

I'LL BE ABLE TO HEAR YOU PRETTY SOON
A report on the Mendocino County Sheriff's Coast Sector Substation and
Holding Cells in Fort Bragg

June 17, 2008

Summary

On February 29, 2008, the Mendocino County Grand Jury visited the Sheriff's substation in Fort Bragg. Vacant deputy positions continue to be difficult to fill due the high cost of housing, remoteness and lack of shopping and cultural activities.

For many years, the aging County microwave system, used for communication between dispatch and officers' patrol cars, has been unreliable. Patrol car radios are necessary to call for back-up for officer safety. Receiving dispatch calls while in the field is necessary for citizen safety. Due to communication dead spots on parts of the coast, and the failing microwave system, patrol car radios work intermittently or not at all. Cell phones are not a reliable option either, as there are many places on the coast where there is no cell phone reception. The new countywide microwave system will be operating soon, and will enhance citizen and officer safety by providing more reliable communication.

Last year's Grand Jury cited three problems at the substation. These have been resolved. The barbed wire atop the fence, and the security gate at the rear of the substation have been repaired to protect the impounded vehicles and hazardous materials, a detached evidence room, and the sally port (prisoner intake/outtake). The County has also the third issue by installing a security system to prevent break-ins, theft or vandalism. The security system also covers the rear of the substation.

Abuse of alcohol and other drugs is responsible for many of the dispatches.

Methods

The Grand Jury toured the Mendocino County Sheriff's Coast Sector Holding Facility, including the sally port, booking area, and holding cells. The Grand Jury interviewed Sheriff's Office personnel.

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

Background

California Penal Code §919(b) states that "...The Grand Jury shall inquire into the condition and management of the public prisons within the county." The 2007-2008 Mendocino County Grand Jury undertook their charge with a visit to the Mendocino County Sheriff's Coast Sector holding cells.

Findings

1. The Sheriff's substation, located in Fort Bragg, shares the building in which the Superior Court is located. The entrance has manned security surveillance including a metal detector and x-ray machine.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)

The Mendocino County Sheriff agrees with this finding.

2. The present staff consists of one lieutenant, one sergeant, seven deputies, and one deputy trainee. One Sheriff's technical assistant manages the evidence room, does business and clerical duties, telephones, processes civil matters, concealed weapons permits, and acts as receptionist.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding, with the clarifications provided by the Sheriff.

Response: (Sheriff, Mendocino County Sheriff's Office)

The Mendocino County Sheriff agrees with this finding; however I want to clarify two points. First, there is no such position as deputy trainee. The employee referred to in this finding was a deputy sheriff who had graduated the basic law enforcement academy and was, at the time, completing his required field training program. Second, the correct title for the "technical assistant" is Sheriff's Services Technician. This classification was originally established to reflect the unique range of duties performed by our non-sworn substation staff. The classification is also utilized in our Investigative Services Bureau and more recently in our Corrections Division.

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

3. One sergeant and two deputy positions are vacant.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)

The Mendocino County Sheriff agrees with this finding.

4. There was no detective at the time of the visit, so deputies shared detective work. Since then, one deputy has been promoted to detective.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)

The Mendocino County Sheriff agrees with this finding.

5. Deputies work a 10-hour shift.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)

The Mendocino County Sheriff agrees with this finding.

6. Deputies are encouraged to volunteer time to community activities. Police Activities League (PAL) recently sponsored a children's fishing tournament at MacKerricher State Park.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)

The Mendocino County Sheriff agrees with this finding.

7. Staff shortages make it difficult to provide effective law enforcement.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors disagrees partially with this finding in that effective law enforcement is a function of clear communications, effective protocols and practices, as well as appropriate staffing levels.

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

8. Filling vacant officer positions is difficult due to the high cost of housing, remoteness, and lack of cultural and shopping opportunities.

