

*2007 / 2008 Mendocino County
Grand Jury*

Final Report



2007/2008 Mendocino County Grand Jury Final Report



County of Mendocino
Grand Jury
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The Honorable Cindee F. Mayfield
Presiding Judge
Superior Court for the County of Mendocino
100 North State Street
Ukiah, CA 95482

June 30, 2008

Reference: Final Report of the 2007/2008 Mendocino County Grand Jury

Dear Judge Mayfield:

Accompanying this letter is the 2007/2008 Mendocino County Grand Jury Final Report, in fulfillment of the Grand Jury's oath and charge. This report contains the results of investigations required by law, suggested by citizen complaints, or generated by the Grand Jury itself. Complaints received late in the term have been referred to the 2008/2009 Grand Jury for its consideration.

The 2007/2008 Grand Jury completed 19 individual reports on many aspects of County and local government. Among these diverse endeavors, this Jury:

- responded to the question: "Does my vote count?" with a detailed and reassuring description of voting procedures in Mendocino County;
- continued the 2006/2007 investigation of expense reimbursement claims by members of the Board of Supervisors and confirmed the earlier findings of persistent abuse by two members;
- documented the unlawful imposition of uncertified land use and development code by the City of Fort Bragg and by the County Department of Planning and Building Services in the Town of Mendocino. These two reports address the Kafkaesque coastal planning processes dictated by the California Coastal Commission, and the loss of low-income housing in Fort Bragg, visitor serving facilities and Transient Occupancy Tax revenue in Mendocino, all caused by failure to adhere to certified regulations.
- visited and reported on the condition of the County's jails and juvenile facilities;
- conducted detailed oversight studies in two school districts and reported on efforts to meet the needs of at-risk students in Fort Bragg and in Round Valley, who face extraordinary challenges;

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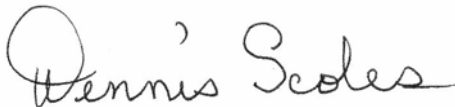
- reviewed the operations of three special districts and explored the environmental, financial and political challenges they face in providing water and sewer services to County residents;
- visited Mendocino County's five airports and developed a matrix of features related to their potential role(s) in the County's Emergency Response Plan.

Jurors reviewed numerous public documents. They traveled to distant corners of the County to tour clinics, schools, jail facilities, and water and sewer treatment plants. They received briefings and conferred with agency and department heads to research questions and respond to citizen complaints. An unprecedented number of jurors commuted from the coast several times each week for committee and full panel meetings. Their commitment is acknowledged by the selection of the Point Cabrillo Light Station as the subject of the cover photo for this report.

On behalf of all members of the panel, I would like to thank the Staff of the Superior Court and, in particular, Judge Richard J. Henderson whose calm and measured leadership played a critical role in keeping our work on course. I would also like to thank County Counsel, Jeanine Nadel, CEO Tom Mitchell, and the many County, city, special district, school district and agency employees who contributed to our efforts in so many ways. The panel offers special thanks for insights provided by retired County officials Al Beltrami, Joyce Beard and Patti Campbell. Without this widespread willingness to support and enlighten us, the Grand Jury would be unable to fulfill its role of furthering transparency in government by informing Mendocino County voters and shedding light on County and local government matters that are worthy of the public's attention.

It has been my honor to serve as a Grand Juror for the past two years, and as the 2007/2008 Grand Jury Foreman. Those of us who will soon conclude our service will leave this role enriched by our experiences and better prepared to serve our communities. To those who will take our places, I extend a warm welcome and heartfelt thanks.

Sincerely,

A handwritten signature in cursive script that reads "Dennis Scoles". The signature is written in dark ink on a white background.

Dennis Scoles, Foreman
Transparency in Government

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The Grand Jury Report Process

The role of the Mendocino County Civil Grand Jury is to oversee and shed light on local and County government. Jurors conduct oversight inquiries and investigate matters of public interest. Any individual can file a complaint with the Grand Jury.

A Grand Jury inquiry begins when a topic is approved by a minimum of 12 of the 19 seated Jurors. A committee then undertakes extensive research and drafts the report. Findings are verified against documents and interview notes and are reviewed for accuracy with key individuals in the agency of interest. The committee-approved draft is reviewed by an internal Edit committee and must earn approval by the Full Panel. It is then sent to County Counsel and to the Presiding Judge for final review before public release.

Complaint forms, published reports and responses, and applications to serve on the Grand Jury are available online at: www.co.mendocino.ca.us/grandjury



Members of the 2007/2008 Grand Jury

Dennis Scoles, Foreman
Bob Coppock
Brad Hunter
Kathy Johnson
Nancy Kleiber
Lois Lockart
Chas Moser
George Pacheco
Lillian Pacini
Carolyn Pavlovic
Barbara Reed
Wendy Roberts
James Schweig
Bill Stambaugh
Sherry Stambaugh
Finley Williams

Partial Year

Thomas Clay
Al Pierce
Brent Rusert
Pamela Shilling
Thelma Thompson

YOUR VOTE DOES COUNT
A Look at Mendocino County Voting

May 15, 2008

Summary

Many polling locations in Mendocino County have been closed. There is increasing use of Vote-by-Mail balloting. As a result of these developments, many voters question whether the ballot that they put into the Mail Box instead of the Ballot Box reaches the Registrar's Office and is counted accurately. With a presidential election fast approaching, the Mendocino County 2007/2008 Grand Jury conducted a review of the County's electoral processes to find out:

Who can vote?

Who can hold office?

The Who, Where, When, and How of Voting

Does every vote count and is it counted?

Methods

The Grand Jury reviewed documents, California and Mendocino County websites, and visited the Registrar's Office to observe the vote verification and counting process. Jurors interviewed administrative personnel within the agency as well as the League of Women Voters.

Background

The Help America Vote Act (HAVA), passed by Congress in 2002, sets uniform standards nationwide for voter registration and election systems. One of HAVA's key provisions requires every state to set up a central database of registered voters whose identity has been verified. To comply with HAVA, Mendocino County put new voter registration procedures into effect January 1, 2006.

For Mendocino County, Federal and State election regulations are administered by the County Clerk/Assessor/Registrar of Voters. This position is responsible for the supervision of three departments:

- Elections handling voter registration and elections;
- Recorder responsible for issuance of licenses (e.g. marriage), passport applications and maintenance of records (birth, death, marriage, deeds, etc.);
- Assessor responsible for property tax valuation.

All three departments share office space at the County administration building in Ukiah.

In December 2007, Mendocino County had an estimated 62,300 residents who were eligible to register to vote. Of those eligible 74% actually registered. The tightened registration requirements since 2006 and the more thorough updating procedures have cut the number of registered voters by about 4,000. In the 2004 general election almost 50,000 voters were registered. That number

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went down to about 48,000 in 2006. In the 2008 presidential primary, the voter list stood at 46,102.

Currently in Mendocino County 34,074 or 74% of all registered voters and 201 out of 235 precincts are designated as Vote-by-Mail. This is consistent with the statewide trend to Vote-by-Mail especially in rural counties. The counties of Alpine and Sierra have switched 100 percent of their voters to mail-in ballots. The state of Oregon has been using only mail-in ballots since 1998.

Findings

Who Can Vote?

1. Any United States citizen, who is a resident of California, at least 18 years of age and not in prison or on parole for conviction of a felony, may register to vote. A registered voter, also known as an elector, must be a resident of an election precinct at least 15 days prior to an election in order to vote in a given precinct. (Elections Code EC §321)
2. Under the Elections Code, residence for voting purposes means a person's domicile. The statute explains that 'domicile' means:

...that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile. EC§349

3. If a person has more than one residence, the person must choose which will be the designated domicile.

If a party has two residences, that will be esteemed his domicile which he himself selects or deems to be his home, or which appears to be the center of his affairs. Chambers v. Hathaway (1921) 187 Cal. 104, 105

4. Election Code §2031 sets up two rebuttable presumptions in determining domicile: your domicile is where you have a homeowner's exemption and the principal address on your driver's license. However, a domicile need not be an ordinary living space, but must have a fixed location. It could be a street corner, a boat, a truck, or under a bridge; homeless people do not lose their citizenship rights.
5. A person may register by mail. Registration forms are available at county libraries, post offices, city halls, offices of Department of Motor Vehicles (DMV), Department of Social Services, and on the internet at Secretary of State's website. There is also a Federal form available that is accepted by all states.
6. Since January 1, 2006, as required by HAVA, the Registrar validates new registrations by running the registrant's information through a statewide database. Registrations prior to January 1, 2006 are not checked through the database so long as they continue to vote in general elections.
7. After you register, your identity and current domicile address will be confirmed and the information entered into the statewide voter database. To verify identity you must supply a driver's license/California ID number or the last four digits of your Social Security number. If you do not have the above, you will be issued a unique voter identification number by the State valid only for voting. If your documents do not have your current domicile address, you may be

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required to provide additional proof of residency such as a homeowner's tax exemption or file a sworn affidavit.

8. Since January 1, 2006 there is also an ongoing updating of records for all voters. The Registrar's Office gets notice from:
 - DMV if voter submits change of address;
 - Registrars if voter registers elsewhere in California;
 - County Public Health Dept and State Health and Human Services of deaths;
 - Post Office if sample or absentee ballots are returned undeliverable.
9. All of these notices are run against the voter registration lists to keep them current.
10. The Registrar's Office under certain circumstances will either cancel or inactivate a registration:
 - If a voter notifies the Registrar that they are moving out of county, the Mendocino County registration is cancelled.
 - If the Registrar receives notice of new registration in another county or out of state, this County's registration is cancelled.
 - If the Registrar receives indirect notice from another agency that voter moved, the registration will be inactivated.
 - If the voter remains inactive for two (2) federal general elections, the registration will be cancelled.
11. At the time of registration, voters may specify a political party affiliation or decline to state any affiliation. In the 2008 presidential primary, voters who had not registered with one of the six qualified parties (Democratic, Republican, American Independent, Green, Libertarian, Peace and Freedom) were allowed to request a ballot to vote in the party primary of either the Democratic Party or American Independent Party, as those two parties had rules allowing party affiliation on Election Day. Otherwise, unaffiliated voters could vote only on the State ballot propositions.

Who Can Hold Office?

12. **Electing Offices:** A candidate's application must state their residence address, which is verified through the county clerk's office as their domicile. A candidate must be a registered voter in the district for which they are running. In some cases, there is a residency requirement greater than the 15-day minimum to register in a given precinct. For example, a candidate for County Supervisor must reside in the precinct for 30 days prior to filing the application for candidacy.
13. There are candidate filing requirements aside from residency specific to each office. The Registrar's office prepares a candidate's handbook for each election with all of the requirements.
14. **Appointed Offices:** The appointing power determines the requirements for office. Generally, appointed officeholders with discretionary authority must be residents of the district in which they serve. Residency requirements are less common for appointees who serve only in a consulting or advisory capacity.
15. If, after election or appointment, an official moves their domicile out of the representation area, Government Code §1770 specifies that the office shall be considered vacant.

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16. In the case of elected school officials, Education Code §5091(a) provides that whenever a vacancy occurs whether by resignation, or by the official leaving the district, the district's governing board must within 60 days of the vacancy order an election or make a provisional appointment to fill the vacancy.

Voting: Who, Where, When, and How

17. ***Vote-by-Mail:*** Historically Absentee Ballots were reserved for voters who were unable to get to their precinct polling place on Election Day. In 2007, AB1243 officially changed the name "Absentee Ballot" to "Vote-by-Mail Ballot." Increasingly, voters are encouraged to vote by mail rather than in person.

18. While any registered voter may Vote-by-Mail in California, in many precincts they are required to do so:

- If a polling place has less than 250 or more than 1000 registered voters, the voters are automatically put on the Vote-by-Mail list.
- If a precinct's polling place cannot accommodate disabled voters, the precinct will either be consolidated with a nearby precinct that is accessible to the disabled or switched to Vote-by-Mail.
- Shortage of trained precinct poll workers may also cause a precinct to be switched to Vote-by-Mail.

19. In the 2008 presidential primary election, 201 of Mendocino County's 235 precincts were Vote-by-Mail.

20. To vote by mail, you must apply to your county elections office for a Vote-by-Mail Ballot at least seven days before Election Day. You can use the form on the Sample Ballot booklet you receive in the mail or send your request in writing to your county elections office. If you reside in a designated Vote-by-Mail precinct you automatically receive your ballot by mail.

21. Currently in Mendocino County 34,074 of 46,102 (74%) of the registered voters are Vote-by-Mail. This is consistent with the statewide trend to Vote-by-Mail especially in rural counties. The counties of Alpine and Sierra in California, have switched 100 percent of their voters to mail-in ballots. The state of Oregon has been using only mail-in ballots since 1998.

22. After processing your Vote-by-Mail application, the proper ballot type will be sent to you. You mark your choices on the ballot, put it into the official envelope provided and seal it. Place the proper postage on the envelope and sign the outside of the envelope where directed.

23. You may return the Vote-by-Mail ballot by:

- mailing through U.S. Postal Service to the Mendocino County Elections office;
- delivering in person to elections office within your county; or on election day to any polling place.
- authorizing an allowable third party to deliver the ballot to any polling place within the County or to the County Elections Office. The authorized third party may be your spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as you. Your authorization must be in writing and signed by you.

24. ***Voting in Person:*** Upon entry to the polling place, the voter's name is checked against the precinct's rolls and the voter signs the list.

25. If the voter requires assistance, EC §14282(a) requires that the voter may, upon arrival at a polling place, make a sworn statement that they are unable to mark the ballot without

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assistance. Election officials will then allow the voter to designate up to two persons to assist them in voting. The designated assistants may not be the voter's employer or agent of the employer nor an officer or agent of the union of which the voter is a member.

26. If the polling place is inaccessible to a physically handicapped voter, EC §14282(c) provides that, the voter may vote in an accessible location as near as possible to the polling place. A precinct board member shall take a regular ballot to that person, qualify that person to vote, and return the voted ballot to the polling place.
27. Mendocino County still uses paper ballots. Electronic machines are available for use by disabled voters or others upon request. Every polling place has a voting machine.
28. On Election Day, if the voter is in line before the polls close, they have the right to cast their ballot.
29. The voter who makes a mistake or spoils their ballot, has the right prior to casting the ballot to exchange the spoiled ballot for a new one.
30. If voter's name does not appear on the voting rolls, the voter has the right to cast a provisional ballot.
31. When a voter checks in at the polling place to cast their ballot, a poll worker may challenge the voter's eligibility. Only a poll worker can make the challenge--not a poll watcher or voter.
32. If challenged, the voter will be allowed to cast their ballot, but the challenge will be noted on the roll, the voter given a provisional ballot which will be placed in a sealed, signed provisional ballot envelope for later review by the Registrar.
33. Suspected illegal or fraudulent activity may be reported to any local elections official or to the Secretary of State's Office.

Does Every Vote Count?

34. ***Processing Mail-In Votes:*** When a completed Vote-by-Mail ballot is received in the County Elections Office, it is date stamped and scanned in using the bar code on the return envelope. The signature on the Vote-by-Mail ballot's return envelope will be compared to the signature on the voter registration card to determine that it was completed by the authorized voter. To preserve the secrecy of the ballot, after signature has been verified, the ballot is separated from the envelope so that the ballot becomes anonymous.
35. The verification process is labor intensive and requires ample space for the election workers and the voting materials. Each step of the verification process is conducted by two employees of the Registrar's office. At election time, the Registrar borrows County employees from other departments and hires temporary help on an hourly basis to help process ballots.
36. While Mendocino County has sufficient staff to process mail-in ballots, the workspace is cramped and the secured storage space is limited.
37. Avoidable reasons for disqualification of a Vote-by-Mail ballot:
- No Signature: Vote-by-mail ballots that do not have a valid signature on the return envelope are not counted.
 - Wrong Signature: The signature on the return envelope of vote-by-mail ballots is compared with the signature on file. If the signatures do not match, the ballot will not be counted. If a voter's signature has changed, the voter may request a new registration form to update their signature. Such update must be completed by the registration deadline for the election.
 - Delivery without Authorization: If the voter wishes to designate an allowable third party to return the voter's completed ballot on Election Day, the voter must designate the third party in writing and sign the authorization on the return envelope. Eligible designees are: spouse, child, parent, grandparent, grandchild, brother, sister or person residing in the same household as the voter. Without the proper authorization, the ballot will not be counted.
 - Delivery after Deadline: Any vote-by-mail ballot, whether submitted by mail or in person, that is received by the elections office or polling place within the county after 8 PM on Election Day will not be counted.
38. If a mail-in ballot is rejected because of no signature or signature that doesn't match the registration, the registered voter is notified by letter and may request a new ballot at least seven days prior to election. The rejected ballot is not opened, but put into a tray which is color coded by precinct.
39. Valid ballots are also sorted into trays by precinct. The trays are put into locked storage to await processing through the counting machine. The availability of secure storage for election materials is limited. Counting of mail-in ballots may begin seven days prior to Election Day.
40. Registered voters may go on-line to the County Registrar's website prior to Election Day to check whether their Vote-by-Mail ballot has been received.
41. In Mendocino County's 2008 presidential primary, nearly 18% percent of Vote-by-Mail voters waited until Election Day to turn their ballots in at polling places. Because of the verification process required on mail-in ballots, those received on Election Day are set aside for later processing to allow the tallying of ballots coming in from the precincts.
42. ***Processing on Election Day:*** After the polls close on Election Day, the Registrar's Office sends out teams to pick up the ballots and voting machines from each polling place within the County. Some polling places cover more than one precinct. Upon arrival at the Registrar's

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Office the ballots and electronic machines are checked in, verifying that all ballots issued are accounted for as having been voted, damaged or unused. The voted ballots are grouped by precinct and scanned. The scanning process creates a paper tape record and an electronic record. Any un-scannable ballots are set aside to be processed by hand by at least two election officials. The entire counting process takes place in a secure room with large plate glass windows through which members of the press and the general public may observe. The counting room is crowded with machines, election workers and stacks of ballot boxes.

43. After the in-person votes have been tallied, the Elections Office returns to the mail-in votes that remain to be counted. In the 2008 presidential primary, 4,023 of 22,508 (almost one-fifth of the total) mail-in votes were submitted on Election Day.

44. **Processing of Provisional Ballots:** Once the mail-in votes have been processed, the Registrar turns to the provisional ballots. Provisional ballots are issued whenever a voter:

- is not on the rolls,
- is not at their designated polling place,
- is not able to establish their identity.

45. In the 2008 presidential primary, the Elections Office received 607 provisional ballots, which had to be processed manually. Of those received, 52 were rejected after review by the Registrar. As in the case of Vote-by-Mail ballots, the voter signature on the provisional ballot envelope is checked against the Registrar's database to verify the identity and eligibility of the voter before the ballot is opened and counted.

46. **Certification of the Election Results:** The Registrar has a total of 28 days to complete the canvas of all ballots whether cast in person, by mail, or on a provisional ballot. The certified results are filed with the Secretary of State and are published.

47. The Registrar's Office is required to secure and retain all voted ballots for a period of 22 months after a general election, for six months after a local election. The security and retention requirements imposed by the Secretary of State severely reduce the workspace available for the other activities of the Registrar's Office.

48. **Enforcement Protections against Fraud:** When registering to vote or when filing to be a candidate for office, the party declares under penalty of perjury that the information on the application is true. The Registrar's office will turn suspected cases of fraud over to the Sheriff, District Attorney's office, or any other affected agency. The Registrar is not the enforcing authority.

49. A private citizen may report suspected illegal or fraudulent activity to any local elections official or to the Secretary of State's Office and may also pursue it through civil court.

Recommendation

The Grand Jury recommends that the County locate additional space for use by the Registrar's Office during election season allowing election workers to process and secure voting materials and the public to observe the process. (Findings 35, 36, 39, 42, 47)

Comments

During election season, the Registrar's Office is a beehive of activity. Through the large plate glass windows, voters, eagerly awaiting election results, can watch the ballots being processed:

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checked and double-checked, tallied and re-tallied. The open windows epitomize transparency in government. The careful, competent handling of our votes by all the employees allays concern about the voting process and instills trust in the democratic process.

Required Responses

Susan M. Ranochak, Mendocino County Registrar of Voters (All Findings, All Recommendations)

Tom Mitchell, CEO Mendocino County (Findings 35, 36, 39, 42, 47; All Recommendations)

KAFKA GOES COASTAL
Amending the Fort Bragg Local Coastal Program

June 17, 2008

Summary

This report describes efforts to review and update the Fort Bragg Local Coastal Program that began in 2003 and remains incomplete at this writing. It documents a pattern of irregular and incomplete communications between the City of Fort Bragg and the California Coastal Commission and addresses some of the costs and unintended consequences of this complex and cumbersome process.

Of particular concern to the Grand Jury is the loss of a low-income housing project due to delays, costly studies and re-design requirements that were imposed on the project based on application of a confusing mix of certified and illegally applied uncertified code.

An extensive investigation led the Grand Jury to the conclusion that neither the City of Fort Bragg nor the California Coastal Commission (CCC) proceeded in a timely and diligent manner to update the City's Local Coastal Program (LCP). In 2003, the Community Development Director submitted an LCP amendment application that lacked numerous key elements, including a legally required City Council Resolution.

A delayed response from the CCC, in January 2004, detailed extensive additional information required for processing of the application. As late as November 2007, the City was still making additions and substantive corrections. In one case, a map incorrectly labeled the sewage treatment plant and seriously underrepresented the size of the Noyo Harbor Park.

During a period of at least two years, staff illegally applied an uncertified LCP to development permit applications. This behavior directly contributed to the loss of 40 units of affordable housing.

Methods

The Grand Jury conducted interviews and reviewed numerous documents secured from County Counsel, the CCC, the City of Fort Bragg, the Fort Bragg Advocate News, Development Permit applicants and their advisors.

Background

The California Coastal Commission was established by a voter initiative (Proposition 20) in 1972 and the Legislature's adoption of the California Coastal Act of 1976.¹ The Coastal Act establishes the statutory standards which the Commission and local

¹ www.coastal.ca.gov

governments apply to planning and regulatory decisions. The coastal zone, as mapped by the Legislature, ranges from a few hundred feet up to five miles in width and includes a 3-mile band of ocean the length of the California coast. The Coastal Act is primarily implemented through development of local coastal programs that are required to be completed by each of the 15 counties and more than 60 cities located in whole or in part within the coastal zone.

Many coastal counties and cities have divided their local coastal zone jurisdictions into geographic segments, resulting in 126 separate LCPs. As of 2002, about 70% of these LCPs had been certified, many of them in the late 1980s.

The Coastal Act requires that the Coastal Commission review each certified LCP every five years. Although some local governments have updated their LCPs over the years by processing hundreds of LCP amendments through the Commission, with few exceptions, the LCPs are significantly out of date. The CCC, itself, has initiated only six periodic reviews and has only completed two.²

County General Plans governed development in coastal areas prior to passage of the Coastal Act. The Coastal Commission has certified four LCPs in Mendocino County including the:

- Point Arena LCP certified on 12/3/81 with a comprehensive update completed in 2007;
- City of Fort Bragg LCP certified on 7/4/83 with subsequent amendments certified in 1985;
- Mendocino County Coast LCP certified on 9/10/92;
- Mendocino Town LCP certified by the CCC in 6/92 and “effectively certified” on 12/9/96.

LCPs are basic planning tools used by local governments to guide development in the coastal zone. They contain ground rules for development and protection of coastal resources. Amendments to an LCP may not legally be applied to development permit applications until they have been certified by the Coastal Commission.³

The City of Fort Bragg: Approximately 30% of the City of Fort Bragg is within the coastal zone. Within this area, development permit applications must be reviewed under an LCP that has been adopted by the City Council and “effectively certified” by the California Coastal Commission. The LCP consists of a Land Use Plan (LUP) and an Implementation Plan (IP) that is also known as a Land Use and Development Code (LUDC).

The Coastal Commission certified Fort Bragg’s original (1983) LCP with subsequent amendments in 1985. In December 2002 the Fort Bragg City Council adopted a General Plan amendment, including an updated Coastal Element. Between that time and May 2006, Fort Bragg’s Community Development Department illegally applied the

² The CCC has initiated LCP reviews for Trinidad, Long Beach, Sand City, San Luis Obispo County, Monterey County, and the Marina del Rey LCP segment.

³ California Government Code §30514(a)

amended and uncertified LCP to development permit applications within the coastal zone.

On April 13, 2006, this illegal application of uncertified code was brought to the attention of the City Council during the public comment period. The Council requested a response from staff. On May 22, 2006, the City Manager informed the City Council that only the certified code would be used in the future. She advised Council Members that uncertified code had been applied to 31 permit applications, that none had been denied and that no applicant was harmed as a result of misapplication of the uncertified code.

A Grand Jury review of these applications and relevant documents revealed that at least one application was improperly subjected to conditions of the uncertified LCP. Designed according to the certified code, the project was subjected to numerous demands for further studies and re-design of various elements. Ultimately, the application to construct forty affordable housing units experienced "death by discouragement." In addition to substantial costs to the applicant, unintended consequences for the City included the loss of construction jobs and tax revenue. Fort Bragg also lost much needed low-income housing that State law requires cities to develop.

The current update process began in May 2003 with submission of an incomplete LCP amendment application based on the City's 2002 General Plan. Eight months later, in January 2004, the CCC acknowledged receipt of the application and provided the City with a detailed list of additional information required for processing. This pattern of irregular and incomplete communications between these two public agencies continued for more than three years.

During this period, City Council Minutes reveal repeated assurances by the Community Development Director/City Manager that necessary submissions were being made in a timely manner and that delays were due to a lack of staff attention on the part of the Coastal Commission. In fact, the application remained substantially incomplete and inaccurate. The Grand Jury found no evidence that members of the City Council knew the true status of the application or that, prior to April 2006, they were aware that the uncertified LCP was being applied to development permit applications.

On November 15, 2006 the CCC informed Fort Bragg that its LCP amendment application was complete and could be processed. Processing of the application has moved reasonably expeditiously since that time, under the direction of the new Community Development Director who joined the staff in September 2006.

The CCC certified the amended LCP on January 11, 2008 and authorized the CCC Executive Director to negotiate with the City on 11 outstanding issues. After extensive exchanges and community workshops, Fort Bragg City Council voted unanimously to adopt the Local Coastal Program Land Use Plan (LUP) and to add the Coastal Land Use and Development Code (LUDC) to the Fort Bragg Municipal Code. The City's vote

to accept the LCP on May 12, 2008 was one of four final steps toward legal certification. It came five full years after the amendment process was initiated.

The penultimate step in the process, certification by the Coastal Commission, is expected to occur as part of the CCC July 11, 2008 consent calendar. The CCC must file a Notice of Certification with the State Resources Agency to complete "effective certification." Only then may the amended LCP be applied legally to local development permit applications.

Findings

The California Coastal Commission

1. LCPs are basic planning tools used by local governments to guide development in the coastal zone. They contain ground rules for development and protection of coastal resources.
2. An LCP includes a *land use plan* (LUP), which may be relevant parts of a local general plan (GP) and an *implementation plan* (IP, also known as a Land Use Development Code or LUDC). The IP consists of relevant zoning codes, maps and other legal instruments required to implement the LUP.
3. Local or County governments cannot legally apply an LCP or amendments to an LCP prior to certification by the CCC.⁴ An LCP is not deemed certified until all four of the following steps have been completed:
 - a local or County government has formally adopted the LUP and IP/LUDC;
 - the Coastal Commission has certified the LCP as being in compliance with Coastal Act policies;
 - the local government agency has formally accepted the Commission's approval, along with any suggested modifications adopted by the Commission; and
 - the CCC has filed a Notice of Certification with the State Resources Agency.
4. Most development in the Coastal Zone requires a Coastal Development Permit (CDP).⁵ Once an LCP and its IP/LUDC have been effectively certified, authority for issuing Coastal Development Permits is vested in the local agency "...for developments landward of the mean high tide line."⁶
5. Depending on the type and location of a permitted project, it may or may not be subject to appeal to the Coastal Commission. With the exception of major public works and energy projects, denials by local government are not subject to appeal to the Coastal Commission and may only be challenged through the courts.
6. When a locally approved CDP is appealed, the Coastal Commission has 49 days to hold a hearing. At a minimum, it must determine whether or not the local approval

⁴Public Resources Code §30514 may be accessed at www.leginfo.ca.gov/calaw.html

⁵ In mapped areas, Categorical Exclusion Orders exempt single-family homes, water wells, septic systems and/or other specified types of development from CCC appeal. Fort Bragg has no mapped Exclusion areas.

⁶ Although local agencies may opt to exercise coastal development permit authority, subject to appeal to the CCC following certification of only an LUP, only the City of Los Angeles has exercised this option.

raises a substantial issue with respect to consistency with the policies of the certified LCP.

7. If no substantial issue is found, the local approval stands; if the Commission determines that there is a substantial issue, there is no limit on how long it can take to hold a full de novo hearing.⁷
8. The only recourse in the event of a contested CCC decision is to the courts.

The City of Fort Bragg LCP Amendment Application

9. The original City of Fort Bragg LCP was completed and certified in 1983/85.
10. The Fort Bragg City Council adopted a new General Plan in December 2002, including an updated Coastal Element.
11. In May 2003, the City of Fort Bragg Community Development Director submitted to the Coastal Commission an application for comprehensive amendments to the City's LCP. This submission did not include amendments to the Implementation Plan.⁸
12. The CCC responded eight months later (1/29/04), acknowledging receipt of LCP amendment application # FTB-MAJ-1-03. The CCC requested extensive revisions in format and content, and additional information, including a required Resolution from the Fort Bragg City Council, a completed matrix showing changes to the original LCP, and corrected maps.
13. On July 30, 2004, the FB City Council adopted the new Land Use and Development Code to implement the 2002 General Plan; sections applicable in the coastal zone were not sent to the CCC for certification until May 15, 2006, a delay of nearly three years since the May 2003 amendment application was submitted.
14. On April 11, 2005, the FB City Council approved Resolution number 2857-2005, as requested by the CCC in January 2004, to transmit the LCP to the CCC for certification. This resolution states that the LCP amendments take effect "automatically upon Coastal Commission approval." The Grand Jury found no evidence that the Resolution was sent.
15. On April 13, 2006, during Public Expression, it was called to the City Council's attention that any amended LCP may not take effect in the City until it has been certified by the CCC and that "...*any attempt by the City to impose the new Local Coastal Plan on a project prior to its certification would be contrary to law.*"
16. On May 15, 2006, the City submitted a revised LCP amendment application to CCC including the December 2002 Coastal Element, amendments from November 2004, and the July 2004 LUDC.
17. On May 22, the City Manager informed the City Council that:
 - the City used uncertified code to review applications in the coastal zone;
 - in the future, Staff will apply only the certified LCP;

⁷ In a de novo hearing, prior testimony and the findings of local authorities are not considered. The entire process begins anew.

⁸ During the period covered by this report, Fort Bragg employed three Community Development Directors. The first Community Development Director served as CDD from 1999 through 2005 and became City Manager in January 2006. The second CDD then served until the summer of 2006. The current Director was hired in the fall of 2006.

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- she had reviewed 31 recent applications and "...did not find any instances where an applicant appears to have been harmed by the advice given."

18. The Grand Jury reviewed the 31 applications and related documents. Jurors found that at least one applicant was harmed by having a mix of certified and uncertified code applied to his application to develop 40 units of affordable housing in the coastal zone. The numerous demands placed on this application constituted an effective denial of the project.

The Hazelwood Townhouse Project

19. In a letter dated May 5, 2004, the Community Development Director acknowledged the March 25th receipt of applications for a Use Permit, Coastal Development Permit and Site and Architectural Review to authorize construction of 40 units of affordable housing. The letter also acknowledged receipt of a \$1,500 deposit to the project's development account.

20. The May 5, 2004 letter informed the applicant that the project plans had been reviewed on April 9, 2004 and additional information was required to complete the application and schedule it for a Planning Commission hearing. This information included:

- a traffic and parking study and a turn-around on Hazelwood Street
- location and size of playgrounds and specifications for play equipment
- a drainage analysis
- an archaeological records search
- refinement of the landscaping plan to ensure security and minimize vandalism
- refinement of lighting plan
- screening of garbage enclosures, fire check valves, PG&E junction boxes, etc.

21. In a subsequent letter dated November 4, 2004, the Community Development Director invited a status report on the project and advised the applicant that "...*the City Council adopted a new set of zoning regulations for Fort Bragg that took effect on July 30, 2004. The newly adopted Land Use and Development Code (LUDC) includes standards that will affect your project plans. Since your application was not complete at the time the new LUDC took effect, it is subject to the new development standards.*" Areas specified as potentially requiring re-design included:

- parking and loading
- building frontages, setbacks, "common" and "private" open space
- outdoor lighting
- bicycle and motorcycle parking
- landscaping standards

22. At the time of the November letter, the Community Development Director had not yet submitted the July 30, 2004 LUDC to the Coastal Commission for certification. It was not legally applicable to any development permit application in the coastal zone. Nonetheless, a mix of certified and uncertified code was applied to this

project and to other applications. This practice continued at least through May of 2006.

23. In a letter to the Fort Bragg City Council dated May 22, 2006, the Applicant's Attorney observes: "...*At this point, (my client) has spent more than \$50,000 on reports and consultants, only to have his project effectively denied without a hearing. In my opinion, the Community Development Department should be trying to find ways to recommend approval of (affordable housing) projects such as this, not subject them to a slow 'death by a thousand cuts' until the applicant can no longer afford to build.*"
24. Minutes of the June 19, 2006 Community Development Committee reflect a recommendation from the Development Director that because the Hazelwood Townhouse project was subjected to a mix of codes, all or part of the \$1,500 development deposit should be restored to the project account. The committee agreed to refund the full amount to the account.
25. Minutes of the August 28, 2006 City Council refer to another scheduled meeting with the applicant and state that "...*it is the consensus of the City Council that staff is to continue to use the Certified LCP.*" Nonetheless, several provisions of the uncertified LCP are cited as also being applicable to the project.
26. From November 2007 through February 2008, the Grand Jury researched the course of the LCP amendment application and that of the failed Hazelwood Townhouse development application. Despite termination of this application, fees collected from the applicant remain in an inactive development account.

The LCP Saga Continues

27. In September 2006, the current Community Development Director assumed her position and began regular dialogue with the CCC.
28. In a letter dated November 15, 2006, the CCC confirms that the LCP amendment application is complete and can be processed. For the ensuing year, CCC staff and the Community Development Director communicate regularly regarding a multitude of corrections and "friendly amendments" to the application.
29. Shortly before the December 14, 2007 meeting of the CCC, at which Fort Bragg's LCP Amendment No. FTB-MAJ-1-06 was scheduled for discussion, Fort Bragg received a lengthy CCC staff report in which staff noted that despite considerable improvements to the application, further recommended changes were "numerous." The CCC staff report with addenda totaled approximately 1,000 pages. Some of the changes suggested in the report were "friendly modifications" requested by the City; a majority were proposed by the CCC. The CCC postponed all discussion from its December meeting to January 11, 2008. This was just prior to the January 29, 2008 deadline for the CCC to act on Fort Bragg's application.
30. On January 9, 2008, the City of Fort Bragg presented to the CCC a list of eleven substantive issues that remained unresolved.
31. On January 11, 2008, the CCC voted to certify the City of Fort Bragg's LCP Amendment with modifications. The CCC Executive Director was authorized to continue to work with the City to resolve outstanding issues and to modify the LCP

without the need for further CCC review so long as the modifications were consistent with the Coastal Act.

