed to CDCR are selected and trained at the California Correctional Center (CCC) located in Susanville and then assigned to conservation camps. Camp inmates are low security risks. Those who commit crimes that are violent, sexual, arson and/or escape attempts are ineligible.
6. Inmates not on fire crews serve as cooks, porters, landscapers, launders, clerks, maintenance, and support activity workers.
7. Inmates are paid for their work; the majority of inmates are laborers, who receive \$1.45 per day. The skilled inmates that can earn up to \$2.45 per day include: mechanics, clerks, cooks, plumbers, welders, carpenters, and electricians. CAL FIRE pays inmates \$1.00 per hour, portal to portal, when fighting fires.
8. Most inmates are serving time for drug and/or alcohol related offenses.
9. Fire crews respond to fires, flood, accidents, and other disasters. Crews clear brush, maintain hiking trails, provide fire wood for camp grounds and non-profit organizations, such as the Senior Center in Willits.
10. Inmates make civic contributions, such as, cooking Thanksgiving Dinner at the Willits Senior Center, and also donate hobby craft to non-profits for their fund raising sales. Hobby crafts are made by inmates using their own time, tools and funds for materials.
11. Crews perform work for government entities and non-profits. Some of the work includes campground trails, painting, parking lot repair, and brush clearing.
12. Crew work is billed at \$224 per day to offset fuel cost and equipment use, and includes an administrative fee of \$24. No profit is derived from these activities; however, the income reduces government cost for camp maintenance.

13. Both camps bake their own bread and pastries, and cook all foods from scratch. The State food budget per inmate per day is \$2.55: the same amount as in the early 1980's.
14. Both camps have a garden area where vegetables and fruit are grown, saving on their food budget.
15. When inmates are fighting fires, CAL FIRE furnishes their meals.
16. Educational opportunities are available by correspondence, including G.E.D., college and certification courses. Some inmates, who have worked with the Licensed Water Plant Operator, have obtained their State Certification; upon release, they were hired by private/civic water companies.
17. Mendocino County Transit Authority (MTA) provides transportation for released inmates
18. Books, magazines, television, an exercise room, and recreational facilities, such as a baseball diamond are available. The County Bookmobile visits every two weeks and is highly valued by the inmates.
19. Volunteers from non-denominational churches provide services. Narcotics Anonymous and Alcoholics Anonymous meetings are conducted by local volunteer organizations or the inmates.
20. The remoteness of the camps makes visiting difficult. Visitors must be pre-approved by CCC prison staff; visitation is on Saturdays and Sundays. Weekend family visits can be up to three days in a fully furnished cottage on the grounds at each camp.
21. There are no fences at the camps, but *Out of Bounds* signs are clearly posted. Camps are tobacco free.
22. Conservation camps abide by all government regulations, including reporting and safety.
23. Staffing for CDCR at each camp consists of: one Correctional Lieutenant (Camp Commander), one Correctional Sergeant, eight Correctional Officers, and one part-time Administrative Assistant shared between both camps.

Findings - Parlin Fork

24. Inmate capacity is 110 low-risk minimum custody male felons, who are housed in barrack style buildings.
25. Staffing for CAL FIRE consists of: one Assistant Chief (Division Chief), 10 Fire Crew Captains, one Heavy Equipment Mechanic, and one Chief Plant Operator.
26. The camp has its own water treatment plant and the waste water is pumped up the hill to a holding pond and leach field. The PFCC treats its own water, drawn from the Noyo River.
27. The day before the GJ visit, the waste water pump had failed and there was no water available for cooking or for toilet use. Infiltration from the recent storm may have contributed to the failure.
28. The camp operates a saw mill and provides rough cut lumber to government agencies. New *state of the art* saw mill equipment was acquired from excess

- inventory of the State. There is also a cabinet shop where cabinets and shelving are crafted. Recently, PFCC made cabinets for a library.
29. The PFCC repairs and maintains equipment for both camps and for CAL FIRE facilities.
 30. The kitchen was observed to be clean, sanitary, and inmates prepare all meals.

Findings - Chamberlain Creek

31. CAL FIRE staff consists of 15 employees: one Chief, 10 Captains, one Water/Waste Water Licensed Plant Operator, and three Heavy Equipment Operators.
32. The maximum capacity of the camp is 112, low-risk minimum custody male felons. On the day of the GJ visit, there were 106 inmates.
33. Inmates design, build, and finish cabinets, doors, and signage. The products are sent to the CDCR Headquarters, other government facilities, and public agencies.
34. Recent projects include Lake Sonoma Dam clean-up, Laytonville School District building maintenance, Cow Mountain brush clearance and fire breaks.
35. Inmates perform a valuable service in conservation by harvesting Redwood tree seeds from cones; collecting seeds is arduous and tedious work. Viable seed cones are only produced when weather and water conditions are appropriate. The seeds are part of a conservation seed bank designed to preserve Redwood trees.
36. Crews remove fallen and dangerous trees in Jackson State Demonstration Forest. Removed logs are transported to Parlin Fork, where they are milled.
37. Inmates contribute to the annual Ukiah Christmas Effort at Ukiah Fairground, where food and toys are distributed for approximately 750 families. The CCCC kitchen crew cooks and serves community Thanksgiving dinner at the Harrah's Senior Center in Willits every year. Inmate crews prepare the site for the Willits Frontier Days event, and help with clean-up.
38. The CCCC water is provided by a well and surface water is drawn from Chamberlain Creek.

Recommendations

The Grand Jury recommends that:

1. the Board of Supervisors continue to fund the Bookmobile to service the camps on the current schedule, (Finding 18)
2. the crews be utilized as often as possible, by any City, County department, agency, school district, special district, or tax-supported entity within the County, (Findings 9-12, 28, 33-34, 37)

3. CAL FIRE and California Department of Corrections and Rehabilitation (CDCR) continue to operate the camps in the same efficient manner, and perform services within the community. (All Findings)

Discussion

Parlin Fork and Chamberlain Creek are well managed and utilize their resources to maximum capacity. Staff encourages inmates to develop job skills and continue their education.

Conservation camps freely give mutual aid to other agencies, including local fire districts, as well as assistance to other safety agencies. In the 2008 lightning fires, 11 counties, the National Guard, and several states, including Nevada, Utah, and Colorado came to the aid of Mendocino County.

The Mendocino County Library's Bookmobile is a valuable resource for inmates in both camps. According to the press, the bookmobile is an item under discussion for future budget reductions.

Products produced by inmates are sold to public agencies for only the cost of the material; thereby, saving public dollars.

The success of the camps can be attributed to the good relationship between CDCR and CAL FIRE, as demonstrated by the cooperative effort of their respective commanders and staff at each camp.

Response Required

Board of Supervisors (Finding 18; Recommendation 1)

Mendocino County Library (Finding 18; Recommendation 1)

City of Ukiah, City Council, (Findings 9-12, 28, 34, 37; Recommendation 2)

City of Willits, City Council, (Findings 9-12, 28, 34, 37; Recommendation 2)

City of Fort Bragg, City Council, (Findings 9-12, 28, 34, 37; Recommendation 2)

City of Point Arena, City Council, (Findings 9-12, 28, 34, 37; Recommendation 2)

Mendocino County Superintendent of Public Education (Findings 9-12, 28, 34, 37; Recommendation 2)

Response Requested

CAL FIRE (All Findings; Recommendation 3)

Parlin Fork Conservation Camp Commander (Findings 1-30; Recommendation 3)

Chamberlain Creek Conservation Camp Commander (Findings 1-22, 31-38;
Recommendation 3)

BETTER THAN SOME HOMES

A Report on Mendocino County Juvenile Hall

May 5, 2011

Summary

The 2010-11, Mendocino County Grand Jury (GJ) conducted its mandated annual visit to the Mendocino County Juvenile Hall (MCJH) on Low Gap Road in Ukiah. This facility works closely with the Mendocino County Probation Department and houses youth ages 18 or under who are wards of the court. The facility is managed and dedicated to provide a safe and secure environment. Administration and staff have implemented several programs designed to educate and rehabilitate youth for re-entry into society.

Mendocino County Probation Department (MCPD) works closely with MCJH, developing a plan, which includes parents, to reduce the recidivism rate among incarcerated youth.

Method

The GJ visited the MCJH on November 18, 2010. The GJ inspected the cells, the booking area, classrooms, recreation areas, the dining room and the kitchen facilities. Documents reviewed included the Budget, Organizational chart, and inspection reports from: Mendocino County Health and Human Service Agency, 2010 Bi-Annual California Correction Standard Authority, California Fire Marshall, Annual Security Review, 2009 In-House Annual Report, California Department of Public Health Communicable Disease Control Report, the Ukiah Fire Department Safety Plan for Juvenile Hall, Program and Activities Evaluation, and food menus.

Background

California Penal Code §919(b) states, "...the Grand Jury shall inquire into the conditions and management of the public prisons within the County". The MCJH falls within this mandate. MCJH provides for the physical and emotional care of incarcerated youth in Mendocino County pursuant to Title 15 of the California Operational Code guidelines, and Title 24 of the Health and Safety Code Regulations.

MCJH is an integral part of the Criminal Justice System and operates under the Mendocino County Probation Department.

Findings

1. The total correctional staff consists of 27 allocated positions, seven of which were vacant at the time of the GJ visit. Staff is multi-racial, and four are bilingual.
2. The seven vacant full time Correctional Counselor positions are being covered by nine extra-help, part-time employees.
3. The maximum capacity of the facility is 43, but is considered full with 40 youth. On November 18, 2010, there were 23 youth incarcerated; 18 males and five females. Between January and October 2010, the average daily population was 29 youth.
4. Adequate staffing is mandated by the State at a ratio of one Correctional Counselor for 10 juveniles for the day and swing shift. Graveyard shift is one Supervisor Correctional Counselor for 30 juveniles. One male and one female Correctional Counselor must be on the premises at all times.
5. Title 15 mandates all youth respond to a medical and mental screening health questionnaire and receive a physical examination, including a tuberculosis test, within 96 hours of admission.
6. All youth are given an orientation on acceptable behavior and the parameters of the Step Program. The Step Program rewards good behavior with extra privileges.
7. The facility is divided into three units: Unit A for females, Unit B for males, and Unit C for older or violent wards and those charged with serious crimes.
8. Unit C is fully self-contained; it is a high security area with its own classroom, showers, exercise room, and dining area.
9. Males and females in Units A and B attend school and eat at the same time, seated at separate tables in the dining room.
10. Video observation and security are maintained for doors and common areas at all times; at night, individual cells are visually checked every 15 minutes or more often if needed.
11. The average length of stay is 15 days; the reimbursable cost at \$20 per day with a maximum of \$800 per stay is billed to the parents on a sliding scale, and collected through the courts.
12. The maximum sentence at MCJH is one year; the stay can be longer for an un-sentenced youth.
13. When a youth is charged as an adult, he/she is entitled to bail and will be housed at the Juvenile Hall until court proceedings are finalized or until the age of 18.
14. The majority of youth has substance abuse issues. Frequently, they are repeat offenders.
15. Approximately 30% of the youth have behavioral problems and require 75% of staff time. There is zero tolerance for anything gang related.
16. The recidivism rate for new crimes, not probation violations, ranges from 10% to 15%.

17. Mendocino County Probation Department (MCPD) works closely with MCJH, developing a plan, which includes parents, to reduce the recidivism rate among incarcerated youth.
18. The Mendocino County Office of Education provides full time teachers and a Special Education Resource Aide for MCJH, as per Title 15. Year round school is mandatory and youth can obtain a G.E.D., a high school diploma, and earn college credits.
19. Title 15 requires a minimal recreation allowance of three hours on school days and five hours on non-school days. Recreation can be either indoors or outdoors and is offered equally to both genders.
20. A Physician or Physician's Assistant is available on call 24/7. Medical costs may be reimbursed by Medi-Cal or private insurance. Mendocino County Youth Project provides mental Health Services.
21. The kitchen was found to be clean and sanitary. A Dietician prepares a rotating six-week menu, and special diets are available. New diet guidelines have reduced the amount of table salt, sugar, and calories. Homemade bread is provided by Mendocino County Jail; all meals are prepared on site.
22. Federal and State Free and Reduced Meal Programs supplement food costs seven days a week.
23. MCJH has a garden area in the spring and summer; vegetables are harvested and used for meals.
24. Visitation is on Saturdays, from 2:00 to 4:00 p.m., meeting Title 15 requirements.
25. Media reports that California may close Juvenile State facilities.

Recommendations

The Grand Jury Recommends that:

1. State mandated staffing ratios be maintained at all times, (Findings 1-2, 4)
2. Mental Health Services and substance abuse counseling resources be provided on a full time basis to incarcerated youth to reduce recidivism. (Findings 14-17)

Discussion

The opportunities provided for the youth in the facility are structure, education, diet, personal hygiene, nutrition and social skills. These opportunities provide for an increased chance to succeed in society after incarceration.

The Juvenile facilities were found to be neat, clean and well maintained. The management and administration of Juvenile Hall is commendable. Juveniles are not statistics; they are individual boys and girls, treated with respect and consideration by all staff members.

