

**1999-2000  
MENDOCINO COUNTY GRAND JURY RESPONSE**

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## **CITY OF UKIAH**

The City of Ukiah (City), incorporated on March 8, 1876, has an elected mayor and four Council members. The City serves a population of 15,059, covers 4.6 square miles and has 52 miles of paved streets.

The City provides planning and inspection services; public safety including police and fire services; street maintenance; public utilities including electric, sewer, sanitation and waste disposal; recreation including nine public parks, a golf course, three public pools, and an array of programs. The City also operates the airport, Grace Hudson Museum, Ukiah Valley Conference Center, and the Redevelopment Agency.

### **Reason for Review**

The Grand Jury conducted an oversight review of the finances of the City. The Grand Jury last reviewed the City in 1988.

### **Method of Investigation**

The Grand Jury interviewed the Finance Director. Documents researched included the most recent two city budgets, financial statements, 1998-99 audit, fund summaries and descriptions, Employees' Manual, investment schedule and job descriptions for department heads. To facilitate analysis, spreadsheets were generated from financial data for the years 1995 through 1999. The Grand Jury made an on-site visit to City Hall.

### **Findings**

1. The 1998-99 audit of the City's financial statements supports our finding that the City is apparently financially sound and its fiscal affairs are well managed.

**Response (City of Ukiah):** Concur with findings

2. The City's General Fund supports those departments and functions which are generally not supported by fees for service. Some of the City's departments provide services which receive income (e.g., sports and recreation). Although these revenues offset some of the operational costs, they do not entirely support the departments. Special funds are created for special purposes, government grants and for services that are supported by fees.

**Response (City of Ukiah):** Concur with findings

3. The City budget and accounting system, in addition to the General Fund, include 79 separate funds. Although many of these funds are mandated by state and federal funding sources, many were created by the City for special purposes. Several of the funds are no longer active.

**Response (City of Ukiah):** Concur with findings

4. As a result of the proliferation of funds, a complete analysis of the total budget for most City departments requires assembling the data from several funding categories. For example, there are fifteen separate funds that relate to the sewer system, sanitation district and the disposal site. A clear financial picture of the Public Utilities Department is not easily determined. The published City Budget does not include departmental summaries.

**Response (City of Ukiah):** Concur with findings

5. Likewise, the overall revenues and expenditures for the City are not presented except in pie-chart format (pages ES-40 and 41 of the 1999-2000 Budget).

**Response (City of Ukiah):** Overall revenues and expenditures for the city are presented as totals on the "Fund Summary" schedules as well as in the pie-chart format.

6. The City has managed to operate successfully in recent years without the need to increase its permanent staff, although there has been a marked increase in temporary, seasonal and part-time employees. The number of permanent staff has declined from 160 in 1996 to 156 in 2000; during the same time frame the temporary and part-time staff has risen from 76 to 109. Much of this increase is accounted for by the expansion of community services offered, especially in the Day Camp and Sports programs, which are seasonal.

**Response (City of Ukiah):** Concur with findings.

7. The City maintains a complete set of job descriptions for all key employees. Some, however, have not been updated recently (e.g., the job description for the Director of Community Development was last revised in March 1978).

**Response (City of Ukiah):** Concur with findings.

8. The City's Employees' Manual is both current and comprehensive. Although the Manual's Harassment Policy includes sexual orientation, it is absent from the section on Equal Opportunity.

**Response (City of Ukiah):** Concur with findings.

## Recommendations

1. To facilitate understanding by the general public and the City Council, the Finance Director should prepare an Executive Summary that addresses the overall financial health of the City. This summary could combine the General Fund with all other funds. In a similar fashion, each department's budget should include a summation of all revenue sources and spending categories.
2. All inactive funds should be discontinued.
3. Sexual orientation should be included in the non-discriminatory wording in the Equal Opportunity section of the Employees' Manual.

**Response (City of Ukiah):** The City of Ukiah will add "sexual orientation" to the non-discriminatory elements currently listed in Section 2.02 Equal Employment Opportunity of its Employee's Manual. Sexual orientation is currently included in the City's Harassment Policy and in the Equal Opportunity Employment statement at the bottom of each vacancy recruitment the City posts.

4. All job descriptions should be reviewed periodically.

**Response (City of Ukiah):** City of Ukiah job descriptions are reviewed periodically in a number of instances, which include: recruitment to fill a job vacancy; request for reclassification of a specific position; when duties of a job change; or when legal changes occur. The Personnel Department is staffed by one employee, therefore other duties and responsibilities take priority over the review of job descriptions until one of the above instances occurs, or as time allows.

## Comment

Although the number of temporary, seasonal and part-time employees (109) seems unusually high at first glance, all of these positions may well be justified.

## Response Required

Ukiah City Council

## Response Requested

Ukiah City Manager

## CITY OF UKIAH POLICE DEPARTMENT

The Ukiah Police Department (UPD) is the law enforcement agency serving the city of Ukiah. The Grand Jury's investigation focused on the UPD training program, medical marijuana policy, and the impact of the new Chief on UPD operations.

### Reason for Investigation

The Grand Jury received a citizen's complaint

### Method of Investigation

The Grand Jury interviewed the Chief of Police and four Sergeants, the Director of the Mendocino County Department of Mental Health (MCMHD), and a representative of the Ad Hoc Committee of Community Concern (AHCCC). Documents reviewed: the Peace Officers Standards and Training Manual (POST), information from the MCMHD, (including mental health and developmental training information), UPD medical marijuana procedure, domestic violence training material, interoffice memoranda and the Policy and Procedures Manual. The Grand Jury toured the UPD facilities and the new state of the art dispatch center.

## Operations

### Findings

1. The UPD personnel consist of 41 employees. There are 26 sworn staff, 11 civilian staff, two Community Oriented Policing (COPS), one Community Coordinator and one Major Task Force personnel.

**Response (City of Ukiah):** The department currently has 26 sworn officers. This includes the Community Oriented Policing personnel. One (1) officer assigned to the Major Crimes Task Force. 11 1/2 civilian employees, which include public safety dispatchers, front office staff, vehicle mechanic and parking enforcement officers. Public Safety dispatchers and vehicle mechanic are actually shared costs with other City departments. Total UPD Personnel: 37 1/2.

2. In the last two years the UPD received a grant and has invested approximately \$500,000 to install a Windows NT network. This computer supports all divisions of Public Safety from emergency medical services to fire and police services. This system includes software for medical, fire, and police incident reporting and computer-aided dispatch software to track and assist in the deployment of emergency personnel. Peace officers, firefighters, and dispatchers now share a central database of information, which provides for enhancement and better use of their database.

The UPD also received a grant from the State of California for a computer controlled 9-1-1 telephone and radio system. This computer is tied directly to the UPD computer-aided dispatch system and provides immediate information to dispatchers in emergency situations. Also installed was an emergency medical dispatching software package, which is now assisting dispatchers to provide immediate medical information on the phone as personnel respond to the scene. The UPD has also received a number of federal grants, which have provided the UPD with computer crime-mapping programs, digital cameras, laptop computers, and information access.

**Response (City of Ukiah):** Concur with findings.

3. The morale seems high in the UPD and the entire staff has great esteem for the new Chief.

**Response (City of Ukiah):** Concur with findings.

4. The turnover rate remains consistently low. The staff shows no indication of discontent with the management or the manner in which the UPD is functioning.

**Response (City of Ukiah):** Concur with findings.

5. In response to a police shooting in July 1998, a group of concerned citizens formed the AHCCC to address racial issues and law enforcement. In 1999, the UPD and AHCCC signed a statement of mutual understanding.

**Response (City of Ukiah):** Concur with findings.

6. The UPD adheres to a 1999 countywide medical marijuana policy issued by the District Attorney's Office and administered by the Sheriff's Department.

**Response (City of Ukiah):** Concur with findings.

## **Training**

### **Findings**

7. Effort is made to ensure that all peace officers comply with the mandatory training required by POST. This compliance has been certified by POST inspectors.

**Response (City of Ukiah):** Concur with findings.

8. Currently there is no system for monitoring compliance with minimal POST

standards and additional UPD internal standards. A new computer program has been ordered to improve the tracking of the training requirements for the UPD.

**Response (City of Ukiah):** P.O.S.T. regulates and monitors adherence to P.O.S.T. standards with an internal record keeping system and on –site audit by P.O.S.T. personnel.

### **Recommendations**

1. The Grand Jury urges the UPD to continue to make training one of their top priorities.

**Response (City of Ukiah):** Concur with recommendation. The department will keep training a top priority for all department personnel.

2. The UPD should install the computer program and get the training-monitoring program up and operational as soon as possible.

**Response (City of Ukiah):** The computer program that was purchased to manage our training records has been received and installed. Three department employees are scheduled to received training to properly use the program. Training scheduled for July 2000.

### **Findings**

9. Peace officers are trained in domestic violence response, leadership, hostage negotiations, parolee contact, missing persons, field evidence, firearms instruction, civil liability, internal affairs, ethics, accident investigation, supervision, background investigation, sexual assault investigation, narcotics, canine, pepper spray restraint devices, crime-scene control and security, high-speed stops, and other training as offered.

**Response (City of Ukiah):** Concur with findings.

10. Although not required by POST, there were four formal training sessions with the MCMHD in the fall of 1999.

**Response (City of Ukiah):** Concur with findings.

### **Recommendation**

Training from the MCMHD should be established on a regularly scheduled basis.

**Response (City of Ukiah):** Concur. The department will continue to explore training opportunities with MCMHD. Regular scheduled training should be based on the needs of both departments and in conjunction with other law enforcement agencies. Additionally, U.P.D. invested in the training of two officers in mental health issues to enable them to return and provide ongoing training to U.P.D. employees.

## **Finding**

11. Training is sometimes restricted as a result of the budget restraints for reimbursement of pay as many of the classes require overtime. The UPD ran out of overtime in February 2000 and has since curtailed the training program. POST is responsible for setting training standards for the hiring of police officers. POST requires 24 hours of training per year, which is discretionary with each department. POST will reimburse local districts for up to 80 hours of training per officer per year, but does not include reimbursement for overtime.

**Response (City of Ukiah):** Concur with finding. However, P.O.S.T. does reimburse associated overtime for some specific training courses.

## **Recommendation**

The Ukiah City Council should establish a separate training budget for the UPD that includes an adequate provision of necessary overtime.

**Response (City of Ukiah):** The Ukiah City Council did increase the overtime budget for fiscal year 2000-20001. This should help with providing for some additional training.

## **Response Required**

Ukiah City Council

## **Response Requested**

Ukiah Police Department

## **COMMUNITY DEVELOPMENT COMMISSION**

The Community Development Commission (CDC) provides and maintains housing for low-income people. Funds are provided by Housing and Urban Development (HUD) and by various state and federal grants. Because of the Congressional desire to provide housing for the homeless, CDC is the only agency that does not require proof of citizenship or a birth certificate to receive benefits. In Mendocino County, CDC is a public body created pursuant to the California Health and Safety Code. The Board of Supervisors (BOS) established the CDC in 1975 to provide Mendocino County citizens the option of operating and governing its own Housing Authority under a single entity and a Board of Commissioners. This also provided a Redevelopment Agency and community development programs. Although CDC derives its powers from the state legislature, the BOS appoints the commissioners for CDC.

### **Reason for Investigation**

The Grand Jury received a citizen's complaint.

### **Method of Investigation**

The Grand Jury interviewed several past and present employees of the CDC, the Executive Director (ED), a Commissioner from the CDC Board, and representatives from other county-wide organizations working with CDC in the Homeless Services Planning Group (HSPG). The HSPG is a collaborative representing twenty county agencies and organizations providing services and shelter to the county's homeless.

Documents reviewed consisted of financial statements, 1998 Audit, payroll information, purchase orders, personnel manual, minutes of the Board of Commissioners (BOC) meetings, Memorandum of Understanding, Procurement Handbook for Public and Indian Housing Authorities and other HUD regulations, CDC's Mission Statement and other relevant data furnished by CDC and other witnesses.

The CDC main office was visited.

### **Relevant Law**

Code of Federal Regulations (24CFR85.36)  
California Government Code, Section 54950 et seq. (The Brown Act)

### **Findings**

1. There were no Request for Proposals (RFPs) on the many computers purchased during 1998-1999, totaling approximately \$30,000 and there were no Purchase Orders on some. These computers were not purchased through

competitive bidding. There was no justification found for this non-competitive purchase which is required by law (see HUD Procurement Handbook (Handbook), Section 4-29) and 24CFR85.36. Purchases of several computers in 1998 did not include a background check of the manufacturer, which went into bankruptcy after CDC purchased the computers. However, CDC did buy extended warranties at the time of purchase, thereby retaining the warranty coverage on those computers.

**Response (Community Development Commission):** The CDC purchased a total of twelve computers during the year, six in January, 1999, and six in April, 1999, at a total cost of less than \$25,000. Both purchases were based on a competitive bidding process in full compliance with the procedures and policies adopted by the Department of Housing and Urban Development. Although not required, the competitive bids were presented to and the Commissioners approved the purchases.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities, including purchasing and bidding. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

2. Some employees reported excessive down time on these new computers.

**Response (Community Development Commission):** The CDC cannot respond to this Finding No. 2 because it is non-specific as to time, duration and details of any computer problems. CDC has not experienced any significant down time on the twelve new computers. The vendor has been prompt and cooperative in resolving any reported problems.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the

Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

3. Further study reveals that in the purchase of their computers during 1998 and 1999, they violated Section II B 1, 2, 4, 5 & 6, and Section III B 4 of CDC's Procurement Policy. These sections require annual planning processes, written contracts, documentation on the history of the procurement, solicitation procedures consistent with federal regulation 24CFR85.36, independent cost estimates, cost and price analysis of the bid responses (no bids were solicited), and the requirement for three or more bids. Handbook Chapter 3-2 explains that the BOC is responsible for establishing the Housing Authority's (HA) procurement policy and that the BOC should designate the ED as the person responsible for carrying out its policy. This action should be stated in the minutes of the Board meeting. Handbook Chapter 3-3 explains the responsibilities of the ED.

**Response (Community Development Commission):** The Board of Commissioners approved the Procurement Policy on June 27, 1995. The Board of Commissioners review and approve policies as necessary.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

4. The CDC Procurement Policy specifies any purchase of \$100,000 or less is a "small purchase" and any amount up to \$500 may be processed through petty cash. Purchases up to \$25,000 do not need approval of the BOC. This allows sizable expenditures without BOC knowledge or approval.

**Response (Community Development Commission):** All of the procurement policies of the CDC are in full compliance with the requirements established by the Department of Housing and Urban Development.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer

state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

5. Instead of taking advantage of “cooperative purchasing” with the County as authorized in Section III H of CDC’s Procurement Policy, CDC acts independent of the County.

**Response (Community Development Commission):** The CDC has and will continue coordinate and consult with the County on appropriate purchases.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## Recommendations

1. The BOC should insure that their Procurement Policy, which according to CDC complies with all applicable federal regulations, is strictly followed. The Handbook should be used as a reference for the BOC to insure that the Procurement Policy follows appropriate federal regulations.

**Response (CDC):** Refer to response to Finding #1.

**Response (Board of Supervisors):** The Board of Supervisors agrees.

**Time Frame for Implementation:** Pursuant to CDC, already implemented.

2. The BOC should review Handbook Chapters 3-2 and 3-3, plus other pertinent chapters in the Handbook and 24CFR85.36, to insure that they have taken all required steps in the procurement process.

**Response (CDC):** Refer to response to Finding #3.

**Response (Board of Supervisors):** The Board of Supervisors agrees.

**Time Frame for Implementation:** Pursuant to CDC, already implemented.

3. The Grand Jury recommends that the limits for "Petty Cash" and the \$25,000 limit not needing BOC approval be reevaluated and possibly lowered. The limits which are stated in the Handbook are maximum limits and can be lowered by the HA. The BOC should periodically audit Petty Cash. Handbook Chapter 4-4 outlines procedures for Petty Cash.

**Response (CDC):** Refer to response to Finding # 4.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** Pursuant to CDC, already implemented.

4. The CDC should coordinate with the County on significant purchases (as authorized in the CDC Procurement Policy) and draw upon County expertise in appropriate areas.

**Response (CDC):** Refer to response to Finding #5.

**Response (Board of Supervisors):** The Board of Supervisors agrees.

**Time Frame for Implementation:** Pursuant to CDC, already implemented.

## Finding

6. The Personnel Manual needs updating and many employees were not sure there was one that was actually followed by management. Neither management nor employees were sufficiently familiar with the manual.

**Response (Community Development Commission):** In 1996, the Personnel Manual was substantially incorporated into and replaced by a comprehensive Memorandum of Understanding between the CDC and the employees' union which then represented and now represents most of the CDC employees. The CDC acknowledges that the Personnel Manual needs to be revised as a comprehensive document separate and apart from the MOU. The CDC will revise the Personnel Manual within the next year.

**Response (Board of Supervisors):** Response: The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## Recommendation

The BOC should immediately insure that the Employee Manual is updated and that both management and staff are made aware of its existence. This manual should be used as a training tool for all staff.

**Response (CDC):** Refer to response to Finding #6.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities.

Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

Time Frame for Implementation: The CDC will revise the Personnel Manual within the next year (12 months).

## Findings

7. The CDC has been generally uncooperative with the “Core Group” of the HSPG in the homeless program. HSPG finds it difficult to coordinate with CDC and to meet with the CDC Director.

**Response (Community Development Commission):** The CDC participates in the “Core Group” of the HSPG Program and has supported the homeless effort by doubling the grant award for the Shelter Plus Care Grant to provide over 100 units of homeless housing assistance for Mendocino County residents.

The Executive Director has been actively involved and has been available for meetings with any member of the group.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

8. Relations are poor between management and many staff personnel, with reports of frequent occasions of verbal abuse from management, retaliatory action directed towards agency employees, along with mistrust of management, by staff.

**Response (Community Development Commission):** The CDC takes strong exception to this Finding. For several years prior to the hiring of the current executive director, the CDC had experienced substantial and recurring problems in the relationships between the

prior executive director and staff The Commissioners, both individually and collectively, are extremely sensitive to this issue and have made a special effort to monitor the relationships between and among the executive director, management and staff. Some tension among these groups will always exist. However, the Commissioners believe that relationships among the executive director, management and staff are generally very good. In the event of any problem, the employees have a broad and explicit grievance procedure and a strong and responsive union. No grievances have been filed nor has the union regarding any inappropriate conduct presented any complaints by the current executive director and/or management.

The CDC cannot respond more specifically to this Finding because no details of any perceived problems were presented. The Commissioners will immediately investigate any specific instances and will protect the privacy of any employee who may raise a complaint.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

9. Needed information from management is frequently slow in being disseminated and is limited to select personnel, indicating poor internal communication.

**Response (Community Development Commission):** The CDC disagrees with this statement. Information is disseminated quickly and is distributed to all appropriate staff. Monthly staff meetings are held within each department as well as an agency wide staff meeting. It is necessary for staff to attend the meetings to receive the information.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures

that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

10. Favoritism was a frequent complaint by many employees in many areas, including salaries and promotions.

**Response (Community Development Commission):** All salaries are set by a fixed salary schedule adopted by the Commissioners after negotiation with the employees' union. It is impossible for the executive director and/or management to play favorites in setting salaries. All job openings are well advertised within the agency and every effort is made to hire and promote from within the agency.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

10. Many employees state that they are afraid to speak out on issues and are fearful for their jobs.

**Response (Community Development Commission):** The employees are well represented by their union, which, in prior years, has not been reluctant to bring complaints and problems to the Commissioners. In past years, employees have also brought their concerns directly to the Commissioners in private communications. The identity and privacy of the employees was always protected. Neither the union nor any employees have brought any complaints to the Commissioners regarding the conduct of management and/or the executive director.

If the Grand Jury will provide specific information about employees who are afraid to speak out on important issues, the Commissioners will interview them and will protect their identity and privacy. Because so many employees have spoken out in the past without any type of retribution, the Commissioners find it difficult to believe that any employees are truly reluctant to bring their concerns directly to the Commissioners.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## **Recommendation**

Management needs to receive training in personnel relations, anger management, inter-agency cooperation, internal communication, avoiding favoritism, and team building.

**Response (CDC):** Refer to response to Findings 10 & 11.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** On-going. This is an issue addressed between the Union representatives and the BOC.

## **Finding**

- 12.** The CDC is publicly funded. The ED has been authorized to use an Agency vehicle, which happens to be a GMC sports utility vehicle. The ED stated she had to use it as she had no other vehicle. Use includes commuting to work between Ukiah and Willits, personal shopping, transportation of family members, plus business purposes. During the period June 1998 to January 2000, there were 23,700 miles put on the vehicle (based on CDC data). During that same period, commuting alone would have used approximately

17,000 miles, or well over 60% of the total mileage. This would leave little for other personal errands and normal business use.

The CDC's new policy is that the value of the percentage of personal use of the vehicle is listed as a fringe benefit on the ED's IRS W2 Form. This still would not reimburse the Commission for use of the vehicle.

The personal use of this or other vehicles is a questionable use of public funds.

**Response (Community Development Commission):** As part of the compensation package negotiated with the executive director, the Commissioners agreed to provide her with a vehicle for official and non-official use. Employees also use the vehicle during office hours as needed. This fringe benefit to the executive director is reported on her W-2 form and the vehicle is fully insured.

The use and mileage computations stated in the report are inaccurate. The report calculates that 60% of the 23,700 miles driven from June, 1998, to January, 2000, were driven in the executive director's Willits-Ukiah commute. In fact, the executive director did not even move to Willits until October, 1999.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## **Recommendations**

1. The Board of Commissioners should immediately consider its liability on the personal use of Agency vehicles.

**Response (CDC):** Refer to response to Finding #12.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission,

although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** BOC determines reasonable compensation package and vehicle needs for Director and staff. Board of Supervisors will communicate by February 2001 to BOC that they carefully consider Grand Jury concerns regarding the use of public funds for personal vehicle use when developing compensation package for staff.

2. If the CDC Board of Commissioners wishes to enhance the ED's compensation, the Grand Jury recommends that a more direct and visible approach through salary increases be used.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** BOC determines reasonable compensation package and vehicle needs for Director and staff. Board of Supervisors will communicate by February 2001 to BOC that they carefully consider Grand Jury concerns regarding the use of public funds for personal vehicle use when developing compensation package for staff.

## Findings

13. The stated mission of CDC is "...working vigorously toward providing Mendocino County residents the opportunity for an affordable home in a suitable living environment."

**Response (Board of Supervisors):** The Board of Supervisors agrees.

14. In early 1998 two CDC units at their South Dora Street, Ukiah, location were destroyed by fire. Shortly thereafter CDC received an insurance payment of approximately \$200,000. To this date the units have not been replaced or rebuilt. The insurance proceeds remain idle.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

15. There is a significant shortage of low cost housing units in Mendocino County.

**Response (Board of Supervisors):** The word significant is ambiguous, but the Board of Supervisors agrees that addition low and moderate income housing is needed.

16. A program for the construction of additional affordable housing units is now in its early stages and has yet to be presented to the BOC.

**Response to Findings #13-16 (Community Development Commission):** The CDC has worked aggressively to increase affordable housing within the county. Since December, 1997 over 160 new housing units have been added:

Seventy-five new vouchers for Family Unification

Fifty additional certificates for the Shelter Plus Care Program

Fifteen new units of Public Housing opened in Ukiah

Fifteen new units of Public Housing opened in Fort Bragg

Seven new units of affordable housing opened in Ukiah

The two particular units that were destroyed by fire in March, 1998, were not replaced in-kind because HUD de-funded the construction of additional public housing units.

**Response (Board of Supervisors):** The Board neither agrees or disagrees with this finding.

## **Recommendation**

The CDC should take immediate steps to initiate purchase and construction projects to replace the destroyed units and expand the inventory of affordable rental units.

**Response (CDC):** Refer to response to Finding #16.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** On-going.

## **Finding**

17. The BOC is charged with overseeing and making critical decisions concerning the administration of a highly complex housing program. They are further challenged to grasp the mass of regulations promulgated by HUD. In response to this need, the National Association of Housing and Redevelopment Officials sponsors a series of seminars and workshops, specifically designed for commissioners whose background is not in housing. Unfortunately, not all of the Commissioners have taken advantage of this important training.

**Response (Community Development Commission):** The majority of the Commissioners have attended conferences and training sessions in an effort to remain current with the complex housing issues and seemingly ever changing policies and regulations. The executive director regularly circulates among Commissioners descriptions of available training sessions.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## **Recommendation**

Training in HUD regulations and community development should be mandated for all members of the BOC. The BOC should be more aware of the business transactions conducted by the Commission and of personnel morale.

**Response (CDC):** Refer to response to Finding #17.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** On-going.

## **Finding**

- 18.** As required by HUD, personnel authorized to draw down money from their HUD account are issued an individual password code. No other person is authorized to use that code. The password code used to draw down money from HUD and restricted to specific users was reported by several employees to be loosely controlled. At this time, there is no authorized alternate person available.

**Response (Community Development Commission):** Control over the HUD account password (LOCCS) is regulated by a designated Commissioner, currently Commissioner Henderson. The only person with authority to use the password is the executive director. The CDC will implement the recommendation of the Grand Jury and designate a second person with access authority.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## **Recommendation**

Necessary steps should be taken to insure that there is an authorized alternate and the control of password codes is strictly enforced.

**Response (CDC):** Refer to response to Finding #18.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

Time Frame for Implementation: Immediately.

## **Finding**

- 19.** There were many reports of improper hiring and promotion practices. Job announcements were not always posted. Also, according to testimony, temporary employees were hired and then assigned to permanent jobs without posting.

**Response (Community Development Commission):** The CDC disagrees with this statement. All employment opportunities are posted internally so those interested employees may apply. All employment opportunities are advertised in the local newspaper.

Since this finding is non-specific, the CDC is unable to provide specific information.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## **Recommendation**

If the BOC does not now have a formal procedure to critically evaluate the ED and staff morale; a comprehensive procedure should be developed.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

Time Frame for Implementation: Not applicable. Recommendation of Grand Jury is not consistent with Finding #19 which is directly applicable to the hiring process and not the evaluation of Executive Director and staff morale.

## **Finding**

20. It was reported that the ED recommends to the BOS people to be appointed as commissioners to CDC.

**Response (Community Development Commission):** All Commissioner appointments are made by the Board of Supervisors. The individual Commissioners, the executive director and employees may make recommendations to the Board of Supervisors as can any member of the public. The CDC believes that the Board of Supervisors, both individually and collectively, have sufficient interest, intelligence and independence to make appointments that are in the best interests of the public, regardless of the recommendations received from the executive director and/or anyone else associated with the CDC. In any event, only a single Commissioner has been appointed during the term of the current executive director.

**Response (Board of Supervisors):** The County Administrative Office is not aware of this practice. It is the practice of the County to properly notice vacancies to all boards and commissions. The Board of Supervisors then makes appointments based upon information included in the application.

### **Recommendation**

The BOS should appoint commissioners without getting recommendations from the ED, which is allowing the “employee” to recommend who their “supervisor” should be.

**Response (CDC):** Refer to response to Finding #20.

**Response (Board of Supervisors):** The Board of Supervisors agrees.

**Time Frame for Implementation:** Already implemented.

### **Findings**

21. BOC meeting notices are posted only at the North State Street main office.

**Response (CDC):** The CDC disagrees with this statement. The Board of Commissioner” meetings are posted at the CDC offices in Willits, Fort Bragg, and Ukiah.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities.

Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

22. Board minutes are frequently not clear to anyone who was not present at the meeting. Discussions are frequently reported without mention of what the subject is about.

**Response (Community Development Commission):** The CDC disagrees with this statement. The Board minutes are clear and concise. All minutes are approved by the Board of Commissioners.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

## Recommendations

1. While the posting of BOC meetings meet legal requirements, the Grand Jury recommends that CDC consider using county wide news media to post meeting notices. For example, BOS meetings are posted at numerous other public places besides the Court House.

**Response (CDC):** Refer to response to Finding #21.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over

all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** Not applicable. CDC meets legal noticing requirements.

2. Minutes of BOC meetings need to be more specific as to what is discussed. A person not attending the meeting should be able to readily understand what the subject of discussion was by reading the minutes. The BOC should also ensure that all decisions, and the specifics of those decisions, be included in the minutes.

**Response (CDC):** Refer to response to Finding #22.

**Response (Board of Supervisors):** The Community Development Commission is appointed by the Board of Supervisors to administer state and federal programs available for low income housing development, purchase assistance, and renovation. The Commission, although appointed by the Board of Supervisors, functions independently in the management of said program responsibilities. Inasmuch, the Commission and its staff are responsible for the operational decisions, and compliance with laws and/or procedures that govern their activities. In granting program responsibilities to the Commission, the Board of Supervisors expects careful oversight over all administrative actions, and compliance with all laws and applicable regulations.

**Time Frame for Implementation:** Not applicable.

## **Comment**

There is the appearance of a lack of planning in purchasing of some items.

A long range planning program for housing has now been started, but is still in its infancy stage.

There are other procurement requirements for the BOC to act on as specified in Chapter Three, of the Handbook, which the Grand Jury did not review due to time constraints. The BOC has serious responsibilities in the area of procurement.

A common goal exists; funds are provided; and it is reasonable to expect that the various agencies involved be able to work together in a state of harmony. It is the responsibility of all publicly funded agencies to see that public funds are properly and effectively administered. All persons involved, regardless of agency, should be able to "meet and confer" in a friendly, business-like atmosphere, to determine the proper application of these public funds to achieve the goals set forth.

All employees have the right to expect to be treated in a professional manner in the work place and to act in a professional manner, as well. Vigilance and discipline is necessary when administering public funds. Anyone in a position of public trust has the responsibility to protect public funds and faithfully pursue the Agency's mission to serve the public interest.

**Response Required**

Mendocino County Board of Supervisors  
Board of Commissioners, Mendocino County Community Development Commission

## CONFLICT OF INTEREST

In 1997, a citizen was arrested and in the process of the arrest and arraignment, the complainant alleged conflict of interest, corruption-misuse of office, and conspiracy to defraud on the part of the former Deputy District Attorney.

### Reason for Investigation

The Grand Jury received a citizen's complaint.

### Method of Investigation

The Grand Jury interviewed the complainant and five past and present members of the District Attorney's Office, as well as defense attorneys and Probation Court Officers. All attorneys interviewed were questioned for their familiarity with conflict of interest rules and guidelines and were also presented with a standard set of hypothetical scenarios to determine the consistency of responses.

The Grand Jury reviewed the case file of arrest and court proceedings and all documentation including video tapes provided by the complainant. The Grand Jury also reviewed the California Code of Ethics, the District Attorney's Policy and Procedures Manual, and the Attorney General's Conflict of Interest guidelines. Newspaper archives were searched back to 1996 for reports of conflict of interest issues.

### Findings

1. The Grand Jury found, based on all the information presented, no evidence of conflict of interest, misuse of office, nor conspiracy to defraud by the former Deputy District Attorney who prosecuted the case.

**Response (Board of Supervisors):** The Board neither agrees or disagrees with this finding.

2. Based on the documents and official records reviewed, the account of the arrest, trial and conviction offered by the complainant was not supported.

**Response (Board of Supervisors):** The Board neither agrees or disagrees with this finding.

3. The new Policy and Procedures Manual developed by the District Attorney in 1999, contains specific conflict of interest guidelines that are understood by Deputy District Attorneys.

**Response (Board of Supervisors):** The Board agrees with this finding.

4. State standards and Code of Ethics were in place in 1997 and were well known and understood by those Deputy District Attorneys interviewed. Both in 1997 and currently when questions of ethics or conflict of interest arise, Deputy District Attorneys seek guidance from senior staff members.

**Response (Board of Supervisors):** The Board agrees with this finding.

### **Recommendations**

1. The District Attorney's Office continues to maintain a high level of awareness regarding conflict of interest.

**Response (Board of Supervisors):** The Board agrees with this recommendation. The District Attorney has developed a Policy and Procedures Manual that details the Conflict of Interest Code.

2. The quality and utility of the District Attorney's Policy and Procedures manual are exemplary; all County Departments should have current, active manuals.

**Response (District Attorney):** The District Attorney's Office agrees with this response. Under this administration all prosecutors are held to a high standard of professional ethics. For this reason, a Policy and Procedures Manual was developed. Furthermore, any case for which there is a question or an appearance of a conflict is referred to the Attorney General. If that agency feels a conflict exists, it will take over the prosecution.

This office thanks the Grand Jury for the written compliments.

**Response (Board of Supervisors):** The Board agrees with this recommendation and will encourage all departments to update and/or develop a comprehensive policy and procedures manual.

### **Response Required**

Mendocino County District Attorney  
Mendocino County Board of Supervisors

## **MENDOCINO COUNTY ADULT PROBATION DEPARTMENT**

The duty of the Mendocino County Probation Department, as an integral part of the criminal justice system, is to promote public safety by reducing criminal behavior and its impact on the community. Supervision and court services are the primary functions of the adult Probation Department. The Probation Department provides services to the Mendocino County Superior Court through the preparation of adult pre-sentence recommendation reports, violation of probation petitions and supplemental reports including bail and release recommendation studies. Probation officers appear in court on adult sentencing, pre-trial hearings, and arraignments. Specific court probation officers are assigned to each court in Mendocino County. On occasion the Court may determine at arraignment that a person is marginally acceptable for release and may set specific conditions for release under the tight supervision of a probation officer. The Probation Department also monitors compliance and progress of persons in court-directed diversions to drug programs, counseling, or educational services.

The Department's supervision unit enforces court-ordered terms and conditions of probation by providing supervision of offenders. This is accomplished by regularly scheduled contacts, urine analysis, victim contacts, monitoring treatment, and verifying the collection of restitution and fines. Often, the terms of probation include mandatory counseling. The Probation Department certifies each program and monitors these programs for compliance with guidelines and standards. Probation also provides advocacy for victims and is involved in the community by the development and support of a system of prevention, intervention and treatment programs.

The Department has offices in Ukiah (Stanley Street and Low Gap Road), Fort Bragg, and Willits. The Probation Department also has jurisdiction and important responsibilities on all juvenile matters including the administration of Juvenile Hall. However, this investigation is restricted to the Department's adult functions.

### **Reason for Review**

The Grand Jury conducted an oversight review of the adult portion of the Mendocino County Probation Department. It was last reviewed by the Grand Jury in 1988.

### **Method of Investigation**

The Grand Jury interviewed fourteen past and present members of the Probation Department, including all first-line supervisors. The Chief Probation Officer was interviewed at three stages of the investigation. Deputy District Attorneys, Public Defenders, a Service Employees International Union (SEIU) representative and the Mendocino County Administrative Officer were also interviewed. Documents reviewed included salary and benefit surveys, retirement provisions, union bargaining packets, the Probation Department Administrative Manual, Department

policies and procedures, interoffice memoranda, case load trend data, probation annual reports, County budgets, the County Policy and Procedures Manual, and relevant sections of the California Penal and Welfare and Institutions Codes. Courtroom hearings both in Ukiah and Willits were attended to observe Probation Court Officers. The Grand Jury also toured the Standley Street facility.

## **Relevant Law**

The activities of probation officers are governed by numerous California Code sections. Penal Code Sections 1191 through 1209.5 specifically stipulate the main requirements for county Probation Departments.

## **Staffing**

### **Findings**

1. Turnover in the department has been chronically high (8% per annum) and had increased to 16% during 1999.

**Response (Probation):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

2. The causes of this high turnover, reported by those interviewed, included:
  - a. low salary
  - b. lack of safety retirement benefit
  - c. low morale
  - d. dissatisfaction with management
  - e. lack of opportunity for advancement

**Response (Probation):** Agree with the finding in that those interviewed may have indicated the listed reasons. The Chief Probation Officer believes staff was justified in their perceptions of the turnover. However, the Department has performed exit interviews with most of the staff that departed. Low salary, safety retirement, and lack of promotional opportunities were the primary reasons given. Low morale was not mentioned, nor was dissatisfaction with management. These two were probably the result of the restructuring of the Department that occurred during that year, but was abandoned later because of various reasons which will be discussed in subsequent sections of this response.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. Each area is either being dealt with by the Department or the County in general.

3. The high turnover rate has resulted in chronic under-staffing, thereby increasing case load and job stress.

**Response (Probation):** Highly agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding and has taken steps such as the Compensation and Classification Study to eliminate low salaries.

4. In January 1999, the Mendocino County Courts restructured the Ukiah court system to assign cases to courtrooms alphabetically according to the last name of the defendant . The introduction of this “vertical” system has exacerbated Probation Department under-staffing. Recognizing this hardship, the Courts are now accepting written reports from Probation Court Officers in certain circumstances.

**Response (Probation):** Agree with this finding. The Courts were cooperative in assisting the Department in staffing for the different judicial department assignments. However, Probation Court Officers are still required to spend an inordinate amount of time in court, due to delays or intervening cases, making it difficult for the officers to find time to prepare the required written court reports.

**Response (Board of Supervisors):** The Board agrees with the response of the Chief Probation Officer. The Board appreciates the Courts willingness to cooperate with Probation and to look for alternative solutions.

5. A 1998 survey of Probation Department salaries in 50 of California’s 59 counties , conducted by Kern County, indicated that salaries are a direct function of the population of the county. For example, Mendocino County ranked 34th in population among the 50 counties. Deputy Probation Officer I salaries ranked 33rd and Deputy Probation Officer II ranked 32nd.

**Response (Probation):** Agree with this finding. The survey is prepared biennially for and on behalf of the Chief Probation Officers of California (CPOC) association, with information derived from each of the participating county probation departments.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer.

6. Most Deputy Probation Officers (DPO's) interviewed felt they were underpaid. However, the County-financed January 2000 Slavin Report reveals those salaries for DPO's are on a par with other sample counties.

**Response (Probation):** Agree with this finding. The disparity comes in the higher level positions.

**Response (Board of Supervisors):** The Board agrees with this finding. Salary issues were found at the higher level positions.

7. However, both the Slavin Report and the Kern County study reveal that the salary of Mendocino County's Chief Probation Officer (CPO) is substantially less than CPO's in other comparable counties.

**Response (Probation):** Agree with this finding. The CPO has researched this issue independently and came to the same conclusion.

**Response (Board of Supervisors):** The Board agrees with this finding.

8. The Probation Department has, for a number of years, experienced great difficulty in its ability to recruit qualified staff.