32. As of February 27, 2008, only four issues remained unresolved and the Council gave the Community Development Director authority to negotiate on these four points. Public workshops were then held in March and April.
33. On May 12, 2008, the Fort Bragg City Council unanimously approved a resolution to adopt the Local Coastal Program Land Use Plan (Coastal General Plan) and the Coastal Land Use and Development Ordinance. Together these documents constitute the Amended Local Coastal Program. The City anticipates that this document will be certified as part of the CCC Consent Calendar on July 11, 2008. Sometime after final certification of the LCP, the City may submit a "clean up" amendment covering issues from the amendment process that were not resolved to the City's satisfaction as well as any issues that may arise as the City implements the newly certified LCP.
34. After the Coastal Commission has certified the LCP as being in compliance with Coastal Act policies, and before the amended LCP may be applied to review of development permits in the City, the CCC must file a Notice of Certification with the State Resources Agency.

Recommendations

The Grand Jury Recommends that the City of Fort Bragg:

1. pursue certification of the pending amended Local Coastal Program with all due diligence to ensure that it is:
 - certified at the July 11, 2008 CCC meeting, and
 - the CCC files a Notice of Certification with the State Resources Agency.

(Findings 3-4, 15, 31, 33-34)

2. publicly apologize to and refund all fees collected from any and all applicants who were affected by having a mix of certified and uncertified code applied to their projects. (Findings 15, 17-18, 20-26)
3. join with the County of Mendocino and with the consortium of coastal cities to demand that the California Coastal Commission:
 - establish clear guidelines and streamline the process for review and amendment of LCPs
 - provide timelines that specify required CCC response times both for the LCP amendment process and for applicants whose projects are subjected to the CCC appeals process.

(Findings 3-8, 12-13, 28-29, 33-34)

Comments

The City of Fort Bragg was not well served by Coastal Commission staff. Prevailing CCC regulations and processes are complex and poorly articulated. This, however, does not excuse the deliberate and persistent application of the uncertified LCP to local development permit applications by the Community Development Department. Jurors found substantial evidence that the Community Development Director failed to keep the City Council accurately informed about the status of the LCP amendment application and that most, if not all, Council Members were unaware that the uncertified LCP was being applied until this was brought to their attention by members of the public in April 2006.

After a long and onerous process, the amended LCP now appears to be on its way to effective certification in July 2008, five years after the initial application was submitted. Even now, at least one substantive issue remains unresolved that will require further amendment. The loss of the Hazelwood Townhouses appears irrevocable.

The Coastal Commission was established ostensibly to protect the coastal environment, not to preclude human habitation and necessary development. Although periodic review of Local Coastal Programs is required by law, it is effectively precluded by Byzantine rules and a process of implementation that is nothing short of Kafkaesque. Addressing malfunctioning State government entities is beyond the purview of County Grand Juries. We cede this task to our elected officials and to county and local governing bodies throughout the State.

Required Responses

Fort Bragg City Council (All Findings; All Recommendations)

Fort Bragg City Manager (All Findings; All Recommendations)

Fort Bragg Community Development Director (Findings 9-32; Recommendations 1 and 2)

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

Mendocino County CEO (Findings 1-8; Recommendation 3)

Requested Responses

California Coastal Commission Executive Director (Findings 1-18, 27-34; Recommendation 3)

California Coastal Commission District Manager (Findings 1-18, 27-34; Recommendation 3)

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Revisiting the Board of Supervisors Travel Policy and Reimbursement Claims

April 17, 2008

Summary

The 2007-2008 (hereinafter 2007) Grand Jury chose to continue the investigation that was initiated by the 2006-2007 (hereinafter 2006) Grand Jury into the Board of Supervisors (BOS) Travel Policy and BOS reimbursement claims. The 2007 Grand Jury confirmed several key findings published in the 2006 Grand Jury Report¹ and continues to monitor progress toward a clear and equitable BOS Travel Policy. The 2007 Grand Jury also recommends continued movement toward appropriate procedures for policy implementation and administrative oversight.

The purpose of a travel reimbursement policy is to establish definitive rules and procedures whereby employees are repaid for costs incurred for specified "allowable" business-related expenses. The great variation in district size and in the amount of in-county travel required of different Supervisors has made it difficult to design and implement a travel policy that is equitable to the elected officials and acceptable to them and to the county's taxpayers.

In-depth investigation by the 2006 and 2007 Grand Juries of the BOS Policies that were in place prior to January 2008 revealed shortcomings in:

- procedures for implementation of the policy; and in
- administrative oversight by the Clerk of the Board (COB), the Auditor's Office and by the Supervisors, themselves.

Review of the Supervisors' claims revealed:

- persistent abuse of the Travel Policy by the current Fourth District Supervisor from January 2005 through November 2006;
- questionable weekend travel reimbursement claims by the Fifth District Supervisor;
- policy misinterpretation and a paucity of claim documentation that was readily acknowledged by the (current) Third District Supervisor; and
- that the First and Second District Supervisors have routinely submitted clear and properly documented travel expense claims.

The 2007 Grand Jury also questions some aspects of the BOS Travel Policy that took effect in January 2008.

On December 11, 2007, the BOS on a 3-2 vote, with Districts One and Two dissenting, adopted a revised Travel Policy that took effect in January 2008.² The new policy:

¹ Grand Jury reports are posted with responses on the Grand Jury website: www.co.mendocino.ca.us/grandjury

² The BOS Travel Policies may be viewed with this report at www.co.mendocino.ca.us/grandjury

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- offers Supervisors the choice of taking a fixed dollar-amount travel stipend or of maintaining detailed records and claiming mileage actually traveled;
- separates mileage reimbursement from reimbursement for allowable hotel stays, imposes a cap of two overnights per week, and limits the stays to weeks in which there is a scheduled BOS meeting;
- identifies some types of legitimate county business and some expenses that will be reimbursed but notes that this list is not all-inclusive and fails to require Auditor approval of expenses not specifically covered;
- specifies the documentation required in order to secure reimbursement.

A significant increased cost of the new policy is that the optional stipend is taxable and may bring increased payroll taxes and retirement costs to both the County and the Supervisors. Supervisors electing the stipend might qualify for larger retirement and/or Social Security benefits, but might also end up with less in after-tax dollars for out-of-pocket travel expenses. The bottom line is that taxable stipends will increase the cost of travel to both the Supervisors and the taxpayers.

In regard to past travel expense claims, the Grand Jury asked that the Fourth District Supervisor fulfill her ethical obligation and repay Mendocino County and its taxpayers the sum of \$3087. This was determined by the Auditor to be the *minimum* amount of overpayments issued between January 2005 and November 2006 on the basis of this Supervisor's "*per diem*" interpretation of the former policy. The request for repayment was reiterated in a letter from the District Attorney to the Fourth District Supervisor dated March 24, 2008. No response was received by the specified April 7, 2008 deadline.

Also as an ethical matter, and one of transparency, the Grand Jury asked the Fifth District Supervisor to explain the purpose of his extensive claims for weekend travel. The response from the Fifth District Supervisor was to supply "At-A-Glance" calendars for the period of 2005 through 2006 that did not explain in any substantive degree the reasons for his travel.

Thus the 2007 Grand Jury has found that the Fourth and Fifth District Supervisors have remained, regrettably, non-responsive to the Jury's requests.

Methods

The Grand Jury reviewed travel claims submitted by the five current Supervisors and conducted interviews with them and with two former Supervisors. With the exception of a telephone conference call with the former Fourth District Supervisor, the Supervisors testified in person and under oath. Jurors also interviewed current and former County Auditors and Clerks of the Board, County Counsel, the District Attorney (DA), and representatives of the Chief Executive Office. Additional counsel has been received from the State Attorney General's Office. Selected interviews were taped, transcribed and reviewed.

Background

Mendocino County Supervisors are required to live in the districts they represent. They travel regularly to their chambers in Ukiah and to other meetings throughout the county. Depending on their district, some Supervisors travel fewer than 10 miles from their homes to their chambers on Low Gap Road; for others, a round-trip is more than 100 miles. This disparity has made it difficult to arrive at a travel policy that is equitable and fair to all five Supervisors.

The BOS Travel Policies in place prior to January 2008 fell short in that they:

- failed adequately to address legitimate differences in travel costs including mileage and necessary in-county lodging and meals for Supervisors from the more remote Districts;
- left significant gray areas as to what activities qualified for reimbursement;
- did not specify, in writing, exactly what documentation was required to justify expense claims.

The BOS Travel Policies that were in place during 2005-07 allowed Supervisors who had back-to-back meetings on consecutive days to claim reimbursement *either* for driving their round-trip miles each day *or* for driving a single round-trip and applying the auditor-approved value of the second trip to that of overnight lodging. When lodging was chosen, reimbursement was for *either* the cost of the room *or* the value of the round-trip miles, whichever was less.

The option of applying round-trip mileage to the cost of a room resulted from discussion between a former Fourth District Supervisor and former County Auditor. The agreement was intended to apply exclusively to an *occasional* trade-off of the *value of round-trip mileage* for *lodging*. It did not permit reimbursement for meals or any other expense. While a receipt was required to document the lodging cost, claims were submitted for the auditor-approved value of the round-trip mileage because this was typically the lesser amount. The former Fourth District Supervisor exercised the hotel option approximately twice a month.

When the current Fourth District Supervisor took office in January 2005, she interpreted the Travel Policy as a "*per diem*" and began to claim reimbursement for round-trip mileage for each day spent in Ukiah whether or not she either drove the miles or paid for lodging. Full round-trip mileage was claimed on numerous occasions when she stayed at a friend's home or in a room that she rented in a private home for \$100 per month. These claims were defended by the Supervisor as "common practice" and as the only way to pay for expenses related to her job including meals, tires and pet care.

Historically, the COB has managed implementation of the BOS Travel Policy. This is the only instance in the County in which a subordinate is expected to review and sign off on a superior's expense claims, authorizing them for payment by the Auditor/Controller.

A document submitted by the current COB defends the questionable travel expense claims as having been processed in the same manner as others over a nine year

period. (The COB's memorandum did not define "others.") The document states that the COB never required receipts for in-county lodging and that she could not have discerned whether or not the claimed mileage had actually been traveled. Since concerns were raised by the 2006 Grand Jury about falsified expense claims that had been processed and signed by the COB, it has been contended by some that the COB only *processed* the claims and was not responsible for *authorizing* them for payment by the Auditor/Controller. The claim form still in use lists the COB as the authorizing party.

Administrative oversight of the BOS Travel Policy also fell short of acceptable standards. The agreement regarding substitution of an established mileage credit for in-county hotel costs was verbally communicated to the former COB. It was not immediately incorporated into the BOS Travel Policy though it does appear in a Policy document dated October 8, 2002. Whereas the Grand Jury determined that the Auditor's Office required receipts to document lodging costs, this was apparently unknown to the current COB, who has not required receipts since assuming the position in 1999. Despite rapidly escalating BOS travel claims, the Grand Jury found no evidence that, prior to its own show of interest in the matter, inquiries had been made by the Auditor, CEO or BOS to establish *either* the validity of the claims *or* the adequacy of the policy governing them.

The 2007 Grand Jury interviewed and reviewed the expense claims of five current Supervisors and two former Supervisors. The amounts claimed and the quality of documentation varied greatly. Jurors confirmed the 2006 finding that the Fourth District Supervisor misinterpreted the Travel Policy as a "*per diem*" and received at least \$3,087 in over payments based on numerous claims for mileage reimbursement when no miles were traveled and little or no lodging cost had been incurred.

The Jury also confirmed that the Fifth District Supervisor regularly claims extensive weekend travel without documenting the county business being conducted. Most of the notations in his original documentation do not show what business was discussed. Where there is a notation of why the Supervisor was traveling, the notation shows attendance at social events, concerts, county fairs and political gatherings that are not covered under any travel policy.

In fact, the Fifth District Supervisor traveled 41 weekend days out of a possible 105 in 2005. For the 2006 year, the Fifth District Supervisor traveled 36 weekend days out of a possible 105. None of the other Supervisors has claimed an amount of weekend travel even remotely in this range. The Fifth District Supervisor's travel on weekends was in excess of the total weekend travel by all other Supervisors combined for the same period.

While these behaviors are inconsistent with the BOS Travel Policy and fall far short of established ethical standards, the DA has opined to the Grand Jury that its extensive evidence of false claims does not *prove intent* and, hence, may be insufficient for successful legal action.³ Other reasons that were offered by the DA for failure to

³ The text of Penal Code 932 may be viewed with this report on the Grand Jury website www.co.mendocino.ca.us/grandjury

investigate were *the cost and lack of staff to pursue recovery of these funds*. The Jury respectfully disagrees with this analysis, but acknowledges that the disruption and financial costs that would result from legal action would further penalize Mendocino County taxpayers.

Findings

1. Mendocino County Supervisors must reside and be present for constituents in their districts as part of their job. They must also travel regularly to scheduled meetings in Ukiah. They are reimbursed for travel to the BOS chambers in Ukiah and for other mileage traveled on county business.
2. Supervisors have very different levels of travel expense largely depending on the district each one represents and where they live. Round-trip home-to-Ukiah travel requires fewer than 10 miles for some supervisors and more than 100 miles for others. Travel in some districts is on major highways; in other areas, it can require the use of a 4-wheel-drive vehicle. Given these variations, establishing an equitable reimbursement policy has been difficult.
3. Several key findings of the 2006 Grand Jury were confirmed by the 2007 Grand Jury in an independent inquiry into the BOS Travel and Meal Policy and reimbursement claims:
 - the Fourth and Fifth District Supervisors failed to adhere to the BOS Travel Policy governing reimbursement for in-county travel;
 - the COB was responsible for processing and authorizing all BOS reimbursement claims before forwarding them to the Auditor's Office for payment;
 - the COB is directly subordinate to the BOS and is an at-will employee. This is the only case in the County where a subordinate has been vested with the power to authorize reimbursement of personal expenses submitted by a superior;
 - the BOS travel claim form (Form No. A/C-06) states clearly that signing it certifies *"under penalty of perjury that the within claim and the items therein set out are true and correct."* Both the COB and the claimant Supervisor are currently required to sign a completed form before it is forwarded to the Auditor's Office for payment.
4. The 2007 Grand Jury received and reviewed the required responses from the BOS and the CEO to Findings and Recommendations included in the 2006 Grand Jury BOS Travel Policy Report.⁴ There were material discrepancies between the BOS and CEO responses to Findings 18 and 19, which relate to the COB's responsibility for authorizing the Supervisor's expense claims.
 - **Regarding Finding 18:** The CEO's Office agreed that *"...The Clerk of the Board processes and authorizes all BOS reimbursement claims and forwards them to the Auditor's Office for payment."* The BOS agreed that *"...the COB processes claims for reimbursement and forwards them to the Auditor's Office,"* but noted that *"...The Auditor however, exercises authority for final approval of all reimbursement claims pursuant to adopted policies."*
 - **Regarding Finding 19:** The CEO's Office agreed that *"...The Clerk of the Board is directly subordinate to the BOS and is an at-will employee. This is the only case in*

⁴ The report and responses are published on the Grand Jury website www.co.mendocino.ca.us/grandjury

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the County where a subordinate is vested with the power to authorize personal expenses submitted by a superior.” The BOS response “...agrees with this Finding to the extent that the Clerk is directly subordinate to the BOS and is an at-will employee.” However, the BOS response states that “...the Clerk does not have the vested authority to authorize personal expenses of individual board members. The authority to authorize expenses is the responsibility of the Auditor.”

5. The BOS and (former) CEO both agreed to implement 2006 Recommendation 3, that “...Supervisors submit all BOS authorized travel and other reimbursement claims directly to the County Auditor, rather than the Clerk of the Board Office for final approval. The COB will continue to serve an administrative function in preparing the documents.”
6. As of March 2008, the COB continues to act as approving manager for the BOS Travel expense reimbursement claims. She is still the only employee in the County who approves her managers’ reimbursement claims. The current CEO is not moving forward to transfer authorization of BOS Travel reimbursement claims from the COB to the Auditor’s Office.
7. The 2006 Grand Jury documented violations to the following sections of the BOS Travel Policy that was effective through June 2007:
 - **Section A (2) (d):** “Supervisors with meetings “back-to-back” may elect to stay overnight rather than drive back and forth and will be reimbursed not to exceed the mileage rate that would have been charged for travel.”
 - **Section A (3):** “Attendance at social and other meetings, which the member would attend regardless of his/her Supervisory position are not reimbursable. Attendance at retirement or similar functions will not be reimbursed unless the Board has requested a member to attend as their representative.”
 - **Section B (5):** “Board members will be reimbursed for official travel to functions or organizations of which the County or an individual Supervisor is an official member. If a Board member wishes reimbursement for meetings for which he or the County is not a member, said reimbursement would have to be determined by a majority vote of the Board of Supervisors.”
8. The 2007 Grand Jury confirmed the 2006 finding that in the case of the Fourth District Supervisor, an incorrect interpretation of the travel policy as a “*per diem*” resulted in claims for reimbursement when no miles were actually traveled and no cost was incurred for overnight lodging.
9. When requested by the 2006 Grand Jury to present travel diaries, journals, receipts, or other original evidence of meetings and travel, the Fourth District Supervisor first stated that she had forgotten to bring them and then said that she did not maintain such records. She informed the 2007 Grand Jury that she did not and does not maintain an engagement calendar to record travel and business-related appointments.
10. The County Auditor could only estimate the amount of overpayments to the Fourth District Supervisor through November 2006 because the Fourth District Supervisor did not support her travel claims with lodging receipts and documentation of dates, destinations and County business purpose of her travel expenditures.

11. In lieu of accurate records, the Fourth District Supervisor proposed, to the 2006 Grand Jury and to the Auditor, a formula to estimate what percentage of her mileage claims had actually been driven. Applying this formula, 27% of the mileage for which the Supervisor had been reimbursed was not actually traveled.
12. The formula was based on travel records submitted to the Auditor in 2007 in response to the 2006 Grand Jury travel investigation. The formula was rejected by the Grand Jury as an inaccurate representation of the undocumented travel that was claimed between January 2005 and November 2006 when the Supervisor was claiming a “*per diem*” for each day spent in Ukiah.
13. The Auditor was not made aware of the Grand Jury’s rejection of the formula or of the reason for this rejection. Lacking any substantive documentation of the expense claims, she estimated that the Fourth District Supervisor owed the County at least \$3,676.
14. The Fourth District Supervisor then submitted newly found expense documentation to the Auditor, including copies of 15 monthly rent checks of \$100 each to rent a room in a private home for use when County business required her to stay in Ukiah.
15. The rental period was from June 2005 through August 2006. The Auditor noted that overnight stays during this time should be reimbursed at the rate of \$3.33/day (the pro-rated daily lodging cost at \$100/30) rather than on the basis of round-trip mileage.
16. On the basis of the additional documentation submitted by the Fourth District Supervisor, the Auditor reduced the amount owed from \$3676 to \$3087.
17. The Fourth District Supervisor acknowledged having received the overpayment. In a memo to the Auditor, dated June 20, 2007, she stated:

“...The Mendocino County Grand Jury has asked that I pay to the County of Mendocino an amount you determine to be appropriate under your interpretation of the Board of Supervisors Travel and Meal Policy.”

“...While I do not feel your initial methodology included all pertinent factors, I am committed to concluding this matter by June 28, 2007, in a manner satisfactory to you and to the Grand Jury.”

18. Based on this commitment, the 2006-07 Grand Jury Report states that it *“...anticipated that the funds would be recovered.”*
19. When the funds had not been repaid by the June 28, 2007 deadline, the 2006 Grand Jury instituted legal action under the provisions of Penal Code Section (PC) 932 ordering the DA to recover \$3,087 in overpayments made by the County to the Fourth District Supervisor.
20. PC 932 is the only remedy available to a Grand Jury that establishes cause to seek repayment of public funds.⁵
21. The District Attorney declined to investigate the matter and suggested that the Grand Jury seek action in Small Claims Court.⁶

⁵ Penal Code 932 may be reviewed with the electronic version of this report at www.co.mendocino.ca.us/grandjury

⁶ The District Attorney’s response to the Grand Jury’s 932 Order may be reviewed with the electronic version of this report at www.co.mendocino.ca.us/grandjury

22. A Grand Jury has no statutory or other authority to seek action in Small Claims Court.
23. The funds due to Mendocino County remained unpaid when the 2007 Grand Jury was seated in July 2007. The new Panel elected to continue the BOS Travel Policy investigation due to the outstanding funds and the fact that inadequacies in the policies and procedures had not been addressed.
24. The written BOS Travel Policy that was already in place in 2005 and remained in place through June 2007, and the current policy that took effect in January 2008, cover all reimbursable in-county travel. This includes in-county mileage and overnight stays when there are back-to-back meetings. Meals associated with in-county over-night stays are not covered under any of the BOS Travel Policies.
25. The Fourth District Supervisor stated that the Travel Policy in effect from 2005 through June 2007 was confusing and that she did not completely understand it. She further stated that she had interpreted the Travel Policy as a "*per diem*", i.e., a fixed amount to which she was entitled whether or not she had *either* mileage or lodging expenses.
26. The Fourth District Supervisor persisted in submitting travel claims according to her "*per diem*" interpretation even after discussing the Travel Policy with the former Auditor late in 2005 (her first year in office) and being told that it was incorrect.
27. The 2007 Grand Jury confirmed that the Fourth District Supervisor claimed 22 round-trips in June of 2006 including 17 round-trips in 18 consecutive days. For the same month, she had paid monthly rent of \$100 for a room in Ukiah for use as a bedroom "...as needed to do her job."
28. The Fourth District Supervisor discussed her "*per diem*" interpretation with the former Auditor again in December 2006 and received the same answer.
29. Under Section (A) (2) (d) of the Travel Policy (prior to June, 2007), if no miles are traveled and no cost is incurred for lodging, no reimbursement is permitted.
30. *Reimbursement* is defined as repayment of funds actually spent.
31. The 2007 Grand Jury observed no "confusion" as to this interpretation except on the part of the Fourth District Supervisor. When interviewed, all Supervisors acknowledged that *reimbursement* means being repaid money for funds actually expended in accordance with the Travel Policy.
32. Ethics training provided to the Supervisors by County Counsel includes the admonition that elected officials are required to know and abide by applicable reimbursement policies.
33. Supervisors of the First, Second, Third and Fifth Districts and the former Fourth District Supervisor each indicated that they understood the meaning of the Travel Policies in effect for the period of 2005-2007. Each of them rejected the interpretation of the mileage allowance as a "*per diem*." Each of them rejected the argument that mileage could be claimed when there had been no expense either for driving or for lodging.
34. Review of the expense claims of all current Supervisors and two retired Supervisors revealed great variation both in the amount of travel expense claimed and in the level of documentation provided.
35. Only the District One and District Two Supervisors routinely support their claims with receipts and by indicating the destination and business purpose of their travel.

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While most claims appear reasonable, other Supervisors provide little or no backup documentation.

36. Supervisors for the First, Second and Third Districts did not claim any substantial weekend travel; the Fourth District Supervisor had some weekend travel and was unable to describe for the Grand Jury the county-related business purpose of the travel.
37. The Fifth District Supervisor claimed extensive weekend travel compared with the other Supervisors. He declined to explain the purpose of this travel and refused to provide backup documentation until a subpoena was issued for his records. The subpoenaed documents did not support his travel claims.
38. Most of the notations provided by the Fifth District Supervisor in his original documentation do not show what business was discussed and where there is a notation of why the Supervisor was traveling, the notation typically shows attendance at social events, concerts, county fairs or political gatherings.
39. The Fifth District Supervisor traveled on 41 weekend days out of a possible 105 in 2005 and 36 weekend days out of a possible 105 in 2006. None of the other Supervisors claimed an amount of weekend travel even remotely in this range.
40. The Fifth District Supervisor's travel on weekends was in excess of the total weekend travel by all other Supervisors combined for the same period.
41. The 2007 Grand Jury further determined that neither the Auditor's Office, the CEO's Office, nor the COB's Office concurred with a "*per diem*" interpretation of Section (A)(2)(d) of the BOS Travel Policy. According to all of these respondents, when no miles were driven and no cost incurred for lodging, no reimbursement was due.
42. Current and past auditors have always required receipts to document in-county lodging expenses; the COB's Office collected lodging receipts prior to 1999 but has not done so on a regular basis since 1999.
43. The BOS Travel Policy that took effect in January 2008 requires receipts for reimbursement of all lodging costs and clearly specifies the documentation required for this and other expenses.⁷
44. During 2007, the newly elected Third District Supervisor, who resides outside Laytonville, also claimed commute mileage reimbursement in order to offset the cost of a modest secondary residence in Willits.
45. The Travel Policies specify reimbursement for "overnight stays for back-to-back meetings." No allowance is provided for the cost of maintaining a second residence. When the 2007 Grand Jury asked the Third District Supervisor whether he was prepared to repay the excess mileage reimbursement to the County, he readily agreed to do so.
46. When asked once again, by the 2007 Grand Jury to compensate the County for excessive reimbursement claims, the Fourth District Supervisor declined to make the repayment, as she had previously agreed to do. She stated that the policy was "*confusing*," the practice was "*common procedure*," and that she had many expenses as a result of her job including "*tires, pet care and meals away from home*."

⁷ The 2008 BOS Travel Policy may be viewed with the electronic version of this report at www.co.mendocino.ca.us/grandjury

47. Tires are among the car costs covered by the allowed government mileage rate for reimbursement for miles actually driven. Pet care, in-county meals and other incidentals are not reimbursable under any county travel policy.
48. On December 12, 2007, the BOS approved a revised travel policy, effective in January 2008. The revised document stipulates that the Board of Supervisors shall review this policy in January of each year commencing January 2009. Under this policy, reimbursement for travel within Mendocino County is subject to the following terms:

A. Mileage

1. For travel necessary for official business within the county, each member of the Board of Supervisors may elect before January 1 or before July 1 of each year to:
- a. To receive a vehicle allowance in the following amount for his/her district:

(Taxable) Vehicle Allowance proportionate to geographic areas and distances:

First District	\$500 per month
Second District	\$250 per month
Third District	\$1,000 per month
Fourth District	\$900 per month
Fifth District	\$800 per month

OR

- b. To itemize and claim actual mileage for utilization of his/her own vehicle for official County business within the County borders, including travel to and from home office to official business.
2. Mileage will be reimbursed at the same rate as set for County personnel.⁸ ...

C. Lodging

1. Supervisors conducting official business in the County seat may elect to stay overnight rather than drive back and forth to their residences and will be reimbursed for actual lodging costs incurred, not to exceed the established local government hotel rate, for up to two (2) nights during a week with a regularly scheduled Board of Supervisors' meeting.

49. Only the Second District Supervisor has elected to itemize his mileage costs. Reimbursement for itemized mileage under II (A) (1) (b) is not taxable income. The mileage allowance (stipend) described under (A) (1) (a) is fully taxable and may bring increased payroll taxes and retirement costs to both the County and the Supervisors.⁹ In return, Supervisors electing the stipend might qualify for larger retirement and/or Social Security payments.
50. The revised policy makes no allowance for reimbursement of more than two overnight stays in a week and limits hotel reimbursement to weeks with a regularly scheduled Board of Supervisors' meeting. Lodging receipts are required. Meals associated with overnight stays are not reimbursed.

⁸ Current mileage rate is \$.505/mile.

⁹ For 2008, increased County costs might include up to 11% pension, 4% COLA, 4% deferred compensation and Medicare/Social Security in excess of 7%. Supervisor costs will vary.

51. Regarding reimbursement for travel expenses related to official county business, the 2008 Travel Policy defines *County Business* in Section I General Policy, (A) (B) and (C):

A. Official Business

Official business of the Board of Supervisors includes but is not limited to attendance at regular Board meetings, special Board meetings, Board standing committee meetings, Board special assignment committee meetings, Board of Equalization meetings, and other County business.

B. Reimbursable Expenditures

The types of occurrences that qualify a member of the Board of Supervisors to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses include the following:

1. *Communicating with representatives of regional, state and national governments on County adopted policy positions;*
2. *Attending educational seminars designed to improve officials' skill and information levels;*
3. *Participating in regional, state and national organizations whose activities affect the County's interests;*
4. *Attending County events;*
5. *Implementing a County-approved strategy for attracting or retaining businesses to the County, which will typically involve at least one staff member;*
6. *Meeting with and addressing concerns of constituents.*

C. Non-Reimbursable Expenditures

The types of occurrences that do not qualify for reimbursement of expenses include:

1. *Attendance at social and other meetings, which the member would attend regardless of his/her supervisor position. Attendance at retirement or similar functions will not be reimbursed unless the Board has requested a member to attend as their representative.*
2. *Any expenditure related to political campaigning for themselves or others.*
3. *Expenses of family members accompanying Board members on official business.*

52. The Grand Jury notes that the clause in Section I (A) that defines types of allowable county business concludes with the statement "...but not limited to..." and is, in fact, open-ended.

Recommendations

The Grand Jury recommends that:

1. As a matter of accountability and transparency, the Fifth District Supervisor make public a full and clear disclosure of the purpose of his extensive weekend travel (Findings 3, 32, 33, 37-40).
2. The Fourth District Supervisor repay to the County of Mendocino the amount of \$3,087 that was established by the Auditor to represent travel reimbursement overpayments (Findings 3, 8-17, 19, 24-30, 32, 33, 36, 46, 47, 50).
3. The Third District Supervisor review with the Auditor his mileage reimbursement claims filed during 2007, and that he repay, as he has agreed to do, any excess reimbursement, as determined by the Auditor (Finding 32, 33, 36, 44, 45).
4. Responsibility for review of the Supervisors' travel reimbursement claims be formally transferred from the Clerk of the Board to the Auditor's Office, and that:
 - a. reimbursement claim forms be revised to indicate this change in oversight responsibility, and
 - b. that the Auditor be diligent in enforcing the 2008 BOS Travel Policy including expense documentation. (Findings 3-6, 34, 35, 42, 43)
5. When the 2008 BOS Travel Policy is reviewed, in January 2009, the Supervisors:
 - a. eliminate the taxable stipend and establish the option of being assigned an appropriate County vehicle (Findings 48-52)
 - b. require Auditor approval for reimbursement of any expense related to business that is not explicitly defined in county policy as allowable county business (Finding 52);
 - c. approve a meal allowance, at the approved county rate, (only) for dinners on nights when a Supervisor claims a reimbursable in-county hotel stay (Findings 24 and 50).

Comments

The 2007 Grand Jury is indebted to the numerous current and former Mendocino County officials, and to both seated and former Supervisors who contributed to this report with their candid responses during lengthy interviews.

Testimony overwhelmingly rejects the contention that it has been common practice to claim commute mileage as a "*per diem*" when miles are not driven and no lodging expense is incurred. While it has been the auditor-approved practice of some Supervisors to claim commute miles in lieu of occasional lodging for back-to-back meetings, lodging receipts have always been required by the Auditor's Office and were routinely collected by the COB's Office until 1999.

With two notable exceptions, in-depth review of the expense claims of all current Supervisors raised questions. Most of these were quickly resolved by referencing calendars or other backup documents. The purpose of extensive weekend travel by the Fifth District Supervisor remains essentially unsubstantiated; the Third District Supervisor promptly acknowledged that he might have misinterpreted the Travel Policies in place in 2007 as allowing him to collect mileage to offset the cost of his

second residence in Willits where he spends some work nights. Only the Fourth District Supervisor persists in defending mileage reimbursement she claimed as a “*per diem*”, when no miles were driven and no lodging cost was incurred.

The revised BOS Travel Policy took effect in January 2008. The document discusses, though not conclusively, what constitutes “county business” and what does not. It specifies what documentation is required for reimbursement of actual expenses. It provides Supervisors with the option of *either* documenting their actual in-county mileage (including commute miles) *or* receiving a taxable stipend in an amount calculated to reflect the size of each district and its distance from Ukiah. Only the Second District Supervisor has elected to itemize mileage.

The new policy addresses several important issues. It offers Supervisors a way to avoid the need for detailed record keeping, if they wish to do so. It cleanly separates mileage reimbursement from reimbursement for allowable hotel stays, imposes a cap of two overnights per week, and limits the stays to weeks in which there is a scheduled BOS meeting.

A potential added cost of the new policy is that whereas mileage reimbursement is not taxed, the optional stipend is fully taxable and might bring increased payroll taxes and retirement costs to both the County and the Supervisors. Supervisors electing the stipend might qualify for a larger retirement benefit and/or a larger Social Security payment.

A perfect, one-size-fits-all BOS Travel Policy is likely to remain elusive. The stress and hazards of long-distance travel are inescapable.

The fact that parity was not achievable under the old travel policy is regrettable; however, it in no way justifies the documented falsification of expense reports by the Fourth District Supervisor to claim mileage reimbursement when she stayed in Ukiah and incurred little or no expense either for travel or for lodging. The request for repayment was reiterated in a letter from the District Attorney to the Fourth District Supervisor dated March 24, 2008. No response was received by the specified April 7, 2008 deadline.

Questions remain as to whether the new stipend option will level the economic playing field for Supervisors in the different Districts. Ultimately, the only way to accomplish that elusive goal may be to require travel logs and receipts, as is common practice in government and most private business settings. While this alternative continues to draw resistance from a few Supervisors, the Grand Jury strongly concurs with those who support it as the only fair and accurate way to document legitimate business expenses for reimbursement at taxpayer expense. Another possibility is to offer the option of a county car in place of the current travel stipends.

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Required Responses

County Executive Officer (Findings 1-7, 24, 29, 30, 32, 41-43, 45, 47- 52;
Recommendations 4 and 5).

Auditor-Controller (Findings 3, 4, 10-17, 24, 27, 41-43, 45, 47-52;
Recommendations 4 and 5).

District Attorney (Findings 19-22).

Clerk of the Board (Findings 3-6, 41-43; Recommendation 4).

Board of Supervisors (collective response) (Findings 1-7, 24, 29-32, 43, 45, 47-52;
Recommendations 4 and 5).

Current First District Supervisor (Findings 32-33, 35-36; Recommendation 5).

Current Second District Supervisor (Findings 32, 33, 35, 36; Recommendation 5).

Current Third District Supervisor (Findings 32, 33, 36, 44, 45;
Recommendations 3 and 5).

Current Fourth District Supervisor (Findings 3, 8-17, 19, 24-30, 32, 33, 36, 46, 47, 50;
Recommendations 2 and 5).

Current Fifth District Supervisor (Findings 3, 32, 33, 37-40; Recommendations 1 and 5).

