

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 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 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 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, (Finding 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)

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

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 using forms available online at www.co.mendocino.ca.us/grandjury.

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 draft is then reviewed by an internal Edit committee and must receive approval by the Full Panel. It is then sent to County Counsel and to the Presiding Judge for final review before public release.

Members of the 2007/2008 Grand Jury

Bob Coppock
Brad Hunter
Kathy Johnson
Nancy Kleiber
Lois Lockart
Chas Moser
George Pacheco
Lillian Pacini
Carolyn Pavlovic
Barbara Reed
Wendy Roberts
James Schweig
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Partial Year

Thomas Clay, Al Pierce, Brent Rusert, Pamela Shilling, Thelma Thompson



The cover photo for this report was taken at Point Cabrillo Light Station Historic Park by Donald F. Roberts. This report was produced with the generous assistance of Tony and Maureen Eppstein. Information on Point Cabrillo State Historic Park and the Lighthouse Inn is available at www.pointcabrillo.org