**Response (Probation):** Agree with this finding. This is a statewide problem that has been discussed at many CPOC meetings. Educational requirements are the biggest stumbling blocks, although many applicants do not pass the background investigations, because of criminal records or fabricated information in the applications. A combination of education and experience has been our measuring tape for the last several years. The Chiefs are mounting a media campaign to make the public more aware of probation services and our roles in the community.

A sharing of employment applications throughout the State has also been discussed.

The Department is working with the Mendocino College to start internship and work-experience programs, which should increase interest in this field.

Also impacting our recruitment are the issues mentioned in item 2 of this section. We are hopeful that increased salaries and safety retirement will entice more applicants. Internal incentives, such as adjusted professional hours (a current practice), may also have an impact.

**Response (Board of Supervisors):** The Board agrees with this finding. This issue occurs in almost all California counties. The Chief Probation Officer is fully aware of this concern and has taken steps, in cooperation with Mendocino College, to develop an internship program. The Board is also in the final stages of implementation of the Slavin Study, which will increase salaries.

9. Despite recommendations from the CPO and proposals from the SEIU, Local 707, the Board of Supervisors (BOS) has rejected offering Probation Officers Safety retirement. Twenty-eight of the 46 counties surveyed offer this benefit. The Union volunteered to pay for half the cost of an actuarial study.

**Response (Probation):** Agree with this finding in part. The issue of safety retirement has been discussed at meet and confer sessions during MOU negotiations. The request for an actuarial study was presented by the Union and reportedly rejected by the BOS. I have met with the Union representative and our staff, and are in the process of preparing a presentation for safety retirement for the BOS. As of this time, no formal discussion between the BOS and the CPO has taken place. The Department highly encourages the County to implement it, both for officer safety consideration and as a recruitment incentive.

**Response (Board of Supervisors):** The issue of safety retirement for Probation Officers is still in discussions and will be reviewed this fiscal year. The Board's goal this year is the implementation of the Slavin Study with other issues moved to future review.

10. A number of those interviewed voiced complaints concerning the lack of opportunity for advancement. However, it is clear that promotion from within the department is commonplace.

**Response (Probation):** Agree with this finding. This is a small department with few chances for promotion. The Department has recently acquired several mid-management positions through court funding, grants, and inter-agency agreements, allowing for internal advancement. However, there are many qualified officers competing for these few positions. Safety retirement might encourage upper management officers to retire earlier, but until then there do not appear to be many promotional opportunities.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer.

## Recommendations

1. The BOS should determine the cost of high Probation Department turnover, including recruitment, training, and loss of experience.

**Response (Probation):** Agree with this recommendation and would fully cooperate in this determination. As the problems with recruitment were discussed earlier, the issues of retention are also important to explore. The State (through the Board of Corrections) and the County contribute to the cost of training deputized staff. To lose staff for any reason is fiscally painful due to the high investment for this early training. The loss of experienced staff creates liability issues, while increasing demands on seasoned staff to train and support newer officers during the initial probationary periods.

As stated earlier, this is not unique to Mendocino County Probation, and efforts are being made on a statewide basis to reduce turnover.

**Response (Board of Supervisors):** The Board understands the high cost of turnover and we have taken steps to reduce the problem with the Classification and Compensation Study (Slavin), reviewing safety retirement and encouraging the Chief Probation Officer to examine and modify internal issues that may affect an employees willingness to continue employment with the Department.

**Time Frame for Implementation:** Anticipated completion of cost estimate of the high turnover is April, 2001. This will include recruitment, training costs, clerical time, etc.

2. The BOS should review Probation Department salaries to determine if an increase would likely reduce turnover, increase job satisfaction and facilitate recruitment.

**Response (Probation):** Agree with this recommendation. The CPO believes the Slavin Study is the first step in this direction.

**Response (Board of Supervisors):** The Board believes that the Slavin Study will address this recommendation.

**Time Frame for Implementation:** Slavin Study will be implemented effective November 26, 2000. The determination of any appreciable difference should be completed by December, 2001.

3. The BOS should seriously re-evaluate the cost and benefit of making Safety Retirement available to all qualified employees of the Probation Department. An actuarial study should be conducted.

**Response (Probation):** Agree with this recommendation.

**Response (Board of Supervisors):** This issue will come forward in the next several months. The Board will take a critical look and this recommendation based on our financial abilities and with a need to retain our valuable employees.

**Time Frame for Implementation:** The Department anticipates presenting a recommendation to the Board in April, 2001.

4. New staff positions should be established to satisfy the burden of the vertical court system.

**Response (Probation):** Agree with this finding. With a limited overall county budget, it is difficult to implement new positions. I have been seeking grants and other funding streams to enhance staffing.

**Response (Board of Supervisors):** The Board authorized one new probation officer during the Final Budget process. The Chief Probation Officer is seeking grants to reduce the impact on the County's General Fund and thus still address the expanding needs of our communities.

**Time Frame for Implementation:** On-going through grant applications and seeking other funding streams to enhance staffing.

## **Organization and Facilities**

### **Findings**

11. Line staff was not adequately prepared for the reorganization of the Probation Department in December 1998. Their views were not solicited and as a result they were antagonistic to the new organization from its inception.

**Response (Probation):** Highly disagree with this finding. It may be the perception of some line staff that the reorganization was imposed upon them with little of their input, but input from all staff was solicited at every step of the reorganization. Management level staff was instructed to consult line staff for suggestions and criticism, which is verified in administrative staff meeting minutes. The unit supervisors reported that there was very little input from their line staff, and that which was received was considered and used or rejected after extensive discussion.

Management "retreats" were held to compile staff input and to design the new organization. Many line and management issues for the improvement of operations were thoroughly discussed. No policy, procedure, or change of operation was implemented without agreement from the entire group. Once the reorganization plan was

published, there was plenty of time for input for modifications and corrections. It was emphasized all along that the reorganization was not set in concrete, and that the plan was open to constructive criticism and modification.

**Response (Board of Supervisors):** The Board disagrees with this finding and agrees with the response provided by the Chief Probation Officer. The Chief Probation Officer took several steps to include all staff in the preliminary discussions and reviews before any modification took place. Change is difficult for everyone. Some employees may have felt left out but did have an opportunity to share their opinions at various stages of the process.

12. Prior to December 1998, the juvenile and adult units were separated. The new organization created court and supervision units that encompassed both the adult and juvenile functions, which seriously restricted communication. The new organization also had inherent supervision problems (e.g., one supervisor had 22 DPO's reporting to him).

**Response (Probation):** Disagree with this finding, which appears to place the failure of the reorganization on restricted communications and staffing patterns. As probation departments in general are finding that many members of families are on probation at the same time (parents and siblings alike), supervision of the family unit as a whole is becoming more and more essential to community corrections. The new model recognized this as a new and innovative way of dealing with this trend. The model also retained juvenile/adult practices, but required staff to learn practices with which they were not familiar. This created a feeling of being overburdened with the learning process, while trying to deal with burgeoning caseloads.

To add to the dilemma, the turnover of staff may have been indicative of the staff's dislike for the reorganization, but it also exacerbated the problems of implementing the new design. To their credit, the officers made valiant efforts to learn both adult and juvenile laws, courtroom procedures, and supervision requirements, assisting each other in this process.

Restricted communications resulted from two unexpected areas, the shift from the juvenile/adult paradigm that had been practiced for years, and having staff in more than one location. The difficulty in adapting to the new model was evident in the territorial protectiveness that staff was not willing to give up. This impacted sharing of information.

Complaints that court officers were not leaving adequate and appropriate information in the files for the supervision officers, and vice versa, exemplified the discontent with the reorganization. However,

these complaints pre-date the restructuring and are again expressed by staff today. There seemed to have been a reluctance to simply communicate by telephone and e-mail (Jalan), which would have simplified the process.

Not being under one roof is, and will be, a problem for communications among the staff, but a willingness to communicate is imperative. As just noted, there still seems to be an inability or reluctance to share information in a timely manner. Management staff is cognizant of this and has worked to eliminate communication problems.

The issue of supervisor/staff ratio was in the process of being rectified by creating more DPO III (mid-management) positions.

**Response (Board of Supervisors):** The Board disagrees with this finding and agrees with the response provided by the Chief Probation Officer. The Department was finding that several family members are on probation at the same time, thus supervision of the family unit became essential to community corrections. This new model retained juvenile/adult practices, but did require staff to learn practices unfamiliar to them. This did create a feeling of being overburdened with the process since Probation was experiencing staff concerns at the time. Communication was a concern before this restructuring and is being addressed by staff. Staff is addressing the supervision issue by creating more mid-management positions.

13. To the credit of the CPO, recognizing the widespread dissatisfaction and inherent problems, he rescinded the new organization in October 1999. It was replaced by an organizational structure that reinstated many, but not all, of the features of the 1998 form.

**Response (Probation):** As much as the Department appreciates the comment, the CPO disagrees with the finding. The CPO did not rescind the reorganization due to dissatisfaction or inherent problems. The believed and still believes that the restructuring would have been effective in delivering better service. Many felt it was for the good of the department and participated fully. However, the CPO received many comments from outside sources that several staff were openly critical of the reorganization and expressed their negative views and reluctance to participate loudly in the public forum. These staff members did not come directly to the CPO with their concerns or comments or suggestions as to how to improve service delivery.

Further, there were outside influences that impacted the reorganization in a negative way. The vertical calendar model for the courts changed the staffing pattern for the adult courts. Domestic violence caseloads increased dramatically, causing a shift in supervision priorities. The

reassignment of judges and the creation of new therapeutic courts shifted demands for court services. In a memorandum presented to staff and the courts, the CPO compared the situation to Sebastian Junger's book, The Perfect Storm, where several smaller storms from various areas combined to create a super storm that sunk an unsuspecting boat. Significant issues combined suddenly to make the new model difficult to implement at the time.

Considering the loss of staff during this period and the new DPOs having to be trained, along with the above-noted problems, the CPO decided that the reorganization would not work at that time, and therefore, returned to a modified form of the previous organization. This pleased most, if not all, staff mainly because it relieved the tension that surrounded the project. Many staff members have commented that they learned many things from the experiment: the roles and responsibilities of those whose positions were different and/or misunderstood, a greater appreciation of the amount of work performed by others, new and exciting information and techniques not previously shared between the units, a willingness to look at whole families and not individuals, and a better understanding of the problems inherent in remaining in a position so long that the tasks become routine and personal pride gets eroded.

The reorganization was based on a model used in other county probation departments throughout the nation. Given a different time and more favorable circumstances, the CPO would again reorganize along the same lines.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. Because of staff shortages such as loss of line staff, supervisors must perform non-supervisory roles on a limited basis. The department is attempting to reduce this concern through additional mid-management staff.

14. The current organization continues to have managerial problems in that supervisory units are extremely large and one of the most experienced supervisors is assigned a non-supervisory role.

**Response (Probation):** Agree in part with this finding. Supervision caseloads are large, but cannot be compared to court responsibilities in terms of workload. Each task requires specialized abilities that can be measured qualitatively and quantitatively. Unit supervisors are often required to perform line duties because of loss of staff through termination, loss of line staff to training, increased work assignments generated by the courts, and inexperienced staff not being able to perform complex duties. These supervisors are burdened with supervising large staffs. We have attempted to alleviate some of this problem through additional mid-management positions.

The unit supervisor who is not in a supervising role is assigned to coordinating training for the entire department, seeking and procuring grants and other funding prospects, and preparing guardianship reports for the civil court. The training function is easily a half-time position, requiring scheduling, monitoring, fiscal control, and evaluation of internal and state-required training. Deputized officers attended 4086 hours of state-mandated instruction during the last fiscal year.

The department was required to perform guardianship investigation reports about two years ago, with no additional staff. What started as a trickle of requests has expanded into an almost full-time task. And this supervisor has been instrumental in obtaining grants and monitoring the TANF/IVE allocations.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. Because of staff shortages such as loss of line staff, supervisors must perform non-supervisory roles on a limited basis. The department is attempting to reduce this concern through additional mid-management staff.

15. The split of the organization between the Standley Street and Low Gap Road facilities burdens operations and causes communication problems. Having the Department under one roof was recommended in the 1999 Ross-Drulis Criminal Justice Facility Master Plan, funded by the BOS.

**Response (Probation):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding. Limited resources dictate logistic problems, which the Board is aware of.

## Recommendations

1. The CPO should solicit and listen to line staff views, when making decisions that directly affect them.

**Response (Probation):** Agree with this recommendation and the CPO staunchly maintains that that is his practice. Each employee is requested to present complaints and suggestions through the chain of command, but in a department of this size, communications frequently happens on an informal basis. The CPO appreciates the input from all levels of staff and solicit it on issues that will affect those involved.

**Response (Board of Supervisors):** The Board agrees with this recommendation and refers the Grand Jury to the Chief Probation Officers' response.

**Time Frame for Implementation:** On-going.

2. With input from all members of the Department, the current organization chart should be the subject of a thorough review.

**Response (Probation):** Agree with this recommendation. The organization was reviewed and restructured, with input from staff. The current organization is what the staff seems to have desired. Evaluation of service is an on-going process.

**Response (Board of Supervisors):** The Board agrees with this recommendation. The Chief Probation Officer assures us, through his response, that this process is ongoing.

**Time Line for Implementation:** On-going.

3. The BOS should establish a time line for the implementation of the Criminal Justice Facility Master Plan which consolidates Probation Department services in one location.

**Response (Probation):** Agree with this recommendation. It would be ideal to have the department in one location.

**Response (Board of Supervisors):** Given the limited resources available to local government, the County of Mendocino developed a Capital Improvement Plan that prioritizes facilities issues. The Board adjusts this plan on a yearly basis and uses the Criminal Justice Facilities Master Plan as a component to that review.

## **Job Performance**

### **Findings**

16. Competency, job knowledge, and dedication were high at all levels in the department. Line staff demonstrated a deep commitment to their work.

**Response (Probation):** Highly agree with this finding. We have a well-trained and competent staff, eager to learn new techniques and procedures. This staff is dedicated and very committed to serving and protecting the community. The community as a whole should be proud of their efforts.

**Response (Board of Supervisors):** The Board agrees with this finding and thanks the Grand Jury for their comments.

17. Outside obligations and commitments have caused the current CPO and his predecessor to be out of the office over 40% of the time, seriously limiting his availability to staff and knowledge of the day-to-day running of the department. Having his already overburdened supervisors stand in for him does not ease the situation.

**Response (Probation):** Since the Chief Probation Officer is the administrator of the department, it is necessary for him to spend a great deal of time in meetings with other agencies throughout the county and state, seeking collaborations for services, funding sources, and up-to-date legislative programs. Time is spent in consultation with the county administration, other chief probation officers, and training providers. The CPO attends commission and committee meetings by appointment from the BOS; represents the department and county at speaking engagements, national conferences (National Community Sentencing Association), and community based activities (such as the Community Forum on Hate Crime, the Ukiah Valley Culture and Recreational Center) and sits on boards of directors (Ford Street Project, Mendo-Lake Alternative Services Program). With annual personal leave, which after 30 years of service is substantial and difficult to use, but encouraged by county BOS policy, the CPO indeed spend time away from the office.

The CPO believes this time away from the office is essential to operating the Department efficiently. The CPO does not believe that it is necessary to be involved in every aspect of the operations. As an analogy, the ship's captain is responsible for getting to port, but is not involved in ordering the uniforms for the crew or managing the galley on the trip. Unit supervisors have been appointed because of their management abilities and leadership skills, and are expected to monitor the day-to-day operations of their units. They are expected to keep me informed of issues within their units, especially those that affect the other units. All management level staff (CPO, SDPOs, DPO IIs, Superintendent, Asst. Superintendent, and Administrative Manager) meet twice per month (recently changed from once a week) to discuss operational and personnel issues. The CPO meets almost daily with each of the unit supervisors. When he is away for an extended period, the CPO appoints one of the supervisors to be in charge, rotating the responsibility among the SDPOs and the Juvenile Hall Superintendent. The CPO views this practice as a chance to enhance leadership skills.

The CPO does not leave the office without leaving a contact number, and am available at all times by pager, even during his personal leave.

As noted below, the CPO has the desire to have an assistant chief probation officer, but that position was eliminated by a resolution from the Board of Supervisors in the early 1980's, when the department

was smaller. In place of the Assistant position, the Supervising Deputy Probation Officer position was created to supervisor each unit. The CPO has concentrated on adding new positions in the lower levels of the probation officer series, not upper management. As the need for an assistant has become apparent for many reasons, the CPO intends to request this position next year.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. Local and State obligations do sometimes take a manager away from the office but with current technology, physically remaining in the office is sometimes not necessary. The Chief Probation Officer must prioritize his time between his outside obligations and his need to properly supervise his staff.

18. Team building efforts have been restricted to senior staff members and have not been provided to line staff, leaving them with a feeling of being left out.

**Response (Probation):** Agree with this finding, but not the underlying message. The original team building effort was a product of the past administration and was effective in modifying many internal problems in communications. The group was limited to the management team, because of the nature of the communication problems existed at that level of the organization. When it was decided to implement an overall departmental quality and continuous improvement program, several general staff meetings were held to work out the program. Very little participation from line staff undermined the effort. The chosen model, "Simply Better," had been used in other local agencies and was well accepted. When there are players that do not want to play as a team, it is futile to press it upon the whole. Team building was offered as a departmental program, but not supported by all. The Clerical/Accounting Unit has begun to implement this program on a smaller scale. It has improved workflow and communications within that unit.

Since there was sufficient improvement in communication in the management team, that team building program was discontinued about a year ago.

**Response (Board of Supervisors):** The team building program was discontinued a year ago and did include only management since the focus was managerial communication.

19. The Court appoints the CPO and performs an annual review of the Probation Department. However, the Court does not specifically evaluate the CPO's performance; nor is his performance reviewed by the Chief Administrative Officer or the BOS.

**Response (Probation):** Disagree with this finding. The CPO receives an annual evaluation of his performance from the presiding judge, prepared in consultation with the other judges. The CPO provides a statement of accomplishments and operations for the year. The CPO also meets regularly with the judges, both in the courtroom and at meetings. Although they are not directly involved in the county budget process, they are kept apprised of the operations. The CAO and BOS do not evaluate the CPO's performance, but are kept informed about program and operations issues.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer.

## Recommendations

1. The CPO should consider filling the allocated position of Assistant Chief Probation Officer as a solution to the problem of CPO's outside obligations. However, the operation of the Probation Department should always be the primary focus of the CPO.

**Response (Probation):** Agree with this recommendation. The CPO intends to request an Assistant CPO position for the next fiscal year, but it should be noted that the position has not been allocated since the early 1980s and will require a BOS resolution to re-establish it.

The overall operation of the Department is the CPO's primary focus.

**Response (Board of Supervisors):** The Board welcomes the Chief Probation Officer's review of this recommendation. Since the position has not been allocated for a number of years, the Department must make a strong case that the position is essential to the ongoing operations and the delivery of services to our citizens.

**Time Frame for Implementation:** The CPO will address the issue of an Assistant CPO with the Board during the 2001/02 budget conferences/hearings.

2. Priority should be given to team building that would include all department employees. Management should place department morale as an important objective.

**Response (Probation):** Agree with this recommendation. "Simply Better," an effective team building program, was presented to staff last year, but was not supported by all staff. Without support, the program was not implemented department-wide. Team building requires a

team whose members will commit to each other and the overall focus of the group.

This administration has been very cognizant of morale, having experienced several periods of “discontent.” For the past several years, the department actually has had a Morale Committee that organizes activities and lunches. Management has held a “staff appreciation picnic” for many years, with management members personally paying for the picnic grounds and the main barbecue dishes.

Morale is also an issue in assigning and monitoring workload, and in hiring and promoting. Not everyone is happy with assignments and the inability to promote in a small department.

The CPO feels it should be noted that, according to staff, morale has greatly improved since the Department has hired new staff with new ideas and attitudes. Just having all positions filled has relieved pressure and made the work environment less hostile. The CPO has received many comments from staff that “things really are getting better.”

**Response (Board of Supervisors):** The Board agrees with this recommendation.

**Time Frame for Implementation:** On-going process.

3. The BOS, with Court approval, should include the CPO in its annual evaluation of County Department Heads.

**Response (Probation):** The CPO cannot comment on this recommendation. It is a political issue that is pending legislation. Please see CPO’s previous comments about annual evaluations.

**Response (Board of Supervisors):** The evaluation of the Chief Probation Officer is done by the Courts.

### **Arming Probation Officers**

#### **Findings**

20. Many DPO Supervisors have experienced dangerous encounters in the performance of their duties. All line staff interviewed felt they should be armed.

**Response (Probation):** Agree with this finding. Many, not all, of the deputy probation officers feel a need to be armed.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer.

21. The Probation Department is seeing more violent behavior and armed offenders. Probation supervisors are required to travel to remote areas of the County in the performance of their duties. Often these areas are where methamphetamine labs and marijuana cultivation are prevalent. Armed defenders are usually present at these establishments.

**Response (Probation):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

22. The decision to arm DPO's is solely at the discretion of the CPO. He is hesitant to arm his officers for fear that arming may, in fact, increase the overall risk to their safety. Another concern mentioned by the CPO is the potential for increased liability exposure to the County.

**Response (Probation):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

## **Recommendation**

An independent evaluation of the wisdom of arming DPO's should be made.

**Response (Probation):** Disagree with this recommendation. Chief Probation Officers throughout the state are split on this issue. Shasta County prepared a survey and report on arming, which was released in June 2000. Forty-six county probation departments responded. Only seven counties have department-wide arming, while thirty-two have specialized arming like us. Fourteen counties are contemplating arming, while seven have no intention of arming.

This department has two armed officers, one assigned to the Major Crimes Task Force, and one to the Gang Suppression Unit. Both positions involve contact with clients known to be more dangerous than the usual probationer, by nature of the criminal activities. In both cases, the officers are expected to provide back up to other law enforcement officers with whom they work, in case of armed confrontations. Each officer receives forty hours of initial arms training, sponsored by the CPOC, and must qualify quarterly with a certified range master.

To quote from that report, “The work performed by probation officers is continually changing. We must adapt our methodology to efficiently approach our mission. It would appear, through the results of our survey, that most counties in California have embraced the idea that field work, in partnership with other community law enforcement agencies, is an integral component to achieving our mutual goal of preserving public safety. In order to evaluate risk to our community, supervision is taking place beyond the office and within our neighborhoods. Probation Officers are evaluating the probationer’s lifestyle, those with whom they reside, those with whom they socialize and the elements that surround them. Consequently, this results in more diverse, and potentially dangerous, situations that officers will encounter. It appears, through this survey, that each county recognizes the necessity to maintain a sense of officer and public safety and each has developed a different approach in dealing with those issues.”

The cost of arming a single officer is not an issue, when compared to officer safety. Recognizing the ever-changing complexion of the offender population, the CPO has requested the staff to present documentation for the need for carrying arms. Until the CPO is satisfied that there is an overwhelming need to arm, he will continue to consider liability issues, safety to the officers and the community, and individual needs dictated by assignments.

**Response (Board of Supervisors):** The Board of Supervisors agrees with the response provided by the Chief Probation Officer. Officer safety and community need must be balanced in this discussion. Certain Probation Officer are armed when it is known they may encounter clients that are more dangerous than the usual. Field work for Probation Officers is changing and the Chief Probation Officer stands ready to examine these influences as it relates to arming his officers.

## Department Manual

### Finding

23. The Probation Department Administrative Manual has not been updated in over ten years. Its contents are not well known by the staff and it is rarely referred to. There are more than a dozen sections that address subjects covered by the County Administrative and Policy and Procedures Manuals (e.g., Affirmative Action, Use of County Vehicles, Sexual Harassment, Seat Belts, Political Activity, among others). The Probation Administrative Manual does not include job descriptions for the court DPO’s nor supervision DPO’s.

**Response (Probation):** Agree with this recommendation. An effort to update the manual was started by the previous chief, but stalled along the way. About a year ago, the CPO restarted the process and am currently working on the update. Duplication of sections with other manuals may occur when there are special needs or variations within the departments (e.g. use of vehicles for overnight transportation or on-call activities).

**Response (Board of Supervisors):** The Board agrees with this finding.

## Recommendation

The Manual should be updated and made into an active, useful handbook well known to the staff and used for the training of new employees. Sections duplicating the County manuals should be deleted. Detailed job descriptions should be added to the job standards. Each page should bear a revision date.

**Response (Probation):** Agree with this recommendation. An effort to update the manual was started by the previous chief, but stalled along the way. About a year ago, the CPO restarted the process and is currently working on the update. Duplication of sections with other manuals may occur when there are special needs or variations within the departments (e.g. use of vehicles for overnight transportation or on-call activities).

**Response (Board of Supervisors):** The Board agrees with this recommendation. The Department is currently working on the update.

**Time Frame for Implementation:** Completion of updated manual in its entirety is anticipated by June 30, 2002. Each division will also have working manuals.

## Comments

Throughout this complex investigation, the Grand Jury was extended every courtesy and received the full cooperation of the entire Probation Department. The Chief Probation Officer was especially helpful in facilitating the investigation.

**Response (Probation):** The Grand Jury made a sincere effort to gather information intended to improve the operation of this Department. Their approach was positive and from the outset very courteous and professional.

The Grand Jury investigated this Department during a period when we had changed from a tried and true service model, to another that provided a different approach to services. It was new and unfamiliar

to staff and very challenging. It was an attempt to improve internal communications and service delivery. At this time, some staff members were feeling pressured and demoralized because of these changes. Since returning to the previous, but modified, model, the CPO has been told and has observed morale has greatly improved. Communication within and amongst the units is still problematic, but this is an on-going issue. Personnel feelings that they were not consulted about changes that affected them, is duly noted, but disputed by the CPO. The CPO values his staff's input, and although not all ideas and concerns are addressed to the benefit of the individual, the overall operation and well-being of the department is his daily concern and focus.

The CPO appreciates the concerns and recommendations offered by the Grand Jury.

**Response Required**

Mendocino County Board of Supervisors

**Response Requested**

Mendocino County Chief Probation Officer

## **MENDOCINO COUNTY CHILD PROTECTIVE SERVICE EMERGENCY RESPONSE UNIT**

Child Protective Service (CPS) is a division of County of Mendocino Department of Social Services. The Emergency Response (ER) Unit of CPS responds to reports of abuse, neglect or exploitation of children under the age of 18. CPS has offices in Ukiah, Fort Bragg, and Willits.

The investigating Social Worker of the Emergency Response Team is responsible for intake, assessment, and investigation of allegations, cross reporting to law enforcement and placement in Emergency Shelter. Currently the Emergency Response Social Worker is also responsible for the initial court work.

### **Reason for Review**

The Grand Jury conducted an oversight of the Emergency Response Unit.

### **Method of Investigation**

The Grand Jury interviewed the Deputy Director of CPS, the Court Social Worker Supervisor, Licensing Supervisor, Emergency Response Supervisor, two Social Workers, and two Aides. Documents reviewed: Child Welfare Services Program Requirements, Intake Guidelines; Emergency Response Investigating Worker Protocol, Shelter Placement Summary; Family and Children's Services Division Mission Statement, Policies and Procedures, Suspected Child Abuse Report Form, On-Call training outline; Ukiah Emergency Response Search Checklist; Child Welfare Services/Case Management System (CWS/CMS) Off-line Intake Screening Form; Law Enforcement Cross-Report and Two Day On-Call Training Outline for Social Workers. The Grand Jury visited the CPS office.

### **Relevant Law**

Penal Code Part 4, Title 1, Chapter 2, Article 2.5, The Child Abuse and Neglect Reporting Act. Welfare and Institutions Code section 300.

### **Findings**

1. Some Social Workers (SWs) responding to a referral lack CWS training and skills in ER.

**Response (Social Services):** Agree in part. The Department has a training program for new staff and review training for existing staff. The overall shortage of staff with prior Children's Services experience and the need to move new staff into active duty rapidly can lead to social workers with less than optimal training and skills being on-call to receive referrals.

**Response (Board of Supervisors):** The Board and Department agree with this finding in part and recognize that it is a critical issue throughout rural counties. The overall shortage of staff with prior Children's Services experience, coupled with the urgent need for more staff, can lead to social workers with less than optimal training. The Department has a training program for new staff and continually reviews the need for on-going training for existing staff.

2. CPS administrators and staff indicate it is difficult to hire and retain experienced SWs due to stressful job demands and the resulting burnout.

**Response (Social Services):** Agree. In the past six months, out of 16 social workers who left Children's Services, 12 left to enter private practice or other less demanding positions.

**Response (Board of Supervisors):** The Board agrees based on information supplied by the Department which indicates that 12 of 16 Social Workers who left Child Protection Services in a six month period, did so to go into private practice or to take less demanding assignments elsewhere within County service.

3. Top administrators stated that it is difficult to find SWs with experience in CWS.

**Response (Social Services):** Agree. Finding Social Workers with direct Child Welfare Services experience is a statewide problem, that is of special concern in rural counties. The problem is so acute that the County Welfare Director's Association, in cooperation with State Merit System, has established a standing committee to address the issues of recruitment and retention of staff.

**Response (Board of Supervisors):** The Board and the Department agree with this finding and note that it is a frequent topic of discussion among rural counties statewide.

4. CPS has recently hired a new training supervisor to provide information about State and Federal guidelines on Child Welfare Services. The training will also include the Department Policies and Procedures, Court procedure and case management process. The department plans that new SWs involved in ER will participate in Emergency Response investigations during the training period. The University of California Davis has been contracted to provide Mendocino County specific training in Ukiah.

**Response (Social Services):** Agree. The Department has made a major commitment to expanding the breadth and depth of training for all staff.

**Response (Board of Supervisors):** The Board and the Department agree with this finding. The Board commends the Department for its commitment to expanding the “breadth and depth” of training for its staff.

## Recommendation

Core Training in CWS should be mandatory for all SWs involved in ER.

**Response (Social Services):** Agree. Core Training in CWS is mandatory for all social workers.

**Response (Board of Supervisors):** The Board and the Department agree with this finding and note that such training is already mandatory.

**Time Frame for Implementaton:** Core Training to be provided June 2000 – June 2001.

## Findings

5. At the time of our oversight, the screener, classified as an Aide, took the initial telephone call, recorded pertinent information and assessed the urgency of the situation.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board agrees with this finding based on the response of the Department.

6. The Child Welfare SW supervisor determines whether an immediate or 10-day in-person investigation by the ER unit, referral to a community agency or no action at all is appropriate.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board agrees with this finding based on the response of the Department.

7. The clerks research possible prior complaints and input information into the CWS/CMS computer system.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board agrees with this finding based on the response of the Department.

## Recommendation

The Grand Jury commends the ER Unit for recently staffing the screener position with fully qualified SWs who perform these duties on a rotating schedule.

**Response (Social Services):** Agree. The Department appreciates the understanding and support of the Grand Jury for program changes that we have implemented.

**Response (Board of Supervisors):** The Board and the Department agree with this recommendation and thank the Grand Jury for recognizing and supporting these program changes.

**Time Frame for Implementation:** ER staffing with Social Workers implemented May 2000.

## Finding

8. State standards regulating caseload assignments for Emergency Response SWs were developed in the early 1980s before the state mandated CWS/CMS Data System was implemented. While the information this system makes available is considered most useful, all staff stated that the current program for data input is extremely cumbersome and requires extra time for SWs to collect and enter information.

**Response (Social Services):** Agree. It is estimated conservatively that the CWS/CMS computer systems increased the workload of social workers by approximately 10%.

**Response (Board of Supervisors):** The Board and the Department agree with this finding.

## Recommendation

On-going training in the use of the CWS/CMS computer system is necessary. It would be desirable if the statewide system were more user-friendly.

**Response (Social Services):** Agree. Training in the use of CWS/CMS is provided. A Help Desk position is also available to provide assistance to staff. Unfortunately the Department has no control over the statewide system.

**Response (Board of Supervisors):** The Board and the Department agree with this finding, noting that training in the use of CWS/CMS is provided and a Help Desk position is also available for staff. While the Board and Department staff have no control over the statewide system, county officials will continue to provide feedback and be a part of efforts to improve this system.

**Time Frame for Implementation:** On-going Training for CWS/CMS to be implemented January-June 2001.

## Finding

9. Family and Children's Services Division SWs are on-call on a rotating basis to provide 24-hour coverage to assess children's situations for immediate danger.

**Response (Social Services):** Agree. It should be noted that the stand-by rate is \$1.25 per hour and has not been increased many years.

**Response (Board of Supervisors):** The Board and the Department agree with this finding.

10. All changes in placement are made in consultation with the ER Supervisor.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and the Department agree with this finding.

11. ER in Ukiah has been divided into two separate units: ER which follows the case through the initial court disposition and the Court Unit which stays with the case for continuing services, that can end with family services or continue until the child is 18. If this division proves successful, it will serve as a model for the remaining CPS offices in the county.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and the Department agree with this finding.

## Comments

The Grand Jury commends Child Protective Services and the Emergency Response Unit for initiating a reorganization of their department. The aim of this reorganization is to terminate Emergency Response involvement after initial court action and assign the case to a single Social Worker throughout the time the case is active with the Child Welfare System and thereby promote consistency in case management.

**Response (Social Services):** Agree. The Department worked with the Child Welfare League of America in 1999 to develop a strategic plan to guide the reorganization and continuing improvement of the Children's Services Division. Changes will take place over time, but progress is being made in building a strong and effective continuum of services to children and their families in Mendocino County.

**Response Required**

Mendocino County Board of Supervisors

**Response Requested**

Mendocino County Department of Social Services

## MENDOCINO COUNTY COUNSEL

The County Counsel is charged by State law with the responsibility to defend or prosecute all civil actions and proceedings which concern the County or any of its officers. The County Counsel also provides legal advice and representation to the following: all County officers and departments, boards and commissions, special districts governed by the Board of Supervisors (BOS), the Mendocino County Grand Jury, and the Superior Courts located within the County. The County Counsel also acts as legal advisor on a fee for service basis to special districts, the Mendocino County Community Development Commission, the Mendocino Transit Authority and other Joint Powers Agencies.

### Reason for Investigation

The Grand Jury received a citizen's complaint.

### Method of Investigation

The Grand Jury interviewed: The complainant, three County Supervisors, County Counsel, Assistant District Attorney, Deputy County Counsel, Chief Deputy County Counsel, and representatives of County Departments served by the County Counsel, such as General Services, Social Services, and the Sheriff's Department.

Documents reviewed: Mendocino County Code Sections (Titles II & III); California Government Code Section 26520-26530 and Section 27640-27648; published opinions to the Grand Jury from the County Counsel for the past seven years.

### Relevant Law

Mendocino County Code, Titles II & III; California Government Code, Section 26520-26530 and Section 27640-27648.

### Findings

1. A County Counsel may be appointed by the BOS in any California County. Mendocino County has chosen to appoint a County Counsel.

**Response (Board of Supervisors):** The Board agrees with this finding.

2. The County Counsel serves four-year terms. He may be removed for several reasons having to do with job performance and is subject to annual review by the BOS.

**Response (Board of Supervisors):** The Board agrees with this finding.

3. The County Counsel was created in Mendocino County by the BOS in 1977, when it was split off from the District Attorney. County Counsel shall discharge all the duties vested by law in the District Attorney, other than those of a Public Prosecutor.

**Response (Board of Supervisors):** The Board agrees with this finding.

4. The County Counsel is one of the advisors to the Grand Jury.

**Response (Board of Supervisors):** The Board agrees with this finding.

5. The County Counsel represents and advises the County Special Districts when:

- a. A Special District Board requests it.
- b. A Special District Board is composed in whole or in part of members of the BOS, and
- c. No specific provision is made to obtain legal services.

**Response (Board of Supervisors):** The Board agrees with this finding.

6. According to California Government Code Section 26526, the County Counsel is the legal advisor to the BOS, shall attend its meetings, when required, and shall oppose all claims against the County that the County Counsel deems unjust and illegal.

**Response (Board of Supervisors):** The Board agrees with this finding.

7. The Grand Jury heard testimony that there exists a state of animosity between the County Counsel, the District Attorney, some County Supervisors, and past Grand Juries.

**Response (Board of Supervisors):** The Board believes that due to the nature of County Counsel's responsibilities that, at times, determinations and/or investigations might be perceived as animosity between the various offices and individuals. However, without further detailed information regarding specific incidents, the Board is unable to respond further to this finding.

8. Outside counsel is hired by the County Counsel when a conflict of interest arises, which, contrary to allegations, testimony showed occurred less than once a year.

**Response (Board of Supervisors):** The Board agrees with this finding.

9. The County Counsel reviews contracts for legal aspects, not content, to determine if the contract is legally defensible.

**Response (Board of Supervisors):** The Board agrees with this finding.

10. Staff attorneys work with minimal supervision and are overseen by the Chief Deputy County Counsel. Staff meetings are seldom held.

**Response (Board of Supervisors):** The Board agrees with this finding.

11. On occasion, County Counsel has been unable to advise the Grand Jury and other County departments due to its representation of County departments, which created, in the view of County Counsel, a conflict of interest.

**Response (Board of Supervisors):** The Board agrees with this finding.

12. A review of the past seven years of County Counsel opinions did not support the allegation that 50% of County Counsel opinions have been reversed. The Grand Jury investigations revealed such reversals as minimal.

**Response (Board of Supervisors):** The Board agrees with this finding.

## **Recommendation**

The Grand Jury recognizes that conflict of interest situations will arise, due to the nature of the County Counsel's job, which requires that the County Counsel represent entities which may occasionally oppose each other. While the Grand Jury agrees that it may be correct for the County Counsel to arrange for outside counsel, the Grand Jury suggests that the County Counsel create a mechanism, within the department, which would insulate individual attorneys, from conflict of interest situations, avoiding the need to hire outside counsel. This simple mechanism, a common practice in the legal profession, was put forward by the County Counsel.

**Response (County Counsel):** We believe it is Finding #11 (above) which is offered in support of the Grand Jury's recommendation.

It should be noted that on only four prior occasions, during the past 16 years, has the Board of Supervisors retained outside counsel to defend the interests of the County or a County employee due to either a professional conflict or because one of the County defendants demanded legal representation of their choosing, a demand which was agreed to by the Board of Supervisors at that time.

In the early 1980's a deputy district attorney sued then District Attorney Vivian Racaukas for wrongful termination. Although this office was prepared to defend the action on behalf of Ms. Racaukas and the County, Ms. Racaukas demanded the County obtain outside legal representation for herself.