Response Required

Mendocino County Board of Supervisors (All Findings; All Recommendations)

Mendocino County Probation Department, Chief Probation Officer (All Findings;
All Recommendations)

Mendocino County Juvenile Hall, Division Manager (All Findings; All
Recommendations)

DEFINITELY NOT A FIVE STAR HOTEL

A Report on the Mendocino County Jail, Courthouse Holding Cells, and Evidence Room

May 19, 2011

Summary

The 2010-2011 Mendocino Grand Jury (GJ) conducted the mandated annual visit to the Mendocino County Jail (MCJ) on October 7, 2010.

The MCJ staffing is frozen at the present time, with no anticipation of filling eight vacant Correctional Deputy positions in the near future.

The County is challenged in its efforts to maintain the physical condition of the aging buildings; however, management is able to provide basic, mandated services to the inmates with the reduced budget.

Several agencies, groups, and individuals in the community provide services to inmates, which can continue upon their release. Some of the services available are: Narcotics Anonymous, Alcoholics Anonymous, Life Skills, Anger Management, church services by request, and education provided by Mendocino County Adult School.

Method

The GJ inspected the MCJ, including holding cells, the main cells in Buildings #1 and #2, booking area, sally port, kitchen, laundry, garden area, and the programs building. The GJ interviewed staff, reviewed documents including the inmate program schedule, inmate health census, California Correction Standards Authority Bi-Annual Report, annual inspection report, organizational chart, inmate complaint forms, and budget.

The GJ visited the courthouse holding cells on April 7, 2011 and the Mendocino County Main Storage Evidence Room on April 28, 2011.

Background

Penal Code §919(b) states, "...the Grand Jury shall inquire into the conditions and management of the public prisons within the county." The MCJ falls within this mandate.

Findings - Jail

1. At the time of the GJ visit, the staff consisted of: one Captain-Jail Commander, one Corrections Lieutenant, six Sergeants (eight allocated), and 38 Corrections Deputies with eight vacant and frozen Corrections Deputy positions. Some Corrections Deputies are bi-lingual.
2. There are eight support staff employees, who work as administrative assistants, booking technicians, kitchen help, and laundry help.
3. Corrections Deputies work four 12-hour shifts, resulting in eight hours of overtime pay per week.
4. One Sergeant and four Corrections Deputies are responsible for transportation of prisoners to and from the courthouse, other jurisdictions, jails, and prisons.
5. The maximum capacity of the jail is 302 inmates. On October 7, 2010, the inmate population was 257: males 223 and females 34. Overcrowding occurs due to the required classification of inmates.
6. The jail is divided into several classification areas: male, female, sentenced, non-sentenced, violent, protected custody, and those with gang association. Inmate classifications are denoted by color of coveralls.
7. Video security cameras monitor all doors and common areas.
8. The jail consists of five buildings and an administration area:
 - Building #1 contains a secured entry for prisoner intake, the booking and holding area, safety and sobering cells, attorney-prisoner conference room, inmate cells, and a prisoner-visitor area,
 - Building #1, due to its design, has the capability to visually observe the common area,
 - Building #2 is designed with an overlook command center that allows staff to observe the three wings,
 - Administration building,
 - Kitchen and laundry building,
 - Inmate services building.
9. Buildings #1 and #2 have plumbing problems that require constant repair due to old plumbing and inmate abuse of plumbing equipment.
10. Corrections Standards Authority (CSA) Bi-Annual Inspection Report of May 5, 2010, showed the following non-compliance issues in the facility:
 - clogged floor drains,
 - unbalanced water pressure in the hot and cold supply lines,
 - malfunctioning showers,
 - leaking water lines,
 - heating and air conditioning units did not provide a comfortable living environment.
11. A letter from the CSA, dated February 14, 2011, states that all non-compliance issues have been corrected.
12. General Services Agency provides one full time maintenance person to maintain the facility.
13. The kitchen facility was found to be clean and neat. Inmates assist with the preparation of meals; breakfast and lunch are served cold except for hot soup

and dinner is a hot meal. The rotating menu meets the State recommended nutritional guidelines.

14. Female inmates work in the laundry and garden; presently, two low-risk female inmates work as volunteers at the County Animal Shelter.
15. There are programs that allow the low-risk offender inmates to work in lieu of their jail term:
 - the Home Detention Program is available for low-risk offenders, allowing inmates to work while serving their sentence from home, wearing an ankle bracelet,
 - the Sheriff's Work Alternative Program (SWAP) is available for low-risk offenders to work for non-profit organizations, in lieu of jail time.
16. Schooling, including computer classes, is provided by Mendocino County Adult School; Internet service is not available.
17. Inmates staying longer than the average of 15-16 days may work towards earning a General Education Diploma.
18. Other programs available are: Alcoholics Anonymous, Narcotics Anonymous, Life Skills, and Anger Management. Church services and counseling are available by request. Non-legal incoming/outgoing mail and telephone calls are monitored.
19. Privileges for inmates include television, books and other reading materials, games, and an exercise area.
20. Regular visits by family and friends are supervised; an appointment is recommended.
21. Medical, mental health and dental services are provided. A physician and psychiatrist are both on site, eight hours per week. Nursing staff is on site 24 hours per day, and a dentist, one day a week. Program managers and doctors are always available by telephone.
22. Every inmate receives a health questionnaire when booked, and receives a health screening, including a tuberculosis test 15 days after admission.
23. In 2010, the average ending of the month population was 255.
24. In 2010, there were 126,772 doses of prescribed medicine administered to 1,128 inmates.
25. In 2010, among the confirmed communicable diseases, 20 cases of MERSA (methicillin-resistant staphylococcus aureus), and one case of meningitis were reported.
26. The MCJ staff follows the rules regarding contagious diseases. Personnel sanitize areas with a bleach solution where MERSA inmates are housed. Contagious inmates are accommodated, as per their needs.
27. Each complaint written by inmates is investigated and documented.
28. Two recent cost savings have been implemented:
 - establishing their own bakery, providing high quality bread and other baked goods for the jail and the juvenile hall; the bakery provides job training for the inmates,
 - replacing paper bowls with reusable, unbreakable rubberized bowls equal to the cost of one year's paper bowl expense.

29. Continuous budget reductions are affecting necessary facility repairs, adequate staffing, and services.
30. Recently, the California Governor signed a law that will keep low-risk offenders in county jails, rather than sending them to State prison. The law will be implemented when the State has funds to cover the county's expense.

Findings – Courthouse Holding Cells

31. Public safety is the highest priority when inmates are in a public environment.
32. The courthouse has no sally port for the secure transfer of prisoners.
33. Prisoners are checked for contraband when entering or exiting the jail.
34. There are four full time Correctional Deputies available for transport.
35. Prisoners are transported between the MCJ, the courthouse, prisons, and other jurisdictions. At times, overtime pay is required for transportation of prisoners.
36. Prisoner classifications make transport difficult; gang members, medical, protective custody, violent, and non-violent prisoners cannot be transported or held together.
37. Three of the four holding cells hold 10 inmates each. One cell holds six, has a privacy screen and is designated for female inmates.
38. Observation of inmates is maintained at all times. A deputy is required to remain in the holding cell area and must check each prisoner twice during a 30-minute period.
39. Inmates are held an average of 30 minutes before being moved to a courtroom. The elevator used to access the courtroom is also the public elevator. Public access to the elevator is prohibited during prisoner use.
40. There is an attorney-inmate interview room.
41. The fire extinguisher was observed to have a current certification tag, and is to be recertified in April 2011.
42. Jail personnel control two emergency exit doors.
43. Storage closets, gun lockers, and a telephone are located outside the holding cell area. Guns are not permitted inside the holding cell area.
44. The water damaged ceiling in the northeast corner of the main hall, cited in last year's GJ report, remains unrepaired, and additional water damage can now be seen at the east end of the hall.
45. Mendocino County General Services Agency is not responsible for maintenance and repair of the Courthouse building. The Courthouse provides for its own repairs through a private contractor.

Findings – Main Evidence Room

46. The principal responsibility of the property manager is to provide security and integrity of the people's evidence.
47. The evidence room serves and assists all local law enforcement agencies, including the CHP, CAL FIRE, and Department of Fish and Game.
48. The evidence room staff remains at one full-time and one half-time Evidence Technician. Overtime is not permitted.

49. Although previously recommended by GJs, there is still no intern or volunteer help at this time.
50. Fingerprints continue to be kept manually and digitally.
51. The bar-code evidence retention system, that clearly shows the intake and outtake of items, was purchased, but not implemented.
52. Storing, maintaining, and disposing of evidence is dictated by the standard of operations, and requires precise, time consuming work.
53. The evidence room remains over-crowded due to lack of systematic purging of evidence.

Recommendations

The Grand Jury recommends that:

1. the Mendocino County Sheriff establish a dedicated grant writing position to obtain necessary operational funds for the jail, (Findings 1, 23)
2. the General Services Agency Director assign an additional, in-house, maintenance person to maintain and repair building problems, (Findings 9-10, 12)
3. the Mendocino County Board of Supervisors designate additional budget monies to be targeted for maintenance of the jail facility, (Finding 12)
4. the Mendocino County Sheriff investigate the use of *Federal* asset forfeiture funds for the repair of the jail facilities, (Findings 9, 44-45)
5. the Mendocino County Sheriff investigate using asset forfeiture funds for staff overtime for the evidence room, (Findings 48, 53)
6. the Mendocino County Sheriff recruit volunteers or interns to help in the evidence room. (Findings 48-49, 52-53)

Discussion

On April 4, 2011, the California Governor, signed a law stating that felons convicted of non-violent crimes would serve their time in county jails instead of state prison. The law will be implemented when the State has funds to transfer to the counties to cover these additional costs. The GJ hopes that this will not be another unfunded mandate from the State.

Inmates write letters to the local newspaper editor complaining about the lack of quarantine and sanitation for MERSA cases, not receiving their medications, and

cold meals. With the exception of cold food, the GJ determined that the allegations were unfounded. The budget has not provided funds for an additional cook for several years, therefore, breakfast and lunch, with the exception of soup, are served cold.

Management and staff are to be commended for their dedicated service to the Mendocino County Jail. Employees are conscientious and concerned with inmates' safety.

The investment in the jail bakery results in cost savings for the Jail and Juvenile Hall and provides vocational job training for inmates.

Response Required

Mendocino County Board of Supervisors (All Findings; All Recommendations)

Mendocino County Sheriff (All Findings; Recommendations 1, 4-6)

Mendocino County General Services Director (Findings 9-12; Recommendation 2)

Mendocino County Jail Commander (Findings 1-29)

COVERING YOUR ASPHALT

A Report on the Mendocino County Department of Transportation

June 6, 2011

Summary

The 2010-2011 Mendocino County Grand Jury (GJ) received a complaint regarding management at the Mendocino County Department of Transportation (MCDOT). Many of the complaints regarding management were confirmed. The investigation revealed that a high turnover of employees has occurred in recent years at MCDOT. During the investigation, the GJ discovered that a large carry-over existed in the MCDOT accumulated fund balance.

The MCDOT is responsible for 1011.8 miles of County road: 676.3 centerline miles of paved roads and 335.5 miles of unpaved (graveled and unsurfaced) roads⁵. The MCDOT is also responsible for 157 bridges. The department operates with funds from State and Federal gas taxes, a voter approved road tax, and State and Federal grants, which require some matching funds.

Several budget units exist for MCDOT: Road Maintenance, Storm Damage, Administration, Federal and State projects, Little River and Round Valley airports, Solid Waste, and Landfill Closure.

On April 25, 2011, the MCDOT accumulated fund balance was \$4,649,927, and is restricted to road maintenance and road projects. The fund balance is non-transferable and is not available for use by any other County departments.

Method

The GJ interviewed County staff from multiple departments, reviewed the 2010-2011 Final County Budget, Mendocino County Purchasing, Leasing and Contracting Policy (Policy #1), and the MCDOT Organizational Chart⁶.

Background

Mendocino County is a very large county consisting of more than 3500 square miles with 1011.8 miles of road, including 335.5 miles of unpaved roads. The winter weather creates a challenge for the County, often resulting in major storm damage.

