

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

**Certified Copy of Portion of Proceedings, Meeting of Tuesday, September 21, 2004**

**SUBJECT: RESPONSE TO THE 2003-04 GRAND JURY REPORT**

- ACTION:**
1. Reviewed the draft Board of Supervisors' response to the 2003-04 Grand Jury Report.
  2. Approved the documents as the response from the Board of Supervisors.
  3. Directed the Clerk of the Board, within five working days, to submit the final response with an accompanying Board Order, to the Presiding Judge of the Superior Court.
  4. Directed the Clerk of the Board, within five working days, to submit two copies of all responses to the County Clerk/Recorder, one of which will be forwarded to the State Archivist, together with a copy of the original report.

Adopted on motion by Supervisor Neely, seconded by Supervisor Smith, and the following vote:

**AYES:** Supervisors Smith, Rodoni, Woolley, Neely, and Geist  
**NOES:** Supervisor Rodoni  
**ABSENT:** None  
**ABSTAIN:** None


STATE OF CALIFORNIA )  
County of Humboldt ) s.s.

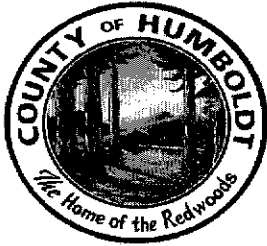
I, LORA CANZONERI, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto  
set my hand and affixed the Seal of said  
Board of Supervisors

LORA CANZONERI

Clerk of the Board of Supervisors of  
the County of Humboldt, State of  
California

  
September 21, 2004



COUNTY OF HUMBOLDT

AGENDA ITEM H-1

For the meeting of: September 21, 2004

Date: September 10, 2004
To: Board of Supervisors
From: Loretta Nickolaus, County Administrative Officer
Subject: Response to the 2003-04 Grand Jury Report

RECOMMENDATION(S):

That the Board of Supervisors:

- 1. Review and modify the draft Board of Supervisors' response to the 2003-04 Grand Jury Report;
2. Approve the documents, as may be modified, as the response from the Board of Supervisors;
3. Direct the Clerk of the Board, within five working days, to submit the final response with an accompanying Board Order, to the Presiding Judge of the Superior Court; and
4. Direct the Clerk of the Board, within five working days, to submit two copies of all responses to the County Clerk/Recorder, one of which will be forwarded to the State Archivist, together with a copy of the original report.

SOURCE OF FUNDING: General Fund

DISCUSSION:

Annually, the Grand Jury submits a report to the Presiding Judge of the Superior Court. Each department

Prepared by Karen Suiker

CAO Approval [Signature]

REVIEW: Auditor County Counsel Personnel Risk Manager Other

TYPE OF ITEM:
Consent
[X] Departmental
Public Hearing
Other

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor
Seconded by Supervisor
And unanimously carried by those members present,
The Board hereby adopts the recommended action
contained in this report.

PREVIOUS ACTION/REFERRAL:

Board Order No. \_\_\_\_\_

Dated: \_\_\_\_\_
Lora Canzoneri, Clerk of the Board

Meeting of: \_\_\_\_\_

By: \_\_\_\_\_

head or agency mentioned in the report is required to prepare a response. Responses from all appointed County officials are compiled by the County Administrative Office and submitted as a package to the Board of Supervisors.

Draft proposed responses from the Board of Supervisors are also included for consideration and modification as the Board deems appropriate. In addition, for the sake of provide a compilation of all responses in a single document, copies of responses that have been received from elected officials and other agencies are also attached.

FINANCIAL IMPACT:

None.

OTHER AGENCY INVOLVEMENT:

All agencies referenced in the Grand Jury Report are involved.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may elect to modify any response pertaining to matters under its control.

ATTACHMENTS:

All responses from mentioned departments, elected officials and others.

KS/bd

Attachments

cc: Grand Jury  
All Departments w/o attachments  
KS  
Chron. File

F:CAOStaff/Grand Jury 2003-04

**Canzoneri, Lora**

---

**From:** Canzoneri, Lora  
**Sent:** Wednesday, September 22, 2004 10:09 AM  
**To:** Santos, Harla  
**Cc:** Crnich, Carolyn  
**Subject:** Grand Jury Response

At yesterday's Board of Supervisors' meeting, I was directed to send the response to the 2003-04 Grand Jury Report to Presiding Judge Cissna.

I was also directed to send two copies of the response, plus the report, to the County Clerk-Recorder.

I wanted to let you know that these documents have been sent to you in inter-office mail.

Thank you very much.

***LORA CANZONERI***  
Clerk of the Board of Supervisors  
825 Fifth Street, Suite 111  
Eureka, CA 95501-1153  
(707) 476-2384  
[lcanzoneri@co.humboldt.ca.us](mailto:lcanzoneri@co.humboldt.ca.us)



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**Driver**

### Rodoni calls ethics codes worthless

By James Tressler The Times-Standard

EUREKA -- Humboldt County supervisors on Tuesday voted 4-1 to direct staff to look into coming up with a code of ethics to guide elected and appointed county officials.

But 2nd District Supervisor Roger Rodoni, who cast the lone dissenting vote, says he doesn't put much stock in the idea.

"A code of ethics isn't worth the piece of paper it's written on," said Rodoni, who in the past himself has fallen under public scrutiny over possible conflicts of interest. "Codes of ethics are merely words."

Rodoni maintained the state already has firmly established such guidelines, which the county follows.

The board's decision was prompted by a grand jury report earlier this year that called on the board to adopt broader guidelines to address issues such as the appearance of conflict. The grand jury cited, for example, the recent controversy involving Fortuna City Councilwoman Debi August, a real estate broker who's the subject of a grand jury accusation seeking to remove her from office for alleged conflict of interest for representing the developer who wants to build a subdivision before the city Planning Commission.

Rodoni fell under fire last year when he joined a majority of supervisors in turning down District Attorney Paul Gallegos' request to hire outside counsel to assist with a lawsuit against Pacific Lumber Co. Rodoni, who leases a ranch from Palco, did not recuse himself but consulted with the state Fair Political Practices Commission before the vote. But critics argued Rodoni should have recused himself to avoid the appearance of a conflict.

On Tuesday, Rodoni argued it's dangerous to incorporate appearance into how elected officials make decisions -- saying that such a standard could make officials susceptible to "rumor and innuendo."

He added that he believes those who frequently accuse public officials of such improprieties are driven more by a political agenda rather than by facts.