***The following documents are available with the electronic version of report on the
Grand Jury website: www.co.mendocino.ca.us/grandjury***

*2006-07 Grand Jury report: Are You Getting What You Pay For? A Report on the
Board of Supervisors Travel Policy (June 7, 2007)—Published with responses*

Travel Policy in effect prior to June 2007

2008 Travel Policy

Text of Penal Code Section 932

*Mendocino County District Attorney's response to PC 932 Order filed by the 2006-07
Grand Jury*

BYZANTIUM BY THE BAY
County Mis-Implementation of the Mendocino Town Plan

June 17, 2008

Summary

A Grand Jury investigation found that the County of Mendocino has failed, since 2001, to administer licensing of Vacation Home Rentals and Single Unit Rentals (VHR/SUR) in the Town of Mendocino as required by the Mendocino Town Plan (MTP). The MTP and the related Implementation Plan (IP) constitute the Mendocino Town Segment Local Coastal Program (LCP). The LCP was certified by the California Coastal Commission (CCC) and filed with the Secretary for Resources on December 9, 1996.¹ This is the legal document governing all land use and development in the Town of Mendocino.²

On March 8, 1999, the Board of Supervisors (BOS) accepted a staff review and update of VHR/SUR license data. Staff determined that 53 VHR/SURs licenses are permitted by the MTP and that attrition had reduced the number of available units, leaving 19 licenses available. The BOS concurred with staff that the minimal development in Mendocino did not merit an application to the CCC to amend the MTP/LUP. The BOS directed staff to update the MTP Tables that list licensed VHRs and SURs and to allow license applicants on the chronological waiting list to proceed with their applications. Nine new licenses were issued.

In response to political pressure, the BOS reluctantly established a Mendocino Citizens Advisory Committee (CAC) to explore and advise the County on five areas, including VHR/SUR licensing. As the name implies, a CAC is an *advisory* body with no legal authority to alter *any* County policy. The CAC submitted its report with recommendations that would eliminate VHRs in residentially zoned areas of the Town and significantly reduce the total number of VHR/SUR units.

In December 2005, Planning staff advised the BOS that “...*there are currently 23-30 fewer VHR/SUR units than the 53 units authorized by the MTP.*” This reduction is specifically forbidden by the certified LCP and is inconsistent with the Coastal Act requirement to provide public access to coastal resources.³

In addition, Planning Department staff members have:

- failed to maintain a chronological waiting list of applicants for VHR/SUR licenses, as required by the certified MTP;

¹ In conjunction with the LUP certification in November 1996, the CCC granted a Categorical Exclusion Order that exempts single-family homes, water wells and septic systems in mapped areas of Mendocino from the need to obtain a Coastal Development Permit.

² MTP excerpts that are relevant to licensing of VHR/SUR units are presented in *Exhibit I*. The timeline for certification of the Mendocino LCP is presented in *Exhibit II*.

³ See underlined text in *Exhibit I*

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- denied a Use Permit (required to obtain a VHR license) to at least one applicant on the basis of the CAC recommendations;
- discouraged other prospective applicants from pursuing a license;
- continued to distribute copies of the Mendocino Town Plan and Zoning Code that bear incorrect certification dates, and
- have not yet revised the VHR/SUR Tables prepared in 1992 to correct mapping errors that omitted eight units that were licensed prior to that time. The Tables do not show the corrected baseline number of 53 allowable licenses.

On October 2, 2001, the BOS, by order of the Chair, directed the Fifth District Supervisor to “...*work with staff and interested members of the CAC, to coordinate the followup action in response to the recommendations presented by the Town of Mendocino CAC.*” This appears to have resulted in a de facto VHR/SUR licensing moratorium. The Board of Supervisors (BOS) never formally endorsed a freeze on VHR/SUR licensing, and no LCP amendment application was submitted to seek CCC certification of this change in practice.

Limits on visitor-serving facilities were allowed by the CCC to protect the residential character of the Town. It is not possible to estimate the impact of licensed and/or unlicensed VHR/SUR accommodations without a legal and transparent licensing process *and* mechanisms for enforcement of the licensing requirements. The de facto moratorium on the issuance of VHR/SUR licenses has resulted in a:

- loss of income to property owners,
- loss of revenue to the Town,
- loss of the 10% Transient Occupancy Tax (TOT) to the County, and
- drastic reduction in licensed visitor-serving accommodations that are suitable for families.

In February 2008, a County long-range planning team began a review to update the MTP Tables that document the number and location of licensed VHR/SUR units. The BOS has also directed the planning team to establish processes to maintain and monitor this data and to maintain the required chronological waiting lists.

Methods

The Grand Jury interviewed Mendocino County Supervisors and Planning and Building Services staff and reviewed relevant documents.

Background

The California Coastal Commission (CCC) was established by a voter initiative (Prop 20) in 1972 and the Legislature’s adoption of the California Coastal Act of 1976.⁴ The Coastal Act establishes the statutory standards which the Commission and local governments apply to planning and regulatory decisions.

⁴ www.coastal.ca.gov

The coastal zone, as mapped by the Legislature, ranges from a few hundred feet up to five miles in width and includes a 3-mile band of ocean the length of the California coast. The Coastal Act is primarily implemented through development of local coastal programs (LCPs) that are required to be completed by each of the 15 counties and more than 60 cities located in whole or in part within the coastal zone.

Many of the coastal counties and cities have divided their local coastal zone jurisdictions into geographic segments, resulting in some 126 separate LCPs. As of 2002, about 70% of these LCPs had been certified, many of them in the late 1980s.

The Coastal Act requires that the Coastal Commission review each certified LCP every five years. Although some local governments have updated their LCPs over the years by processing hundreds of LCP amendments through the Commission, with few exceptions, the LCPs are significantly out of date. The CCC, itself, has initiated only six periodic reviews and has completed only two.⁵

Findings

The California Coastal Commission

1. Local Coastal Programs (LCPs) are basic planning tools used by local governments to guide development in the coastal zone. They contain ground rules for development and protection of coastal resources.
2. An LCP includes a *land use plan* (LUP) which may be relevant parts of a local general plan (GP) and an *implementation plan* (IP) (also known as a *Land Use Development Code* or LUDC). The IP/LUDC consists of relevant zoning codes, maps and other legal instruments required to implement the LUP. (The Mendocino Town Plan is the LUP portion of the Town's LCP. It was accepted by the CCC in 1992 but was not "effectively certified" until the complete LCP was filed with the Secretary for Resources on December 9, 1996).
3. Local or County governments cannot legally apply an LCP or amendments to an LCP prior to certification by the CCC.⁶ An LCP does not take effect until:
 - a local government has adopted the LUP and IP/LUDC by formal resolution;
 - the Coastal Commission has certified the LCP as being in compliance with Coastal Act policies;
 - the local government has formally accepted the Commission's approval, along with any suggested modifications adopted by the Commission;
 - the CCC has filed a Notice of Certification with the State Resources Agency.
4. Most development in the Coastal Zone requires a Coastal Development Permit (CDP).⁷ Once an LCP and its IP/LUDC have been "effectively certified," authority is

⁵ The CCC has initiated LCP reviews for Trinidad, Long Beach, Sand City, San Luis Obispo County, Monterey County, and the Marina del Rey LCP segment. Only the reviews of Sand City and San Luis Obispo County have been completed.

⁶Public Resources Code 30514 may be accessed at www.leginfo.ca.gov/calaw.html

vested in the local agency for issuing CDPs for development inland from the mean high tide line.⁸

5. Depending on the type and location of a permitted project, it may or may not be subject to appeal to the CCC. With the exception of major public works and energy projects, most denials by local government are not subject to appeal to the CCC and may only be challenged through the courts.
6. When a locally approved coastal development permit is appealed, the CCC has 49 days to hold a hearing. At a minimum, it must determine whether or not the local approval raises a substantial issue with respect to consistency with the policies of the certified LCP.
7. If no substantial issue is found, the local approval stands; if the CCC determines that there is a substantial issue, there is no limit on how long it can take to hold a full de novo hearing.⁹ The only recourse in the event of a contested CCC decision is to the courts.

Mendocino County governed land use and development in Mendocino prior to the Coastal Act. The original Mendocino Town Plan (MTP/LUP) was a chapter in the 1985 County General Plan. The CCC certified the Town as a separate “Segment” in June 1990. The Coastal Commission has certified four Local Coastal Programs in Mendocino County including the:

- Point Arena LCP certified on 12/3/81 with a comprehensive update completed in 2007;
- City of Fort Bragg LCP certified on 7/4/83 with subsequent amendments certified in 1985;
- Mendocino County LCP effectively certified on 12/9/96;
- Mendocino Town Segment LCP certified on 11/14/96 and filed with the Secretary for Resources on 12/9/96.¹⁰

This report focuses on the Mendocino Town Segment LCP and the County’s conscious and systematic reduction in the number of licensed VHR and SUR units in the Town of Mendocino on the basis of a CAC recommendation that had no power of law. The certified Town Plan specifically states that “...*The County shall not require a reduction in the total number of VHR and SURs in existence on June 10, 1992.*”¹¹

In January 1992, the County submitted amendment No.1-92 (Major) to amend the Mendocino Town Plan (LUP) and Zoning Code (IP). In October 1992, the CCC determined that the LUP certification process was legally adequate. It was “effectively

⁷ In mapped areas of the Coastal Zone, including the Town of Mendocino, residential development, water wells and septic systems are designated as “categorically exempt” and do not require a CDP.

⁸ Although local agencies may opt to exercise coastal development permit authority, subject to appeal to the Commission, following certification of only an LUP, only the City of Los Angeles has exercised this option.

⁹ In a de novo hearing, prior testimony and the findings of local authorities are not considered. The entire process begins anew.

¹⁰ Certification dates are documented by CCC correspondence dated January 9, 1997 and Notice of Determination. These documents may be viewed with this report at www.co.mendocino.ca.us/grandjury

¹¹ According to Planning Division records, there were 34 VHRs and 19 SURs in existence when the 1992 Tables were developed. The 1999 Review added 8 units to the baseline Tables and determined that a maximum of 53 VHR/SURs are allowed.

certified” on December 9, 1996 when the Mendocino Local Coastal Program was filed with the Secretary for Resources.

The Town of Mendocino is bordered by the Headlands State Park and includes the Mendocino National Historic District as well as non-historic residential neighborhoods to the north and east. Highway One divides Zones A and B of the Historic District and carries a steady flow of visitors and residents of the greater Mendocino area. All land use and development in the coastal zone is under the auspices of the California Coastal Commission. It is subject to regulation by the Coastal Act which gives visitor-serving lodging a higher priority than residential uses.

Findings

8. Because Mendocino is unincorporated, County government is responsible for implementing land use and development regulations as certified by the CCC.
9. The Mendocino Town Plan (LUP) first existed as a chapter in the 1985 Mendocino County General Plan. The CCC certified Mendocino as a separate segment in June 1990.
10. In January 1992, the County submitted CCC application No. 1-92 (Major) to amend the MTP and Mendocino Implementation Code. Together, these documents constitute the Mendocino Segment LCP.
11. On April 7, 1992, the CCC accepted the LCP with suggested modifications. The County requested a 90-day extension which the CCC granted.
12. On September 14, 1992, the BOS approved Resolution No. 92-169 accepting the MTP/LUP. Because no action was taken on the IP, the CCC action on the IP lapsed and neither the IP nor the completed LCP was certified at that time.
13. In October 1992, the CCC determined that the MTP/LUP Resolution was “legally adequate.” Effective certification was delayed by the incomplete IP.
14. In April 1995, the County submitted an amended Mendocino Town Segment IP that was certified by the CCC on November 14, 1996.
15. Once certified by the CCC, a Local Coastal Program or an amendment to a certified LCP becomes effective only when it has been accepted by the local jurisdiction and filed with the Secretary for Resources.¹²
16. The Mendocino Town Plan (MTP/LUP) and Zoning Code fulfilled these requirements and became effective as the Mendocino Segment LCP on December 9, 1996.
17. Upon effective certification, permit granting authority for the Town of Mendocino transferred from the CCC to the County. The County is fully responsible for implementing the LCP, as certified. Neither the terms of a certified LCP nor amendments to a certified LCP may legally be implemented prior to “effective certification.”
18. The Coastal Act gives visitor-serving facilities a priority above that of long-term residential use in order to ensure public access to coastal resources.
19. The CCC recognized the potential impact of tourism on the Town of Mendocino and designated it as a “special community” under Coastal Act §30251 which protects highly scenic areas. This allowed the MTP to include specific protections against a

¹² California Government Code §30514(a)

loss of “balance” between visitor-serving facilities and long-term residential housing.¹³

20. The certified MTP clearly specifies, in a series of Tables, the types of visitor-serving facilities, and the numbers of each, that may be licensed to operate in the Town.
21. The certified MTP establishes the baseline numbers of VHR/SURs that were in existence in 1992. It clearly states that this number may not be increased or decreased by the County, apart from correcting mapping errors, without an amendment that has been “effectively certified” by the Coastal Commission.¹⁴
22. Policy 4.13-2 of the MTP, as amended in 1992 and “effectively certified” in 1996, requires that the plan “...shall be reviewed three years after certification to determine the effect of development on town character.” The plan is to be revised, if necessary, to preserve the residential town character described in policy 4.13-1.
23. Forty-six VHR/SUR units were documented in Table 4.13-2 (SURs) and 4.13-3 (VHRs) in 1992. A staff review in 1999 revealed that there were actually 53 legally licensed units in 1992. The omitted units were added to correct these “mapping errors.” The Tables were also corrected to remove 19 units that were no longer in operation, leaving 34 units in operation in 1999.
24. On March 8, 1999, the Board of Supervisors accepted the MTP staff review and concluded that the amount of development did not require action to amend the LCP. At that time, the BOS chose not to appoint a Mendocino CAC to further comment on the staff review.
25. The BOS ordered that applicants on the chronological waiting list for VHR/SUR licenses be allowed to proceed with their applications.
26. The BOS also directed staff to prepare a “clean up” amendment to the Mendocino Town Plan to correct the data errors that had been identified.¹⁵ No such amendment was submitted. The reason given to the Grand Jury by Staff was that a clean up amendment was not submitted because the Staff Review had been submitted in support of a General Plan amendment application by an individual applicant and that amendment was denied. The Staff Report, itself, was never submitted as an amendment and was never heard by the CCC.
27. Ultimately, nine (9) new VHR/SUR licenses were issued. This left the total number of VHR/SUR licenses at 43; this is 10 units less than the benchmark of 53 allowable units.
28. Applicants for the nine new VHR licenses were subjected to a \$1,000 minor use permit fee and to special use permit conditions that:
 - limit occupancy of a VHR to one person for each 300 square feet, or ten persons total;
 - require off street parking for seven cars;

¹³ The Town of Mendocino is not within a designated “highly scenic area.” California Government Code §30253(5) also discusses protection of “special communities.” At the time of effective certification, it was no longer an option to declare the Town a *Sensitive Coastal Resource Area* because the window of opportunity to do so was closed by the Legislature as of September 1, 1978. See CCC correspondence dated 8/7/78 posted with this report at www.co.mendocino.ca.us/grandjury

¹⁴ See underlined text in Exhibit I.

¹⁵ A “clean up amendment” is typically filed to correct various errors and inconsistencies and pull an LUP and IP into a coherent package. The recommended action could also have been achieved with a Minor Amendment to correct the mapping errors. Neither type of amendment is effective until it is effectively certified.

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- require each VHR license holder annually to submit a copy of the current business license and a signed statement of the dates on which the property was rented as a VHR for overnight occupancy;
 - establish a minimum of 60 days of overnight rental in any 24-month period as a requirement to maintain the VHR license.
 - repeat several requirements that are already stated in the MTP including, that VHRs hold a valid County license and pay 10% Transient Occupancy Tax. Failure to meet the stated conditions can lead to an action to revoke or modify the minor use permit.
29. A requirement of seven off street parking places would make virtually any property in Mendocino ineligible for a VHR license, including the nine sites whose licenses were issued subject to these terms.
30. Requiring license holders to submit a copy of the County business license and an annual signed statement of the nights rented is burdensome and does little to augment information already collected by the County through quarterly Transient Occupancy Tax (TOT) statements that are mailed to license holders and that must be filed by specified deadlines in order to retain the license.
31. No process was developed for license holders to conform to these requirements and no effort has been made by the County to monitor or enforce compliance.
32. On June 14, 2000, staff submitted the completed MTP staff review to the Coastal Commission, including administrative updates to the VHR/SUR Tables. Formal certification of an MTP/LCP staff review is not mandated and was not undertaken.
33. The MTP document currently in circulation is dated June 1992. This is when the CCC considered revisions to the amendment application. The complete LCP was not “effectively certified” until December 9, 1996. The Mendocino Zoning Code document is dated February 1996, the date when it was produced in hard copy; the effective certification date is December 9, 1996. Staff did not know whether or not the documents in circulation are identical to those certified in 1996.
34. The current MTP document has no addendum to acknowledge the 1999 review and the correction of mapping errors. Likewise, the baseline number of 53 VHR/SUR units existing in June 1992 has not been corrected in the document, although it has been acknowledged repeatedly as the correct baseline.
35. Dissatisfied with the 1999 staff review, some coast residents exerted pressure on the BOS and Planning to revisit the staff review. In response, the BOS established a Citizens Advisory Council. On September 22, 1999, seven members were appointed to the CAC and charged with providing policy recommendations in five areas:
- Vacation Home Rentals and Single Unit Rentals
 - Incentives for residential development to increase affordable housing,
 - Home occupations and cottage industry,
 - Parking and circulation,
 - Formation of a Municipal Advisory Council¹⁶

¹⁶ The Board of Supervisors may establish Citizen Advisory Committees (CAC) to complete specific tasks. A CAC is dissolved when the task is completed. The BOS may also vote to establish a Municipal Advisory Council (MAC) as a permanent local advisory body. While a MAC is also an “advisory” body, once established, it may not be dissolved by the BOS.

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This Grand Jury report addresses only the area of VHR and SUR licensing. The moratorium on VHR/SUR licenses is a partial response to the several CAC recommendations.

36. On November 3, 2000, the Clerk of the Board's office received an 11-page report from the CAC dated September 26, 2000. The CAC recommended that:

- No more Vacation Home Rental licenses be approved in residential sections;
- Current permitted VHRs in residential sections be eliminated by attrition, defined as sale of the property, non use of the property as a VHR for thirty (30) days, or the death of the current permit holder;
- The number of VHRs in the commercial or mixed use zones be allowed to rise to a total of ten (10);
- A long-term renter or owner live on the property when part of a property is permitted to be used as a Single Family Rental (SUR).

37. In January 2001, at the request of the CAC, the Director of Planning and Building Services commented on the CAC report. In a memo addressed to the Fifth District Supervisor, he recommended that the CAC be given the opportunity to review his comments and either modify their report or request that the BOS consider it as is. He asked the Fifth District Supervisor to distribute his comments on the report to CAC members.

38. The January 2001 staff report on the CAC notes that:

- CAC recommendations regarding VHRs "...Are consistent with many of the comments heard by the County Planning Commission..." during public hearings for the staff review.
- Staff is preparing an inventory to identify VHRs in residential areas.
- Staff recommends that the County take appropriate enforcement action against unpermitted visitor-serving facilities.

39. On October 2, 2001, the Board of Supervisors heard presentations from the CAC and acknowledged receipt of the CAC report. Minutes of that meeting state that *"...The General Consensus of the Board (was)... to accept the recommendation as presented relative to the number of vacation rentals and single unit rentals with further discussion on 1(a) – clarity of wording and attrition factor; clarification of how the Board would address 'appropriate enforcement;' and clarification as to accommodations for family rentals."* Minutes direct Planning staff to: *"1) assist the Board in further refining the CAC recommendations, and 2) coordinate follow-up action in response to the CAC recommendations."*

40. Minutes further show that *"...By order of the Chair, Supervisor Colfax will work with staff and interested members of the Citizen's Advisory Committee to coordinate follow up action in response to the recommendations presented by the Town of Mendocino Citizen's Advisory Committee."*

41. A 1992 form letter from the Coastal Planning Director to VHR/SUR license applicants accurately describes the licensing regulations and process as set forth in the certified MTP.

42. Since 2002, use of this memo appears to have been discontinued, and staff have discouraged applicants from paying the fee to add their names to the required waiting list by advising them that they are highly unlikely to secure a license.
43. In a December 2005 memorandum, the Planning Director advised the BOS that “...*(1) there has been a net increase of 11 new dwellings since the 1999 MTP staff review and (2) there are currently 23-30 fewer vacation home rentals/single unit rentals...*” (compared to the 53 units authorized by the MTP).
44. A Planning Department memorandum, dated June 3, 2008, contends that a chronological waiting list is being maintained and that prospective applicants are not discouraged from adding their names to this list.
45. Between January 2001 and November 22, 2002, three names were added to the waiting list. This was the last time the list was revised. No names have been added since. At that time, five SURs and 7 VHRs were listed. None has been licensed.
46. The same 2008 memorandum states that no applicant for a VHR license was denied the required minor use permit on the basis of the property being residentially zoned. It then explains that the application in question was denied because “...*staff determined that the project was not consistent with the CAC recommendations or the applicable town plan policies.*” The BOS based its denial of the appeal on this staff determination.
47. The pertinent CAC recommendation was to not approve any new VHR licenses in *residentially zoned areas of the Town*. The property in question was licensed as a VHR prior to purchase by the current owner. No evidence was found to suggest that any change had occurred that would make it non-compliant with the certified MTP.
48. The staff recommendation also states that the ‘window of opportunity’ to apply for a license, had passed. Staff acknowledged that the MTP does not establish that ‘windows of opportunity’ exist. It requires a chronological waiting list so that applicants may be issued a license when one is abandoned through the sale of a licensed VHR/SUR property.
49. The December 6, 2005 memorandum recommended that the BOS schedule a follow-up meeting to provide direction and take action on the recommendations of the CAC. The Grand Jury discovered no evidence that further action was taken.
50. In August, 2006, the Chief Executive’s Office established a long-range planning team. In early 2008, the team began an administrative review to update the Mendocino Town Plan VHR/SUR Tables. The BOS has also directed the planning team to establish processes to maintain and monitor this data and to maintain current chronological waiting lists.

Recommendations

The Grand Jury recommends that:

1. The Mendocino County Planning Team complete the current effort to review data in the Mendocino Town Plan Tables 4.13-2 and 4.13-3 and to establish the number of available VHR/SUR licenses; (Findings 19-23, 25, 32, 43-45, 48, 50)
2. The Planning Team develop a process to maintain current data in all of the Mendocino Town Plan Tables and implement the required (separate) chronological waiting lists of applicants for VHR and SUR licenses so that licenses are re-assigned *as they become available*; (Finding 18, 20-23, 25, 30-32, 43-45, 48, 50)
3. Any applicants on the current waiting list be contacted and offered first right to apply for these licenses; (Findings 18, 23, 27, 41-43, 50)
4. Residential zoning not be allowed as a factor in granting the required Use Permits for VHR and SUR licensing until and unless an MTP amendment to this effect has gone through a full public review and has been effectively certified; (Findings 1-7, 18, 19, 28-31, 36, 41, 46-47)
5. The terms applicable to minor use permits required for issuance of a VHR license be revised to support a reasonable and enforceable process for management of these licenses. Specifically, that:
 - The requirement of seven off-street parking places be revised to a number that is reasonable and relative to the size of the individual unit;
 - License holders not be required to submit copies of business licenses that are issued by the County and statements of occupancy that are already reflected in required Transient Occupancy Tax payments;
 - Coordination, and legally appropriate information sharing among County agencies become an established part of the process to keep licensing information current and to support enforcement;
 - NO conditions be attached to any VHR/SUR use permit without a clearly defined process and delegation of responsibility for monitoring and enforcing compliance.(Findings 18, 19, 28-31, 35-36, 47-48, 50)
6. The correct date of “effective certification” appear on all Mendocino County Building and Planning documents, most specifically, the Mendocino Town Plan (currently dated 6/10/92) and the related Title 20-Division III Zoning Code (current cover date and most pages are numbered 2/96). The effective certification date of both of these documents is 12/9/96; (Findings 10-16, 33-34)
7. The BOS formally direct all staff in the Department of Planning and Building Services to use only “effectively certified” Land Use Plans and Land Use and Development

Code (together with any certified and filed amendments) to review development and land use permit applications in the coastal zone; (Findings 1-9, 12-22, 24, 33, 41)

8. The County develop and implement an enforcement plan to reduce the operation of unlicensed visitor-serving facilities of all types, and that this plan include:

- Maintaining and making public a list of legally licensed VHR/SUR properties including an emergency contact number;
- Coordinating VHR/SUR information among County agencies and with the Mendocino City Community Services District;
- Requiring that the license number be included in all VHR/SUR internet advertising and on promotional materials produced after the date of establishment of the enforcement policy;
- Providing each VHR/SUR license holder with an unobtrusive peel-off window decal to identify the property as a legally licensed VHR/SUR;
- Promptly investigating any written complaint that an unlicensed property is being offered as a VHR/SUR.

(Findings 16, 17, 23-31, 39, 50)

Comments

If legally incorporated into the Mendocino LCP, the CAC recommendation to limit VHRs to ten (10) permitted units in commercially zoned areas will substantially reduce lodging access and increase the per person cost of lodging for families and other small groups whose needs are not met by existing Mendocino Inns and B&Bs. This access is required by the Coastal Act and was addressed in the MTP in response to a CCC recommended modification.

The de facto moratorium on VHR/SUR licenses is against the law. It has reduced coastal access for families and other traveling companions, and it has had significant negative consequences for individual property owners, the local economy, and the County's tax revenue.

In the course of this investigation, Supervisors and County Planning employees repeatedly cited political pressure to establish the Mendocino CAC and to enact the recommended freeze on VHR/SUR licenses. The Grand Jury has seen ample evidence of this pressure, but rejects it as a justification for failing to implement the effectively certified Mendocino Town LCP.

It is not the Grand Jury's role to determine whether or not the amendment proposed by the CAC is desirable or politically expedient. Nor is it the Grand Jury's role to speculate on whether the baseline number of VHR/SUR units, or the lack thereof, is a significant factor in perceived changes to the "town character." It is, however, the Jury's role to observe that changes to the Mendocino Town Plan and Zoning Code may not legally be implemented without effective certification, including:

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- an application to amend the certified LCP;
- Coastal Commission certification of the amendment;
- acceptance of the certified amendment by the BOS; and
- filing of the certified amendment with the Secretary for Resources.

Required Responses

Director of Mendocino County Department of Planning and Building Services (Findings 1-50; Recommendations 3-8)

Mendocino County Senior Coastal Planner—Fort Bragg Office of the Department of Planning and Building Services; (Findings 1-23, 42, 44-48; Recommendations 3,4,7)

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

Fifth District Supervisor; (All Findings; All Recommendations)

Mendocino County Chief Executive Officer; (All Findings; All Recommendations)

Requested Responses

California Coastal Commission Executive Director; (Findings 1-7, 28-29, 36, 45, 46; Recommendations 4, 5, 7-8)

California Coastal Commission Regional Director, Eureka Office; (Findings 1-7, 28-29, 36, 45, 46; Recommendations 4, 5, 7-8)

Exhibit I
Mendocino Town Plan
Sections Pertaining to Vacation Home Rentals/Single Unit Rentals

“Balance” between residential uses, commercial uses and visitor serving uses shall be maintained by regulating additional commercial uses through development limitations cited in the Mixed Use and Commercial Land Use classifications; and, by limiting the number of visitor serving uses.

Visitor Serving Units listed on Table 4.13-1 (Inns and B&Bs) shall remain fixed, and a ratio of thirteen long term dwelling units to one Vacation Home Rental or one Single Unit Rental (Tables 4.13-2 and 4.13-3) shall remain fixed; until the plan is further reviewed and a plan amendment is approved and certified by the California Coastal Commission.

Table 4.13-2 is a listing of Single Unit Rentals (attached or detached) operated as a short term rental in conjunction with an existing residential dwelling unit or commercial use.

Table 4.13-3 is a listing of Vacation Home Rentals (a dwelling unit that is the only use on the property which may be rented short term for transient occupancy.)

Single Unit Rentals and Vacation Home Rentals shall be subject to Chapter 320 (Uniform Transient Occupancy Tax) and Chapter 6.04 (Business License Tax) of the Mendocino County Code.

Tables 4.13-2 and 4.13-3 shall remain flexible as to location and the County of Mendocino shall have the authority to adjust the locations on these two tables from time to time without a plan amendment process, but not to add to the tables numbers of units that would exceed the following criteria:

To preserve town character and maintain the town as a residential community with limited commercial services, the County shall maintain, at all times, for new Vacation Home Rentals or Single Unit Rentals approved subsequent to certification of this amendment, a ratio of thirteen long term residential dwelling units to either one Single Unit Rental or Vacation Home Rental, but shall not require any reduction in the number of Vacation Home Rentals or Single Unit Rentals in existence on the date of certification by the Coastal Commission of this amendment.

Single Unit Rentals (Table 4.13-2) shall be exempted from the above limitations in the Commercial Zone.

Business licenses for Single Unit Rentals (Table 4.13-2) and Vacation Home Rentals (Table 4.13-3) shall not be transferable.

Applications for new locations to be listed on Tables 4.13-2 and 4.13-3 shall be subject to a conditional use permit and an additional non-refundable fee of \$100 shall be required of such applicants and applications shall be considered in chronological order from date of application, with first priority given to Single Unit Rentals.

**Exhibit II
Certification of the
Mendocino Town Plan and Zoning Code¹⁷**

Mendocino Town Plan (LUP)		Implementation Plan (Zoning Code)	
1980s	Coastal Commission (CCC) consultant Drafts the Mendocino Town Plan (LUP) which is revised by County Planning.		↓
8/17/83	BOS approves LUP		
8/3/84	LUP submitted to CCC for certification with accompanying BOS Resolution	9/84	
5/8/85	CCC denies LUP		↓
9/26/85	CCC certifies modified MTP/LUP		
11/20/85	BOS accepts modifications and MTP/LUP		
1989 to 1991	BOS initiates MTP/LUP revision; hearings held before BOS and Planning Commission	1991	Local public hearings
4/7/92	CCC approves amendment to LUP as No. 1-92 (Major).	4/7/92	CCC certifies IP but there is no response from County and the CCC action lapsed
9/14/92 to 12/92	County accepts modifications and LUP is approved by CCC but is not yet effectively certified.	4/12/95	County resubmits IP
<p>Mendocino Categorical Exemption & Complete Local Coastal Program are Effectively Certified and Permit Granting Authority Transferred from CCC to County of Mendocino December 9, 1996</p>			

¹⁷ Land Use and Development in the unincorporated Town of Mendocino is regulated by Mendocino County under the Mendocino Town Plan (Land Use Plan/LUP) and Implementation Plan (Zoning Code/LUDC). When certified by the California Coastal Commission, and filed with the Secretary for Resources, these two documents constitute the Local Coastal Program (LCP) of the Mendocino Town Segment of the Mendocino County Coastal Element.

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.

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.
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.
3. One sergeant and two deputy positions are vacant.
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.
5. Deputies work a 10-hour shift.
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.
7. Staff shortages make it difficult to provide effective law enforcement.
8. Filling vacant officer positions is difficult due to the high cost of housing, remoteness, and lack of cultural and shopping opportunities.
9. Sheriff's deputies are on duty on the coast from 7 a.m. to 3 a.m.
10. The Sheriff's Office in Ukiah handles dispatch for the Fort Bragg substation.
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.
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.
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.
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.
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.
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.
17. The aging microwave system, which provided communication only intermittently, is being replaced.
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

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- rangers and State Fish and Game officers. .
19. The evidence room was observed. Records of evidence are kept by hand.
 20. Evidence must be held until a case is final.
 21. Purging of evidence requires time consuming investigation into the disposition of the case.
 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.
 23. There is now an electronic security system to prevent break-ins. The system also covers the rear of the substation.
 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.
 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.

Recommendations

The Grand Jury recommends that the:

1. Mendocino County Sheriff fill the vacant positions for one sergeant and two deputies; (Finding 3)
2. Mendocino County Sheriff explore the use of Asset Forfeiture Funds to secure a bar-coding system for the evidence room; (Finding 19)
3. Mendocino County District Attorney notify the main evidence depository in Ukiah when a case reaches final disposition. (Findings 20, 21);

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)

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

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

FREE!!!, GET YOUR GED HERE!!!
A Report on the: Mendocino County Jail, Holding Cells and Sheriff's Evidence Room

June 18, 2008

Summary

On April 15, 2008, the Grand Jury conducted the annual visit to the Mendocino County Jail (MCJ) located on Low Gap Road in Ukiah. Many different agencies, groups, and individuals in the community provide services to inmates within the MCJ and upon their release. This exemplifies the spirit of teamwork and cooperation needed to provide services and programs to inmates. Those principally involved include the following:

- The Ukiah Adult School (UAS) provides adult education classes
- The Ford Street Project facilitates life skills classes which include substance abuse recovery and anger management.
- Big Brothers and Big Sisters of Mendocino County mentors prisoners' children and operates the "Storybook Project."
- Alcoholics Anonymous (AA) and Narcotics Anonymous (NA)
- Jail Chaplain
- Calvary Baptist Church
- First Baptist Church
- Seventh Day Adventist Church
- Consolidated Tribal Health

All programs are voluntary; most are open ended, which means that inmates are free to enroll in the program or course at anytime. Most of the programs are directed toward sentenced male and female inmates.

The original facility was built in 1973, and a second building was added in 1985. Several upgrades and remodels have taken place; some for officer safety and others because of State mandates.

Inmates who are in pretrial status reside in Building 1 and some programs are not available to them. Some civilians do administrative work and are employed by MCJ. Other employees that service the jail are funded in some way by the County. These people, as well as the volunteer organizations, make valuable contributions to the facility.

Methods

The Grand Jury visited the MCJ, the Sheriff's evidence room and the Court House holding cells, and interviewed supervisors and staff. Documents reviewed were: the budget, program schedules, inmate population and medical census reports. Environmental Health, Health Department, and Fire and Safety inspection reports by the California State Fire Marshal were also reviewed.

Background

California Penal Code §919(b) states that “...*the Grand Jury shall inquire into the conditions and management of the public prisons within the County*”.

Findings

1. The present staff consists of:
 - 1 Captain
 - 2 Lieutenants
 - 8 Sergeants
 - 44 Correctional Officers, with 2 additional unfilled positions
 - 5 Sheriff Booking Technicians
 - 1 Inmate Services Program Coordinator
 - 1 Kitchen Manager, and 2 Cooks
 - 1 Laundry Supervisor
 - 1 Account Clerk II
 - 1 Officer Assistant II, who manages the inmates funds.
2. Eight staff members are bilingual. Correctional Officers work 12-hour shifts, with a minimum of eight officers per shift.
3. The capacity of the MCJ is 305 inmates. In 2007 the average inmate population was 268. In January 2007 the population was 236, and in October 2007 the population was 294.
4. Building 1 holds the booking area, holding cells, and sally port.¹ The recent renovation of Building 1 included replacement of the sally port, and the addition of three more holding and security cells, which comply with both the ADA (Americans with Disability Act) and Title 24 (State guidelines on construction of jails). Construction included an interview room, a non-contact attorney room, and an open-air sally port.
5. The Mendocino County General Services Agency assigned one full-time maintenance person to the jail, due to continuing maintenance problems. Last year's Grand Jury reported two full-time maintenance personnel were assigned to the jail.
6. Inmate housing consists of seven units for males and two separate units for females. Temporary beds are placed in the common area when the capacity is exceeded.
7. Security cameras monitor the doors and common areas.
8. The cells are either single, double, triple occupancy, or barracks style.
9. All inmates are allowed exercise privileges, but inmates in “lock-down,” are only allowed out of their cells 30 minutes per day.
10. Inmates are segregated based on history and type of crime committed, previous incarceration, gang affiliations and violent tendencies.
11. Coveralls are color coded to easily identify inmate types. Green is for sentenced

¹ A sally port is a secure area used to move prisoners between a vehicle and the jail.