⁵ MCOG "State of the Pavements" presentation by the MCDOT Director, to BOS, on 6/14/2011

⁶ Appendix B – Mendocino County Department of Transportation Organization Chart

Findings – General

1. The MCDoT is responsible for 1011.8 miles of County roads and 157 bridges; 676.3 miles of roads are paved and 335.5 miles are not paved.
2. The cost is less to maintain un-surfaced roads than to maintain paved roads.
3. Revenues come from State and Federal gas taxes, a voter-approved road tax collected through property tax, and State and Federal grants, which require some matching funds.
4. The Federal and State Highway User Gas Tax, a revenue stream for MCDoT, is collected through a per-gallon surcharge. Expected revenues from the State have been delayed in recent times.
5. On April 25, 2011, the MCDoT accumulated fund balance was \$4,649,927, restricted for use on road maintenance and road projects. The fund balance is not transferable or available for use by any other County departments.
6. In 2006, MCDoT was awarded \$6.5 million from Proposition 1b, which was received in three un-equal payments; the final payment of \$3.1 million was received in 2010. These funds are restricted to road projects and must be used within three years of receipt.
7. The MCDoT's primary roadwork is performed during the spring and summer months. Projects are labor intensive and include planning, engineering, environmental studies, permits, securing right-of-ways, and collaborating with other agencies. Projects may take up to five years to complete.
8. Of the 157 bridges in the County, 14 are scheduled for repair or replacement and are in various stages of the design and permit process.
9. The State and Federal government, in payments for work performed, reimburse most projects.
10. The budget units for MCDoT include: Road Maintenance, Storm Damage, Administration, Federal and State projects, Little River and Round Valley airports, Solid Waste, and Landfill Closure.
11. Solid Waste, an enterprise fund, was recently privatized; however, MCDoT remains responsible for maintaining the closed landfills. Franchise fees paid by the private waste haulers fund the Solid Waste and the Landfill Closure budget.
12. The MCDoT Organizational Chart (Appendix A) reflects: a Director/Road Commissioner, Assistant Director, and four Deputy Directors, one for each of the four divisions:
 - Road Maintenance
 - Administration
 - Engineering
 - Land Improvement
13. There are three budget units in the road fund division and revenues are restricted:
 - 3010 Administration and Maintenance
 - 3041 Federal and State Projects
 - 3030 Storm Damage

14. The preparation of the budget is based on projections of revenue. Anticipated projects contained within a budget may or may not be funded due to economic conditions.
15. On May 14, 2011, the number of employees at MCDoT was 87 full-time and eight extra-help. Solid Waste has one half-time position for the Landfill Closure.
16. The MCDoT maintains two maintenance garages in Ukiah; one for vehicles and light trucks and one for heavy equipment. There are additional service yards located in Boonville, Point Arena, Covelo, Fort Bragg, Laytonville, and Willits.
17. The MCDoT maintains a drug-free workplace and is responsible for administering the Safety Sensitive Driver Program (SSD). In one incident, the protocols associated with SSD were not followed, which resulted in an audit exception. Non-compliance threatens Federal funding.
18. The MCDoT has strict timelines in the case of establishing emergency declarations to receive reimbursement funding for emergency road repairs.
19. The BOS has created difficulty for MCDoT by strict adherence to the agenda submittal process during times of emergency. In times of emergencies and unexpected circumstances, in order to ensure continued operations of MCDoT, necessary for the preservation of life or property, the BOS may not meet weekly.

Findings – Purchasing

20. The Director-Road Commissioner, General Services Agency (GSA) Director, Chief Executive Officer (CEO), and department heads are authorized to negotiate with vendors and prepare purchase orders or formal contracts for purchases, as per Policy #1. When this express authority is not delegated, the Board of Supervisors (BOS) retains sole authority for that activity.
21. Mendocino County Purchasing, Leasing, and Contracting Policy #1, includes the following:
 - Purchases of supplies and equipment
 - Contracts for services
 - Leases of real property
 - Maintenance, rentals, and leases of equipment and other personal property
22. Competitive bidding is required for certain purchases or any individual items costing more than \$10,000.
23. Department heads can make and sign for purchases up to \$25,000.
24. The Purchasing Agent for MCDoT can make and sign for purchases up to \$50,000. The BOS must approve and sign for purchases or contracts over \$50,000. County Counsel must approve all contracts.
25. Blanket Purchase Orders are issued to selected vendors and include a list of personnel who are approved to make purchases, and are not to exceed \$2,000 per purchase unless authorized by the purchasing agent.

26. The Purchasing Agent and the Auditor-Controller may authorize departments to make certain direct purchases with a County approved procurement card (P-Card).
27. Only one P-Card is issued per department. The Senior Department Analyst holds the P-Card for MCDOT; this arrangement makes it difficult when an emergency develops.
28. The General Services Agency charges an internal fee of 13% to MCDOT to process P-Card purchases.
29. The Director-Road Commissioner is the only person authorized to issue an Emergency Purchase Order. An emergency exists when an item must be purchased to continue operations or when the item is necessary for the preservation of life or property.

Findings – Accounting

30. Mendocino County uses the Municipal Information System (MUNIS) accounting software.
31. The MCDOT uses the Cost Accounting Management System (CAMS), which provides cost accounting features and interfaces with the MUNIS system for invoices and payroll. The CAMS system has the capability of issuing various detailed reports.
32. The MCDOT is required to keep track of each job, including the documentation of all costs.
33. The CAMS system has a tutorial component that senior management has failed to utilize effectively.

Findings – Management

34. There are significant inter/intra-departmental barriers, communication deficiencies, and poor decision-making practices.
35. The clerical staff is centralized but must obtain approval from the Deputy Director of Administration, prior to performing their departmental task. This process impedes efficiency because the department directors cannot assign clerical work to their own employees without the approval of the Deputy Director of Administration.
36. Management is performing routine clerical support tasks and errands that are typically performed by subordinates.
37. Division stakeholders are not allowed timely input, resulting in inefficiency and mistakes; key players do not agree on departmental priorities.
38. There is staff confusion regarding departmental responsibilities and authority.
39. The routine shifting of priorities within MCDOT is unnecessary and leads to inefficiency.
40. There is pervasive job discontent, leading to high turnover and loss of critical institutional knowledge.
41. There is low staff morale within MCDOT due to management style.

42. Since 2006, more than 70 employees have left, transferred, or retired from MCDoT.
43. There are a number of current employees at MCDoT that are considering retiring, transferring, or seeking a new job outside MCDoT because of management practices.
44. Individual employee complaints are handled within MCDoT and not addressed by County Human Resources.
45. Annual Employee Performance Evaluation Reports are not completed or forwarded to County Human Resources in a timely manner.
46. Management is practicing favoritism in hiring, personnel evaluations, and training.
47. Grievances have been filed against management.
48. Senior management at MCDoT was required to attend and did attend communication classes to improve communication skills between management and subordinates.
49. The BOS has not adopted an anti-bullying policy, which would help alleviate low staff morale and productivity due to inappropriate or illegal management actions.
50. Management does not always prepare the Road Report; California State Department of Transportation (Caltrans) prepares this report for a fee.

Recommendations

The Grand Jury recommends that:

1. the Mendocino County Board of Supervisors, in conjunction with the Chief Executive Officer, review the levels of management at Mendocino County Department of Transportation, to determine if the Assistant Director and the four Deputy Directors are critical to the department, (Finding 12)
2. the Mendocino County Chief Executive Officer and the Board of Supervisors consider consolidating management at the Mendocino County Department of Transportation, (Finding 12)
3. the Mendocino County Board of Supervisors return to the previous schedule of four meetings each month in order to avoid losing State and Federal funds during declared disasters, (Findings 18-19)
4. the Mendocino County Department of Transportation Director ensure a P-Card is available for use at all times, (Findings 26-28)
5. the Mendocino County General Services Agency justify the 13% internal support charge for processing P-Card payments. The inter-departmental charge back fee must reflect the true cost, not percentage based or flat fee for these services, (Finding 28)
6. the Mendocino County Department of Transportation management and staff become proficient in the operation of the Cost Accounting Management System, (Findings 31-33)

7. the Mendocino County Department of Transportation, in order to minimize staff turnover and potential legal liability, secure the use and oversight of Human Resource staff to improve compliance with Mendocino County Policies and Procedures regarding the management of personnel. (Findings 34-49)
8. the Mendocino County Board of Supervisors, in conjunction with the Chief Executive Officer, take an active role in resolving employee discontent within the Mendocino County Department of Transportation, (Findings 34-49)
9. the Mendocino County Board of Supervisors, in conjunction with the Chief Executive Officer, initiate an independent internal review of the operations at the Mendocino County Department of Transportation, (Findings 34-49)
10. the Mendocino County Department of Transportation clerical employees embedded in other MCDOT divisions report directly to the Deputy Director of his/her assigned division, rather than through the Deputy Director of Administration, (Findings 34-36, 38)
11. the Mendocino County Department of Transportation management direct their employees to Human Resources whenever an employee complaint arises, (Findings 34-49)
12. the Mendocino County Human Resources Department take a direct role in resolving any MCDOT employee complaints, (Findings 40-49)
13. the Mendocino County Department of Transportation Deputy Directors be allowed to exercise authority over their department without interference from the Deputy Director of Administration, (Findings 34-41)
14. the Mendocino County Human Resources Department develop a statistical report documenting employee complaints and their resolution, (Findings 40-47, 49)
15. the Mendocino County Auditor-Controller, Chief Executive Officer, General Services Agency, and Human Resource Department, foster a professional and healthy relationship between each department and with the Mendocino County Department of Transportation, (Findings 20,34, 39-40, 46, 48)
16. the Mendocino County Department of Transportation staff prepare the Road Report, (Finding 50)

Discussion

The Pavement Condition Index is a numerical index between 0 and 100, and is used to indicate the condition of the roadway with 100 representing an excellent pavement.

Mendocino County's roads have an overall index of 45 in 2010, indicating poor road conditions, while a reserve in excess of \$4.6 million exists in the MCDOT's accumulated fund balance.

The BOS, CEO, and MCDOT management have not demonstrated a strong commitment to maintaining and improving high ethical and professional standards within the MCDOT.

Since 2006, more than 70 employees have left, transferred, or retired from MCDOT. There is persistent employee-management discontent, which seems to impede employee efficiency and productivity. This ultimately results in the deterioration of staff morale. This dysfunction between MCDOT staff and management may undermine public safety by creating the avoidable and unintentional result of substandard and unsafe road conditions.

Response Required

Mendocino County Board of Supervisors (Findings 3-6, 10-20, 22-29, 34-50; Recommendations 1-3, 5-16)

Mendocino County Department of Transportation, Director-Road Commissioner (All Findings; All Recommendations)

Mendocino County Chief Executive Officer (Findings 3-6, 10-20, 22-29, 34-50; Recommendations 1-3, 5-16)

Mendocino County General Services Agency, Director (Findings 20-29; Recommendations 5, 15)

Mendocino County Auditor-Controller (Findings 3-6, 10-13, 21-33; Recommendations 5-6, 9, 15)

Mendocino County Human Resource Department, Director (Findings 15, 17, 34-49; Recommendations 7, 11-12, 14-15)

Mendocino County Risk Management Department, Director (Findings 15, 17, 34-49; Recommendations 7, 11-12, 14-15)

Response Requested

SEIU Field Representative (All Findings; All Recommendations)

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CHARTER SCHOOLS ARE HERE TO STAY

A Report on Mendocino County Charter Schools

June 6, 2011

Summary

Charter schools first emerged in the 1990's as a prominent and controversial education reform idea; parents' dissatisfaction with traditional public educational system created the formation of the charter school method of education. Charter schools are part of the re-invention of public education; the original goal of charter schools was to develop new education models that public schools could emulate. Parents, teachers, and community organizations are the founders of charter schools.

Charter schools are public schools that have been freed of many restrictive rules and regulations. In return, these schools are expected to achieve specific educational results within three to five years, or have their charters revoked.

Charter schools receive funding from the District and State according to enrollment. Nationwide, charter schools are funded at 61% of their District counterparts, averaging \$6,585 per pupil compared to \$10,771 per pupil, according to The Center for Education Reform document "Charter School Funding."

The 2010-2011 Mendocino County Grand Jury (GJ) conducted a review of four charter schools within Mendocino County. There are currently eight charter schools in the County. Seven of the eight charter schools have *site-based* instruction and one has an *Independent Study Program*. Ukiah Unified School District oversees four charter schools. Charter schools receive General Purpose Grant funding with additional grants that compliment their direct funding. A juror was recused from this investigation.

Method

The GJ conducted site visits to four local charter schools: Redwood Academy of Ukiah, Accelerated Achievement Academy, Eel River Charter School, and River Oak Charter School. The GJ interviewed school staff, reviewed documents regarding the history and development of charter schools, reviewed Academic Performance Index (API) Reports, and the 2010 Adequate Yearly Progress (AYP) Reports.

Background

The United States Government passed the *Charter School Act* in 1992; California approved the *Charter School Act* the same year, becoming the second state, after Minnesota, to enact the Charter School legislation. Currently there are 912 charter schools in the State of California.

The Federal School Reform Act of 2001, known as *No Child Left Behind Act*, was used as the Local Education Agency Plan for charter schools. This *Act* was established to help students achieve higher scores on the Academic Performance Index (API).

The State goal is to score 800 out of a possible 1,000 on the Standardized Test. California's average for all schools on the latest 2009-2010 API is 767.

Findings – General

1. Charter schools are tuition free public schools of choice, with open enrollment, that use a specialized curriculum with an individualized approach, placing emphasis on *following the child*.
2. Charter schools are funded by Average Daily Attendance (ADA). Charter school boards make decisions independent of the District, based on the best interest of their students and faculty.
3. Charter schools encourage parental involvement. Parents volunteer their time each school year.
4. The majority of charter schoolteachers are younger, non-union with appropriate State Certificate.
5. The cost to educate a charter school student is less than traditional schools; ADA funds given to charter schools save taxpayer money.
6. Charter schools have lower payrolls, operating expenses, use modular classrooms, and have fewer amenities, such as playground equipment.
7. Charters schools receive funding from six primary sources:

General Purpose Grant
California Lottery

Categorical Block Grant
Federal Categorical Grant

Special Purpose Grant
Fundraising

8. Mini grants and fund raising are used to supplement elective programs: such as music, culture studies, and art. Organized sports are not offered.
9. Charter schools are neighborhood schools, managed by local educators, parents, and community leaders. Students can live in one county and be enrolled in a charter school in an adjacent county.
10. There are less disciplinary actions because the students are motivated to learn, receive individual attention, and are rewarded for good behavior.
11. Most charter schools do not provide transportation to or from school; therefore Independent Study at home is an option for some students.