This situation occurred again in approximately 1994, when a defendant deputy sheriff obtained independent legal counsel, and the County Counsel's Office represented the Sheriff and the County.

In 1993-1994 the County Counsel's Office recused itself when the Superior Court sued the Board of Supervisors over an issue involving the furloughing of County employees assigned to the courts. Prior to the initiation of the suit by the Court, County Counsel advised both the County and the Courts as to the legal issues involved, which were ultimately litigated. Rule 3-310(c)(2) of the Rules of Professional Conduct states an attorney shall not, without the informed written consent of each client, accept or continue representation of more than one client in a matter in which the interests of the client actually conflict. Given the nature of the actual conflict and the statewide significance of this case, this office recommended the retention of outside counsel by the Board of Supervisors. The cost of outside counsel for the County was paid for in major part by other interested counties through the County Counsel's Association of California.

The fourth and most recent case in which this office recused itself from a case was about two years ago when a former deputy district attorney filed suit against the County, then District Attorney Susan Massini and a deputy county counsel in this office for wrongful termination. The State Bar Rules of Professional Conduct forbids the acceptance or continued representation of a client where the attorney is a witness in the same matter without the written informed consent of the client. In this particular case, I recommended the Board of Supervisors obtain outside counsel to represent all the County defendants.

On occasion County Counsel has been unable to advise the Grand Jury due to its representation of County departments which would, in County Counsel's opinion, constitute a conflict. The Grand Jury's recommendation recognizes conflict situations will arise due to the nature of the duties placed upon County Counsel by state law. In

County Counsel's opinion, with respect to legal representation for a grand jury, the state legislature has recognized these conflicts will arise and has provided the following legislative solutions:

1. Penal Code Section 934 allows the grand jury to seek, at all times the advice of the court or the judge thereof, the district attorney, the county counsel or the attorney general. The attorney general may grant or deny a request for advice from the grand jury. If the attorney general grants a request for advice from the grand jury, the attorney general must fulfill that request within existing financial and staffing resources.
2. Penal Code Section 936 authorizes a grand jury to request the attorney general to employ special counsel and special investigators. These services are a charge against the county.
3. Penal Code Section 936.5 authorizes the presiding judge of the Superior Court, when requested by the grand jury, to employ special counsel and special investigators, subject to the following procedure:
  - a) Prior to the appointment, the presiding judge shall conduct an evidentiary hearing and find that a conflict exists that would prevent the local district attorney, the county counsel and the attorney general from performing such investigation.
  - b) Notice of the hearing shall be given to each of them unless he or she is a subject of the investigation.
  - c) The finding of the presiding judge may be appealed by the district attorney, the county counsel or the attorney general.
  - d) The authority to appoint is contingent upon the certification by the auditor—comptroller of the county that the grand jury has funds appropriated to it sufficient to compensate the special counsel. In the absence of a certification, the court has no authority to appoint. In the event the county board of supervisors or a member thereof is under investigation, the County has the obligation to appropriate the necessary funds.

The Grand Jury commented upon the creation of an ethical wall or screen within the County Counsel's office to avoid potential conflicts in the future and to allow County Counsel to continue to provide representation to County clients who are in conflict with one another. The creation of an ethical wall or screen between attorneys in a county counsel's office depends upon the nature of the representation undertaken, as well as sufficient professional and support staff and office space to be able to institute a complete screening between

attorneys and staff. Another problem with a screening device, particularly in significant litigation, is what role would the County Counsel play as the appointing authority and supervisor of County Counsel staff and as advisor to the Board of Supervisors? Can and should the County Counsel abdicate his duties as defined by state law to permit his deputies to operate with complete autonomy?

A screening device is not a “one size fits all” proposition. County Counsel is currently reviewing the benefits of creating a screen with respect to certain recurring county counsel functions. However, for cases which pose a significant risk of liability we believe the prudent course of action is to retain outside independent counsel to represent one of the adversarial parties.

As can be seen from the above examples, when the County did retain outside counsel, it was either mandated by law or it was a conscious decision of the Board of Supervisors, based upon a recommendation from this office. The instances requiring outside legal representation are so few that we are surprised this is even the subject of Grand Jury comment. We particularly find this puzzling because many county counsel offices do not undertake to defend 1983 actions, wrongful termination actions and tort actions in-house, opting instead for outside legal counsel. Keeping these cases in-house has been extremely cost-effective for the County.

**Response (Board of Supervisors):** The Board agrees with the response of the County Counsel and concurs that state legislature has provided sufficient alternative mechanisms with respect to legal representation for the Grand Jury as cited in Penal Code Sections 934, 936 and 936.5. The Board also agrees that County Counsel should continue its review of the benefits of creating an ethical wall or screen with respect to certain recurring County Counsel functions.

**Time Frame for Implementation:** Review of the benefits of creating an ethical wall or screen with respect to certain recurring County Counsel functions is an on-going process.

## **Comments**

Representatives of the County Departments that were interviewed, which are clients of the County Counsel, testified that they were pleased with the service provided to them by the County Counsel.

The Grand Jury agrees that it is proper for the County Counsel to confine its review of contracts to legal content. The Grand Jury agrees that it is the responsibility of each department to acquire and provide the necessary expertise to enable the County to obtain the best goods and services. To accomplish this, all County Departments should pool their resources. For example, all County Departments

now rely on Information Services for all computer matters including service and procurement. The County Administrative Officer should create a roster of County experts and knowledgeable people in all areas of specialization to facilitate this process.

The citizens of Mendocino County deserve, and have every reason to expect, that all Government officials conduct themselves in a mature, professional manner, without political, territorial battles that seem to be the norm.

**Response Required**

Mendocino County Board of Supervisors

**Response Requested**

Mendocino County Counsel  
Mendocino County Administrative Officer

## **MENDOCINO COUNTY DEPARTMENT OF SOCIAL SERVICES**

The Mendocino County Department of Social Services (MCDSS) is organized into four program divisions: Employment and Family Assistance Services, Family and Children's Services, Adult Services, and Veterans Services. The Employment and Family Assistance Division is responsible for administration of CalWORKS (CalWORKS is mandated and primarily funded by the Federal and State governments to provide financial support to children and their families who are unable to support themselves), Medi-Cal, the County Medical Services Program (CMSP), Food Stamps, and Employment Services.

The Family Assistance Representatives (FARs) in Fort Bragg are assigned to two different units: CalWORKS with nine staff positions including one supervisor; Medi-Cal/ Food Stamps/CMSP with eight staff positions including one supervisor. The Fort Bragg office, which is the focus of this investigation, consists of a Program Manager who supervises those two units plus one other nine staff Benefit Issuance unit.

### **Reason for Investigation**

The Grand Jury received a citizen's complaint.

### **Method of Investigation**

The Grand Jury interviewed the complainant, current employees, former employees, one Supervisor, one Program Manager, MCDSS Director and one union representative.

Documents reviewed: the December, 1998 Management Audit (Audit), MCDSS response to the Audit, Job Classification List, 2000 Slavin Report, miscellaneous documents, MCDSS employee turnover results for the years 1995/1996 to 1999/2000, correspondence, and copies of interoffice memoranda and the County Training Institute Class Schedule.

### **Finding**

1. The Audit consisted of the results of a survey of all available employees and found serious problems in all of the FARs units. The employee survey results are as follows:
  - a. Turnover rate for FARs was 59% in 1997/1998 fiscal year, which was almost twice that of the ten other comparable counties surveyed. This figure also included any FARs transferred to another division in the MCDSS. In addition, 43.4% of FARs were planning to leave. Top five

reasons cited for leaving were: low pay, inadequate management, favoritism, burnout, and lack of recognition for achievement.

- b. The MCDSS was out of compliance with state regulations regarding time required to process applications for CalWORKS and Food Stamps.
- c. 30% thought management had done a good job implementing changes in the past year.
- d. 30% thought their opinions were valued and respected by management, but only 11.7% thought their opinions were valued and would contribute to fulfilling the MCDSS goals and purposes.
- e. 33% thought management communicated the goals of MCDSS clearly and consistently, while only 15% thought communication between management and staff was good.
- f. 20% thought MCDSS was managed efficiently.
- g. 13.6% thought good work was consistently recognized and rewarded.
- h. 42.4% thought supervisors were fair in dealing with employees (testimony showed this has improved with personnel changes).
- i. 13.3% agreed that coordination between units and divisions in MCDSS was good.
- j. 90% were not satisfied with their salary. MCDSS salaries range between 90-93 % of the other counties surveyed (testimony revealed the Board of Supervisors {BOS} are considering the Slavin Report proposals to improve salaries).
- k. 18.3% thought MCDSS Human Resources Division was helpful in resolving personnel matters.
- l. 47.5% thought their training was sufficient.

A review of documentation and testimony from several former and current employees from the Fort Bragg FARs units, including management personnel resulted in the findings listed below:

**Response (Social Services):** Agree, with clarification. This first finding is a selective listing of information from a management audit conducted in late 1998.

**Response (Board of Supervisors):** The Board and the Department agree with clarification. This finding represents a selective listing of information from a management audit conducted in late 1998. Since that time, many of the recommendations contained in that report have been implemented.

## Findings

2. Testimony supports most of the Audit findings. The MCDSS has developed a Multi-Faceted Action Plan, which has been approved by the BOS, to address the issues raised by the Audit.

**Response (Social Services):** The Board agrees that a Multi-Faceted Action Plan has been approved and implemented, but is unable to confirm or deny the testimony referred to by the Grand Jury.

**Response (Board of Supervisors):** The Board agrees that a Multi-Faceted Action Plan has been approved and implemented, but is unable to confirm or deny the testimony referred to by the Grand Jury.

3. The MCDSS management did not accept the finding by the Audit that favoritism played a part in promotions of employees. Staff reported occasions of favoritism practiced in promotions toward certain staff members, plus subtle favoritism or discrimination against men. MCDSS denies that favoritism is practiced in the MCDSS, stating this is only a "... perception of favoritism held by some people."

**Response (Social Services):** Do not agree. The Audit did not make a finding that favoritism played a part in promotions of employees. The Audit stated: "Although recruitment for supervisory positions in the Department follows general Merit Service Systems guidelines, the perception exists among some staff that employees are promoted to supervisory positions based upon favoritism and loyalty to management rather than merit." The Department's response to the Audit was: "It is accepted that the perception of favoritism is held by some people; the reality is that promotions follow personnel guidelines and are based on a determination of who appears to be able to best perform the job."

The Department follows standard government personnel practices in its adherence to Civil Service and Merit System regulations in the recruitment, testing, and selection of employees. There is no discrimination against men. The individual filing the complaint with the Grand Jury also filed an EEOC complaint regarding not getting a promotion. The Department of Fair Employment and Housing conducted an investigation and found no evidence of discrimination by the Department. This outcome was communicated to the Grand Jury prior to the completion of their report.

An ability to work well with (not loyalty to) one's supervisor, i.e. management, is one factor, among several, in selecting a new supervisor. The Department provided staff with additional information on criteria for promotion in response to the Audit, and will continue to provide clarification of the values placed on the interpersonal skills and job experience needed for supervisor positions.

**Response (Board of Supervisors):** The Board does not agree with this finding. The Audit, on page 58, refers to a "perception of favoritism" which exists among "some employees".

## **Recommendation**

The Grand Jury maintains that even if it is only a perception, it is indicative of an underlying mistrust of MCDSS management. Therefore, MCDSS should make it clear to all managers, supervisors and employees that, by actions and deeds, favoritism of any kind will not be tolerated and all allegations of favoritism will be independently investigated.

**Response (Social Services):** Agree. The Department is very concerned about perceptions, especially if, they are not in line with actual practice. We are making it clear that everyone in the Department is to understand and adhere to fair and legal personnel practices and that even the appearance of favoritism is to be avoided. We are identifying the parts of the personnel process that may not be clear so that we can provide more education in the next 6 months. All allegations of favoritism have been and continue to be investigated. Depending on the level of the complaint, options include explanation and/or investigation by Staff Resources, by Merit System Services, by County Human Resources, or by the State Department Fair Employment and Housing.

**Response (Board of Supervisors):** The Board and the Department agree with the recommendation and share the Grand Jury's concern about employee perceptions. The Department follows standard government personnel practices in its adherence to Civil Service and Merit System regulations in the recruitment, testing, and selection of employees.

It should be noted that the individual filing the complaint with the Grand Jury also filed an EEOC complaint regarding not getting a promotion. The Department of Fair Employment and Housing conducted an investigation and found no evidence of discrimination by the Department. This outcome was communicated to the Grand Jury prior to the completion of their report.

**Time Frame for Implementation:** Training on personnel process to be implemented January-December 2001.

## Findings

4. The Audit found “the Department did not systematically collect or track the key human resource measures such as vacancy and turnover rates or measures of changes in employee morale.” The MCDSS response was that they had collected vacancy and turnover data, through employee surveys in 1992, 1995, and 1998.

**Response (Social Services):** Agree, with clarification. The Department’s actual response to the Audit finding was: “The Department has collected vacancy and turnover data on a periodic basis. The Department has conducted employee surveys in 1992, 1995, and 1998.” The Department has been collecting vacancy and turnover data on an ongoing basis for the past two years.

**Response (Board of Supervisors):** The Board and the Department agree with clarification. Employee surveys were conducted as a method to measure employee morale in the three years listed. The Department has been collecting vacancy and turnover data on an ongoing basis for the last two years.

5. Case load assignments were not fairly distributed in the past, but have improved in the last year after new procedures were instituted. Counter to MCDSS Case Load Assignment Guidelines, testimony revealed that complexity is still not always considered.

**Response (Social Services):** Do not agree. The Department has not been informed by staff about any concerns with the policy or the implementation of the Case Load Assignment Guidelines. Follow-up has not identified any concerns among the staff presently working here.

**Response (Board of Supervisors):** The Board can not agree or disagree since it did not receive information about the specific testimony. The Department reports that it has not received any concerns from employees regarding the Case Load Assignment guidelines.

## Recommendation

MCDSS should include case complexity in all case load assignments.

**Response (Social Services):** Agree. The Case Load Assignment Guidelines already address case complexity. In addition, the Department is adding a section on how to appeal a case load assignment, so staff are encouraged to bring any concerns to their supervisor.

**Response (Board of Supervisors):** The Board and the Department agree that the Case Load Assignment Guidelines include consideration of case complexity. The Department is adding an appeal process to this guideline to offer another avenue for concerned employees.

**Time Frame for Implementation:** Revision of caseload assignment guidelines to be completed by February 2001.

## Finding

6. The existing Merit System used for hiring and promotion is based on test scores which allows management the choice of selecting one of the top five qualified applicants, which creates the opportunity for favoritism.

**Response (Social Services):** Do not agree. The Merit System testing and selection process is identical to that used in every department in Mendocino County, as well as in most counties in California. The testing is focused on experience, skills, and knowledge. The purpose of testing and ranking applicants is to ensure that selection is made from among the most qualified, as determined by an independent panel. It is standard government hiring practice to conduct a testing process, either oral or written or both, which yields a ranked list of qualified candidates, from which the hiring authority may select from the top five. The selection process always involves making a choice of one person instead of others. That choice cannot be made based on race, ethnicity, religion, sex, marital status, age, or disability, but it is made based on job skills, work experience, temperament and demeanor, past work performance, people and relationship skills, program knowledge, and fit with the program and people needs of the particular job. Favoritism is the selection of an individual based on a personal relationship with the decision-maker, rather than on job-related factors. While favoritism is not illegal in the way that discrimination is, the Department's policy is that it is never advisable to select a person for any reason other than the expectation that s/he could do the best job.

**Response (Board of Supervisors):** The Board and the Department do not agree with this finding. Reference is made to Department response.

## Recommendation

If the Merit System procedure is continued, final selection should be made by independent evaluators in the County.

**Response (Social Services):** Do not agree. As stated above, the Merit System procedure is identical to the Civil Service procedure used in all other County departments. Independent evaluation occurs as part of the testing process, and explicitly does not include people who will be in the line of supervision for the position being filled. Final selection is made by department heads who are designated by the County as the appointing authority for their respective departments.

**Response (Board of Supervisors):** The Board and the Department do not agree. As stated above, the Merit System selection procedure mirrors the County's Civil Service procedure and is the standard practice in governmental agencies.

**Time Frame for Implementation:** Not applicable.

## Findings

7. Response to many problems by management is frequently ineffective and many employees feel management pays "lip service" only. Employees think many problems are not dealt with by management, or too much time passes before being addressed. Management views this differently, asserting that changes must be made slowly and carefully to avoid making mistakes.

**Response (Social Services):** Do not agree. Opinions and perceptions are being stated here as fact. It is not clear what responses to which problems are considered ineffective. Some problems are beyond the authority of Department management. Many solutions are effective, and forgotten. Some problems are lower priority due to resource limitations and are not dealt with. Some solutions take longer than anyone would like because of the complexity of the programs we administer and competing demands. Not all changes must be made slowly, but most must be done carefully as they have an impact on a lot of clients and people in crisis. Maintaining operations serving thousands of people countywide each month is challenging for all.

**Response (Board of Supervisors):** The Board can neither agree nor disagree with this finding, as there is not enough information. It appears that this finding may be based on the opinion and perception of some employee(s).

8. On at least one occasion, an employee's evaluation forwarded to MCDSS Human Resources was not the same evaluation shown to the employee. It

was later changed to a third version after the employee complained to various levels of management. A study of the evaluation indicated the performance criteria marked as sub-standard by the supervisor, and approved by the next level of management, seemed to contradict the other areas which were marked "Standard" (average). Indications were there was some form of "reprisal" involved.

**Response (Social Services):** Do not agree. In the situation referred to, the employee's supervisor forwarded an earlier unsigned draft of the evaluation to the Department's Staff Resources Division, instead of the final copy which had been discussed with and signed by the staff person. When the mistake was discovered, the wrong version was discarded and the correct copy was filed. The situation was explained to the employee, with an apology for the mix-up. The Department does not agree that any form of reprisal was involved.

**Response (Board of Supervisors):** The Board disagrees with this finding. Reference is made to Department response.

9. MCDSS policies and procedures are not consistently followed by management and supervisors.

**Response (Social Services):** Agree in part. The Department is striving for consistency and is working on mechanisms for monitoring compliance with external and internal policies and procedures at all levels. There are occasions when staff, supervisors, and managers make mistakes. These do not occur on a regular basis, and every attempt is made to remedy errors and discrepancies as they are found and to prevent their reoccurrence.

**Response (Board of Supervisors):** The Board and Department agree in part as referenced in the Department's response.

## **Recommendation**

All managers and supervisors should clearly demonstrate their ability and willingness to address existing problems between staff and management. Lack of this commitment could raise serious questions concerning an individual's ability to effectively carry out the responsibilities of management.

**Response (Social Services):** Agree fully.

**Response (Board of Supervisors):** The Board and the Department agree with this recommendation.

**Time Frame for Implementation:** Training for managers and supervisors to be implemented January-December 2001.

## Findings

10. Managers and supervisors are not trained to deal with many employee problems. As a result of the Audit, the MCDSS developed a Multi-Faceted Action Plan, to have managers and supervisors receive training in staff support, communication, involvement with staff and leadership to try and solve these serious problems. Results are not available as to the effectiveness of this initiative, which began in the fall of 1999.

**Response (Social Services):** Do not agree in part/agree in part. This finding implies that all managers and supervisors are not trained and are ineffective at dealing with employee problems. The County and the Department provide training to managers and supervisors every year. Even in Fort Bragg, there have been times when employee problems were handled well. The Multi-Faceted Action Plan, or MAP, addresses a total of eight elements, of which manager and supervisor training is a key, but not sole, objective.

**Response (Board of Supervisors):** The Board and the Department both agree and disagree with this finding. The Department provides training to managers and supervisors and the Board is following this as part of the Department's Multi-Faceted Action Plan. The Grand Jury does not appear to have analyzed the many employee problems which were handled well.

11. Testimony shows that confidentiality concerning both clients and staff has been treated carelessly by some staff, supervisors, and trainers. Considering that Fort Bragg is a relatively small town, the seriousness of this problem is accentuated.

**Response (Social Services):** Agree in part. The Department does not know the particular testimony received, but is aware of a few incidents involving breaches of confidentiality. These incidents were investigated and appropriate actions were taken. Staff at all levels are aware of and trained on the grave importance of confidentiality.

**Response (Board of Supervisors):** The Board is unable to either agree or disagree with this finding since it has not received the testimony. However, the Department acknowledges that the few incidents involving breach of confidentiality have been investigated and appropriate action taken. Training on confidentiality laws is mandatory for all employees.

12. Testimony showed that "inadequate management, favoritism, burnout, and lack of recognition for achievement" were more important than low pay in creating frustration and job dissatisfaction.

**Response (Social Services):** Agree in part. Perceptions of those factors, as well as the possible existence of those factors, can be elements in frustration and job dissatisfaction. However, low pay has a significant negative impact across the board on the levels of skill and experience that the Department is able to hire and to retain, in addition to contributing to individual job dissatisfaction. The Department has actively advocated for increased pay for staff.

**Response (Board of Supervisors):** The Board is unable to either agree or disagree with this finding since it has not received the testimony. The Action Plan approved by the Board and the pay raises going into effect in November 2000 should help address the perceptions listed above.

13. Testimony has shown that there have been problems concerning office politics, favoritism, confidentiality, and unprofessionalism in the Fort Bragg office for many years.

**Response (Social Services):** Do not agree in part. The issues that led to this report occurred over two years ago. Though they remain issues for some individuals who were directly involved, they are not of concern to other staff who were not directly involved, or who have been hired more recently. As a group, the Fort Bragg EFAS staff are very committed to client service, have been successful in meeting and maintaining mandated time frames, and came together to present a well-received open house to the community in October 1999.

**Response (Board of Supervisors):** The Board is unable to either agree or disagree with this finding since it has not received the testimony. However, the incidents referred to in this finding are over two years old. The Department reports that the Fort Bragg EFAS staff are very committed to client service and have been successful in meeting and maintaining mandated time frames.

## Recommendations

1. MCDSS should ensure that managers and supervisors of all levels receive training and counseling in the areas of favoritism, confidentiality of personnel and clients, leadership techniques, avoiding burnout, and recognizing achievements. The existing training courses in the County Training Institute are mostly eight-hour sessions and there is doubt that one session will have a lasting effect. This training should be mandatory and should include mandatory periodic refresher courses.

**Response (Social Services):** Agree in part. Training is important. Just as important, however, is monitoring follow-through on an ongoing

basis, dealing with problems as they arise, and holding managers and supervisors accountable in their areas of responsibility.

**Response (Board of Supervisors):** Agree in part. The Board has been both philosophically and fiscally supportive of continuous employee training. The Board further agrees with the Department that “holding managers and supervisors accountable in their areas of responsibility” is also a critical factor.

**Time Frame for Implementation:** Training and follow-up for supervisors and managers to be implemented January-December 2001.

2. The Grand Jury recommends that the MCDSS continues to take the Multi-faceted Action Plan of August 17, 1999 seriously, maintaining the letter and the spirit of the Plan.

**Response (Social Services):** Agree in the intent and the actuality.

**Response (Board of Supervisors):** The Board and the Department agree with this recommendation.

**Time Frame for Implementation:** The MAP is being progressively implemented from September 1999 – December 2001.

3. Employee surveys should be conducted with no names, or identification of employees, to ensure that there is no animosity or reprisal, directed toward individuals.

**Response (Social Services):** Agree. All employee surveys in the Department have been and will be conducted with complete anonymity.

**Response (Board of Supervisors):** The Board and the Department agree with this recommendation and note that all employee surveys have been and will continue to be conducted with complete anonymity.

**Time Frame for Implementation:** Anonymity in employee surveys was implemented in 1992 and will be continued.

## Finding

14. Many employees stated that they do not feel free to speak up about issues without suffering reprisals.

**Response (Social Services):** Do not agree. The Department does not know the number that constitutes “many employees” and does not

know if the employees cited evidence on which they based their feelings. It is the Department's policy to maintain open, honest, direct and respectful communication at all levels of discourse.

**Response (Board of Supervisors):** The Board was not provided with enough information by the Grand Jury to either agree or disagree with this. It is unknown how many employees were individually interviewed, how much was based on hearsay or perception, and what constitutes "many".

## Recommendation

MCDSS should implement an effective, realistic, nonself-serving evaluation of supervisors and managers, to include employee morale issues and concerns. In order to prevent reprisals, this should include a means of determining employee morale without identifying individual employees by their questionnaire.

**Response (Social Services):** Agree. MCDSS has committed in the Multi-faceted Action Plan to the development of some sort of multi-level evaluation of supervisors and managers. The concern about reprisals actually goes both ways. Supervisees and their supervisors are leery of the opportunity for retaliation in either direction. A staff advisory group is working on the issue of evaluations of line staff, as well as of supervisors and managers. Ultimately, open, honest, direct, respectful and appropriate communication in all directions on an ongoing basis is the best means of providing supervision and support, addressing concerns, and preventing problems.

**Response (Board of Supervisors):** The Board agrees with this recommendation and reminds the Grand Jury that the Management Audit was conducted by an outside consultant and that all employee surveys have been conducted anonymously. Further, the Multi-faceted Action Plan commits to developing a multi-level evaluation of supervisors and managers, and a staff advisory group is working on the issue of evaluation for all levels of staff.

**Time Frame for Implementation:** Revision of supervisor and manager evaluation process to be implemented by December 2001.

## Finding

15. Training is not always sufficient, due to the ineffectiveness of some trainers and lack of proper supervision.

**Response (Social Services):** Do not agree. The County and the Department provide a great deal of training on a wide variety of topics.

It is unclear what specific training sessions this statement refers to. Training is evaluated after it is given and ineffective presenters or topics are not repeated.

**Response (Board of Supervisors):** Do not agree. The Department and the County use recognized training professionals and all classes are evaluated by the participants for effectiveness.

## Recommendation

Management should ensure that trainers are competent, qualified, and properly supervised.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board agrees.

**Time Frame for Implementation:** Review of trainers to be implemented on an ongoing basis.

## Finding

16. The FARs are entry level positions for MCDSS. It is apparent that not all new hires come to the job adequately prepared for the workplace. Job expectations often are neither explained to nor understood by new employees.

**Response (Social Services):** Agree in part/do not agree in part. FAR positions do require experience in providing basic public service, clerical or accounting work. They are filled many times by external applicants. Not all new hires are adequately prepared for this workplace by their previous jobs. A job specification is provided to all applicants. A complete job description is given to new employees. FARs are oriented and trained to the job of eligibility determination in groups in a classroom setting for 2-3 months, and then for 6-9 months is a training transition unit. Job expectations are thoroughly explained. It is possible that expectations may not be truly understood by new employees until they are able to experience the workload directly. It is very detail-oriented, regimented, regulated, computer-based, people-interactive work that is challenging to master.

**Response (Board of Supervisors):** The Board and Department both agree and disagree in part with this finding as referenced in the Department's response.

## Recommendation

Shortly after being hired, new employees should receive instruction in job expectations including work ethics, teamwork, mutual respect, and recognition of the problems and concerns of MCDSS. In addition, existing employees should receive regular refresher training.

**Response (Social Services):** Agree. The FAR Training Program curriculum currently includes all of the above. Refresher training on a variety of topics is provided on an ongoing basis.

**Response (Board of Supervisors):** The Board and the Department agree with this recommendation and note that the FAR Training Program curriculum includes all of the above. Refresher training on a variety of topics is also provided on an on-going basis.

**Time Frame for Implementation:** Revised and expanded new employee orientation to be implemented by July 2001. Refresher training for existing employees to be implemented by December 2001.

## Finding

17. Managers and supervisors spend too much time at meetings out of the office.

**Response (Social Services):** Do not agree in part. The basis for this statement is unclear. The Department strives to limit the number of meetings for managers and supervisors, while supporting teamwork, group decision-making, and information-sharing. Back-up coverage is arranged when off-site meetings or training sessions are necessary.

**Response (Board of Supervisors):** Do not agree with this finding as the basis is unclear.

## Recommendation

Fewer meetings for supervisors would enable them to spend more time on-site. Use of teleconferencing to save time should be explored.

**Response (Social Services):** Agree. This fiscal year, the Department was allowed to budget for complete video-conferencing stations to link our three main offices to allow for long distance participation. We expect that this will be of great assistance to staff in Fort Bragg.

**Response (Board of Supervisors):** The Board and the Department agree with this recommendation. It should be noted that the Board approved the Department's request for complete video-conferencing stations to link their three main offices in Ukiah, Willits, and Ft. Bragg.

**Time Frame for Implementation:** Video-conferencing stations to be implemented by July 2001.

## Findings

18. A review of the Turnover Data from July 1, 1995 through March 31, 1999 (pre-Audit) provides the number of "Voluntary Resignations" but states no reasons for leaving. Consequently, even if there was a desire to correct this serious problem, management had no idea what specifically was creating the high turnover.

**Response (Social Services):** Do not agree. March 31, 1999 is post-audit. The turnover data provided does include a count of promotions, which are a large part of the turnover, and separately identifies retirements, as well as involuntary terminations. The reasons for voluntary resignations are identified through letters of resignation and exit interviews and, although they were not on the particular chart that was reviewed, they are known to management.

**Response (Board of Supervisors):** The Board and the Department do not agree with this finding. Reference is made to the Department's response.

19. In January 1999, MCDSS began conducting exit interviews. However, the summary report of these interviews would be improved if the number of respondents were shown after each stated reason for leaving. Furthermore, the MCDSS response to the BOS stated that exit interviews would be handled by a "Human Resources Manager or Training Specialist," which raises the question as to who would be the most objective interviewer.

**Response (Social Services):** Agree in part. The Department conducts exit interviews. The format is currently being reviewed. It is important to maintain confidentiality. Interviewing is done by staff in the Staff Resources Division, who are not part of any of the other divisions. The questions have been determined in advance. The interviewer simply documents the responses in the person's own words, so the interviewer's objectivity is not at issue.

**Response (Board of Supervisors):** Agree in part. Exit interviews consist of pre-determined questions that are asked by human resources staff within the Department. The responses are documented in the employee's own words so the interviewer's objectivity is not an issue.

## Recommendation

The Grand Jury strongly recommends that departing employees continue to be given exit interviews. These interviews should be conducted by the County Human Resources Department instead of the MCDSS internal Human

Resources Unit. This would give the employees a chance to give their reasons for leaving without feeling intimidated thereby providing valid information. The reasons should be identified for each employee. The employee's name should be withheld.

**Response (Social Services):** Agree in part. The Department will continue to conduct exit interviews. The format will be revised to identify a reason for leaving for every employee who leaves, without any names attached.

**Response (Board of Supervisors):** The Board agrees in part with this recommendation and will ask the new Human Resources Director to analyze and make a recommendation on the issue of centralized exit interviews on a countywide basis. In the meantime, the Department of Social Services will continue to conduct its own exit interviews and revise its format to identify a reason for every employee who leaves, without any names attached.

**Time Frame for Implementation:** Revised exit interview format to be implemented by February 2001.

## Comment

While it appears that the Department is taking steps to correct the problems noted, it is too early to tell if there is the will and capability to permanently turn the Fort Bragg office into a professional work place.

**Response (Social Services):** Do not agree. The Department appreciates the recognition of the steps it has taken to address the concerns noted, and affirms the will and capability of all of the EFAS staff at all levels in Fort Bragg to continue to build a professional work place.

With three surveys taken over a six-year period (see Finding 4), MCDSS still has been unable to correct these problems regardless of how much information it has. The MCDSS cannot be blamed for low pay, nor is the BOS to be blamed for this problem as they have limited funds, but all the other issues are within the parameters of the MCDSS mission to correct.

**Response (Social Services):** Do not agree. Three employee surveys have been conducted approximately every three years. Over that time period, several massive projects have occurred, including automation of financial assistance, relocation of all offices, and implementation of welfare reform. In spite of the stress and effort associated with these conversions, there has been positive movement in a number of areas, particularly client service. Certain areas have been harder to improve. A number of areas yield results not significantly different from the

responses found in standardized national employee surveys. Low pay cannot be dismissed as insignificant in the dynamics of this organization. Not all other issues are within the parameters of the MCDSS mission or authority, for example the functionality of statewide computer systems, or the rapidity of regulation changes, both of which affect supervisor and manager time and effectiveness and staff job satisfaction. Nevertheless, many issues are within the scope of the MCDSS mission and are being addressed through the Multi-faceted Action Plan.

It is incumbent on management to set clear and unambiguous standards, exemplified by their own professional actions, and to fairly enforce these standards.

**Response (Social Services):** Agree wholeheartedly.

**Response Required**

Mendocino County Board of Supervisors

**Response Requested**

Mendocino County Department of Social Services

## **MENDOCINO COUNTY DISTRICT ATTORNEY FAMILY SUPPORT DIVISION**

The District Attorney Family Support Division (FSD) is responsible for collecting child support payments from absent parents. It has investigators, collection officers, legal secretaries, aides and other staff who are charged with collecting all payments due.

### **Reason for Investigation**

The Grand Jury received a citizen's complaint.

### **Method of Investigation**

The Grand Jury interviewed the complainant, two members of the FSD, and a member of the District Attorney's staff. Documents, including summons and a court order were examined. Site visits to the Offices of the FSD, Fort Bragg Ten Mile Court District Attorney and Clerk of the Ten Mile Court.

### **Relevant Law**

California Family Code Section 5246 and Title 15 U.S. Code Section 1673(b) allow up to 65% of net wages for assignment to dependent(s). The size of a second family as well as other factors can influence this maximum. The California Code of Civil Procedure, Section 685.010 regulates interest on arrears at 10%. The Formula for Statewide Uniform Guideline for Determining Child Support, California Family Code Section 4055, and the Rebuttable Presumption that Amount Established by Formula is Correct Amount, California Family Code Section 4057, are the determining factors in setting financial responsibility.

### **Findings**

1. The FSD must seek to collect reimbursement from absent parents for payments expended by the State for Temporary Assistance to Needy Families (TANF), which replaced Aid to Families With Dependent Children (AFDC), in the support of dependent children.

**Response (District Attorney):** Agree with the finding in part, but want to add that the Family Support Division collects child support for children regardless of the aid or non-aid status of the child, upon request of any party to the case.

**Response (Board of Supervisors):** The Board agrees with this finding.

2. Dependent children or their custodial parent may request the FSD to collect payment of court-ordered support from an absent parent.

**Response (District Attorney):** Agree with the finding in part, but feel compelled to add that child support collection by this department may be preceded by a court order, as in the case of a dissolution order which includes support, or it may be the consequence of one of the parties contacting this department for service.

Services may include the location of the non-custodial party, the establishment of paternity, and the establishment of an order for support by way of summons, complaint, stipulation, contested hearing or other means, and then the enforcement of the resulting order. A great many of our cases are direct referrals from the Department of Social Services, where the custodial party collecting welfare has little discretion not to co-operate with our office in the establishment and enforcement of a case. When the case comes in from that office, it is treated just the same as any other. We do not discriminate in the servicing of cases depending on where or how the case originated. We treat everyone equally under the law.

**Response (Board of Supervisors):** The Board agrees with this finding and the response provided by the District Attorney – Family Support Division.

3. The FSD is mandated to collect monetary reimbursements and other assets from absent parents.

**Response (District Attorney):** Agree with finding 3 in general, but the collection of money and interception of assets is just one of the thousands of mandated functions that we have.

**Response (Board of Supervisors):** The Board agrees with this finding.

4. With a lawful judgment against the absent parent, the FSD may:
  - a. attach wages,
  - b. take federal and state income tax refunds,
  - c. take drivers license, and
  - d. initiate bad credit statements against the absent parent's name.

**Response (District Attorney):** Agree with the finding in part, but the finding lists just a fraction of the economic remedies we can use against a recalcitrant non-custodial party. The available remedies encompass any collection vehicle available in the Civil Code and within judgment debtor law. In addition, for those non-custodial parties who are resistant to the best practices we can employ in the civil arena, there is the possibility of criminal prosecution for non-support or child abandonment.

**Response (Board of Supervisors):** The Board agrees with this finding but notes that the District Attorney – Family Support Division has numerous other means to seek payments.

5. The FSD may collect funds from the absent parent of one child in a home and all biological children of the same mother living in that home.

**Response (District Attorney):** Disagree with this finding because the FSD must collect funds from the absent parent if legally possible. The amount collected mostly depends on the income of the absent parent, the income of the custodial parent and the percentage of custody of that child they share. The amount paid may be more in proportion to the pro-rata share of welfare for that particular non-custodial party's child who may be living in a welfare home with the custodial parent. To that extent, the non-custodial party may be contributing to welfare reimbursement for other biological children of the same mother who is the custodial parent. However, unless there is a biological connection between the non-custodial parent and the other children or unless there is a judicially recognized parental relationship between the non-custodial parent and the other children, there is no direct legal obligation for support.

**Response (Board of Supervisors):** The Board agrees with the response provided by the District Attorney – Family Support Division. They must collect funds from the absent parent if legally possible.

6. It has been reported to the Grand Jury that absent parents often appear in court without adequate knowledge of their rights, privileges and duties.

**Response (District Attorney):** Agree with this finding, for the reasons stated below under Recommendation.

**Response (Board of Supervisors):** Local government can always do more to educate our citizens in the processes we employ. The Board believes every effort is done within reason by District Attorney – Family Support to notify and educate the parties of their rights and procedures. The parties must make the effort to educate themselves given the resources available to them.

## **Recommendation**

The FSD should develop a better procedure to keep absent parents informed about what is necessary to preserve their rights, privileges and duties, so that they may petition the court in a timely manner.

**Response (District Attorney):** Agree and disagree with this recommendation. Public offices can always do more to inform the public about their functions. The FSD has a Public Outreach mandated effort, whose purpose is to disseminate information to the general public about our mission. For example, we recently had a booth at the Redwood Empire Fair Exhibition Hall, where our literature was available for the taking. Unfortunately, it was not as popular as the balloons and other hand-outs we had available. The only limits on our being able to get the message out to everyone within our jurisdiction are human, technological and budgetary limitations. Within those limitations, we do a good job.

For example, when we initiate a case, before the summons and complaint go out, we send the Non-Custodial Party a case opening letter. The summons and complaint then follow, which contain detailed explanations about how the Non-Custodial Party should respond. There is a Notice to Other Parent and there is a Notice to Both Parents on page four. On page five there is a detailed Statement of Rights and Responsibilities and a Notice to Parent Asked to Pay Support (Obligor) which gives that person information about how to respond and what his or her rights are with respect to paternity and support. In this same packet of forms is a Notice of Rights and Responsibilities--Health Care Costs and Reimbursement Procedures which explains the responsibilities of the person to reimburse health care costs not covered by insurance. Also as part of the packet, there is an information sheet on changing a child support order, which gives step-by-step procedures to accomplish this.