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- inmates, orange is for un-sentenced inmates, white is for protective custody inmates, and red is for administrative segregation inmates (ADSEG—violent or high risk).
12. Inmates who exhibit good behavior may work while in jail. Opportunities include the kitchen, laundry, garden, and “work crew.” The “work crew” provides labor anywhere in the county, and is supervised by correctional officers.
 13. The kitchen staff prepares 270 to 300 meals three times a day. Breakfast is prepared the night before and served in the morning. A supervisor and two cooks oversee and direct inmate labor. Inmates eat meals in their housing units.
 14. The kitchen facilities and food storage areas were observed to be clean and sanitary.
 15. A registered dietician oversees and approves the menu, which is prepared by the kitchen manager. The menu is rotated monthly.
 16. Special diets are prepared for inmates with special needs.
 17. Kitchen personnel and inmate helpers were observed to be clean. They were dressed in white and wore gloves and hair nets.
 18. Food vendors bid on contracts to supply food. The contract might not go to the low bidder because of quality concerns.
 19. The garden is certified organic, overseen by a professional horticulturalist, and the produce is either used in the kitchen or donated to various community service providers.
 20. The laundry facility is adequate for the inmate population. Trip hazards were observed in the laundry room and on the sidewalk outside the entrance.
 21. The air in the booking area was hot and stifling. Staff responded to questions regarding the poor air quality, saying that the heat and air conditioning system is inefficient and temperatures vary widely from room to room.
 22. Inmates with medical needs are identified at the sally port before they are booked.
 23. Mendocino County contracts with California Forensic Medical Group to provide medical care at the jail. The medical center staff at the MCJ comprises: a general practitioner working two days a week, one part-time dentist, one health service administrator registered nurse, who is the program manager, one *sick call* registered nurse, one full-time administrative assistant, and two licensed vocational nurses.
 24. Mental Health Branch uses Mendocino County general funds to provide one part-time psychiatrist and one full-time psychiatric registered nurse to the jail.
 25. Mental Health, in conjunction with the Sheriff’s Department, applied and received a Department of Justice federal grant for one full-time person to institute the “Bridge Program”.
 26. The “Bridge Program” entails the sharing of personal medical information between the jail and the Mental Health Branch. To participate, an inmate must sign the “Permission to Share Personal Medical Information and Records” form.
 27. In 2007, the psychiatrist made 1,385 visits and the mental health nurse made 4,184 visits. Distributing medicine is not counted as a visit.
 28. The jail population has a higher frequency of medical and mental problems than the general population of the County; thus requiring extensive medical and mental health services. Data indicate the following communicable diseases: one positive test for tuberculosis, 23 cases of sexually transmitted diseases, 10 cases of lice or scabies, and 63 cases of drug resistant staphylococcus.

29. Abuse of alcohol and other drugs was cited as the primary reason for medical services required by incoming MCJ inmates.
30. Medical staff stated that the closure of Mental Health's Psychiatric Health Facility in 2000 has caused an increase in the number of persons with mental disorders who are incarcerated.
31. There is a Work Furlough Program in which the inmates leave the jail for their jobs in the morning and return to jail after the workday is over. This provides an opportunity for the inmates to receive work experience and it reduces the number of inmates at the jail site during the day.
32. The Work Release Program administered by the Probation Department reduces jail population by having adult offenders serve their sentence while remaining in the community.
33. The Home Detention Program allows an individual to stay at home wearing an electronic monitoring ankle bracelet. The inmate must pay a daily fee to participate.
34. An Incentive Program, through an agreement with the Superior Court Judge and the Sheriff's Office, encourages an inmate to obtain a General Education Diploma (GED) and/or a Life Skills Program Certificate, which will reduce their sentence by five days for each achievement.
35. A library is available with books donated by Mendocino Book Store, Ukiah's Friends of the Library and private donors.
36. A law library is provided in Building 1 to ensure all inmates have full access to legal information, as prescribed by law. Access requires good behavior and an appointment is necessary.
37. Computers and tapes are available in the education center. There is no internet access.
38. Programs include Adult School, Narcotics Anonymous, Alcoholics Anonymous and Life Skills. Counseling and religious services are also available. Participation is voluntary.
39. The Mendocino County Office of Education provides adult education classes with an emphasis on obtaining a GED.
40. Correspondence courses are available for un-sentenced inmates and inmates who cannot leave their housing units.

Evidence Room

41. The Grand Jury visited the evidence room August 28, 2007. The Mendocino County Sheriff's Office central evidence facility, located in Ukiah, is the depository for most evidence collected from crime scenes.
42. Budgeted staff consists of one and one-half positions.
43. This facility also processes evidence such as fingerprints, shoe prints, tire treads, etc. Some evidence is sent for testing to outside facilities.
44. Evidence room personnel strictly control all evidence. This fulfills the need to maintain the "chain of evidence" necessary for criminal prosecutions.
45. All records of evidence are kept by hand on paper.
46. Purging of evidence is a laborious task. Evidence may not be disposed of until there is final disposition of a case, which means the inmate must complete their sentence.

Determining when the final disposition has taken place requires intensive investigation by the Evidence Clerk.

47. Depending on what it is and how it was obtained, items held at this facility must be kept until the court orders its disposal or it is released by the District Attorney.
48. Evidence room operations, including purging and disposition of evidence, require greater staff time than is presently available.
49. The evidence room requires refrigeration for certain evidence. At present, the refrigeration and freezer units are aging and the capacity is insufficient.
50. There is no generator to maintain electricity for refrigeration in case of power outage.
51. Staff and others state that the odor from marijuana stored in the evidence room is pungent and the ventilation system is insufficient to clear the odor from the facility. Stored marijuana may mold and can cause respiratory illness.
52. There are no fireproof containers for files, 911 tapes, fingerprint cards, or other flammable evidence.
53. Evidence in dismissed cases can be returned to the owner. A court order is required to return certain evidence, such as marijuana, weapons, or any evidence obtained by search warrant.

Mendocino County Courthouse Holdings Cells

54. On May 13, 2008, the Grand Jury visited the four Courthouse holding cells used to hold prisoners awaiting court hearings. They were found to be clean and in good working order.
55. One cell has a privacy screen between the toilet and sink for female inmates.
56. Each cell is equipped with a fire sprinkler.
57. Prisoners who are transported and held must be kept separate according to the color designation of their coveralls.
58. When there is a jury trial, the presiding judge may order that the inmate wear street clothes, rather than jail colored coveralls. A prisoner changes from the colored coveralls to street clothes at the jail.
59. There is an attorney-inmate interview room in the holding cell area.
60. All prisoners are transported by correctional officers, who are mostly working on overtime. There must be more than one officer if there are five or more general population inmates being transported.
61. Prisoners are usually in the holdings cells for about 30 minutes before their court hearing, although they may remain there longer.
62. A small area in the ceiling at the end of the hall in the holding cell facility is deteriorating.
63. Mirrors are used to monitor the hall area, but direct visual observation of inmates is required at least twice every half hour. The correctional officer cannot leave the holding cell area while inmates are present.

Recommendations

The Grand Jury recommends that:

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1. Mendocino County General Services Agency repair the laundry room floor and the sidewalk outside the laundry room entrance; (Finding 20)
2. General Services Agency investigate the ventilation system at MCJ in Building 1 and make necessary changes to ensure adequate air flow and quality and to stabilize the unequal temperature from room to room; (Finding 21)
3. General Services Agency improve air quality and ventilation in the evidence room; (Finding 51)
4. Mendocino County Mental Health Branch and Sheriff's Department re-apply for a Federal Grant from the Department of Justice for one full-time person to continue the "Bridge" program; (Findings 25, 26)
5. Mendocino County Board of Supervisors fund one full-time person for the "Bridge" program, if no grant can be obtained; (Findings 25, 26)
6. Board of Supervisors budget for one additional position for the evidence room; (Findings 42, 46, 48)
7. Board of Supervisors budget funds for a bar coding system for the Sheriff's main evidence room; (Finding 45)
8. Mendocino County District Attorney's office notify the Sheriff's main evidence room when there is final disposition of a case; (Findings 46-48)
9. Mendocino County Sheriff investigate the use of asset forfeiture funds for the bar coding system, refrigerator/freezer replacement and a generator for back-up power. (Findings 45, 48, 49).

Comments

The Mendocino County Jail is not a great place to be, but the facility offers many programs that may make an inmate less likely to return. Especially notable, is the encouragement by staff that inmates utilize the opportunity to achieve academic and life skills. These programs may reduce recidivism.

The correctional officers and their staff are maintaining a safe and functional environment for the staff and inmates. The MCJ operates under the same minimal budget as other County departments.

Required Responses

Board of Supervisors, (All Findings; All Recommendations)

Mendocino County Chief Executive Officer (All Findings; All Recommendations)

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Mendocino County Sheriff (All Findings; All Recommendations)

District Attorney, Mendocino County (Finding 45-48; Recommendations 7 and 9)

Mendocino County General Services Agency Director (Findings 20-21, 51;
Recommendations 1-3)

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HOME AWAY FROM HOME
A report on Mendocino County Juvenile Hall

June 11, 2008

Summary

On April 22, 2008, the Grand Jury conducted its annual visit to Mendocino County Juvenile Hall (MCJH) located on Low Gap Road in Ukiah. The older part of the facility was dedicated in June 1971, and new construction was completed in May 2000.

This facility houses youth under the age of 18 who are wards of the court. The MCJH is managed and dedicated to provide a safe and secure environment for juveniles. The administrators and staff of MCJH have implemented several programs designed to educate and rehabilitate these youth for reentry into society.

Methods

The Grand Jury inspected the cells, the booking area, classrooms, recreation areas, dining room and the kitchen facility. Documents reviewed included the 2007 Annual Report, Mendocino County Health and Human Services Agency Inspection Report, Department of Public Health Communicable Diseases Control Report, California Corrections Standards Authority Biannual Inspection Report, California State Fire Marshal Inspection Report, and Food Menu.

Background

California Penal Code §919 (b) states *...the Grand Jury shall inquire into the conditions and management of public prisons within the County.* The Juvenile Hall falls under this directive.

Findings

1. The Juvenile Hall staff consists of: one Superintendent, five Supervising Correctional Officers, 21 Correctional Counselors, four kitchen staff, one Mental Health Clinician, and one Licensed Vocational Nurse. There are three unfilled full-time Correctional Counselor positions. Three staff members are bilingual. A contract physician is available six days a week.
2. The staff work eight-hour shifts, five days per week, with rotating days off. This schedule provides two days off during the week, so employees can attend continuing education classes or perform community service, if they wish.
3. The County pays overtime because adequate staffing is a state mandate. Employees can choose whether to receive their overtime compensation as paid time off or as direct wages.
4. The video observation and security systems for doors and common areas throughout the facility are monitored at all times.

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5. Mendocino County General Services Agency provides maintenance.
6. MCJH has a generator for back-up power in the in-take/release building.
7. Last year's Grand Jury reported an average occupancy of 27 to 35.
8. The maximum capacity of the facility is 43 youth; the average is 37 to 38. At the time of the Grand Jury site visit, the facility was at full capacity.
9. All youth fill out a health questionnaire and receive a tuberculosis test upon entry.
10. The newer building contains the in-take and release unit. The in-take/booking area includes a shower, two interview rooms, two holding cells, and a medical exam room.
11. The facility is divided into 3 units:
 - Unit A is for females
 - Unit B is for males
 - Unit C is for older, more sophisticated, violent, and/or youths charged with serious crimes.
12. Unit C is fully self-contained; it is a high security unit and has its own classroom, showers, exercise area, and dining area with food brought in from the kitchen.
13. At night, individual cells are visually checked every 15 minutes by staff. Each cell has an emergency call button.
14. School attendance is mandatory and is year-round.
15. Mendocino County Office of Education provides instructional programs.
16. There are three full-time school teachers and one aide. Classes are held five days a week from 8:30 a.m. to 2:25 p.m.
17. Youth receive instruction at their assessed grade level.
18. The classrooms have books and computers. Internet access is tightly controlled. There is also an art room with an instructor two days a week.
19. The MCJH provides rehabilitation of youth through counseling, life skills classes, parenting classes, and Alcoholics and Narcotics Anonymous meetings. Religious services are available for those who wish to attend.
20. Youth shower and have clean underwear each day. Laundry is done by the staff.
21. Good behavior is rewarded with activities that include gardening, yard work and "in-house" field trips (within the facility). During free time in the evening, books, magazines, CDs and television viewing are available in the day room. There are also telephone privileges.
22. There is a "Step" program, whereby all youth can advance from an entrance step level of 0 and earn additional privileges by moving to the next "Step". It takes two weeks of good behavior to advance from one step to the next. Each youth makes a written plan on how to achieve the next step, such as: *...I will have a better attitude, don't lose my temper, keep my room neat and clean.*
23. The dining room and kitchen were observed to be clean, and had a pleasant atmosphere. The food was nicely presented and included fresh fruit and vegetables, along with the main course.
24. Boys and girls from Units A and B eat together in the dining room but are seated in separate areas.
25. The menu is prepared by a registered dietician and rotates every six weeks. Snacks are served twice a day. Second helpings at meal time are permitted. Special diets,

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such as diabetic, religious or vegetarian, conform to State nutritional standards. Milk is provided three times daily.

26. The average stay is 25 days, although 15 days is more common. The maximum sentence at MCJH is one year; however youth may stay longer while awaiting court adjudication, or for health reasons.
27. Visitation by parents or family is limited to two hours per week.
28. Parents are billed on a sliding scale up to \$18 per day for the cost of maintaining a youth in MCJH. The maximum is \$800 per stay. Collecting the money from the parents is a difficult task.
29. Transportation from the MCJH to the court or to medical facilities is provided by the Correctional Counselors.
30. All juveniles are assigned legal counsel.
31. A juvenile charged as an adult is eligible for bail.
32. About 80% of the youth are repeat offenders. Youth with behavioral problems require the bulk of the Correctional Counselors' time.

Recommendations

The Grand Jury recommends that:

1. the three full-time vacant positions be filled; (Finding 1)
2. the Mendocino County Board of Supervisors fully fund the staffing portion of the MCJH budget; (Finding 1)
3. the Board of Supervisors address the limited capacity of Juvenile Hall. (Findings 7 and 8)

Comments

If the present escalation of juvenile incarceration continues, as the trends show, the maximum capacity of the facility will soon be exceeded.

The Grand Jury is pleased with the condition and maintenance of the facility. The facility is well managed, efficient, clean and sanitary. Youth benefit from the structured schedule and the expectation of cooperation. The staff was found to be caring, and the youth were well groomed.

Required Responses

Mendocino County Juvenile Hall Superintendent (All Findings; All Recommendations)

Mendocino County Board of Supervisors (Findings 1, 8; Recommendations 2-3)

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

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DOES PROBATION WORK?
A report on the Mendocino County Department of Probation

June 17, 2008

Summary

The 2007/08 Grand Jury visited the Probation Department (the Department) because of complaints received and "Letters to the Editor" in the local paper, concerning the operational procedures and the effectiveness of the Department. The Probation Department changed management in December 2005, and some Deputy Probation Officers (DPOs) were disappointed with the management style of the new Chief Probation Officer (CPO). Some staff were unhappy that the CPO was not hired from within the department. The DPOs were dissatisfied with their union and formed a new bargaining unit. Turmoil and discontent occurred among some personnel with these changes. Turnover was high during this period.

On October 1, 2007, after a vote of "no confidence" by the DPOs, at the request of a Superior Court Judge of Mendocino County, the CPO submitted a "Next Steps Plan." This document focused on improving five areas:

- *supervised (Pretrial) Release Program*
- *provide consistent, informative and on time reports and recommendations*
- *provide availability of court report writers to the court*
- *provide a work environment that fosters enthusiasm and dedication to protecting the community, restoring victims and providing rehabilitation opportunities to offenders (morale)*
- *maintain a solid core of experienced knowledgeable staff in the Department at all levels and at all times (attrition)*

As an integral part of the criminal justice system, specializing in community supervision, the mission of the Mendocino County Probation Department is to promote public safety by reducing criminal behavior and its impact upon the community. The Department is dedicated to offender accountability, advocacy for victim services and rights, and involving the community in developing and supporting a system of restorative justice with prevention, intervention and treatment programs.

Goals and Objectives:

- *Be an efficient organization committed to promoting safety by reducing criminal behavior and its impact on the community;*
- *Continually recruit and retain quality staff;*
- *Provide effective, efficient community supervision;*
- *Expand restorative justice practices; and*
- *Provide effective services to outlying areas.*

The Probation Department is expected to accomplish the above goals with tight funding, shortage of staff, inadequate training, low morale and lack of confidence in the leadership.

Recidivism has a number of potential definitions. Recidivism statistics, to assess program performance, are not collected and published. It is impossible to know how many probationers get out of the system once they are in it, and how many are able to stay out.

Methods

The Grand Jury interviewed prior and present management and staff of the Probation Department, obtained and studied the budget, mission statement, and other documents including probation reports, and the Policies and Procedures Manual. Management and staff of the Health and Human Services Agency were also interviewed.

The Grand Jury examined the "Mission Statement" and the "Goals and Objectives" documents to see if the Department was fulfilling its various responsibilities.

Background

The Probation Department consists of three Divisions: Adult Services, Juvenile Services and Business Services. The Grand Jury reviewed the functions of the Adult and Juvenile Divisions.

The Chief Probation Officer (CPO) is the director of the Department and is appointed by the court, but answers to the Board of Supervisors (BOS) on budget and staffing levels. The CPO hires staff, manages and represents the Department before the BOS, the public and other public agencies. The CPO also oversees the Juvenile Hall, which is a separate department.

An adult is a person 18 years or older. When an adult commits a crime, the Probation Department generally becomes involved after conviction, but before sentencing. A DPO, who specializes in this task, may prepare a report and sentencing recommendation. If the judge orders probation, a fixed term of probation becomes part of the entire sentence. If there are no further crimes or violations of the probation terms, probation ends.

The law treats a juvenile offender differently from an adult; therefore, the Department has separate divisions for each. On the front line is the deputy probation officer (DPO). A DPO may work in either division. Each division requires separate, but largely, overlapping, skills. A DPO is a peace officer who may carry a gun, and can make arrests.

A juvenile, unless tried as an adult, is adjudicated, not convicted. The Juvenile Probation Division is involved from the time of arrest. Those who appear in juvenile court go through a procedure where a judge may use a DPO's recommendation to determine how to treat each person. There is no fixed time for probation, and it may extend beyond age of 18.

A DPO uses community resources to aid a probationer. This is especially important in the juvenile justice system, where family, school, social services, employers and others may join to help and observe behavior. DPOs who work with juveniles usually have smaller caseloads.

All probationers give up rights and must agree to surprise searches at any time and any place. Searches may take place at their home, on the street, at school, or at their job. The probationers may not have weapons, be under the influence of intoxicants, or possess illegal drugs. Probation may restrict travel and impose a curfew. All probationers agree not to break any law, and must agree to report to their DPO regularly and take regular or random drug tests.

The Department measures efficiency by the average number of cases that DPOs handle. The only statistic the department publishes in its budget is the average caseload. Based on many factors, actual DPO caseloads range from zero to more than 200.

A DPO has some discretion about when to declare that a probation violation has occurred. Missing an appointment can qualify as a violation, but probably not the first time. Making a gang-related hand signal or wearing gang colors often is treated as a violation. Detection of a violation is less likely if the probationer lives in a remote area.

Findings

1. The Department's Mission Statement does not mention keeping probationers out of incarceration or turning probationers into law-abiding citizens.
2. The Department has been roiled by internal controversies. Issues have included safety, disputes within the union representing the DPOs, management style that differs from the former CPO, and a lack of formal training. The union passed a vote of no confidence in the chief.
3. The October 1, 2007 "Next Steps Plan" proposed the hiring of Mendocino Dispute Resolution Services to mediate between the CPO and the employees. The plan also proposed contracting with the Corrections Standards Authority for training and team building of the executive staff. Only the latter was implemented.
4. After the Authority's program, the department set up a task force to devise new training and safety protocols. New employees now spend one week shadowing with a mentor, learning procedures in their division. Every new DPO trains one week in Juvenile and one week in Adult Probation. One week of shadowing is also given to those who begin work in new areas of responsibility.
5. Turnover has been high; 13 staff, including managers, left in an 18-month period, ending October 1, 2007. Some of the current managers and staff state that morale has improved; some staff disagree.
6. The 2007/08 budget set staffing for the Juvenile Division at 14 DPOs plus three supervisors. The Adult Division staffing is set 16 DPOs, two supervisors and one training officer. The Probation Department is overseen by the CPO and has

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additional support staff.

7. The Board of Supervisors currently requires all departments to leave 10% of all budgeted positions vacant to save the County money. Probation staffing is currently at full capacity, as two new DPOs have been hired.
8. The County General Fund provides 57.8% of the department's \$2,192,389 budget for the 2007/08 fiscal year. The remaining 42.2% comes from State and Federal funds which are earmarked for special purposes, and other income, which includes fines and fees. The department currently receives no grant money. Information in the 2007/08 budget justification shows that there were 1,260 ongoing adult cases and 240 juvenile cases.
9. One Juvenile Division and four Adult Division DPOs are assigned to the court, investigating cases and making recommendations. These DPOs do not manage any probationers.
10. DPOs must remain in court waiting to be called on a case. Recently, they have been assigned wireless laptop computers, which let them prepare reports during such downtime.
11. The DPOs assigned to work in the field spend most of their time in the office doing probationer and phone interviews, writing reports, keeping statistics, and undergoing state-mandated training. Fieldwork includes inspections at home, school, work sites, and enlisting community resources.
12. While overtime work is required, direct payment of overtime is discouraged, and is replaced with compensating time off. DPOs are required to do after-hours work, such as probation sweeps and working public functions, such as the County Fair. The budget showed that in 2006/07 the expenditure for overtime was \$16,388.
13. A primary concern of staff is officer safety. Home visits usually involve two peace officers, but that is not a mandated department policy. Eight DPOs carry guns, and must be undergo training and recertification every 90 days.
14. Under a recently adopted policy, the County pays for DPOs' safety equipment and weapons.
15. DPOs do not have tasers, but do have pepper spray, which requires training.
16. In 2007, it was discovered that some bulletproof vests had expired warranties.
17. DPOs were ordered to stop wearing the out-of-warranty vests; some DPOs worked in the field without protection. The vests have since been replaced.
18. The Department has set up a new system to track warranties. Information is kept in personnel files which are reviewed annually. There is no system in place to alert the Department before expiration takes place.
19. Before the "Next Steps" plan, the new DPOs and those assigned to new positions often waited months for formal training. Clerical staff instructed new DPOs on how to fill out forms.
20. Most cases are assigned geographically, but some can be assigned by type of crime, such as drug, sex, domestic violence and gang activity. Some DPOs specialize in these types of cases, which may require more investigation and closer supervision of the probationer.
21. The Fort Bragg office has 1.5 DPOs for adults and one DPO for juveniles. They handle all types of cases for the entire coastal area.
22. The Willits office has 1.5 DPOs for adults and one DPO for juveniles. They handle

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- all types of cases in the north/inland area.
23. There is one gang specialist working in the Ukiah area. A Juvenile and an Adult Division DPO out of Willits also work part of their time on gang cases covering both the north and coastal areas.
 24. The Department's 2007/08 budget shows an average caseload of 123 per adult DPO, and an average caseload of 24 per juvenile DPO, but DPOs may have as few as zero or as many as 200 cases, depending on the type of case or assignment.
 25. On April 29, 2008, the average caseload was 114 for adults and 22 for juveniles.
 26. Court DPOs manage no field cases. There are two Proposition 36 DPOs who share 234 non-violent drug cases. There is one full-time DPO assigned to domestic violence cases in Ukiah. Another DPO who serves in Willits and Fort Bragg works on domestic violence cases part of the time. There are about 234 domestic violence cases. Another DPO has more than 200 low-risk probationer cases.
 27. DPOs with many cases have little time to do field work. Probation violations are more likely to go unnoticed when the DPO is unable to do field work.
 28. Some DPOs may spend the bulk of their time on a small number of probationers who require constant supervision.
 29. On April 29, 2008, the total Adult Probation case load was 963.
 30. A pretrial jail release program, for those who don't make bail, is an exception to the rule that adult DPOs become involved in cases only after conviction. There are about 30 cases in this program managed by two DPOs.
 31. Mental health cases require special attention and treatment. The Therapeutic Options Program Grant, for juvenile mental health cases, has expired.
 32. Juvenile records do not follow juvenile probationers when they become adults. Judges often do not know if a new young adult defendant has a long experience with probation and what crimes were committed.
 33. There is a defined procedure to address complaints made by probationers.
 34. Adult probation statistics show that of the 1,235 adult probationers in September 2007, 122 or 9.8% had multiple offenses in Mendocino County. Crimes committed when the probationer has been off probation for three years, are counted as a first offense for statistical purposes.
 35. Staff members disagreed about the definition of recidivism, and had only rough estimates of figures, ranging from 9% to 100%.
 36. The County uses a system called JALAN for tracking offenders. This system is accessed by police departments, the sheriff, jail, courts, the district attorney and the Probation Department. Used since 1990, JALAN creates a file for each person at the time of arrest and follows the person through further dealings on the case through law enforcement and the courts, updating as it goes. The system is not designed to track statistics across many files. JALAN does not maintain the rap sheet of prior offenses. That information comes from the California Law Enforcement Telecommunication System. Because multiple Mendocino County police agencies and county departments use the JALAN, any upgrade would require all agencies to change over simultaneously.

Recommendations

The Grand Jury recommends that:

1. the Probation Department continue to evaluate, upgrade and improve training and team building and find ways to assess performance; (Findings 3-5, 19)
2. the Department use electronic communication, and wireless laptop computers to speed reporting from the field and to cut down on desk time and on driving to central offices; and that reports to judges and attorneys be sent by e-mail resulting in quicker turnaround; (Findings 10, 11, 21-23, 26,28)
3. the Department have a written policy regarding when it is appropriate for a field officer to make an on-site visit alone, and when the presence of a second peace officer is required; (Finding 13)
4. new DPOs be trained and evaluated in the field by other experienced DPOs; (Findings 3, 4, 19)
5. there be a written policy stating that DPOs safety be a first consideration; (Findings 11,13,14,16-18, 19 ,20 ,27)
6. the Department institute a management system for warranties that will automatically warn when equipment is nearing expiration; (Findings 13,14,16-18)
7. the Department publish information regarding the range and types of caseloads; (Findings 20-30,34)
8. the Department define the various types of recidivism to track the effectiveness of programs; (Findings 34-36)
9. the Department establish a recidivism baseline, with information from prior years, to compare present and future performance. Apply for a grant, or use Criminal Justice college students as interns for this project; (Findings 34-36)
10. the Department track and publish current recidivism statistics on a regular basis; (Findings 34-36)
11. the Board of Supervisors fully fund the Department's yearly budget and add two additional DPO positions; (Findings 6-8,11,21-24,26,27)
12. the County begin planning a replacement for the antiquated JALAN software with a more flexible program, which would include better statistical extraction. (Findings 34-36)

Comments

Mendocino County Probation Officers are peace officers. They carry a badge, have handcuffs, may be armed and may make arrests.

Mendocino County has a small population which puts limits on DPO specialization. DPOs must cover others' jobs during vacations, illness, training, etc. Cross training between the Adult and Juvenile Divisions is useful and should be rewarded.

The Mission Statement mentions keeping the community safe, but the Department really is attempting to do the following three tasks:

- keep both the officers and the community safe,
- keep people out of incarceration—jail, juvenile hall, prison, or the California Department of Correction and Rehabilitation Division of Juvenile Justice, (formerly the California Youth Authority);
- turn probationers into law abiding citizens.

Is the Probation Department achieving its goals? The Grand Jury was unable to answer this question due to a lack of reliable and complete statistics on crime trends and various types of recidivism, including:

- A person convicted of a crime who later commits and is convicted of another crime.
- A person convicted of a crime who violates parole or probation.
- A person who violates parole or probation more than once.
- A person who is convicted of a crime committed while on probation or parole
- A person who returns to incarceration.

Rookie sheriff's officers, just out of the academy, may work in tandem with another officer for six months before going out on their own. This procedure is for training and evaluation. One week of shadowing a mentor is an improvement, but does not seem to be an adequate amount of time.

The episode with the out-of-warranty bulletproof vests is a major system failure. A system should have been in place to warn of the coming expiration. A stop gap system is now in place, but it falls far short of a failsafe solution.

A DPO's job is often a thankless one. A DPO II earns between \$20.81 and \$24.94 an hour.¹ He or she is sometimes a social worker with a gun; sometimes a jailer with no jail. Usually, no one is happy to see a DPO coming.

The Grand Jury recognizes that the information in this report only scratches the surface of the conditions and responsibilities of the Department. Managers and some staff report improvement in morale, while others are still concerned about trust and

¹ See <http://www.co.mendocino.ca.us/hr/cgi-bin/specs.pl>.

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communication. The newer staff is reported to be “gung ho.” Despite budgetary difficulties and problems within the Department, the DPOs manage to do their job.

The Grand Jury commends the CPO for making a very concerted effort to improve the communications, morale, and working conditions within the Department.

Required Responses

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

Mendocino County Board of Supervisors, (Findings 6, 7, 12, 14, 36;
Recommendations 2, 11-12)

Requested Responses

Mendocino County Superior Court Juvenile Judge, (Findings 1-5, 10, 19, 32;
Recommendations 1, 4-10)

Mendocino County Information Technology Operations Manager, (Finding 36;
Recommendation 12)

A LOT MORE THAN FIREFIGHTERS
A Report on Chamberlain Creek and Parlin Fork Conservation Camps

June 17, 2008

Summary

Located on Highway 20 in Jackson State Demonstration Forest, between Willits and Fort Bragg, Chamberlain Creek and Parlin Fork Conservation Camps (the Camps), provide a useful way for prison inmates to contribute to society. These inmates are low security risks. They are sent to the camps by the California Department of Corrections and Rehabilitation (CDCR) facility in Susanville. Training for firefighting begins in Susanville and is a continuous process once the inmate reaches Camp. The primary mission of the Camps is to provide crews for fire suppression in Mendocino County and throughout the state.

When the inmate crews are not fighting fires, they are the hand crews for floods, conservation projects and rescues. They also provide community services for local, state and federal agencies.

Secondary goals of the Camps are to serve the community. Contributions have been dramatic in numerous communities. They include money for the Make-A-Wish Foundation and donations of wood furniture and cabinetry to non-profit organizations. Labor has been provided to upgrade playgrounds in schools and public parks, and to replace roofing at a community site. Vegetation has been cleared on community water district properties and other places. These opportunities promote a solid work ethic for the inmates.

The Camp supervisors consider reducing recidivism an important goal. Learning and improving job skills are positive steps toward this goal. There are self-help groups and educational opportunities, available by correspondence, at the camps. In exchange for their contribution, inmates may reduce the length of their incarceration.

Methods

The Grand Jury visited Chamberlain Creek on May 27 and Parlin Fork on June 3, 2008. Jurors interviewed CDCR and Cal Fire supervisors and staff, and reviewed documents.

Background

California Penal Code §919(b) states that “...*The Grand Jury shall inquire into the conditions and management of the public prisons within the county.*”

Findings at Both Camps

1. There are Memorandums of Understanding for mutual aid responses with several agencies, including Cal Fire, California Highway Patrol, Mendocino County Sheriff's Department and Park Rangers.
2. Inmates are a low security risk and most are incarcerated directly or indirectly because of alcohol offenses or other drug use, abuse or sales.
3. Inmates who have committed arson, sexual, or serious violent crimes are not sent to fire camps.
4. All mail is read, both incoming and outgoing, and all telephone calls are taped. Attorney-client privileged communications are the exception.
5. Visiting hours are on the weekend. Visiting at these camps is less frequent because of the remote locations.
6. An inmate could spend up to five years in the Camp, although nine months is the average.
7. Misbehavior by an inmate is documented in their file. For serious offenses, an inmate may be returned to the facility at Susanville, which then may refer him to another State facility. There is an appeal process for inmates who disagree with the decision of the hearing officers.
8. There is zero tolerance for gang symbols.
9. Seriously sick or injured inmates are returned to Susanville, where medical facilities are available. An inmate will return to Camp upon medical release. Minor injuries or illness are treated at local medical facilities.
10. The Camps have no separate budget; they are part of the State of California, CDCR's budget. There are specific allotments for clothing and food for each inmate.
11. The budgeted amount of money for three meals for each inmate is \$2.55-\$2.65 per day and has not increased in nearly 20 years.
12. Inmates earn a minimum of \$1.45 up to \$3.90 per day, depending on their skill level. If they are firefighting, they receive \$1 per hour from portal to portal. The State of California is self-insured for Workers' Compensation.
13. Inmate turnover makes fire fighting training especially difficult. The turnover rate is estimated to be about 50 inmates per year.
14. Inmates who are qualified, receive a physical, and are pre-trained at the California Correctional Center at the Susanville facility, before arriving at the Camps.
15. There are five crews consisting of up to 17 inmates at each site.
16. While fighting fires, inmates wear protective gear and carry 25+ pound packs with equipment, food and water.
17. The sites are fully integrated with Cal Fire.
18. The Emergency Crew Transport is fully equipped with fire fighting equipment. When inmates arrive at a fire, a Cal Fire captain takes charge.
19. A correctional officer usually accompanies the fire fighter crew. At the site of the fire, the Cal Fire captain is in command, and the correctional officer might not leave the staging area.
20. Cal Fire provides a mobile kitchen vehicle which serves meals to inmates on the fire line. This unit allows preparation of 500 meals a day.

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21. Inmates, when off-site, are counted regularly by the Cal Fire captain.
22. All officers have earned Peace Officer Standards and Training Certification (POST); no weapons are permitted on site.
23. The correctional officers work eight-hour shifts.
24. Inmates are housed comfortably in barracks style buildings.
25. There are out of bounds signs, but no fences at the Camps.
26. A poorly equipped weight room is not conducive to the physical conditioning that is an important part of being a firefighter.
27. There are library books, a recreation room, a hobby area, and outdoor recreation facilities. The County Bookmobile comes every other week.
28. The kitchens appeared clean and sanitary. The kitchen workers begin early in the morning to prepare baked goods and cook all food from scratch.
29. The inmates have recently expanded the vegetable garden areas. There is a greenhouse so seedlings may be planted earlier. The gardens help stretch the food budget. A correctional staff member with expertise in gardening supervises the garden operations.
30. Assigned work areas include the cabinet/wood furniture shop, laundry, and the barber shop. The sewing room, saw shops, and tool room allow maintenance and repair of firefighting equipment, such as straps, chainsaws, shovels, and hoses.
31. Fifty percent of waste material is mandated to be recycled.
32. The Camps must abide by all government rules and receive inspections from various agencies, the same as private businesses. Walls are posted with Material Safety Data Sheets, as well as other mandated posters. Drivers must fill out the "Drivers Daily Log", the same as ordinary businesses.
33. Cal Fire and the California Department of Corrections and Rehabilitation send two auditors every other year to audit finances and operations at each facility.