12. Special Education Services are offered to all schools, including charter schools, to support students with exceptional needs, as defined under State and Federal Code.
13. California State law dictates that every school district be connected to a Special Education Local Plan Area (SELPA).
14. The Individual Education Plan (IEP) assessment is determined by the SELPA “care team” (parents, teachers, program specialists, and agency) for the type of educational plan the student needs.
15. The Special Education Department offers specialized instructional services for children ages birth to 22, who have physical, emotional, or mental disabilities.

Findings - Redwood Academy of Ukiah

16. Redwood Academy of Ukiah (RAU) Charter School began the application process in 1999; the doors opened in September 2000.
17. The RAU and Accelerated Achievement Academy (AAA) Charter Schools are managed by the Charter Academy of the Redwoods and share the same campus, located at the 12th District Fairgrounds in Ukiah. Their mission statement is to prepare students for a successful future, in a safe, challenging, and well-managed charter school.
18. For the RAU and AAA Charter Schools, parents and students must attend an orientation session, submit a complete application form, and agree to provide the effort and support needed for the student’s academic progress.
19. The RAU is a school for students from grades 7-12 and has full term accreditation through the Schools Commission of the Western Association of Schools and Colleges.
20. The RAU staff consists of a Principal and six full time teachers; median teacher experience is eight years.
21. The RAU is a college preparatory school; courses are designed for acceptance by the University of California and the California State University systems. High levels of mathematic courses are taught.
22. At the time of the GJ visit, there were 158 students enrolled. Class size for grades 7-9 is 30 students, grades 10-12 is 20 students.
23. The school dress code requires students and staff to wear uniforms; navy blue, maroon, or forest green polo shirts are worn with dark jeans/slacks.
24. The school has a lunch program; food is prepared and delivered by the Ukiah Unified School District Cafeteria and served at the school site.
25. Disciplinary action seldom occurs; there is a *Zero Tolerance Policy* regarding drugs, gang activity, baggy pants, and gum chewing on campus.
26. The RAU greatly improved its 2010 API score. The previous API score improved from 803 to 863.
27. After school activities include: Chinese brush painting, journalism/yearbook, team dance, group singing, and mock trial competition, which gives higher grade students the opportunity to experience the American Judicial System first-hand.

28. The RAU was named a California Distinguished School in 2005 and 2009. The U.S. News & World Report named Redwood Academy of Ukiah as one of America's top schools, receiving a Bronze medal in 2008.
29. Staff reports that 81% of the 2011 graduating class are accepted at the college of their choice.
30. A free tutorial program is available on campus after school for students that request assistance.

Findings - Accelerated Achievement Academy

31. Accelerated Achievement Academy (AAA), located adjacent to the RAU campus at the 12th District Fairgrounds in Ukiah, opened in 2002, with grades 6-12. Presently, grades 4-12 are offered. Students in grades 7-10 have some classes on the RAU campus.
32. The AAA is designed for students who are inclined to pursue life/vocational skills. At the time of the GJ visit, student enrollment was approximately 170.
33. Students, on academic probation, are required to participate in a mandatory tutorial class, two hours per week, after school.

Findings - Eel River Charter School

34. Eel River Charter School (ERCS) was one of the first charter schools in the State and first to open in Mendocino County in 1994; it is centrally located in Covelo.
35. In 2006, the ERCS Mission Statement was rewritten. The new Mission Statement states, "Working with families in community through holistic-style⁷ teaching to develop educated, responsible, compassionate people."
36. The school board is comprised of volunteer parents and community members.
37. The school has *site-based* instruction and is formed by community members and parents as an alternative to traditional education.
38. The school has four teachers: three credentialed teachers, one non-credentialed, but working to obtain it, and one part-time paid office employee.
39. ERCS is a K-8 school, with 66 students, at a ratio of 15-20 students per instructor.
40. Meals are subsidized for all students through the Federal Nutrition Program; breakfast and lunch are provided at the school.
41. Transportation to and from school is provided by Round Valley Unified School District.
42. The last API score, published in September 2010, was 634. There is acceptance among students, parents, and teachers to repeat the same grade, if necessary.

⁷ "At its most general level, what distinguishes holistic education from other forms are its goals, its attention to experiential learning and the significance that it places on relationships and primary human values within the learning environment." (Robin Ann Martin – 2003)

43. The school has a large exercise area for students, but is limited in playground equipment. The facility is in compliance with the American Disability Act (ADA).
44. After graduation from ERCS, some parents have opted to send their children to other high schools in the county rather than continue their education at Round Valley High School.
45. The number of English Learners (EL) is 10% of the total student enrollment.
46. The school offers a Homework Help Program after-school, two days per week with transportation provided.
47. Students are not required to wear uniforms; acceptable attire is desirable.
48. The ERCS receives Special Education Funding from SELPA.

Findings - River Oak Charter School

49. River Oak Charter School (ROCS) began operation in 1999, serving students grades K-4, and was located at the 12th District Fairgrounds in Ukiah for only two weeks, before relocating to Leslie Street in Ukiah. On July 1, 2007, the school was re-chartered under the Ukiah Unified School District.
50. The ROCS is a free, public school where teachers use a modified version of the popular Rudolph Steiner curriculum and are dedicated to teach the whole child; head, heart, and hands.
51. At the time of the Grand Jury visit, the enrollment was 228 students, grades K-8. Teachers and students remain together from grades 1-8. Teachers meet with parents before the students start the first day of class.
52. There are 10 unionized classroom teachers with California Teaching Credentials and most have been awarded the Waldorf Teacher Certificate.
53. During the summer, teachers from grades 1-8 are required to attend a week long Professional Development Program, in order to teach the students for the subsequent school year.
54. There are eight specialized teachers for the following subjects: advanced math, Spanish, string music, band, woodwork, handwork, painting, and art; two teacher aides assist in grades K-1.
55. The API score for ROCS was 757 for the 2009-2010 school year. The score from the previous school year was 777.
56. There are currently 25 students in the Special Education Program. The program is designed to assist the student that has fallen behind his/her grade level. These students are given an Individual Education Plan (IEP)
57. Thirty students are English Learners (EL).
58. The ROCS has no Federal Nutrition Lunch Program; students bring lunch and eat with their respective teachers in the classroom. The school will provide lunch for students who are not able to bring one.
59. During the 2010-2011 school year, the average daily class size increased from 20 to 26 students due to budget reduction.
60. Students in grades 7-8 are taught computer science.

61. Cursive writing is introduced in the lower grades; homework is not generally assigned until the third grade.
62. Eighth grade students begin a yearlong project for presentation at the end of the school year.
63. Eighth grade students, after organizing and holding fund raising events, are given the opportunity to select field trips associated with their curriculum. In the past, classes have camped at Ft. Ross, attended the Shakespearean Festival in Ashland, Oregon, and a recent class traveled to New Orleans.
64. The majority of students, who complete ROCS, attend Ukiah High School to receive their diploma. Many students continue higher education.
65. Students with perfect attendance are rewarded with certificates and attend a special luncheon with the Principal.

Recommendations

The Grand Jury recommends that:

1. charter schools continue to collaborate with non-profit agencies, community organizations, and apply for grant funding to accomplish their mission, (Findings 7-8)
2. charter schools continue to encourage students to perform physical activity without the use of expensive playground equipment, (Findings 6, 8, 43)
3. charter schools continue to encourage students to learn life-skills: home economics, budget management, and vocational skills. (Finding 32)

Discussion

Charter schools cultivate a love of learning for students. This helps individuals develop their fullest potential, resulting in more students achieving their goals for higher education.

The GJ determined charter schools satisfy and serve parents, teachers, and students by providing an exciting, viable method of education.

The student-to-teacher ratio does not guarantee students' success in the classroom. There are three main factors that determine the success of the student: parents, teachers, and community support.

Charter school administration, staff, and parents agree with recent research conclusions that television viewing and video game playing for long periods of time are detrimental to the students, limiting their imagination and creativity.

The percentage of dropouts in charter schools is minimal compared to traditional public schools. The parental/teacher involvement and community participation are factors that contribute to the lower dropout rate of students.

Eleven ROCS students competed in the *Redwood Empire Regional Mathcount Competition* in Santa Rosa, on February 5, 2011. An eighth grade student earned first place honors. The student was invited to compete at the State Championship at Stanford University on March 19, 2011. This was the second year that the school participated; the team achieved fourth place finish overall.

According to the proposed Assembly Bill 1172 (Mendoza), if passed, dramatic changes would result to charter school law:

- denies charter school petition, if there is a negative financial impact on school district,
- decrease charter schools' appeal rights,
- completely restrict charter schools' ability to serve students.

The Grand Jury feels this bill is not conducive to serving our children's best interest.

Response Requested

Redwood Academy of Ukiah Principal (Findings 1-23; Recommendations 1-3)

Accelerated Achievement Academy Principal (Findings 1-12, 24-25, 32; Recommendations 1-3)

Eel River Charter School Principal (Findings 1-11, 26-34, 43; Recommendations 1-3)

River Oak Charter School Principal (Findings 1-12, 35-48; Recommendations 1-3)

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SUCCESS IS A PLEA BARGAIN, A WIN IS A LESSER CHARGE

A Report on the Offices of the Public Defender and Alternate Defender

June 7, 2011

Summary

The 2010-2011 Mendocino County Grand Jury (GJ) chose to look into the court process in light of a recent arrest of 19 persons charged in a single incident. The GJ's concern is how these multiple arrests affect the Public Defender's Office (PDO).

The Government Code §27706 defines the duties of the PDO. The PDO provides mandated legal representation for indigent clients when appointed by the court, protects the confidences, constitutional, and statutory rights of every individual.

The PDO is responsible for representing any person financially unable to retain their own attorney (an indigent person), and charged with any contempt or criminal offense (felony or misdemeanor) within the jurisdiction of the Superior Court.

The PDO represents minors in delinquency proceedings, petitioners for the restoration of rights, application for pardon, persons alleged to be sexually violent predators or mentally disordered sex offenders, competency hearings to determine mental conditions, conservatorship proceedings, and various post trial/probation proceedings.

The Alternate Defender Office (ADO) acts as a second public defender and is appointed by the court in cases where the PDO declares a conflict of interest. A conflict of interest can occur when multiple persons are charged with the same case and/or have different defenses.

When there are more than two defendants, a private attorney may be called from the *Conflicts Attorney List* to represent that defendant. Only one person in a group of co-defendants can be assigned an attorney from the PDO. For many defendants, it is in their best interest to testify against co-defendants in exchange for a reduced sentence.

Background

The first person to propose the creation of a PDO was California's first female attorney. Before, private attorneys who were young and inexperienced were often ordered by the courts to defend indigent clients *pro bono* (for free) and in that capacity the female attorney saw firsthand the inequitable results of that

system. In 1921, the California Legislature extended the Public Defender System to all courts statewide.

Mendocino County employed private attorneys before the creation of the County Public Defender's Office and the Alternate Defender's Office. In 2007, Mendocino County public attorneys created their own union. Initial negotiations between the Union and the County resulted in a pay raise for the attorneys. With this increase, parity in salary for like counties was not achieved; the attorneys were still paid 20% below parity.

On April 26, 2011, the Board of Supervisors (BOS) negotiated with the Union, resulting in a 12.5% pay decrease, rather than the 20% decrease that the BOS originally proposed. This reduction applied to the attorneys employed in the offices of the District Attorney, Public Defender, Alternate Defender, and Child Support Services. Attorneys in the Office of the County Counsel are not members of this union.

Method

The GJ interviewed public and private attorneys, and reviewed the following documents: California Penal Code, Ukiah Court and Ten-Mile Court *Conflicts Attorney List*, budgets, Organizational Program Charts, and the 2011 *California Criminal Law-Procedures and Practice*.

Findings – General

1. The Board of Supervisors (BOS) appoints the Public Defender (PDO).
2. The PDO assists with the Alternate Defender (ADO) budget and has certain control over that budget.
3. The Chief Executive Officer (CEO) receives a recommendation from the Public Defender for the position of Chief Alternate Defender. Final approval is made by the BOS.
4. The duties for the PDO and ADO are to represent defendants who are indigent and charged with misdemeanors or felonies within the jurisdiction of the Superior Court.
5. The PDO and ADO also represent juveniles. It was estimated that 80% of juveniles remain in the juvenile criminal justice system until they reach 18 years of age. Probation violations are the most common reason that juveniles remain in the system.
6. The PDO, ADO, and Conflict Attorneys (private practice attorneys) represent indigent defendants – taxpayers pay the cost.
7. Indigent status is determined initially by the Collections Department of the Court, after a review of the *Defendant's Financial Statement*. The Court makes a final decision after the conclusion of the case as to the amount of attorney's fees, if any.
8. The *Defendant's Financial Statement* includes real estate, cash, and vehicles.