As part of the summons and complaint packet, there is also a letter given to the Non-Custodial Party explaining how to respond to the Summons and Complaint, including Procedure to file an Answer and Have a Court Hearing, Procedure to Settle Out of Court, and the advice section of the letter entitled If you fail to do one of the two procedures listed above, this will happen. This is called a Dear Defendant Letter.

An answer is provided in the packet as is the required Income and Expense Declaration. Finally, a thirty four page Handbook produced by the State of California is also served on the Non-Custodial Party, explaining in excruciating detail what the child support system is all about. This includes Chapters on The Child Support Process, How the Family Support Division Can Help You, Opening a Child Support Case, Non-Custodial Parents and the Child Support Process, Locating the Non-custodial Parent, Establishing Paternity, Establishing a Support Order, How Child Support is Enforced, Collecting Support from Out-of-State Parents, and a Glossary of Child Support Terms.

All of the above materials are personally served on the non-custodial party before they are required to respond to the lawsuit for support. About 30% of the non-custodial parents respond and become involved with the system by taking an active part. The Department would venture to say that none of them read all of the material. A safe estimate would be about 50% don't get past the summons and complaint, because an inordinate amount of those who do respond fail to file and serve their papers correctly, something which is explained in detail in the Dear Defendant Letter.

About 70 % of the non-custodial parents do not respond at all and we take a default against them. A safe assumption is that none of them read the material presented to them. They are resistant to working within the system, and it is very difficult to educate them, much less change their orientation toward their children.

For the past few years the Office of the Family Law Facilitator has been in operation in Mendocino County. This office is occupied by Deborah DeMarchi, a very capable Family Law attorney. Her job is to assist unrepresented parties in support cases to navigate the maze of forms required to get their cases heard. She represents neither, but gives procedural advice to both. Her office supplements our efforts to give the parties as much information as they can digest regarding their rights and privileges, as well as their legal duties to their children.

The bottom line is that there is a lot of information and assistance available, but many of the Non-Custodial Parties do not take advantage of it or even read the material provided. It has been suggested in a meeting with the Facilitator and the Commissioner that videotapes be provided to explain the same information. This might present it in a little bit more familiar form for the average legal consumer, but of course no statutory guidelines or budgets have been approved for this to happen.

In the particular case which became the subject matter of the complaint to the Grand Jury, the order for support originated in Oregon and the Non-Custodial Party moved to Mendocino County at a time when he was owing current support and carrying a \$ 12,000.00 balance for arrears. We have no knowledge of the information which was made available to him by Oregon at the time his order originated, and of course we would have no control over their program in any event.

However, the reason our office got involved was because we are mandated to collect on what is called a Foreign Order. We sent out a packet to the Non-Custodial Party regarding the registration of this Foreign Order, and this includes two pages of information pertaining to requesting a hearing regarding registration of a California Support

Order. No contest of the registration was requested, and as soon as we registered the order and located his current employer, we sent out an Order/Notice to Withhold Income For Child Support. This form contains Remittance Information, concerning the maximum amount our agency can withhold, along with a separate Information Sheet for Request for Hearing regarding Wage and Earnings Assignment. Effectively, instead of complaining to the Grand Jury about the amount of the wage assignment, the Non-Custodial Party's better move would have been to request a hearing on the wage assignment. This was never done, but all the information concerning this hearing process was served upon him with the wage assignment. Educating people about child support is a little bit like educating them about birth control. With all the information available about the latter topic, and all the free services concerning family planning, why are there any unintended pregnancies? There are many reasons, but the main one is that many people are just not paying attention to the message. I don't think there is anything this office or the Grand Jury can do about this situation, except to keep delivering the message and hope for the best.

**Response (Board of Supervisors):** The Board agrees with the response provided by the District Attorney – Family Support Division. The Board maintains we can always do more to educate our citizens and the District Attorney – Family Support Division will continue to examine other avenues to keep parents informed of their rights and duties in the Family Support system.

**Time Frame for Implementation:** With mandated outreach efforts and working in conjunction with the Family Law Facilitator, the Department has in effect implemented this recommendation.

## **Finding**

7. The FSD is in the process of becoming a separate department of Mendocino County government. The Family Support Unit will be under the direct authority of the Board of Supervisors. It will no longer be a division of the District Attorney.

**Response (Board of Supervisors):** The Board agrees with this finding.

## **Response Required**

Mendocino County Board of Supervisors  
Mendocino County District Attorney

## **Response Requested**

Mendocino County Family Support Unit

## MENDOCINO COUNTY DOMESTIC VIOLENCE

Domestic violence has long been a private matter, occurring behind closed doors in homes and treated confidentially by law enforcement and in emergency rooms. Family violence has now become a matter of deep public concern. Media coverage has brought this age old problem to the front page. A growing public awareness and understanding of the threats and effects of family violence has brought practices and policies for prosecuting and preventing family violence under public scrutiny. In the mid-1990's the California legislature added new, stricter sections to the Penal Code that underscore the criminal nature of domestic violence. In 1996 they also added a provision that requires all persons convicted of a crime of domestic violence complete a one-year batterers counseling program as a condition of probation.

In Mendocino County, it was alleged that the criminal justice system was not sensitive to the gravity of crimes of domestic violence and the prosecution and sentencing of family violence criminals was not rigorous.

### **Reason for Review**

The Grand Jury received citizen complaints.

### **Method of Investigation**

The Grand Jury researched the California Penal and Family Codes; the written domestic violence publications, policies, procedures and training programs of each law enforcement agency in the County; domestic violence calls and arrest records for the years 1998 and 1999 from each law enforcement agency; District Attorney domestic violence prosecution summary; the District Attorney's Policy and Procedures Manual; California Attorney General publications including the *Women's Rights Handbook*, *Mendocino County Criminal Justice Trend Data*, the California *Spousal Abuser Prosecution Program* and the *Report on Arrests for Domestic Violence in California*; Probation Department records and procedures; Police Officer Standards and Training (POST) Manuals for domestic violence, including the viewing of telecourses; The Duluth Domestic Abuse Intervention Project; general literature on battering; Sonoma State University resource guide for batterer programs; San Diego Regional Training course on Domestic Violence for First Responders; and minutes of meetings of the Mendocino County Domestic Violence Council and the county's Law Enforcement Administrators Association (LEAA).

The Grand Jury also reviewed over sixty domestic violence arrest reports and court case files, as well as attending domestic violence courtroom proceedings in Ukiah and Willits.

The Grand Jury interviewed the complainants, both past and present members of the District Attorney's Office including Victim-Witness Assistance; past and present members of the Probation Department; officers and staff of Project Sanctuary; a

counseling program facilitator; victims and perpetrators of domestic violence; peace officers from the Ukiah Police Department and the Sheriff's Office; concerned citizens and a representative of the Mendocino County Courts.

## Relevant Law

The principal Penal Code Sections concerning crimes of domestic violence are 273.5 (domestic violence battery with trauma) and 243(e)(1) (domestic violence battery). However, violations of other Penal Code Sections may be crimes of domestic violence; among these are Sections 422 (terrorist threats), 646.9 (stalking), 236 (false imprisonment), 262 (spousal rape), and 273.6 (a) and (d) (violation of restraining or protective orders).

Penal Code Section 13700 covers law enforcement response to domestic violence, including mandatory reporting of incidents. The probation requirements for crimes of domestic violence and the details of consequent batterers counseling programs are stipulated in Section 1203.097 of the Penal Code. Section 6211 of the Family Code defines the victims of domestic violence. The requirements for domestic violence training of peace officers is found in Section 13519 of the Penal Code.

## General Aspects of Domestic Violence

### Findings

1. California law includes in crimes of domestic violence, in addition to spousal relationships, former spouses, cohabitants and former cohabitants including (as of 1994) gay or lesbian relationships, any person who is the parent of his or her child, any person with whom there is a dating or engagement relationship, a child, or any other person related by consanguinity.

**Response (Sheriff):** Agree with this finding, although the Sheriff would defer to the statutory definitions. California Penal Code §13700 defines "abuse" and "domestic violence" as follows:

- (1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself or another.
- (2) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons

are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff.

2. According to the California Attorney General, in over 75% of domestic violence cases either the batterer or the victim, or both, have been using alcohol or drugs. Mendocino County arrest reports indicate that weapons are involved more than 50% of the time.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board assumes this finding is accurate.

3. The California legislature passed in 1995 a “zero tolerance” statute on domestic violence that requires that all law enforcement agencies implement, by July 1, 1996, written policies that encourage the arrest of domestic violence offenders, if there is probable cause or if a protective order is violated. In the past both parties involved in a domestic violence dispute have, at times, been arrested. This statute discourages but does not prohibit dual arrests.

**Response (Sheriff):** Disagrees partially with this finding, but only so far as the date. Pursuant to California Penal Code §13701, subsection (a), every law enforcement agency in the state was required to implement written policies and standards for officers’ responses to domestic violence calls by January 1, 1986. Subsequent amendments to this statute have addressed the issues of mandatory arrest, dual-arrests, and identification of the primary aggressor.

**Response (Board of Supervisors):** The Board has not independently verified this finding. The Board does agree with the response provided by the Sheriff.

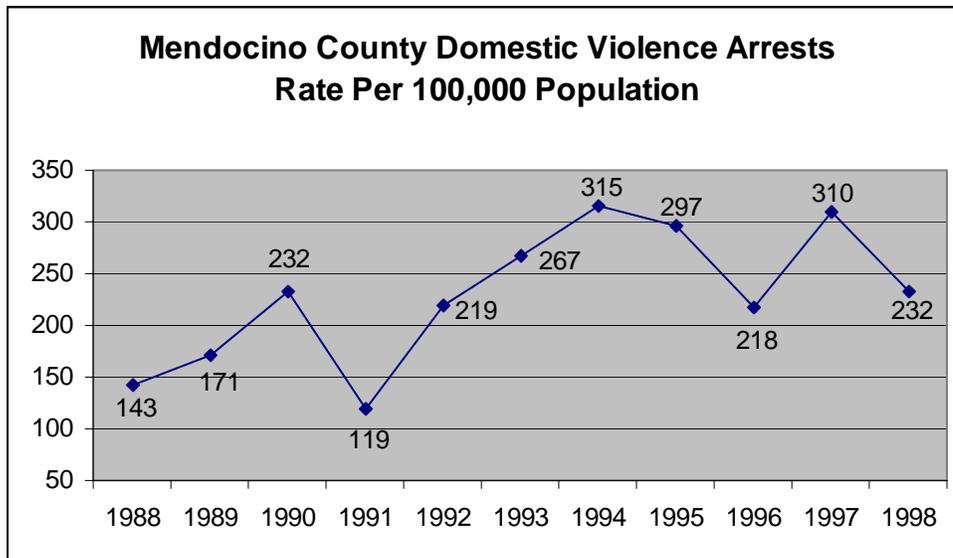
### **Domestic Violence in Mendocino County**

#### **Findings**

4. The number of arrests in California for domestic violence, reported to the Attorney General, has risen steadily from 113.6 per 100,000 total population in 1988 to 169.9 in 1998, an increase of 49.6 %. However, in Mendocino County, during the same time frame, the domestic violence arrest rate rose

from 155.0 to 310.8, an increase of 100 %. This increase in reporting is in large part due to increased awareness and sensitivity to domestic disputes by both law enforcement and the public of Mendocino County.

**Response (Sheriff):** Disagrees in part with this finding. The arrest rate per 100,000 population and the rate of increase appear to be incorrect. The following chart is based on domestic violence arrest data from the California Attorney General's Office and population data from the demographic unit of the State of California Department of Finance.



Based on this data, the increase from 1988 to 1998 was 62.2%, not 100% as cited by the Grand Jury. However as the chart above shows, neither of these figures reflects the year-to-year fluctuations in arrest rates.

**Response (Board of Supervisors):** The Board has not independently verified this finding. The Board does agree with the response provided by the Sheriff.

5. Less than 50% of 9-1-1 domestic violence calls resulted in an arrest in Mendocino County during 1998 and 1999. The arrest rate varied among the four law enforcement agencies in the county.

**Response (Sheriff):** Disagrees in part with this finding, because the statistic is misleading. The classification assigned to a call by dispatch is not an accurate indication of whether conduct at the scene should lead to an arrest. Dispatchers do not investigate the circumstances of the call; they gather basic information and relay it to responding patrol units. The verbal information provided to the dispatcher does not in itself establish probable cause to make an arrest.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff. Dispatchers do not investigate the circumstances of the calls they receive. The verbal information given to the dispatcher does not, in itself, establish probable cause to make an arrest.

6. The Law Enforcement Administrators Association (LEAA) of Mendocino County brings together the heads of all county agencies involved in law enforcement, including the District Attorney, the Sheriff, the Chiefs of the three city police departments, the Captain of the local branch of the California Highway Patrol, The Chief Probation Officer, the Major Crimes Task Force Commander and the Superintendent of the California State Parks. In 1996, the LEAA issued a domestic violence policy detailing arrest and evidence gathering procedures. In February 2000, the District Attorney distributed to all LEAA members a family violence checklist which stresses the importance of taped interviews.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

## **Recommendation**

As the chief law enforcement officer of the county, the District Attorney, in the context of the LEAA, should assume a proactive leadership role in developing county-wide domestic violence policies and procedures.

**Response (Sheriff):** This recommendation is directed to the District Attorney. As Sheriff and a member of the Law Enforcement Administrator's Association, I support the recommendation, but I would like to clarify that it is Sheriff, not the District Attorney, who is the chief law enforcement officer in the county. The District Attorney is the chief prosecutor in the county. The distinction is important. Although District Attorneys are not authorized or empowered to command peace officers employed by other agencies, by virtue of their prosecutorial discretion they exert significant influence on the manner in which crimes are investigated.

**Response (Board of Supervisors):** The Board agrees with this finding and encourages all members to fully participate in the Council.

**Time frame for implementation:** On-going

## **Finding**

7. A Mendocino County Domestic Violence Council was formed in January 1995 and includes representatives from all law enforcement agencies, the District Attorney, Victim/Witness Assistance, the Court, all relevant county departments, concerned citizens, Project Sanctuary, E.S.C.A.P.E.S. (Emergency Sanctuary for Coastal Acts Providing Escape Services), and other community service agencies. The Council's stated mission is to ensure that all those affected by domestic violence are treated fairly and with respect and to promote community awareness for the purpose of reducing the incidence of domestic violence in Mendocino County. Not all Council members are active participants.

**Response (Sheriff):** Agrees with this finding. The Sheriff's Office is an active member of this Council.

**Response (Board of Supervisors):** The Board agrees with this finding but has not independently verified the statement on the number of calls.

### **Recommendation**

All members of the criminal justice community should not only participate, but accept active roles in the Council on Domestic Violence. Advantage should be taken of the Media/Community Education Committee to inform the citizenry of the roles and accomplishments of law enforcement.

**Response (Sheriff):** This recommendation has already been implemented. The Sheriff's Office has played an active role in the Domestic Violence Council since its inception. The Sheriff fully supports use of the council's Media/Community Education Committee to inform the citizenry of the roles and accomplishments of law enforcement. Responsibility for implementing this portion of this recommendation rests with the Council as a whole.

**Response (Board of Supervisors):** The Board agrees with this finding and encourages all members to fully participate in the Council.

**Time frame for implementation:** On-going

### **Findings**

8. Project Sanctuary provides an important and diverse set of services for victims of domestic violence in Mendocino County. Important among these services is the providing of shelter and assistance in obtaining temporary restraining orders (TRO's). Project Sanctuary receives approximately 1800 domestic violence calls each year. Some of these may be repeat calls involving the same victim.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding but has not independently verified the statement on the number of calls.

9. The District Attorney and Project Sanctuary have begun a dialogue and domestic violence cross-training.

**Response (Sheriff):** This finding is directed to the District Attorney and Project Sanctuary.

**Response (Board of Supervisors):** The Board assumes this statement is correct and urges the District Attorney and Project Sanctuary to continue the cross training.

### **Recommendation**

The cross training between Project Sanctuary and the District Attorney should be expanded to include all Deputy District Attorneys who may prosecute domestic violence cases. This training program should be formalized and include regularly scheduled training sessions.

**Response (Sheriff):** This recommendation is directed to the District Attorney and Project Sanctuary.

**Response (Board of Supervisors):** The Board agrees with this recommendation but defers to the District Attorney for implementation.

### **Findings**

10. In October 1999, using Citizens Option for Public Safety (COPS) funding, the District Attorney hired a victim-witness domestic violence advocate and brought the part-time domestic violence victim advocate to almost full-time. These advocates now provide courtroom support and services to victims and their families.

**Response (Sheriff):** This finding is directed to the District Attorney.

**Response (Board of Supervisors):** The Board agrees with this finding.

11. The Sheriff's Department and other law enforcement agencies in the county possess excellent domestic violence training programs and materials. However, it is sometimes difficult, due to staffing shortages and overtime restrictions, to have officers taken off duty to attend training sessions. Penal Code Section 13519 requires all officers who respond to calls of domestic

violence to complete an updated course of instruction on domestic violence every two years.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding and urges all law enforcement agencies in the County to continue their domestic violence training efforts.

## Recommendation

Budgeting of overtime and staffing decisions should give fair and thorough consideration to the training of all peace officers in the county.

**Response (Sheriff):** This recommendation has been implemented. In fact, the practice of using overtime to either accomplish training or back-fill vacancies created by officers in training has been an unfortunate reality for the Sheriff's Office for many years. The California Commission on Peace Officer Standards & Training (POST) allows law enforcement agencies to recoup the overtime costs of staffing a position vacated by an employee who is attending a course approved for reimbursement. The Mendocino County Sheriff's Office is an active participant in this reimbursement program. The program reduces training costs, but it is not a substitute for adequate staffing. This is especially true now, when we are forced to use overtime just to provide minimum staffing for patrol.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff.

**Timeframes for implementation:** Has been implemented

## Finding

12. Stay away orders issued by the Court are entered by the Sheriff's Department into the statewide CLETS (California Law Enforcement Telecommunications System) making this critical information available to all dispatchers. However, the paperwork must be carried to the Sheriff's Office delaying entry into CLETS. Once entered, the dispatcher can then radio data to police vehicles responding to domestic violence calls. The victim of domestic violence is still obliged to file temporary restraining orders (TRO's) with law enforcement; but once filed, they also are entered into the CLETS.

**Response (Sheriff):** Disagrees in part with this finding. Since the Grand Jury completed its investigation, the handling of criminal stay-away orders has changed. Bailiffs receive the signed orders from the court then fax them to the Sheriff's Dispatch Center for entry. This has

eliminated the delay of hand-delivering the paperwork or routing it through interoffice mail.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff. The handling of these orders has changed since the Grand Jury conducted their investigation. Bailiffs now receive the signed orders from the court and then fax them to Sheriff's Dispatch for entry into the system.

## **Recommendation**

To minimize the delay in entering both restraining and stay-away orders into CLETS, procedural changes should be implemented to permit direct electronic entry by the courts or the bailiff.

**Response (Sheriff):** This recommendation will not be implemented because, even though the intent is good, the proposed action it is not reasonable. Entry of restraining orders requires a level of skill, training and CLETS access privileges typically reserved for dispatchers. Bailiffs cannot perform their principal duties of maintaining security in the courtroom if they are entering restraining and stay-away orders into CLETS. Court personnel are effectively prohibited from performing CLETS entries. CLETS policies and procedures, which have the force of law, require that the agency entering a restraining order or stay-away order into CLETS must have a copy of the order immediately available 24-hours a day, 7-days a week. CLETS policies also prohibit one agency from providing verification for an order entered by another agency, including the issuing court.

Delays in CLETS entry have been minimized, but by means other than those suggested by the Grand Jury. Bailiffs now fax all criminal stay-away orders directly to dispatch for entry into CLETS. Copies of temporary restraining orders must still be delivered to the law enforcement agency, but this is an important safeguard to ensure that the order contains all the information necessary for a CLETS entry. Once received, these orders are transmitted directly to dispatch. Court personnel could fax restraining orders to dispatch, but they would first have to verify that the order contains all the information required for a CLETS entry. An order sent by the courts to dispatch without the required information cannot be entered into CLETS until the person who obtained the order can be found and the required information collected.

The Sheriff's Office, the Courts and the other members of the Domestic Violence Council will continue to work on ways to improve the handling of restraining orders, including the timeliness and accuracy of CLETS entries.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff concerning this recommendation. Though the Grand Jury's intent is good, the Sheriff points out that court personnel are prohibited from performing entries into CLETS and bailiffs principal duties are to provide and maintain security in our courtrooms. The Sheriff does state that the Criminal Justice System in Mendocino County will continue to examine ways to improve the handling of restraining and stay away orders.

## Finding

13. Increased cooperation between law enforcement and the District Attorney's Office is needed to obtain the best possible services to the victims of domestic violence and to ensure public safety. Testimony indicates that relations between the District Attorney and the Ukiah Police Department began improving in November 1999.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board defers to the District Attorney and the City of Ukiah on this finding.

## Recommendation

Open dialogue between the District Attorney and law enforcement must be established and become commonplace. Decisions to reject or dismiss a case should be discussed with the arresting law enforcement agency before they become final.

**Response (Sheriff):** This recommendation, as it relates to open dialogue, has been implemented in the Sheriff's Office. Discussion between Sheriff's staff and District Attorney's staff are commonplace. The department agrees that decisions to reject or dismiss a case should be discussed before they become final. However the sheer volume of cases handled by the District Attorney's Office makes discussion of every such case impractical. Currently the nature of the case dictates how the decision to reject or dismiss will be communicated. In most instances, decisions are communicated in writing via a worksheet form.

**Response (Board of Supervisors):** The Board agrees with this recommendation and urges the District Attorney to continue their efforts in this regard.

## Finding

14. Although this investigation was prompted by citizen complaints against the current District Attorney, the Grand Jury found complaints dating back more than five years, criticizing the previous District Attorney for an “apparent lack of interest (in) pursuing domestic dispute complaints.”

**Response (Sheriff):** Neither agrees nor disagrees with this finding.

**Response (Board of Supervisors):** The Board neither agrees or disagrees with this finding.

### **Prosecution and Sentencing**

#### **Findings**

15. Domestic violence prosecution is a complex issue that involves not only the District Attorney, but the Courts, the Probation Department, Law Enforcement and the victims themselves, who play vital roles in the determination of outcomes. The arresting agency, after completing their investigation, forwards the case file to the District Attorney for prosecution.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

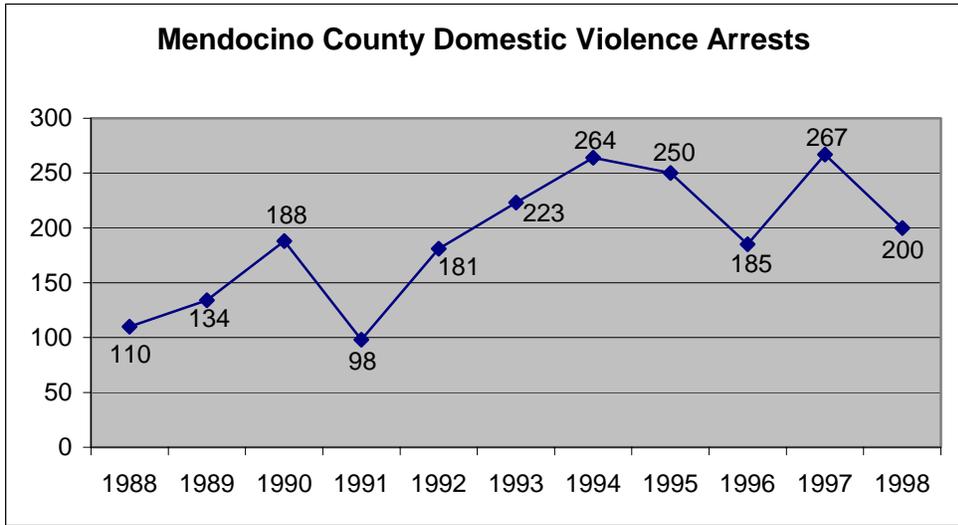
16. The review of domestic violence case files revealed some apparent inconsistencies, although there was no obvious pattern of dismissals nor in sentencing practices among the several courts in the County.

**Response (Sheriff):** Neither agrees nor disagrees with this finding.

**Response (Board of Supervisors):** The Board agrees with the response provided by the District Attorney. The ultimate decision on sentencing rests solely with the Courts.

17. The differences in domestic violence prosecution and conviction rates between 1998 and 1999 was statistically insignificant. There was however a notable drop in domestic violence arrests, from an average of 25 per month in 1998 to 20 per month in 1999.

**Response (Sheriff):** Disagrees with this finding, only because the arrest statistics cited by the Grand Jury do not agree with the official statistics maintained by the California Attorney General, which show that for 1998 there were an average of 16.7 domestic violence arrests per month in Mendocino County. According to the Attorney General's statistics, arrests for domestic violence in Mendocino County have fluctuated for several years.



**Response (Board of Supervisors):** The Board agrees with the response provide by the Sheriff. The official statistics maintained by the California Attorney General indicate that in 1998, the average monthly arrests for domestic violence was 16.7.

18. Often, the victim will recant testimony made at the time of arrest, making prosecution difficult. However, the District Attorney’s Victim-Witness Protection program is a positive force in aiding the victims of domestic violence and supporting the prosecution of batterers.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

19. In 1984, the California Legislature enacted a new domestic violence law (Chapter 1609). This statute in part states: “It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. Arrests of domestic violence offenders are encouraged if there is probable cause that an offense has been committed.” A review of Mendocino County domestic violence arrest records, dating back to 1988, demonstrate that the county’s law enforcement agencies have clearly been responsive to this legislative directive.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding and commends all of Mendocino County’s law enforcement agencies work in this area.

20. Section 243 (e) (4) of the Penal Code (domestic violence battery) states: “The Legislature finds and declares that these specified crimes merit special consideration when imposing sentence so as to display society’s condemnation for these crimes of violence upon victims with whom a close relationship has been formed.” In the Grand Jury’s review of domestic violence case files, no indication of such special consideration was found.

**Response (Sheriff):** Agrees with this finding as it relates to the text of the statute. I neither agree nor disagree with the Grand Jury’s finding regarding their review of domestic violence case files.

**Response (Board of Supervisors):** The Board has no specific knowledge of the cases reviewed by the Grand Jury, therefore, we cannot comment on this finding.

21. According to the District Attorney, these Penal Code Sections, that reflect the desire by the California legislature to place special emphasis on crimes of domestic violence, apply to the Court and to law enforcement and not to the district attorneys of the state. The District Attorney maintains that he treats all crimes equally and to do otherwise would expose him to censure and possible charges of misconduct.

**Response (Sheriff):** This finding is directed to the District Attorney.

**Response (Board of Supervisors):** The Board of Supervisors defers to the District Attorney on this finding.

22. The goals of domestic violence prosecution, as stated in the District Attorney’s Policy and Procedures Manual, are:

- (1) protection and safety for the victim and family members
- (2) punishment of the offender
- (3) referral of the victim and vulnerable family members to ... support agencies
- (4) rehabilitation of the offender

**Response (Sheriff):** This finding is directed to the District Attorney.

**Response (Board of Supervisors):** The Board agrees with this finding.

23. In addition to these goals, the City of Duluth, Minnesota, the model for the batterers counseling program used in Mendocino County, has the prosecution goal “to create a general deterrence to domestic violence in the community.” The Mendocino County District Attorney maintains that cases must be prosecuted on the basis of evidence and not on possible community reaction.

**Response (Sheriff):** Neither agrees nor disagrees with this finding. I have not read the Duluth, MN, program model. The remainder of this finding addresses statements made by the District Attorney.

**Response (Board of Supervisors):** The Board defers to the District Attorney on this finding.

## Recommendation

In the opinion of the Grand Jury, decisions in cases of domestic violence do, in fact, send messages. The public's perception of prosecutorial behavior may well have a direct impact on the incidence of family violence in the county. It is clear that the California legislature and the citizens of Mendocino County consider crimes of domestic violence as both serious and special crimes. In this regard, the Grand Jury believes the District Attorney should follow the spirit of the law by vigorously prosecuting domestic violence offenders.

**Response (Sheriff):** This recommendation is directed to the District Attorney. The Sheriff's Department agrees that the public's perception of how domestic violence cases are handled can have a direct impact on the incidence of family violence. The fear of arrest, prosecution and incarceration can have a strong deterrent effect. Quick and decisive intervention also reinforces the message that there is no acceptable level of family violence. The Sheriff fully supports the spirit and legislative intent of the state's domestic violence laws, and expects every member of the Sheriff's Office to do the same.

**Response (Board of Supervisors):** The Board defers to the District Attorney on this recommendation. The District Attorney is fully accountable to the citizens of Mendocino County.

## Finding

24. The current District Attorney has instituted the use of "Cite Hearings" in selected domestic violence cases (a total of 15 through October 1999). The accused and the victim are both brought together before the District Attorney. The hearing includes a strong warning to the offender that a repeat offense within a year of the hearing will result in the reopening of the current case. The presumption by the District Attorney is that the hearing is a forceful deterrent. It is used primarily when the chance of a conviction resulting from prosecution, in the view of the District Attorney, is not certain.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board of Supervisors agrees with the response provided by the District Attorney.

## Recommendation

Cite Hearings, when used, should be structured to keep the victim and the batterer separate, as indicated by expert testimony. Victims should be accompanied by an advocate at these hearings. The District Attorney should continue to track individuals offered Cite Hearings for recidivism.

**Response (Sheriff):** This recommendation is directed to the District Attorney.

**Response (Board of Supervisors):** The Board agrees with the response provided by the District Attorney.

## Findings

25. In 1998 and 1999, the most common reason cited by the District Attorney when not prosecuting a domestic violence case was "Insufficient Evidence."

**Response (Sheriff):** Agrees with this finding. Although I have not reviewed the data used by the Grand Jury, their finding is consistent with my personal knowledge.

**Response (Board of Supervisors):** The Board neither agrees or disagrees with this finding.

26. When the District Attorney makes a determination that there is insufficient evidence to prosecute a case, the file is returned to the arresting law enforcement agency. The procedure followed by law enforcement when a file is returned to them for insufficient evidence, varies considerably among the four County agencies. For the most part, local law enforcement agencies do not routinely re-open investigations on cases returned for insufficient evidence, unless specific instructions from the District Attorney accompany the returned file.

**Response (Sheriff):** Agrees with this finding. However a rejection for insufficient evidence does not necessarily mean more evidence is available. The reason returned domestic violence cases are not routinely reopened is that all available evidence is generally gathered at the time the call is handled. The identities of the victim, suspect and witnesses are known; statements are taken; physical evidence is gathered. Follow-up is usually limited to securing medical records documenting the victim's treatment and photographing bruises that may take several hours to develop.

**Response (Board of Supervisors):** The Board has not conducted an independent investigation into the Grand Jury's finding, therefore we neither agree nor disagree.

27. The District Attorney does not follow-up cases that have been returned to law enforcement. The District Attorney depends on the arresting agency for gathering additional evidence to permit prosecution. Investigators in the District Attorney's staff are not used for this purpose.

**Response (Sheriff):** Agrees with this finding as to follow-up on returned cases and dependence on the arresting agency for gathering additional information. I cannot comment on how the District Attorney's investigators are assigned.

**Response (Board of Supervisors):** The Board defers to the District Attorney on this finding.

## Recommendations

1. In conjunction with law enforcement, the District Attorney should implement a follow-up system that tracks cases rejected for insufficient evidence. When law enforcement is unable to obtain the evidence needed for prosecution the Sheriff or the police department should notify the District Attorney and indicate the reasons involved.

**Response (Sheriff):** The Sheriff's Office has implemented the first portion of this recommendation. The Sheriff's Office report management system, online since 1991, tracks the disposition of all crime reports, including reports returned by the District Attorney.

The second portion of this recommendation will not be implemented because it is not reasonable. If the case investigation presents all available evidence, then a rejection for insufficient evidence essentially means the District Attorney believes the case is not prosecutable as presented. The investigating officer is notified of the rejection. The officer can resubmit the case if there is additional information or evidence that was not included in the original case. But if there is nothing to add, notifying the District Attorney of the reasons why there is no additional evidence becomes a needless waste of staff resources. If the District Attorney believes that additional investigation may reveal facts that make the case prosecutable (i.e., the attorney reviewing the case notes a resolvable deficiency in the investigation), then the case should be returned with a request for specific follow-up. Once the follow-up is completed, the case would then be resubmitted. This procedure is currently in place.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff. The Board defers to the District Attorney on recommendations directed toward his office.

2. When cases are rejected for interest of justice, mutual combat, cite hearing and similar causes, the District Attorney should be open to feedback from law enforcement concerning valid arguments for reconsideration. Law enforcement agencies should be encouraged to offer background information not evident in the case file to the District Attorney.

**Response (Sheriff):** This recommendation as it pertains to the Sheriff's Office has already been implemented. Sheriff's deputies, detectives, sergeants and lieutenants routinely contact the District Attorney's Office to express concerns about cases. Background information relevant to the case should be contained in the case narrative and not left for later discussion.

**Response (Board of Supervisors):** The Board agrees with the response by the Sheriff and defers to the District Attorney on his issues. Sheriff personnel routinely contact the District Attorney's Office to express concern about various cases.

## Finding

28. The District Attorney's open door policy has allowed batterers and victims of domestic violence opportunity to make direct presentations of their situation. The Grand Jury has found that, in at least two instances, such conversations have resulted in decisions, which were then forwarded to the prosecuting Deputy District Attorney as directives. The knowledge of the case and the views of the Deputy District Attorney were neither solicited nor heard by the District Attorney.

**Response (Sheriff):** This finding is directed to the District Attorney.

**Response (Board of Supervisors):** The Board neither agrees or disagrees with this finding, therefore we defer to the District Attorney for verification.

## Recommendation

The District Attorney should consult with probation officers, the prosecuting attorneys, investigating detectives, and Victim/Witness advocates when making or reversing prosecution decisions.

**Response (Sheriff):** This recommendation, as it pertains to the Sheriff's Office, has been implemented. Nothing in Sheriff's Office policy prohibits the District Attorney or his deputies from contacting any member of the Sheriff's Office to discuss a prosecution decision.

**Response (Board of Supervisors):** The Board defers to the District Attorney on this recommendation.

## Findings

29. The Court has the final say for all sentencing, though it may often rely on the recommendation of the Probation Department. Prior to preparing its recommendation, the Probation Department fully researches the case, including listing priors, making background checks, interviewing victims, and investigating all relevant information.

**Response (Probation):** Agrees with this finding. All felony matters are referred by the Court for a report and recommendation for sentencing; misdemeanors are discretionary.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

30. Most interviewees involved in domestic violence issues, representing a number of different agencies, expressed strong concerns regarding the inconsistent prosecution and sentencing of accused domestic batterers.

**Response (Probation):** Department assumes this is correct.

**Response (Sheriff):** Neither agree nor disagree with this finding; I was not present during the interviews. I am nevertheless aware that individuals involved in domestic violence issues have expressed strong concerns regarding what they perceive as inconsistent prosecution and sentencing of accused domestic violence batterers.

**Response (Board of Supervisors):** The Board neither agrees or disagrees with this finding.

31. The Grand Jury heard testimony that, at times, plea agreements are entered into. Additionally, a review of case files and court records demonstrate that when a domestic violence crime is committed by a probationer, the case is often prosecuted as a violation of probation (VOP). In the prosecution of a VOP, the burden of proof is much less demanding and the probability of conviction is generally high.

**Response (Probation):** Agrees with this finding.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

## Recommendation

All cases of domestic violence, when the evidence is adequate, must be prosecuted. Plea agreements to lesser charges and using violation of probation should be avoided unless the reasoning is compelling.

**Response (Probation):** Agrees with this recommendation, but emphasize the phrase “when the evidence is adequate.” If the underlying charge for the granting of probation in the original case is directly related to the new charge, such as a second battering, pursuing a violation of probation may be adequate to ensure appropriate punishment. If there is no nexus between the charges, a new case should be filed. The determination of “adequate” evidence is the responsibility of the District Attorney, even in violation of probation cases.

**Response (Sheriff):** This recommendation is directed to the District Attorney.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. The Board defers to the District Attorney concerning his response.

## Findings

32. The Mendocino County Court began a vertical calendar process in February 1999. The process provides for cases to be assigned alphabetically to a court and remain with that court from arraignment through disposition. In addition, if violation of probation occurs, the defendant returns to the original court. However, this arrangement made it impossible to assign a Deputy District Attorney, who specialized in the field, to all domestic violence cases. In 1998 and earlier years, cases were routinely assigned to Deputy District Attorneys who had specific areas of specialization (for example, domestic violence, fraud, and sexual assault).

**Response (Sheriff):** Agrees with this finding. I also wish to note that the imposition of the vertical calendar program has had a significant, negative impact on the Sheriff’s Office. Additional personnel are needed to transport inmates to multiple courtrooms. The lack of adequate staff at the jail means these transportation duties have to be performed by patrol deputies. On some weekday mornings, all available Ukiah area day-shift deputies are assigned to transportation. This compromises public safety and creates unacceptable delays in responding to calls for service.

**Response (Board of Supervisors):** The Board defers to the Courts and the District Attorney to answer this finding.

### **Batterers Counseling Program**

#### **Findings**

- 33.** According to Penal Code Section 1203.097 (a) (6), if a person is granted probation for a crime of domestic violence, mandatory attendance in a weekly, two hour, batterers counseling program for a minimum of one year is required. Imposition of this requirement is the responsibility of the Court. The District Attorney has neither power nor discretion in this matter.

**Response (Probation):** Agrees with this finding.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

- 34.** There are 19 approved batterers counseling programs in Mendocino County. Each program is led by a professional facilitator licensed by the State of California. The programs and their facilitators are approved by the Probation Department based upon established criteria.

**Response (Probation):** Agrees with this finding. The number of programs is not limited or static.

**Response (Sheriff):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding and notes that the Chief Probation Officer stated that the number of programs are not limited.

#### **Recommendation**

Batterers program facilitators and curricula should be closely monitored by the Probation Department and re-certified each year.

**Response (Probation):** Agrees with this finding. Probation Department staff meet with the facilitators to monitor their programs and compliance with the established standards.