OTHER ARTICLES IN THIS SECTION

9/22/2004

- **Stoen 'welcomes' AG's intervention in August case**

- **City passes plan that outlines Eureka's future challenges**

- **Lease termination on harbor district agenda**

- **A reveille for those who remember Beverly**

- **Hoopa Tribe gets \$145K grant for library enhancement**

- **Accused son-in-law killers make court appearance**

- **County suspends building permit**

- **HSU's wildlife team nabs fourth straight crown**

- **Healdsburg couple grateful for city's help**



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Rodoni cited the Eureka City Council race between incumbent Chris Kerrigan and challenger Rex Bohn.

"We have in Eureka a situation where the political interests or activism of people seeking office or people helping others seek office where their motives and ethics are highly questionable -- and I'm speaking of Mr. Salzman," Rodoni said, referring to Richard Salzman who is campaigning for Kerrigan. Rodoni blasted Salzman for making "outrageous accusations" about Bohn.

The other supervisors actually agreed with Rodoni on the ethics point, but said the county should go along with the grand jury's recommendations. Third District Supervisor John Woolley said while he's not sure what a code of ethics can accomplish, the grand jury report seems to reflect the interests of the public.

County staff is expected to come back to the board in about six months with final recommendations.

- **Nation's historians converge in Eureka**
- **Fortuna man sentenced to prison for cutting down tree**



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**PERSONAL**

cc: COB  
County Counsel  
BOS  
CAO

Sender: Schmidt

**Object: BOS Agenda H-1: Responses 03-04 GJ Report**

Phone: 1-707-488-5355

- Fax: 1-707-488-5355

P. O. Box 5 Orick, CA 95555-0005  
95555-0005 Orick, CA

**To: Jill Geist**

Company:

Date: 9/20/2004 - 9:29 PM

**MESSAGE**

Number of pages: 3

Madame Chair:

Attached is comments which I hope you or your designee will read into the record as I am medically unable to present in person.

Thank you so much for your representation!!!

Judith Schmidt  
P. O. Box 5  
Orick, CA 95555-0005  
488-5355  
schmidtjudy@aol.com

F A X T R A N S M I S S I O N

**SEPTEMBER 21, 2004**  
**HUMBOLDT COUNTY BOS Agenda Item: H-1**  
**Response to 2003-04 Grand Jury Report**

NAME: Judith D. Schmidt, Orick, CA

As Foreperson of the 2003-2004 Humboldt County Grand Jury (GJ) I have eagerly awaited the publication of the responses to our GJ Report: Finding's & Recommendations. My comments today are based solely on my **PERSONAL OPINION**, as time did not allow me to consult with the full 2003-2004 GJ.

First, with pride, I truly believe **our GJ**, through its report, accomplished its objective: assess the efficiency, effectiveness and ethics of local government. We did this through many, many hours of dedicated work and long hours sifting through documents, policy's & procedure; interviewing, taping and transcribing dozens of personal interviews from numerous county staffs, elected officials - legislative and judicial - as well as other Humboldt County citizens; and thoroughly analyzing, recording and reporting on what we found.

**Unfortunately, I have not had sufficient time to thoroughly analyze ALL Responses. MY comments are:**

- (1) Ethics was our cornerstone this term! How **pleased** I am to report that the BOS and the City of Eureka have responded positively to our recommendations. Both plan to consider the development and implementation of a Code of Ethics, including full participation by the electorate and Conflict of Interest training to be provided by the county. Yet, another issue remains to be resolved within the judicial system. The importance of each Humboldt County citizen's ability to rely on unbiased and fair local governmental decisions, **cannot be overemphasized!!!!**
- (2) Humboldt County Sheriff Philp also responded, positively, to the GJ's recommendations! His Department has already implemented a couple recommendations and has requested that the General Services Administration comply with some others; especially the critical need for a new computer system.
- (3) Community Development Services: Some responses appear potentially contradictory but, on balance, do seem to indicate that CDS will implement a tracking system to both cover citizen complaints and verification of the Rapid Check/Rapid Process program: to ensure it is properly authorized according to Statute, tracked as to actual cost and offered to ALL Humboldt County building department permit applicants!
- (4) County Counsel: Alas, we continue to see a difference of opinion on the assessment of the "potential perception" of Conflict of Interest although recognition has been given to the GJ's right to access confidential information via a Court Order.
- (5) Department of Health & Human Services: Obviously much time has been spent, by both

*Copy of report  
Reviewed*

parties: GJ in observing and reporting and Department of Health & Social Services (DHSS) management on response and explanations. The GJ raised its concern with the vulnerabilities, risk and safety of both those dependent adults or elderly who use the Adult Protective Services ( APS) and those children and families who used the Child Welfare Services( CWS) through the Foster Family Program.

**For both parties:** Time involvement is an issue; reliance on information provided by others is a big issue; mutual concern with the risk to and the safety of those most vulnerable within our society and, most importantly, how best to protect them; confusion and frustration with government regulation without the necessary funding; uncertainty over lack of authority and role of the recipient; hope from new programs.

**END RESULT:** Opportunity exists to begin and CONTINUE a dialogue between DHSS, staff and medical personnel (outside advisors perhaps could provide some independent perspective?) to not judge, but look openly at any possible plan of resolution, held in an OPEN atmosphere willing to consider and analyze alternative measures of addressing the plight of human beings today.

Thank you!

# COUNTY OF HUMBOLDT

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## **Grand Jury Report #2004-AF-01**

### **THE ABSENCE OF ETHICS CODES IN HUMBOLDT COUNTY**

#### **WHO SHALL RESPOND:**

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-AF-01 shall be provided as follows:

- The Humboldt County Board of Supervisors shall respond to Findings and Recommendations 1, 4, and 5.
  - The Humboldt County Chief Administrative Officer shall respond to Finding and Recommendation 5.
  - The City of Blue Lake shall respond to Findings and Recommendations 1 and 4.
  - The City of Eureka shall respond to Findings and Recommendations 1 and 4.
  - The City of Ferndale shall respond to Findings and Recommendations 1 and 4.
  - The City of Rio Dell shall respond to Findings and Recommendations 1 and 4.
  - The City of Trinidad shall respond to Findings and Recommendations 1 and 4.
  - The City of Fortuna shall respond to Findings and Recommendations 2 and 4.
  - The City of Arcata shall respond to Findings and Recommendations 3 and 4.
- 

The citizens of Humboldt County are entitled to have fair, ethical and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be independent, impartial and fair in their judgment and actions; and
- Use their public office for the public good, not for personal gain.

With these principles in mind, the Grand Jury conducted a study regarding codes of ethics in response to citizens' concerns about potential conflicts of interest on the part of local elected officials.

In one instance, the Grand Jury took note of the public debate that arose when a majority of County Supervisors voted against the District Attorney's request for funding to hire outside counsel to prosecute a fraud lawsuit against a corporation doing business in the county. In numerous letters to the editor, editorial opinions, and newspaper articles, there were conflicting opinions as to whether, by voting on this matter, one or more of the Supervisors violated conflict of interest laws or ethical rules of conduct.