Chamberlain Creek

34. The staff consists of one lieutenant, one sergeant, and eight correctional officers.
35. Cal Fire employees comprise one division chief, 10 captains, of which one is an administrative officer, and one certified water treatment operator.
36. The upholstery on the furniture in the TV/Day room was sorely in need of repair.
37. Self-help peer groups hold evening meetings to support inmates who are recovering from alcohol and drug abuse.
38. At the time of the Jurors' visit, four crews were working on the Summit Fire near Santa Cruz.
39. Chamberlain Creek has its own water treatment plant and two sources of water.
40. Chamberlain Creek's kitchen crew cooks and serves a community Thanksgiving dinner at the Harrah Senior Center in Willits every year.

Parlin Fork

41. The Camp is fully staffed, with one lieutenant, who is the camp commander, one sergeant, who is the assistant camp commander and eight correctional officers.
42. Cal Fire operates from this facility with one division chief, 10 captains, one of which

is an administrative officer, one mechanic, and one certified water treatment operator.

43. The Camp has a mill, which is temporarily closed due to the retirement of the Cal Fire captain who oversaw the work. The lumber is sold at cost (no labor) to State and local agencies.
44. Parlin Fork has a bus barn, where extensive repairs are made to CDCR and Cal Fire equipment and vehicles.
45. Parlin Fork has its own water treatment plant.
46. Counseling services provided to inmates include Alcoholics Anonymous from Santa Rosa, Narcotics Anonymous, and various church groups.
47. Other facilities include a day room with TV, a pool table, a hobby shop, and a minimally equipped exercise room. Books and other reading materials are available.
48. Parlin Fork benefits the community by restoring lost and found items (such as painting and repairing bicycles). The item is then returned and will be sold by a community group for the benefit of the community.
49. Education is encouraged; coursework for the General Education Diploma (GED) is available on site, and the test is administered at Howard Forest Fire Station. There are correspondence college courses available from Lassen Community College in Lassen County. Several inmates have earned a water treatment license from California State University at Sacramento.
50. Inmates may be transported to the Department of Motor Vehicles in Fort Bragg, where they can obtain a drivers license or identification card in anticipation of their release.

Recommendations

The Grand Jury recommends that:

1. the budget allocation for inmates' food be increased; (Finding 11)
2. exercise rooms be adequately equipped to support levels of fitness required for firefighting. (Finding 26)

Comments

These two conservation camps appear to be well managed with dedicated staff. The facilities' staff is to be commended for maintenance of the facilities and providing positive models for the inmates.

To maintain a high degree of firefighting efficiency, the inmates need quality food and state of the art exercise equipment. The vegetable garden is vital to meeting the daily dietary needs of the inmates, and has provided valuable work experience, including the construction and maintenance of the greenhouse and garden areas.

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The inmates have the opportunity to improve their skills, while performing valuable services to Mendocino County. In addition, inmate training and educational programs may assist in reducing recidivism.

We are most fortunate to have these Camps in this area. The inmates are well-trained and capable of being emergency "First Responders."

Required Responses

None

Requested Responses

Commander, Parlin Fork Conservation Camp; (Findings 1-40; All Recommendations)

Commander, Chamberlain Creek Conservation Camp; (Findings 1-33, 41-50; All Recommendations)

Director, California Department of Corrections and Rehabilitation. (Findings 11, 26; All Recommendations)

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**THE #\\$@*!! ROOF STILL LEAKS:
A Report on the City of Willits Police Department and Holding Cells**

May 23, 2008

Summary

The Grand Jury conducted its annual visit to the Willits Police Department (WPD) to inspect operations, holding cells, the evidence room and the facility in general.

The WPD is located in a County building, which also contains the Sheriff's substation and the Superior Court. The building, on East Commercial Street, has no signs near the street to direct a person to any of the three facilities. The complex is set back 200 feet from the sidewalk. An adjacent building blocks it from view for those approaching from the west.

The Grand Jury found that the security gate, which last year's jury reported as malfunctioning, has been repaired. Another issue raised is still unresolved: rainwater continues to leak into the WPD's facility. Mendocino County General Services Agency (Buildings & Grounds) is responsible for the repair of the roof.

Methods

The Grand Jury visited the WPD facility, interviewed personnel regarding operation of the holding cells, the booking area, evidence room and conference room, dispatch office and sally port.¹ Documents reviewed were the current budget, Fire/Life Safety Inspection Report, Mendocino County Health Communicable Disease Control and Local Facility Health Inspection Report.

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 2007-2008 Grand Jury undertook their charge with a visit to the City of Willits Police Department and holding cells on May 2, 2008.

Findings

1. The annual budget for the WPD provides for one Chief, three Sergeants, 10 Officers and five Dispatchers.
2. At the time of the visit, the actual staff consisted of one Chief, who is bilingual; three Sergeants and one acting Sergeant; six Officers, one of whom was on sick leave and another who was out on worker's compensation; four Dispatchers and one Trainee Dispatcher. In addition, there is one part-time Officer in charge of prisoner

¹ The "sally port" is adjacent to the parking area and provides a secure area for transferring arrestees to or from the jail.

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- transport, who also acts as an investigator; and one Reserve Officer, who assists at special events.
3. Staff shortages are covered by the use of overtime and supervisors are required to perform field duties.
 4. WPD cannot contribute an officer to the Mendocino County Major Crimes Task Force due to staff shortages.
 5. Officers work a 12-hour shift. Replacing an Officer on an eight hour shift is easier, as one Officer can stay four hours longer and another Officer can come in four hours earlier.
 6. Recruiting applicants is difficult: about 30% of applicants fail the background check. There is a shortage of affordable housing in Willits, and the City is remote. On the plus side, employee benefits are excellent and the pay rate is competitive with nearby law enforcement agencies. The pay is not competitive with Santa Rosa or the Bay Area. Various agencies are contacted to locate potential recruits.
 7. Training for new officers includes ride-alongs. The length of training time can vary with seasonal community activities.
 8. All Officers have Peace Officer Standards and Training certification (POST).
 9. The current budget contains funds for officer training.
 10. Some Officers are trained in the use of tasers, a non-lethal weapon available to WPD Officers. Tasers are an effective psychological deterrent; it is seldom necessary to actually use them; usually when an individual sees the taser, they become compliant.
 11. Gangs are not a major problem at this time; but they are a concern. There has been some tagging (graffiti) but little violence.
 12. The Gang Resistance Is Paramount (GRIP) program is presently offered to fifth graders. The program is a collaborative effort of the schools, police departments, Alcohol and Other Drug Programs (AODP), the Nuestra Alianza of Willits, and other after-school programs.
 13. The City has revised its ordinance to regulate the outdoor cultivation of marijuana.
 14. Occasionally there are homeless encampments on the North Coast Railroad Authority property. The encampments are removed when requested by the property owner.
 15. There are more homeless transients during the summer months.
 16. The closing, in 2000, of the Psychiatric Holding Facility (PHF) in Ukiah has hampered the WPD. Now, if an officer detains an individual, under §5150, who poses a danger to him or herself or to others, but who has not been accused of a crime, the only facility available is Howard Hospital which has no mental health worker on site.² The Officer must wait for a crisis worker from the County Mental Health Branch.
 17. Mendocino County Mental Health Department operates a satellite clinic in Willits staffed with a mental health crisis worker, who is available from 8 a.m. to 5 p.m. on weekdays. If the Willits clinic is closed, a crisis worker has to be sent from Ukiah to assess the patient. The WPD tries to stay and watch the person at the hospital, but, if they are called out, the patient may well leave the hospital. The patient can only

² California Welfare and Institutions Code §5150 provides for up to a 72-hour hold when an individual poses a risk to self or others.

- be detained for 23 hours. After that, the patient must be released or transferred outside the County because the County has no appropriate facilities.
18. An individual detained under a "5150" who is accused of a crime is transported to the Mendocino County Jail, where there is a mental health worker.³
 19. The officer in charge of the evidence room was working the night shift and was unavailable for interview or to provide access. The WPD has a bar coding system for identifying the stored items.
 20. A Homeland Security grant was used to purchase a new electronic fingerprinting machine, which is used for those who are cited and released. The machine is connected to the County's secure internet connection.
 21. WPD has limited access to the County's JLAN criminal justice records system. This system will produce limited statistics. If more extensive statistics are desired, a request must be submitted to County Information Technology for custom programming.
 22. WPD does not routinely participate in the Sheriff's teleconferencing muster at 7:00 a.m.
 23. A visual examination of the three holding cells showed that they were clean and sanitary. Holding cells, if occupied, are under constant visual observation. The holding cells are shared by the Sheriff and WPD pursuant to a Memorandum of Understanding regarding use and maintenance.
 24. Staff shortages require that prisoners be transported promptly.
 25. The sally port is fully operative.
 26. Some cell phone 911 calls are forwarded to the WPD by the California Highway Patrol; others go directly to WPD. Landline 911 calls from Willits go directly to the WPD. The 911 system is being updated.
 27. WPD dispatches for the Little Lake Fire District.
 28. There is no sign near the street to direct people to the County owned building which is occupied by WPD, the Superior Court and the Sheriff's substation.
 29. There is no sign at the corner of Main Street and Commercial Street directing people to the WPD, the Little Lake Fire Department, or the County complex on Commercial Street.
 30. Since this County-owned building was constructed in 1988, the roof has leaked into the WPD downstairs offices. It is still necessary to cover the office equipment with plastic tarps when it rains.

Recommendations

The Grand Jury recommends that:

1. WPD fill vacant Officer positions (Findings 1-6);
2. the Willits City Council augment the budget for WPD to permit hiring of additional Officers (Findings 1-6);

³ As permitted under California Welfare and Institutions Code §5150 when an individual poses a danger to self or others

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3. the Willits City Council budget for five Reserve Officer positions to work community events (Finding 2);
4. Mendocino County General Services repair the leaking roof (Finding 30);
5. Mendocino County General Services install a sign that is easily visible from Commercial Street (Finding 28);
6. City of Willits put a sign near the corner of Main Street (Highway 101) and East Commercial Street to direct people to the Little Lake Fire Department and the WPD (Finding 29).

Comments

The City of Willits Police Department is concerned about the possible loss of all or part of its Federal grant, Community Oriented Policing Service (COPS).

Fatigue results when Officers work a 12-hour shift; safety then becomes a concern for both the Officer and the community.

As with many local police agencies, newly trained officers often leave the community for higher paying jobs.

Required Responses

City Manager, City of Willits (Findings 1-27, 29-30; Recommendations 1-3 and 6)

Police Chief, Willits Police Department (All Findings; Recommendation 1)

Willits City Council (Findings 1-27, 29-30; Recommendations 1-3 and 6)

Mendocino County General Services Agency (Findings 28 and 30; Recommendations 4 and 5)

Mendocino County Mental Health Branch (Findings 14-18)

**HATS OFF TO ROUND VALLEY:
A Report on Round Valley Unified School District**

April 3, 2008

Summary

The 2007-08 Grand Jury conducted an oversight of Round Valley Unified School District (RVUSD) and found an isolated, deeply troubled school community in early recovery from an extended leadership crisis. Despite progress during three years of oversight by Mendocino County Office of Education (MCOE), administrative functions remained in disarray. Truancy and student misconduct were at critical levels in May 2007 when MCOE assigned a full-time Recovery Specialist to superintend the District. Additional MCOE staff joined the Intervention Team in fall of 2007. At that time, test scores for students in Round Valley Elementary/Middle and High Schools were in the bottom 1% of California schools despite a 200 point gain over the preceding three years.¹

Six months later:

- MCOE is contracting with the District to provide essential administrative services.
- All Elementary/Middle and High School teachers are credentialed and working within their subject areas.
- Classroom aides have Associate of Arts Degrees (AA) and/or a proficiency certificate in either reading or math.
- Instructional specialists help teachers focus on student achievement in math and English/Language Arts. Beginning teachers receive additional support.
- Interviewees reported marked improvement in staff morale and student behavior.
- District-wide staff development is on-going to establish consistent behavioral norms that foster positive social development and academic achievement.²
- The Tribal community is represented on the School Board and Board members are committed to their own on-going professional development.
- A Parent/Teacher Organization (PTO) and other student-focused Tribal and community groups are beginning to form.

In February 2008, the Round Valley School Board adopted a Memorandum of Understanding (MOU) with MCOE to retain the current recovery structure for an additional 18 months. During this time, MCOE will continue its leadership role. The Recovery Specialist will serve as District Superintendent, working collaboratively with the Round Valley School Board and reporting to the County Superintendent. If the District continues to make necessary progress, a search will be undertaken for a permanent District Superintendent. MCOE will continue in an oversight role for the first 12 months under the new administrator.

Methods

¹ Information on the State Accountability Academic Performance Index (API) is available online at <http://www.cde.ca.gov/>

² A description of the *Positive Behavioral Interventions and Supports* professional development program is available on the National Technical Assistance Website at <http://www.pbis.org/>

The Grand Jury reviewed numerous documents and websites of the California Department of Education (CDE) and Mendocino County Office of Education. Jurors conducted four school site visits and interviewed MCOE and RVUSD administrators, consultants, teachers, students, safety personnel, School Board Members and staff of the Round Valley Tribal Administration.

Background

As part of an ongoing review of Mendocino County school districts, the 2007-08 Grand Jury conducted an oversight of RVUSD Elementary/Middle and High Schools. Located in the town of Covelo, approximately one and one-half hours northeast of Willits, the District serves youth from the Round Valley Tribal Community and the surrounding rural area.

Round Valley's 224 Elementary/Middle School students and 111 High School students are among the most geographically and culturally isolated in the State.³ Poverty is so pervasive that 100% of them qualify for free school breakfasts and lunches through the National School Lunch Program.

Administrative turnover and an on-going leadership crisis have steadily eroded educational programs. In 2004, after student test scores plunged into the bottom 1% in the State, Round Valley Elementary/Middle School became subject to State intervention by a School Assistance Intervention Team (SAIT). In 2007, low test scores qualified Round Valley High School for a "high priority grant" for supplemental teacher professional development. This is the first stage of intervention for low-performing high schools.⁴

Since the SAIT process was initiated, RVUSD has worked closely with MCOE to ensure that:

- 100% of teachers are credentialed and teaching in their areas of certification;
- all students have access to State-approved curriculum materials;
- classroom instruction is closely structured to foster achievement of State-mandated standards for Math and English/Language Arts (ELA);
- fiscal, personnel and facilities management systems are in order;
- governing RV School Board Policies are current and publicly disseminated.

Once a school has been identified for intervention, it has five years in which to raise its Academic Performance Index (API) two years in a row. The API is based on annual STAR (California Standardized Testing and Reporting) results. It is one way that the State holds a school accountable for educating its students. When students fail to

³ CBEDs data as of January 22, 2008.

⁴ Pursuant to Education Code Section 52055.5, schools not meeting growth targets and failing to show significant growth are subject to state sanctions including assumption of all legal rights and powers of the governing board and reorganization or closure of the school.

show required improvement, the State can take over, establish a charter school, or even close the entire District.

Round Valley Elementary School students have gained more than 200 points on their API score since the intervention began in 2004. In 2006-07 students demonstrated a 42 point gain; however, the school has yet to show improvement *two years in a row*.

Test performance in the High School has been less encouraging than in the Elementary School. In 2006, several families allowed their students to *opt out* of testing. Other students chose not to follow the test procedures. Resulting test scores did not accurately reflect student learning. An error in reporting the school drop-out rate contributed to the State's rejection of the year's scores.

Current goals for K-8 students are to continue the positive attendance and academic trends, and to prepare youth for a smooth transition to high school. At the high school level, improved attendance is the paramount goal because it is a necessary condition for improving academic achievement and graduation rates.

Findings Re: Demographics and Other External Factors

1. Round Valley Tribal youth comprise 75-80% of the District's ~ 350 students.
2. Unemployment in the valley is ~ 56%. Housing is limited and costly in relation to available jobs.
3. The illegal drug industry dominates the Round Valley economy.
4. One-hundred-percent (100%) of RVUSD students qualify for free meals through the National School Lunch Program. Meals are prepared in a central kitchen and served in the District's multi-purpose room.
5. Many students experience domestic violence and unstable home environments. Abuse of alcohol and illegal drugs is widespread.
6. Round Valley has few coordinated programs that focus the schools, Tribe and other community members on strong families, healthy children and academic success.
7. Deeply embedded family loyalties discourage organized gang activity, but, on occasion, family rivalries lead to divisive and violent behavior.
8. Round Valley residents have limited access to medical and dental care, counseling, and other health-related services.
9. Transportation is a chronic problem. The tradition of traveling as a family outside the Valley interferes with school attendance and disrupts learning.
10. The number of working adults is reduced by a lack of local jobs, making it difficult to enlist experienced people to work as Regional Occupation Program (ROP) instructors or to volunteer in the schools.
11. Due to isolation and economic conditions, some families leave Round Valley to seek more prosperous conditions. These factors also make it difficult to attract and retain teachers, staff, and other public service employees. They directly impact student social development and academic achievement.

Findings Re: Campus and Classroom Facilities

12. The campus consists of a K-8 Elementary/Middle School, the High School, Community Day School, Pre-School, ROP shop and agricultural facilities, a music studio, and counseling and tutorial spaces. Students share a gymnasium, central kitchen and multi-purpose room/cafeteria.
13. The campus is fenced and gated on the main street. Gates remain open during the day and are locked at night and on weekends.
14. The main school buildings were constructed in 1959. Several more recent permanent structures and modular units also house classes. All are in reasonably good condition.
15. The District maintains athletic fields for track, football, soccer and baseball. Well-maintained separate playground areas are provided for the pre-school center and elementary students. Updated equipment is in sound condition.
16. A new central heating system, installed in 2007 in the gym and main high school buildings, has made these buildings more comfortable and is also more energy efficient than the original boiler system.
17. A recently installed phone system makes it possible to communicate with teachers in their classrooms in the event of an emergency.
18. The classrooms, library, and ROP technology lab have updated computers and high speed Internet access acquired with ROP and grant funding.
19. A misunderstanding concerning wiring of the technology lab resulted in exposed outlets and cables that create serious trip hazards. Risks remain despite the use of highway cones to mark outlets.
20. Classrooms cannot be locked from the inside. Jurors were advised of the intention to install appropriate interior locks.
21. Most of the students ride District buses to school. Busing is provided for off-campus sports events and other school activities. The District has a bus barn and a full time mechanic to maintain its bus fleet.
22. Classrooms were clean and well lit. Evacuation maps and the Williams Uniform Complaint Policy were posted in classrooms. No graffiti was observed during Grand Jury visits. The amount of litter was minimal. Policy dictates that when vandalism occurs, it is promptly repaired.

Findings Re: School Culture/Academic and Behavioral Norms

23. Average daily attendance (ADA) in 2006 for the elementary/middle school was 88%; the goal for 2007 is 92-95%.
24. The high school ADA of 75% in 2005-06 is currently closer to 70%.
25. Some students miss school to fill lucrative jobs in the marijuana industry.
26. Not all students and families fully understand that successful learning depends on regular school attendance.
27. High school students and their parents are required to sign a statement acknowledging that they have read and agree to abide by school policies and procedures and guidelines for student behavior.

28. School Board policies set attendance and academic standards for participation in team sports that are highly valued by students and the community. Varsity and JV sports are cancelled when there are not enough players who meet the academic requirements.
29. The School Attendance Review Board (SARB) has been reinstated and truant students are referred for disciplinary action.
30. Incentives are offered for families, students, and classes to encourage regular attendance. Incentives, such as treats, art projects, and first access to the swimming pool are also built into after-school and summer programs to encourage participation and regular attendance.
31. The administration is committed to maintaining the school campus and a 100' perimeter as a safe zone: "...no drugs, no bullying, no bigotry." However, some younger and other vulnerable high school students are still subjected to hazing.
32. A zero tolerance policy for alcohol, tobacco and other drugs is rigorously enforced on campus. Alcoholic beverage containers, once observed in large numbers on campus, are now seen much less frequently.
33. Marijuana-related incidents occur at both the Elementary/Middle and High Schools. They are dealt with promptly in accordance with published disciplinary policies.
34. Clothing that displays drug-related or other inappropriate messages, including "gang colors," is not permitted.
35. A "Hats Off" rule in classrooms and the cafeteria has been instituted across grade levels as a symbol of respect.
36. A strong emphasis on respect and individual responsibility was evident in interviews with teachers and administrators, and in mottos and themes observed in classrooms, offices, the library and cafeteria.
37. Depictions of cultural and ethnic diversity are apparent in posted art, academic work, advertised activities for students and families, and murals produced by students and teachers with direction by a local artist.
38. Celebrations of Tribal Culture, sports events, musical programs, back-to-school nights and graduations are all well-attended by families and other community members.

Findings Re: Health and Safety

39. A nutritionist is responsible for daily school menus. Participation in meal programs is universal among elementary students, but is lower among high school students.
40. A full-time Licensed Vocational Nurse serves all RVUSD students during school hours.
41. The Round Valley Indian Health Center (RVIHC) has an MOU with the District to provide medical care for students. RVIHC also promotes teen fitness and informs youth about the risks of obesity and diabetes. Programs discourage use of all forms of tobacco, alcohol and illegal drugs. The Center's grant-funded Fit Teen Program provides classes and field trips.
42. The District purchases accidental-injury insurance that covers all students during school hours and during school-related activities.

43. The Covelo Volunteer Fire Department provides essential fire safety and emergency medical services and regularly inspects campus facilities and fire extinguishers. Fire drills are conducted regularly.
44. RVUSD is working with MCOE to develop a fully coordinated emergency response plan and to engage youth in emergency preparedness by establishing the Teen CERT (Community Emergency Response Team) program.
45. Lockdown drills have been discussed but have yet to be implemented.
46. The District has received a grant to secure video surveillance cameras for the campus but has not yet acquired and installed them.
47. State categorical funding currently provides a Campus Security Supervisor, who is on the grounds during school hours and sporting events to monitor student behavior and intervene as necessary. Continued funding for this position is uncertain.
48. Two resident Sheriff's Deputies were hired in spring of 2008 to fill long-standing vacancies and serve Round Valley.
49. In keeping with long-standing tradition, Tribal Police provide back-up when needed. Tribal Police have a good working relationship with the District although an MOU is not yet in place to formalize the relationship.

Findings Re: Courses, Instruction and Academic Performance

50. The Elementary/Middle School API score for 2006-07 was 594. This reflects a 42 point increase over the 2005-06 score of 552.
51. The High School API for 2005-06 was 552. Test results for 2006-07 are not available.
52. In June 2007, of the 25 seniors: 14 graduated; one received a certificate of completion; 13 passed the California High School Exit Exam (CAHSEE) with minimally acceptable scores.
53. Under SAIT restrictions, elementary teaching is strictly monitored to focus on math and English/Language Arts instruction (ELA). Tutorial, after-school and summer programs also focus on math and ELA for elementary students and on the CAHSEE for high school students.
54. Educational emphasis is on raising performance of low-achieving students.
55. Honors and Advanced Placement classes are not regularly offered for college-bound youth. Arrangements can be made for online courses. These are offered at no cost through the University of California Advanced Placement Program. Local school support for online classes is not currently available.
56. There are no high school science labs.
57. A vast majority of RVUSD students remain in Round Valley as adults. ROP hands-on learning engages students and is seen as most relevant to their lives.
58. The ROP program offers classes in Culinary Arts, Computers, Advanced Computers, Desk Top Publishing, Web Design, Ornamental Horticulture, Ag Mechanics and Animal Science. The District has facilities for additional ROP classes in auto mechanics, welding and woodworking. Teachers have yet to be found with these qualifications. Courses in fashion design and recording arts have also been proposed.

Findings Re: Instructional Staff

59. The average elementary/middle school class size is 18-20.
60. All regular classroom teachers are credentialed and teaching in their area(s) of certification.
61. Five of 16 current elementary teachers are in their first or second year of teaching. They participate in the Beginning Teacher Support and Assessment Program (BTSA) offered on site by arrangement through MCOE. All teachers receive support through MCOE as part of the SAIT process.
62. The elementary school's 10 classroom aides all have AA Degrees and/or a Math or English Proficiency Certificate.
63. Retirements have left several critical staff vacancies for ROP instructors and for a Speech Therapist. Staff restructuring has provided leadership for the High School and Independent Studies/Continuation School effective 2/25/08.
64. Scarcity of affordable housing, isolation, and limited social activities were all cited as reasons teachers leave the district.
65. Teachers are recruited through *Ed-Join*, a statewide internet site for public school job postings and applications. Applicants are interviewed in Round Valley after on-line screening. The District has been successful in recruiting employees raised in Round Valley.
66. The RVUSD Superintendent checks references for prospective hires. Fingerprinting is documented by the District and credentials are confirmed and filed with MCOE.
67. RVUSD has covered the full cost of medical insurance for its employees and this was repeatedly described as an important incentive to work for the District. Current year contracts are not yet finalized.
68. Beginning teacher salaries in Round Valley are the highest in Mendocino County. Salaries for experienced teachers are at mid-level for the County.

Findings Re: The Administration and School Board

69. In the past five years, there have been four (4) superintendent changes, four (4) high school principals and five (5) elementary school principals. The District currently lacks a business manager. These frequent leadership changes have eroded educational programs by undermining the District's management systems, disciplinary procedures and classroom instruction. Relationships between the schools, the Round Valley Tribe, and other community members have suffered.
70. In June of 2007, MCOE assigned a Recovery Specialist to serve as District Superintendent and lead an Intervention Team; additional team members were assigned in fall of 2007.
71. In February 2008, the School Board adopted an MOU with MCOE to retain this leadership structure for the next 18 months. The Recovery Specialist will serve as District Superintendent, working collaboratively with the Round Valley School Board and reporting to the County Superintendent.⁵

⁵ Pursuant to Education Code Section 1240, the County Superintendent is required to "Superintend the schools of his or her county" and to "learn of its problems." Education Code Sections 1241.5 and 42127.6 provide additional authority and responsibilities relative to fiscal oversight duties.

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72. The MOU stipulates that if the District continues to make necessary progress, a search will be undertaken for a permanent District Superintendent. MCOE will continue in an oversight role for the first 12 months under the new administrator to assure sustainability.
73. RVUSD currently contracts with MCOE to provide financial services and to establish tracking systems for students and personnel.
74. RVUSD spends more per student than the average within Mendocino County. Sources of supplemental funding include Forest Reserve Funds through the Bureau of Indian Affairs (BIA).
75. RVUSD has cash reserves and owns property adjacent to the school campus.
76. The projected 2007-08 budget was based on anticipated State funds. It was in balance, with a 5% contingency reserve. However, the 1st Interim Budget update reflected deficit spending of \$319,316. Considerable State budget uncertainty remains.
77. BIA funding is declining. In 2008, Forest Reserve Revenue of \$207,154 will phase out. Grants are an increasingly important funding source.
78. Two of the five RVUSD School Board members are employees of the Round Valley Tribe. Board Members have participated in group trainings for the past two years and have approved funds for additional training in 2007-08.
79. The Board Chair recently completed the California School Board Association (CSBA) Masters in Governance Program, a 60-hour professional development program for school board members. Three other board members are at various stages of completing this program.
80. The Board is in the process of reviewing all school policies with support from the CSBA. When completed, policies will be maintained on the CSBA website.

Recommendations

The Grand Jury recommends that Round Valley Unified School District:

1. establish an on-going public forum to foster school/community discussion and widespread engagement with the recovery process; (Findings 5-7, 9, 26, 30-35, 38, 49, 64, 70-72)
2. complete an emergency response plan, including implementation of the Teen CERT Program; include campus health and safety personnel and representatives from the Sheriff's Office, Tribal Police, and Fire Department in the planning process; (Findings 44, 45, 49)
3. develop a lockdown plan, conduct periodic lockdown drills and install interior locks on classroom doors; (Findings 13, 20, 45)
4. install outside video surveillance on the campus; (Findings 7, 13, 31, 32, 33, 46)
5. finalize an MOU between RVUSD and the Round Valley Tribal Police; (Findings 3, 5-7, 25, 29, 33, 44, 49)

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6. identify ways to support higher achieving students with advanced coursework, college counseling, and financial aid information; make these opportunities widely known to students and their families; (Findings 6, 28, 30, 54-58)
7. expand on current incentive programs and other efforts to engage and build family support for regular school attendance and academic achievement; (Findings 6, 7, 9, 11, 25, 26, 28, 30, 38, 41, 42, 54, 55, 57, 58)
8. explore the possibility of developing employee rental housing on District owned property; (Findings 11, 64, 75)
9. develop a centralized process for submitting and tracking applications for grants and other supplemental resources available to the District and/or through collaboration with the Tribal Council; (Findings 9, 10, 11, 73, 74, 76, 77)
10. explore collaboration with County of Mendocino Department of Public Health Division of Alcohol and Other Drug Programs (AODP) to supplement existing anti-drug and alcohol programs for students and their families; (Findings 3, 5, 6, 8, 25, 26, 31-33, 36, 37, 41)
11. correct trip hazards created by wiring and outlets installed in the Technology Lab. (Findings 18, 19)
12. The Grand Jury also recommends that Mendocino County Office of Education offer its full support to the expansion of Round Valley ROP and that it increase efforts to recruit and certify instructors for these programs. (Findings 10, 12, 18, 30, 37, 52, 54, 58, 63, 65, 75)

Comments

The Grand Jury has attempted to:

- identify factors underlying the District's decline;
- document the recovery efforts by the current Intervention Team and the dedicated teachers, staff, school board members, students and other community members.

Poverty and widespread abuse of alcohol and illegal drugs in Round Valley undermine family stability and are serious obstacles to the development of the community's children and youth. Irregular school attendance interferes with learning.

Strong leadership was described as the most important factor for improving the quality of the District's schools. Jurors heard promising reports of improved staff morale and student behavior. A Parent Teacher Organization and other school/community partnerships are beginning to form. Also noteworthy, is the emphasis on expanding the number of ROP classes that engage students in hands-on learning that is directly relevant to their lives and potential future occupations.

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Repeated site visits made it clear that continued MCOE support and even broader student-focused community involvement will be needed if Round Valley youth are to reach their full potential. Round Valley has experienced many academic peaks and valleys; the challenge is to preserve the impressive but fragile gains that have been made and to achieve a high and sustainable plateau.

On an early visit to Round Valley, Jurors learned of a new District-wide policy requiring the removal of hats when students are inside the school. In the short time, since the term had begun, this traditional gesture of respect was surprisingly noticeable...both in the relative uniformity of its enforcement and in the apparent willingness of most students to comply. After years of declining discipline, accountability, morale, and performance, most teachers and many students appeared to recognize the rule as symbolic of positive change. Every journey begins with a single step, and in Round Valley, the "hats off rule" may well prove to be that first critical step toward renewed respect and personal responsibility.

Our hats are off to those who are making success a reality in this exceptionally challenging environment.

Required Responses:

Superintendent, Mendocino County Office of Education (All Findings; All Recommendations).

Mendocino County School Board (All Findings; All Recommendations).

Recovery Specialist/Superintendent Round Valley Unified School District (All Findings; Recommendations 1-11).

RVUSD High School Principal (Findings 1-22, 24-46, 51-58, 60, 63-65, 67-69; Recommendations 1-4, 6, 7 and 11).

ROP Director (Findings 10-12, 18, 57, 58, 63; Recommendations 7, 11 and 12).

RVUSD Elementary Principal (Findings 4-6, 23, 26, 33, 39, 45, 50, 53, 54, 59-62; Recommendations 1-4, 6, 7, 10).

RVUSD School Board (All Findings; All Recommendations).

Mendocino County Sheriff (Findings 3, 5, 13, 17, 20, 25, 29, 31, 33, 44-49; Recommendations 1-4).

County of Mendocino Department of Public Health, Director of Alcohol and Other Drug Programs. (Findings 3, 5, 6, 8, 25, 26, 31-33, 36, 37, 41; Recommendation 10).

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Mendocino County Board of Supervisors (Findings 3, 25, 29, 33;
Recommendations 1, 2,10).

Requested Responses:

Chief, Round Valley Tribal Police (Findings 3, 5, 25, 29, 31, 32, 44, 45, 49;
Recommendations 1, 2, 3, 5).

Round Valley Tribal Council (Findings 5-7, 9, 25-27, 28, 30-35, 38, 49, 69, 78;
Recommendations 1, 2, 5, 9, 10, 12).

Round Valley Tribal Health Center (Findings 5, 6, 8, 9, 25, 41, 44;
Recommendations 1, 2, 9, 10, 12).

Covelo Fire Department (Findings 17, 19, 20, 43-45; Recommendations 1, 2, 3).

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HOOPS...NOW!
Fort Bragg Unified School District Alternative Schools

June 9, 2008

Summary

The 2007-08 Grand Jury continued a review of the Fort Bragg Unified School District (FBUSD) Alternative Schools that began in 2006.¹ Students in these schools are referred because of the need for a more structured learning environment; most have been suspended or expelled from the mainstream school campuses; many are on probation.

Mendocino County Juvenile Court policy is to place probationary youth in the least restrictive intervention program, with the most restrictive being full-time residence in Juvenile Hall. This policy results in youth with serious behavioral issues including substance abuse and gang affiliations, being returned to their home communities. Local school districts are required by law to provide appropriate public education to all students until the age of 18.

FBUSD operates an adult education program and three alternative schools for youth from the entire Mendocino coast:

- Shelter Cove Community Day School (Grades 6-8; 360 instructional minutes/day)
- Lighthouse Community Day School (Grades 9-12; 360 instructional minutes/day)
- Noyo Continuation High School (Ages 16-18; 180 instructional minutes/day)

All three schools provide highly structured, individualized instruction and limited support services that emphasize positive student behavior and academic progress toward a high school degree or equivalency certificate. A low student/teacher ratio permits extra support for students whose life experiences and behavior place them at serious risk of academic and/or societal failure.

The 2007-08 Grand Jury found facilities and classrooms to be clean, well organized and free of debris or graffiti. Landscape maintenance at the Lighthouse/Noyo site was not at the level observed at the District's main campuses. Two sports courts, bond-funded four years ago, have yet to be constructed.

Campus security remains a concern, particularly in view of documented student behavioral problems, gang affiliations and substance abuse. The staff relies on 911 to summon assistance in the event of an emergency. Exterior video surveillance is planned, but not yet in place. Classrooms are not equipped with interior safety locks, and some rooms lack window coverings that would shield occupants from view in the event of an emergency. Required emergency drills focus on fire and earthquake readiness; lockdown drills have not been a priority.

¹ The 2006-07 Report on Lighthouse School and the FBUSD response are posted at: www.co.mendocino.ca.us/grandjury/

During 2007-08, the alternative schools operated under experienced interim leadership while seeking a new principal. Staff morale was markedly improved compared to the previous year, despite reports that the student population was even more challenging. The challenges and stress of working with these students was mentioned repeatedly as a factor in the high turnover of leadership, teachers and aides.

Teaching students with a wide range of academic, behavioral and social issues requires skills that are not routinely taught in regular teacher education programs. The District acknowledges that *...the amount of time and training available are inadequate for the demands of the job.*² The small size and physical isolation of the Fort Bragg programs make it extremely difficult to provide an effective professional support network for both the students and teachers and for staff to access on-going skill development.

Methods

The Grand Jury reviewed documents, conducted two site visits to the Fort Bragg Alternative Schools and interviewed FBUSD administrators and teachers. Jurors also reviewed documents and conducted a site visit and interviews to understand the alternative school programs provided by the Mendocino County Office of Education (MCOE). Additional interviews were conducted with staff of Juvenile Probation and the County's Alcohol and Other Drug Programs (AODP).