**Response (Sheriff):** This recommendation is directed to the Chief Probation Officer.

**Response (Board of Supervisors):** The Board agrees with this recommendation. Probation staff meet with the facilitators to monitor all programs and to determine compliance with accepted standards.

## Findings

35. Since 1997, the number of referrals to batterer counseling has been averaging 5.6 per month. However, for four months, from April through July of 1999, there was only one referral to the batterer counseling programs. The referral rate returned to normal in August. There were fourteen convictions for domestic violence in the second quarter. Of these, seven were denied probation and received jail time. One case was transferred to Marin County and two probationers failed to report to the Probation Department for their initial visit, leaving three probationers unaccounted for. The District Attorney was unable to provide domestic violence records for the first quarter of 1999. This data might have been helpful in trying to resolve the small discrepancy in the number of referrals.

**Response (Sheriff):** Neither agrees nor disagrees with this finding. The Sheriff's Office does not maintain countywide statistics on batterer referrals.

**Response (Board of Supervisors):** The Board did not independently determine the accuracy of this finding. We assume it is correct

36. The effectiveness of the counseling programs is much debated in the literature reviewed. Polar opposite views were expressed by those interviewed by the Grand Jury. There are no reliable statistics that attest to the effectiveness of these classes. Violations of probation are more than 80% for domestic violence probationers and violations average two times per probationer, often as many as five times or more.

**Response (Probation):** Neither agrees nor disagrees with this finding. I do not know from where or how the statistic was derived, or whether it pertains to the population as a whole or just Mendocino County. As with any learned behaviors, it takes time to modify that behavior, and many probationers will have difficulties throughout the term of treatment and for the rest of their lives. As with alcoholics in recovery, recovery from the patterns of domestic violence is a continuous process. Often the violations of probation are technical, such as missing meetings or counseling, rather than repeated abuse. Continued use of drugs, detected through urinalysis, is also a recurring cause for violations.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board did not independently verify the accuracy of this finding. We assume it is correct. The Chief Probation Officer also could not verify the statement due to the uncertainty of the source.

## Recommendation

The Probation Department should initiate a system of tracking domestic violence offenders for recidivism including those who elect or are sentenced to jail time in lieu of probation.

**Response (Probation):** Disagree with this recommendation, in that don't see this collection of data as a function of the Probation Department. We do not collect data on cases that are not referred to us, nor do we keep data on probationers who may reside in or move to other jurisdictions and become involved in subsequent violations after completion of our cases. Those who remain within our jurisdiction may be tracked.

This could be a state agency function or tracked by the District Attorney, who reviews all police reports of domestic violence and chooses which cases to prosecute. The decision not to accept probation in lieu of jail may preclude this department from knowing that a domestic violence case has been prosecuted.

**Response (Sheriff):** This recommendation is directed to the Chief Probation Officer.

**Response (Board of Supervisors):** The Board disagrees with this recommendation. This request may be better directed to the District Attorney or a State agency. Probation does not collect any data on cases that are not referred to them.

## Findings

37. The most common cause cited for probation violations by domestic violence probationers was drug use. Other frequently cited causes were missing appointments with the probation officer and the counseling program. New offenses, including repeat domestic violence, were the least of probation violations.

**Response (Probation):** Agree with this finding.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

38. Since attendance in a batterers program is a mandatory provision of probation, the probationers are rarely asked to enroll in substance abuse programs, even though drug use is by far the most common cause for violation of probation. A majority of domestic violence incidents involve the use of drugs or alcohol or both.

**Response (Probation):** Agree with this finding in that substance abuse is a major contributing factor to domestic violence. A component of the educational and treatment program should and does include substance abuse counseling. We direct them to attend AA and NA meetings when we feel it is appropriate. Counseling through the Public Health's Alcohol and Other Drugs Program requires substance abuse counseling, before entering the Men's Alternatives to Violence Program. Participating in a year-long counseling program makes demands on the client's time that make it difficult to attend anything other than that program. If substance abuse is interfering with compliance with the program, further counseling may be ordered.

Most domestic violence cases are misdemeanors that do not require the presence of a court officer. The terms are decided by the court. We are in the process of revising these terms to include rehabilitation programs, such as substance abuse counseling,

**Response (Sheriff):** Neither agrees nor disagrees with the statement about probationers enrolling in a substance abuse program. The Department agrees with the remainder of the finding.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. Substance abuse is a major issue in domestic violence and Probation does direct that probationers attend AA and NA meetings when appropriate.

## **Recommendation**

When it is clear to the probation court officer that a convicted batterer has an addiction or problem with drugs or alcohol, the suggested terms of probation recommended to the court should include a dependence rehabilitation program as well as the mandatory batterers counseling classes.

**Response (Probation):** Agrees with this recommendation in spirit and agree that further supplemental counseling may be necessary in certain cases

**Response (Sheriff):** This recommendation is directed to the Chief Probation Officer.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. Supplemental counseling may be necessary in certain cases.

## Findings

39. Review of case files revealed instances when domestic violence charges were reduced to “aggravated assault” and “disturbing the peace” misdemeanors as part of plea bargaining. These lesser charges do not require batterer counseling classes when on probation.

**Response (Sheriff):** This finding is directed to the District Attorney.

**Response (Board of Supervisors):** The Board has no independent knowledge of this finding. We assume it is correct.

40. The District Attorney disagreed that there is a deep public concern about the handling of domestic violence cases. In his view, the public uproar is the work of a few disgruntled counselors, who are unhappy that their batterers counseling programs have suffered declining enrollment.

**Response (Sheriff):** This finding is directed to the District Attorney.

**Response (Board of Supervisors):** The Board defers to the District Attorney concerning this finding.

## Recommendation

The District Attorney plays a pivotal role in the criminal justice system’s response to family violence. The District Attorney must, through his actions, make it known to the community that domestic violence will not be tolerated in Mendocino County.

**Response (Sheriff):** This recommendation is directed to the District Attorney

**Response (Board of Supervisors):** The Board agrees with this recommendation and urges the District Attorney to respond to our citizen’s

**Response (District Attorney):** This office agrees in part and disagrees in part.

We appreciate the Grand Jury's time and effort devoted to this endeavor. They have taken on a monumental task with all earnestness. Their undertaking is commendable.

As a whole the report gives this office a clean bill of health because it establishes that the concerns expressed by some critics are unfounded. However, some of the recommendations require clarification and the balance of this response will be devoted to those areas:

### **Charging Policy**

Our prosecution practices are consistent with the conventional wisdom of other jurisdictions and with the legal and ethical obligations of a public prosecutor. In this office, each case is given individual attention so an honest assessment is made of the facts, circumstances, and evidence to determine if criminal prosecution is merited. This determination involves the professional and legal judgment by an experienced attorney. Our prosecutors receive regular training on this subject so they are kept abreast with the current legal developments, theories, and concepts.

The concluding factor in most cases is its provability. This requires assessing the likelihood of conviction by a jury. However, this does not mean that we are motivated by fear of losing. Rather, it is a candid appraisal of the facts focusing on what we can realistically expect from a reasonable and prudent jury. This office does file cases that are not "sure winners". Our interests include making sure our decisions are intelligent and just.

Every charging decision is recorded on a cover sheet that is returned to the investigating agency. The form describes the judgment reached and the reasons therefor. If a case has potential, but is not prosecutable at the time of submission, it is not declined out right. Instead, it is returned to the agencies with instructions for further investigation. In major, complex cases it is not unusual to have District Attorney Inspectors render assistance.

While law enforcement must always strive to do their best when conducting investigations, it must never be shaded in favor of prosecuting someone. The objective is to get to the truth and help the prosecutor make the correct determination. A properly investigated case might compel the conclusion that it shouldn't be prosecuted.

If a case is declined for insufficient evidence, it might mean that the suspect is not guilty. Therefore, nothing can be gained by micro managing law enforcement and requiring them to flog nebulous cases when it is unlikely that those efforts will bear fruit. Of course, every filing decision is open to honest feedback and dialogue with all interested agencies and parties. This office has a true open door policy.

### **Cite hearings**

It is true that on occasion some cases are resolved informally through alternative dispute resolution or District Attorney's Citation (Cite) Hearing. However, we carefully select the type of cases that go through this program. It is important to note that it is an adjunct to, not a substitute for, criminal prosecution. It is only intended to fill a void. The following criteria is utilized for selection: First, it must be determined that the case is unprosecutable. Second, the alleged act usually involves insignificant physical contact (the legal term for this concept is called "de minimis"). Third, there is no prior history of serious violence. The State Attorney General recognizes the use of cite hearings as one of the tools available to prosecutors. The procedures followed during cite hearings closely resemble the Grand Jury's recommendation.

### **Probation Violations**

When a person is sentenced he is sometimes placed on probation with certain conditions. Those conditions include obeying all laws. When that person subsequently commits a crime he can be charged with both, a new offense and violating probation. Since the standard of proof for the latter is significantly less, there can be situations where there is insufficient proof to support prosecution for the new offense but enough to violate one's probation.

The standard operating procedure is dual prosecution -- the new case as well as the probation violation. Probation revocations proceedings are used as substitutes only in the following situations: the reasonable doubt standard can't be met but the evidence is enough to meet the probation violation standard; the new offense involves acts so de minimis that dual prosecution will not result in enhanced punishment; or it is strategically advantageous to go first with the probation violation. The prosecution always retains the right to file a new case after the revocation proceedings so little, if anything, is lost through this method.

## **Sentencing Practices**

The ultimate decision on sentencing rests solely with the courts. While a prosecutor can argue and advocate for a particular sentence, one must accept the judge's ruling. Sentencing for domestic violence cases are governed in Penal Code section 1203.097. That section contains mandatory terms, which include batterer's counseling. It is important to note that the reduction in charges does not affect the applicability of that section. The court has the obligation and authority to impose counseling in domestic violence situations regardless of which crimes the defendant is convicted for.

The District Attorney is proactively getting the message out to the community. We have started issuing press releases on the sentences imposed in felony domestic violence cases so the public can be better informed as to nature of the crime and the judicial process.

**Response (Fort Bragg City Council):** Response not received.

**Response (Ukiah City Council):** Response not received.

**Response (Willits City Council):** Response not received.

### **Response Required**

Mendocino County District Attorney  
Mendocino County Sheriff/Coroner  
Mendocino County Board of Supervisors  
Fort Bragg City Council  
Ukiah City Council  
Willits City Council

### **Response Requested**

Mendocino County Chief Probation Officer  
Fort Bragg Police Department  
Ukiah Police Department  
Willits Police Department  
Mendocino County Domestic Violence Council  
Project Sanctuary

## MENDOCINO COUNTY GRADING ORDINANCE

The 1998/1999 Mendocino County Grand Jury investigated, and wrote a report recommending the adoption of an updated grading ordinance for Mendocino County. The Uniform Building Code currently in place includes a grading section, but it does not address the issue of protecting fish spawning streams, and riparian vegetation. Responses to the Grand Jury Report indicated the Mendocino County Board of Supervisors (BOS) was in the process of working with four northern counties in producing a comprehensive grading ordinance. The counties of Mendocino, Trinity, Humboldt, Del Norte, and Siskiyou began the process in 1997, with Humboldt and Trinity Counties taking the lead.

### Reason for Review

The investigation was initiated as a result of a citizen's complaint. Because of the vital importance of creating and implementing this ordinance, the 1999/2000 Grand Jury deemed it appropriate to re-visit this issue.

### Method of Investigation

Because of the in-depth investigation done by the 1998-1999 Grand Jury, it was decided to confine this year's investigation to determine if any action had occurred since the report was published. Two Mendocino County Supervisors were interviewed. The Uniform Building Code, Chapter 70 was reviewed.

### Findings

1. The purpose of the five-County joint participation in the creation of a Grading Ordinance is to create a cohesive plan that incorporates the regulations of the California Division of Forestry, California Fish and Game, National Marine Fisheries Service, Regional Water Quality Control Board and county requirements, since conditions that endanger fish spawning streams are common to all five counties.

**Response (Planning & Building):** Agree with this finding.

**Response (Department of Transportation):** Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

**Response (Board of Supervisors):** The Board agrees with this finding.

2. Humboldt County has developed a draft ordinance which was to be available to Mendocino County for review by the end of June, 2000. According to the interviewees, the BOS plans to decide what to do with the draft ordinance of Humboldt County within 30 to 60 days after receiving it. This ordinance will not include a phase-in or training period.

**Response (Planning & Building):** Agree with this finding with the following clarifications: The Humboldt County draft ordinance became available in July 2000. Mendocino County Board of Supervisors on September 12, 2000 is scheduled to discuss and provide direction regarding grading regulations for Mendocino County. It is unclear if the last sentence in this finding is intended to apply to Humboldt or Mendocino County. It is premature, at this time, to conclude what may or may not be contained within a future Mendocino County grading ordinance relative to a training or phase-in period until public hearings are held and the ordinance is adopted by the Board of Supervisors.

The Board of Supervisors has included funding in the 2000/01 County Budget for preparation, processing and implementation of grading regulations for Mendocino County.

**Response (Department of Transportation):** Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

**Response (Board of Supervisors):** The Board agrees that Humboldt County was to have developed and made available to Mendocino County a copy of its draft ordinance by the end of June, 2000. The Humboldt County draft ordinance became available in July, 2000. Further discussion on the direction and implementation of grading regulations for Mendocino County is scheduled to be discussed during a future Board meeting. The Board agrees with the Director of Planning and Building Services that it is too early in the process to determine what may or may not be contained within a future County grading ordinance relative to a training or phase-in period until public hearings are held and the ordinance adopted by this Board.

3. Trinity County is working on a certification plan ordinance which involves a training period to be sure that appropriate persons in the county understand the scope and conditions of the ordinance. The purpose is to prevent violations due to misunderstanding of the new ordinance.

**Response (Planning & Building):** Agree with this finding.

**Response (Department of Transportation):** Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

**Response (Board of Supervisors):** The Board agrees with this finding.

4. Coordination between the counties is accomplished by conference calls every two weeks and almost daily e-mail.

**Response (Planning & Building):** Agree with this finding.

**Response (Department of Transportation):** Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

**Response (Board of Supervisors):** The Board agrees with this finding.

## **Recommendation**

The Grand Jury urges the BOS to review and act on the Humboldt County draft ordinance with the 30 to 60 day time frame. The Grand Jury strongly suggests that the BOS encourage Trinity County to complete their ordinance quickly, so that its features can be considered and incorporated, if found appropriate.

**Response (Board of Supervisors):** The Board will be discussing and providing direction to Planning and Building staff on the Mendocino County grading regulations at a future Board meeting. The Board has included \$80,000 in the budget for fiscal year 2000/01 for the purpose of developing and implementing grading regulations.

### **Time frame for implementation:**

- The Board on September 6 reviewed a memorandum from the Planning and Building Department that provided background to the issue as well as options for proceeding with grading regulations. Due to the late hour, the discussion was continued to the next available Board hearing.
- On September 26, the Board again discussed grading regulations. The Board directed the Planning and Building Services Director to utilize the Public Resources Council to create a matrix identifying the highlights from the Mendocino County

Administrative Draft, Humboldt, Lake, and Napa County ordinances and include related State and Federal Regulations. Further, the Board requested the Public Resources Council recommend a grading committee structure for Board review.

- The Public Resources Council held a special meeting on October 23, 2000, to discuss the Board referral. The Public Resources Council recommended that (1) the Resource Conservation District take an active role in grading regulations, (2) the Board establish a "Grading Committee" and (3) that the County prepare and adopt grading regulations that are more comprehensive than those contained within the Uniform Building Code. Comments to the draft matrix were due to Planning and Building Services on November 3.
- Discussion and direction for grading regulations for Mendocino County will be scheduled for a Board hearing in January.

## Comments

The County has received Federal and State grants to repair various drainage problems on the county roads, but the appropriate granting agencies have not yet given guidelines for making these repairs.

County road crews are currently being trained on standard procedures to repair drainage problems, in addition to procedures for new drainage construction.

The Grand Jury recognizes and appreciates the complexity of creating a sensible, comprehensive County Grading Ordinance. With all of the urgent issues facing the BOS, it is sometimes tempting to consign items "to the back burner." This is especially true when there is the perception that there is already something in place which addresses the problem. The existing Uniform Building Code could appear to be sufficient to deal with grading problems in the County, allowing for a less urgent priority. However, since the existing codes do not adequately address fish spawning streams and riparian vegetation, it is particularly important and urgent, to protect these habitats.

**Response (Department of Transportation):** It should be noted that the Department of Public Works (predecessor to the Department of Transportation) worked with the Department of Planning and Building Services on previous efforts toward grading ordinance development. We provided review and comment from an engineering perspective, particularly on the interrelationship of the grading ordinance with construction administered through subdivision and other land use entitlement processes,

encroachment permit process and County Road construction and maintenance. We will be available for such cooperative involvement in any future grading ordinance development process.

Additionally, the Department is currently involved in the preparation of Road Standards. We are coordinating this effort with Planning and Building Services to ensure continuity with planning and grading ordinance issues.

**Response Required**

Mendocino County Board of Supervisors

**Response Requested**

Mendocino County Department of Planning and Building Services  
Mendocino County Department of Public Works

## **MENDOCINO COUNTY IN-HOME SUPPORT SERVICES PROGRAM**

The In-Home Support Services Program (IHSS) provides services to low-income elderly and disabled people who would be unable to remain safely in their homes without this support. The program is administered by Adult Services, Department of Social Services (DSS). DSS began administration of this program approximately 12 years ago. Prior to IHSS, the Remedy Company contracted for the program. The program is funded by Federal funds (51.7%), State funds (31.4%) and Mendocino County funds (16.9%). IHSS maintains an In-Home Service Provider Registry, which screens applicants who want to become providers (caregivers) from the general public. The recipient (client) is given names from this provider registry. The client hires the provider and is the employer. The provider is the employee and Mendocino County is the payee. Time sheets are submitted by the provider to the DSS clerk and checks are issued to the provider.

Mendocino County has three service areas, Ukiah, Willits and Fort Bragg, to assist the clients. Each service area has one or more Social Workers (SW) assigned to a caseload of clients. Each area also has one or more Home Care Coordinators (HCC) and a nurse, to assist the SW, who is responsible for eligibility and assessment of the client's needs. HCC is responsible for informing client and providers about their duties, responsibilities and rights. The nurse is responsible for assessing the client's paramedical needs and assisting them in obtaining services.

### **Reason for Investigation**

The Grand Jury received a citizen's complaint.

### **Method of Investigation**

The Grand Jury interviewed the Deputy Director for DSS Adult Services, an In-Home Support Services Provider, a Case Manager and two Home Care Coordinators.

Documents reviewed: IHSS Registry, IHSS Handbook, IHSS Provider Application (Mendocino County DSS 910A and 909B), Criminal Conviction Procedure (Mendocino County DSS 944), Reference Check and Home Care Assessment forms and Social Services Standards for IHSS Program.

### **Relevant Law**

Welfare & Institutions Code Sections 10553, 10554, and Chapter 939, Statutes of 1992; Welfare & Institutions Code Section 14132.95.

### **Findings**

1. Providers usually work for more than one client.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Department and Board of Supervisors agree.

2. Time sheets are signed by the client and given to the provider. Currently, there is no provision to cross-check with the client the number of hours submitted by the provider unless a gross irregularity is noted. Currently, there is no validation of the client's signature.

**Response (Social Services):** Agree in part. Blank timesheets are given initially to the provider. They are to be completed and signed by the provider before being given to the client.

**Response (Board of Supervisors):** Agree in part. According to the Department, blank timesheets are given to the provider who is responsible for filling them out and signing them prior to giving the time sheet to the client.

## **Recommendation**

A system should be put in place to avoid fraud on time sheets, which should include regular verification of client signatures.

**Response (Social Services):** Systems are currently in place to avoid fraud. At the Client Orientations the client is instructed to never sign a blank timesheet, to review the timesheet before submitting, and only sign if they agree with the number of hours listed and the days worked noted by the provider. We inform the client that by signing the timesheet the client is verifying that the provider has worked the hours and days listed.

There is a system in place to crosscheck signatures. Every client that goes on the IHSS program signs a signature card. These cards are kept where they are easily accessible by payroll staff, social workers, home care coordinators, etc. there is a random matching of signatures done, as well as additional matching of signatures if a timesheet has any questionable markings on it.

**Response (Board of Supervisors):** The Board shares the concern about the importance of detecting fraud and agrees with the response of the Department. Clients are advised to review the timesheets prior to signing and are instructed to never sign a blank time sheet. Every client has a signature card on file that is available for review by Social

Services staff. The Department reports that random checks are done, as well as a check of any questionable or unusual timesheets.

**Time Frame for Implementation:** System revisions to be implemented by April 2001.

## Findings

3. Eligibility for services is determined annually. Home Care Coordinators visit the client every six months unless they are notified of a change in his or her medical condition or needs.

**Response (Social Services):** Agree in part. Home Care Coordinators deal with situations that come up regarding provider issues on as needed basis. However, if there is a change in a client's medical condition or needs, it is the social worker who will be contacted and who will contact the client, complete a home visit, contact other agencies, etc.

**Response (Board of Supervisors):** The Board agrees with the Department's response. Home Care Coordinators deal with situations that come up on an as needed basis. However, it is social workers who contact the client and conduct a home visit if there is a change in a client's needs or medical condition.

4. It often takes up to five weeks to obtain approval for a client to get any change in hours of service.

**Response (Social Services):** Disagree. Reassessments are done on an 'as needed basis.' It does not take five weeks for changes to occur. If hours need to be readjusted, regulations allow the social worker to a phone reassessment if it is an immediate need, to be followed up by a home visit. The usual time to do a change, if it is not an emergency, would be a week to ten days.

**Response (Board of Supervisors):** The Board disagrees based on information submitted by the Department. Reassessments are done on an as needed basis. Emergencies can be handled by a social worker over the phone, followed up with a home visit. Non-emergency reassessments normally take a week to 10 days.

## Recommendations

1. The processing time for obtaining approval for a change in hours of service should be within two weeks.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board agrees with this recommendation and believes it is already the standard practice.

**Time Frame for Implementation:** Already implemented.

2. The client should be seen as often as the situation warrants.

**Response (Social Services):** Agree. It is agreed that clients should be seen as often as the situation warrants. However, with caseloads of 150 to 200 clients each, case managers are not always able to perform home visits as often as they would like to. We do meet the requirements of the regulations in terms of home visits annually and then Social Workers prioritize the needs of their clients and perform additional home visits as permitted, due to workload. When additional home visits would be beneficial to a client the case manager often times refers the Home Care Coordinator or Vocational Assistant as part of the IHSS Supported Individual Provider Program (SIPP) to check on the condition of the client in the home.

**Response (Board of Supervisors):** The Board agrees that this should be the goal. While the regulations only require annual visits by a social worker, the Department often sends Home Care Coordinators or Vocational Assistants to check on the condition of clients. The Board approved an additional Home Care Coordinator position in the Fiscal Year 2000-01 budget.

**Time Frame for Implementation:** Compliance with regulations already implemented.

## Findings

5. Fingerprinting is not currently required for providers to be placed on the IHSS Registry. If a client requests that the provider be fingerprinted, the client must pay for the service.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board agrees that this accurately reflects State regulations, however the Board has directed the Department to implement more stringent standards. (See response to recommendation

6. Currently, in Mendocino County only the HCC does a background check when the provider discloses a past criminal history.

**Response (Social Services):** Disagree in part. Background checks are a standard part of the process of screening and orientation for providers going on the registry. This includes checking references, a face-to-face interview and completion of an application.

**Response (Board of Supervisors):** Based on information from the Department, we disagree in part. Background checks, which include checking references, a face-to-face interview, and review of an application, are a standard. However, clients do have the option to hire persons, frequently family members or acquaintances, who are not on the Registry.

### **Recommendation**

The Mendocino County Board of Supervisors should make fingerprinting and background checks mandatory. These should be paid for by Mendocino County and processed by the California Department of Justice for all current and future providers. All clients must be notified of the results.

**Response (Social Services):** Agree. The Board of Supervisors has requested the Department to implement a fingerprinting program and require all IHSS providers on the registry to participate in that program. In response to the Board's request the Department has prepared for implementation of the fingerprinting process and has applied for an establishment of an account with the Department of Justice. We recently received word from the Department of Justice that they have denied our application because the Department is not the official employer of IHSS providers. We will be reporting this information back to Board of Supervisors for further direction. The procedure that we have developed includes a waiver for the client to sign if in fact they did not wish to have the IHSS provider fingerprinted.

**Response (Board of Supervisors):** The Board of Supervisors strongly agrees with this recommendation. In fact, the Board appropriated the funds and directed the Department to implement a mandatory fingerprinting program for all providers on the registry. In response, the Department filed an application for an account with the Department of Justice to run fingerprint checks. Unfortunately Mendocino County's application was denied because the County is not the employer of record – technically the client is. We are discussing possible resolutions to this roadblock – up to and including special legislation.

**Time Frame for Implementation:** IHSS provider fingerprinting to be implemented as soon as State approval is achieved, no later than January 2003.

## Finding

7. Clients can hire any provider they choose and this person is not required to fill out an application nor have a background check.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this finding.

## Recommendation

If a client wants to hire a provider with a criminal background, the client should be requested to sign a waiver stating that he/she has received the background information and wishes to hire the person anyway.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this recommendation.

**Time Frame for Implementation:** Revision of current procedures to be implemented by April 2001.

## Findings

8. Orientation, which covers services and time sheets, is usually done when providers are first employed or listed on the IHSS Registry.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this finding.

9. IHSS recruits providers to be placed on the registry from the general public by means of advertisement in newspapers and flyers. They also recruit through Job Alliance and Welfare to Work.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this finding.

10. No training of providers is given or required by the IHSS Program. IHSS has no follow-up monitoring procedures for new providers.

**Response (Social Services):** Disagree.

**Response (Board of Supervisors):** Based on information supplied by the Department, the Board disagrees with this finding. (See answer to recommendations listed below).

## Recommendations

1. The IHSS program should work in cooperation with the local educational institutions to provide training programs for providers. At a minimum, providers should be trained in CPR and Basic First Aid.

**Response (Social Services):** Agree. The IHSS State regulations do not require “trained” providers, nor is there State funding to provide training. Mendocino County Adult Services has offered training for IHSS providers in the past by utilizing trainers/speakers who do not charge any fees, by utilizing IHSS staff, such as the Registered Nurses and Adult Services plans to continue to provide such training. Mendocino County Adult Services cannot make it mandatory to have providers attend trainings for those providers who are privately hired.

Currently, the Department is working with Mendocino College to develop a training program for IHSS providers in which providers would be able to earn college credits for their participation in the training. It is our hope to have this implemented by Spring Semester 2001. In the meantime, the Department is planning provider training this fall in all three major locations-Greater Ukiah, North County and on the Coast-to IHSS providers, as well as, any other caregivers in the following subjects: Personal Care and IHSS Payroll Training. These trainings will be free of charge to any caregivers that wish to attend.

**Response (Board of Supervisors):** The Board and Department agree with this recommendation. Reference is made to the Department’s response.

**Time Frame for Implementation:** IHSS Provider training to be implemented by June 2001.

2. A new provider should have a follow-up review in three weeks.

**Response (Social Services):** Every new IHSS client is visited within 2 weeks of his or her going on the IHSS program. This is a follow-up for both new clients and new providers to make sure they understand the program, do's and don'ts, completing timesheets, etc.

For ongoing clients who hire providers, with difficult or complex cases, there is often follow-up by phone or home visit by the HCC to make sure that the provider is showing up, doing the work, etc. To follow-up on every new provider hired would require more staff than we now have.

**Response (Board of Supervisors):** The Board and Department agree with this recommendation. Reference is made to Department's response.

**Time Frame for Implementation:** Compliance with current policy already implemented.

## Findings

11. The handbook, published by the Adult Services unit of Mendocino County DSS, is given to the clients and providers outlining their rights, responsibilities and duties.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this finding.

12. The current handbook does not contain a publication date.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this finding.

## Recommendations

1. The published handbook should be reviewed periodically and revised as needed.

**Response (Social Services):** Agree. The IHSS Handbook currently is reviewed on a regular basis and revised as needed. The Department

will make certain that the handbook has the most recent revision date printed in it.

**Response (Board of Supervisors):** The Board and the Department agree with this recommendation. The IHSS Handbook is reviewed and revised as needed on a regular basis. The Department appreciates the suggestion of including the most recent revision date on the handbook and will incorporate this suggestion with the next printing.

**Time Frame for Implementation:** Handbook revision to be implemented by June 2001.

2. DSS should give each client a "quick reference sheet" compiled with his/her physician's name, case manager name, Home Care Coordinator name, nurse and provider name and their phone numbers. The 24-hour Crisis Hotline and 9-1-1 should also be listed. This information is critically needed in emergency situations.

**Response (Social Services):** Agree. The Department will look into providing clients with a quick reference sheet as recommended by the Grand Jury.

**Response (Board of Supervisors):** The Board and Department agree with this recommendation. The Department will begin developing a quick reference sheet for clients.

**Time Frame for Implementation:** Reference sheet to be implemented by October 2001.

## Findings

13. Providers are covered under State Workers Compensation.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this finding.

14. Providers are paid minimum wage.

**Response (Social Services):** Agree.

**Response (Board of Supervisors):** The Board and Department agree with this finding, although a 3% raise was approved by the Board effective January 1, 2001.

## **Recommendation**

Mendocino County should explore ways to augment the wages and benefits for providers.

**Response (Social Services):** Agree. The Department fully agrees with the recommendation of the Grand Jury, that we explore ways to increase provider wages. In fact, this year in the Governor's budget he is allowing some additional funding for a 3% wage increase for IHSS providers above current minimum wage. The Department is currently in budget negotiations with the County and it is our recommendation to implement this 3% wage increase. In addition, recent legislation that was passed is requiring all counties to establish an "employer of record" by the year 2003. The employer of record must be other than the IHSS client and the primary purpose of the bill is to provide a vehicle for collective bargaining for wages and benefits for IHSS providers. The Department, under the direction of the Board of Supervisors, is currently working with the Mendocino County Health Planning Council to establish an IHSS Advisory Committee as required by law. This committee will make recommendations to the Board of Supervisors regarding the future structure and IHSS mode of delivery, which could also have an impact on the amount of the wages and benefits for providers.

**Response (Board of Supervisors):** The Board and Department agree with this recommendation. A 3% pay raise was approved for IHSS providers effective January 1, 2001.

**Time Frame for Implementation:** Increase of 3% above minimum wage to be implemented January 2001.

## **Comment**

The Grand Jury would like IHSS to inform clients about the Ukiah Police Department's "Are You Okay"(RUOK) Program. This program is set up so that if the client registers, and meets the requirements, the police department will check on his/her welfare at designated intervals. This is a program that would be beneficial to all communities.

**Response (Social Services):** Agree. Social Workers and Home Care Coordinators can hand out pamphlets/brochures at home visits if the materials are provided for them. This would only be appropriate in

communities where the “Are You Okay?” program is offered. It is not a countywide program.

**Time Frame for Implementation:** Distribution of material is to be implemented by April 2001.

**Response Required**

Mendocino County Board of Supervisors

**Response Requested**

Mendocino County Department of Social Services

## **MENDOCINO COUNTY JAIL STAFFING AND FACILITY**

The Mendocino County sheriff has the specific statutory duty to operate the County Jail (Jail). This facility has a fourfold purpose: "detain persons committed in order to secure their attendance as a witness in criminal cases; detain persons charged with crimes and committed for trial; persons committed for contempt of court, or upon civil process, or by other authority of law; and for confinement of persons sentenced to imprisonment upon conviction for a crime." The Sheriff maintains two detention facilities, the pre-trial maximum security facility which houses only men and a medium security facility which houses sentenced and pre-trial men and women. The maximum rated capacity for both facilities combined is 296 inmates. This facility constitutes the greatest liability problem of the entire Sheriff's Department. Maintenance of the facility is the responsibility of the Mendocino County Buildings and Grounds Department.

### **Reason for Review**

The Grand Jury is charged with the responsibility of conducting an oversight of the Jail annually.

### **Method of Investigation**

The Grand Jury interviewed the Mendocino County Sheriff, Sheriff's Administration Services Division Commander, Corrections Division Commander, three Corrections Deputies, classroom and kitchen support personnel, three inmates, Mendocino County General Services Administrator and Buildings and Grounds (B&G) Supervisor. Documents examined included the Board of Corrections Manual for Standard Local Detention Facilities, State of California Penal Code, Inmate Welfare Accounting, memorandum of General Services Staffing Level/Workload, Year 2000 Slavin Report, Sheriff's Department Personnel information, 155 in-jail deficiency inspection reports and corresponding B&G work orders. In January 2000, the Grand Jury conducted an inspection of the Jail. Two follow-up inspections were conducted to determine why there was such a problem with the general maintenance of the facility.

### **Relevant Law**

1. California Penal Code Section 4000, County Jails, Farms and Camps.
2. California Penal Code Section 919(b) states: "Grand Jury shall inquire into the condition and management of the public prisons within the county."
3. California Penal Code Section 4025, Inmate Welfare Trust Fund.

## Facility

### Findings

1. Main control panel in Building II was inoperative and a temporary panel was installed to control 18 doors to the cell block. Individual cells were locked by a key. The installation of a new panel is in progress.

**Response (Buildings and Grounds):** Agree with this finding; a new control panel has been installed.

**Response (Sheriff):** Agree with this finding as an accurate statement of the conditions at the time of the Grand Jury's inspection. The defective panel has since been completely replaced by a new control system.

**Response (Board of Supervisors):** The Board agrees with this finding. The control panel has been replaced.

2. The intercom system is operating intermittently. Repairs are ongoing, completion date unknown.

**Response (Buildings and Grounds):** Agree with this finding; repairs have been completed.

**Response (Sheriff):** Agree with this finding as an accurate statement of the conditions at the time of the Grand Jury's inspection. The intercom system in Building II was replaced with the control board. The intercom system in Building I was replaced. Basic intercom functions are operational, but the vendor is still resolving minor technical problems.

**Response (Board of Supervisors):** The Board agrees with this finding. The intercom system was replaced.

3. There were no spare electronically controlled door locks for cell blocks during the Grand Jury's initial inspection. As of March 2000, this situation had been corrected.

**Response (Buildings and Grounds):** Agree with this finding.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

4. The air conditioning system is in need of new and improved filters and the duct work needs to be cleaned out.

**Response (Buildings and Grounds):** Agree with this finding; work has been completed.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding. The work has been done.

5. Cell blocks are in need of painting.

**Response (Buildings and Grounds):** Agree with this finding; please see recommendations.

**Response (Sheriff):** Agree with this finding. A recent attempt to re-paint the jail was unsuccessful. The paint formulation did not bond with the wall surface.

**Response (Board of Supervisors):** The Board agrees with this finding and the response of the Sheriff. Buildings and Grounds attempted to paint the cell blocks but the paint did not bond to the wall.

6. The kitchen dishwasher low temperature problem, previously reported, has been corrected.

**Response (Buildings and Grounds):** Agree with this finding.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

## Recommendations

1. The intercom replacement and new control panel installation should be completed as soon as possible.

**Response (Buildings and Grounds):** Agree with this recommendation; the replacement control panel has been installed and is meeting expectations.

**Response (Sheriff):** This recommendation has been implemented. The new control panel and intercom system in Building II are installed

and operational. The intercom system in Building I is installed and operational, but there are some remaining technical problems.

**Response (Board of Supervisors):** The Board agrees with this recommendation.

**Time Frame for Implementation:** The intercom replacement and new control panel have been installed.

2. In general, painting, equipment and repair problems in the Jail must receive high priorities and corrected promptly.

**Response (Buildings and Grounds):** Agree with this recommendation; equipment and repair problems do receive high priority and are corrected promptly. Painting logistics are a problem due to a 24-hour facility, the Sheriff's staff is working with Buildings and Grounds to develop a method to repaint the facility and perform maintenance painting while occupied.

**Response (Sheriff):** This recommendation has been implemented. All jail staff are responsible for reporting and documenting needed repairs. Jail supervisors have been reminded of their responsibility to maintain cleanliness in the facility. Buildings & Grounds has implemented changes to improve the tracking of maintenance and repair requests.

**Response (Board of Supervisors):** The Board agrees with this recommendation and the response provided by the Buildings and Grounds Manager. Equipment and repair concerns do receive a high priority and are corrected promptly.

**Time Frame for Implementation:** Already implemented.

3. Keep extra electronic door locks in reserve.

**Response (Buildings and Grounds):** Agree with this recommendation; electronic door locks are now stocked in reserve.

**Response (Sheriff):** This recommendation has already been implemented. Buildings & Grounds now maintains a reserve supply of these locks.

**Response (Board of Supervisors):** The Board agrees with this recommendation. The Building and Grounds Manager notes that the electronic door locks are now in stock.

**Time Frame for Implementation:** Already implemented.

## Maintenance

### Findings

7. B&G work orders are not filled out completely, i.e., work performed, date and time on and off the job, material used if any, and who performed the job.

**Response (Buildings and Grounds):** Agree with this finding; improvements have been made by completing work orders.

**Response (Sheriff):** This finding is directed to Buildings & Grounds, however the department agrees that it is an accurate statement of the conditions at the time of the Grand Jury's inspection. Buildings & Grounds has since improved their handling of these work orders.

**Response (Board of Supervisors):** The Board agrees with this finding. Improvements have been made in fully completing work orders.

8. Jail Commander is not informed when work is completed. There is no follow-up by Jail staff on work orders and no documentation from B&G indicating that repairs were completed.

**Response (Buildings and Grounds):** Agree with this finding. Improvements have been made by completing work orders. In addition, Buildings and Grounds and the Jail Commander hold regular meetings reviewing work orders and repairs.

**Response (Sheriff):** Agree with this finding as an accurate statement of the conditions at the time of the Grand Jury's inspection. The Buildings & Grounds Manager and the Jail Commander now hold regular meetings to discuss repair and maintenance issues.

**Response (Board of Supervisors):** The Board agrees with this finding. The Jail Commander and the Buildings and Grounds Manager now hold regular meetings to review work orders and repairs.

9. At the present time B&G has assigned one person to the maintenance of the County Corrections Department, however, this person is re-assigned from time to time for emergencies elsewhere in the County.

**Response (Buildings and Grounds):** Agree with this finding. See recommendations.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

10. There is no preventative maintenance program. When something breaks down it is repaired or replaced.

**Response (Buildings and Grounds):** Agree with this finding. Software for the system has been purchased with implementation in calendar year 2000.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding. Software for the preventative maintenance program has been purchased.