The Fair Political Practices Commission has jurisdiction over financial conflicts of interest pursuant to the Political Reform Act (Government Code Sections 81000-91014). However, the debate continues because of a belief by some members of the public that principles of ethics other than purely financial conflicts of interest should have led one or more of the Supervisors to abstain from voting on this particular issue.

This prompted the Grand Jury to inquire of the County Administrative Office whether Humboldt County has adopted an "ethics code" of any kind, which might have addressed the concerns voiced by troubled citizens and offered guidance to the officials in deciding whether they should abstain from voting. The County has no such code.

The Grand Jury also surveyed 54 of the other counties in California. Although ethics codes are not a legal requirement, of the 41 counties that responded, ten have either adopted formal ethics codes or incorporated various ethical principles and guidelines into their administrative policies. After reviewing these counties' ethics codes and the ethics codes adopted by a number of cities – two of which have become statewide models – the Grand Jury concluded that a number of these codes contain provisions which address the situation that confronted the aforementioned Humboldt County officials.

These provisions pertain to a concept known as the "appearance [or perception] of impropriety." This is not a phrase lacking in legal significance. It appears more than a hundred times in the reported cases of

the California Courts of Appeal and Supreme Court, in Opinions of the California Attorney General, and even in the Code of Judicial Ethics. It is expressed in simple language in the City of Mountain View's code of conduct for its City Council:

"When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest, however participation still does not 'look' or 'feel' right, that public official has probably encountered the appearance of impropriety. For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists . . . For the good of the community, members who encounter the appearance of impropriety should step aside."

The Grand Jury concurs with this principle. Furthermore, there are other provisions in the ethics codes the Grand Jury reviewed which address additional situations that have generated controversy and distrust in the community over the conduct of other elected officials.

In the second instance, in response to a citizen's complaint, the Grand Jury investigated an alleged conflict of interest by a city council member in one of the county's seven municipalities. One of the responsibilities of the city council is to review – and either approve or reject – the recommendations of the city's planning commission, the members of which are appointed by the mayor and approved by the city council. There was evidence that a particular council member became involved as an agent and advocate for a property owner's proposed subdivision project and lobbied before the city planning commission on its behalf.

The council member claimed to have been acting as a "private citizen," disclaimed any financial interest in the proposed subdivision property and, therefore, saw no conflict of interest. However, there are guidelines in several of the ethics codes reviewed by the Grand Jury which specifically address this troubling scenario. For example, the City of Sunnyvale's Code of Ethics (one of the recognized models) provides:

"In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies."

Yet another disturbing fact the Grand Jury encountered in the same investigation of the city council member's conduct before the planning commission was the absence of any sense on the part of the other city council members who were interviewed that they had either the responsibility or authority to address what had occurred. They disapproved of it, they believed it created a bad impression, they were concerned that it cast doubt in the minds of the public about the integrity of the city's procedures, and they believed the errant council person should be confronted with the problem and counseled about the appearance of impropriety and potential conflicts of interest. However, they took no action to rectify the problem.

The reticence of elected officials to confront a difficult situation involving "one of their own" has been anticipated and addressed by several of the ethics codes the Grand Jury reviewed. For example, the Sunnyvale Code of Ethics states that:

"Members [of the city council] themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. . . . The chairs of boards and commissions and the Mayor have the

additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics are brought to their attention. . . . The City Council may impose sanctions on members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or committee assignment, or budget restriction."

Finally, the Grand Jury believes, based on interviews it conducted of a number of elected officials in both county and city governments, that there is a pervasive lack of understanding that the Political Reform Act is just one of several sets of laws concerning ethics and conflicts of interest by which they should conduct themselves in office. The answer to this problem, of course, is education and training. Several ethics codes incorporate such a requirement, e.g., the Sunnyvale Code of Ethics which states:

"...ethical standards shall be included in the regular orientation for candidates for City Council. . . . Members entering office shall sign a statement affirming they read and understood the City of Sunnyvale Code of Ethics. In addition, the Code of Ethics shall be annually reviewed by the City Council, boards and commissions."

In this regard, Humboldt County's Administrative Office is to be congratulated for sponsoring a half-day Ethics Workshop in October of 2003 for department heads and their assistants. The leader was trained at the Josephson Institute of Ethics in the Workplace, and 41 people attended at a cost of \$26.90 each. Several city officials indicated they would have been interested in attending such a workshop if they had been notified. Although they were informed of the workshop, none of the members of the Board of Supervisors attended. According to the County Administrative Officer:

"The workshop was well received. The feedback I had from most was that we should do this more often. I have given thought . . . to developing a local ethics program that would further define standards of conduct, train and educate employees, and integrate behavior that is reflective of core ethical values of trustworthiness, respect, responsibility, fairness, caring and citizenship."

Based on the foregoing, the Grand Jury has reached the following findings and recommendations:

**FINDING 1:** Humboldt County and the cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, and Trinidad have adopted by ordinance the financial conflict of interest regulations required by the Political Reform Act. However, Humboldt County and the cities of Blue Lake, Eureka, Ferndale, Rio Dell, and Trinidad have not formally adopted ethics codes or any similar codes of conduct that identify and incorporate other important public policies and principles of law regarding ethics and conflicts of interest.

**Response from Humboldt County Board of Supervisors:** *Partially agree and partially disagree. The Board of Supervisors cannot address ordinances and/or codes in place within the cities. The County has adopted the conflict of interest regulations by resolution, not by ordinance. The County has not formally adopted ethics codes at this time.*

**RECOMMENDATION 1:** The Grand Jury recommends that Humboldt County and the cities of Blue Lake, Eureka, Ferndale, Rio Dell, and Trinidad review available model ethics codes and adopt their own codes of ethics, to apply to all officials, elected and appointed.

**Response from Humboldt County Board of Supervisors:** *The Board cannot respond to a recommendation concerning the cities. With respect to the County, the Board will consider adopting an ethics code and hereby directs the CAO to return to the Board with a draft code for consideration within the next six months.*

**FINDING 2:** In 1998, the City of Fortuna adopted Rules of Conduct for its City Council. Although one

of these eight rules contains a general directive that conflicts of interest must be avoided, the City Council has no actual code of ethics.

**RECOMMENDATION 2:** The Grand Jury recommends that the City of Fortuna review available model ethics codes and adopt its own code of ethics, to apply to all officials, elected and appointed.