Background

Fort Bragg Unified School District serves approximately 1,934 students at one comprehensive high school, one middle school, three elementary schools and three alternative schools. Fifty-seven percent of the students are non-Hispanic Whites and 34% are Hispanic/Latino. All other groups combined constitute 9% of the population. Twenty-percent of the students are English Language Learners. Approximately 50 students are served by Fort Bragg's three alternative schools.

The Mission Statement of the Fort Bragg Unified School District Alternative Schools is:

...to provide quality individualized education so that each student will become fluent in basic skills and core content knowledge, develop adequate social skills and earn a diploma or equivalent.

Alternative schools are designed to provide an educational placement for high-risk students, as required by law until the age of 18. They serve students whose behavior places them at serious risk of school and/or societal failure. Alternative schools must meet the same state standards for curriculum, instruction and student performance as traditional schools, but they pursue these objectives by offering a more structured setting and highly individualized support and instruction. Primary goals are to foster

² This quotation was excerpted from the *FBUSD Single Plan for Student Achievement 2007-2008*, that was approved by FBUSD Board on December 11, 2007.

positive behavior, student engagement and academic achievement through a lower student/teacher ratio, and by thoroughly understanding the students' needs, interests and learning styles.

MCOE administered the alternative schools in Fort Bragg until 2000. At that time, FBUSD secured funding through the Necessary Small Schools to fund, manage and maintain their own alternative programs. The change in jurisdiction from MCOE to FBUSD improved administrative oversight but resulted in fewer support services for students and teachers.

FBUSD operates an adult education program and three Alternative Schools: Lighthouse Community Day School (grades 9-12); Shelter Cove Community Day School (grades 6-8); and Noyo Continuation School (ages 16-18).

Historically, the coastal City of Fort Bragg has depended on lumber and fishing for its economic well being. Both industries are in decline with tourism becoming the mainstay of the economy. A decline in employment opportunities, with an increase in service industry jobs, is contributing to pervasive problems related to poverty, substance abuse and gang activity. The lives of many students and their families are impacted by these changes. One FBUSD report states that:³

- parental participation on Alternative School committees and activities is very low;
- 90% of FBUSD Alternative Schools students are regular users of alcohol and/or other drugs;
- an increasing number of students in all three alternative schools claim gang affiliation;
- in 2006-07, 39% of Shelter Cove students were on juvenile probation;
- during the same period, 85% of Lighthouse students were on juvenile probation and 57.5% of these students spent some period of time in Juvenile Hall.

FBUSD is responding to these challenges with a combination of early intervention and community engagement.

- The District is playing a lead role in a consortium of community organizations that promotes community awareness concerning gang affiliations and violence.
- To counteract the influence of gangs, the primary anti-gang focus for the District is on early prevention and interventions at the elementary and middle schools. The fifth grade curriculum includes the *GRIP Program (Gang Resistance is Paramount)*.
- FBUSD recently established a weekly class, with CalSAFE funding, to serve pregnant minors and young parents.
- The District SARB (Student Attendance Review Board) meets monthly to review truancy cases with support of the Mendocino County District Attorney. The focus is on elementary and middle school students and their parents.
- Community outreach has resulted in support by numerous businesses and organizations.

³ Excerpted from the FBUSD Single Plan for Student Achievement 2007-2008, approved by FBUSD Board on December 11, 2007.

Fort Bragg's Alternative Schools play an important role in the District's overall strategy to meet the challenges it faces.

Findings

General Findings about Fort Bragg Alternative Schools

1. Alternative Schools are designed to provide structured, highly individualized educational placements for at-risk students, as is required by law until the age of 18.
2. Alternative School students demonstrate a wide range of academic development. Their behavior places them at serious risk of school and/or societal failure.
3. A student may be assigned to Community Day School or Continuation School if he or she:
 - is expelled from middle or high school
 - is probation-referred
 - is referred by School Attendance Review Board (SARB) or by a district-level referral process
 - is self-referred (voluntary enrollment).
4. The Fort Bragg Alternative Schools Office, Lighthouse (two classrooms), Noyo (two classrooms), the Fitness Room, and Shelter Cove (one classroom) are housed in well maintained modular units located in eastern Fort Bragg. All units are handicapped accessible. Evacuation plans and the Williams Act Complaint Policy are posted and fire extinguishers were observed in the classrooms.
5. Classrooms are equipped with hard-wired telephones. Cell phones are assigned to teachers for classes using the Lighthouse/Noyo fitness room.
6. Lighthouse and Noyo are on a closed campus roughly two blocks away from the Shelter Cove classroom which is next to the District offices. At the time of the site visits, grounds were free of trash or graffiti, however, landscape maintenance at Lighthouse/Noyo was not at the level observed at other FBUSD sites. The perimeter strip between the parking lot and the street was not weeded and mowing of the field between the alternative schools and the main high school stopped several yards from the alternative school buildings.
7. All classrooms appeared well organized, student oriented, and had current state adopted core curriculum books and materials.
8. Technology was evident in every instructional classroom, with an ample number of computers and printers. Students have monitored access to the Internet to help them develop computer literacy.
9. All of the students receive free meals provided on site.
10. A stringently enforced code prohibits gang attire and colors, drug-related messages and other clothing or accessories likely to interfere with a positive campus atmosphere.
11. Juvenile Court policy is to place probationary youth in the "least restrictive intervention program," with the most restrictive being full-time residence in Juvenile Hall. This policy results in youth with serious behavioral issues being returned to their local school districts, which are required by law to serve them.

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12. Court designated schools serve probationary and incarcerated youth in Mendocino County. Some serve only incarcerated or probationary youth, others, like Lighthouse Community Day School also serve some students who are not referred by the courts but who require the more structured learning environment.
13. One Deputy Probation Officer, Juvenile Division, is assigned to provide court supervision for all probationary youth on the entire Mendocino County coast.
14. The Deputy Probation Officer interacts with probationary students on a regular basis. The Officer is the liaison between the Juvenile Court and the students.
15. One gang specialist works out of Willits to cover both the north county and coastal areas.
16. School attendance is a condition of probation. Truancy can result in a youth being placed in Juvenile Hall.
17. When a student re-enters the class after being in Juvenile Hall, it can create a significant disruption in the atmosphere of the classroom.
18. In the event of a serious problem the Fort Bragg Police or Mendocino Sheriff's Department is contacted; response time was described as "adequate."
19. A grant-funded School Resource Officer (SRO) serves as a community liaison between the schools and the Fort Bragg Police Department. His role is to promote positive community relations.
20. A single site administrator is responsible for all three Fort Bragg Alternative Schools and the Adult School.
21. High turn over in administrative personnel over the last several years has made a lack of consistent, effective leadership an issue with the staff.
22. Being bilingual has helped the current principal to establish rapport with parents. This principal was formerly at the middle school and has established relationships with many of the alternative school students.
23. The staff members who were interviewed are all experienced and are teaching in their areas of certification. They actively engage their students in pursuing educational goals that are aligned with State standards.
24. *"...Teaching students with behavioral and social issues requires a specific group of skills that are not routinely taught in regular teacher education programs. The amount of time and training available are inadequate for the demands of the job. **Assistance is needed to train and support teachers dealing with mentally and emotionally demanding students (sic).**"⁴*
25. Five Professional Development Days are scheduled annually.⁵
26. FBUSD middle and high school teachers teach five periods per day and have one conference/prep period. At Lighthouse and Shelter Cove, the instructional day is six full periods (360 minutes) plus breaks and lunch time. Hence, teachers at the alternative schools have no conference/prep period comparable to their peers at the middle and comprehensive high schools.
27. All district instructional aides must hold an associate of arts degree and/or pass a proficiency test.

⁴ Excerpted from the FBUSD Single Plan for Student Achievement 2007-2008, approved by FBUSD Board on December 11, 2007.

⁵ "Professional Development Days" are contracted as paid days to be used for teacher professional development.

28. An administrative policy clearly states that an instructional aide may not be left alone in the classroom with students.
29. It is extremely difficult to recruit qualified bilingual aides in the Fort Bragg area. The current alternative school aides are not bilingual.
30. No nurse or nurse's aide is assigned to this campus. When an accident occurs, the office determines whether or not a 911 call should be made and contacts the family. In some cases, the secretary/administrative designee will transport the student home to a parent.
31. The entire staff assumes the role of a counselor when students are in need of a caring concerned adult.
32. Students are under strict supervision. A "5-level system" is in place at all the sites through which students earn freedom and privileges. They advance from "Tin" to "Gold" by improving attendance, academics and behavioral performance. Each level has incentives for the students such as snacks, treats and possible field trips.
33. The District SARB meets monthly to review truancy cases. The focus is on elementary and middle school students and their parents. As a result, average daily attendance has improved significantly at these sites.
34. Cultural, language and economic barriers make it difficult to engage parents in school site councils, committees and activities.
35. Discipline backup is provided to classroom teachers by the alternative schools' principal and the office secretary, a credentialed teacher who is also the administrative designee when the principal is off campus.
36. A majority of the principal's time is spent on discipline.
37. Isolated incidents of gang violence have occurred on campus.
38. Juveniles with proven gang affiliations are required to register at the Fort Bragg Police Department.
39. FBUSD has played a lead role in fostering community awareness concerning gang affiliations and violence. The District works closely with Fort Bragg Police Department, the Mendocino County Sheriff's Department and a wide range of community based organizations to curtail the incursion of gangs.
40. The primary anti-gang focus for the district is on early prevention and interventions at the elementary and middle schools rather than at the comprehensive high school and alternative schools. To counteract gang exposure, the fifth grade curriculum includes the *GRIP Program (Gang Resistance is Paramount)*.
41. FBUSD recently established a weekly class, with CalSAFE funding, to serve pregnant minors and young parents. The emphasis is on helping them access a variety of community based resources.
42. Staff stated that they are not afraid of a serious crisis on campus, but they acknowledge that the potential exists for one to occur.

Findings about Shelter Cove Community Day School

43. Shelter Cove Community Day School (grades 6-8) serves middle school students who have behavioral and attendance problems that interfere with academic performance. The maximum capacity is 12 students in a single self-contained classroom.
44. Shelter Cove students have been suspended or expelled, identified as habitual truants, are on juvenile probation, or are otherwise referred.
45. One credentialed teacher and a full-time instructional aide provide individualized, self-paced instruction to 11 students.
46. Shelter Cove's goal is for students to complete middle school and transfer to the comprehensive high school program or to the self-contained transitional classroom for ninth graders at Fort Bragg High School. At the age of 16, they have the option of attending Noyo Continuation School to earn a diploma or high school equivalent.
47. The classroom focus is on positive behavior and individualized instruction that is aligned with California State standards.
48. Gender balance is currently equal, which encourages positive behavior.
49. Four of the students are on probation. A Deputy Probation Officer, Juvenile Division, regularly visits these students.
50. Big Brother and Big Sisters administers a grant that pays for unique afternoon classes four days a week in cooking, art, gardening and health. Students walk to the Noyo Food Forest for gardening activities, and to St. Michael's Church for cooking and art classes. Mendocino Sports Club has made its facilities available, at no cost, for weekly workouts.
51. These community supported afternoon classes enrich student learning and provide incentives to complete required academic work in the morning.
52. The school site provides no recreational facilities for these active youth who desperately need outdoor activities. A half basketball court for Shelter Cove is included in the FBUSD 2007-08 facilities plan but has not yet been built.
53. Redwood Elementary School, which is located about a block away, is unwilling to share its playground with these older students. Likewise, the Shelter Cove teacher prefers to separate the middle school students from the youth who attend Lighthouse.
54. Fire drills are coordinated with the Redwood Elementary School.
55. The School Resource Officer visits the classroom once a week.
56. The District contracts with the Youth Project to provide a crisis intervention paraprofessional who meets individually with Shelter Cove students on a weekly basis to provide social/emotional support. This Youth Worker is supervised by a Licensed Clinical Social Worker.

Findings about Lighthouse Community Day School

57. Lighthouse Community Day School (grades 9-12) provides educational services to students who have been expelled or suspended from their comprehensive high school, are on probation, are wards of the court or are under the protection of the court because of neglect or abuse. Required instructional time is 360 minutes per

- day plus breaks and lunch; there are no minimum days to allow for teacher development.
58. The maximum capacity is 24 students in two classrooms with a fitness room that is shared with Noyo Continuation High School. A basketball/sports court for Lighthouse and Noyo is included in the FBUSD 2007-08 facilities plan but has not yet been built.
 59. Current enrollment is 13 but only about half of the students are present on a typical day. Absences occur for a variety of reasons, including placement in Juvenile Hall.
 60. All students in the current class are on probation. Truancy is a violation of probation and can cause a student to be placed in Juvenile Hall. When students go back and forth between Juvenile Hall and their local school this disrupts their own learning and the classroom environment.
 61. Lighthouse is staffed by two credentialed teachers and a classified aide who is present during the instructional day. Students are sometimes combined in a single class. At other times, they are divided by grade level into two groups.
 62. The FBUSD Resource Specialist provides additional instructional support to one student who is on an Individualized Educational Plan (IEP).
 63. A supervised Youth Worker from the Youth Project sees the students as a group one day a week for approximately 30-40 minutes.
 64. Behavioral improvement and regular attendance are top priorities. Core subjects are taught in the morning and electives in the afternoon with an emphasis on fostering student engagement with the curriculum.
 65. Some students attend Regional Occupations Programs (ROP) at Fort Bragg High School.
 66. Lighthouse students must have written permission from their principal and from the Fort Bragg High School principal to attend sports events or other high school activities.
 67. The budget for Lighthouse was described as sufficient to meet the students' instructional needs.
 68. The School Resource Officer is rarely on this campus.
 69. Most students are bilingual but many parents are not. The ability to speak Spanish is useful in communicating both with students and with their parents.
 70. Most staff who were interviewed stated that the students in Lighthouse this year have been more challenging than in previous years. Twelve of thirteen current students identify either with the Norteños or Súrtenos; gang affiliation (and 'wannabes') is an increasing problem on-campus and in the Fort Bragg Community.

Findings about Noyo Continuation High School

71. Noyo Continuation High School (Noyo) serves students 16-18 years of age who fall behind on high school credits, need a more structured learning environment, or who have jobs or other responsibilities that interfere with traditional high school schedules. Students attend four and one-half hours per day. Noyo has two classrooms, with a maximum enrollment of thirty students and shares a fitness room with Lighthouse School.

72. The 27 students currently enrolled at Noyo are working on accruing the necessary credits and passing scores on the California High School Exit Exam in order to graduate.
73. Noyo students tend to stay because of the individual attention, small class size, flexible scheduling and the "feeling of a family unit."
74. Two fully credentialed teachers share the teaching responsibilities. One teaches U.S. History, English, Government, Science and Fine Arts; the other teaches Economics, Math, PE, World History and Technology. Instruction is highly individualized and self-paced.
75. All seniors are required to develop a Career Portfolio as their senior project. It must include a resume, letters of recommendation, job experiences, and sample job applications in areas of interest. Students share their portfolios in a PowerPoint presentation to the class as part of their final exam.
76. In 2006-07, eight of the students were employed and received credit for work experience that was monitored by a work experience coordinator. At the time of the Grand Jury's site visit in 2008, one Noyo student was earning work experience credit.

What is Missing at the Alternative Schools?

77. Students and teachers in north county and coastal Continuation and Community Day Schools receive significantly fewer resources from County agencies than those who live in the Ukiah Valley. Teachers lack the stable leadership and peer support available to their inland colleagues.
78. In response to Grand Jury questioning, some alternative school personnel reported a lack of support from the Fort Bragg District Office; others described the support as satisfactory.
79. A single Juvenile Probation Officer is responsible for the entire coast.
80. An AODP (Alcohol and Other Drugs) program that was offered at Shelter Cove was discontinued due to loss of funding. Willits and Fort Bragg share an Intervention Specialist who has recently established a weekly "*Men's Group*" for Lighthouse and Noyo students and individual counseling for one Shelter Cove student. The site administrator strongly supports maintaining and expanding these services.
81. The professional mental health, alcohol and drug counseling services offered in Ukiah, are largely inaccessible to students on the coast.
82. A school bond that was passed approximately four years ago allocated funds for a basketball/sport court on the Lighthouse School grounds and a half basketball court at the Shelter Cove site. At the time of the Grand Jury site visit, the District had not yet developed these sorely needed facilities.
83. A high student turnover rate, irregular attendance, family resistance, and district resources all contribute to difficulty in arranging for educational and/or psychological evaluation of alternative school students.
84. Despite serving probationary youth, FBUSD Alternative Schools have no special security measures. They rely on calling 911.
85. Perimeter cameras are installed at Fort Bragg High School, but have not yet been installed at any of the Alternative Schools. Lighthouse and Noyo hold two

emergency drills each year and Shelter Cove Middle School holds monthly emergency drills as required by law, with an emphasis on fire and earthquake drills. Lockdown drills have not been a priority. Classrooms are not equipped with inside safety locks. Some windows lack coverings that would shield students from view in the case of an emergency.

Findings about Mendocino County Office of Education (MCOE)

86. MCOE operates a range of programs to serve students in need of alternative education. These include:

- Court Schools
- Community Schools
- County Community Day Schools
- Independent Study
- A CalSAFE Program at Ukiah High School for pregnant and parenting teens and their children

87. MCOE programs serve approximately 250 alternative school students at any one time and more than 500 over the course of a year at 13 sites, primarily in the Ukiah Valley. MCOE provides no alternative education programs on the coast and minimal services in Willits.

88. An MCOE Resource Specialist works full-time in the MCOE alternative education classrooms with Special Education students who are on IEPs.

89. All teachers are fully credentialed and working in their area of certification. They also have either CLAD or the SDIAE certification to work with English Language Learners.⁶

90. All MCOE paraprofessionals who serve as classroom instructional aides hold associate of arts degrees or have passed proficiency tests. Several are bilingual.

91. The staff meets weekly with counselors, probation officers, therapists and others to discuss students, discipline and academic progress.

92. Due to the high adult-student ratio at the sites, there are few gang related problems or other violent incidents.

93. State of the art video conferencing and high speed networking is available at MCOE for networking with teachers throughout the County.

94. Collaboration between Mendocino County Health Services, the Sheriff Department, Nuestra Casa, Youth Project, AODP and Juvenile Probation results in numerous services to the students in the MCOE Alternative Schools in Ukiah. Most of these services are not offered in district operated community day schools in other parts of the County.

95. Juveniles who reside out of the Ukiah Valley area are eligible to attend many of the MCOE programs, but due to transportation and time factors they are essentially inaccessible.

⁶ Information on Cross-Cultural Language and Academic Development (CLAD) certification or Specially Designed Academic Instruction in English (SDAIE) certification is readily available on several websites.

96. Mendocino County Health and Human Services Agency operates AODP. Services for juveniles are funded by grants. No County funds are specifically earmarked for AODP youth programs.
97. Most AODP grants focus on the County's more populated areas, particularly the Ukiah Valley. Some grants are written collaboratively with schools or other agencies. This is rarely the case in north Mendocino County and coastal communities.
98. AODP staff members provide small group and individual counseling for juveniles. Services include prevention, intervention and treatment. Five staff members are assigned to programs in Ukiah and one to Anderson Valley. Willits and Fort Bragg share an Intervention Specialist.
99. The MCOE Superintendent expressed a desire for all superintendents in the County to engage with MCOE in developing and expanding resources for district-operated alternative school programs.
100. FBUSD and other local school districts are co-signers with MCOE to the June 30, 2006 Triennial Plan to provide coordinated services to expelled youth.⁷ The Plan recognizes the gaps that exist in service availability to small rural school districts and proposes strategies to address the gaps at the district, regional and county level. The current Triennial Plan is up for review and revision by June 30, 2009.
101. The district of residence is required by law to develop a rehabilitation and educational plan for any student whose behavior has resulted in expulsion or who is simply in need of an educational alternative. MCOE may assist in implementation of this plan.

Recommendations

The Grand Jury recommends that:

1. MCOE and FBUSD redefine MCOE's role in the updated Triennial Plan to ensure that FBUSD and other remote districts have access to support services, such as counseling, clean and sober classes, young parents programs and professional development for alternative school staff. (Findings 24-25, 31, 41, 77, 81, 87, 94, 95, 99-101)
2. MCOE provide leadership for a professional learning community comprising all of those working in alternative education in Mendocino County, and hold at least one professional development gathering each semester and at least quarterly teleconferencing sessions. (Findings 24-25, 70, 74, 77, 86-87, 91, 93-94, 99-101)
3. FBUSD provide the alternative school teachers with a prep period during each instructional day that is comparable to the prep periods provided for teachers at the middle school and comprehensive high school. (Findings 26 and 57)

⁷ The Triennial Plan is mandated by Education Code 48926 to ensure that student needs are addressed.

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4. FBUSD construct the promised, previously funded sports courts (Hoops...NOW!) on the alternative school campuses and develop an appropriate fitness facility for Shelter Cove students. (Findings 52-53, 58 and 82)
5. FBUSD install perimeter security cameras, classroom interior safety locks and window coverings in all alternative school classrooms. Hold lockdown drills on a regular basis. (Findings 11-12, 17, 35, 37, 54, 70, 84-85)
6. FBUSD administrators, Sheriff Deputies, Probation, SRO and other Fort Bragg Police Officers, Youth Workers and others who visit the alternative campuses make a concerted effort to increase the adult presence on campus and, especially, their visibility and informal interactions with students. (Findings 12-15, 18-19, 35-36, 49, 55-56, 63, 68, 70, 77-79, 92)
7. FBUSD Groundskeepers regularly maintain the alternative school campuses landscaping to ensure a welcoming appearance comparable with other FBUSD sites. (Finding 6)
8. Mendocino County Board of Supervisors review AODP and mental health funding and consider designating funds specifically for services to youth in north county and on the coast. (Findings 80-81, 94-98)

Comments

Working with At Risk adolescents is intrinsically challenging. In alternative schools, teachers must cover a wide range of subjects at varied learning levels while also responding to their students' serious behavioral issues. This results in an intense working environment and vulnerability to burnout.

Gang activity in Fort Bragg has escalated behavioral issues and substance abuse among FBUSD students. FBUSD is to be commended for its early prevention and intervention programs and its community collaboration to control and offset gang influences. Security measures at the alternative school sites would complement these prevention and intervention efforts.

Mitigating the risk of burnout is a high priority. The prevailing sense of isolation can be addressed, in part, through professional development and by enhancing the adult presence on the alternative school campuses. Timely completion of the promised sports courts would be one positive step. Another would be for MCOE to establish the recommended learning community for alternative school educators throughout the County, using a combination of face-to-face contact and teleconferencing. District leadership and community involvement, as in the exemplary partnership between Shelter Cove and Big Brothers/Big Sisters, are invaluable to alternative school staff and their students.

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Jurors were impressed with the skill and dedication of the staff at both MCOE and Fort Bragg alternative schools, and with the observed camaraderie between students and staff. Bilingual, culturally sensitive staff members are particularly important in this setting. Staff morale at Fort Bragg was noticeably improved over last year, underscoring the impact of positive leadership.

Required Responses

Mendocino County Office of Education Superintendent (Findings 86-101; Recommendations 1 and 2)

Fort Bragg Unified School District Superintendent (Findings 1-85; Recommendations 1-7)

FBUSD Alternative Schools Principal (Findings 1-85; Recommendations 1-7)

FBUSD School Board (All Findings; All Recommendations)

Mendocino County Board of Supervisors (Findings 80-81, 94-98; Recommendation 8)

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**EMERGENCY...WHAT EMERGENCY?
A Grand Jury Report on Airports in Mendocino County**

July 25, 2008

Summary

Are the Mendocino County public airports set up with adequate supplies and services in case of a major disaster (fire, earthquake, flood)? **NO!!!** Are the airports included in the Emergency Operation Plan (EOP) for the County? **NO!!!** Are the airports set up with adequate substitute power when the electricity goes out during one of these events? **NO!!!**

The 2007-2008 Grand Jury elected to do an overview of the five public airports in the County. During interviews many of the interviewees asked, "Why are you looking at the airports?" There seemed to be no awareness of what services the airports could provide during a disaster – hangers or containers for storing emergency supplies, facilities for people to be temporarily housed, helicopters for evacuating injured people and moving supplies to other locations. What happens when the power goes out in a large area of Ukiah or the coastal towns – are there back-up generators to support the necessary services? Are the airport and emergency services support personnel properly trained and prepared for airport emergencies?

To answer these questions, the Grand Jury looked at the five public airports in the County to examine their preparedness because the County will eventually face a disaster or local airport emergency. The people of Mendocino County should be asking the question: What are the services available and what can we do to be prepared in the event of a major disaster?

Methods

The Grand Jury:

- viewed the physical facilities of the five public airports;
- examined the existing emergency plans;
- interviewed persons who were aware of the functions and capabilities of the airports;
- interviewed adjacent fire department Chiefs;
- interviewed the Mendocino County Sheriff's Department employees;
- interviewed Mendocino County Emergency Services Coordinator.

Background

Section 7.04.040 of the County Code provides for the establishment of the positions of Director, Asst. Director and Coordinator of Emergency Services for Mendocino County. Contained in those powers and duties are various responsibilities of disseminating disaster preparedness information and preparing the County for disaster response. The

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Grand Jury investigated the five public airports in the County for disaster preparedness and how the airports fit into the EOP. Table I shows airport characteristics.

Table I
Airport Characteristics

		1	2	3	4	5
		Boonville	Little River	Round Valley	Ukiah	Willits
A	Access Roads	Two	Many	One	Many	One
B	Owner	Anderson Valley CSD ¹	County	County	City	City
C	Hangars	0	26	7	64	21
D	Fuel	None	100LL ²	100LL	100LL, Jet	100LL
E	Water for fires	None	Limited	Yes	Yes	Yes
F	Manager on site	Sometimes	Yes	Caretaker	Yes	Sometimes
G	Backup generator	No	No	No	No	No
H	Lights	None	Disabled	PCL ³	PCL	PCL
I	Instrument landing	No	No	No	Yes	GPS ⁴
J	Closest fire station	Half mile	On property	2 miles	Across street	1 mile
K	Emergency plan	No	No	No	Yes	Yes
L	Emergency supplies	No	EMT, foam	No	First Aid	First Aid
M	Testing, drills	No	No	No	Yes	Tabletop
N	Security	No	Minor	No	Fence	Minor
O	Acreage	35	548	110	160	74
P	Runway length, width (feet)	3240x50	5149x150	3670x55	3000x75	4415x150

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**Table I--
Continued**

	1	2	3	4	5
	Boonville	Little River	Round Valley	Ukiah	Willits
Q Runway weight capacity	12,500 ⁵	60000, 200000 ⁶ 400000 ⁷	30000	30000	28000
R Able to handle aircraft incident	Call 911	Call 911	Call 911	Call 911	Call 911
S Emergency supply containers	No	No	No	No	No
T Copter landing	Yes	Yes	Yes	Yes	Yes
U CalStar copter base ⁸	No	No	No	Yes	No
V CalFire base ⁹	No	No	No	Part of year	No
W NEMS, SIMS ¹⁰ training	No	Yes	Yes	Yes	Yes
X Location of fuel	None	Near Tiedown	Near Entrance	Near Taxiway	Near Taxiway
Y In EOP	No	No	No	No	No

NOTES:

Anderson Valley Community Services District

1. Standard propeller aircraft fuel
2. Pilot controlled lighting
3. Global positioning system, in-cockpit controls only for airport calibrated by FAA
4. Single wheel
5. Dual wheel
6. Dual wheel tandem
7. Medical evacuation
8. Formerly designated California Department of Forestry (CDF)
9. National Emergency Management System(NEMS) Standardized Incident Management System(SIMS)

General Findings

1. The airports are not included in the County EOP.
2. The existing emergency plans are for airport related incidents only and do not include annual training with airport personnel or fire departments.
3. These airports are not staffed on a twenty-four hour basis.
4. There are no back-up generators for power failures at any airport.
5. CalStar, an emergency response company, has facilities at only one airport.
6. The airport managers were unaware of any County EOP involving their airports.
7. Airports are not being considered in the EOP as a location for people to gather and be cared for, or the storage of emergency supplies.
8. Airport managers and emergency personnel consider airports viable portals for the entry of supplies, evacuation, and meeting emergency needs.
9. Airports have no current connection to microwave communications.

General Recommendations

The Grand Jury recommends that:

1. Little River and Ukiah airports should have permanent generators installed to meet the emergency needs of the Coast and the Ukiah Valley. (Finding 4; Table I: Column 2 Row G and Column 4 Row G)
2. Fire departments adjacent to all public airports should train for handling airplane crash emergencies at the airport annually. (Finding 2; Table I: 1-5J, 1-5M, 1-5R)
3. County Emergency Services Coordinator should meet with managers of all airports to coordinate their inclusion in the EOP. (Findings 1, 7, 8; Table I: 1-5K, 1-5Y)
4. All airports should have access to the new county-wide microwave system being installed. (Finding 9)

Required Responses

Mendocino County Emergency Services Coordinator (All Findings;
All Recommendations)

Mendocino County CEO (All Findings; All Recommendations)

Mendocino County Sheriff's Office (Table I: 1-5K, 1-5M, 1-5L, 1-5W, 1-5Y; All General
Finding;, All General Recommendations)

UKIAH REGIONAL AIRPORT

Background

Ukiah Regional Airport is located on South State Street in Ukiah. CalStar is on site 24/7. Aircraft can land in most weather conditions. It is the busiest airport in the County.

Findings

1. The Ukiah Airport is unprepared to handle any disasters other than aircraft related incidents.
2. The Ukiah Airport has limited management staff. Third in line of responsibility is the clean-up crew.
3. There is no back-up generator available for power failures.
4. The airport is secured by a fence surrounding the property. The vehicle gates are locked and accessible with pass keys; the pedestrian gates are open.
5. CalStar leases space at the airport for administration and for responding to emergency calls..
6. The airport management is not aware of any county-wide emergency plans that involve the airport.
7. There are approximately 10 acres available for use as a staging ground during disasters.
8. There are 87 aircraft housed at the airport. These include CalStar, FedEx, other commercial entities, and private aircraft that rent space at the airport.
9. CalFire stations aircraft and other firefighting equipment at the airport during high fire periods.
10. There are 64 closable rented hangars that could be used in case of an emergency.

Recommendations

See General Recommendation 1.

See General Recommendation 4.

Required Responses

Ukiah Valley Fire District Chief (Table: 4J, 4L, 4M, 4R, 4W, 4Y)

Ukiah Regional Airport Manager (All Column 4 Table Findings; All Findings and Recommendations)

Requested Responses

Ukiah City Fire Department Chief (Table: 4K, 4L, 4M, 4W, 4Y)

Ukiah City Manager (All Column 4 Table Findings; All Findings and Recommendations)

LITTLE RIVER AIRPORT

Background

Located about two miles east of Coast Highway 1 on Little River Airport Road, the Little River Airport is the largest in the County. It was built during World War II as a Navy air base, and given to the County after the war. At that time, the surrounding population was less dense than now. The property is extensive, beyond the runway and fixtures, and includes timberland, pigmy forest and other open space.

Findings

1. It can handle heavier and larger aircraft than any other airport in the County.
2. It has an airport weather observation station (SuperAWOS), which transmits local weather conditions to aircraft.
3. A resident manager lives on the property and has for eight years. He is a retired firefighter and an Emergency Medical Technician (EMT), and has EMT equipment with him at all times.
4. One of the Albion-Little River Fire District firehouses is on the property, about a quarter mile from the runway.
5. There are several ways to reach the airport from Highway 1 and Highway 101.
6. Fog closes the airport for part of a day on an average of 100 days each year.
7. Late in 2007, the 60+ year old runway lighting system failed. Plans for replacement are underway. Estimated cost to replace and upgrade the system is \$500,000. The Board of Supervisors approved the project. Federal Aviation Agency (FAA) will provide 90% of the funding.
8. There is no written plan or procedures in case of a crash or other incident at, or near the airport. The manager would be the first responder; his expected first action would be to call 911.
9. There has been no training for an emergency incident at the airport for several years.
10. In a disaster, the airport could be used for major evacuation of people and as a major portal for supplies.
11. There is enough space to set up facilities to temporarily handle the entire population of the surrounding area.
12. Schools, public buildings and other facilities, with on-site toilets, kitchens and, perhaps showers, would be more likely choices than the airport for caring for people during emergency situations.

Recommendations

The Grand Jury recommends that:

1. Runway lighting be replaced. (Finding 7; Table 2H)
2. Instrument landing by Global Positioning System (GPS) be established.

(Finding Table 2I)

3. See General Recommendation 1
4. See General Recommendation 4

Required Responses

Mendocino County Deputy Director Department of Transportation (Table: 2A-Y; Findings 1-12; Recommendations 1-4)

WILLITS AIRPORT

Background

The Willits Airport is located approximately three miles northwest of the City of Willits, off of Sherwood Road. The Airport Manager reports directly to the City Manager. The Airport Manager checks on the airport facilities and oversees the budget and other paperwork concerning the airport. The airport can only handle small planes, helicopters, turbo prop planes and some jets.

Findings

1. The Airport Emergency Incident Plan (AEIP) is under supervision of officials of the City of Willits; the Willits Airport is not included in the EOP. At the end of 2007, the Emergency Disaster Plan for the City of Willits was updated and finalized.
2. The AEIP only covers the operation of the airport in case of an aircraft emergency incident. This plan consists of one page and is posted throughout the airport facilities. It is coordinated with the Willits Police Department (WPD), Little Lake Fire Department (LLFD), CalFire, Mendocino County Sheriff Office, Brooktrails Fire Department (BFD), and the FAA. The plan calls for an Incident Command System; the first responder is the Incident Commander.
3. BFD, being the closest facility for emergencies, is usually the first responder. It has a foam truck, a medical unit, the local Community Emergency Response Team (CERT) supplies, and all employees have been SIMS and NEMS trained.
4. At the Willits Airport there are few emergency supplies:
 - a. no foam,
 - b. no major medical supplies, only a small first aid kit,
 - c. some fire extinguishers on site.
5. In case if a major emergency in the Brooktrails area, the airport is designated as an assembly point for local residents, as described in BFD documentation.
6. Communications at the airport are limited to:
 - a. 911,
 - b. cell phones,
 - c. landline phones,

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- d. county-wide police and fire, shortwave band radios.
7. There are some small hand-held radios and a small transmitter in the airport tower for emergency communications in the immediate vicinity.
8. The LLFD, BFD and CalFire participated in a Table Top exercise testing the effectiveness of the AEIP in place in 2006-2007.

Recommendations

The Grand Jury recommends that:

1. A yearly test of the AEIP should be performed using the equipment available to each participating agency on the airport premises. (Table 5N)
2. Make available sufficient emergency supplies to handle the AEIP on airport premises. (Finding 4; Table I: 5L, 5S)
3. See General Recommendation 4

Required Responses

Willits Airport Manager (Table I: 5A-Y, Findings 1-8; Recommendations 1-3)

Willits City Manager (Table I: 5A-Y, Findings 1-8; Recommendations 1-3)

Requested Responses

Little Lake Fire Department Chief (Table I: 5A, 5K, 5L, 5M, 5R, 5W, and 5Y; Findings 2, 6-; Recommendations 1-3)

Brooktrails Fire Department Chief (Table I: 5A, 5J, 5K, 5L, 5M, 5R, 5W, 5Y; Findings 2-8; Recommendations 1-3)

NO PLACE LIKE HUD
A Report on the Community Development Commission of Mendocino County

May 22, 2008

Summary

The 2007-2008 Grand Jury reviewed the Community Development Commission of Mendocino County (CDC). The CDC Mission statement is: "Provide opportunities for *decent, safe, and suitable living environment to low- and moderate-income and special needs households* and communities in an effective, efficient, and respectful manner."