Response: (Mendocino County Board of Supervisors)
The Mendocino County Board of Supervisors has insufficient information to agree or disagree with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff disagrees in part with this finding. The high cost of housing is a deterrent to some applicants, but the limited employment opportunities for spouses is a much larger issue. And while the coast does not have the concentration of national chain stores found in Ukiah, it does offer many unique shopping opportunities. Culturally the coast offers as many if not more opportunities than other parts of the County. The relative remoteness of the coast can impose hardships on young families, but it also provides a law enforcement experience that is unique within the Sheriff's Office.

9. Sheriff's deputies are on duty on the coast from 7 a.m. to 3 a.m.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

10. The Sheriff's Office in Ukiah handles dispatch for the Fort Bragg substation.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

11. There is an information-sharing (muster) teleconferencing call each morning at 7 a.m. among the Fort Bragg and Willits substations and the Mendocino County Sheriff's headquarters in Ukiah. The electronic muster allows officers in the three locations to see and hear each other in real time via a large screen video monitor. The system is up all the time, in case other communications are needed, such as a command staff meeting.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

-
12. Most arrests are due directly or indirectly to abuse of alcohol or other drugs. Often crimes such as theft are for money to purchase drugs.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

13. Holding cells were observed to be clean and in working order. Prisoners must be physically observed at all times when they are in a holding cell.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff disagrees in part with this finding. There is no requirement to physically observe prisoners at all times when they are in a holding cell. Intermittent observations are permitted so long as prisoners have immediate access to staff by way of an intercom—which is the case at the Fort Bragg Sub-Station.

14. Persons who are arrested and held in Fort Bragg are usually transported to the County Jail in Ukiah within two hours. Deputies may transport prisoners two or more times a shift.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

15. The south coast has one resident sergeant and one resident deputy. There is one vacant deputy position. Persons arrested on the south coast are taken directly to the County Jail in Ukiah.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

16. Due to remoteness and lack of other forms of communication on the coast, communication between officers and/or their office has always been difficult. Patrol car radios work intermittently, and there is limited cell phone reception. Officer safety is compromised when deputies cannot call for back-up; citizen safety is also a concern when an officer cannot receive a call for service.

Response: (General Services Agency Director)
The GSA Director agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff generally agrees with this finding. There are many remote areas of the county where radio coverage is either nonexistent or intermittent. Cell phone coverage along the coast tends to be much worse

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

than in inland area. Deputies must always consider radio reception and adjust their tactics accordingly.

17. The aging microwave system, which provided communication only intermittently, is being replaced.

Response: (General Services Agency Director)
The GSA Director agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff disagrees in part with this finding. The current microwave system performed dependably for many years. The intermittent communication described by this finding is not so much a problem with the microwave system as with the number of VHF radio repeaters connected to the microwave. The new microwave system will offer significantly improved capacity, security, dependability and redundancy. Installation of additional VHF radio repeaters (connected to the microwave system) will improve coverage for deputies in the field.

18. Emergencies requiring mutual aid may include the California Highway Patrol, the U. S. Coast Guard, local fire departments, Fort Bragg Police Department, State Park rangers and State Fish and Game officers. .

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

19. The evidence room was observed. Records of evidence are kept by hand.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff generally agrees with this finding. Deputies enter property and evidence information into our records management software, but evidence room records are kept by hand.

20. Evidence must be held until a case is final.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff generally agrees with this finding, although there are exceptions.

Response: (Mendocino County District Attorney)
It is agreed that evidence must be held until a case is final. The concern lies in the meaning of "final" for purposes of evidence retention/destruction. This decision can be made for cases that are prosecuted, by following the case

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

through the court system. Determining when a case is final may take a period of years. Typically, the determination is straightforward when the defendant enters a plea of guilty or no contest. However, defendants can file a motion to withdraw plea, and depending on the court's ruling, the case can start anew. In matters that are appealed following a conviction by a jury, the case may remain "open" for a period of years.

The larger, more difficult determination of when a case is "final" for the evidence clerks occurs in a number of different patterns. For example, different timelines exist for cases that are rejected for filing by the District Attorney's Office, or in situations when a suspect has not been identified.