**FINDING 3:** The City of Arcata has adopted a Code of Ethics which is found in the Appendix to its City Council Protocol Manual. This Code of Ethics consists of a statement of 12 "principles," and is based on the ethics code which the International City Managers Association originally adopted in 1924 and revised in 1998. Its content is directed more to the activities of managers and administrators than to elected officials such as City Council members.

**RECOMMENDATION 3:** The Grand Jury recommends that the City of Arcata review other available model codes of ethics and consider modifying or supplementing its current Code of Ethics in accordance therewith.

**FINDING 4:** Generally accepted principles of good government indicate that citizens have more confidence in the integrity and fair operation of their local government when their views are given consideration in decision-making and the formulation of policy.

**Response from Humboldt County Board of Supervisors:** Agree.

**RECOMMENDATION 4:** The Grand Jury recommends that Humboldt County and the cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell and Trinidad include citizen participation in the development (or, in the case of Arcata, modification or supplementation) of their codes of ethics.

**Response from Humboldt County Board of Supervisors:** *The Board of Supervisors cannot respond to a recommendation concerning the cities. The recommendation will be implemented so far as Humboldt County is concerned. The proposed ethics code will be presented in a noticed, open meeting of the Board of Supervisors, to which any and all citizens are invited to participate.*

**FINDING 5:** The Ethics Workshop sponsored by the Humboldt County Administrative Office was well-received.

**Response from Humboldt County Board of Supervisors:** Agree.

**Response from County Administrative Officer:** Agree

**RECOMMENDATION 5:** The Grand Jury recommends that the County Administrative Office regularly sponsor ethics workshops and expand the invitation list to include all elected and appointed city and county officials.

**Response from Humboldt County Board of Supervisors:** *The recommendation will be implemented. The CAO intends to co-sponsor another ethics workshop to be conducted by a leader trained at the Josephson Institute of Ethics in the Workplace, and will invite local elected and appointed city and county officials to participate.*

**Response from County Administrative Officer:** *The recommendation will be implemented. The CAO intends to co-sponsor another ethics workshop to be conducted by a leader trained at the Josephson Institute of Ethics in the Workplace, and will invite local elected and appointed city and county officials to participate.*

**Grand Jury Report #2004-AF-02**  
**GRAND JURY ACCESS TO ADULT PROTECTIVE SERVICES FILES**

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2004-AF-02 shall be provided as follows:

- The Humboldt County Counsel shall respond to Findings and Recommendations 1 and 2.
  - The Humboldt County Department of Health and Human Services shall respond to Finding and Recommendation 2.
- 

The Grand Jury is one of the "clients" to whom Humboldt County Counsel provides legal advice. Its other "clients" include the county and its various departments, which are subject to investigation by the Grand Jury pursuant to the Grand Jury's "watchdog" function.

A prior Grand Jury received a complaint regarding the death of a disabled person who was receiving services from the county's Adult Protective Services Division (APS). APS is part of the Social Services Branch of the Department of Health and Human Services (DHHS). The Grand Jury wrote a letter requesting the APS file on the deceased. In response, the Director of Mental Health, another branch of DHHS, refused to provide the APS file over which it had control. APS staff was also instructed not to answer questions about the case. The Director contended that this information was confidential pursuant to Welfare and Institutions Code Section 10850, and could not be obtained by the Grand Jury despite its investigative authority.

The prior Grand Jury turned to County Counsel for assistance in obtaining the file and examining witnesses. However, County Counsel simply agreed with the Director of Mental Health regarding the confidentiality of the information. County Counsel gave no explanation for its position, did not mention the legal authorities that are inconsistent with its position, and did not suggest to the Grand Jury that there might be procedures available to obtain the file other than a letter request.

These events were the subject of a prior Grand Jury Report, in which the Grand Jury recommended that County Counsel reconsider its interpretation of the confidentiality provisions of Welfare and Institutions Code Section 10850 in the context of a Grand Jury investigation. County Counsel refused, stating in response that "The recommendation will not be implemented because it is not warranted."

This year, the 2003-2004 Grand Jury also decided to investigate APS's handling of the deceased person's case and turned to the District Attorney's office for assistance. The District Attorney's office quickly obtained subpoenas and a court order that required APS to produce the deceased client's file and required APS and other DHHS staff to testify regarding the case. The subpoenas and court order were served, the APS file was produced, and the witnesses testified before the Grand Jury without further objection.

It is the opinion of this Grand Jury that the earlier investigation was derailed because County Counsel did not advocate for the right of one "client" (the Grand Jury) over the interests of another (APS), frustrating an investigation contemplated by the laws which establish, govern, and empower that "client." This is unacceptable. The Grand Jury is composed of 19 ordinary citizens from diverse backgrounds who volunteer to serve a one-year term. Typically, they have no formal training or education in legal matters and, at times, must rely on the expertise of their advisers, including County Counsel, to fulfill their responsibilities to the citizens of Humboldt County.

DHHS has acknowledged the Grand Jury's right to obtain information about the handling of APS cases by its responsiveness to the subpoenas and court order that were served. County Counsel should acknowledge that right, as well. Both entities should take steps to insure that future Grand Juries do not have to reinvent this wheel.

**Response from Humboldt County Counsel:** *Because of the successful implementation of the ethical wall ( a screening mechanism that protects a client from a potential or actual conflict of interest by preventing one or more lawyers within an organization from participation in any matter involving that client), the County Counsel herself has no knowledge of the subject matter contained in Grand Jury Report # 2004-AF-02 as it pertains to the representation of the Grand Jury. The only attorney who possesses the knowledge to respond to this report as it relates to the representation of the Grand Jury is the Assistant County Counsel. All responses from Humboldt County Counsel to this Report represent her responses as far as she is able to respond without waiving the attorney-client privilege that applies to her representation of the Grand Jury in this matter.*

**FINDING 1:** There is an inherent conflict of interest in County Counsel's role as adviser both to county departments and to the Grand Jury which investigates those county departments. Despite efforts which County Counsel undertakes to minimize that conflict, in some matters County Counsel's advocacy on behalf of a county department may interfere with its advocacy on behalf of the Grand Jury.

**Response from Humboldt County Counsel:** *Disagree partially. The Office of the County Counsel may advise multiple agencies and multiple County departments in the same transaction as permitted by statute and California law. This Office has a policy concerning the handling of situations where multiple agencies and/or county departments, including the representation of the grand jury, have or potentially have, a conflict of interest. When a situation arises that would prevent the Office of the County Counsel from representing the Grand Jury based on any conflict of interest, the County Counsel Office declares a conflict and refers the Grand Jury to alternate legal representation.*

**RECOMMENDATION 1:** The Grand Jury recommends that County Counsel be alert to those instances in which its advocacy on behalf of a county department have a potential to interfere with its advocacy and, when that occurs, inform the Grand Jury so that it may determine whether to seek advice from the District Attorney.