The CDC is an arm of Housing and Urban Development (HUD), a Federal agency that provides housing for those with special needs. CDC has two programs in Mendocino County: "Direct placement" and "Voucher application." Direct placements are in CDC or CDC/HUD owned housing. Voucher system tenants are placed in privately owned homes subsidized by HUD and administered by CDC.

"Public Housing" properties are developed with the assistance of HUD and "Affordable Housing Developments" are properties developed by CDC alone. They provide habitat for people with specific needs, including but not limited to the disabled and the homeless. Those qualifying for housing under CDC programs must meet federal standards. The CDC office that serves Mendocino County is located in Ukiah.

Methods

The Grand Jury reviewed CDC's 2006 Annual Report/Budget, inspection reports, housing application forms, utilization reports, CDC Mission Statement and Goals, Minutes of the Commission's meetings, Housing Choice Voucher Administration Plan, Admissions and Continued Occupancy Policy, HUD and Public Housing Authority (PHA) Laws, Rules and Regulations, Grievance Policy and Baechtel Creek Village Occupancy Regulations. The Grand Jury also interviewed management and staff.

Background

The CDC is a California agency that came into being under the umbrella of HUD. HUD was created during President Lyndon Johnson's administration to sell the inventory of loans made by the Federal Housing Authority (FHA) so they could recoup the money to make additional loans. In addition, HUD became the Federal government's investor in housing projects. HUD works with the local housing agencies in State funded projects for the needy.

Findings

1. The Community Development Commission consists of seven members, one appointed member from each Supervisory District and two tenant members. The monthly Commission meetings are held alternately in Ukiah and Fort Bragg during business hours. An annual meeting is held in Willits.
2. The tenant Commissioners have difficulty attending the meetings. They face travel and time constraints.
3. CDC receives Federal funds for HUD supported operations. Rents and administrative fees help pay for maintenance and upkeep of CDC properties.
4. CDC administers three types of housing: property owned by CDC; property owned in affiliation with HUD for Direct Placement families; and privately owned properties for applicants housed under the Voucher/Section 8 program. Direct Placement is in property owned by CDC or owned with HUD and the Voucher system is subsidized by HUD and administered by CDC.
5. The "Shelter Plus Care" program serves people who are homeless, disabled by drug, alcohol abuse or mental illness and following a verifiable maintenance/treatment program.
6. A client's rent is computed on a sliding scale, relative to income and family size.
7. Eligibility for individuals or families is based on income; some assets are permitted.
8. Eligibility for the Senior Program is based on income. Assets, such as stocks and retirement funds, are permitted.
9. In 2007, CDC served (by program):
 - 797 Voucher Program households
 - 105 Shelter Plus Care households
 - 175 Direct Placement households
10. Maintenance and renovation of CDC properties are prioritized and done as the budget allows.
11. CDC inspects all Voucher funded rental properties annually.
12. The CDC has a special program for college students in Ukiah. Eligibility criteria are different from other programs offered by CDC.
13. CDC/HUD owned Public Housing includes:
 - Baechtel Creek in Willits serves low income seniors.
 - Glass Beach Apartments, SeaCliff Apartments and Sanderson Village, all located in Fort Bragg, provide family housing.
 - Brookside Commons and 28 other units throughout the Ukiah area.
14. CDC owned Affordable Housing includes:
 - College Court Apartments consists of seven units; Preference given to students.
 - Holly Ranch Village in Fort Bragg provides family housing.¹

¹ Holly Ranch Village is closed and under reconstruction.

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15. There are separate waiting lists for the Direct Placement and the Voucher programs. All client applications are placed on a "first on, first served" list. Not all applications are accepted. Approved client applicants for Direct Placement are accepted upon unit availability. Approved client applicants for the Voucher program are accepted both on unit availability and the availability of funding by HUD.
16. Applications from the homeless are accepted immediately in the Shelter Plus Care program.
17. If a person living in CDC housing has any change in income, medical expenses or number of people in the household, they must report it to CDC within 30 days.
18. If a tenant in the Voucher program becomes disqualified, or if the amount of the voucher is reduced, the landlord is promptly notified.
19. Client's income must be reported annually.
20. If a client is currently receiving any government funding, that income can be verified immediately. Non-government income must also be verified.
21. The Rules and Regulations of Occupancy include Federal, State and local rental ordinances. When the rules differ, the most stringent rule is applied. Two areas where there are differing rules:
 - use of controlled substances
 - pet policies
22. Violation of rules may result in a warning before other action is taken by CDC.
23. The two most frequent violations that occur are: failure to report income; moving additional people or family members into the home.
24. Evictions may occur from CDC funded housing for any of the following reasons:
 - failure to report circumstances that change eligibility
 - non-payment of rent
 - illegal activity on the premises
 - destruction of the property
 - nuisance, noise, garbage accumulation, arguments.
25. Eviction procedures, including notice requirements, are regulated by the State. In CDC or CDC/HUD rentals, Federal regulations must also be followed.
26. In the Voucher system the property owner is responsible for any eviction action.
27. Most CDC tenants vacate before the eviction process ends in court. There are about three CDC evictions a year that go through the entire process and end in court action.

Recommendations

The Grand Jury recommends that:

- the CDC use the new Mendocino County microwave system to teleconference meetings simultaneously in Fort Bragg, Ukiah and Willits; (Findings 1 and 2)
- the Commission hold occasional evening meetings. (Findings 1 and 2)

Comments

CDC must follow copious Federal mandates.² There are various rules for different programs. For example, in the “Shelter Plus Care” program clients must show that they are in a verifiable treatment program including medication, counseling and caseworker visitations.

The CDC struggles with the limitations of Federal funding available for its programs. Maintenance and renovation of the various CDC-owned properties can only be done within the limits of program income. The CDC provides a valuable service to the residents of Mendocino County.

Required Response

CDC Executive Director (All Findings; All Recommendations)

² See www.hudclips.org

**CLINICS, THE 43% SOLUTION:
A Report on Two Federally Qualified Health Centers in Mendocino County**

May 22, 2008

Summary

There are various types of health clinics that receive Federal funding. Federally Qualified Health Centers (FQHC) include all organizations receiving grants under the Public Health Services Act §330, certain tribal health organizations, and FQHC Look-Alikes. FQHCs benefit from enhanced reimbursement from Medicare and Medicaid under the prospective payment system.

An FQHC Look-Alike meets all requirements for federal FQHC grant funding but has not received a grant. Look-Alikes share many but not all benefits of FQHC status.¹

Rural Health Clinics (RHC) are intended to increase primary care services for Medicaid and Medicare patients in rural communities. RHCs can be public, private, or non-profit. The main advantage of RHC status is enhanced reimbursement rates for providing Medicaid and Medicare services in rural areas. RHCs must be located in rural, underserved areas.²

Clinics that qualify for this designation may have “clinic” in their names, such as Mendocino Community Health Clinic. Others may be groups of doctors, such as Ukiah Valley Primary Care (UVPC), which is designated as a hospital-based rural health clinic and is owned and operated by Ukiah Valley Medical Center. They may also be called Health Centers, such as Long Valley Health Center (LVHC). FQHCs are reimbursed by the government at a far higher rate than non-clinic medical groups and individual doctors.

Clinics are required to report the number of patients served on an annual basis. In Mendocino County local clinics serve 43% of the population and provide a safety net for the poor. This percentage is calculated by dividing the population of Mendocino County into the number of persons served by the clinics.

The Grand Jury looked at two of the Federally Qualified Health Clinics located in our County: Mendocino Community Health Clinic (MCHC), also referred to as Hillside Health Center, located in Ukiah and Long Valley Health Center (LVHC), located in Laytonville. LVHC is a sole provider clinic, meaning that there are no other health facilities or doctors in its sphere of influence. When a patient requires emergency ambulance transport to a hospital, LVHC calls the Laytonville Volunteer Fire Department (LVFD).

¹ http://www.raconline.org/info_guides/clinics/fqhc.php

² http://www.raconline.org/info_guides/clinics/rhc.php

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The Clinics provide medical and dental health services; in addition, they address mental health, alcohol and drug dependency problems. They offer domestic violence programs, some family planning, and counseling. LVHC offers chiropractic and acupuncture services. Both clinics have bilingual staff.

The MCHC has difficulty recruiting medical personnel from out of County. However, those who move here tend to become permanent residents. In Laytonville, it is more difficult to recruit and retain personnel because of the remoteness and lack of social opportunities.

Methods

The Grand Jury:

- obtained information from the Alliance for Rural Community Health;
- toured two of the six community health clinics in the County;
- interviewed executives and staff at the two clinics;
- reviewed budgets, books and records, inspection reports, audits, and reports made to the State and other Agencies.

The Grand Jury also visited the Laytonville Fire Department and reviewed its records and statistics. Jurors interviewed management and staff regarding the ambulance service they provide to LVHC.

Background

Community Health Clinics were created about 40 years ago, as part of President Lyndon Johnson's War on Poverty. Each clinic has a board of directors (BOD) and at least 51% of the BOD must be patients of the clinic. These clinics operate as non-profit organizations under §1204 of the State's Health and Safety Code.

The number of patients served is mainly a function of the size of the staff. Any person may go to any clinic whether or not they are a local resident.

The clinics are not involved in the transportation of patients to other facilities.

The clinics get funds from several sources:

- patient revenue;
- community fund raising;
- State and Federal funds and grants;
- insurance, public and private including Medi-Cal, Medicare, Blue Cross, etc.;
- grants from private foundations;
- county money, through the County Medical Service Program (CMSP) for indigent people treated by the clinics.

Findings

Mendocino County Clinics

1. The Alliance for Rural Community Health (ARCH) supports six rural health clinics in Mendocino County by acting as an advocate. It also assists the clinics in grant writing.
2. Four of the six clinics are Federally Qualified Health Centers, a program that requires the clinic to treat uninsured patients.
3. Under Federal law, no patient at these clinics may be turned away.
4. Federally Qualified Health Centers are defended against medical malpractice suits by the Federal Government.
5. The clinics provide medical and dental health services; in addition they address mental health, alcohol and drug dependency problems, and offer domestic violence programs, some family planning, and counseling. The clinics offer a full range of vaccinations.
6. There is no County funding except County Medical Services Program (CMSP) for indigent patients who are single adults on general assistance and who do not qualify for Medi-Cal or other programs.
7. No money from Proposition 63 is allocated to the clinics for the mental health initiative.³
8. The clinics do not receive any Proposition 36 money for drug treatment.⁴
9. Most patients seeking treatment are low-income or uninsured. A portion of those patients may be covered by Medicare/Medi-Cal, CMSP, and/or programs for children such as CalKids and Healthy Families.
10. Patients, who have no insurance and who are not eligible for Medicare/Medi-Cal, may be charged on a sliding scale.
11. Clinics located in areas near hospital facilities relieve some of the strain on emergency room services.
12. Both Clinics have bilingual staff.
13. Each Clinic is audited annually by outside certified public accountant firms and government agencies.
14. The Clinics are extensively regulated by State and Federal agencies.
15. The Clinics do not prescribe marijuana. Federal funding could be jeopardized.
16. The outlying clinics experience more transportation concerns than those in the urban centers.
17. Clinics call outside ambulance services when necessary.
18. Neither Clinic visited has X-ray diagnostics for orthopedics. Their budgets do not allow for the purchase of expensive X-ray equipment nor the required lead-lined room.

Long Valley Health Center

19. LVHC is a sole provider; meaning there are no other health facilities or doctors in its

³ Proposition 63 is a California mental health program funded by taxation of 1% on personal income over \$1,000,000

⁴ Proposition 36 provides State funds to local government for the management of non-violent drug offenders

service area.

20. LVHC offers chiropractic and acupuncture services.
21. LVHC served 3,062 patients with a total of 16,880 patient visits in 2006.⁵
22. LVHC dental clinic was found to be a modern facility with the latest equipment. The clinic employs two full time dentists and other staff.
23. LVHC dental clinic is located directly across from the medical clinic on Branscomb Road. Patients and staff frequently need to cross between these facilities. There is no marked crosswalk for pedestrians.
24. The LVHC has Memorandums of Understanding (MOU) with other agencies, including the local fire department, schools, and doctors.
25. Native Americans who live in the Laytonville area use Indian Health Service Clinics and travel to Ukiah or Covelo for routine care. LVHC has an MOU with the Consolidated Tribal Health Program (CTHP) for non-routine care.
26. Recruitment of medical staff for the LVCHC is difficult, due to the remote location, the high cost of housing, and non-competitive wages. About 50% of the staff are long-term employees. There is a high turnover rate among the others.
27. LVHC does not provide patient's with transportation.
28. LVHC spearheaded planning for emergency response in the Laytonville area with cooperation of the school, fire department, law enforcement, and community members. Final planning is in progress, and on June 18, 2008 there is a planned community meeting for public comment.
29. LVHC has a backup generator in case of loss of normal electrical supply.

Laytonville Volunteer Fire Department

30. On 14 occasions in 2006 and 13 times in 2007, the LVFD provided emergency ambulance service from LVHC to the nearest hospital. Ambulance service is billed directly to the patient or their insurance carrier. Medi-Cal and Medicare insurance pay a minimal amount of the ambulance bill. Underpayments from insurances and no payment from the uninsured, make 75% of the billings uncollectible.
31. LVFD provides ambulance service to an area twice as large as the size of the fire district, and may transport patients as far north as the closest hospital, which is in Garberville (in Humboldt County). Areas outside the fire district do not pay property taxes to the district.
32. Some service calls are in areas where access is difficult. An air ambulance may be called to assist in patient transport when deemed necessary.
33. LVFD has a close working relationship with other fire services and law enforcement, and is frequently called out to auto accidents.
34. Long Valley Fire District requested that the ambulance service budget be augmented with some County funding in 2007. The Board of Supervisors (BOS) approved \$55,000 to supplement the ambulance service.
35. Two full time paramedics are employed for the ambulance service. All firefighters are volunteers.
36. LVFD participates in community emergency response planning.
37. LVFD has a backup generator in case of loss of power.

⁵ http://www.oshpd.ca.gov/hid/Products/Hospitals/Utilization/PC_SC_Utilization.html

Mendocino Community Health Clinic/Hillside Health Center

38. MCHC/Hillside in Ukiah has two satellite offices, Little Lake Health Clinic in Willits and Lakeside Health Clinic in Lakeport.
39. Hillside uses a van to provide transportation for patients who have an appointment.
40. Hillside has an outreach program for the homeless.
41. Hillside, served 13,134 patients with 62,425 visits in 2007. With its satellite offices, it served 21,092 patients with 120,000 visits in 2007.⁶
42. Hillside does not have a psychiatrist on staff for the treatment of patients, but may use a psychiatrist through telemedicine for children's mental health treatment.
43. Hillside does not have an onsite acupuncturist, ophthalmologist, radiologist, optometrist, audiologist, or an endocrinologist.
44. Specialists on the staff include a dermatologist and an orthopedist.
45. Hillside dental clinic is adequately equipped. It employs four dentists and support staff.
46. Hillside bills on a sliding scale if a patient has no insurance.
47. Hillside recently started billing private insurance companies. Prior to this action they billed privately insured patients directly.
48. Hillside participates in "disaster and/or emergency" drills.

Recommendations

The Grand Jury recommends that:

1. a crosswalk be painted on Branscomb Road in Laytonville between the LVHC medical clinic and the LVHC dental clinic. (Finding 23)
2. the County continue to supplement the LVFD budget necessary for ambulance service. (Findings 31, 34)

Comments

The Grand Jury found that the LVHC and the MCHC offer a valuable service to the community despite their budgetary and staffing limitations. Recently, the State of California has announced mid-year budget cuts that will further inhibit the clinics' ability to serve.

Ambulance service is a necessary and valuable component of health care emergency response. LVHC is a remote clinic without access to private ambulance service. LVFD readily provides this service even with their budgetary constraints.

Required Responses

Mendocino County Department of Transportation (Finding 23; Recommendation 1)

⁶ http://www.oshpd.ca.gov/hid/Products/Hospitals/Utilization/PC_SC_Utilization.html

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Mendocino County Board of Supervisors (Findings 31, 34; Recommendation 2)

Laytonville Volunteer Fire Department Chief (Findings 30-37)

Requested Responses

Long Valley Health Center Director (Findings 1-18, 19-29)

Mendocino Community Health Clinic CEO (Findings 1-18, 38-48)

MENTAL HEALTH AND MILLIONAIRES
A Report on Proposition 63 and Mendocino County Mental Health

June 17, 2008

Summary

The 2007-2008 Grand Jury investigated the use of funding raised through Proposition 63 (Prop. 63) and its enabling legislation, the Mental Health Services Act (MHSA),¹ by Mendocino County Health and Human Services Agency's Mental Health Branch (the branch).

The County budgets about \$19 million a year on mental health clients, but, for several years, almost all of the money has come from State and Federal sources, especially Medi-Cal.² Prop. 63, passed by voters in November 2004, infused more than \$1 million a year into the County's mental health treatment effort, but with strings attached. Most important was that little, or none, of the money could go to existing programs. The MHSA requires new programs with new types of treatment and targeting different clients in many cases. MHSA mandates experimental programs and different treatment models.

However, local mental health officials, and others, have long felt that the County's mental health system has been teetering close to collapse, with many needs unfilled. At the same time, the State's budget problems have cut support for some programs. The net effect is that there is pressure to find ways to use the Prop. 63 money to support the old systems.

The 2007/08 Mental Health Branch Budget states major policy considerations as:

- The Mental Health Branch is to move toward an "Adult System of Care" where the Primary Care Clinics, Mental Health, Alcohol and Other Drug Programs, Public Health Nursing, Probation, and the Social Services Branch are all working together as partners to serve the citizens of the County. Policy considerations require that each initiative taken on by the branch must dovetail with the Health and Human Services Agency (HHSA) Strategic Plan.
- Mental Health will define itself as a specialized psychiatric service in partnership with primary care clinics where the general health needs of clients are met. Clients will move freely between these two systems as necessary. Policy consideration requires the branch to consider ramifications of all decisions in this context.
- Adopt at every opportunity principles of the "Recovery Model" so that the Mental Health Branch is in close partnership with family members and consumers of the services available. The community will see the branch as providing a strength based and consumer driven resource that is "clinically strategic." All future efforts are designed with this underlying philosophical approach.

¹ http://www.dmh.cahwnet.gov/Prop_63/MHSA/docs/Mental_Health_Services_Act_Full_Text.pdf

² <http://www.co.mendocino.ca.us/auditor/budget/07-08/>

Under California law, the Mental Health Branch concerns itself with only a subset of mental disorders, what is known as the Axis I of the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), published by the American Psychiatric Association.³ Axis I is basically confined to schizophrenia, depression, bipolar disorder and anxiety disorder. Autism, dementia, paranoia, various personality disorders, etc. are not a concern of the Mental Health Branch, but may be a concern of the Public Health Branch or the Social Services Branch.

The Mental Health Branch generally serves those who qualify for Medi-Cal. MHSA tries to bypass this limitation, especially for families not poor enough to get Medi-Cal, but who cannot afford expensive private treatment.

Methods

The jury interviewed County officials and members of public groups involved in Prop. 63 efforts and budgeting. It reviewed the law and the budgets, including the separate Prop. 63 budget for the past three years.

Background

Prop. 63 imposes a 1% tax on personal income over \$1 million a year. The money goes to programs specified in the MHSA. Counties receive allocations based on population. Mendocino County receives all the money it is entitled to, and any unspent money carries over to the next year or may be deposited in the "prudent reserve." The MHSA requires a prudent reserve fund in each county to cover unexpected costs or a drop in revenue.

The first year's collection was much larger than expected. There was a scramble to put together programs to use the new funds. Also, the State held back part of the money as a State reserve for leaner years.

The next year (2006), although the law mandated that Prop. 63 funding be allocated, the governor line-item vetoed funds allocated under Assembly Bill 2034, which served the homeless. The result was a scramble to salvage programs and staff. The governor said the Prop. 63 money could be used to fund those programs, and the State officials opened the rainy day reserve for that purpose. Advocates cried "foul," and lawsuits started.

In the 2006-07 fiscal year, the State delayed Medi-Cal mental health reimbursements for months, forcing the County to borrow money to continue service. The State money eventually came through, but, by then, the County was out more than \$400,000 in interest expense.

³ See http://en.wikipedia.org/wiki/Diagnostic_and_Statistical_Manual_of_Mental_Disorders.

Findings

1. In 2005/06 the County Chief Executive Officer began the integration of the Public Health Department, Social Services Department and Mental Health Department into a single unit, the Health and Human Services Agency. Each of the former departments now is a branch of the Agency.
2. One reason for combining departments into the agency was that clients of one department often were receiving services from another. A second reason was that it allows sharing of funds and personnel across branches. A third reason is that clients do not have to go to multiple places for services.
3. The Mental Health Branch has a staff of about 125 and a budget of about \$19 million.
4. Most of the Branch budget is for core services—24-hour emergency care, hospitalization, institutional care, and board and care.
5. About half the budget goes to contractors for hospitalization and treatment programs. The rest is for staff, crisis workers, case management, therapeutic services to youth and their families, vocational rehabilitation, housing assistance, wrap-around services to families with children experiencing emotional disturbances, school-based day treatment for targeted students, early intervention for children ages zero-to-five, monitoring of medication, integrated homeless services, and administration.
6. All hospitalizations handled through the Mental Health Branch are at out-of-county facilities, and the cost is included in the branch budget, but may be supplemented beyond Medi-Cal. The only local holding facility, the Psychiatric Health Facility, closed in 2000.
7. The branch serves the Mendocino County Jail and Juvenile Hall.
8. The branch serves about 2,700 individual clients.
9. One growing problem is that many individuals with mental health problems self-medicate. That complicates things for all those, including doctors, law enforcement, family, and mental health workers, who in dealing with a crisis, need to know whether drugs or alcohol are the main problem or are masking mental health symptoms.
10. The Board of Supervisors (BOS) appoints members to the Mental Health Board of citizens to advise the County. The Board comprises three members from each County Supervisorial District: one member represents clients, one clients' families and one the general public. At present, there are numerous vacant positions.
11. Prop. 63, known as the MHSA, was created in 2004, and is a 1% tax on personal income over \$1 million to be used for mental health services, but it contains many conditions and limitations; one being that these funds cannot be used to supplant existing State or County funds, and current County and State mental health funding cannot be reduced based on the availability of Prop. 63 money. The State shall neither reduce mental health funding nor require an increase in the County's share of funding without reimbursement.
12. Prop. 63 funds are distributed to counties based mostly on the size of their population.
13. Prop. 63 has its own budget. It also has its own MHSA Advisory Committee

- (appointed by the BOS), which includes representatives from each Supervisorial District, stakeholders such as law enforcement, education, ethnic and cultural groups, and consumer (patients), clients' families and the public.
14. The MHSA Committee has various work groups, and meets quarterly with the Mental Health Board. Meetings were previously each month, but lack of attendance was a problem. Work groups create proposals and negotiate with affected parties who may provide input. All meetings are public and require public notice.
 15. The State set up three year programs, emphasizing innovation, but because innovation does not guarantee success a program might be discontinued. The first year was to be for planning, training, capital improvements which include technology needs, and some administration; however, the program was not instituted quickly enough. The three year program may be extended.
 16. Staff stated there is a lack of communication and guidance on policies and planning from management.
 17. Documents show the Mental Health Branch is unresponsive to requests for meetings with providers, who are concerned about their funding. Staff states that upper management is unresponsive to their requests for input and guidelines on programs.
 18. The branch issues Requests for Proposals (RFP) for new programs. Prospective contractors respond. In Mendocino County, last year, the existing programs did not require a review for continued funding through Fiscal Year 2007/08. There were no RFPs put out last year for new programs, and as of May 15, 2008 no RFPs had been put out for the coming fiscal year.
 19. There is a plan to issue a new RFP for the adult community program soon. The branch expects to fund the existing programs temporarily until the process is complete.
 20. Proposed plans must be first approved by the State, then by the MHSA committee. Then, the Mental Health Board and the Mental Health Director compile and approve the components in a public hearing. Lastly, the Board of Supervisors holds a public hearing, and votes on the total plan.
 21. Prop. 63 money must stay in the county, so it cannot be used for placements to out-of-county facilities.
 22. One goal of the MHSA is the "recovery vision" for mental health consumers. Prevention and early intervention are other goals.
 23. There are various models for treatment. For example:
 - The Medical Model—using drugs to allow patients to manage their condition,
 - The Recovery Model—providing services to allow patients to gain self sufficiency with a choice of whether to use drugs, or peer support, assuming that some mental illness, like some physical diseases, may be managed without being fully cured,
 - The Peer-to-Peer Model—letting current or former patients participate in the treatment protocol, based on an assumption such a person knows things a non-patient couldn't know, and that such a person can gain more rapport with a patient.
 - Other models include alternative medicine, food based or mega-vitamin based.
 24. MHSA requires that funded plans be consumer driven and include the Recovery Model, which it refers to as the "Recovery Vision."
 25. In the Medical Model the doctor is in charge of the treatment, the patient has little

- input, but may refuse or discontinue use of a medication.
26. The Recovery Model emphasizes patient control and participation in decisions.
 27. The Peer-to-Peer Model is a subset of the Recovery model; and the peer counselor is or has been a client.
 28. The MHSA requires major public and stakeholder participation in designing and setting up programs and awarding contracts.
 29. There are two classes at Mendocino-Lake Community College which would train and qualify peers to be therapeutic counselors.
 30. There are passionate advocates of the different models. Some advocates support a combination of models.
 31. There are also various definitions of the terms. Recovery for some advocates would mean less hospitalization and less need for services. For others, it means full recovery and reintegration into society. Some believe that recovery is impossible. Some say if severely schizophrenic patients recover, they weren't really schizophrenic at all.
 32. For last year the County will receive approximately \$400,000 from the Prop. 63 emergency reserve to replace vetoed money for the homeless, since many of the clients are the same.
 33. Prop. 63 funding is by age group. Because it still is being rolled out, not all groups have funded programs yet. Some funding is for children. Other money goes to the transition age group, 16-24 years old, especially youth who move out of foster care at 18. There are adult, elder care and other categories.
 34. The largest contract is for an adult program, named "A Healing Cooperative."⁴ There has been contention between the Health and Human Services Agency and the contractor's executives about the program. Part of the problem is a poorly worded contract, although the plan was approved by the State. Another problem is the difficulty in measuring results. This Cooperative operates facilities in Ukiah, Willits and Fort Bragg, and provides walk-in centers, group treatment and training. It is strongly peer oriented.
 35. Although not required, the Cooperative has created a report to measure progress for individuals, called a "Rubric for Mental Health Recovery."⁵ Staff members rate clients upon entry to the program and track changes.
 36. A Healing Cooperative will probably lose some funding, partly because the State requires that 51% of funds go to a "Full Service Partner," that is, a client who is assessed with an Axis I disorder. It is unclear how many users of A Healing Cooperative's services qualify as "Full Service Partners." Also, the County must put 50% of the MHSA communities services budget into prudent reserve.
 37. Most programs funded under Prop. 63 are grant contracts, with a fixed term, perhaps three years. It's not certain what will happen when grants end. One reason for grants is that many programs are experiments, and the state wants to be able to stop those that don't work.
 38. Programs are evidence based. That is, there must be some way to measure what is working, and whether it is worth the cost in money or personnel. The County and community have authority and obligation to maintain what is working or redesign to

⁴ <http://www.ahealingcooperative.org/templates/System/default.asp?id=41568>

⁵ <http://www.ahealingcooperative.org/clientimages/41568/rubricforrecovery.pdf>

address unmet needs.

39. Prop. 63 requires that the County maintain the 2004 level of mental health care funding for the regular services (plus a factor for inflation). However, there is no accommodation for the increase in population or for increase in the number of clients generated by outreach.
40. To date, the County has received all the money it is entitled to under Proposition 63. Any unspent money rolls over to the next year.

Recommendations

The Grand Jury recommends that:

1. the Board of Supervisors and the Mental Health Board make a concerted effort to recruit members to fill vacant positions on the Mental Health Board; (Finding 10)
2. the MHSA advisory committee make a concerted effort to recruit applicants for vacant positions; (Findings 13 and 14)
3. the Mental Health Branch provide more visibility on MHSA programs and proposed programs; (Findings 13-17 and 19)
4. Mental Health Branch issue RFPs for Prop. 63 funds in a timely manner; (Findings 18-20 and 34-36)
5. Mental Health Branch extend current contracts one more year, through Fiscal Year 2008/09; (Findings 18-20 and 34-36)
6. the Mental Health Branch, the Mental Health Board and the Mental Health Services Act committee, begin work on the Fiscal Year 2009/10 programs. (Findings 18-20)

Comments

Some forms of treatment cost more than others in the short term. However, if they are effective in the long term, they will save money over the long haul. Only experimenting with treatment protocols will demonstrate this. But, a change in protocols may threaten some jobs or types of work.

The branch's regular budget largely depends on "billable minutes" to Medi-Cal and others. If clinical staff can bill for 70% of their time, the reimbursement will support the entire branch budget. If Prop. 63 treatment modes work, there is a threat to the branch's funding.

The public wants to help the mentally ill. But it doesn't want to see them. Any Recovery Model assumes the mentally ill will be among us. That's part of the treatment.

Funds available for treating those with mental disorders have always been insufficient, and the mental health workers are underpaid relative to the technical skills required of them. People enter this field in spite of these obstacles because the deposit they make into their emotional bank is great.

Required Responses

Mendocino County Director of Mental Health Branch (All Findings; All Recommendations)

Director of Mendocino County Health and Human Services Agency (All Findings; All Recommendations)

Mendocino County Board of Supervisors (Findings 10, 11, 13, 14; Recommendations 1, 2)

Requested Responses

Local representative of National Association for Mental Illness (All Findings; All Recommendations)

A Healing Cooperative (Findings 34-36; Recommendations 4-6)

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THE \$10,000 POPSICLE STICK
City of Fort Bragg Municipal Improvement District I:
Waste Water and Storm Water Collection and Treatment System

April 24, 2008

Summary

The 2007-2008 Grand Jury reviewed operation of the City of Fort Bragg Municipal Improvement District I (MID/*the District*) which collects and treats the wastewater for the City and designated surrounding areas. As a City-owned Enterprise within the Division of the Public Works Department, the District generates its own revenue from user and development impact fees, grants, and loans. Fort Bragg City Council members also comprise the Municipal Improvement District I Board of Directors.

Those interviewed expressed significant concern about the condition of Fort Bragg's aging wastewater collection and treatment system. Repeated discharges onto Pudding Creek Beach, together with other sanitary sewer overflows (SSOs) and violations of effluent discharge limitations (exceedances), have raised awareness that the system's condition is unacceptable to residents, city officials, and to regulatory agencies.

Of 23 discharge incidents between May 2004 and October 2007, half were due to the deterioration of the Pudding Creek Force Main¹ and other equipment failures. The other half were caused by blockages due to improper disposal of grease, paper products and other foreign objects. These incidents created the potential for \$1,483,440 in fines by the California Regional Water Quality Control Board (RWQCB).² The RWQCB credited the District for prompt clean-up and for investments it has made in repairs and capital improvements. To clear these fines, the District must still complete a compliance project of at least \$35,500 and pay a fine of \$20,500.

The Jury was impressed by the apparent knowledge, commitment and candor of the Superintendents responsible for wastewater collection and treatment. Carefully prioritized upgrades are strengthening the aging system, but it remains vulnerable to costly failures. A full complement of certified operators is essential to keep pace with required maintenance.

Most of the 26.5 miles of sewer lines are made of fragile vitrified clay. Some essential equipment has operated continuously for 37 years, since the plant opened in 1971. The recently completed *Wastewater Treatment Facility Study* itemizes needed basic improvements to the Treatment Plant at an estimated cost of more than \$5 million.

¹ Waste water moves through the system by gravity flow or by being pumped through "force mains". In the latter case, the flow is under pressure, hence the name, "force main."

² California Regional Water Quality Control Board, North Coast Region: Administrative Civil Liability Complaints Numbers R1-2005-0095 and R1-2007-0102.

Estimated long-range costs total more than \$20 million.³ Immediate priorities include: back-up generators to ensure continuous operation; and achieving redundancy to permit critical system components to be taken off line for servicing.

Methods

The Grand Jury interviewed Fort Bragg City officials and employees responsible for collecting and treating the community's wastewater. Jurors also reviewed budgets, planning documents and websites and toured the wastewater treatment facility.

Background

Completed in 1971, Fort Bragg's original sewer plant was funded by a grant from the Environmental Protection Agency (EPA) and the 1970 Sewer Revenue Bond. Wastewater facilities include 26.5 miles of collection pipes, six pump stations, a treatment plant and an outfall pipe that extends 690 feet into the Pacific Ocean. A number of plant upgrades have been constructed, but there was no regularly scheduled maintenance until after 1999. The City purchased a second digester in 2005 that will permit cleaning and rehabilitation of the primary digester for the first time since it went online.

The Wastewater Enterprise serves approximately 2,850 connections, including some beyond the Fort Bragg City limits. It is under contract to serve nearby State parks. A few sites within the District's service area maintain private septic systems.

Wastewater treatment capacity is adequate for current needs and for limited development, but the aging system is highly vulnerable to blockages and equipment failures. Increasingly stringent regulations combined with deferred maintenance have resulted in costly and environmentally harmful SSOs and exceedances.

The Water/Wastewater Collection and Distribution Superintendent and the Water/Wastewater Treatment Superintendent share direct responsibility for operating both the (potable) Water and Waste Water Enterprises. Their work is overseen by the Director of Public Works who reports to the Fort Bragg City Council. *The California State Water Resources Control Board* (SWRCB)⁴ certifies Wastewater Collection and Treatment Operators. Certification is based on satisfactory completion of coursework, a written examination, and supervised experience as an "Operator-in-Training."

At the time of the Grand Jury inquiry, all Fort Bragg waste water operators held certifications consistent with their responsibilities. One employee was an Operator-in-Training. Several others were also involved in continuing education, supported by the City. At the current staffing level, operators are stretched to accomplish the highest priorities and must work independently without the support of a foreman.

³ Fort Bragg Municipal Improvement District No. 1: Wastewater Treatment Facility Study completed in 2007 by Nute Engineering, Civil and Sanitary Consultants, 907 Mission Avenue, San Rafael, CA 94901.

⁴ www.swrcb.ca.gov. Under "Programs" on the Home Page, click on "Operator Cert"

In 2004, a District commissioned study recommended that an additional operator be added above the current number of funded positions.⁵ Salaries and benefits were described as competitive with comparable rural cities. Any further reduction in staff would put the system at risk. Managers conduct annual performance reviews and provide employees with written feedback. Local housing cost was cited as a concern, should it become necessary to recruit operators from outside the area.