9. If the defendant is eligible to receive public defender services, a \$50 registration fee is due upon appointment of counsel. (PC 987.5)
10. The Court may order an indigent defendant to pay a fee for service at the end of the case.
11. When a defendant is deemed ineligible for public defender services and is unable to hire an attorney; the Court may appoint the PDO and bill the defendant.
12. The PDO office in Ukiah has 12 attorneys, two investigators, and five support staff.
13. The PDO office in Fort Bragg has one attorney, and one support staff.
14. Seventy-five percent of the total PDO staff has been with the department for five or more years.
15. The ADO staff includes two full time attorneys, one half-time attorney, one extra-help attorney, one investigator, and one secretary. The Chief ADO recently retired and has not been replaced.

Findings – Conflicts of Interest

16. The ADO represents defendants when the PDO declares a conflict of interest.
17. A conflict of interest exists when multiple defendants participate in a single crime and are charged as co-defendants. Only one person in the group of co-defendants will be assigned an attorney from the PDO.
18. The PDO and the ADO are located in separate buildings to avoid any appearance of conflict of interest.
19. When the PDO and ADO both declare a conflict of interest, a conflict attorney is appointed by the court from the *Conflicts Attorney List* and is paid with general fund dollars. Conflict attorneys are paid below the rate charged to their private clients.
20. A defendant can orally request a *Marsden Motion* hearing, which is a declaration to the court that the defending attorney is incompetent or inadequate in representation (same as firing your attorney). If the *Marsden Motion* is granted, the judge will assign an attorney from another office to avoid any conflict of interest.

Findings – Court Process

21. Since January 2011, the District Attorney's Office is currently charging multiple defendants who are involved in the same crime, separately, when appropriate.
22. In a 2010 court proceeding, 19 persons were charged in a single accusatory pleading.
23. For misdemeanors, if the defendant is *in custody*, s/he must be brought to trial within 30 days from entry of plea; if the defendant is *out of custody*, within 45 days from entry of plea, unless the defendant waives the right to a *speedy trial*.

24. For defendants charged with a felony, s/he has a right to a preliminary hearing within 10 court days, and no greater than 60 calendar days, unless the defendant waives time. If, after the presentation of evidence at the preliminary hearing, the defendant is held to answer, the prosecution must file an accusatory pleading known as *Information* within 15 calendar days of the holding order. Following arraignment on the *Information* and entry of plea, a defendant has a right to a jury trial within 60 calendar days, unless the defendant waives his/her right to a speedy trial.
25. A defendant is required to appear at all court proceedings - unless excused by the court, or through the use of PC §977, which allows the accused to be represented by counsel only.
26. The prosecution has the same rights as the defendant to a *speedy trial*.
27. Waiving the right to a *speedy trial* allows the District Attorney time to gather supporting evidence, arrange for witnesses, and solidify a case, as necessary. The defendant's attorney may need a later date to ensure discovery has been received and all witnesses are available on a specific date.
28. Few cases go to trial; most end in plea-bargaining and sentencing bargaining.
29. Public attorneys represent defendants with the same due diligence as a private practice attorney, and are subject to the same ethical obligations.
30. The ADO and the District Attorney have asserted that more experienced law enforcement officers tend to make fewer *technical* errors. Technical errors have the potential of causing the dismissal of charges.

Recommendations

The Grand Jury recommends that:

1. the Mendocino County Board of Supervisors fill the position of Chief Alternate Defender, (Findings 3,15)
2. the County Executive Officer maintain the Office of the Public Defender and the Office of the Alternate Defender in separate buildings, (Finding 18)
3. the Mendocino County Probation Department continue to work with juvenile offenders' parents on plans to reduce probation violations, (Finding 5)
4. the Public Defender evaluate the current fee schedule for reimbursement for appointed counsel legal services, (Findings 10-11)
5. the Public Defender develop a procedure to regularly request, at the end of a case, County reimbursement for legal services provided on that case, (Findings 10-11)
6. the Alternate Defender develop a procedure to regularly request, at the end of a case, County reimbursement for legal services provided on that case, (Findings 10-11)

7. the appointed Alternate Defender be responsible for preparing, presenting, and managing his/her own annual budget. (Finding 2)

Discussion

In the case of multiple defendants, each defendant has individual representation; taxpayers subsidize defendants' legal costs. Because incidents of crime have increased in our community, these legal costs have risen over recent years. Charging defendants separately may save the County money; as fewer defendants will need the private "conflict" attorneys.

Response Required

Mendocino County Board of Supervisors (Findings 1,3,15; Recommendations 1-2)

Mendocino County Chief Executive Officer (Findings 3,18; Recommendation 2)

Mendocino County District Attorney (All Findings; All Recommendations)

Mendocino County General Service Agency Director (Finding 18; Recommendation 2)

Mendocino County Probation Department, Chief Probation Officer (Finding 5; Recommendation 3)

Mendocino County Office of the Public Defender (Findings 1-14, 16-30; Recommendations 4-6)

Mendocino County Office of the Alternate Defender (Findings 2-11; 15-30) Recommendations 6-7)

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BREAKING NEWS: BIG CHANGES COMING FOR REDEVELOPMENT AGENCIES?

A Report on Redevelopment Agencies in Mendocino County

June 7, 2011

Summary

The 2010-2011 Mendocino County Grand Jury (GJ) chose to look into local Redevelopment Agencies (RDAs) to inform the public of the inner workings and accomplishments of redevelopment in Mendocino County.

The California Redevelopment Act was created in 1945 to enable the formation of local RDAs to eliminate blighted properties and to improve selected areas. More than three-quarters of California cities and many counties have RDAs. More than half of these RDAs were established after 1978, when Proposition 13 passed, which required a super-majority of voters to approve new taxes.

The Mendocino County Board of Supervisors and the City Councils of Ukiah, Willits, and Fort Bragg voted to create RDAs. The City of Point Arena does not have an RDA. Redevelopment plans provide agencies with the powers, duties, and obligations to implement programs for redevelopment, rehabilitation, and revitalization of blighted areas.

The initial funding for RDAs came from bond sales. Increases in property taxes (incremental tax), after the inclusion of the blighted areas, are directed to the respective redevelopment agencies. The increase in property taxes repays the bonds and helps fund future development/redevelopment. New RDA projects can also be funded by the issuance of new bonds.

The California Governor proposes to abolish local redevelopment agencies by July 1, 2011, and redirect billions of dollars in property taxes to the State General Fund to help balance California's budget.

Method

The 2010-2011 GJ interviewed RDA staff members. Documents reviewed included: budgets, staffing allocations, City of Ukiah's Five Year Implementation Plan and Mid-Term Review, Mendocino County's RDA Five Year Implementation Plan, City of Willits Five Year Plan, City of Fort Bragg's RDA Adopted Budget, articles from the California Redevelopment Association, and State Controller's report entitled "Selected Redevelopment Agencies Review Report – Analysis of Administrative, Financial and Reporting Practices" dated March 2011. The GJ also read numerous media articles.

Background

The California Community Redevelopment Act (Act) was enacted in 1945 to give local governments the tools necessary to address problems such as degraded buildings, lack of housing, and blighted areas. The Act, now known as the Community Redevelopment Law (CRL), was revised in 1993 to restrict and focus redevelopment activities to ensure that redevelopment occurs in urbanized areas on previously or currently developed properties.

In 1951, the State Legislature amended the 1945 tax law paving the way for tax increment financing, using projected future gains in property taxes to finance current improvements.

In 1952, the CRL authorized the distribution of tax increments to agencies. The purpose was to relieve taxpayers' cost of redevelopment by making projects self-supporting.

In 1976, RDAs were required to set aside 20% of the tax increment for affordable housing, known as the *20% housing set-aside*.

In 1978, Proposition 13 limited the tax rate for real estate by assessing property at its 1975 value and restricting annual increases of assessed value of real property to an inflation factor, not to exceed 2% per year.

In 2008, the State *swept* the RDA fund to balance the 2009 budget with no promise to replace. In 2009, the State demanded that \$2.05 billion be returned to the State's General Fund from RDAs. This issue is currently in litigation.

Findings – General

1. Most California RDAs were formed after the passing of Proposition 13 in 1978, which limited the ability of local governments to raise property taxes.
2. Mendocino County and the Cities of Ukiah, Willits, and Fort Bragg have established RDAs. Point Arena has no RDA. The Board of Supervisors or the City Councils serve as the governing boards of their respective RDA.
3. The RDAs exist as a tool to reduce blight in urban deteriorated areas by achieving revitalization, development, and rehabilitation.
4. A function of redevelopment is the collection of increased property tax revenues from improved properties.
5. Blighted conditions, as defined by law, can be economic and/or physical, and are defined by Health and Safety Code §33030(b) and §33031. (Appendix A)
6. The interpretation of blight varies among local RDAs; therefore, local RDA goals and operations are different.
7. The common concept of blight is a run-down, dilapidated, crime ridden, unkempt property or neighborhood that diminishes the value of adjacent

- properties and negatively affects the quality of life.
8. Initial RDA funding was derived from bond sales. All RDA bonds are issued without a vote of the people.
 9. There is public misunderstanding regarding the use of RDA funds, and the necessity of some RDA projects.
 10. Local RDAs have not formed redevelopment citizen advisory committees, allowed and encouraged under RDA Rules⁸, to gain greater public input, trust, and understanding.
 11. The RDA bonds are repaid with the incremental increases in property taxes that result from higher assessed valuations on the redeveloped properties in the RDA zone.
 12. The RDAs do not levy taxes and do not have the ability to raise taxes.
 13. The RDAs pay for administrative salaries and benefits, studies, new project development, infrastructure, and other related costs. Bonds fund these costs, unless the RDA has excess monies.
 14. Employee salaries are paid with RDA funds disproportionate to the time spent on RDA business. More than one RDA employees' salary and benefits are paid 100% with RDA funds even though they do not perform 100% RDA business. The proposed loss of RDA funds can lead to employee layoffs.
 15. The RDAs are required by law to set aside 20% for low and moderate-income housing projects. Local RDA budgets indicate that they are in compliance.
 16. The RDAs have tax sharing agreements with schools, special districts, and other government entities. The Mendocino County Treasurer-Tax Collector distributes the funds according to the pass-through and contractual agreements.
 17. Funding for new RDA projects, staffing, and the ability to repay existing RDA bonds are threatened by decreases in property tax revenues.
 18. Often infrastructure must be improved or developed to accommodate a project. Studies required for projects consume resources and employees' time.
 19. *Eminent Domain*, allowed under State law, can be used as a tool by government to acquire private property for the public good; it is seldom used in Mendocino County.

Findings – Ukiah RDA

20. The Ukiah City Council adopted the Ukiah Redevelopment Plan on November 15, 1989. The area encompasses the downtown business area and the Redwood Business Park property.
21. The 1989 RDA plan did not include *Eminent Domain*, a tool to acquire property.
22. The RDA defines blight as “any property that is under performing, or not

⁸ These groups collaborate with the agencies throughout every step of the redevelopment process – from identifying a project area to construction to project completion. These groups ensure that projects reflect community needs and priorities, and keep other community members informed about the progress of the project.

performing in the market place within the RDA zone. Redevelopment is a tool to improve a blighted area when the private market fails”.

23. Recently, the City of Ukiah was given the legal authority to inspect a downtown structure over the objection of its owners. The building has been vacant for over 20 years.
24. The RDA is using funds to pay significant portions of 18 employees’ salaries and benefits:

City Manager/Exec. Dir.	50%	Senior Planner	40%
Ass’t City Mgr.	80%	Assoc. Planner	25%
City Clerk	50%	Ass’t Engineer	31%
Ass’t Finance Dir.	15%	Accounting Ass’t.	15%
Director of Finance	35%	Administrative Sec.	20%
Project and Grant Admin.	100%	Administrative Sec.	40%
Finance Controller	7%	Park Service Worker	60%
Accountant	15%	Director of Public Works	8%
Senior Civil Engineer	32%	Director, Planning & Community Dev.	35%

25. The RDA has agreements for funding schools within the target area. The schools must use this money for capital improvements. This money cannot be spent for administration, salaries, or other regular expenses.
26. In 2006-2007, the RDA received \$474,829 from incremental property taxes. The RDA paid \$260,974 in salaries and benefits; operation and maintenance were \$162,460 for a total of \$423,435.
27. In 2009, the State of California removed \$1,744,481 of the RDA’s tax increment revenue as part of a \$2.05 billion statewide shift of local taxes to cover the State’s obligations. The agency is required to make an additional payment to the State this year, in the amount of \$359,158, for a total of over \$2.1 million.
28. The 2010-2011 budget anticipated tax revenue for the RDA of \$808,288. Salaries and benefits are \$640,401; operations and maintenance are \$66,247.

29. Some past and present RDA projects include:

- Redwood Business Park infrastructure on Airport Blvd.
- Downtown Beautification Project
- 322 units of affordable housing public/private partnership (1990-2007)
- Alex Rorabaugh Gymnasium and Activity Center
- Orchard Street Bridge

30. The City of Ukiah has discussed the possibility of employee layoffs should the State abolish or significantly change the structure of RDAs.