**Response from Humboldt County Counsel:** *The recommendation has been implemented. For years, the Office of the County Counsel has had, and continues to maintain, an ethical wall of silence between attorneys in the office who represent county departments in specific situations that have a potential conflict of interest with other county departments, including the grand jury. In the past, the Office of the County Counsel has alerted grand juries to seek advice from an alternate source when the Counsel has become aware of a specific situation and circumstance that would interfere with the representation of the grand jury by the Office of the County Counsel based on a conflict of interest, and will continue to do so.*

*The County Counsel Office has a written policy regarding advice to the Grand Jury that states: "When the Grand Jury requests advice as to a matter concerning a County department, the County Counsel will determine if there is a conflict of interest that precludes all advice by the office or if the matter may be handled through limited advice or an ethical wall separating the advisors to the Grand Jury and the Department. To maintain Grand Jury secrecy neither the existence nor the substance of a grand jury investigation shall be disclosed to any other County client."*

**FINDING 2:** Although certain information concerning APS clients may be confidential pursuant to Welfare and Institutions Code Section 10850, the Grand Jury is entitled to review APS client files, and to interview case workers and supervisors regarding the handling of APS cases, under the authority granted to it by Penal Code Sections 925 through 933.6.

**Response from Humboldt County Counsel:** *Disagree partially. The Office of the County Counsel agrees that certain information concerning APS clients may be confidential, but disagrees that the Grand Jury is entitled to review APS client files, and to interview case workers and supervisors regarding the handling of APS cases. Under the current state of the law, most, if not all, records concerning APS clients are confidential and are not open to the public for inspection. Under Penal Code section 921, the Grand Jury is entitled to the examination of all "public records" within the County. The Grand Jury is not entitled to examine confidential records. Penal Code Sections 925 through 933.6 do not entitle the Grand Jury to examine confidential records, absent a valid court order.*

**Response from Humboldt County Department of Health and Human Services:** *Disagree partially. The Department of Health and Human Services disagrees that the Grand Jury possesses a legal entitlement to review APS client files, and to interview DHHS personnel regarding the handling of specific APS cases to which confidentiality provisions are applicable. Most, if not all, records concerning APS clients are not open to the public for inspection. Penal Code Section 921 gives the Grand Jury the right to examine all "public records" within the county. Without a court order allowing such access, the Grand Jury may not examine "non-public" confidential records.*

**RECOMMENDATION 2:** The Grand Jury recommends (a) that County Counsel and DHHS prepare a written policy for DHHS to adopt setting forth the procedures to be followed in responding to Grand Jury requests for APS client files and case handling information; (b) that the written policy be submitted to the District Attorney for review; and (c) that a copy of the policy be provided to the Grand Jury.

**Response from Humboldt County Counsel:** *The recommendation will not be implemented because the County response to requests for APS records by the Grand Jury must be decided on a case by case basis. Conflict of interest questions must be reviewed on a specific case by case basis. Furthermore the District Attorney has no authority to review policies of the County Counsel Office or the DHHS. Lastly, the County Counsel Office has a long standing policy on handling matters which have the potential of a conflict of interest between County departments and the Grand Jury which is consistent with the policies of other County Counsel offices in the State of California.*

**Response from Humboldt County Department of Health and Human Services:** *The recommendation will not be implemented. Current policy is that all requests for APS records, including those from the Grand Jury, must be decided on an individual case-by-case basis which is in compliance with the current state of the law. Further, even if a policy were to be proffered as suggested by the Grand Jury, the District Attorney has no authority to review policies of the Department of Health and Human Services. The Department of Health and Human Services will continue to consult County Counsel as needed and will continue to comply with valid court orders regarding disclosure of APS client files and case handling information.*

## **Grand Jury Report #2004-AF-03**

### **"BENEFIT ALLOWANCE"**

#### **A SIMPLE PARTIAL SOLUTION TO HUMBOLDT COUNTY'S BUDGET DEFICIT**

##### **WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-AF-03 shall be provided as follows:

- The Humboldt County Board of Supervisors shall respond to Finding and Recommendation 1.
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The County Administrative Officer (CAO) has announced that Humboldt County faces a projected budget deficit for fiscal year 2004-2005 of \$8.4 million. All departments were requested to reduce their budgets by 20%. The 2003-2004 Grand Jury has cooperated in the need to reduce the potential deficit by reducing its own 2004-2005 budget by more than 20%. In an effort to assist the Board of Supervisors in meeting this challenge, the Grand Jury reviewed budget documents, including Personnel Salary Projections dated March 1, 2004, and submitted to the CAO, to determine if the Grand Jury could make any useful recommendations.

In addition to regular salaries and benefits, the Personnel Salary Projections included a column labeled "Benefit Allowance" that was not budgeted for employees across the board, but only applied to a select group referred to as Elected Officials, Appointed Officials, and Management and Confidential Employees. After researching the Board of Supervisors' Clerk records, the Grand Jury determined that this Benefit Allowance was established by the adoption of Resolution No. 2000-67 on August 22, 2000. This resolution implemented a compensation plan for fiscal years 2000-2001, 2001-2002 and 2002-2003 that included benefits not offered to the other 1,971.5 county employees. Included were such items as a deferred compensation plan, an increase in life insurance coverage of \$10,000, and an additional two weeks of vacation above the regular amount earned. More importantly, it also provided for a "Benefit Allowance." The allowance was to be phased in over the years 1999-2003, when it reached the base annual sum of \$3,200 per affected full-time equivalent position. No explanation was given in the Resolution for the purpose of the "Benefit Allowance," nor was a maximum amount stated. In addition, each employee also receives all normal benefits: health, life, and dental insurance, plus a retirement program.

An analysis of projected individual department personnel budgets for 2004-2005 revealed the following:

- 12 elected County officials, including the Board of Supervisors, are to receive amounts ranging from \$3,920 to \$11,759; the total for these 12 officials will be \$106,789.
- 15 appointed officials are to receive \$3,920 each; the total for these 15 officials will be \$58,800.
- 194 management and confidential employees are to receive \$3,200 each; the total for these 194 employees will be \$620,800.
- The total of direct payments to this select group of 221 officials and employees will be \$786,389
- Since this is compensation under Internal Revenue Service rules, the County must also pay Social Security and Medicare taxes of \$60,159, bringing the total cost to \$846,548.
- This is approximately 10% of the projected 2004-2005 budget deficit.
- No justification for payment of this "Benefit Allowance" was given in Resolution No. 2000-67.