Findings

Deferred Maintenance

1. Before 1999, there was no planned maintenance of the wastewater collection system. Recommendations for depreciation and replacement reserves were rejected repeatedly by the MID Board.
2. Since 1999 the Public Works Division maintains the system in response to blockages and failures and makes repairs that do not require capital expenditures. Staffing is minimally adequate for this level of maintenance.
3. Storm drains were separated from the sanitary sewer in the late 1970s although some cross connections continue to be discovered. The City adopted a master plan for storm drainage in 1985 and updated it in 2004.
4. A few of Fort Bragg's sewer pipes date to the 19th century. Seventeen of the 26.5 miles of collection lines are original clay pipes installed from 1920 to 1940. An additional six miles are asbestos/cement, installed in the 1960s.
5. Clay pipes have an estimated life span of 50-100 years. Their grouted concrete connections break down sooner.
6. Aging pipes, broken seals, and cross connections with storm drains allow large amounts of water to enter the treatment plant during wet weather. This *infiltration* and *in-flow* of storm water overloads the plant. When the incoming sewage stream is diluted by storm water, State effluent limitations for secondary treatment are exceeded and fines are incurred.⁶
7. Weak and damaged pipes also result in *diffusion* of wastewater into soil and in SSOs that are hazardous and result in costly cleanup efforts and fines.
8. The original treatment plant was designed to treat 1.0 million gallons/day of dry weather flow; upgrades brought capacity to 2.2 million gallons/day of wet weather flow.
9. During dry weather, the treatment plant currently operates within 65% of capacity. Fines result when the Average Daily Flow exceeds the wet weather load of 2.2 million gallons per day (m/gpd) and partially treated sewage is discharged into the ocean. These "reportable events" occurred six times in 2005 and five times in 2004. The most recent reportable events occurred during the torrential storms of January 2008.

⁵ February 20, 2004 review by Tetra Tech to support NPDES application.

⁶ State standards for secondary treatment require 85% reduction of the Bio Oxygen Demand (BOD) and Total Suspended Solids (TSS) between incoming and outgoing sewage flow.

What's Been Done

10. To check for leaks, in 2005, MID contracted for smoke and dye testing, videotaped the mains and ranked repair priorities one to five. To date, repairs with priorities of one or two have been completed.
11. The District slip-lined about one mile of the sewer collection pipes with a blown-in plastic sleeve. It replaced damaged sections, and disconnected storm drains from the sewer lines. The total project cost was \$750,000.
12. Acquisition of a \$250,000 vacuum rig and a \$40,000 underground video camera makes it possible for crews to explore mains and laterals. One sewer truck was also replaced in 2007. Appropriate equipment reduces the amount of time and excavation required to clear a blockage and prevent spills.
13. The storm-damaged Pudding Creek Force Main has been re-anchored pending permanent repairs.
14. A diver inspected the ocean out-fall pipe from the treatment plant and checked diffusers and flaps in the fall of 2007.
15. Manholes are essential to allow crews to inspect pipes and to locate and clear blockages. The District has been adding several manholes each year at a cost of \$3,000 to \$6,000 each. More than 350 manholes are in place; twelve more are planned.
16. The District regularly cleans each of its 350+ manholes and inspects both the water and wastewater pipes. Crews are able to complete 10-30% of this work each year.
17. The District completed a headworks project at the wastewater treatment plant in 2007. This equipment collects and processes trash that has been improperly discarded into the sewers. Removing this material protects the treatment equipment and greatly reduces odors at the plant.
18. After the debris has been washed, disinfected, greatly compressed and bagged, 9 to 12 cubic feet of material per week is collected for transfer to sanitary landfill.
19. The large amount of trash and grease discarded into the sewer remains a leading cause of sanitary sewer overflows and the resulting fines.
20. The City established a grease trap inspection program in 2005 which requires all commercial and institutional food handlers to install and maintain grease traps. Enforcement of this program will be ramped up as staffing permits.

Regulatory Environment and Fines

21. Since 2000, government regulatory agencies have raised water quality standards and become more vigilant in enforcing regulations. Private environmental organizations exert additional pressure through legal action and negative publicity.
22. The RWQCB imposes minimum mandatory fines of \$10,000 for SSOs.
23. Effluent discharge limits are established under the Federal Clean Water Act and are set forth in the District's National Pollution Discharge Elimination System (NPDES) permit. When discharged effluent fails to meet quality standards, the minimum fine per exceedance is \$3,000.
24. The RWQCB issued fines totaling \$110,000 as a result of 11 SSOs between 1/1/03 and 10/31/07. Seven of these were due to blockages caused by grease.

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25. Sanitary Sewer Overflows are also triggered by items as small as a child's toy or a popsicle stick. Plastic bottles, fabric and paper towels are common culprits.
26. In June 2006, 3200 gallons of raw sewage were discharged onto Pudding Creek beach from the deteriorated Pudding Creek Force Main. The RWQCB issued a Cleanup and Abatement order on January 29, 2007 followed by a Cease and Desist order on April 26, 2007. The District has secured a \$1.5 million Clean Beaches grant to replace the Pudding Creek Force Main and will put the project out to bid in late spring of 2008. The RWQCB deadline for project completion is October 2009.
27. After wastewater is treated with gaseous chlorine and then de-chlorinated, the effluent is discharged through a 690' long ocean out-fall pipe, 30' below the surface. Chronic Toxicity Reports are submitted twice a year to measure long-term risk to specific marine species in the area of the out-fall pipe.
28. The RWQCB may allow an agency to complete a *supplemental environmental project or compliance project* if it has been diligent in filing required RWQCB reports and has made bona fide efforts to prevent and to respond quickly to SSOs and exceedances.
29. The District invested nearly a million dollars in 2007 to install a new headworks screen at the treatment plant as a compliance project to satisfy discharge exceedance fines incurred between 1/1/2000 and 5/13/04.
30. An electrical circuit failed in April 2007, causing the discharge of chlorinated water that had not yet been de-chlorinated. All other 2006-07 test results were within the permitted range.
31. The fine initially assessed for this incident was \$1,240,000.
32. Negotiated reductions and a proposed \$35,500 compliance project greatly reduced the amount of fines to be paid for this and several other incidents reported between 1/1/03 and 10/31/07. The remaining fine of \$20,500 will be paid in two installments.

Finance

33. Fines are paid from ratepayer sewer fees.
34. The 2007 *Wastewater Management Plan* identifies \$22 million to \$40 million for maintenance needs, replacements and upgrades over the next twenty years.
35. The cost of replacing all of Fort Bragg's water, sewer and storm water pipes and laterals has been estimated to be \$58 million. An alternative is vigilant maintenance.
36. For many years prior to 1999, the City chose to keep user rates low. Current user fees, Connection, Capacity, and Development Impact Fees will not meet the costs of required maintenance and capital improvements.
37. For FY 2006-07 (ending June 30) the District included as non-operating income a loan advance from the General Fund of \$550,000 toward the headworks project. Payback is over a five-year period.
38. Payments are already being made on the 1970 Sewer Bond, the 1998 Wastewater Bond and a ten-year lease/purchase contract on the sewer vacuum truck and new water meters.
39. For FY 2007-08 the Wastewater Enterprise maintenance budget was *decreased* by \$67,622 from the prior year.

40. Loans and bonds require evidence of ability to repay from user revenue. A rate study, which is required in order to raise user fees, is underway.
41. Grants are the primary source of capital funding and most grant applications require costly studies. Fort Bragg currently employs a grant writer who submits 3-4 grants per month on behalf of City.

Recommendations

The Grand Jury recommends that the Fort Bragg Municipal Improvement District I:

1. Produce an annual wastewater management report to inform the public about:
 - the condition of the system;
 - the amount of untreatable debris being captured and treated by the treatment plant headworks;
 - the number and cause of SSOs and discharge exceedances resulting in fines;
 - priorities for repairs and improvements in the coming year;
 - the District's income and expenses;
 - the amount and purpose of all long-term obligations.(Findings 4, 6, 7, 9, 10, 15, 16, 24, 26 and 29-39)
2. Publish the report on the City of Fort Bragg Website, enclose it in billing statements and announce it through press releases. (Findings 4, 6, 7, 9, 10, 15, 16, 24, 26 and 29-39)
3. Conduct a District-wide public awareness campaign educating ratepayers about what they can do to reduce the volume of untreatable material that enters the sanitary sewer system, thereby reducing overflows and the resulting fines. (Findings 6, 9, 17-20, 22-26, 29 and 33)

Comments

Since 1999 Fort Bragg has begun the massive undertaking of tackling deferred maintenance and upgrading its wastewater treatment and collection system. The District staff has had to defend not only against the inevitable breakdowns of an aging system but also the annual onslaught by Mother Nature. While there are no immediate solutions, public education can help build support for necessary expenditures and reduce stress on the existing wastewater system by encouraging users to:

- maintain the privately owned laterals that connect to the public sewers;
- avoid routing storm water into private laterals or directly into public sewer lines;
- use the system only to dispose of human waste and related sanitary products;
- employ composting to dispose of food and plant waste;
- avoid cleaning products labeled "flushable;" many are not treatable;
- keep oil and grease, medicines and other chemicals, hair, floss, paper, fabric and all other non-soluble materials out of the sewer system.

Human health and environmental risks and economic pressures from regulatory agencies underscore the urgent need for vigilant maintenance and capital improvements to Fort Bragg's sewer system and treatment plant. Staffing is minimally adequate to meet current needs; any reduction will create added risks of sewer overflows and effluent limitation exceedances.

The Public Works Superintendents and staff members responsible for collection and treatment of the City's wastewater are to be commended for their professionalism and commitment to maintaining systems that are essential to the well-being of all who live, work, or visit in the area they serve.

Required Responses

Fort Bragg Municipal Improvement District I Board of Directors/Fort Bragg City Council
(All Findings; All Recommendations)

Fort Bragg City Manager (All Findings; All Recommendations)

Fort Bragg Director of Public Works (All Findings; All Recommendations)

Requested Responses

Mendocino County Local Agency Formation Commission (LAFCO)
(All Findings; All Recommendations)

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SAVING FOR A SUNNY DAY
City of Fort Bragg Water Enterprise District:
Water Supply, Treatment and Distribution System

April 24, 2008

Summary

The 2007-2008 Grand Jury conducted an inquiry into the City of Fort Bragg Water Enterprise which provides the City and designated parts of the surrounding area with potable water. The Water Enterprise operates as a Division of the Public Works Department and is responsible for generating its own revenue from rate payers, development impact fees, grants and loans.

Respondents to the Grand Jury inquiry described Fort Bragg's Water Enterprise in positive terms. Water quality consistently meets or exceeds State standards and the supply is adequate for current levels of demand.

Carefully prioritized upgrades are strengthening the water treatment and distribution systems after decades of relative neglect. Still, more remains to be done and diligent maintenance is essential. Upgrade priorities include: constructing a reservoir for additional water storage; acquiring back-up generators to ensure a continuous water supply; and achieving redundancy to permit critical system components to be taken off line for servicing.

Unexplained water loss between the treatment plant and end users currently exceeds industry standards. In FY 2005-06, "lost" water cost Fort Bragg ratepayers an estimated \$213,000, underscoring the importance of regular maintenance and capital improvements. The need to conserve water has become a given, as is the inevitability of periodic rate increases needed to maintain and upgrade this essential system.

Methods

Jurors interviewed Fort Bragg City officials and employees responsible for collecting, treating and distributing potable water to customers of the City of Fort Bragg Water Enterprise. Jurors also reviewed budgets, planning documents and websites and toured the water treatment facilities.

Background

Fort Bragg's water treatment plant was built in the 1950s. It has had subsequent upgrades but received minimal maintenance between 1986 and 1999. Some equipment has never been off line since the plant was put into service. Top priorities are to achieve back-up for critical parts of the system and to increase storage capacity to ensure an adequate water supply under drought conditions.

There are approximately 2850 customer water meters connected to the system. A few sites within the Water District have private wells.

The Department of Public Health declared a moratorium on new water connections in 1992. After the moratorium was declared, the City completed repairs to the Noyo Lift Station and instituted a water fixture retrofit program (e.g. low-flow toilets and showerheads). This reduced water use to 1974 levels. As a result of these efforts, the moratorium was lifted in 1996 and new connections were permitted within the City. New connections are not permitted outside the City limits. Water production is adequate for current needs and for limited development, but the present lack of storage capacity will result in shortages in the event of drought.

The *Water/Wastewater Collection and Distribution Superintendent* and the *Water/Wastewater Treatment Superintendent* share direct responsibility for operating both the (potable) Water Enterprise and the Waste Water Enterprise. The Superintendents report to the Director of Public Works, who is accountable to the Fort Bragg City Council.

*The California Public Health Department (CPHD)*¹ sets and enforces water quality standards and certifies Water Operators. Operator certification is based on: satisfactory completion of coursework; a written examination; and supervised experience as an "Operator-in-Training." At the time of the Grand Jury inquiry, the level of staffing was described as the bare minimum needed for adequate maintenance. In 2004, a District commissioned study recommended that an additional operator be added above the current number of funded positions.² All Fort Bragg Water Treatment and Distribution operators hold certifications consistent with their responsibilities. Several operators, including one Operator-in-Training, were involved in continuing education, supported by the City.

Salaries and benefits were described as competitive with comparable rural cities. Managers conduct annual performance reviews and provide employees with written feedback. Some of the current operators who had relevant skills were hired from Georgia Pacific (GP) when the mill closed. They earned the required certification with City support. Local housing cost was cited as a concern in the event that it becomes necessary to recruit personnel from outside the area.

Findings

1. The capacity of existing pre-treatment storage ponds is approximately 3.0 million gallons. This would be insufficient in the event of drought or increased demand. The City has completed geotechnical studies and is preparing a Request for Proposals (RFP) for design of a 45 acre/foot storage reservoir in Newman Gulch.³ Project cost is estimated at \$1.5 million. Additional raw water storage will still be needed.

¹ www.cdph.ca.gov

² February 20, 2004 study by Tetra Tech to support NPDES application.

³ One acre-foot is equivalent to 325,850 gallons.

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2. Treated water storage capacity is 3.3 million gallons. The Treatment Plant has a daily capacity of 2.2 million gallons.⁴ Summer demand peaks at 1.2 million to 1.4 million gallons/day; in winter, demand drops to .5 million to .8 million gallons/day.
3. The pump station that serves the area known as the East Fort Bragg Pressure Zone has never operated as intended. It is also serving more connections than originally planned.⁵
4. Some homes in the East Fort Bragg Pressure Zone experience water pressure in the range of 20-23 pounds per square inch (psi). "Substandard pressure" is defined as 10 psi or less. Pressure of 30 psi is desirable.
5. Low water pressure is an inconvenience to residents in the East Fort Bragg Pressure Zone and South of Chestnut. It could create a crisis at Mendocino Coast District Hospital in the event of a large fire or a water main break.
6. Maintaining Fort Bragg's 260 fire hydrants is a top priority. Temporary workers, including high school students, are hired and supervised for the summer job of exercising all hydrant valves, and cleaning and painting the hydrants.
7. Water is metered as it is drawn from the source, when it enters clean water storage tanks, and again when it is delivered to end users.
8. Fort Bragg's water comes from three sources: the Noyo River, Newman Gulch and Waterfall Gulch. Quality of the water source and permit restrictions govern when and how much water may be drawn from each location.
9. The State Water Resources Control Board, Division of Water Rights, imposes seasonal limits on the amount of water that may be drawn from the Noyo. From June 1 to October 1, the river flow must be maintained at no less than 3 cfs (cubic feet per second) and pumping is only allowed when tides are at 2' or higher.
10. Water from Newman Gulch is shut off in wet weather when it is affected by naturally occurring tannins that leach from forested land.
11. *Water Use Permits* are temporary and subject to renewal. Fort Bragg's current permit for Noyo River water expires in 2009. The City is now seeking a permanent *Water Use License* in its place.
12. The District has contracted studies to explore other water sources. Test wells near the Noyo produced brackish water. The documented potential for wells at other sites was limited and costs would be high.
13. Access to water rights owned by GP will depend on future negotiations between the City and the owners of those rights. Historically, the GP Mill site had its own water rights for industrial purposes and had little impact on treated water or sewer services provided by the City.
14. Fort Bragg water requires minimal treatment because source quality is high. Monthly water tests are reported to the California Department of Health Services and to the City Manager and City Council.
15. All required tests have met or exceeded State water quality standards in the past year.⁶

⁴ Storage consists of two 1.5 million gallon tanks at the treatment plant and one 300,000 gallon tank located near Highway 20; treatment capacity is based on the plant operation manual.

⁵ Boundaries of the East Fort Bragg Pressure Zone are: N-Sherwood; S-Noyo River; W-Lincoln; E-California

⁶ The Fort Bragg Water Enterprise publishes an annual water quality report which is available on the City website at www.city.fortbragg.com

16. Fort Bragg's Local Agency Formation Commission (LAFCO) Municipal Services Review states that 17% percent of the water treated by the City in 2005-06 was "lost" between the clean water storage tanks and the total water metered by end users.
17. This unexplained loss far exceeds an acceptable industry standard of 10-11% and costs ratepayers substantial sums annually. In 2005-06, the cost was estimated at \$213,000.
18. The District has conducted leak studies three times in recent years and has undertaken major maintenance and upgrades on pumps, pipes, and meters.
19. Some water is still lost due to leaks in the system. Because most pipes are shallow, leaks are identified and repaired quickly.
20. Some of the apparent loss is explained by illegal connections. Other unmetered water is used to flush hydrants and mains, and by the Fire Department for drills and emergency response.
21. Another likely explanation for the apparently excessive loss is that aging water meters were under-reporting the amount of water reaching end users.
22. Operators now maintain all collection and treatment plant meters according to manufacturer recommendations.
23. More than 2800 new water meters have been acquired through a ten-year lease-to-purchase contract with an annual payment of approximately \$100,000.
24. It takes three hours to read the new meters electronically from a vehicle compared to 160 man/hours to read the old meters on foot. The City plans to change the billing cycle from bi-monthly to monthly.
25. The first full reading of the new meters in fall 2007 suggested that the old meters were recording less water than was actually reaching end users. The City has received complaints about increased bills, but this may be due to more accurate recording of the amount of water used.
26. Data from multiple billing cycles will permit more accurate calculation of the amount of water lost between the treated water tanks and the end users.
27. The existing *Fort Bragg Water System Study and Master Plan* was developed in 1986 and is no longer a viable management tool. Updating this report is a recognized priority. Interactive computer modeling of flows and pressures will be invaluable in planning for future development.
28. Those directly responsible for water treatment and distribution have not been full participants in long-term planning for the Water Enterprise, or in preparation of the City's LAFCO Municipal Services Review, or in related aspects of a Fort Bragg City emergency response plan.
29. The current level of staffing is the minimum needed to monitor and maintain the water treatment and delivery systems. Any further reduction in the number of certified operators will result in deferred maintenance and system failures.
30. Priorities for capital investment include replacement of backup generators to ensure water delivery during power outages, and a second blower for the water treatment plant so original equipment can be shut down and serviced.
31. Funding for system maintenance and upgrades comes from user rates, connection fees, loans and grants.

32. In 2005, the District secured a zero-interest loan through the California Department of Health Services to upgrade the Madsen Hole pump station and to clean and rehabilitate the water storage ponds.
33. Current rates became effective May 1, 2006.
34. A rate study is required by law before any change can be implemented. In fall of 2007, the Fort Bragg City Council approved \$47,000 for a grant-funded study of rates. A presentation of findings from this study is scheduled for the City Council Meeting on March 24, 2008.

Recommendations

The Grand Jury recommends that the City of Fort Bragg Water Enterprise:

1. Develop a management report to determine the difference between the amount of treated water leaving the plant and the amount delivered and billed to end users; include the amount and cost of this "lost" water in the City's annual Water Quality Report. (Findings 15-17, 19, 21, 25 and 26)
2. Authorize funding for development of a comprehensive water enterprise long-term plan, including interactive computer modeling of flow and pressure in areas where problems have been identified, and where development is anticipated; fully involve the Water Treatment and Distribution Superintendents in the planning process. (Findings 11-13, 27 and 28)
3. Examine the East Fort Bragg Pressure Zone and recommend necessary upgrades to the system. (Findings 11-13, 27 and 30)
4. Involve the Superintendents for water treatment and distribution in water-related aspects of emergency response planning. (Finding 28)
5. Maintain the number of certified operator positions for maintenance of the water treatment and distribution systems at no less than 2006-07 levels. (Finding 29)

Comments

Most of the concerns that surfaced during this inquiry can be attributed to scarce financial resources and deferred maintenance of an aging system. Providing an adequate supply of potable water will be an on-going challenge. End users can anticipate continuing pressure to conserve water. They would be well advised to plan for mandatory rationing during periods of drought. They may also expect periodic rate increases to cover the cost of maintaining and upgrading the system. The Fort Bragg Water Enterprise Treatment and Distribution Superintendents are to be commended for their professionalism and commitment to maintaining systems that are essential to the well-being of all who live, work, or visit in the area they serve.

Required Responses

Fort Bragg City Manager (All Findings; All Recommendations)

Fort Bragg City Council (All Findings; All Recommendations)

Fort Bragg Director of Public Works (All Findings; All Recommendations)

Requested Responses

Mendocino County Local Agency Formation Commission (LAFCO)
(All Findings; All Recommendations)

**SURPLUS WATER IS AN OXYMORON:
A Report on the Redwood Valley County Water District**

May 23, 2008

Summary

The Grand Jury investigated the sources of water available to the Redwood Valley County Water District (RVW / the District). Water is a precious resource in Mendocino County where seasonal rains alternate with long periods of summer drought. Located to the west of Ukiah, Redwood Valley is an unincorporated area with a population of approximately 5,000 needing water and 3,300 acres of designated agricultural land approved for irrigation water and frost protection.¹

Redwood Valley residents voted not to invest in constructing the dam that created Lake Mendocino. As a result of this decision, RVW was not awarded rights to pump lake water during the dry season. RVW holds only winter rights to pump water from Lake Mendocino between November 1 and April 30. RVW has the right to store 2800 acre feet (af) of winter water. This would be ample to meet current summer water needs, but RVW has no storage capacity and has yet to identify either the necessary funding or a reservoir location.²

With only winter water rights and no place to store winter water for later use, RVW has had to seek a source of summer water. Mendocino County Russian River Flood Control and Water Conservation Improvement District (Russian River District/RR) is the primary summer supplier of RVW water. RR was created in 1954 to invest in the construction of Coyote Valley Dam and reservoir (Lake Mendocino) and to share in the resulting water source. RR participated in the project with bond indebtedness of \$633,000. On the basis of this investment, the State Water Resources Control Board (SWRCB) awarded RR annual water rights to 8,000 af of Lake Mendocino water. RVW remains outside the boundaries of the Russian River District and depends on "surplus water," defined as water that remains after RR has supplied the needs of its member clients.

The Sonoma County Water Association (SCWA) invested \$6.2 million in construction of the dam and received annual pumping rights to 37,500 af of Lake Mendocino water. RVW has an agreement to purchase up to 2,400 af of surplus water from SCWA, but has yet to exercise this option.

There are two kinds of water sources, percolated and underflow. *Percolated water* is precipitation that has been absorbed by the earth; *underflow* is water flowing underground adjacent to a river or a stream. RVW and some residents can still drill wells to obtain percolated water; however, the local water table is dropping and water quality is poor. Furthermore, the State of California is attempting to define all water as

¹ Mendocino County Population and Housing Projections 2000-2025 available at www.co.mendocino.ca.us

² Water is measured in acre feet (af); each af is equivalent to 325,851 gallons. It is the amount of water required to cover one acre of land to a depth of one foot.

underflow, eliminating the regulatory category of *percolated water*. Conservation and storage are critical to ensuring Redwood Valley's water supply.

Methods

The Grand Jury visited the RVW water treatment facility, interviewed management staff and board members and reviewed numerous documents including: RVW Ordinances and Resolutions, financial statements and records, litigation and complaints, consultant contracts; and State Water Resources Control Board's (SWRCB) Water Quality Reports, decisions, permits and licenses affecting RVW. Historical records including those of Russian River District were examined and an interview was conducted with the District's Executive Director.

Background

Prior to 1979, most Redwood Valley residents met their water needs from private wells. Failing to anticipate the impact of growth on their water supply, they had resisted the increase in property taxes that would have been necessary to invest in the Coyote Dam project in 1954. The need for a more reliable water supply grew with the population, and RVW was registered as a California Special District in 1964. Studies conducted in the early 1970s resulted in the recommendation that a water system be established to supply residents with both agricultural irrigation (untreated ag water) and domestic (treated) water. The Bureau of Reclamation concurred that the project was feasible and funded construction which began in 1977. The system went on line in 1979.

Findings

1. Early Redwood Valley residents met their domestic and ag water needs from seasonal streams and private wells.
2. When many wells are drilled into the same water table, the water level falls and some wells will no longer produce water throughout the year.
3. Lake Mendocino was created by Coyote Dam, which was built, primarily with Federal funds, by the U.S. Army Corps of Engineers as a flood control, conservation and recreation project.³
4. The Corps has the responsibility to monitor and maintain the "flood control pool" of Lake Mendocino. Initially, the maximum lake level was established as 737.5' (this is approximately 70,000 af of stored water). When water rises above this established flood control level, some of it is released.
5. In order to increase the amount of stored water for conservation, the flood pool must be encroached upon. For 2008 SCWA ordered that the lake level be increased to 760' effective April 1, 2008. Each additional foot in the level of the lake adds 2,000 af of storage.
6. Increasing the level of the lake impacts natural habitat and may limit access to recreational areas. The dam was engineered to safely store water up to 764 feet.

³ Coyote Dam was the first multi-purpose dam built by the US Army Corps of Engineers to provide flood control, water conservation and recreation.

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7. When water falls below the established flood level, Sonoma County Water Agency, by agreement with RR, takes control of the lake for conservation and recreation purposes.
8. Coyote Dam was built at a cost of \$18.3 Million with a combination of Federal funding and local investment.
9. RR was formed in 1954 to contribute to the construction of the dam and to secure the right to use water from the lake. RR participated with a bond of \$633,000.
10. SCWA invested \$6.2 Million. Water from Lake Mendocino was distributed based on investment.
11. Redwood Valley ranchers and other local residents voted not to invest in construction of Coyote Dam. As a result of this decision, Redwood Valley has no summer pumping rights to water from Lake Mendocino. RVW remains outside the boundaries of RR and depends primarily on "surplus water" from RR and SCWA.⁴
12. Redwood Valley County Water District (RVW) was formed in 1964 as a California Special District. In the 1970s, a collective of ranchers, farmers, and other residents secured funds from the Federal Bureau of Reclamation to develop a water delivery system.
13. Construction of the RVW water treatment plant and distribution system began in 1977; the system went on line in 1979 with 95% domestic and 50% of the agricultural irrigation system completed. It is the only dual service (domestic and agricultural water) district in the County.
14. When the District was established the owners were not required to cap their wells. Additional wells may still be drilled, but the water table continues to fall and water quality is poor.
15. RVW has not repaid its Bureau of Reclamation loan. This debt hampers the District's ability to borrow funds even though loan payments have been temporarily suspended by the Bureau.
16. In May 2006, Senate Bill 2298 was introduced in the U.S. Senate to make this loan junior to new borrowing by RVW for system improvements. As of April 2008, the bill is still pending in committee.
17. Redwood Valley pumps its water from Winery Point, at the southwest corner of Lake Mendocino. Gravity flow carries the water 4.5 miles to a 2-million-gallon holding pond at the treatment plant site.
18. Two pipelines carry water from the treatment plant to end users: one carries treated water; the other supplies untreated ag water. Both support fire protection.
19. Electricity is a major expense in the treatment and delivery of water. Redwood Valley pumps water from Lake Mendocino at night, when electric rates are lowest. The District has recently contracted to have solar panels installed. The agreement allows for a lower price for the electricity at night; during the day excess electricity will be sold to PG&E.
20. Redwood Valley currently serves about 1150 individually metered domestic customers plus master meters at two mobile home parks and the Redwood Valley Rancheria, and has about 200 ag water hook-ups.

⁴ "Surplus water" is defined by the State Water Resources Control Board as "...water that has not been put to beneficial use by (a district's) clients."

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21. In 2006, RVW customers used an average of 563,479 gallons per day (1.73 af/day) of treated water and an average of 939,772 gallons per day (2.88 af/day) of ag water. Water used for fire protection is not metered.
22. State Water Resources Control Board issues all permits to draw, store and/or use surface water.
 - SCWA holds Permit 12947-A to use up to 37,544 af of Lake Mendocino water when the amount of stored water is at least 30,000 af;
 - RR holds Permit 12947-B for 8,000 af of Lake Mendocino water when the stored water is at least 30,000 af.
 - RVW holds Permit 17593 to pump water from Lake Mendocino only during the winter, from November 1 to April 30. The permit allows RVW to pump up to a maximum of 4,900 af for frost protection and domestic purposes.
 - Permit 17593 also allows RVW to store up to 2,800 af of its total 4,900 af winter pumping allotment to be used during the summer, from May 1 to October 31. The stored water may be used for domestic purposes and/or for agricultural irrigation of 3,300 acres of specifically designated agricultural land within the RVW District.
23. RVW has no permit for direct access to Lake Mendocino water between May 1 and October 31. Prior to 1980, RVW had a Memorandum of Guarantee (MOG) requiring RR to provide RVW with up to 4,000 af of water per year.⁵
24. The Russian River District sued RVW to break the terms of the MOG. The suit ended in a stipulated judgment dated May 31, 1980 ordering that RR was only obligated to sell “surplus” water to RVW. This judgment superseded all prior agreements.
25. Under the judgment, RVW paid the Russian River District \$276,992 for water used from the District’s inception in 1954, “...as though they were a member”.⁶ Under the terms of the judgment, RVW received the right to “surplus” water, but not to membership.
26. Of the 8,000 af allotment that RR controls, just over 3,600 af are committed to several member water companies within its boundaries. An equal amount is committed by contract to individual water users along the river. RR has exhausted its entire annual allotment of 8,000 af twice.
27. If RR members use their annual water allotments, only 700-800 af of “surplus” water would be available to RVW from the RR allotment. In 2007, due to conservation efforts by RR customers, RVW was able to purchase 1,900 af.
28. The 1980 judgment requires RR to carefully monitor the beneficial use of its 8,000 af allotment. RVW is required regularly to inform RR of its metered water use. RVW reports monthly to RR and posts their daily water use on the RVW website. Mandatory conservation measures are imposed when projected demand approaches RR’s 8,000 af allotment or when storage in the lake falls below 30,000 af.
29. In addition to its primary summer water source agreement with the Russian River District, RVW has an agreement with Sonoma County Water Agency to purchase up

⁵ RR added RVW as a “place of use” on its SWRCB Permit 12947-B.

⁶ The total billed included taxes and interest.

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to 2,400 af of SCWA “surplus” water.⁷ As yet, RVW has not received any water from SCWA.

30. RR water and RVW’s access to “surplus” water are further impacted by decisions of multiple government agencies including, but not limited to the:

- Federal Energy Regulatory Commission
- National Marine Fishery Service
- Federal and State Environmental Protection Agencies
- California Department of Fish and Game

31. As other users of the 8,000 af RR allotment increase their water demands, the amount of surplus remaining for RVW will diminish.

32. A cutback of water pumped from the Eel River into Lake Mendocino may affect water available to downstream users.

33. In 1989, a Preemptory Writ of Mandate was issued by the Superior Court of California, County of Mendocino, which required that RVW be prohibited from making any net increase in physical domestic service connections in the District. The moratorium on new hook-ups remains in place.⁸

34. The SWRCB requires any water district under a moratorium to seek water, water rights, and/or water storage.

35. Water districts seeking water well sites may not drill in a site that would draw underflow from a river, stream, reservoir or lake without a permit. Wells drilled by water districts must seek only percolated water unless they have a permit to do otherwise.

36. RVW is currently drilling a well on the property where the water treatment plant is located.

37. In 2001, the district issued a self imposed moratorium on any future ag hook-ups.

38. A Cease and Desist Order was issued by SWRCB against RVW on February 9, 2005 and, on May 19, 2005, it was determined that RVW was delivering water for domestic use to four locations that are not authorized under Permit 17593 because they are outside the District’s place of use.

39. RVW has been delivering irrigation water that is diverted directly from Lake Mendocino. The State Water Resources Control Board holds that RVW is violating its permit by doing this. RVW states that it is not pumping under the storage portion of its permit, but using “surplus” water from the agreement with RR. RR verified that RVW can use its purchased “surplus” water for either domestic or agricultural purposes.

40. In August 2007, drought conditions led RVW to advise its customers to cutback water use by 40%. Ag meters were shut off in October. In November, Lake Mendocino dropped below 30,000 af and RVW declared a State of Emergency.

41. On October 4, 2007, Sonoma County notified RVW that the SWRCB had ordered Sonoma County to reduce pumping from the Russian River by 15%; therefore, RVW should make water conservation a priority.

⁷ SCWA has added RVW as a “place of use” under its SWRCB Permit 12947-A.

⁸ RVW may issue a limited number of hardship connections subject to SWRCB approval.

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42. In 1990, RVW contracted with a consulting engineering firm for a study and cost analysis for water storage alternatives. The estimated cost of a 50 af storage pond on the RVW plant site was \$315,000. A 2,000 af storage reservoir would cost up to \$7.7 Million.
43. Based on RVW recorded data, Redwood Valley's actual summer use in 2006 (May 1-October 31) was 435.93 af of treated domestic water and 982.26 af of ag water for a total of 1,418.29 af.

Recommendations

The Grand Jury recommends that Redwood Valley County Water District:

1. locate a site or sites for water storage; (Findings 22-23, 27-31, 33-43)
2. identify funding sources (grants, loans, bonds and increased user fees) to develop water storage; (Findings 15, 16, 42)
3. develop agricultural irrigation water management policies to ensure that the water needs of domestic users are met; (Findings 21, 43)
4. develop a water management plan that anticipates both growth and low water periods. (Findings 2, 11, 14, 20-21, 27-31, 33-43)

Comments

Water rights are allocated by SWRCB on a first come first served basis. Because Redwood Valley voted not to invest in the dam that created Lake Mendocino a half century ago, it now has only limited winter pumping rights to water to the Lake's water and a tenuous claim to the limited supply of "surplus" water from RR and SCWA. Hindsight is 20/20, but the Redwood Valley community must focus on the future. Wells dry up as the water table recedes. "Surplus" water may be expected to decline with further development and increased demand by primary users. Residents cannot depend on "surplus" water, especially in the dry years. Today RVW has limited options: it can use less water, get more, and/or store up to 2,800 af of the 4,900 af that it is entitled to pump during the winter months. These options are clear to see but difficult and costly to achieve. RVW's situation is made even more difficult by numerous regulatory agencies, often with overlapping or even contradictory rules. The entire Redwood Valley community, dependent on RVW water for its livelihood and for living, must confront the water challenge and work with the Redwood Valley County Water District for solutions that benefit all.

Required Responses

Redwood Valley County Water District (All Findings; All Recommendations)

Mendocino County Russian River Flood Control and Water Conservation Improvement District (Findings 5, 6, 9, 23-28, 30-30)

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Mendocino County Water Agency (All Findings; Recommendations 1, 2, 4)

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