Some evidence requires a court order to be destroyed (weapons, drugs, evidence seized pursuant to an search warrant). To help the Grand Jury understand the complexity of the issue, I am including the evidence retention considerations listed in the Butte County Policy:

1. Post conviction
2. Post dismissal
3. Case not filed
4. DNA/Biological evidence
5. Sexually Violent Predators (SVP cases)
6. Domestic Violence/Elder Abuse/Child Abuse
7. Juvenile cases
8. Drug diversion cases
9. Bench warrant vs. arrest warrant
10. Search warrant
11. General purge considerations
 - A) Statute of limitations considerations
 - B) Agency may initiate
 - C) Currency
12. Photograph and release option

The Department of Justice publishes an Arrest and Disposition Reporting Manual to assist in determining when a case is "final."

21. Purging of evidence requires time consuming investigation into the disposition of the case.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

Response: (Mendocino County District Attorney)
Mendocino County District Attorney agrees with this finding.

22. An electronic fingerprinting machine is available for persons applying for certain licenses/permits, those seeking concealed weapons permits, and volunteer positions or jobs, such as those dealing with children.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding. The system is referred to as LiveScan.

23. There is now an electronic security system to prevent break-ins. The system also covers the rear of the substation.

Response: (General Services Agency Director)
The GSA Director agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

24. The security gate to the rear of the substation has been repaired. It required a new motor and a new lock system that operates with a remote control.

Response: (General Services Agency Director)
The GSA Director agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

25. The barbed wire atop the fencing around the perimeter of the rear of the substation, that was cited in last year's Grand Jury report, has now been repaired.

Response: (General Services Agency Director)
The GSA Director agrees with this finding.

Response: (Sheriff, Mendocino County Sheriff's Office)
The Mendocino County Sheriff agrees with this finding.

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

Recommendations

The Grand Jury recommends that:

1. the Mendocino County Sheriff fill the vacant positions for one sergeant and two deputies; (Finding 3)

Response: (Sheriff, Mendocino County Sheriff's Office)

This recommendation has not yet been implemented, but will be implemented in the future. The promotional recruitment for Sheriff's Sergeant opened on August 12th and will close on August 26th. Testing is tentatively scheduled for mid-September with a final selection on or about the first week of October. One of the vacant Deputy Sheriff positions was filled on August 11th. Recruitment efforts continue to fill the remaining vacancies.

2. the Mendocino County Sheriff explore the use of Asset Forfeiture Funds to secure a bar-coding system for the evidence room; (Finding 19)

Response: (Sheriff, Mendocino County Sheriff's Office)

This recommendation has not yet been implemented, but will be implemented in the future. The timing is subject to the availability of asset forfeiture funds.

3. the Mendocino County District Attorney notify the main evidence depository in Ukiah when a case reaches final disposition. (Finding 20, 21);

Response: (Mendocino County Board of Supervisors)

This recommendation requires further analysis per explanation provided by the District Attorney. The County will assist as appropriate with the planning and implementing of policy and automation.

Response: (Sheriff, Mendocino County Sheriff's Office)

This recommendation is directed to the District Attorney. I agree with her response.

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

Response: (Mendocino County District Attorney
Recommendation number 3 states that: "Mendocino County District Attorney notify the main evidence depository in Ukiah when a case reaches final disposition."

This recommendation requires further analysis.

The District Attorney's Office already has a policy and form to be given to the Mendocino County Sheriff's Office, as well as other law enforcement agencies to advise when the appeal time for a case has run (Section VII Evidence D). The proper disposition of evidence is extremely complicated, and the District Attorney's Office, along with the Sheriff's Office, lack sufficient personnel and an adequate case management system to handle the task.

In practice, the Sheriff's Office has presented a list of cases for which they would like to destroy the evidence. Our staff, in turn, must manually pull each case and request an attorney to review the case to determine whether the evidence can legally be released. Ultimately, it is the Sheriff's Office's responsibility to dispose of the property in the manner prescribed by law.