**FINDING 1:** In the face of a projected 2004-2005 budget deficit of \$8.4 million, Humboldt County is proposing to pay a select group of 221 elected and appointed officials and designated employees the sum of \$846,548 (including Social Security and Medicare costs) with no justification in Resolution 2000-67.

**Response from Humboldt County Board of Supervisors:** Disagree with calculations, findings and conclusions in a number of areas:

(1) The FY 2004-05 projected general fund budget deficit of approximately \$8 million was covered by reducing expenditures through consolidation of departments, layoffs, unpaid furloughs, imposition of a hiring freeze, office closures, depleting trust funds and reserves, refinancing debt, reducing and in some cases eliminating funding for non-mandated programs and other measures. The final budget adopted by the Board of Supervisors on June 1, 2004 is in balance.

(2) The benefit allowance payment as calculated by payroll equates to \$753,742 (which includes associated benefits). The difference might be attributable to the Grand Jury unknowingly including positions that have been intentionally held vacant (and not funded) in order to balance the budget.

(3) The Grand Jury states that the benefit allowance was established by adoption of a resolution on August 22, 2000. The Benefit Allowance has actually been in place for at least 20 years and possibly more, but was increased on August 22, 2000. The deferred compensation contribution for elected officials began in 1989. The County contribution to salary for elected officials began in fiscal year 2000.

(4) The Grand Jury states the Benefit Allowance represents approximately 10% of the projected 2004-05 budget deficit. The \$8 million budget deficit that was covered by means described earlier in this response represented the general fund alone. Other fund deficits were absorbed and covered within the respective funds, the library, for example, factoring in a four week closure. The Benefit Allowance crosses multiple funds, about 65% of which is attributable to the General Fund. Eliminating the Benefit Allowance would not benefit the General Fund by an equal amount.

**RECOMMENDATION 1:** The Grand Jury recommends that the Board of Supervisors immediately suspend, reduce, or eliminate the "Benefit Allowance" sections of Resolution 2000-67 until the county's fiscal condition warrants reconsideration.

**Response from Humboldt County Board of Supervisors:** The recommendation will not be implemented; however, the Board will consider a change in the manner in which this benefit is paid.

On June 8, 2004, the Humboldt Taxpayers' League presented a similar recommendation that was referred to the Budget Task Force for review. The Budget Task Force reported back to the Board on June 22, 2004 recommending no change to the current compensation, in that such payment(s) are justified in consideration of the entire compensation package afforded to applicable employees. Furthermore, continuing the current compensation as is advertised in recruitment and as is represented when a candidate files for an elected position represents "good faith" which could be subject to legal challenge if changes are made during an incumbent's term of employment.

*At their meeting of June 22, the Board referred to the Budget Task Force the concept of offering the benefit allowance to appointed and elected officials and management and confidential employees as base pay rather than as a benefit allowance. It is expected that this matter will be heard by the Board in time to effect any change, if applicable, prior to the beginning of the next fiscal year.*

**Grand Jury Report #2004-CD-01**  
**AN INVESTIGATION INTO VIOLATIONS OF THE BROWN ACT BY THE**  
**KLAMATH-TRINITY JOINT UNIFIED SCHOOL DISTRICT GOVERNING BOARD**  
(This report was released in February 2004 and the Agency's response is included)

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-CD-01 shall be provided as follows:

- The Klamath-Trinity Joint Unified School District Governing Board shall respond to Findings and Recommendations 1, 2 and 3.

A citizen's complaint involving the Klamath-Trinity Joint Unified School District (K-TJUSD) was investigated by the Grand Jury. Based on documents examined and testimony of five witnesses taken between August 18 and October 14, 2003, the Grand Jury concluded that the complaint had no merit.

However, in reviewing the K-TJUSD Governing Board (Board) agendas and minutes, and considering testimony given by witnesses, the Grand Jury determined that the Board had violated several provisions of Government Code Sections 54950-54963, commonly known as the Ralph M. Brown Act (Brown Act).

The Brown Act was enacted to require that public agencies conduct their deliberations and take actions openly. The Brown Act requires that specific steps be taken to publicize matters to be considered at agency meetings, in both closed and open session, through the posting of comprehensive agendas (Government Code Sec. 54954.1 and Government Code Sec. 54954.2).

During a closed session meeting on May 8, 2001, the matter of the District's enrollment in the Domestic Partners insurance program offered by the North Coast Schools Medical Insurance Group was discussed by the Superintendent with the Board. Witnesses stated that "...by consensus, equivalent to a vote..." the Board supported the Superintendent's action to enroll the District in the program. After a review of the Superintendent's job description and contract, the Grand Jury determined that the Superintendent had acted within the scope of his authority to take such action without Board approval. Nevertheless, this matter of a request for support was not recorded on the agenda for the closed meeting, nor was the action taken by the Board reported to the public in open session. Further, this was not an item that can be discussed by the Board in closed session. By these acts and omissions, the Board violated the following closed session provisions of the Brown Act:

- Government Code Sec. 54954.2  
At least 72 hours before a regular meeting, the legislative body shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.

This matter was not included on the agenda.

- Government Code Sec. 54954.5  
The issues that can be considered in closed session are specifically enumerated.

This was not a matter included in that enumeration.

- Government Code Sec 54957.1  
The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon.

No such vote was recorded or reported.

The same, and possibly more serious, violations occurred when the Board met in closed session August 12, 2003. During that meeting, an affidavit was signed by five of the seven Board members attesting to their "consensus" in the meeting of May 8, 2001, admittedly as an attempt to legitimize their action at that

meeting. Again, this action was not listed on the agenda for the meeting, the action taken was not reported in the open session that followed, and it was an improper item to be considered in a closed session. Further, according to the official minutes, it is possible that one or more of the Board members who signed the affidavit on August 12, 2003, were not present during the closed session of May 8, 2001. Their action at the meeting of August 12, 2003, indicated they either had imperfect knowledge of the Brown Act or were deliberately intending to cover up the original violation.

The Grand Jury does not make a judgment as to the intent of the Board and Superintendent at the meeting of August 12, 2003. However, after considering the above facts and Board violations of the Brown Act, conclusions reached by the Grand Jury lead to the following findings and recommendations:

**FINDING 1:** The Klamath-Trinity Joint Unified School District Governing Board has committed several documented violations of the Brown Act.

**DISTRICT RESPONSE TO FINDING 1:** The District agrees with the first finding/conclusion of the Grand Jury. However, the second conclusion, above, requires hypotheses as to what the law might have required and other hypotheses regarding compliance. Since the District does not [sic] know the language of a hypothetically changed statute, it cannot agree or disagree with the second finding/conclusion.

**RECOMMENDATION 1:** The Grand Jury recommends that both current and newly elected Board members be required to be trained in all aspects of the Brown Act by a person competent in requirements of the Act.