31. The RDA staff speculates there will be an increase of sales tax revenues with the opening of a big-box retail store in the Redwood Business Park.

Findings – Willits RDA

32. The Willits RDA has chosen to limit the use of redevelopment funds due to lack of administrative personnel.

33. The 2010-2011 budgets lists 10 employee salaries and benefits that are paid

in part by RDA and RDA housing funds:

City Manager	10%	Finance Director	15%
Code Enforcement/Ass't Planner	25%	Building Inspection	15%
Water Conservation Officer	100%	Engineer Tech III	2.5%
Office Assistant II	5%	City Engineer	10%
Engineering Tech II	30%	Comm. Dev. Officer	45%

34. The Redevelopment Plan terminates in 2014, unless it is extended. The final date to receive tax increments to pay indebtedness for this plan terminates in 2024.
35. The RDA may consider deferring loan repayments until 2014 to preserve a means of continued funding for community development.
36. In 2002, the RDA issued \$4 million in bonds and envisioned numerous projects; but only one, the Wood Street City Parking Lot, was completed.

Findings – Fort Bragg RDA

37. The RDA funded the redevelopment of the downtown area and explored the development of the closed Georgia Pacific Mill property.
38. The 2010-2011 budget reveals 13 employees are partially paid with RDA funds for a total of \$333,854 in salaries and benefits:

City Manager	30%	Assistant City Manager	10%
Admin. Secretary	10%	Administrative Secretary	35%
City Clerk	10%	Office Clerk	10%
Finance Director/Treasurer	15%	Senior Govt. Accountant	15%
Govt. Accountant I	5%	Community Dev. Director	50%
Senior Planner	30%	Housing and Econ. Dev. Coordinator	70%
Public Works Director	5%		

39. The RDA has taken advantage of grants to make studies. When an opportunity arises, the RDA uses these studies to shorten the application process for public and non-profit grants for projects.
40. The former Georgia Pacific property, once assessed at \$110 million, was negotiated to a reassessed valuation of \$35 million. This loss of \$75 million of assessed valuation was made retroactive for three years, causing \$724,000 to be refunded by the Fort Bragg RDA.

Findings – Mendocino County RDA

41. The Board of Supervisors functions as the Mendocino County RDA governing board.
42. Mendocino County has a relatively small RDA zone; comprised of three sub-areas, spread over 772 acres. Two areas border the City of Ukiah along State Street and are named the South Ukiah Sub-Area and the North Ukiah Sub-Area. The third is a community north of Ukiah, the Calpella Sub-Area.

43. Mendocino County bills the RDA fund for actual time spent by county employees on RDA business.
44. The Mendocino County RDA is currently focusing on Mendocino Community College, exploring the following projects: capital improvements, commercial developments, new residential and rehabilitation housing programs.

Recommendations

The Grand Jury recommends that:

1. the City of Ukiah budget employee staffing allocations to the actual time spent on Redevelopment Agency business, (Findings 13-14, 24, 26-28, 30)
2. the Redevelopment Agencies partner with their local Code Enforcement Agency to compel owners of blighted properties to comply with Health and Safety Codes, (Findings 5, 7, 23)
3. the Cities and the County develop alternative revenue streams to replace anticipated Redevelopment Agency revenue losses, (Findings 1, 4, 8-9, 11-19, 21, 23-28, 30-33)
4. the Cities and the County establish redevelopment citizen advisory committees to allow for greater public input and oversight. (Findings 6-44)

Discussion

The California Governor proposes to abolish local redevelopment agencies by July 1, 2011, and to redirect billions of dollars in property taxes to the State General Fund to help balance California's budget. This proposal would have negative financial impacts to each city in California with a RDA. Cities that rely heavily on RDA funds to pay employee salaries and benefits may need to issue employee layoff notices. Willits, Ukiah, and Fort Bragg use RDA funds to supplement employee compensation.

Property tax revenues have declined with the downturn of the economy; revenues are reduced when there are closures of local businesses and loss of jobs. When large businesses fail, vacant structures are worth less and owners may request a reassessment of the property. The County, cities, special districts, local schools, and Redevelopment Agencies feel these negative impacts.

The RDAs have been utilized by local governments to issue debt without a vote by the people, bypassing restrictions created by Proposition 13. Citizens and taxpayers question specific projects being considered for funding by RDAs.

Response Required

Mendocino County Board of Supervisors, serving as the Redevelopment Board (Findings 1-19, 41-44; Recommendations 2-4)

Ukiah City Council, serving as the Redevelopment Board (Findings 1-19, 20-31
Recommendations 1-4)

Willits City Council, serving as the Redevelopment Board (Finding 1-19, 32-36
Recommendations 2-4)

Fort Bragg City Council, serving as the Redevelopment Board (Findings 1-19,
37-40; Recommendations 2-4)

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Appendix A
Proposed Text of 9.32 Ordinance

ORDINANCE NO. _____

**ORDINANCE ADDING CHAPTER 9.32 OF TITLE 9 OF THE MENDOCINO
COUNTY CODE ENTITLED MEDICAL MARIJUANA DISPENSING
COLLECTIVE REGULATION**

The Board of Supervisors of the County of Mendocino ordains as follows:

Chapter 9.32 of Title 9 of the Mendocino County Code is added to read as follows:

“MEDICAL MARIJUANA DISPENSING COLLECTIVE REGULATION

Section 9.32.010 Purpose and Intent

It is the purpose and intent of this Chapter to regulate the dispensing of medical marijuana in a manner that is consistent with State law and which promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Mendocino, by balancing the needs of medical patients and their caregivers to have safe access to medical marijuana, but who may be unable to cultivate medical marijuana, and the needs of neighbors and communities to be protected from public safety and nuisance impacts. Nothing in this Chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use or diversion of marijuana for non-medical purposes; or (3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California State law.

Section 9.32.020 Definitions

For the purpose of this Chapter, the words and phrases shall have the same meanings respectively ascribed to them by this section:

As used herein the following definitions shall apply:

“Applicant” means a person who is required to file an application for a permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a medical marijuana dispensing collective.

“Attorney General guidelines” means Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued by the Attorney General in August 2008.

"Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

“Cultivation” means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

“Identification Card” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.

“Indoors” means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Mendocino, or, if exempt from the permit requirements of the CBC, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2” X 4” or thicker studs overlain with 3/8” or thicker plywood or equivalent materials. Plastic sheeting, regardless of gage, or similar products do not satisfy this requirement.

“Medical Marijuana Dispensing Collective” means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775 and as conditioned herein. The term collective shall include “cooperative” unless the context clearly indicates otherwise.

“Permittee” means the person to whom a medical marijuana dispensing collective permit is issued.

“Primary caregiver” means a “primary caregiver” as defined in Health and Safety Code Section 11362.7(d).

“Qualified patient” means a “qualified patient” as defined in Health and Safety Code Section 11362.7(f).

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of

education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

“Sheriff” or “Sheriff’s Office” shall mean the Sheriff’s Office of the County of Mendocino or the authorized representatives thereof.

“Youth-oriented facility” means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

“Zip-ties” means plastic ties with individualized numbers stamped on them, issued by the Mendocino County Sheriff’s Office for the purpose of identifying a legal marijuana plant.

Section 9.32.030 Permit Required from Sheriff’s Department

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the County of Mendocino, the operation of a medical marijuana dispensing collective unless the person first obtains and continues to maintain in full force and effect a medical marijuana dispensing collective use permit from the County as herein required.

Section 9.32.040 General Tax Liability

As a prerequisite to obtaining a permit, an operator of a dispensing collective shall be required to apply for and obtain a County Business License and tax certificate or exemption as required by the State Board of Equalization. Dispensing collective sales shall be subject to sales tax consistent with the requirements of the State Board of Equalization. All dispensaries shall submit to the County, on a quarterly basis, proof that said dispensing collective has paid all required taxes to the State Board of Equalization and the amount paid thereto.

Section 9.32.050 Applications

- (A) All applications for medical marijuana dispensing collective permits shall be filed with the Sheriff’s office. The application shall be made under penalty of perjury and shall include the following information:
- (B) All applications for medical marijuana dispensing collective permits shall be filed with the Sheriff’s Office. The application shall be made under penalty of perjury and shall include the following information:

- (1) The name and address of each person applying for the permit and any other person who will be engaged in the management of the collective;
- (2) A unique identifying number from a State of California Driver's License or identification card for each person applying for the permit and any other person who will be engaged in the management of the collective;
- (3) Written evidence that each person applying for the permit and any other person who will be engaged in the management of the collective is at least eighteen (18) years of age;
- (4) That the applicant or any individual engaged in the management or employed by the collective has not been convicted of a violent felony as defined in Penal Code Section 667.5 (c) within the State of California, or a crime that would have constituted a violent felony as defined in Penal Code Section 667.5 (c) if committed in the State of California and is not currently on parole or felony probation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of *nolo contendere*;
- (5) A statement acknowledging that the permit applied for will be issued in conformance with the laws of the State of California and that such issuance does not confer upon the applicant, managers, employees and members of the collective immunity from prosecution under federal law;
- (6) The applicant's waiver and release of the County from any and all legal liability related to or arising from the application for a permit or the enforcement of the conditions of the permit;
- (7) The street address and/or parcel number of the location where the use is to take place;
- (8) Whether cultivation of marijuana will occur on the premises, the number of plants which in no event shall exceed ninety-nine (99) and the measures that will be taken to minimize odor related complaints, or a statement explaining why such measures are not necessary;
- (9) Whether use of medical marijuana will occur on the premises, and if so, measures that will be taken to assure responsible use;
- (10) Acknowledgement that the California Fire Code includes a requirement, among others that may apply, that an establishment obtain a place of assembly permit if it will accommodate fifty (50) or more persons based on its square footage;
- (11) Authorization from the applicant and all employees of applicant who will work at the dispensary, for the County, its agents and employees to seek verification of the information contained in the application.

(12) A statement that the requested use will not violate the limitation locations set forth in Section 9.32.130;

(13) A statement describing the proposed security measures for the facility that shall be sufficient to ensure the safety of members and employees and protect the premises from theft;

(14) A statement describing the proposed source of power for indoor cultivation, if any, (electric utility company, solar, diesel generators), the size of the electrical service or system, and the total demand to be placed on the system by all proposed uses on site;

(15) If diesel generators are proposed to be used on site, a detailed description of the proposed methods of storage, delivery and containment of the diesel fuel must be included. This statement shall be referred to the Department of Environmental Health and the Air Quality Management District for a determination if additional conditions, permits or inspections shall be required;

(16) Authorization for the Sheriff or other appropriate County employees or agents to enter the property for the purpose of examining the location to confirm compliance with this section;

(17) If the applicant is organized as a corporation, the applicant shall set forth the name of the corporation exactly as shown in its articles of incorporation, and the names and residence addresses of each of the officers, directors and each stockholder owning ten percent (10%) or more of the stock of the corporation. If the applicant is organized as a partnership, the application shall set forth the name and residence address of each of the partners, including the general partner and any limited partners. Copies of the Articles of Incorporation or Partnership Agreement shall be attached to the application;

(18) Submission of payment of a permit fee sufficient to cover the cost to all County departments of investigating and processing the application in an amount that shall be set by the Board of Supervisors in accordance with all applicable laws and regulations;

(19) A statement that upon receiving a completed permit application, the Sheriff shall refer the application to the Department of Planning and Building for a determination of the zoning, and notification to all neighbors and businesses within a three hundred (300) foot radius of the pending application;

(20) A statement that the Sheriff is hereby authorized to require in the permit application any other information reasonably related to the application including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

Section 9.32.060 Limitation on Number of Plants Located at a Dispensing Collective.

A dispensing collective shall maintain no more than ninety-nine (99) plants on the premises which may only be located indoors in up to one hundred (100) contiguous square feet.

Section 9.32.070 Zip Tie Requirement.

(A) If medical marijuana is cultivated to maturity at the location of the dispensing collective, zip ties shall be required to be securely attached to the base of individual flowering marijuana plants.

B. “Zip-Ties” shall be obtained through the Mendocino County Sheriff’s Office. Dispensing Collectives shall purchase zip ties at the time a permit is issued for operation. The fee for the “zip-ties” shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws, regulations and the Master Fee Policy.

Section 9.32.080 Time Limit for Filing Applications.

All persons or companies who possess an outstanding business license heretofore issued for the operation of a business that dispenses medical marijuana must apply for a medical marijuana dispensing collective permit within ninety (90) days of the effective date of this ordinance. Continued operation of a medical marijuana dispensing collective without applying for a permit more than ninety (90) days after the effective date of this ordinance shall constitute a violation of this Chapter.

Section 9.32.090 Term of Permits and Renewals.

(A) Permits:

Medical marijuana dispensing collective permits issued under this Chapter shall expire one (1) year following their issuance. Medical marijuana dispensing collective permits shall be renewed by the Sheriff’s office for additional one-year periods upon application by the permittee unless the permit is suspended or revoked subject to sections 9.32.110, 9.32.120, 9.32.130, and 9.32.140. Applications for renewal shall be made at least forty-five (45) days before the expiration date of the permit and shall be accompanied by the fee referenced in Section 9.32.110. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed.