11. B&G response time to emergency problems in the Jail is generally within two hours.

**Response (Buildings and Grounds):** Agree with this finding.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

12. There is no separate budget for the maintenance and upkeep of the facility. All maintenance expenses come from the General Services general account.

**Response (Buildings and Grounds):** Agree with this finding.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

13. B&G has ordered a computer software program, which, when operational, will handle work orders, inventories and maintenance schedules.

**Response (Buildings and Grounds):** Agree with this finding.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

14. California Penal Code Section 4025 permits the use of the Inmate Welfare Trust Fund for Jail maintenance. The Grand Jury found no indication that the Welfare Trust Fund has been used for this purpose.

**Response (Buildings and Grounds):** Agree with this finding.

**Response (Sheriff):** Agree with this finding, however the language cited must be read in context with other portions of the statute. Penal Code §4025, subsection (e), reads as follows:

“The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds ***that are not needed for the welfare of the inmates*** (emphasis added) may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the inmates, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. An itemized report of these expenditures shall be submitted annually to the board of supervisors.”

**Response (Board of Supervisors):** The Board agrees with this finding and will explore this funding avenue with the Sheriff.

15. Usually Inmates do not ordinarily perform Jail maintenance work.

**Response (Buildings and Grounds):** Agree with this finding.

**Response (Sheriff):** Disagree with this finding, but only as to the definition of maintenance. Inmate labor is used extensively throughout the facility. Inmates do not ordinarily perform work on mechanical systems due to the potential for compromising facility security.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff. Inmates are used extensively throughout the facility for maintenance but do not work on mechanical systems.

## Recommendations

1. Recommend B&G assign a maintenance person full time to the Jail facility without any other responsibilities.

**Response (Buildings and Grounds):** Agree with this recommendation. A Building Maintenance Worker II has been assigned to full time jail duties; it is a rare necessity that he is pulled off

for other assignments. In addition, a review of the records over the past 12 months indicate this one person is assisted by additional staff, thereby averaging over 40 hours per week of building maintenance staff time.

**Response (Sheriff):** This recommendation has been implemented by Buildings & Grounds.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Buildings and Grounds Manager. A Building Maintenance worker has been assigned to full time duties at the Jail.

**Time Frame for Implementation:** Already implemented.

2. To maintain a full time dedicated Jail maintenance employee, the B&G Department should request additional staffing.

**Response (Buildings and Grounds):** Agree with this recommendation, however, due to Board of Supervisors direction to limit additional staff, Buildings and Grounds has adopted a status quo staffing level for FY2000/2001. An evaluation and recommendation to the Board of Supervisors will be made for appropriate staffing additions prior to the 2001/2002 budget year.

**Response (Sheriff):** This recommendation has not been implemented by Buildings & Grounds due to direction from the Board of Supervisors to maintain status quo staffing. The manager of Buildings & Grounds has started he will re-analyze staffing needs as part of budget planning for the 2001-2002 budget year.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Buildings and Grounds Manager. The focus for the 2000-01 Budget was the implementation of the County's Classification and Compensation Study. The Board will examine staffing requests in future years forwarded by the Buildings and Grounds Division.

**Time Frame for Implementation:** On-going evaluation pending available funding. Evaluation and recommendation to be made by the Department to the Board prior to the 2001/02 budget year.

3. Inmate Welfare Trust Fund should be used for Jail maintenance when the Sheriff deems it appropriate.

**Response (Buildings and Grounds):** Agree with this recommendation and will work with the Sheriff's staff to implement.

**Response (Sheriff):** This recommendation requires further analysis, including a formal legal opinion from County Counsel. A request for an opinion will be submitted within the next 30 days. A fiscal analysis is also needed to identify how much of the inmate welfare fund can be identified as "...*not needed for the welfare of the inmates...*" (CA Penal Code §4025(e)). No policy changes are needed to allow Buildings & Grounds to bill the Sheriff's Office for maintenance services.

**Response (Board of Supervisors):** The Board defers to the Sheriff for examination and possible implementation of this recommendation.

5. When appropriate and not compromising jail security, inmates should be used for Jail maintenance tasks.

**Response (Buildings and Grounds):** Agree with this recommendation. Minor tasks such as maintenance painting could be performed by inmates.

**Response (Sheriff):** This recommendation has already been implemented. Inmates perform a variety of tasks in and around the jail. However not all inmates are eligible for work details, and not all work lends itself to inmate workers. Facility security is an obvious concern, since every repair to every mechanical device in the jail has security implications. There are also inmate classification issues. Sending an inmate into a different housing area has the potential for creating unacceptable (and potentially unsafe) mixes of classifications. Finally, all inmate workers require direct supervision. The ability to provide this level of supervision depends on having adequate staffing.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff.

**Time Frame for Implementation:** This recommendation has already been implemented. Inmates currently perform a variety of tasks in and around the Jail for maintenance purposes.

## Staffing

### Findings

16. Corrections Department Staffing remains inadequate and does not meet State Standards. This same finding was reported by the 1997-98 and the 1998-99 Grand Juries.

**Response (Sheriff):** Agree with this finding. Although the Sheriff's Office is allocated 57 Corrections Deputy positions, only 44 of these positions are funded, and at present only 34 are filled.

**Response (Board of Supervisors):** The Board agrees with this finding. The Board has committed to the proper staffing of the Jail but funding remains a critical issue in this process. The Jail is funded for 44 Correctional Deputies with currently filled positions at 34. The Board believes the implementation of the Slavin Study will help in the recruitment and retention of Deputies.

17. A survey dating back to 1990, shows that 93 Corrections Officers have terminated. Of these 43 have accepted positions with other police agencies.

**Response (Sheriff):** Generally agree with this finding, however the wording could be clearer. The survey in question is not ten years old. The survey analyzed terminations dating back to 1990.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff. The survey in question is not ten years old.

18. The Sheriff's Department continues to have great difficulty recruiting new Corrections Officers.

**Response (Sheriff):** Agree with this finding. Ongoing recruitment efforts are attracting applicants, but not a sufficient number of qualified applicants.

**Response (Board of Supervisors):** The Board agrees with this finding. Staffing has and continues to be a major issue in the operation of the Jail. The Board believes that the implementation of the Slavin Study will help in the recruitment and retention of Correctional Deputies. The Sheriff has redoubled his efforts to recruit qualified applicants and has been successful in encouraging more interest in the field.

19. Although the 2000 Slavin Report is recommending salary increases for Corrections Officers, the wages may not be adequate to encourage recruitment and retention. Furthermore, for the detriment of the Jail staff, the difference between Corrections Officer's and Field Deputy's salaries will be even larger if the current proposal before the Board of Supervisors is accepted. There is nearly a \$5,000.00 disparity (\$4,950.00) between Field and Corrections Deputies in their final pay steps in Mendocino County.

**Response (Sheriff):** Agree with the first sentence of this finding but disagree with the remaining statements, only because they do not take into account changes since the Grand Jury's investigation. After considerable discussion, the County agreed that when the new pay plan is implemented on November 26, 2000, Corrections Deputies will be on pay parity with the classification of Deputy Sheriff-Coroner I. These two positions will be 5% behind the classification of Deputy Sheriff-Coroner II. As a result of this change, the salary difference between a top step Corrections Deputy and a top step Deputy II will be \$2,067.00 per year.

**Response (Board of Supervisors):** The Board disagrees with this finding and agrees with the response provided by the Sheriff. When the Slavin Study is implemented, Correctional Deputies will be on pay parity with the classification of Deputy Sheriff I.

20. The high turnover and understaffing at the Jail has a negative impact on Jail workload and morale.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

21. The new vertical court system, implemented by the Mendocino County Courts in February 1999, requires the Jail to deliver inmates to three separate courtrooms. This requires additional Corrections Officers for the transport and supervision of inmates. Because of Jail understaffing, Field Deputies are being pulled away from their regular duties to assist in transporting inmates.

**Response (Sheriff):** Agree with this finding. The lack of adequate staff at the jail forces the reassignment of inmate transportation duties to patrol deputies. On some weekday mornings, all available Ukiah area day-shift deputies are assigned to transportation. This compromises public safety and creates unacceptable delays in responding to calls for service.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff. The lack of adequate staff at the jail forces the reassignment of inmate transportation duties to patrol personnel. The Courts are aware of this issue and are looking at means to mitigate this concern.

22. The Grand Jury quotes from the 1998-99 Grand Jury report: "There has been no progress in creating interview space in the holding facility at the County

Courthouse." The 1997-98 Grand Jury report also recommended that Courthouse space adjacent to the holding facility be used.

**Response (Sheriff):** Agree with this finding. Recently a small office space next to the holding cells was vacated. Discussions are underway in an attempt to secure this space and configure it as an attorney/client interview room.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff. An office next to the holding cell was vacated and discussions are taking place in an attempt to secure this space for an attorney/interview room.

23. Currently, there are over 17 different agencies, groups and individuals who provide services to inmates at the Jail. These services include Adult Education, substance abuse programs, job placement, medical counseling, domestic violence counseling and religious programs.

**Response (Sheriff):** Agree with this finding. As an example of the success of the program, during 1999 the Inmate Services Program, working in cooperation with its various program providers, presented a total of 780 classes, meetings & religious services to inmates and awarded 18 inmates with their certificates of general educational development (GED). In the first six months of 2000, the program has presented 485 classes, meetings & religious services and awarded another 19 GED certificates. The 1999-2000 Inmate Services Annual Report will be presented to the Board of Supervisors within the next few weeks.

**Response (Board of Supervisors):** The Board agrees with this finding.

## Recommendations

1. The Sheriff's Department has taken positive steps to speed up and improve recruitment of new Corrections Officers. The efforts may not be sufficient, therefore, an active recruitment program is necessary.

**Response (Sheriff):** This recommendation has already been implemented. The Sheriff's Office has a recruitment incentive program that rewards current employees who successfully recruit a new Corrections Deputy or Deputy Sheriff. Vacancies are posted on the Internet, in nationwide job search banks, and in various newspapers throughout Northern California. Sheriff's Sergeants assigned to the Sheriff's personnel unit also attend various job fairs throughout the

year. Unfortunately, some recruiting activities are limited by the availability of staff time—a “Catch-22.”

“Active recruitment” programs for civil service positions face other limitations. Civil service rules, county ordinances and a salary and benefit structure established through contract negotiations with employee bargaining units prohibit the kind of negotiations used successfully by private industry to lure prospective employees away from other employers.

Recruiting has also suffered from the overall health of the economy. The qualities we seek in our employees are the same qualities sought in private industry. Mendocino County is at the disadvantage of competing for qualified employees with both the private sector and other nearby law enforcement agencies.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Sheriff.

**Time Frame for Implementation:** This recommendation has already been implemented.

2. Salaries must be improved to attract and retain Corrections Officers. Possibilities for advancement and professional growth within the Corrections Department should be developed to reduce the current high turnover rate.

**Response (Sheriff):** This recommendation has been implemented. The new classification and compensation plan will improve salaries. Only time will tell if the increase is enough to attract and retain Corrections Deputies.

During the course of the classification & compensation study, I strongly supported the concept of establishing full rank and pay parity between corrections and patrol. This restructuring was not incorporated into the final classification and compensation plan. I likewise support the idea of a professional certificate program for corrections that mimics the certificate program available to peace officers. But while I can establish a certificate program, I cannot unilaterally implement premium pay for the certificates. Any such change in salary or benefits must go through the meet-and-confer process between the County and the Deputy Sheriff’s Association.

Professional growth and special assignment opportunities in Corrections are currently limited by staffing. As staffing approaches the full funded level, new assignment opportunities can be created and existing opportunities expanded.

**Response (Board of Supervisors):** The Board agrees with this recommendation.

**Time Frame for Implementation:** The Slavin Study is scheduled to be implemented in late November of 2000. When staffing approaches full funding levels, the Department can create assignment opportunities.

3. The Grand Jury continues to insist that the County provide adequate private space for attorney/inmate interviews at the Courthouse.

**Response (Sheriff):** This recommendation has not yet been implemented, but work is underway to implement it in the near future. Discussions are underway with Buildings & Grounds and the department that vacated the office space next to the courthouse holding cells. If the space can be secured, I will be requesting that work commence immediately to reconfigure the space for attorney/client interviews.

**Response (Board of Supervisors):** The Board agrees with this recommendation. Buildings and Grounds is examining the facility to determine if the recently vacated office space can be used as an attorney/inmate interview room.

## Comments

The Grand Jury was impressed by the dedication and professionalism of the Sheriff's Department. The Grand Jury's oversight of the Jail was marked by courtesy and candor by the Officers and management.

**Response (Sheriff):** This completes my response to the final report of the 1999-2000 Grand Jury. In closing, I would like to express my sincere thanks to all of the members of this Grand Jury—both for their dedication and for the thoughtful, professional and thorough manner in which they conducted their investigations. Members of my staff who had the opportunity to assist the Grand Jury have also expressed their appreciation for the spirit of cooperative problem solving demonstrated by each of the Grand Jury members.

## Response Required

Mendocino County Sheriff/Coroner  
Mendocino County Board of Supervisors

## Response Requested

Mendocino County Buildings and Grounds Department

## MENDOCINO COUNTY JUVENILE HALL

Juvenile Hall (JH), under the direction of the Probation Department, provides for the physical and emotional care of incarcerated youth in Mendocino County. The Grand Jury reviewed the recent changes involving youth classified as Code I (maximum-security), Code II (medium security) or Code III (committing a violent crime).

### Reason for Review

The Grand Jury conducted a review of Juvenile Hall regarding the specific recommendations of the 1998-1999 Grand Jury.

### Method of Investigation

Interviews held: Chief Probation Officer; Superintendent, Assistant Superintendent and staff of JH. Documents reviewed: Copy of Juvenile Justice Commission Inspection Report for 1999, State Fire Marshall report and Adult/Juvenile Detention Facility Inspection Guide. The Grand Jury made two site visits to JH (before and after the completion of the new Intake Center and Violent Offender Wing).

### Relevant Law

California Code of Regulations: Minimum Standards for Juvenile Facilities Title 15, Section 1313, 1370, 1371 and 1488 and Building Standards Title 24.

### Findings

1. Code III youth are now out of their rooms at least six hours per day (Court school three hours and recreation three hours).

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

2. Productive Work Programs now include work at Plowshares and painting curbs and fire hydrants for the city.

**Response (Juvenile Hall):** Agree with this finding. New and continuing projects include a contract with the Ukiah Landfill, litter clean up on Vichy Springs Road, and painting at the Senior Center in Willits.

**Response (Board of Supervisors):** The Board agrees with this finding and the response provided by the Chief Probation Officer.

3. Once a week a counselor provides a Reality Awareness (anger management) training program.

**Response (Juvenile Hall):** Agree with this finding. We are also in the process of obtaining a grant to provide Art Therapy, using interns from San Francisco State University.

**Response (Board of Supervisors):** The Board agrees with this finding and the response provided by the Chief Probation Officer.

## Recommendation

The Grand Jury recommends implementing additional programs designed to promote social awareness and reduce recidivism, such as victim awareness, conflict resolution and self-esteem building.

**Response (Juvenile Hall):** Agree with this recommendation and will continue to seek such program providers.

**Response (Board of Supervisors):** The Board agrees with this recommendation and the Chief Probation Officer has agreed to seek these additional programs within funding constraints.

**Time Frame for Implementation:** On-going.

## Findings

4. There is daily recreation for all, including a variety of reading materials, access to television, arts and crafts and indoor games, including ping-pong.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

5. Presently, Code III youth exercise in a small outdoor caged area.

**Response (Juvenile Hall):** Agree with this finding, but the small, caged area is used only during school hours. Code III youth are exercised in the quad area during non-school hours.

**Response (Board of Supervisors):** The Board agrees with the response provided by the Chief Probation Officer. The small, caged area is only used during school hours. These youth exercise in the quad area during other times of the day.

6. The JH now has additional undeveloped outdoor space.

**Response (Juvenile Hall):** Agree with this finding. Recreation area is being developed, using the labor and energy of incarcerated and work program youth.

**Response (Board of Supervisors):** The Board agrees with this finding.

### **Recommendation**

The Grand Jury recommends developing this space for additional recreational activities.

**Response (Juvenile Hall):** Agree with this recommendation. The development is in process.

**Response (Board of Supervisors):** The Board agrees with this recommendation. The development of the space is in process.

**Time Frame for Implementation:** Estimated completion date is mid summer 2001.

### **Finding**

7. As of April 2000, no haircuts are being offered. Title 15, Section 1488 states "Hair care services shall be available in all juvenile facilities. Minors shall receive hair care services monthly."

**Response (Juvenile Hall):** Agree with this finding. However, we now have a counselor on staff who is a licensed cosmetologist and is willing to give haircuts.

**Response (Board of Supervisors):** The Board agrees with this finding but notes the Chief Probation Officer's response that states that Juvenile Hall now has a counselor on staff that is a licensed cosmetologist and is willing to provide haircuts.

### **Recommendation**

Juvenile Hall should provide hair care as mandated.

**Response (Juvenile Hall):** Agree with this finding. See above response.

**Response (Board of Supervisors):** The Board agrees with this recommendation and the response provided by the Chief Probation Officer.

**Time frame for Implementation:** Already implemented.

## Findings

8. Each JH Counselor is now trained in using the JALAN computer program, which is used to track all juveniles booked into custody in the County.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

9. The Department of Probation has recently hired a half-time employee who is knowledgeable in computer technology and is able to train other employees. This person will work at JH to train personnel as needed.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

## Recommendation

The Grand Jury recommends that the administration continue to train all staff in basic computer skills and in the use of JALAN.

**Response (Juvenile Hall):** Agree with this recommendation and will continue to do so.

**Response (Board of Supervisors):** The Board agrees with this recommendation and Juvenile Hall will continue to train all staff in these areas.

**Time frame for Implementation:** On-going.

## Findings

10. Title 15 Section 1313 requires that "...on an annual basis, each juvenile facility Administrator shall obtain a documented inspection and evaluation from the following:"
- (a) Mendocino County Safety Officer;
  - (b) State Fire Marshall;
  - (c) Health Administrator, inspection in accordance with Health and Safety Code Section 101045;

- (d) County Superintendent of Schools on the adequacy of educational services and facilities; and,
- (e) The Juvenile Justice Commission.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

11. The Ukiah Fire Chief and Fire Marshall and the State Fire Marshall inspected the Hall. The Juvenile Justice Commission and State Fire Marshall completed their inspections in November 1999 and both reports showed no deficiencies.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

12. Fire drills are conducted and documented once a month. Fire alarms are checked every Thursday.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

13. Use of telephone is a privilege that is earned.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

14. Each youth may make collect calls three nights a week. The County contracts with a private communications corporation. The charges are costly even for local calls and are charged to the receiving party.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

15. A portion of telephone profits is returned to JH and is currently being used to purchase recreational equipment for use by the youth.

**Response (Juvenile Hall):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

### **Recommendation**

Each person called should be advised of the high charge these collect calls will add to their telephone bill.

**Response (Juvenile Hall):** Agree with this recommendation. This notice will be included in the "Parents' Information Packet."

**Response (Board of Supervisors):** The Board agrees with this finding. A notice will be placed in the Parents Information Packet.

**Time Frame for Implementation:** Implemented

### **Findings**

16. The charge for each incarcerated youth is \$10.00 per day.

**Response (Juvenile Hall):** Agree with this finding. Since the investigation, the fee has been raised by BOS resolution to \$15.00 per day.

**Response (Board of Supervisors):** The Board notes that the charge has been raised to \$15.00 per day.

17. Since last year, the Probation Department has been more aggressive in collecting lost revenue. The Superintendent stated that the billing department has doubled the amount collected from the previous year.

**Response (Juvenile Hall):** Agree with this finding

**Response (Board of Supervisors):** The Board agrees with this recommendation and encourages the Probation Department to continue their efforts.

### **Recommendation**

The Grand Jury recommends the Probation Department continue to be aggressive in collecting this revenue from parents who are required to pay the costs of their child being incarcerated.

**Response (Juvenile Hall):** Agree with this recommendation and will continue to do so.

**Response (Board of Supervisors):** The Board agrees with this recommendation.

**Time Frame for Implementation:** On-going.

### **Comment**

The new Intake Center and Violent Offenders Wing will be opened by May 1, 2000. Seven new staff positions were allocated (six line staff and one supervisor). The Grand Jury was impressed by the modern design that added space for intake, interviews, security, booking and sleeping facilities. The new unit has added 10 rooms and a total of 12 beds.

Because of the improved booking area, Juvenile Hall will no longer have to shut down every time a new youth is admitted.

**Response (Juvenile Hall):** Agree with this comment. Since the unit was opened, there has not been a need to close down programs for bookings.

I thank the Grand Jury for its observations and comments.

### **Response Required**

Mendocino County Board of Supervisors

### **Response Requested**

Mendocino County Probation Department

## **MENDOCINO COUNTY OFFICE OF THE ALTERNATE DEFENDER**

The Office of the Alternate Defender began operation on October 1, 1997. Both the Alternate Defender and the Public Defender cover the courts in Ukiah, Willits, Fort Bragg, Long Valley, Covelo, and Laytonville. Duties of the Public Defender are defined in Government Code Section 27706. Generally, the Public Defender is responsible for representing any person financially unable to employ counsel and who is charged with the commission of contempt or a criminal offense triable in the superior courts of the county at all stages of the proceedings. The Public Defender also represents minors in wardship proceedings, parents in dependency proceedings, petitioners for the restoration of rights, applications for pardons, persons alleged to be psychopaths, and mentally ill persons at hearings to determine their mental condition.

In Mendocino County, the Alternate Defender, as the court's second Public Defender Office pursuant to Penal Code Section 987.2 represents individual defendants in all cases in which the Public Defender's Office has declared a conflict of interest.

### **Reason for Review**

The Grand Jury conducted an oversight review of the Alternate Defender.

### **Method of Investigation**

The Grand Jury interviewed the entire staff of the Alternate Defender Office including the two Deputy Alternate Defenders, their investigator and the secretary and made an on-site inspection of the facility. The Grand Jury spoke with staff of the Probation Department and the District Attorneys Office. The Grand Jury reviewed the 1999-2000 County Budget, the Mendocino County Criminal Justice Facility Master Plan, and County salary information.

### **Findings**

1. The case load has increased each year since 1997. There appears to be a need for another Deputy Alternate Defender.

**Response (Alternate Defender):** The Alternate Defender's Office was established in October 1997. Since that time the caseload has increased each year. The Alternate Defender's Office presently handles 600-650 cases per year. The need for an additional attorney was met when Scott McMenemy was hired as a part-time attorney in September, 1999. That position became a full time position in January, 2000.

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Board agrees with the response provide by the Alternate Defender. The need for an additional attorney was met when the Office hired a part-time attorney in September of 1999 and that position became full time in January of 2000.

2. The staff expressed concern regarding low salaries and inequities among departments. Research indicates that all attorneys employed by the County fall under the same pay structure. The County financed an independent study of the Mendocino County salaries (the Slavin Report). This study, dated January 2000, reveals that the salaries for Public Defenders in Mendocino County are substantially less than those paid by other counties included in the study.

**Response (Alternate Defender):** Hopefully the implementation of the recommendations as proposed by the Slavin Report will help balance these inequities. The one Legal Secretary II position in this office should be reclassified as an Administrative Assistant position.

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Slavin Study is scheduled to be implemented in late November of 2000. The approval of this study will bring all employees at a competitive salary structure.

3. Several Alternate Defenders objected to being searched prior to entering secure areas of the County Jail. The Grand Jury found that the Jail policy of making no exceptions to its established procedure was valid for security reasons.

**Response (Alternate Defender):** The jail's policy of searching visitors is certainly a valid policy. It has been the Department's experience that once the jail staff is familiar with an attorney or investigator, the correctional officers tend to relax the policy a bit, so there is no feeling of "mistrust" between the jail staff and the attorneys and investigators.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

4. There is no security counter between the public area and the secretary's work area.

**Response (Alternate Defender):** The Alternate Defender's Office consists of five individual offices that accommodate the Alternate

Defender, three attorneys, and one investigator. The sixth employee, the legal secretary, is situated just inside the front door in an unenclosed area. Between the secretary's desk and the front door is the main waiting area for clients when they visit our office. Although it would be beneficial to install a security counter between the secretary's desk and the front door, there is insufficient space for such a counter as it is only about seven feet from the front door to the secretary's desk. To install a security counter would, essentially, leave little or no space to accommodate our clients as they wait to see their attorney.

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding. The people entering the office are clients of the Alternate Defender. The office must weigh safety versus perception by their clients.

5. The Office of the Alternate Defender has no policy and procedure manual.

**Response (Alternate Defender):** The Alternate Defender's Office does not have a policy and procedure manual per se. However, the County of Mendocino does have a Memorandum of Understanding, which is heavily relied upon in the daily functions of this office.

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

6. The Office of the Alternate Defender is not a separate department. The Alternate Defender reports to the Public Defender. This subordination of the Alternate Defender encumbers his ability to directly address facility issues such as carpeting, entry and security. The Alternate Defender budget is administered and presented to the Board of Supervisors (BOS) by the Public Defender.

**Response (Alternate Defender):** The Alternate Defender's Office maintains a separate office from the Public Defender's Office. The Alternate Defender's Office has separate office space, a separate mailing address, separate phone lines, separate FAX lines, a separate copy machine, separate computers, etc. and separate files that cannot be accessed by anyone other than the employees of the Alternate Defender's Office. The Alternate Defender does the personnel evaluations of all employees in the Alternate Defender's Office. Although Alternate Defender's budget is presented to the Board of

Supervisors by the Public Defender, the Alternate Defender's budget is administered by the Alternate Defender.

I believe this issue was addressed by the Public Defender's response of August 23, 2000. (Refer to Public Defender's response to Recommendation #5).

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Board disagrees with this finding. Other than the budget, which is presented by the Public Defender, the Alternate Defender is a separate Department. The Public Defender does not have access to client information nor does he discuss ongoing case issues with the Alternate Defender.

7. Carpeting is unsightly and needs to be replaced.

**Response (Alternate Defender):** The carpeting in the Alternate Defender's Office is unsightly and needs to be replaced. This office has attempted to negotiate with the landlord, Mrs. Feibusch, who contends there is nothing wrong with the carpet. With that said, this office is presently attempting to obtain bids to have the carpet replaced.

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding. The Alternate Defenders Office is seeking bids to replace the carpet.

8. This office seems to be running smoothly. The employees shared a combined respect for one another and a contentment in their assigned duties.

**Response (Alternate Defender):** The Alternate Defender's Office is truly blessed, especially in an office with such a small staff and small quarters, to have people who are dedicated to the work they do on behalf of their clients, and who truly appreciate and respond to the needs of others.

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding and thanks the Grand Jury for this comment.

9. When interviewing prisoners at the Jail, the employees are concerned about their personal safety because of the length of time it takes the officers at the Jail to respond to their request to be released from the interview room.

**Response (Alternate Defender):** The jail has essential two venues in the male side of the jail to interview clients: one interview room, and the law library. Because of the issues of confidentiality between an attorney and his/her client, there is only a buzzer and no intercom with which to summon correctional officers. It often takes pushing the buzzer several times over the course of several minutes to a half an hour before there is a response to release the attorney from the interview room. The concern is that there may be a time when there is a problem between parties in the interview room, and if there is not a reasonable response when the attorney presses the buzzer to be released, a situation could escalate resulting in injury to someone.

**Response (Sheriff):** Agree with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding. The Alternate Defender states it often takes several minutes up to one half hour for a response to the buzzer to leave the interview room.

10. The performance of the Alternate Defender is not evaluated by the Public Defender, nor is it reviewed by the BOS, the County Administrative Officer or anyone else.

**Response (Alternate Defender):** The Alternate Defender has received yearly reviews by the Public Defender.

**Response (Sheriff):** Neither agree nor disagree with this finding.

**Response (Board of Supervisors):** The Board disagrees with this finding. The review and evaluation of the Alternate Defender is done by the Public Defender.

## Recommendations

1. The BOS should consider funding one additional Deputy Alternate Defender.

**Response (Alternate Defender):** Refer to response to Finding 1.

**Response (Sheriff):** This recommendation is directed to the Board of Supervisors.

**Response (Board of Supervisors):** The Alternate Defender did not request additional staffing during the most recent budget process. With the addition of one attorney in Fiscal Year 1999-2000, the Alternate Defender feels he has adequate staffing.

**Time Frame for Implementation:** An additional full time attorney was hired in January 2000.

2. The BOS should review the County attorney salary structure.

**Response (Alternate Defender):** Refer to response to Finding 2.

**Response (Sheriff):** This recommendation is directed to the Board of Supervisors.

**Response (Board of Supervisors):** The salary structure was reviewed within the Slavin Study. Slavin Study recommendations implemented November 2000.

3. The County should install a security counter between the public area and the secretary's desk.

**Response (Sheriff):** This recommendation is directed to the Board of Supervisors.

**Response (Board of Supervisors):** The Alternate Defender has not requested this type of security measure. The Board will direct that the Risk Manager discuss this issue with the Alternate Defender to determine the safety factors.

4. A current policy and procedures manual needs to be developed.

**Response (Alternate Defender):** Refer to response to Finding 5.

**Response (Sheriff):** This recommendation is directed to the Alternate Public Defender.

**Response (Board of Supervisors):** The Board agrees with this recommendation.

**Time Frame for Implementation:** The Alternate Defender believes it would take until January 2002 to create a proper policies and procedures manual for its office.

5. The BOS should reconsider elevating the Office of the Alternate Defender to Department status, which would permit performance reviews of the Alternate

Defender and let the Alternate Defender go directly to the BOS when needs arise.

**Response (Alternate Defender):** Refer to response to Findings 6 & 10.

**Response (Public Defender):** Letter dated August 23, 2000. Reads: "Our department has been requested to respond to the 1999-2000 Grand Jury recommendation that the Alternate Defender office be made into a separate department from the Public Defender office. There is nothing new in our response to this issue, and there does not appear to be any reason for the Grand Jury's recommendation to separate the Alternate Defender from the Public Defender as a separate department. I wish to point out the very public letter I addressed to the Board of Supervisors, June 5, 1997, which the Board endorsed in August, 1997, and from which the Alternate Defender office was formed on October 1, 1997. Also, below please also find the portion of our response to last year's (1998-99) Grand Jury in this regard, when they asked us to address this issue with respect to their investigation of the Public Defender. The only difference between that response and today is an additional successful year of the Alternate Defender office. Note also that no reported case has ever held contrary to the Castro and Christian cases referred to below.

**1998-99 GRAND JURY RESPONSE BY PUBLIC DEFENDER RE: ALTERNATE DEFENDER:** As indicated to the Grand Jury, the Alternate Defender" budget is prepared in conference with the Alternate Defender. The P.D. was involved in the hiring of the Alternate Defender, in conjunction with the Board of Supervisors. The model for the Alternate Defender office, as explained to the Grand Jury, is based upon *Castro v. Board of Supervisors* (1991) 232 Cal.app.3d 1432, and *People v. Christian* (1996) 41 Cal.App.4<sup>th</sup> 986; and has been implemented in Contra Cost, Los Angeles, San Diego, Orange, and Humboldt counties, as well as others. It has been implemented here with absolutely no problem regarding any conflict of interest, and at great financial savings to the County.

**Response (Sheriff):** This recommendation is directed to the Board of Supervisors.

**Response (Board of Supervisors):** The Board disagrees with this recommendation. The current model the County is using for the Alternate Defender is used in several counties in California with savings realized. Evaluations of the Alternate Defender are prepared by the Public Defender.

**Time Frame for Implementation:** Not applicable.

6. The Sheriff should meet with the Alternate Defender and the Public Defender to determine a rapid response procedure that will guarantee that attorneys are released from the interview room in a more timely manner at the Jail.

**Response (Alternate Defender):** Refer to response to Finding 9.

**Response (Sheriff):** This recommendation has been implemented. The Jail Commander has met with the Public Defender to discuss this problem. Corrections Deputies and their supervisors have been reminded of the need to respond in a timelier manner when attorneys request to be released from the interview room. However as with so many other aspects of jail operations, the timeliness of the response is a function of the available staffing. Attorneys who are concerned about their safety also have the option of using non-contact interview areas. The jail has also sought cooperation from the attorneys in scheduling visits ahead of time, thus reducing the potential for delays due to a lack of available interview rooms.

**Response (Board of Supervisors):** This recommendation has been implemented. The Jail Commander has met with the Public Defender and the Alternate Defender to discuss this concern. The Sheriff has stated that corrections deputies have been reminded of the need to respond in a timely manner.

**Time Frame for Implementation:** Already implemented.

### **Response Required**

Mendocino County Board of Supervisors  
Mendocino County Sheriff/Coroner

### **Response Requested**

Mendocino County Alternate Defender  
Mendocino County Public Defender

## **MENDOCINO COUNTY OFFICE OF EDUCATION COURT AND COMMUNITY SCHOOLS**

The Court and Community Schools (CCS), governed by the Mendocino County Board of Education (MCOE Board), serve students in Mendocino County who, because of probation, expulsion, incarceration or other reasons, are not able to attend regular classes on a school district campus. The CCS have 14 classrooms and programs around the county, including some on middle and high school campuses. There are also the Clean and Sober classroom, Juvenile Hall classrooms (West Hills), the River School, the Pregnant Minor Program, Young Parents Program and other CCS stand-alone classrooms in Ukiah, Willits and Fort Bragg. There is also an independent study program (Mobile Transition Studies).

### **Reason for Investigation**

The Grand Jury received citizens' complaints.

### **Method of Investigation**

The Grand Jury interviewed staff and administration of the CCS and reviewed the Mendocino County Office of Education (MCOE) Audited Financial Statements for the year ending June 30, 1999, the CCS paraprofessional staffing report and reviewed MCOE Board Policy 32201.1.

### **Findings**

1. The members MCOE Board serve as the trustees for the CCS.

**Response (Office of Education):** The role of County Juvenile Court and Community Schools are established by Educational Code and Welfare and Institutions Code: "The county board of education establishes and the county superintendent administers and operates the juvenile court and community school."

2. CCS instructors have a difficult mission as their student body is drawn from the group of students in the County having the most challenging social, emotional and educational needs.

**Response (Office of Education):** True, CCS instructors have a difficult job and are dedicated to their work with at-risk students. Their student body is drawn from **one of** the groups of students in the County having the most challenging social, emotional and educational needs. Instructors at District Community Day Schools and District Continuation High Schools serve similar populations of high-risk youth, and should also be acknowledged.

3. Some parents of CCS students are not sufficiently familiar with the intricacies of policy and are intimidated by procedures and are therefore not able to advocate successfully for their children.

**Response (Office of Education):** Educators throughout the country find that parents are often intimidated by school administration and procedures. A mandatory meeting between parent, student and a CCS counselor is required prior to a student's enrollment in CCS. This session usually lasts an hour. The CCS counselor develops an Individualized Learning Plan based on the student's academic and social/emotional needs. Goals and objectives are clearly defined with parent and student input. This is an opportunity for parents and students to ask questions or express any concerns about the CCS program. CCS school counselors and administrator are available to speak with parents on the telephone or in person regarding any concerns about procedures or policy. A parent-student handbook is given to all new students at intake.

The California Healthy Start Program was developed especially for the purpose of helping families work closely with schools and government agencies. A CCS Healthy Start program began operation in October 1999 in order to facilitate school and family interaction, as well as to discourage truancy, and to transport students and their families to health care appointments, court appearances, college classes, and special programs. The CCS Family Services Liaison works closely with parents and students in the program.

### **Recommendation**

As the trustees for the CCS, the MCOE Board needs to take more responsibility in advocating for the special needs of the CCS students.

**Response (Office of Education):** The CCS Director meets monthly with the Board representative for CCS to discuss current issues. The CCS Director meets with the MCOE Board and the County Superintendent of Schools as needed to keep them current on CCS and to respond to concerns.

### **Findings**

4. The CCS Average Daily Attendance (ADA) is increasing, as more students are excluded from mainstream schools.

**Response (Office of Education):** Not true. CCS average daily attendance has been decreasing since the 1991-1992 school year and reached its lowest ADA during the 1999-2000 school year. (See attached ADA History 1990-2000.)

5. The CCS formally budgeted funding for individual classroom materials has declined from \$1500 in 1985 to \$500 in 1999; in addition there was a one-time allocation of \$500 in 1999. During the same period, the number of students in many CCS classrooms had increased from 15 to 20 or more.

**Response (Office of Education):** Not true. Although ADA has decreased, the number of students enrolled in CCS classrooms has remained constant for over 10 years. Approximately 20 students are enrolled in each class with a full time teacher and instructional paraprofessional. At any given time, the average attendance per class is approximately 11-15 students.

Instructional materials funding for classrooms has increased dramatically over the past several years due to new state legislation regarding instructional materials. CCS classrooms have access to Schiff-Bustamante Instructional Materials funding, State Textbook funding, Block Grant funding, Safe and Drug Free Schools funding, and School Library funding. The CCS Leadership Team and CCS Curriculum Committee allocate educational materials to classrooms. During the 1999-2000 school year, the CCS Leadership Team allocated \$6,220 to the Willits CCS classroom, \$5,268 to the Pomolita Community School classroom, and \$3,198 to one of the classrooms at River School in Talmage. These funds were for discretionary spending for instructional materials and student incentives. Current funding for instructional materials and student incentives is well above the \$1,500 allocated in 1985 for classroom discretionary funding.

## Recommendations

1. The Grand Jury suggests that funding per classroom reflect the same dollar-per-student ratio as in 1985.

**Response (Office of Education):** Current funding for CCS classrooms far exceeds the dollar-per-student ratio of 1985.

2. The MCOE Board and Superintendent should give their highest priority to the needs of CCS classrooms for budgetary and other support. The ADA increases should allow them to increase funding to CCS.

**Response (Office of Education):** The MCOE Board and Superintendent give high priority to all programs that affect children. Regarding funding, as explained above, ADA has not increased, but in fact has decreased steadily since 1991. Even with ADA decreases, CCS classrooms have greater than ever access to instructional materials funding. The MCOE Board and

the Superintendent have supported access to these funding sources for CCS, and their use for instructional materials.

## Finding

6. CCS has a leadership team of two administrators, three teachers, and one paraprofessional who are charged with making decisions about allocation of lottery funds in response to teacher requests.