**DISTRICT RESPONSE TO RECOMMENDATION 1:** This response has been implemented and implementation is continuing. The District's legal counsel, Robert S. Shelburne, senior attorney in the Education Law Practice Group of the Law Firm of Kronick, Moskovitz, Tiedemann & Girard, attended the regular meeting of the Board on February 10, 2004, at the Board's direction and in public session he provided training for the Board which focused on the Brown Act's regulations of closed session meetings of school boards, including (a) the exclusive legally permissible subjects for closed session consideration and action, (b) the requirements for Board agenda items for closed sessions, and (c) the requirements for public reporting of certain types of actions taken by Board in closed sessions.

Because the Brown Act contains many requirements that regulate matters unrelated to closed sessions, the Board of Trustees scheduled a special Board meeting for February 25, 2004, to receive additional training on the law regulating Board meetings. On February 25, 2004, Mr. Shelburne continued with additional training on Brown Act requirements. Not all Board members were in attendance. Since the Grand Jury's recommendation is that ALL Board members should be trained in the law's requirements, the Board of Trustees will make arrangements for another training session for the Board members who were absent on February 25 as well as another training session for all Board members to complete the training in the law's requirements.

In addition to training on the Brown Act requirements, Mr. Shelburne is providing training on the statutory requirements regulating school board meetings that are contained in the Education Code (at sections 35140, *et seq.*)

Mr. Shelburne has also prepared and distributed to each Board member and to the Superintendent a handbook containing a comprehensive discussion of all of the laws regulating meetings of school boards and a copy of each of those laws. At the CSBA Conference, the Board Chair, with district funds, purchased a book on the Brown Act for each Board member. In addition, the District has purchased and distributed to each Board member a book on the operations of school boards and their meetings.

**FINDING 2:** Any training in the legal requirements and responsibilities of Board members to keep the public informed of their actions in both open and, particularly, closed meeting sessions has not been effective.

**DISTRICT RESPONSE TO FINDING 2:** The District agrees with this finding/conclusion of the Grand Jury.

**RECOMMENDATION 2:** The Grand Jury recommends that since certain violations of the Brown Act are misdemeanors and individual members of the legislative body are potentially subject to criminal prosecution, all members of the Board should operate in accordance with the provisions of the Brown Act.

**DISTRICT RESPONSE TO RECOMMENDATION 2:** The recommendation has been implemented and implementation is continuing.

**FINDING 3:** No minutes or other recording of the discussions or actions taken during closed sessions were made, and documented evidence reveals that the Board has repeatedly violated several provisions of the Brown Act during closed sessions.

**DISTRICT RESPONSE TO FINDING 3:** The District disagrees partially with this finding/conclusion of the Grand Jury. It is true that in the situations that occurred in the Board meetings on May 11, 2001 and August 12, 2003, the Board of Trustee's deliberations on and development of a consensus and later actions of signing the affidavit in closed session were not in compliance with the Brown Act. However, there is not evidence that the Board of Trustees has made it a practice of violating the Brown Act. The violations cited by the Grand Jury were aberrations, i.e., unintentional departures from the Board's regular practice of compliance with the Brown Act's requirements. Over the years Board members have attend [sic] several in-service training sessions on the requirements of the Brown Act, and they are committed to compliance with this law. However, trustees are elected and leave office periodically, so the District must and will make an effort to provide periodic training in this law so that all trustees receive the necessary training.

**RECOMMENDATION 3:** The Grand Jury recommends that although there is no legal requirement to do so, that the Board have their deliberations and decisions in both closed and open sessions tape recorded, and that those recordings be securely preserved for a period of at least three years from the date of the meeting.

**DISTRICT RESPONSE TO RECOMMENDATION 3:** The recommendation has been implemented and implementation is continuing.

**Grand Jury Report #2004-CD-02**  
**A REVIEW OF THE HUMBOLDT COUNTY**  
**LOCAL AGENCY FORMATION COMMISSION**

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-CD-02 shall be provided as follows:

- No responses are required for this report.

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In 1963, legislation was enacted creating Local Agency Formation Commissions (LAFCO or Commission) in all California counties. As independent quasi-legislative agencies, LAFCOs were given the mandate to review and approve the incorporation of cities, annexations to cities, and creation, consolidation and dissolution of special districts. Although modestly amended from time to time, the law governing LAFCOs remained basically unchanged for 35 years.

Recognizing the dramatic changes of urban development, population growth and financing of local agencies that had taken place since 1963, a commission was formed to study the effectiveness of LAFCO law to deal with these changes. The result of the study was the enactment of Assembly Bill 2838 known as the Cortese-Knox-Hertzberg Act of 2000 (the Act). In addition to regulating local boundary issues, LAFCOs were further charged with promoting affordable housing, preserving open space and agricultural land, encouraging efficiency in providing government services, and compiling within five years an inventory of all infrastructure and services in the County.

The Act made a significant change in the funding of LAFCOs, which were formerly financed entirely by the county. The Act now requires that funding of operation costs be shared jointly and equally by the county, cities, and special districts within the county. Also, LAFCOs could choose to have staff and facilities independent of the county.

The Grand Jury has periodically reviewed LAFCO, but has not issued a report since 1971. Given the expansion of duties of LAFCO, the widening in the scope of activities and influence, the required timetables for the new tasks, and change in funding, it was deemed appropriate for the 2003-2004 Grand Jury to revisit LAFCO. From documents reviewed and testimony of staff during the period January 20 to February 9, 2004, the Grand Jury determined the following facts:

LAFCO is governed by a board of seven commissioners. Six of the commissioners are elected officials of the county, the cities, and the special districts, who then appoint a seventh member from the public. A reduction in the meeting schedule from six times a year to four times has allowed staff more time for productive work and also resulted in a reduction of budgeted expenditures. The Commission and staff have encouraged active participation by cities and districts in completing certain phases of their tasks, and in some cases have sought and received grant funding to help defray the added costs incurred. An example is a \$150,000 U. S. Forest Service grant that was obtained to assist local fire departments in identifying the location and mapping of every fire hydrant in the County, and the most direct route to access a specific hydrant. The benefits from this program are increased public safety and a potential improvement in fire insurance ratings. The due dates of the requirements mandated by the Act have so far been met, and the remainders are expected to be completed on time.

As mentioned, the county, cities and districts now fund LAFCO equally. The Grand Jury determined that LAFCO's budget for the fiscal year ended June 30, 2003, was \$37,632. Actual expenditures, however, were only \$34,558, which was \$3,074 (8%) less than budget. The adopted budget for fiscal year ended June 30, 2004 is \$34,382, a *reduction* of \$3,250 (9%) from the prior year. Actual expenditures through November 30, 2003 (42% of the year) were \$10,516, or 31% of budget.