(B) Renewal:

Medical marijuana dispensing collective permits must be renewed every year. Applications for one-year Administrative Review renewal of the Use Permit must

be submitted to the Sheriff's office and shall be accompanied by the following minimum information:

- (1) The operator shall report the number of patients served and pay applicable fees, as required by this Chapter.
- (2) The operator shall provide a detailed description of any adjustments and changes proposed or that have occurred in dispensing collective operations to address issues or comply with laws.
- (3) The operator shall identify all current employees, volunteers or any other person who is involved in the operations of the dispensing collective.
- (4) The operator shall identify any problems encountered during operations and how they have been addressed.

Section 9.32.100 Fees

Every application for a medical marijuana dispensing collective use permit or renewal shall be accompanied by a fee, as established by resolution adopted by the Board of Supervisors from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the Board of Supervisors from time to time.

Section 9.32.110 Grounds for Denial of Permit

No permit shall be issued or renewed if the Sheriff finds:

- (1) That the applicant has provided materially false documents or testimony; or
- (2) That the applicant has not complied fully with the provisions of this Chapter; or
- (3) That the operation as proposed by the applicant, if permitted, would not have complied will all applicable laws, including, but not limited to, the Building, Planning, Housing, Fire, and Health Codes of the County, including the provisions of this Chapter and regulations issued by the Sheriff pursuant to this Chapter.

Section 9.32.120 Appeal from Denial of Permit or Renewal

The Sheriff's Office shall review all permit and renewal applications, and all other relevant information, and determine, based on current information, if the permit should be granted or renewed. If the Sheriff's Office determines that the permit should not be granted or renewed, the applicant may appeal such decision by filing a written notice with the Clerk of the Board of Supervisors within ten (10) days stating the grounds for the appeal. Such notice of appeal shall be accompanied by the payment of an appeal fee which shall be set by resolution of the Board of Supervisors in accordance with all applicable laws, regulations and the Master Fee Policy. If a notice of appeal is not filed and the required fee paid within the ten day appeal period, the decision of the Sheriff's Office shall be final.

Section 9.32.130 Location of Dispensing Collective

A dispensing collective shall be restricted to commercial zones and not be allowed in proximity to following:

- (1) Within one thousand (1,000) feet of any other medical marijuana dispensing collective, a youth-oriented facility, a school, park or any church as defined herein;
- (2) Within five hundred (500) feet of any occupied residential structure.

Section 9.32.140 Requirements for the Operation of a Dispensing Collective

All dispensing collectives shall comply with all of the following requirements:

- (1) Operate on a non-profit basis as set forth in Section B.1 of the Attorney General's guidelines;
- (2) Apply for and obtain a County business license;
- (3) Apply for and obtain a Board of Equalization Seller's Permit and collect and remit sales tax to the Board of Equalization if they intend to sell directly to qualified patients or primary caregivers;
- (4) Employ only persons who are at least 18 years of age;

- (5) Allow on the premises only persons who are at least 18 years of age or who are accompanied by their licensed attending physician, parent or documented legal guardian;
- (6) Follow the membership and verification guidelines as set forth in Section B.3 of the Attorney General's guidelines, except that wherever "should" appears it shall be replaced with "shall";
- (7) Require all prospective members to complete and sign a written membership application acknowledging and agreeing to abide by all the rules of the collective and all applicable requirements of this section;
- (8) Acquire, possess and dispense only lawfully cultivated marijuana as set forth in Section B.4 of the Attorney General's guidelines except that wherever "should" appears it shall be replaced with "shall";
- (9) Acquire, possess and dispense only medical marijuana that has been cultivated in the State of California;
- (10) Prohibit sales to non-members as set forth in Section B.5 of the Attorney General's guidelines;
- (11) Allow reimbursements and allocations of medical marijuana as set forth in Section B.6 of the Attorney General's guidelines;
- (12) Possess marijuana only in amounts consistent with the medical needs of the members of the collective; and only cultivate marijuana consistent with the limits granted pursuant to a permit issued in conformance with this section, but in no case more than ninety-nine (99) plants;
- (13) Secure all buildings where marijuana is cultivated or stored, sufficient to prevent unauthorized entry;
- (14) Purchase and attach a zip-tie to any flowering marijuana plant located on the dispensing collective premises;
- (15) Display the permit issued pursuant to this Chapter in a conspicuous place within the premises so that the permit may be readily seen by individuals entering the premises;
- (16) Operate from a building or portion of a building which shall be directly accessible from the public right of way and which shall be located in a commercial zone;
- (17) Maintain no more than ninety-nine (99) marijuana plants, which may only be located indoors, in up to one hundred (100) contiguous square feet;

(18) Prohibit the use of marijuana within the public right of way within one hundred (100) feet of a building or portion of a building where the collective is located and post a sign near all entrances and exits providing notice of this policy and a statement that any person violating this provision shall be deemed guilty of an infraction and upon the conviction thereof shall be subject to a fine of one hundred dollars (\$100.00);

(19) Exterior signage shall be limited to the address, hours of operation, and the name of the collective and may not contain the words marijuana, cannabis, dispensary or anything else that advertises the presence of marijuana;

(20) Limit hours of operation to between 7:00 a.m. and 9:00 p.m.;

(21) Dispense only those amounts of marijuana that are consistent with the medical needs of the patient or patients upon whose behalf it is obtained;

(22) Dispense only inside the premises, however, delivery to collective members is allowed if the employee making the delivery is also a collective member;

(23) Cultivated or processed marijuana shall not be visible from the building exterior;

(24) Alcoholic beverages shall not be sold or consumed on the premises or in the public right of way within one hundred (100) feet of the premises during the hours of operation.

Section 9.32.150 Violation of Ordinance

Violation of any provision of this ordinance is hereby deemed to be a public nuisance.

Section 9.32.160 Enforcement

(A) The County may abate the violation of this Chapter by the prosecution of a civil action, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

(B) The County may also abate the violation of this Chapter through the abatement process established by Government Code Section 25845 as set

forth in Sections 9.32.170 through 9.32.350 beginning with the issuance of a Notice and Order to Abate.

Section 9.32.170 Service of Notice and Order To Abate

The Notice and Order to Abate shall be served in the following manner:

- (A) By certified mail, addressed to the owner, his or her agent, at the address shown on the last equalized assessment roll or as otherwise known. Service shall be deemed to have been completed upon the deposit of said Notice and Order, postage prepaid, in the United States mail; **and**
- (B) By certified mail addressed to anyone known to the Enforcement Officer to be in possession of the property at the street address of the property being possessed. Service shall be deemed to have been completed upon the deposit of said Notice and Order, postage prepaid, in the United States mail; **and**
- (C) By posting such Notice and Order to Abate conspicuously in front of the property on which, or in front of which, the nuisance exists, or if the property has no frontage, upon any street, highway, or road then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the Enforcement Officer to be in possession of the property.

Section 9.32.180 Administrative Civil Penalties

In addition to any other remedies provided by County Code or State Law, there is hereby imposed the following civil penalty for each violation of this Chapter, as imposed by the Enforcement Officer:

1. No less than twenty-five dollars (\$25.00) per day and no more than one hundred dollars (\$100.00) per day for the first violation; no less than one hundred dollars (\$100.00) per day and no more than two hundred dollars (\$200.00) per day for a second violation of the same ordinance within one (1) year; and no less than two hundred dollars (\$200.00) and no more than five hundred dollars (\$500.00) per day for each additional violation of the same ordinance within one (1) year for each day that the violation exists after the date of mailing of the notice of violation through to its abatement by whatever means.
2. The Enforcement Officer shall have the sole and exclusive discretion to set the amount of civil penalties within the ranges set forth in this section. The Enforcement Officer shall not impose a

penalty greater than the minimum amount in range of civil penalties set forth in this section, unless the Enforcement Officer's department has established a written policy setting forth how civil penalties within the ranges are determined. Such policy shall take into account the facts and circumstances of the violation including, but not limited to, whether or not the violation poses a threat to human health, safety or to the environment; the seriousness or gravity of the violation; the length of time the violation has existed; the culpability of the person in violation or the willfulness of the violation; the sophistication of the persons creating or causing the violation; the extent of the violation and its effect on adjoining properties; attempts, if any, to comply with the applicable ordinances; and any other information which might be relevant to the determination of penalty to be imposed by this section.

3. If the penalty is imposed for violation of any violation of this ordinance, there shall be imposed a fine of \$250.00, plus the actual costs of abatement.
4. At the discretion of the Enforcement Officer, or his or her designee, or upon the appeal of the property owner, the determination may be referred to a Hearing Officer of the County, duly appointed to hear such matters as described in Sections 9.32.190, 9.32.200, 9.32.210, and 9.32.220. The determination of the Hearing Officer as to the amount of charges properly imposed under this section shall be final, subject only to judicial review.
5. The charges imposed by this section shall not apply if the property owner establishes all of the following: (i) that, at the time he or she acquired the property, a violation of this code already existed on the property; (ii) the property owner did not have actual or constructive notice of the existence of that violation; and (iii) within thirty (30) days after the mailing of notice of the existence of that violation, the property owner initiates and pursues, with due diligence, good faith efforts, as determined solely by the Enforcement Officer, to meet the requirements of this code.
6. In the event a property owner, in the opinion of the relevant Department Head(s), abates the nuisance in a timely manner after the Notice and Order to Abate has been issued, the relevant Department Head(s) has (have) the authority to waive or reduce the amount of penalties owed, if in his or her opinion such a reduction is warranted.

Section 9.32.190 Hearing Officer

Pursuant to Government Code Section 25845(i), the Chief Executive Officer shall contract with at least three (3) individuals as defined in Government Code Section 27720 et seq. to act as Hearing Officers on a rotating basis for the appeals described in this Chapter. The Hearing Officer shall have all powers and authorities described in Government Code Section 25845. In lieu of a Hearing Officer, the Board of Supervisors at any time may exercise the option to appoint a Hearing Board which shall consist of three persons, appointed by the Board of Supervisors, who shall receive compensation for attendance at hearings at a rate fixed by the Board of Supervisors. A quorum for the Hearing Board to meet shall be two members. Concurrence of two members shall be required for decisions of the Hearing Board.

Section 9.32.200 Appeal Procedure

Any owner or other person in possession of the property may appeal a Notice and Order to Abate to a person designated as a Hearing Officer or Hearing Board except in cases regarding Animal Control issues which shall be appealed to the Animal Care and Control Advisory Board. The appeal shall be submitted in writing, specify the grounds upon which the appeal is taken, contain the name, address and telephone number of the appellant, be accompanied by the payment of an appeal fee in an amount established by Resolution by the Board of Supervisors and be filed with the Department specified on the Notice and Order to Abate within ten (10) calendar days of the issuance of the Notice and Order to Abate. Timely appeal shall stay any further abatement action until the hearing is conducted. In accordance with the noticing provisions set forth in Section 9.32.170 the Hearing Officer shall notify the parties in writing of the date and location of the hearing, at least ten (10) days prior to said date.

Section 9.32.210 Hearing Procedures

- (A) Pursuant to Government Code Section 25170, the Hearing Officer or Hearing Board may issue subpoenas as necessary to require the attendance at the hearing of persons or the production of books, papers or other things related to the subject matter of the hearing.
- (B) The Enforcement Officer with jurisdiction to cause the abatement of the alleged nuisance shall first describe the acts or conditions constituting a nuisance and shall respond specifically to the grounds set out in the demand for hearing. Thereafter, the objector shall present whatever evidence is relevant to refute the allegation.
- (C) Formal rules of evidence or procedure in any proceeding subject to this Chapter shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons

are accustomed to rely in the conduct of serious affairs. Any failure to make a timely objection to offered evidence constitutes a waiver of the objection.

- (D) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified an interpreter by either the State of California or the County of Mendocino.
- (E) Hearings shall take place at the earliest practical date following the notice of appeal. The failure of the appellant to appear shall not prevent the hearing from proceeding providing proper notice has been given in accordance with this Chapter. The hearing may only be continued upon request of a party to the hearing and upon a showing of good cause but in no event shall there be more than one continuance allowed.

Section 9.32.220 Determination

- (A) At the conclusion of the hearing, the Hearing Officer or Hearing Board shall determine, based on the evidence before it:
 - 1. Whether the acts or conditions specified in the Notice of Abatement exist;
 - 2. Whether those acts or conditions constitute a nuisance;
 - 3. If a nuisance is determined to exist, whether it should be abated by the County; and
 - 4. The appropriateness of the penalty imposed.
- (B) If the Hearing Officer or Hearing Board finds that the alleged nuisance does exist and should be abated, abatement of the nuisance shall be ordered. An Order of Abatement is final immediately, unless the order or a provision of this code expressly provides otherwise.

Section 9.32.230 Abatement By Owner Or County

- (A) A copy of the written decision and Order of Abatement shall be served personally or by mail upon each objector and all other persons upon whom the Notice and Order to Abate was served. The order may direct that any occupancy, use or activity cease immediately if its existence or continuation is found to be an immediate threat to health or safety. Otherwise, abatement shall be commenced by the owner within five (5) calendar days of the

service of the decision and Order, or any longer period provided in the order, and shall continue with reasonable diligence until complete. Reasonable diligence shall be determined by the Enforcement Officer.