**Response (Office of Education):** True. The Leadership Team allocates lottery funds, as well as other discretionary funds.

## Recommendation

Since the staff and faculty of the CCS, being a distinct entity within MCOE, have a better understanding of their students' special needs, the leadership team should continue to determine the allocation of all special funds.

**Response (Office of Education):** The Leadership Team will continue to meet on a monthly basis to allocate funding based on proposals aligned with CCS program goals. For the 1999-2000 school year, the only funding requests turned down by the Leadership Team were for projects not aligned with CCS goals, or without clearly defined goals.

## Findings

7. Prior to the March 2000 General Election, the legislative intent for the use of lottery funds and MCOE Board Policy 32201.1 had been for expenditures beyond the usual classroom needs. Examples of acceptable uses include: incentives, field trips, materials and expenses for innovative programs.

**Response (Office of Education):** True.

8. Due to inadequate budget allotments, CCS teachers have been forced to request lottery funding for classroom texts contrary to MCOE Board policy and legislative intent.

**Response (Office of Education):** Not true. There are no inadequate budget allotments. Lottery funds have been used for field trips, ROPES course, speakers, yearbooks, instructional materials and incentives for attendance and behavior. Teachers have not been forced to use Lottery funds for textbooks. Teachers have been directed to submit requests for textbooks to the Curriculum Committee which determines alignment with state standards and alignment with possible funding sources. The curriculum committee decides on the state-funding source to use

for the purchase of textbooks. (See attached Instructional Materials Funding Requests.)

9. MCOE documents reveal a discrepancy between the projected ADA generated lottery funds and the amount actually allocated to the CCS. The difference was a 35% loss, which exceeds by 27%, the 8% usually charged by MCOE for the administration of funds.

**Response (Office of Education):** It would be helpful to know which “MCOE documents” the Grand Jury is referring to. It has been the practice of MCOE Administration, approved by the MCOE Board in the yearly budget, to allocate 50% of the Lottery dollars directly to instructional programs in CCS, ROP, and Special Education; and to spend the other 50% on special student enrichment programs, professional development and standards, assessment and curriculum development

### **Recommendation**

Considering the special needs of the CCS, they should get all the funds, less the 8% administrative costs, earned through their ADA.

**Response (Office of Education):** See response to #7, #8, and #9 above.

### **Finding**

10. Salaries of MCOE administrators have increased disproportionately more than those of teachers. One reason for this may be the reclassification of administrative positions with new titles and increased salaries. At the same time CCS classroom budgets have declined.

**Response (Office of Education):** It would be helpful to know what “reclassification of administrative positions” the Grand Jury is referring to. Again, CCS classroom budgets have not declined but have increased as indicated in response to Finding #5 above. As pay raises are negotiated with the union for certificated and classified staff, administration receives the same percent increase.

### **Recommendation**

The Grand Jury urges that expenditures for classroom materials and instructional staff, including both teachers and paraprofessionals, receive

higher budget priority. Lottery funds should be restricted to unusual and innovative enhancement programs.

**Response (Office of Education):** MCOE gives the highest priority in the budgeting process to expenditures for instructional staff and classroom materials. The state average for teacher salaries is 39.3% of a district's budget. At MCOE, 48.0% of the CCS budget is spent on teacher salaries. The Leadership Team allocates Lottery funds to classroom teachers for enhancement programs.

## Finding

11. Many special sources of grants (such as Tobacco Use Prevention, Healthy Start and Violence Prevention) have been obtained for the CCS by a grant writer retained on the MCOE staff for which MCOE receives 8% for administration. Since some of these funds are not completely utilized, grants are apparently written which do not reflect the needs of CCS.

**Response (Office of Education):** There is no paid grant writer retained on the MCOE staff. Every grant, except as noted below, that CCS has submitted and received has been written by CCS staff during their work hours. The current Director of CCS, the Coordinator for Child Development and the Coordinator for Prevention Education have written the Tobacco Use Prevention Grant, the CalSAFE Teen Pregnancy Grant, the Prevention in Action Grant, and the currently-being-developed Digital High School Grant. The Violence Prevention funding is not a grant; those funds are given to each county office and school district in the State following submission of a one-page assurance that spending will be used for specific activities. A paid grant writer, contracted for that specific purpose, wrote the CCS Healthy Start Grant. A Healthy Start Planning Grant, written by MCOE staff, provided funding for the grant writer. Two MCOE staff, along with a Public Health staff person, and a grant writer paid by Public Health, wrote the HIV/Aids Education Grant.

## Recommendation

Care must be taken to seek grants more specifically aligned with the needs of the CCS students. There should be a review of all uncommitted grant funds.

**Response (Office of Education):** No grants are submitted which are not aligned with MCOE/CCS goals. There are no uncommitted CCS grant funds.

## Findings

12. The MCOE Board meetings are held during the working day and often in distant parts of the County. Parents and teachers, who are working, find it difficult to attend. Besides, MCOE no longer televises its Board meetings.

**Response (Office of Education):** The Mendocino County Board of Education is committed to having as much public participation as possible at their meetings. Because of the size of our County and the coast/inland accessibility factor, there is no one location that is equally convenient to all communities. Recognizing this, the Mendocino County Board of Education holds meetings throughout the year at various locations within the County, thus giving members of every community and the local school district staff the opportunity to conveniently attend and review local site-specific programs and issues.

Video conferencing and regular evening meetings were tried and were not found to increase public participation. With no noticeable benefit, coupled with the added inconvenience and risk of night travel to Board members who come from all over the County, it was decided to discontinue evening meetings. Nevertheless, special hearings are held in the late afternoon or evening to accommodate interested parties.

The Board will again review the issue of videotaping meetings. The involvement of ROP will be considered in this review.

13. The Grand Jury's ability to evaluate the MCOE audited budget was inhibited by the one and one-half months delay in the document's arrival from MCOE.

**Response (Office of Education):** MCOE received copies of the audited budget the Grand Jury requested on April 11, 2000. A copy of this audit was mailed to the Grand Jury on April 12, 2000. MCOE did not inhibit the Grand Jury's ability to evaluate the MCOE audited budget, and responded in a timely and expedient manner to all clear requests or questions.

COMMENT ON GRAND JURY FINAL REPORT 1999-2000:  
MCOE administration and Board are concerned about the many inaccuracies in the Grand Jury findings. In the future, MCOE encourages the Grand Jury to invite MCOE Superintendent of Schools or his designee or MCOE Board members, to respond to questions and provide information and backup documentation.

### **Recommendation**

The MCOE Board should hold regular evening meetings or, at least alternately, record the meetings for later video or audio broadcast over the community

access channel, which could also be an excellent Regional Occupation Program (ROP) production opportunity.

**Response Required**

Mendocino County Superintendent of Schools  
Mendocino County Board Of Education

## **MENDOCINO HISTORICAL REVIEW BOARD**

The Historical Preservation District, for the Town of Mendocino, was established with the adoption of the Mendocino County Zoning Ordinance in 1973. The Mendocino County Board of Supervisors (BOS) created the Mendocino Historical Review Board (MHRB) with the purpose and authority to approve demolition, construction, remodeling, excavation, and painting within the Town of Mendocino Historical Preservation District. The Historic District is comprised of Zone A (area west of Highway 1) and Zone B (area east of Highway I). The Town of Mendocino is a National Register Historic District, allowing building owners to qualify for federal grants and tax incentives for preservation and restoration.

Supportive of this intent is Section 30253(5) of the California Coastal Act (1976) which cites: "New development shall, where appropriate, protect special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses."

The MHRB has five volunteer members who are appointed for three year terms by the BOS. Board members may serve no more than two consecutive terms.

### **Reason for Review**

The oversight of the MHRB was initiated as a result of a citizen's complaint.

### **Method of Investigation**

The Grand Jury interviewed the following: the complainant, Director of Mendocino County Planning and Building Services, Planning and Building Services Coastal Planner, County Supervisor, MHRB Chairman, Real Estate and Land Use Consultant, and a District Attorney staff member.

Documents reviewed: MHRB meeting minutes, Mendocino Historic Review Board Design Guidelines (1987), Mendocino Town Plan Amendment (June 10, 1992), Mendocino Historical Review Board Permit Application and Mendocino County Ordinance, Chapter 20.760.

### **Relevant Law**

California Coastal Act (1976) Section 30253(5).  
Mendocino County Ordinance, Chapter 20.760.

### **Finding**

1. MHRB members must reside within the Historic District. Property ownership in the Historic District is not a requirement. Historically, it has been difficult to find qualified applicants to serve on the MHRB.

**Response (Planning & Building Services):** Staff has not observed a shortage of eligible Review Board members in recent years.

**Response (Board of Supervisors):** The Board agrees with the finding that MHRB members must reside within the Historic District. The Board agrees with Planning and Building Services that a shortage of eligible Review Board members in recent years has not been observed.

## **Recommendation**

Residence eligibility to serve on the MHRB could be expanded to include an area outside of the Historic District. This would provide a larger pool from which to select board members. Proximity to the Historic District would assure that they would have a vested interest in the historical preservation of the town.

**Response (MHRB):** The filling of Review Board positions has not posed a problem for several years and may even improve in the near future. The residence eligibility requirement was carefully considered and discussed at a public meeting in the Town of Mendocino which resulted in the current language which was adopted in 1995. Included in the current language are term limits of two (2) three year terms. This new limit has not been fully realized and it is suggested that applications may increase when there is a vacancy without an eligible incumbent. Historically, there has never been a case where an incumbent applicant has not been re-appointed. Residents of both District A and District B are eligible to apply for appointment. Through the appointment process, the Board of Supervisors has an opportunity to appoint members to the MHRB who have an interest in historic preservation and who want to preserve the historic integrity and character of the Town of Mendocino.

**Response (Planning & Building Services):** Agree that expanding the residency rule to include an area outside the Historic District would provide a larger pool from which to select board members. In 1994, during the preparation and adoption of the Town of Mendocino Zoning Code, the subject of expanding opportunities for MHRB membership, including non-resident business operators was discussed at numerous public meetings by the Town Zoning Committee, MHRB, Planning Commission and the Board of Supervisors. The Planning Commission and Board of Supervisors voted, at that time, to retain language requiring that MHRB members be residents of the Historic District.

**Response (Board of Supervisors):** The Board agrees with Planning and Building Services that during the preparation and adoption of the Town of Mendocino Zoning Code in 1994, the Planning Commission and Board voted to retain language requiring that MHRB members be residents of the Historic District after numerous public meetings by the

Town Zoning Committee, MHRB, Planning Commission and Board of Supervisors.

**Time Frame for Implementation:** Not applicable.

## Findings

2. MHRB members and staff are not required to have expertise or experience in historic preservation, architecture or other related fields.

**Response (Planning & Building Services):** Agree with this finding in that there is nothing specific in County Code or employee job descriptions that require expertise or experience in historic preservation, architecture or other related fields, however, this knowledge and experience is a consideration at the time of appointment.

**Response (Board of Supervisors):** The Board agrees with Planning and Building Services' response that although there is nothing specific in the County Code or employee job descriptions that requires expertise or experience in historic preservation, architecture or other related fields, this is a consideration at the time of appointment.

3. Testimony has shown that some members of the MHRB do not possess sufficient technical expertise.

**Response (Planning & Building Services):** Supervising Planner, Doug Zanini, writes: "During my time as the Executive Secretary (to MHRB) I have observed that very little of what the Review Board does requires technical knowledge or expertise in architecture. I have also found that there are not many architects who specialize in historical preservation nor am I aware of any architects in the local area that have bona fide credentials as an historical preservation architect. What is more important than technical knowledge is an intimate knowledge of the town and its history, ability to read architectural drawings, a passion for and a track record in historical preservation, and familiarity with the Design Guidelines."

**Response (Board of Supervisors):** The Board agrees with Planning and Building Services that, although it would be beneficial, the Review Board's responsibilities do not necessarily require technical knowledge or expertise in architecture. The Board also concurs with the Department's observation that there are very few architects who specialize in historical preservation in this community.

4. The Mendocino County Department of Planning and Building Services provides staff to support the MHRB. The staff is a Coastal Planner working out of the

Fort Bragg office. The primary function of the staff is to provide support to the MHRB as follows:

- a. prepares reports on applications
- b. schedules site views
- c. provides posting notices to property owners
- d. takes minutes at MHRB meetings
- e. posts notices at various public places
- f. investigate violations.

**Response (Planning & Building Services):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

5. The staff does not make recommendations to the MHRB other than procedural.

**Response (Board of Supervisors):** The Board agrees with this finding.

## **Recommendation**

At least some MHRB members and/or staff should have some expertise in architecture, historic preservation or other related fields. Professional staff should be better utilized to advise the MHRB in reaching decisions.

**Response (MHRB):** Although MHRB members are not required in the application process to have expertise or experience in historic preservation, architecture or other related fields, members bring unique talents which contribute to a balanced Board. Currently the Review Board consists of members who are or have been business owners, a former city mayor, members of the National Trust for Historic Preservation, The California Preservation Foundation and the Mendocino Historical Research, Inc. One of the members attended a four day National Trust Conference on Historic Preservation held in Santa Fe in 1996. In 1999, a MHRB subcommittee researched the Americans Disability Act as it pertains to access in the Historic District, and arranged for a public seminar on that topic. Copies of the committee's report are available to the public at the Fort Bragg Planning Office. Other seminars on preservation concerns have been spearheaded by members of the Review Board, including a visit from four officers from the State Office of Historic Preservation who conducted a "walk through" the town to evaluate various Landmark structures. When specific advice is needed, board members, as well as planning staff, have access to preservation and architect experts at the State Office of Historic Preservation and the California Building Standards Commission. These important sources are available to

supplement members' knowledge and provide "sufficient technical expertise" which any individual member may not possess on any one of the many items that come before the

The staff provides a valuable function in preparing the agenda, the applications, and supporting data in a timely way to the Board. A specific recommendation may not necessarily be appropriate but any information, legal or otherwise, to facilitate a good decision is always helpful to the Board. A review and update of the MHRB Guidelines, which were published in 1987, would be especially useful to the Board. The Board would like to see this project as a high priority for the staff.

**Response (Planning & Building Services):** Agrees with the finding that some MHRB members and/or staff **should** have some expertise in architecture, historic preservation or related fields. As written by Doug Zanini:

"If there is a requirement that people have professional credentials, the applicant pool will be that much smaller. I believe that most of the Review Board members have some expertise in historic preservation. Currently most of the Review Board members are on second terms and have several years experience reviewing projects. I believe that all current Review Board members either own or have owned historic structures in the Historic District and are therefore personally aware of the challenges and limitations of development within the District.

"I served as the Executive Secretary for the Review Board for a year and a half and I supervise the current Executive Secretary. I have been a California registered landscape architect for over eight years. I hold a Bachelor of Landscape Architecture (BLA) a professional degree, from the College of Architecture at the University of Florida. The BLA curriculum included two years of undergraduate work identical to that of architectural majors. I have worked with development in historic districts in California for over eight years and have attended several workshops pertaining to historical preservation. These credentials and technical skills, however, are not necessary to be effective as the Executive Secretary of the MHRB. It is more important that MHRB staff be familiar with local, state and federal laws pertaining to historic preservation. It is also important for staff to have good meeting facilitation skills and public speaking skills.

"I believe that it is incorrect for staff to make recommendations on projects. The MHRB meetings have been running very smoothly over the past two years. I have observed that the Review Board functions best without staff adding their professional or personal opinions on project designs. Design is a very subjective thing. The Design Guidelines are very flexible. The decisions made by the Review Board are based on a deliberation by five individuals who have different but legitimate views on how the town's historical character is to be

preserved. During the time that I was Secretary to the Review Board and during the time that I have been supervising the Secretary to the Review Board, I have not seen any decisions that were not given complete scrutiny. In the 2-1/2 years since I have been with Mendocino County, I can only recall one appeal of an MHRB decision (the Temple of Kwan Tai) to the Board of Supervisors. In that appeal, the BOS agreed with the Review Board's action. Staff will, however, continue to provide guidance to the Review Board on procedural matters and code interpretation.

"Working with MHRB takes up approximately ¼ of staff's overall work responsibilities. I don't think that it would be feasible to hire a qualified historical preservation specialist given the small employment pool, low pay and the small amount of hours needed to perform the duties."

**Response (Board of Supervisors):** The Board agrees that it would be beneficial for MHRB members and/or staff to have some expertise in architecture, historic preservation or other related fields. However, the Board also concurs with the Department that the more important attributes are that MHRB members and/or staff: a) have an intimate knowledge of the Town and its history, b) have the ability to read architectural drawings, c) have a passion for and a track record in historical preservation, and d) be familiar with the Design Guidelines. The Board also agrees that staff should have good meeting facilitation and public speaking skills, and be familiar with local, state and federal laws pertaining to historic preservation. The Board believes that these qualities do exist within the current members of the Review Board and its staff support.

## Finding

6. Public notices are posted at the following locations: Post Office, Recreation Center, bulletin board at Wilkes-Bashford Building, property in question and an agenda is sent to the Mendocino Beacon newspaper and local radio stations. Adjacent property owners are not specifically notified.

**Response (MHRB):** The above mentioned postings should be continued and, in addition, there should be a posting in a secure location where the notice cannot be removed or covered over. MHRB agrees that property owners within 300 feet of the subject property should be notified by mail in a timely way. This could be limited to applications requiring the higher fee, signifying a large scale project.

**Response (Planning & Building Services):** Agrees with this finding.

**Response (Board of Supervisors):** The Board agrees with this finding.

## Recommendation

Notices should be mailed to all property owners within 300 feet of the subject property.

**Response (Planning & Building Services):** Disagrees with this recommendation. Over the past several years there has been a tremendous emphasis on **reducing** the fees for processing an MHRB application. Fees have recently been reduced on the belief that it will result in fewer violation cases and will facilitate the timely maintenance of historic buildings. The application fees are based on the cost to the County of ushering a project through the process. Increasing costs may result in increased application fees.

Because of the small parcel sizes in the town of Mendocino, a 300 foot mailing (which also typically includes tenants within 100 feet of the property) would create additional cost for the applicant and would be time consuming for an already overburdened clerical staff.

Any major project that includes an intensification of land use or a new structure also requires the issuance of a Coastal Development Permit (CDP). Notice of CDP's are mailed to neighboring properties. The most recent CDP in the town of Mendocino required 66 mailings to owners and tenants. As an alternative to mailings, Planning and Building Services proposes the following to improve public noticing:

- The poster paper be changed from white/yellow to bright orange or bright pink. A heavier card stock could be used to resist wind and rain damage.
- The wording: "OFFICIAL NOTICE - DO NOT REMOVE" will be added to the agendas posted around town.
- Staff will post all the project sites rather than the applicant. This will ensure that the postings are in the most visible location available to the public.
- Staff will include the Planning and Building Services Internet site on the letterhead of the posters so that those who wish can view and print copies of the MHRB agenda off of their computer.

**Response (Board of Supervisors):** The Board disagrees with this recommendation. As explained by the Planning and Building Services Department, fees have been recently reduced on the belief that it will

result in fewer violation cases and will facilitate the timely maintenance of historic buildings. Because of the small parcel sizes in the town of Mendocino, a 300 foot mailing would create additional cost for the applicant and would be time consuming for clerical staff. Increasing costs may result in increased application fees and over the past several years there has been tremendous emphasis on reducing fees for processing MHRB applications. Notices of Coastal Development Permit applications are mailed to neighboring properties for any major projects that include intensification of land use or a new structure.

The Board concurs with the Planning and Building Services Department's recommendation for improving the public noticing to include:

- Notices posted are produced on heavier card stock poster paper (to resist wind and rain damage) in bright orange or pink.
- "OFFICIAL NOTICE – DO NOT REMOVE" shall be added to agendas posted around the town.
- Staff will post all project sites rather than the applicant, which has been past practice, to ensure postings are in the most visible location available to the public.
- Staff will include Planning and Building Services internet site on the letterhead of the posters so that interested parties can view and print copies of the MHRB agenda for themselves.

## Findings

7. The County ordinance does not give the legal right to enforce violations to MHRB. Enforcement, under the jurisdiction of the Department of Planning and Building Services, does not always happen. Violations are handled in the following manner:
  - a. Violations are received as complaints to the MHRB and referred to staff.
  - b. Staff investigates to verify the complaint and sends a letter to the violating party.
  - c. If compliance is not forthcoming after 30 days, a second letter is sent. Currently this process takes three months due to staff workload.
  - d. If compliance does not occur after the second letter, the matter is referred to the Code Enforcement Section of the County Planning Department.
  - e. Compliance can ultimately be forced by issuance of a citation, which can result in a court hearing; the entire process may be delayed due to the priorities of the Coastal Planner and Planning Department Code Enforcers.

(Priority is given to more important matters on their schedules, such as new permit applications or inspections involving public health or safety.)

**Response (Planning & Building Services):** The Department agrees with this finding. As stated in 7e, the Department prioritizes violation cases based upon limited staff availability, other matters or duties such as permit processing and whether or not the public health or safety is threatened.

**Response (Board of Supervisors):** The Board concurs with this finding. The Board concurs with the Department's policy of prioritizing violation cases based upon staff availability and whether or not public health and/or safety is threatened.

8. The present system takes too long to resolve issues primarily because staff prioritize work according to relative importance. Consequently, issues such as signs, banners, and paint color, can extend for months before being resolved. The result is the perception that MHRB is an impotent entity. Testimony has questioned the value of MHRB rulings if they are not acted upon. There is also a perception that too much attention is being placed on "trivial" matters.

**Response (Planning & Building Services):** Agrees with this finding. However, I would note that the last sentence appears to conflict with the first sentence in this finding.

**Response (Board of Supervisors):** The Board agrees with this finding as it relates to staff prioritization of work according to relative importance.

## Recommendation

The process for dealing with code violations should be revised and simplified. Issues that require code enforcement should be handled in a more expeditious manner. Computer technology, which is available to all County Departments, could be employed by generating compliance letters automatically.

**Response (MHRB):** Some violations are reported directly to the Office of Planning and Building. An additional Code Enforcement Officer was recently appointed and the MHRB expects to see the system implemented with due diligence and with a high priority for the Coastal Planner. The Board should be kept up to date as to status of compliance, As to the perception that too much attention is being placed on "trivial" matters, the MHRB was established to "preserve the architecture and character of the Historic District" and takes this duty very seriously. Seemingly small changes can have a cumulative impact on the character of the town end the Board gives all matters thoughtful consideration. Each applicant before the MHRB deserves

the Review Board's full attention and consideration regarding their project. The Review Board strives for fairness to all applicants and consistency in its decisions.

**Response (Planning & Building Services):** Agrees with this recommendation. A number of changes have been made to improve code enforcement activities in the Town of Mendocino over the past few months. As of this date, all known MHRB violations have been documented and owners have received notice from the Planning Division. The notices included the remedies to correct the violation and provided a time frame to achieve compliance. Any case where the recipient does not respond to the notice of violation within the specified time frame is forwarded immediately to Code Enforcement for further action. The Code Enforcement Division will be reminded of the need to commit time and resource to enforcement in the Town of Mendocino in accordance with the February 8 memorandum discussing protocol and staffing for code enforcement.

Additionally, it should be noted that the Board of Supervisors has approved an additional Planner position for the Fort Bragg office within the 2000/2001 County Budget. The addition of this Planner position will enhance code enforcement efforts.

**Response (Board of Supervisors):** The Board agrees with this recommendation and has approved an additional Planner position for the Fort Bragg Office in the 2000/01 Final Budget. The Board further agrees with the improved code enforcement activities in the Town of Mendocino. As noted in the Planning and Building Services response, all known MHRB violations have been documented and owners have received notices that include remedies to correct violations, and time frames to achieve compliance. Recipients that do not respond to the notice within the specified time frame will have their case forwarded immediately to Code Enforcement for further action.

## Findings

9. MHRB findings and decisions can be appealed to the BOS within 10 days.

**Response (MHRB):** The ability of an applicant to appeal a MHRB decision to the Board of Supervisors ensures a "check and balance" in the approval process. Applicants are advised at the meeting of this appeal option and are advised to delay starting their project for 10 days in case an appeal is filed.

**Response (Planning & Building Services):** Agrees with this finding

**Response (Board of Supervisors):** The Board agrees with this finding.

10. Often, property owners who want to make changes to their property, claim that they were unaware of the historic preservation requirements when they bought property in the Historic District.

**Response (Board of Supervisors):** The Board can neither agree nor disagree with this finding, as information substantiating this claim has not been received.

## **Recommendation**

Real estate agencies and property owners that list properties for sale in the Historic District should be required to inform potential buyers, in the form of a disclosure, of the historical preservation requirements which exist. A positive effort must be made to notify property owners of the historical preservation requirements in the Historic District.

**Response (MHRB):** MHRB concurs with the Grand Jury's recommendation. Real estate agencies and property owners that list properties for sale in the Historic District should fully inform potential buyers of the requirements mandated in the code. A copy of code Section 20.760.030 (attached) should be provided to each buyer with a signature receipt. A representative of the MHRB or a Planning staff person should present the Ordinances and related information to real estate agents at one of their monthly Coastal Mendocino Association of Realtors meetings to better inform and update agents in the area.

**Response (Planning & Building Services):** I will refer this recommendation to County Counsel to first advise this Department of the legal implications of the Grand Jury's recommendation regarding disclosure.

**Response (Board of Supervisors):** The Board agrees with the Department of Planning and Building Services that this issue should be addressed by County Counsel. The Board has been informed that County Counsel is presently reviewing this recommendation and once an opinion determined, the Planning and Building Services Department will bring to the Board for further discussion.

**Time Frame for Implementation:** The Planning and Building Services Department anticipates scheduling this issue for further discussion and direction by the Board of Supervisors for a January or February 2001 meeting. By letter dated October 3, 2000, Planning and Building Services requested that local title companies and the

Coastal Mendocino Board of Realtors comment, no later than November 17, 2000 on the Grand Jury's' recommendation.

## **Comments**

The MHRB has a daunting task. The Town of Mendocino is a unique entity, being one of only two areas in California designated as a National Historic District. As a result, the town and its residents have the responsibility to preserve and enhance this unique town. This is never an easy task. People have different points of view and interpretations of standards, which have been set as guidelines for historic preservation in the Historic District. Perhaps it is appropriate for the MHRB, the BOS, Building and Planning Department, and the residents of the Town of Mendocino to re-evaluate their approach to historic preservation, especially with regard to the utilization of professional help and enforcement.

The Grand Jury wishes to acknowledge the help and cooperation given by all persons interviewed.

**Response (MHRB):** There are other Historic Districts in California but Mendocino is different in that the whole town is considered to be a National Historic District. It is more usual for a particular section, such as the downtown area of a town, to be considered a Historic District. Mentioned above is the need to review and update the 1987 Design Guidelines. This review and updating could provide an opportunity, through public meetings and work sessions, for the BOS, Building and Planning Department, and the residents of the Town of Mendocino to re-evaluate their approach to historic preservation, as suggested. The support of the BOS, through the Planning & Building Department, is essential in enforcing the Code requirements relating to the MHRB. The Board would like to have this enforcement high on a priority list.

The members of the Mendocino Historical Review Board commend the Grand Jury for their diligent investigation and for providing this opportunity for the Board to respond.

## **Response Required**

Mendocino County Board of Supervisors

## **Response Requested**

Mendocino Historical Review Board  
Mendocino County Department of Planning and Building Services

## **MENDOCINO-LAKE COMMUNITY COLLEGE ATHLETIC FACILITIES**

Mendocino-Lake Community College (MCC) was established to serve the higher educational needs of Mendocino and Lake Counties and also to make the MCC facilities, which include a gymnasium complex, football field, all weather track and baseball field, available to the community, whenever it does not interfere with MCC's activities.

**Response (MCC):** This statement is not completely accurate. All of the facilities were built primarily for use as instructional facilities for students at Mendocino College. Secondly, the facilities are available for use by groups and organizations outside of the college **only** as outlined in the District's Facility Use Policies and in accordance with the requirements of the "Civic Center Act." (Education Code Section 82542)

(Regarding the College name: the District is identified as "Mendocino/Lake Community College District; the College is Mendocino College, and it serves portions, but not all, of both counties.)

### **Reason for Investigation**

The Grand Jury received a citizen's complaint.

### **Method of Investigation**

The Grand Jury interviewed the complainant as well as several staff from MCC and high schools. The Grand Jury reviewed documents produced by the MCC, which define conditions that must be met in order to qualify for the use of the athletic facilities at MCC. It also reviewed past and present fee schedules as applied to schools and organizations for the use of MCC facilities.

### **Findings**

1. MCC defines conditions which must be met to qualify for the use of the athletic facilities.

**Response (MCC):** This statement is accurate.

2. Although the daily fees have been reduced, the total cost for an organization to use MCC facilities has increased, in some cases, as much as 300-600% in a two-year time frame.

**Response (MCC):** Charges for facility use were, and will be, changed in order to more accurately reflect the actual costs associated with

each use. Such changes reflect both adherence to policy as well as the resulting good stewardship by the college administrators and trustees. Direct costs include charging for: staff time to set up and take down furniture and equipment required for the activity, use of special equipment, costs associated with providing security during large events, and costs of waste disposal, utility and custodial services. In most cases, the fee charged for the facility rental has been reduced, especially for shorter duration events.

3. According to MCC staff, these large increases in fees were imposed to reflect the "hours of use." In the past, some events, especially those of long duration, allegedly ran at a financial loss to MCC.

**Response (MCC):** This statement is accurate.

4. As a result of the large increases, schools and organizations find it more and more difficult, if not impossible, to take advantage of the unique, excellent facilities.

**Response (MCC):** Facility utilization by local school districts does not reflect this finding. The number of uses by local secondary schools does not reflect any significant decline since the facility use fees were revised. The past three years of athletic facility use by local secondary schools is as follows: 1997-98, 17 events; 1998-99, 22 events; 1999-2000, 21 events.

6. Inspection of several recent accounting statements from the MCC Facilities Director's Office indicates that these new user fees are being administered equitably among all users.

**Response (MCC):** The College appreciates the Grand Jury's affirmation of the consistent application of the College's Facilities Use Policy.

The primary goal of the Facility Use Policy is: To make Mendocino College facilities available to outside users without adversely impacting the instructional programs of the College, either operationally or financially, and to do so in a fair and equitable manner.

## Recommendation

The Grand Jury recommends that the MCC make a more concerted effort to keep the community informed about policy changes relating to the use of MCC facilities. Explaining the rationale for changes, e.g. fee schedules, could go a long way toward establishing better rapport between the community at large and MCC.

**Response (MCC):** Mendocino College implemented a new facility use fee schedule in January 1999. The process of changing this schedule took approximately 18 months. During this period, regular users were informed that these changes were in progress, and notification of the implementation of the changes was sent out to the users by mail when the policy was adopted by the District's Governing Board. At that particular board meeting, the item was a part of the agenda, which was announced and distributed to interested parties in accordance with the Brown Act (public meeting law). At that time, all facility use fees for events that were scheduled prior to the revised fee implementation date were based on the prior fee schedule (i.e., grandfathered). The new fees were implemented for uses scheduled after the implementation date.

## Findings

6. When a Grand Jury letter asked what the users could do to have their facility user fees at MCC reduced, the College's written response was, "Not use the facilities."

**Response (MCC):** This statement was made in writing in response to line item questions asked by the Grand Jury in its letter of April 11. The more diplomatic response would have been to state the following:

\*Users of the colleges facilities, knowing that costs associated with their use of the facilities are directly reflected in the fees, could take care in minimizing the impact of their use. For example, in the past some users of the college facilities have inflicted damage and caused abnormal costs by graffiti, by purposely dirtying and fouling the locker rooms and bathrooms, etc.

\*Since the facility use fees charged to local school districts, and others, are based on actual costs associated with that use, alternatives available to college personnel for reducing costs are limited. Reductions would require Mendocino College to subsidize the activities of other public entities from the general fund of the Mendocino-Lake Community College District. Diversion of such funds for this purpose would adversely impact College programs and services; e.g., instruction, which is one of the primary missions of Mendocino College.

The notion that the college should use funds provided for post-secondary education to subsidize facility use by others could be criticized as a mis-appropriation of public funds.

Also, in a related connection, it should be pointed out that the college already "invests" in bringing and attracting youth of the District to its

facilities through many important outreach activities such as the annual Career Fair "Native American Day", "Hispanic Retreat", "I Went to College Day". Of course, no fees were charged for those involved in outreach efforts. Also, See "Response to Recommendation for 6-7" below.

7. Past requests by a local high school to provide its own concessions as well as security staff were denied by MCC. Having these services provided by MCC constitutes a significant portion of the users' overall expenses.

**Response (MCC):** This statement is accurate. The practice also reflects District policy which allows the District to require these services be provided by the College when it is necessary for the District to protect its facilities and address liability issues. A number of years ago, when the College contracted with a high school for use of facilities, the high school maintained concession rights.

## Recommendation

The Grand Jury recommends that MCC review its policies and, if necessary, design them to reflect the needs of the community more accurately. Such an approach would encourage schools and organizations in Mendocino and Lake Counties to utilize these facilities that were built at taxpayer expense for the use by all members of the community. Encouraging "on MCC campus" events by schools and other organizations surely leads to positive exposure for the MCC recruitment programs.

**Response (MCC):** The safety of event participants and the protection of the college facilities are of primary concern. The College has a clear responsibility for the safety of attendees at all events held at Mendocino College facilities. Experience has shown that the level of supervision by event sponsors at the College facilities has not consistently been adequate to assure a safe, well supervised environment. For the safety and protection of visitors and participants, as well as prudent risk management practices, security has been required at events involving large numbers of participants as well as any activity that presents potential security issues.

As indicated above, the District has an active philosophy of outreach which incorporates community use of campus facilities where there is a clear mutual interest. Further examples of these programs include:  
\*SPACE (theater/dance)  
\*Twice per semester music performance programs include various high schools.  
\*Ukiah Civic Light Opera performance collaboration.  
\*Ukiah Symphony Orchestra association with the College's instructional program.  
\*Annual summer football passing league.

\*Annual baseball, basketball, volleyball and softball camps.  
\*Track classes held in the afternoon, specifically to allow enrollment by local high school track athletes.  
\*Ukiah High School/Mendocino College drama department spring performance. \*Additional college offerings this last year included local high schools in a college- sponsored high school softball all-star tournament and co-sponsorship of the Leprechaun Invitational track meet.

## Finding

8. The Grand Jury found evidence of MCC internal conflict about how best to accommodate requests for athletic facilities by schools having limited resources. Instances of obtaining the use of facilities by "back-door" methods were reported as a way of avoiding what was perceived by the requesters as "undue hassle" when following the official route.

**Response (MCC):** Any "back door use" has been unauthorized use, which is eliminated when discovered. District policy clearly outlines the steps and requirements for facility use at Mendocino College (see Grand Jury Finding #1, above). These policies are applied equitably (see Grand Jury finding #5).

## Recommendation

The Grand Jury recommends that the top administration and Board of Trustees of the MCC acknowledge public concern in these matters and critically review not only the financial aspects involved, but also the manner in which the use of facilities is being administered. Since the College is funded by the public, owned by the public for the use of the public, MCC should be especially sensitive to the perceptions projected to the public.

**Response (MCC):** The administrators and trustees of the college not only acknowledge the public's concern in these matters, but are actively looking for innovative ways to expand and improve all of the outreach programs. This statement is backed up by the recent town meetings and the college's Mendocino 2000 program which expressly is aimed at bringing the community into decisions involving future and current plans for the college.

The existing policies were carefully crafted with these ends in mind, and we are constantly monitoring to assure that the outside uses are being administered consistent with the policies now in place.

Most of the outside users of college facilities understand the limitations which the college faces with regard to their use. The athletic facilities represent only a portion of the facilities utilized by the public. The complaints registered to the Grand Jury regarding athletic facilities are

only representative of a small percentage of uses of the District's facilities.

Mendocino College facilities were built with public funds; however, amortization of costs associated with the original development of the facilities are not borne by the users. All charges for use of facilities are for direct costs associated with each use.

**Response Required**

Mendocino-Lake Community College District Board of Trustees

**Response Requested**

Mendocino Community College

## POTTER VALLEY COMMUNITY UNIFIED SCHOOL DISTRICT

Potter Valley Community Unified School District (PVCUSD) is a public kindergarten through twelfth grade school district located on one campus. There are two schools in the district: Potter Valley Elementary and Junior High School, grades K - 8 and Potter Valley High School, grades 9 through 12.

### Reason for Investigation

The Grand Jury received several citizens' complaints.

### Method of Investigation

The Grand Jury interviewed several school district administrators, teachers, students, parents and a community leader interacting with PVCUSD on issues relating to human rights practices. The Grand Jury reviewed policy documents of all 12 school districts within Mendocino County pertaining to discrimination, harassment and physical abuse. It also reviewed PVCUSD procedures to be followed when they receive grievances. The Grand Jury also reviewed pertinent clauses in Title IX of the Civil Rights Act.

### Relevant Law

The Penal Code and Education Code of the State of California as well as PVCUSD Policy Documents clearly state that no form of harassment, discriminatory practices or physical abuse are to be tolerated in any public school.

California Penal Code Sections 924.1, 924.2, 925, 933, 929, 11165.14, 11165.9, 11165.7, 11166; California Education Code Sections 200, 212.5, 230, 260, 32051, 44030, 49000, 49001; 1978 Opinions of the California Attorney General Number 290; U.S. Civil Rights Act Title IX.

### Findings

1. As a result of numerous interviews, the Grand Jury became aware of the existing contention between some of the students and parents with teachers and administrators. Ironically, one of the teachers, who was praised by a school administrator for promoting sensitivity programs, was also the very teacher singled out by the students interviewed as the teacher showing the least respect toward the students.

**Response (Potter Valley School):** The respondent agrees with the finding.

2. Several parents stated that they feel their children attend school in an unsafe environment.

**Response (Potter Valley School):** The respondent disagrees partially with the finding. The Potter Valley Community Unified School District maintains a safe and clean environment. The district works hard to insure that all students and staff are safe. Our schools are inspected on a regular basis to insure compliance with state and federal safety mandates.

3. Several students and parents gave specific examples and quotations made on different occasions of totally inappropriate sexual innuendoes and ethnic slurs made not only by students, but also by a few of the faculty.

**Response (Potter Valley School):** The respondent disagrees partially with the finding. While specific examples and quotations were reported, the district finds any sexual innuendoes or ethnic slurs made by either students or staff as totally unacceptable behavior and subject to investigation.