The "Comments" section of the report places the burden on the District Attorney's Office to notify the Sheriff's Office of case disposition, with the desired result of reducing the time required for investigation by the evidence clerks. The availability of computers to both departments does not solve the time consuming process of evidence disposition. At this time, the Sheriff's Office evidence clerks can access the District Attorney's computers to determine a case's status. Consequently, the recommendation serves to transfer part of the time consuming task from a larger organization to a smaller organization.

Until such time that the county purchases a new case management system for both departments as well as budgets for additional personnel in both departments, any policy regarding destruction of evidence will fail.

This important issue has been a topic of discussion at the Mendocino Major Crimes Task Force Executive Board meetings. On June 12, 2008, Ben Stough, Court Executive Officer, joined us to explore the issue, as the courts are an essential party to the proper retention of evidence. Again, the Sheriff's Office can technically access the court's computers to determine a case's status. Because of the antiquated JALAN system currently in use, this is a time consuming, technically challenging process for many of the clerks. We

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

will continue to work together to create a policy which will streamline the process for all involved.

In our efforts to find a better, more efficient method, we obtained a copy of the Butte County Law Enforcement Property Retention Policy, which is signed by the District Attorney, Sheriff, and other law enforcement agencies. We will continue to work to create a policy of our own. We should be able to complete this part of the project within six months, as requested by the Grand Jury. Full implementation of the policy will not be effective until such time as a new case management system is in place for the District Attorney, Sheriff's Office, Probation Department, and the courts. (Note, Butte County has the Damien case management system, one which the Mendocino County District Attorney's Office has reviewed, but has no budget to purchase.) Additional personnel will need to be hired as well. During these difficult fiscal times of budget reductions, I have no way of predicting when this area of concern will improve.

The District Attorney's office is involved in only a portion of the cases that need answers regarding evidence retention and destruction. For example, many investigations have no suspect; thus no case is filed with the court and a no file with the District Attorney exists. Some cases are rejected for prosecution. Again, no case is opened in the District Attorney's Office and no case is filed with the court, but the evidence must still be retained for the appropriate time.

Some evidence requires a court order to be destroyed (weapons, drugs, evidence seized pursuant to a search warrant). To help the Grand Jury understand the complexity of the issue, I am including the evidence retention considerations listed in the Butte County Policy:

13. Post conviction
14. Post dismissal
15. Case not filed
16. DNA/Biological evidence
17. Sexually Violent Predators (SVP cases)
18. Domestic Violence/Elder Abuse/Child Abuse
19. Juvenile case
20. Drug diversion cases
21. Bench warrant vs. arrest warrant
22. Search warrant

Combined Response:
Mendocino County Board of Supervisors
Director, Mendocino County General Services Agency
Mendocino County District Attorney
Sheriff, Mendocino County Sheriff's Office

- 23. General purge considerations
 - A) Statute of limitations considerations
 - B) Agency may initiate
 - C) Currency
- 24. Photograph and release option

The attachment for the statute of limitations consideration is 31 pages long.

In conclusion, the District Attorney will work diligently with the Sheriff to streamline the process of evidence retention/destruction: said efforts to include notification of cases that have legally concluded. Efforts for both departments will continue to be problematic until a new case management system is put in place and additional personnel hired.

Comments

Purging of evidence is a tedious job requiring much investigation. With the availability of computers, the Mendocino County District Attorney's office could furnish the date of final disposition of a case to the Sheriff's main evidence depository in Ukiah. This change would reduce the time required for investigation by the evidence clerks.

The Fort Bragg Sheriff's substation provides a necessary and valuable service to coastal residents. There are great expectations that the new countywide microwave system will provide reliable communications, especially for coastal law enforcement and other coastal emergency providers.

Required Responses

Mendocino County Board of Supervisors (Findings 1-8; Recommendation 3)

Sheriff, Mendocino County Sheriff's Office (All Findings; All Recommendations)

Director, Mendocino County General Services Agency (Findings 16, 17, 23-25)

Mendocino County District Attorney (Findings 20, 21; Recommendation 3)