- (B) Upon the failure, neglect, or refusal to properly comply with the Order of Abatement issued by the Hearing Officer or Hearing Board within the prescribed time period, the Enforcement Officer authorized to enforce the ordinance or other designated County employee may cause to be done whatever work is necessary to abate the public nuisance. An account of the cost of abatement shall be kept for each separate assessor's parcel involved in the abatement.
- (C) When the County has completed the work of abatement, or has paid for such work, the actual cost thereof, together with an administrative cost, including reasonable attorneys' fees as set forth in Section 9.32.240 and 9.32.320 and all fines shall be charged to the owner of the property. The combined amounts shall be included in a bill and sent by mail to the owner, or his or her agent for payment, if not paid prior thereto. The bill shall apprise the owner that failure to pay the bill within fifteen (15) days from the date of mailing, may result in a lien upon the property.

Section 9.32.240 Failure of Owner to Abate or Appeal

If, within ninety (90) days from the issuance of the Notice and Order to Abate, the property owner has not filed a timely appeal in accordance with Section 9.32.200, or has failed to pay any outstanding fines or penalties, the amount of the penalties as established pursuant to Section 9.32.180 for the 90-day period shall be totaled and the same shall be considered due and owing. Notice of the amount of penalties shall be mailed to the property owner by certified mail, addressed to the owner, his or her agent, at the address shown on the last equalized assessment roll or as otherwise known. Any continuing violation after the aforesaid 90-day period shall be considered a subsequent offense and the penalty for such new violation shall be the basis for a second or third violation and the procedures set forth in this Chapter shall be followed as if the violation was a new violation. Nothing in this Section shall be interpreted to extend the time given to the property owner to abate the nuisance as set forth in the Notice and Order to Abate. Nothing in this Section shall be interpreted as limiting the Enforcement Officer's discretion to abate the nuisance at the County's expense and to seek reimbursement from the property owner or responsible party for all costs associated with the abatement.

Section 9.32.250 Summary Abatement

Notwithstanding any other provision of this Chapter, when any unlawful marijuana distribution constitutes an immediate threat to the public health or safety, and with the procedures set forth in Section 9.32.170 would not result in abatement of that nuisance

within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 9.32.170 but the formal notice and hearing procedures set forth in this Chapter shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in sections 9.32.240 and 9.32.320.

Section 9.32.260 No Duty to Enforce

Nothing in this Chapter shall be construed as imposing on the enforcing officer or the County of Mendocino any duty to issue a Notice to Abate Unlawful Marijuana Cultivation, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing officer nor the County shall be held liable for failure to issue an order to abate any unlawful marijuana cultivation, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation.

Section 9.32.270 Report and Notice of Lien Hearing

The Board of Supervisors delegates the responsibility to conduct a lien hearing in conformance with this Chapter to a Hearing Officer.

If the bill for the cost of the abatement, administrative costs, attorney fees, and all fines imposed pursuant to Sections 9.32.180, 9.32.240 or 9.32.320 are not paid within thirty (30) days of issuance of an order pursuant to Section 9.32.220 or the date of mailing of the notice described in Section 9.32.160, the Enforcement Officer authorized to enforce the ordinance shall render an itemized report in writing to the Clerk of the Board for submittal to the Hearing Officer listing the costs of abatement, administrative fee, attorney fees and all fines and/or fees. The Hearing Officer may then order for a lien hearing and confirmation. Names and addresses of persons having any record interest in the property shall be attached to the report. At least ten (10) days prior to said hearing, the Hearing Officer through the Clerk of the Board shall give notice, by certified mail, of said hearing to the record owner of each assessor's parcel involved in the abatement, the holder of any mortgage or deed or trust of record, if known, and any other person known to have a legal interest in the property. Said notice shall describe the property by street number or some other description sufficient to enable identification of the property and contain a statement of the amount of the proposed lien.

Section 9.32.280 Hearing on Account and Proposed Lien

At the time and place fixed in the notice, the Hearing Officer will hear and consider the account and proposed lien amount, together with objections and protests thereto. At the conclusion of the hearing, the Hearing Officer may make such modifications and revisions of the proposed account and lien amount as it deems just, and may order the account and proposed lien amount confirmed or denied, in whole or in part, or as

modified and revised. The determination of the Hearing Officer as to all matters contained therein is final and conclusive.

Section 9.32.290 Notice of Lien

Upon confirmation of a lien by the Hearing Officer, the Enforcement Officer shall notify the owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Hearing Officer and advise them that they may pay the account in full within thirty (30) days to the Enforcement Officer in order to avoid the lien being recorded against the property. If the lien amount is not paid by the date stated in the letter, the Enforcement Officer shall prepare and have recorded in the office of the County Recorder of Mendocino County a notice of lien. The notice shall contain:

- (A) A legal description, address and/or other description sufficient to identify the premises;
- (B) A description of the proceeding under which the lien was made, including the order of the Hearing Officer confirming the lien;
- (C) The amount of the lien;
- (D) A claim of lien upon the described premises.

Section 9.32.300 Lien

Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described premises, pursuant to Section 25845 of the California Government Code. Such lien shall be at parity with the liens of State and County taxes.

Section 9.32.310 Collection With Ordinary Taxes

After recordation, the Notice of Lien shall be delivered to the County Auditor, who will enter the amount of the lien on the assessment roll as a lien. Thereafter, the amount set forth shall be collected at the same time and in the same manner as ordinary County taxes, and is subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as are provided for ordinary County taxes; all laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such lien.

Section 9.32.320 Attorneys' Fees

Pursuant to Government Code Section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this

section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Chapter exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

Section 9.32.330 Use of Money Collected Under This Chapter

All money collected for penalties for violations of this Chapter and all money collected for recovery of costs of enforcement of this section shall be made available to the Department responsible for the enforcement action for training and further code enforcement actions.

Section 9.32.340 Violations

It shall be unlawful for any person to refuse to allow any duly authorized officer, employee, agent, or contractor of the County to enter upon any premises for the purposes of abating the public nuisance as authorized herein or to interfere in any manner whatever with such officer, employee, agent, or contractor. The Board of Supervisors adopts and incorporates herein by reference provisions set forth in Government Code Section 25845.5.

Section 9.32.350 Compliance With CEQA

The County finds that this Chapter is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

Section 9.32.360 Severability

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of this Chapter, including the application of such part or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

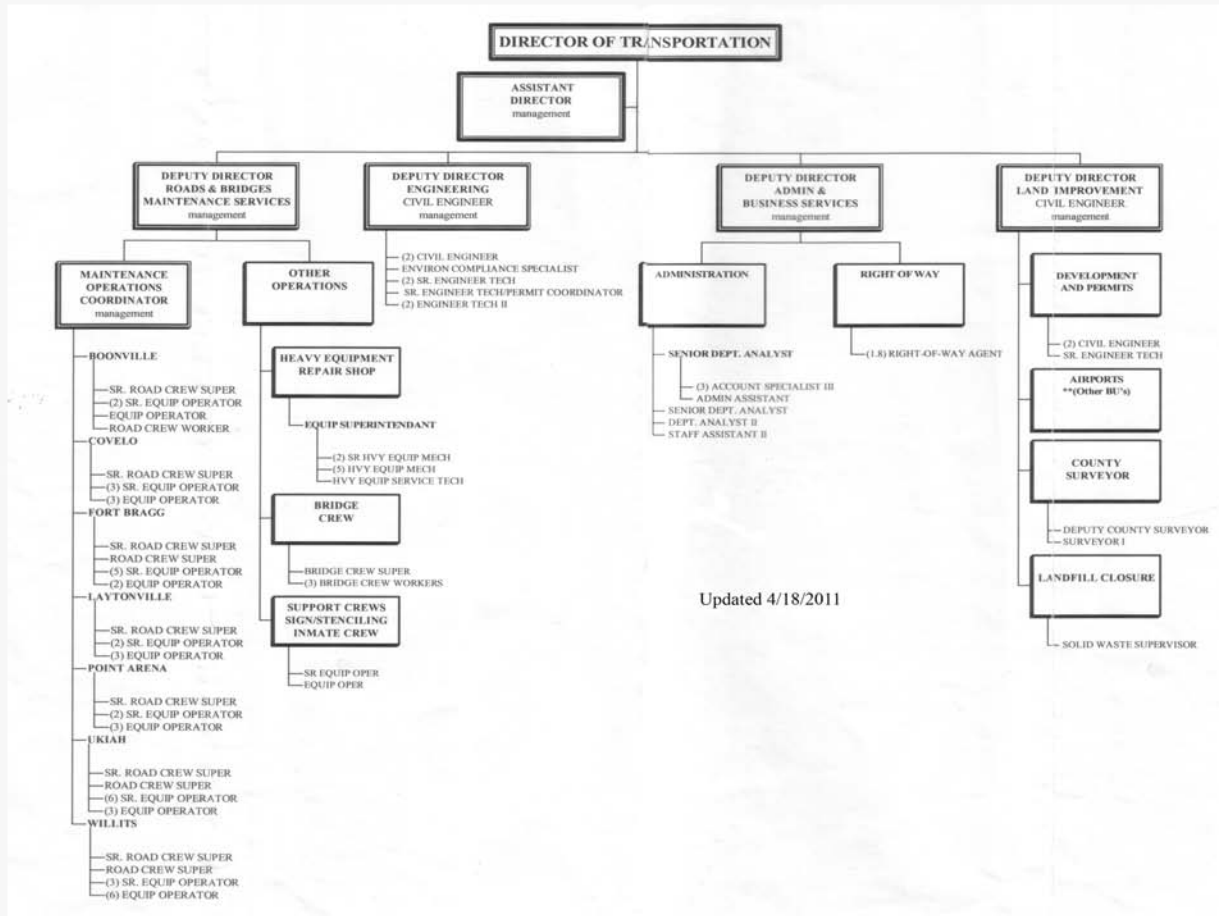
Section 9.32.370 Effective Date

The Clerk of the Board will publish the Ordinance codified in this Chapter as required by law. The Ordinance codified in this Chapter shall take effect thirty (30) days after passage.

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Appendix B

Mendocino County Department of Transportation Organization Chart



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Appendix C

A blighted area must be predominantly urbanized, meaning that at least 80% of the land in the project area (1) has been or is developed for urban uses, or (2) is an integral part of an urban area, surrounded by developed parcels. Additionally, a blighted area must have at least one of four conditions of physical blight and at least one of seven conditions of economic blight.

Health and Safety Code §33030(b)

A blighted area is one that contains both of the following:

- (1) An area that is predominantly urbanized, as that term is defined in §33320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.
- (2) An area that is characterized by one or more conditions set forth in any paragraph of subdivision (a) of §33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031.
- (c) A blighted area that contains the conditions described in subdivision (b) may also be characterized by the existence of any of the following:
 - (1) Inadequate public improvements.
 - (2) Inadequate water or sewer utilities.
 - (3) Housing constructed as a government-owned project that was constructed before January 1, 1960.

Health and Safety Code §33031

(a) This subdivision describes physical conditions that cause blight:

- (1) Buildings in which it is unsafe or unhealthy for persons to live or work . . .
- (2) Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots . . .
- (3) Adjacent or nearby incompatible land uses that prevent the development of those parcels or other portions of the project area.
- (4) The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions.

(b) This subdivision describes economic conditions that cause blight:

- (1) Depreciated or stagnant property values.
- (2) Impaired property values, due in significant part, to hazardous wastes on property . . .
- (3) Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings.
- (4) A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.
- (5) Serious residential overcrowding that has resulted in significant public health or safety problems . . .
- (6) An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.
- (7) A high crime rate that constitutes a serious threat to the public safety and welfare. *Selected Redevelopment Agencies* A redevelopment agency cannot levy a tax. Instead, a redevelopment agency receives its funding from tax increment revenues. Tax increment revenues are revenues generated by the increase in the value of property within the redevelopment project over the value of the property when the project was established (base value). The California Supreme Court described the process as follows: Under tax increment financing, “[a]ll taxable property within the area to be redeveloped is subject to ad valorem taxes. The properties lying within a redevelopment area have a certain assessed value as of the date a redevelopment plan is adopted. A local taxing agency, such as a city or county, continues in future years to receive property taxes on the redevelopment area properties, but may only claim the taxes allocable to the base year value. If the taxable properties within the redevelopment area increase in value after the base year, the taxes on the increment of value over and above the base year value are assigned to a special fund for the redevelopment agency. . .

Once the redevelopment plan is adopted, the redevelopment agency may issue bonds to raise funds for the project. As the renewal and redevelopment is completed, the property values in the redevelopment area are expected to rise. The taxes attributable to the increase in assessed value above the base year value are assigned to the redevelopment agency, which then uses the funds to retire the bonds. The local taxing

agencies still receive taxes attributable to the base year assessed value of the properties within the redevelopment area.

Redevelopment agencies are subject to a number of administrative, financial, and reporting requirements. These specific requirements are discussed in the Findings and Recommendations section of this report.