4. Incidents of physical assault or threats of assault by a few faculty members were formally reported to the administration by parents and students over a period of years. This lends credence to concerns of an unchecked pattern of misconduct practiced not only by students but also by a few faculty members. Two top school officials verbally acknowledged some critical aspects of these incidents to the Grand Jury.

**Response (Potter Valley School):** The respondent disagrees partially with the finding. Once reports are formally given to the administration, action is undertaken to remediate the situation and take corrective action as appropriate.

5. Everyone interviewed stated that this type of misconduct is absolutely unacceptable. The efforts made by the school administrators to implement appropriate corrective action was, in several cases, frustrated by the lack of adequate and timely documentation, as clearly required by existing school policy.

**Response (Potter Valley School):** The respondent agrees with this finding.

6. In one of the most serious incidents, involving alleged physical assault by a faculty member, an administrator informed us that they did not become aware of the incident in their office until two years after it occurred and only then decided on a reprimand.

**Response (Potter Valley School):** The respondent agrees with this finding.

7. The Grand Jury was frustrated by the School Administration's reluctance in allowing the Grand Jury to check personnel files to verify whether appropriate documentation exists, despite formal written opinions issued by the County Counsel and the District Attorney stating that such inspection is within the Grand Jury's purview. The Grand Jury never did get to see these personnel files.

**Response (Potter Valley School):** The respondent disagrees with the finding. The district after consultations with both employees and the district's attorneys felt it was not mandated to release information contained in employees' personnel files, and therefore, did provide this information to the Grand Jury. We do not think that this reluctance hindered the grand jury's efforts.

8. School administrators, teachers, students and parents interviewed knew of the existence of numerous written policies distributed annually to parents delineating parent's rights and responsibilities. Everyone was also aware of the Disciplinary Action Charts posted throughout the school detailing appropriate response for violations committed by students. However, not one of the administrators or teachers interviewed was familiar with any similar documents pertaining to misconduct by faculty or administrators, though such rules do exist.

**Response (Potter Valley School):** The respondent agrees with the finding.

## Recommendation

The Grand Jury recommends that clear and more detailed procedures analogous to those existing for students should be drawn up for teachers and administrators and should be publicized periodically and strictly enforced throughout the PVCUSD. Periodic training of teachers regarding these procedures is essential. Offensive or negligent actions practiced not only by students but also by any member of the faculty or administration must have serious consequences.

**Response (Potter Valley School):** The recommendation has not yet been implemented, but will be implemented in the future. The recommendation will be implemented at the start of the 2000-2001 school year. Detailed procedures are in the process of being developed and will be presented to the entire staff at the annual back-to-school meetings. In addition, the procedures will be reviewed with each new subsequent hire and periodically reviewed as part of the regular staff meetings, and included in the faculty handbooks.

## Finding

9. The Grand Jury found the recent interim changes in Potter Valley School Administrative personnel and their collectively stated dedication to correct these deficiencies encouraging. Existing plans to work together with the Mendocino County Human Rights Commission to find new ways to improve awareness of the need to respect diversity is considered a step in the right direction.

**Response (Potter Valley School):** The respondent agrees with the finding.

### **Recommendation**

The Grand Jury considers it important that the newly appointed Superintendent makes the resolution of these problems a top priority during his tenure.

**Response (Potter Valley School):** The recommendation has been implemented. As the new Superintendent, I am fully aware of the recommendation and plan to make the resolution of these priorities a major priority of my administration.

### **Finding**

10. All parents interviewed stated they were not adequately informed about actions taken by the school administration following the report of incidents.

**Response (Potter Valley School):** The respondent disagrees partially with the finding. While some parents may not believe that they were adequately informed, disciplinary action taken by the administration and/or board of trustees cannot always be discussed or divulged due to confidentiality of employee personnel files and student rights.

### **Recommendation**

Efforts must be made to keep all affected parties totally informed of decisions made by the administration and of actions to be taken. Open communication among administration, teachers, students and parents is essential for establishing good rapport.

**Response (Potter Valley School):** The recommendation has been implemented. Efforts will be made to keep all parties informed of any decision made by the administration as it relates to a specific incident.

### **Finding**

11. Hazing by football team members involving physical abuse was reported by several students and parents and fully acknowledged by a staff member interviewed by the Grand Jury. Appropriate disciplinary action was taken in some instances, but on other occasions, the record shows that only after

pressure exerted by the affected parties including coverage in the media, was appropriate action taken as required and clearly stated in the widely publicized Disciplinary Action Chart.

**Response (Potter Valley School):** The respondent agrees with the finding.

### **Recommendation**

Following any verified incidents of physical abuse, prompt and uniform disciplinary action must be taken. Judging from reported incidents to the Grand Jury, special vigilance must be exercised over excessively assertive members of the student body.

**Response (Potter Valley School):** The recommendation has been implemented. This incident occurred over two years ago. Since that time new procedures have been instituted to avoid this type of behavior. Annually team participants are reminded of the inappropriateness of this behavior and the consequences should it occur.

### **Finding**

12. Several students and parents expressed apprehensions about possible retaliatory actions, which might be exercised by fellow students and certain members of the faculty and administrators following the reporting of abusive incidents. Several of the teachers and administrators acknowledged that such apprehensions among some of the students and parents undoubtedly exist and are largely responsible for the lack of appropriate reporting of alleged incidents, which prevents any meaningful investigation and action.

**Response (Potter Valley School):** The respondent agrees with the finding.

### **Recommendation**

Greater effort and new approaches should be made by the School Administrators to create an environment in which both students and staff are openly encouraged to come forward and provide the necessary information without fear of reprisals. Any evidence of retaliatory actions, or threats thereof, should have very serious consequences that are clearly understood by everyone.

**Response (Potter Valley School):** The recommendation has been implemented. While there may be apprehension on the parts of parents and/or students, the new administrator is committed to insuring that no reprisals of any nature will be tolerated by staff

towards community, parents, or students who bring forward accusations.

**Comments**

The Grand Jury review of progress made in the Potter Valley Community Unified School District during this investigation is encouraging. Concrete plans are presently being made for greater participation by both students and staff in a variety of diversity awareness programs. The administrators, teachers, parents and students are involved in formulating these plans. The Grand Jury highly commends this action.

**Response Required**

Potter Valley Community Unified School District Board of Trustees

**Response Requested**

Potter Valley Community Unified School District

## POTTER VALLEY IRRIGATION DISTRICT

The Potter Valley Irrigation District (PVID) was formed in 1952. A five-member elected board of directors, which meets monthly, on the third Wednesday at the PVID office, governs the district. The PVID has an appointed Secretary/Treasurer and is acting as Tax Collector for the district. The Secretary/Treasurer/Tax Collector is salaried. The permanent employees of the district include the Superintendent, Assistant Superintendent, and Secretary/Treasurer/Tax Collector. There are seasonal employees, usually four, and they are employed during the summer, depending on the work schedule. The district waterways consist of sixteen miles of canal, with 85 main control gates and 700 service gates to private properties. There had been no overview by a Grand Jury since 1990.

### Reason for Investigation

The Grand Jury received a citizen's complaint.

### Method of Investigation

The Grand Jury interviewed complainant, members of the PVID Board of Directors, and the District Superintendent. An on-site visit was made to the PVID office. Grand Jury reviewed ten years of board meeting minutes, irrigation delivery records, bookkeeping and accounting records, full-time and part-time employee salary structure and the by-laws.

### Findings

1. A conflict of by-laws Section 9 and 16 existed. Section 9 states; "All complaints must be filed within five (5) days upon receipt of bill, or water delivery." Section 16 states; "All complaints must be filed within ten (10) days upon receipt of bill, or water delivery."

**Response (Potter Valley Irrigation District):** The 2000 Final Draft of the District By-Laws was reviewed by the Board of Directors at the June 21st Regular Meeting. The Bylaws were edited and reworked to eliminate the conflict of ByLaws that existed in the old version in use at this time. Also the statement in By-Law Section 16 regarding a customer losing the right to complain was deleted.

The final Draft was approved to go to an attorney for review of the terminology and legality of the rules contained in the new District By-Law document. When returned the District By-Laws will be sent out to every customer of the Potter Valley Irrigation District.

2. By-law Section 16, also states, "A customer loses his/her right to complain after ten days."

**Response (Potter Valley Irrigation District):** Customers were contacted and preferred that the Water Bills be sent at the end of the water season as in the past. However, when the updated By-Laws are sent out to the District customers, they will be notified that the District will provide them a up to date water bill at any time of the water season upon request.

### **Recommendation**

By-laws be edited for consistency and brought up to date.

### **Findings**

3. No written receipts are given to customers upon delivery of water.

**Response (Potter Valley Irrigation District):** At the July 19th regular meeting, on a motion by Dir. Bob Hess, seconded by Dir. Oberfeld, the Board approved taping all future Board meetings and retaining the tapes for one year. Supt. Elliott was authorized to purchase a tape recorder for this purpose.

4. Customers are billed annually in October.

**Response (Potter Valley Irrigation District):** Supt. Elliott has set up an on-going training program for all employees scheduled for the 1st Monday of each month at which the water tender record keeping as well as other aspects of the water tenders' job will be reviewed, and signed off by the employees present.

### **Recommendation**

Water usage bill should be sent on a monthly or quarterly basis.

### **Findings**

5. The Secretary/Treasurer is currently filling the position of acting Tax Collector.

**Response (Potter Valley Irrigation District):** Willits Attorney, Christopher Neary, was scheduled to meet with the Board at the July 19th meeting but was unable to attend. He is interested in serving as the legal counsel for the Potter Valley Irrigation District on an on-call basis. He is scheduled to be at the August 16th meeting to meet the Board of Directors to discuss the position.

6. It was determined after interview of board members, that nepotism no longer exists within the PVID.

**Response (Potter Valley Irrigation District):** The Board of Directors will give serious consideration to increasing the Superintendent's salary in January 2001 when the District Budget is set up for the year and the District Salary Schedule is established.

7. District record keeping was sloppy, and for some customers the water rates were incorrect.
8. Sloppy handwritten record keeping and financial bookkeeping data have been upgraded from handwritten to computer record keeping.

### **Recommendations**

1. A taping of all board meetings should be considered, and tapes retained for one year.
2. PVID is encouraged to have an on-going training program for all employees, which emphasizes the need for accurate record keeping.
3. The Board of Directors consider having legal counsel on an on-call basis for their board meetings.

### **Finding**

9. The Superintendent's salary was not commensurate with occupations in Potter Valley, with the same or lesser responsibilities.

### **Recommendation**

PVID give serious consideration to increasing the Superintendent's salary.

### **Comment**

The PVID was found to be financially sound. The governing board interviewees were knowledgeable, forthright and candid in their assessment of operations of the district. There was no evidence of corruption or favoritism. It appeared that efforts were being made to treat customers of the district fairly. The PVID is currently in the process of updating its by-laws. Citizens' complaints reviewed in the board meeting minutes for the past year appear to have been resolved. The district is making efforts to improve the irrigation system. The Superintendent is to be commended for his hands-on knowledge and dedication to the district.

**Response (Auditor-Controller):** As a special district with an independently elected/appointed board of directors, the financial management of the affairs of the district rest solely with the district directors and not the County of Mendocino. For the past number of

years, the district has been independently audited by outside auditors who also have the responsibility for reviewing the internal control procedures in place in safeguarding the fiscal assets of the district. The County of Mendocino nor my Office have any responsibility in that regard. However, we do act in a fiduciary capacity to insure that compliance reporting of annual financial transactions is timely submitted to the State Controllers Office on an annual basis.

**Response Required**

Mendocino County Auditor Controller  
Potter Valley Irrigation District Board of Directors

## REDWOOD VALLEY COUNTY WATER DISTRICT

Redwood Valley County Water District (RVCWD) provides water service to approximately 1100 residences and businesses within its boundaries. The district has a five-member elected Board of Directors and District Water Manager.

### Reason for Investigation

The Grand Jury received a citizen's complaint.

### Method of Investigation

The Grand Jury interviewed the complainant, Water Board members, Water District Manager, employees of the Mendocino County Agriculture Department, and personnel from the Mendocino County Health Department.

Documents reviewed: Mendocino County Clearigate Investigation 26-MEN-99; Irrigation Business and Technology Buyer Guide; RVCWD report, number 2310008, regarding herbicide use; minutes of a special meeting of May 24, 1999, the RVCWD Board of Directors; LaPorte Water Technologies and Biochem Inc. correspondence dated May 25, 1999; Clearigate label from Applied Biochemist; Mendocino County Agriculture Advisor letter dated November 8, 1999.

### Relevant Law

1. California Food and Agriculture Code Section 12973, which states: "The use of any pesticide shall not conflict with labeling registered pursuant to the chapter which is delivered with the pesticide or with any additional limitations applicable to any permit issued by the director or the commissioner."
2. California Food and Agriculture Code Section 12002, which states: "No person shall act, or offer to act as an agriculture pest control advisor in any county wherein he makes any recommendation for agriculture use without first registering with the County Agriculture Commissioner."
3. California Food and Agriculture Code Section 12003, which states in pertinent part as follows: "Agricultural pest control advisors shall put all recommendations concerning any agricultural use in writing."

### Findings

1. Clearigate, a chemical herbicide, was applied to the water reservoir twice without notification to district water users.

**Response (RVCWD):** The Board agrees that Clearigate, an herbicide manufactured by Applied Biochemists, was applied to its water

reservoir. The Board agrees that it did not notify district water users before the Clearigate was applied. The Board notes that notification of district water users was not required at that time by District policy or state or federal law, and that the district had no information at that time to suggest that the application of Clearigate would have any adverse effect on the quality of District water.

2. There were two infractions of the State of California Pesticide Regulations (SCPR). The Environmental Protection Agency of which SCPR is a part, levied a fine of \$900.00, i.e., \$700.00 against RVCWD and \$200.00 against Applied Biochemist.

**Response (RVCWD):** The Board disagrees that the Environmental Protection Agency (“EPA”) levied a fine of \$900 based on two infractions of State of California Pesticide Regulation. The county Agricultural Commissioner, not EPA, imposed a fine of \$700, not \$900. The fine was based on a violation of Food and Agriculture Code Section 12973 which states: “The use of any pesticide shall not conflict with labeling registered pursuant to this chapter which is delivered with the pesticide.” The violation did not involve the failure of the District to give prior notice to District customers of its intent to use Clearigate.

## Recommendation

Water district customers should be notified in advance of any use of chemicals not normally used, and date of application of chemical.

**Response (RVCWD):** The Board agrees that customers should be notified in advance when certain chemicals are added to the district’s drinking water. On June 3, 1999, over a year before the Grand Jury report was released, the Board adopted Resolution No. 99-10, which requires the district’s General Manager to get Board approval 14 days in advance (except in emergencies) before applying chemicals not used in the regular, routine treatment in the District’s domestic water system. The resolution prescribes a form of notice to district customers which must be mailed 10 days before the chemical is applied.

Resolution No. 99-10 was superceded in September 1999, by the adoption of Resolution No. 99-13, which requires Board approval for the use of herbicides, insecticides or pesticides at least 45 days in advance and requires 30 days advance notice to District customers. Resolution No. 99-13 also adopted standards governing the use of such chemicals and requires the district to adopt a testing program for use after any such chemical is added to District waters.

The Board notes that the Grand Jury findings have no connection to its recommendation, since the fine imposed by the Agricultural Commissioner was not related to a lack of notice to district customers,

and, in fact, the Agricultural Commissioner specifically found that no such notice was required.

### **Finding**

3. Clearigate was applied to water in the reservoir in excess of Clearigate label instructions.

**Response (RVCWD):** The Board agrees that the Mendocino County Agricultural Commissioner found that there may have been an over-application of Clearigate based on label instructions. The Board notes that the first time Clearigate was used in the District's raw water reservoir, it was applied by Bill Thomas who is employed by Applied Biochemists, the manufacturer of Clearigate. The Department of Agriculture determined that Mr. Thomas calculated the amount of Clearigate to apply, and that he actually performed the first application on May 13, 1999. That application was also observed by a representative of the Agricultural Commissioner who did not note any violations at the time of the application. District employees, including the General Manager, relied upon the manufacturer to properly apply Clearigate in compliance with label instructions developed by the manufacturer.

### **Recommendation**

The RVCWD Board of Directors should follow the law and insist that the Water District Manager adhere to all chemical label instructions.

**Response (RVCWD):** The Board agrees that it should follow the law and that its employees should follow the law and chemical label instructions. The Board notes that its employees made a good faith effort to do that in applying Clearigate and justifiably relied on the manufacturer's employee to correctly apply the material.

### **Findings**

4. The Allied Biochemist, Inc. representative acted as a Pest Control Adviser without first registering with the Mendocino County Agriculture Commissioner.

**Response (RVCWD):** The Board agrees that the Agricultural Commissioner found that Applied Biochemists' employee should have registered with the Agricultural Commissioner as a Pest Control Adviser ("PCA") before writing a recommendation for the use of Clearigate.

5. Mendocino County Health and Agricultural Departments' officials indicated use of Clearigate did not present an extreme danger to the health of RVCWD customers.

**Response (RVCWD):** The Board disagrees with the Grand Jury's characterization that Mendocino County Health and Agriculture Department officials indicated that use of Clearigate did not present "an extreme danger" to the health of District water users. Rather, the county Agriculture Department stated that Clearigate is registered with the U.S. and California EPAs for use in potable water reservoirs. It has no use restrictions during or following applications. Although the material data sheet describes health hazard data, it is based on human exposure to 100% concentrations which are never achieved in the field. The hazards described on the label are based on people handling the concentrated product. When products are registered with the EPA, there are built in safety factors of at least 100 times below the level where injuries could occur.

The California Department of Health Services –Drinking Water Field Operations Branch wrote:

Upon investigation by DWP in conjunction with the Office of OEHHA, Clearigate was confirmed to be non-health hazardous to humans and is commonly used for aquatic weed control in potable water reservoirs.

6. Mendocino County Agriculture Department requested the State of California Department of Pesticide Regulation reevaluate the use of Clearigate in domestic water supplies.

**Response (RVCWD):** The Board has no knowledge on which to agree or disagree with this finding.

7. The RVCWD Manager has the responsibility to add chemicals to the water for the district.

**Response (RVCWD):** The District's General Manager is the administrative head of the District and is responsible for the day-to-day management of the District and its employees, subject to the policies adopted by and the ultimate control of the Board.

8. The RVCWD Manager has been employed by the District for over 20 years. According to testimony he apparently believes he can act independently of the Water District Board of Directors.

**Response (RVCWD):** The Board does not believe the statement in finding no. 8 constitutes a "finding." It draws a conclusion about what

the district's General Manager believes from unspecified "testimony." It is the Board's opinion that such statements undermine the credibility of a Grand Jury report. The Board does not understand what the report means by "acts independently of the Board." The Board has not been presented with evidence that the General Manager has exceeded his authority or failed to follow policies established by the Board.

9. According to testimony, the RVCWD Manager has, on previous occasions, misinformed the members of the Board of Directors regarding happenings or events within the RVCWD of which they should be cognizant.

**Response (RVCWD):** The Board cannot agree or disagree with this finding, because it is vague and unspecific. The Board does not understand how these vague statements relate to the Clearigate incident, which appears to be the subject of the Grand Jury investigation. Again, it is the Board's opinion that such vague and apparently unrelated statements undermine the credibility of a Grand Jury report.

### **Recommendation**

The RVCWD Board of Directors should take more active and positive control of their District and enact strict guidelines for its operation.

**Response (RVCWD):** The Board believes that it actively controls the operations of the District and has enacted adequate guidelines for the District's operations. As previously stated, it acted promptly after the Clearigate incident to adopt resolutions governing the future use of chemicals in District waters.

It is the Board's opinion that the Clearigate incident does not evidence a failure of the Board to exercise adequate control of the District's operations. The General Manager reported to the Board his intent to apply Clearigate to the district's reservoir before it was applied. Clearigate was approved for the intended application and the General Manager relied upon the recommendations of the product's manufacturer, whose employee actually applied the material on May 13, 1999. The foaming and smell that district customers experienced had never been reported after any previous application of Clearigate. The Board regrets the adverse affects that resulted from the Clearigate application, and it has taken steps to reduce the likelihood that a similar even will occur in the future. However, the unpleasant conditions experienced by district customers were not anticipated and the Board does not believe that any evidence has been presented that the negligence of the Board, the General Manager or any other district employee caused these problems.

### **Response Required**

Redwood Valley County Water District Board of Directors

## **WESTPORT COUNTY WATER DISTRICT**

The Westport County Water District (WCWD) was established in 1972. WCWD, through Federal and State grants, was to establish a Community Water and Sewer District. WCWD was formed to provide water and sewer services to approximately 250 homes and businesses. There are 58 full-time residential households. Upon completion of the hook-ups to the system, there were 61 water hook-ups and 52 sewer hook-ups within the district; five of these were commercial buildings. All homes and businesses have water meters. Originally dwellings were allowed 6,000 and businesses 12,000 gallons of water per month at a base rate, plus any overage, at a special rate. There is an existing contract with Wages Creek Campground for the purchase of water. Cal-Trans and independent contractors also purchase water from WCWD.

### **Reason for Review**

The Grand Jury received a citizen's complaint.

### **Method of Investigation**

The Grand Jury interviewed complainant, members of the WCWD Board of Directors (Board), Secretary/Treasurer, Water District Manager/Operator, business owners, Mendocino County Auditor-Controller, and Mendocino County Assessor/Clerk-Recorder.

Reviewed Documents from the California State Water Resources Control Board, WCWD financial records, WCWD Regulations, Board meeting minutes and Grand Jury Final Reports for 1992 and 1993.

### **Relevant Law**

1. California Code of Regulations, Title 22, Section 64453, Record Maintenance.
2. California Government Code, Section 87203, Annual Statement.

### **Finding**

1. For the last several years there have been three members on the Board. WCWD By-laws require five members.

### **Recommendation**

A greater effort should be made to fill vacancies on the Board.

### **Finding**

2. WCWD By-laws require monthly Board meetings. The WCWD meeting schedules are not kept.

### **Recommendation**

Board meetings should be conducted on a regular monthly schedule.

### **Finding**

3. Citizens filing complaints, and requesting to be placed on the agenda, are not given proper attention as required by law. They may or may not receive a hearing on their complaint.

### **Recommendation**

The Board must conduct hearings on all complaints in accordance with WCWD Regulations.

### **Finding**

4. The Billing Clerk, a volunteer, executes water shut-offs for delinquent customers, without consulting the Board.

### **Recommendation**

The WCWD Board should review and approve all water shut-offs prior to execution as required by WCWD Regulations.

### **Findings**

5. The Grand Jury heard testimony that the rate schedule is unfair.
6. Meters are read once a month and recorded by the WCWD Manager. Even though there are meters in place, the customers of the district are now charged on a flat rate basis.

### **Recommendation**

A complete review of the WCWD water and sewer rates should be conducted.

### **Finding**

7. One large lot, which is divided into seven parcels, has five RVs, all hooked up to one water and sewer line and paying a single rate of \$76.50 per month.

### **Recommendation**

A complete review of all properties within the district, both occupied and vacant, be made to determine if the district is receiving all revenues due.

### **Findings**

8. Monthly billings are not mailed out to customers on a specified date.
9. Citizens are threatened with penalties and shut-offs without first receiving a monthly statement.

### **Recommendation**

The Board needs to set a specific date for billing customers and adhere to it. WCWD shut-off procedures should be strictly followed.

### **Finding**

10. Waste Water Capital Reserve Fund is currently in arrears. This Fund is mandated by the California State Water Resources Control Board to be paid annually.

### **Recommendation**

Delinquent payments into the Fund should be brought up to date.

### **Finding**

11. A Board member failed to disclose all property holdings on Statement of Economic Interests Report Form (California Fair Political Practices Form 700) dated March 10, 1999.

### **Recommendation**

The Grand Jury recommends that the Mendocino County District Attorney determine if any action is indicated.

**Response (District Attorney):** At the request of the Grand Jury, all documentation was referred to the Fair Political Practices for its consideration of any action they deem appropriate. That agency has primary enforcement jurisdiction under the Fair Political Practices Act.

### **Finding**

12. The Grand Jury's interviews and review of letter responses to a concerned citizen's inquiry, indicated a great dissatisfaction in the manner in which the affairs of the WCWD are being handled by the current Board. Concerned citizens feel that they are not treated fairly.

**Recommendation**

The Board should consider hiring a general manager to conduct the affairs of the District and that the Board act as a policy making body only.

**Response (Westport County Water District Board of Directors):**  
No response received.

**Response Required**

Mendocino County District Attorney  
Westport County Water District Board of Directors

## **1998-99 GRAND JURY FINAL REPORT RESPONSE REVIEW**

The 1999-2000 Grand Jury reviewed the responses to the 1998-99 Grand Jury report and determined the status of recommendations in that report. Responses are directed to the Presiding Judge of the Mendocino County Superior Court and are available at the Mendocino County Clerk-Recorder's office where they are permanently filed. The responses also appeared in early October 1999, along with the Grand Jury Report, as an insert in five County newspapers.

### **Relevant Law**

Requirements for responses are mandated in California Penal Code Sections 933 and 933.05, which are included elsewhere in this Final Report.

### **Findings**

A tabular summary of the status of recommendations is found on the pages that follow. The Mendocino County responses were prepared by the office of the County Administrative Officer. All other responses were compiled by the Grand Jury. The 1999-2000 Grand Jury found that some responses required follow-up. The results of these reviews appear below.

### **DOG LICENSING AND RABIES VACCINATIONS**

In reviewing the responses to the 1998-99 Grand Jury Report from the Animal Control Director and the Board of Supervisors (BOS), the Grand Jury identified areas that needed additional clarification.

#### **Department Action**

The policy with respect to late penalties of unlicensed dogs is as follows:

1. The owner of any dog, when it can be demonstrated they have previously licensed their animal(s) and have failed to renew their license(s), is subject to a late penalty.
2. The owner of any unlicensed dog, where the County was able to determine that information through veterinarian records, shall not be charged a licensing penalty for that animal.

**Response (Board of Supervisors):** The Board agrees with this finding.

## Comment

The BOS should institute an amnesty period during which **all** owners of unlicensed dogs can obtain licenses by meeting the rabies requirement and paying the current year fee only, waiving any past yearly fees. The policy as stated gives an advantage to owners who have never licensed their dogs.

**Response (Board of Supervisors):** The Board agrees with the Department of Animal Control response is that the intent of the policy is to waiver penalties where ownership was learned through vaccination information. Since individuals who have previously licensed their pet are aware of licensing laws and procedures, in comparison to individuals who may not be aware, those “knowing” individuals are subject to penalties. The Board agrees that the recommendation on instituting an amnesty period is worth further evaluation and will recommend the issue be forwarded to the Public Resource Committee for further discussion, returning to the full Board with recommended options and/or alternatives.

## Department Action

An amended Animal Control Ordinance consistent with the policy and procedure manual has been written and reviewed by County Counsel. The BOS will hold a public hearing before adopting the new ordinance. Developing a policy and procedure manual is a dynamic process. The manual is continually updated as required.

**Response (Board of Supervisors):** The Board adopted the amended Animal Control Ordinance on August 8, 2000. The Board agrees with the statement that the policy and procedure manual is a dynamic process, requiring continuous updates, and acknowledges that efforts should be made to maintain an updated manual.

## Comment

The Grand Jury reviewed the policy and procedure manual in process of revision. The completed sections were read on the computer at the Animal Control Office and it was reported by staff that a print copy will be kept at the office when the revision is completed. The 1998-99 Grand Jury reported that the manual they reviewed was written in 1992. The 1991 Grand Jury reported on the lack of a policy and procedure manual and recommended that one be written.

**Response (Board of Supervisors):** The Board agrees with the Animal Control Department’s response that the departmental policy and procedure manual is now complete and will be revised as necessary.

## **Department Action**

The County is required to have an appeals board for final disposition of its administrative hearings. Through the Ordinance amendments the former Advisory Committee is to be renamed the Animal Care and Control Committee.

**Response (Board of Supervisors):** The Board agrees with the Department of Animal Control response that this issue was addressed in the recent revision to the Animal Control Ordinance, Title 10, of the Mendocino County Code. The Board approved the renaming of the former Advisory Committee to the “Appeals and Advisory Board”.

## **Response Required**

Mendocino County Board of Supervisors

## **Response Requested**

Mendocino County Animal Control Department

## **TRANSIENT OCCUPANCY TAX (TOT)**

### **Department Action**

A data base has been established as recommended by the 1998-99 Grand Jury. An improvement to the program has been requested.

**Response (Board of Supervisors):** The Board agrees with the Treasurer-Tax Collector that the computer data base established maintains, to the best of the County’s ability, an accurate accounting of all TOT units in the County. The Board further agrees that the current practices of using the Internet and other advertisements is effective in collecting the vast majority of TOT. The Board agrees with Assessor-County Clerk-Recorders response that its office neither collects nor audits transient occupancy tax.

### **Comment**

The 1999-2000 Grand Jury requested a copy of the TOT data base that includes the names and addresses of identified facilities subject to TOT. When the copy was not received within 30 days, the Grand Jury offered to go to the Tax Collector’s office to review the data base. No response was received to our request.

**Response (Board of Supervisors):** Understanding the dilemma of the Department with job responsibility changes and associated training, the Board urges the Treasurer-Tax Collector to respond to future Grand Jury requests in a more expeditious manner.

### **Department Action**

The 1998-99 Grand Jury suggested that a procedure be established which included an active plan for collecting TOT. The Tax Collector responded that they are using the internet and other advertisements to identify lodging facilities.

**Response (Board of Supervisors):** The Board recommends that the current Grand Jury discuss the County's procedure for enforcement of collection of Transient Occupancy Taxes with the Treasurer-Tax Collector. The Board continues to believe that the collaborative approach currently utilized by the Treasurer-Tax Collector, Environmental Health, and the Planning and Building Services Departments is effective in collecting TOT. The Board supports the Treasurer-Tax Collector's present collection procedure. The Board agrees with Assessor-County Clerk-Recorders response that its office neither collects nor audits transient occupancy tax.

### **Comment**

The 1999-2000 Grand Jury requested the written procedures for identifying facilities required to pay the TOT, for collecting taxes from the identified facilities and for enforcing compliance. No response was received.

**Response (Board of Supervisors):** Due to the changes in Grand Jury members and lack of "institutional memory", the Board recommends that the procedures followed by the Treasurer-Tax Collector regarding the enforcement of the collections of TOT be once again provided to the present Grand Jury. The Board wishes to note that it has agreed to fund a part-time support staff position to the Grand Jury within the 2000/01 Final Budget. This position will enable the current and future Grand Juries to establish a records management system as well as retain some "institutional memory".

### **Recommendation**

The BOS should review with the Treasurer the current procedures and determine if they are adequate to insure compliance.

**Response (Board of Supervisors):** The Board supports the Treasurer-Tax Collector's present TOT collection procedures.

**Response (Treasurer-Tax Collector):** The procedures followed by this office regarding the enforcement of the collections of TOT have been explained in numerous reports previously submitted to the Grand Jury, and I therefore have not included additional explanations with this memo. If the current Grand Jury would like to discuss these procedures I would be happy to schedule a meeting to further discuss this matter.

The ongoing problem with the TOT collected by Mr. Jim Robichaud and not forwarded to the county is in the handle of the District Attorney. I have been unsuccessful in my attempts to receive any information regarding this matter from that office, and therefore have no additional information to report on this matter at this time.

**Time frame for Implementation:** The department anticipated the completion of concise written procedures for all reports of TOT collection by the end of January 2001.

### **Response Required**

Mendocino County Board of Supervisors  
Mendocino County Assessor/Clerk-Recorder  
Mendocino County Treasurer-Tax Collector

## **FORT BRAGG UNIFIED SCHOOL DISTRICT (FBSD)**

### **Background**

The 1997-98 Grand Jury, in response to citizen complaints, investigated alleged irregularities in actions of the Fort Bragg Unified School District. One of the allegations questioned the legality of cash payments in lieu of health insurance premiums to Board members. The 1997-98 Grand Jury found that such cash payments were in violation of the California Government Code Sections 53200-53210 and made the recommendation that "Money paid in lieu of insurance premiums legally belongs to the FBSD and should be paid back in full." FBSD indicated that they did not agree with this recommendation.

The 1998-99 Grand Jury reported that the school district did not respond to the 1997-98 Grand Jury findings and recommendations, "...but instead wrote a response critical of the Grand Jury." After completing their review, the 1998-99 Grand Jury recommended to the District Attorney, that the evidence be reviewed to determine if a violation had occurred and to consider bringing charges.

The Mendocino County District Attorney requested an opinion on the matter from the California Attorney General. The Attorney General's opinion (No. 00-111) was entered into the public record on May 3, 2000. Its conclusions are as follows:

- “1. A school district may not make cash payments to members of its governing board in lieu of providing them with health insurance benefits.
2. Making such unauthorized cash payments may constitute a criminal offense, depending on the individual circumstances.
3. A civil action for reimbursement may be brought by affected individuals or organizations, taxpayers, or the Attorney General against those members of the governing board who received the unauthorized cash payments.”

Based upon the Attorney General's opinion the District Attorney concluded that “... the School District acted in good faith and not with criminal intent,” and “It would not serve the public's interest to criminally prosecute....”

The District Attorney further concluded that only the Grand Jury has the authority to initiate an action to remove members of the school district from office and they must decide whether the conduct in this case merits such removal.

## **Comment**

The Attorney General's opinion regarding criminal prosecution focuses on whether the failure to comply with the Government Code was willful or if there was an intent to defraud and it is appropriate that this determination be made by the County's District Attorney. This direction has been followed in this case. The decision to pursue civil action has yet to be determined.

**Response (Fort Bragg Unified School District):** The issue surrounding compensation and health benefits for board members all arose out of efforts of the Governing Board (“Board”) to reduce the District's costs. Government Code Sections 53200 et seq. and Education Code Section 35120 respectively authorize health and welfare benefits and compensation for board members. Under Government Code Section 53208, board members may participate in any permitted benefit plan “{n}otwithstanding any statutory limitation upon compensation.” Under Education Code Section 35120, board members in a school district the size of Fort Bragg may be compensated up to \$240.00 per month. On August 23, 1993, the Board acted to limit the maximum value of benefits and compensation to a specific dollar value. Specifically, the Board limited the dollar value to the annual cost of a single payer health coverage, which, at the time, was \$203.01 per month. The Board took this action in public sessions for the sole purpose of saving the District money. The District Attorney, after appropriately concluding there was no intent to take or receive anything illegally, declined to pursue criminal action. A civil action may be brought to challenge illegal expenditures of funds. The Attorney General has concluded “a school district may not

make cash payments to members of its governing board *in lieu of* health benefits.” (2000 WL 552166, \* (Cal.A.G.) (Emphasis added.) However, the Board did not authorize the type of election the Attorney General has concluded to be illegal. Moreover, it is clear the board members did not at any time receive cash of benefits greater than authorized by the Education Code and Government Code. In fact, by taking the action they did on August 23, 1993, they received substantially less.

The minutes of the Board’s August 26, 1993, meeting, a copy of which is attached, confirm that the action taken was to “limit Board insurance coverage *or* compensation to the annual cost of single health coverage...” the effect of the August 26, 1993, action was to approve both benefits and compensation for board members and impose a dollar value limit on benefits and compensation equal to the single payer rate. As a result, a board member’s decision to receive health benefits was a decision to receive benefits under the Government Code. Similarly, a board member’s decision to receive cash was a decision to receive compensation under the Education Code, not a decision to receive cash “in lieu of” benefits.

A civil action for injunctive relief also may be brought to discourage “waste,” a term that “means something more than an alleged mistake by public officials in matters involving the exercise of judgment or wide discretion.” (*City of Ceres vs. City of Modesto* (1969) 274 Cal.App.2d 545, 555.) The District saved money as a result of the Board’s action to limit the value of members’ compensation and benefits. In sum, there was no “waste” as that term is commonly understood or as that term has been defined in the context of taxpayer suits. Further, as of May 11, 1995, the Board discontinued cash compensation at any level for its members.

The District respectfully submits that the Board’s actions were taken in good faith for the benefit of the District and that a civil action to recover cash payments to board members would not be supported by the facts and circumstances surrounding the Board’s August 26, 1993, action. With respect to the issue of representation on the Community Advisory Commission, the District has appointed a representative.

## **Response Required**

Fort Bragg Unified School District

### **SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)**

The 1998-99 Grand Jury Report on SELPA contained four recommendations, one of which concerned the lack of full membership on the Community Advisory Committee (CAC). Members of the CAC are parents of children in special education who advocate for necessary funding and assure that state standards and the special needs of the children are met.

Representatives have been appointed by the Mendocino Office of Education and six unified school districts (Laytonville, Mendocino, Potter Valley, Round Valley, Ukiah and Willits). However, the following districts continue to lack representation: Anderson Valley, Arena/Point Arena, Fort Bragg, Leggett and Manchester, leaving these communities without a voice in making the critical financial and program decisions that affect their children.

**Response (Point Arena Union High School):** The Point Arena Joint Union High School District/Arena Union Elementary Districts agree with the recommendation that a person be appointed as representative to the Community Advisory Committee of the Special Education Local Plan Area (SELPA).

The Point Arena Joint Union High School District/Arena Union Elementary Districts in spite of continuous efforts have been unable to get any person to accept the assignment of appointment as representative to the Community Advisory Committee of the Special Education Local Plan Area (SELPA). The Districts will continue their efforts in this regard.

**Response ( Leggett High School):** The Leggett Valley Unified School District agrees with the recommendation that a person be appointed as representative to the Community Advisory Committee of the Special Education Local Plan Area (SELPA).

The Leggett Valley Unified School District in spite of continuous efforts has been unable to get any person to accept the assignment of appointment as representative to the Community Advisory Committee of the Special Education Local Plan Area (SELPA). The District will continue its efforts in this regard.

**Response (Anderson Valley):** Response not received.

**Response (Arena Union Elementary):** Response not received.

**Response (Fort Bragg):** Response not received.

**Response (Manchester):** Response not received.

### **Response Required**

Anderson Valley Unified School District  
Arena Union Elementary School District  
Fort Bragg Unified School District  
Leggett Valley Unified School District  
Manchester Elementary Union School District

Point Arena Union High School

**Final Comment**

The Grand Jury wishes to express thanks for the cooperation and support received from the County Administrative Office in completing this review of responses to last year's Grand Jury Report.