Based on the above facts, the Grand Jury reached the following conclusions:

- LAFCO Commissioners and staff are commended for executing the mandated activities of the Cortese-Knox-Hertzberg Act in a timely and professional manner.
- They are also commended for fostering partnerships with local government agencies to promote and carryout the specific requirements of the Act.
- Lastly, the Commissioners and staff are commended for accomplishing the above in a fiscally responsible manner.

**Grand Jury Report #2004-CD-03**  
**SPECIAL DISTRICT AUDIT PROGRAM IN JEOPARDY**  
(This report was released in February 2004 and the Agency's response is included)

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report # 2004-CD-03 shall be provided as follows:

- The Humboldt County Board of Supervisors and the Humboldt County Auditor/Controller shall respond to Finding and Recommendation 1.

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The 1999-2000 Grand Jury recommended that the Auditor/Controller and the Board of Supervisors (Board) of Humboldt County continue and intensify their efforts to comply with the provisions of Government Code Section 26909, which requires that special districts be audited annually or by special request to the Board biennially, or depending on the district's budget, an audit covering a five-year period. Both units of County government embraced and implemented the recommendation.

The Grand Juries of both 2001-2002 and 2002-2003 found that excellent progress was made toward the special district audit program. The 2003-2004 Grand Jury commends the Board and Auditor/Controller for authorizing, funding and filling a senior accountant-auditor position necessary to perform the audits. This employee assisted 14 special districts with multi-year audits at a cost the districts could afford, and as of June 30, 2003, all but two of the County's 48 special districts were in compliance with state law, thus increasing the confidence of their respective communities in the proper expenditure of public funds. However, the retirement of the Auditor/Controller occasioned the promotion of others in the department. This left a senior accountant-auditor position vacant. That position is now un-funded, leaving no one available to audit special districts.

**FINDING 1:** The 2003-2004 Grand Jury finds that the lack of a dedicated senior accountant-auditor position to conduct special district audits will once again result in special district audit delinquencies and non-compliance with Government Code Section 26909, and jeopardize this beneficial program.

**THE BOARD OF SUPERVISORS RESPONSE TO FINDING 1:** Disagree with finding. Government Code Section 26909 allows for the county auditor to ". . . contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special purpose district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided." There is no requirement for any such audit to be performed by in-house staff, and as is the case in some other counties, staffing reductions may result in the need for the Auditor to contract for such a service. This same Government Code Section provides that any costs incurred in making the audit shall be borne by the applicable special district. The Board of Supervisors understands and supports the need for the Auditor to contract for these services to assure compliance with the Government Code.

**RECOMMENDATION 1:** The Grand Jury recommends that the Board of Supervisors immediately restore funding to the Auditor/Controller's office to allow this position to be filled permanently.

**THE BOARD OF SUPERVISORS RESPONSE TO RECOMMENDATION 1:** The recommendation will not be implemented because it is not reasonable in the face of severe budgetary constraints, and is not necessary for reasons as set forth in the response to the Finding.

**THE AUDITOR-CONTROLLER RESPONSE TO RECOMMENDATION 1:** In November of 1998, a Senior Accountant-Auditor position was added back to the Auditor-Controller's staff with the condition that Special District audits were performed on a continuing basis by this or another staff member. Through the end of 2002, Special District audits were made a priority and performed on a regular as-needed basis by a Senior Accountant-Auditor. In December of 2002, long-time Auditor-Controller, Neil Prince, retired and although staffing positions and duties was reassigned, no additional accountants were added and the staffing was one position short. This vacancy caused Special District audits to become sporadic and

eventually to be discontinued, as the time required for out of office duties tends to be much less productive than work processed in the office. As of July 1, fiscal year 2004-2005, we will be losing another Accountant-Auditor position so that the accounting positions will be down two to a level of four. With the current staffing level, audits of Special Districts take on a lower priority and the Auditor-Controller cannot guarantee completion of said audits.

**Grand Jury Report #2004-HS-01  
AN INVESTIGATION INTO HUMBOLDT COUNTY'S  
ADULT PROTECTIVE SERVICES  
AND IN-HOME SUPPORTIVE SERVICES**

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-HS-01 shall be provided as follows:

- The Humboldt County Department of Health and Human Services shall respond to Findings and Recommendations 1, 2, 3, 4, 5, 6, 7, 8 and 9.
  - The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 10 and 11.
  - The Humboldt County Board of Supervisors shall respond to Finding and Recommendation 2.
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The 2003-2004 Grand Jury conducted an investigation of Adult Protective Services (APS) and In-Home Supportive Services (IHSS). Both are divisions of the Social Services Branch of the Department of Health and Human Services (DHHS). We also took a close look at the legislation that governs how the county provides APS and IHSS services and the practical effect of that legislation on the citizens of Humboldt County.

Adult Protective Services (APS)

In 1998, the Legislature found serious deficiencies statewide in the ability of county APS programs to respond to the tragedy of elder and dependent adult abuse that was being brought to light by mandatory reporting laws. Senate Bill 2199 (SB 2199) was enacted in 1998 in response to an urgent need to establish and fund comprehensive, statewide APS programs "to remedy situations of immediate danger to vulnerable elders and dependent adults."

Following a series of interim directives, the regulations that implemented SB 2199 were adopted on October 19, 2001. These regulations set out the manner in which all counties are required to respond to and investigate reports of abuse or neglect, provide emergency shelter, and provide case management services within specific timetables and goals. Each county was responsible for developing its own program to comply with those regulations.

In response to this mandate, Humboldt County's APS staff was increased in numbers, given training in the new regulations, and assigned the task of bringing the existing and steadily increasing APS caseload into compliance with the new regulations. The average monthly APS caseload now consists of approximately 200 cases, which are fairly evenly divided between elderly and dependent adults. Approximately 45 existing cases are closed each month and about the same numbers of new cases are opened. The ongoing APS caseload is handled by a staff of four social workers and two Public Health nurses.

When a report of suspected abuse or neglect has been received and screened by an APS Intake Team member, a case may be opened and referred for investigation. While the goal of the APS program is to remedy and prevent the abuse, neglect, and exploitation of elders and dependent adults, the regulations specify that it is "not intended to be a long-term, ongoing 'case management' activity." Instead, its intent is "to create a stable environment where the individual can safely function without requiring additional intervention." Furthermore, it "is neither intended to interfere with the life style choices of elders or dependent adults, nor to protect those individuals from all the consequences of such choices."

Cases are closed when protective services are no longer needed or when a client declines or withdraws consent, moves out of the jurisdiction or into a long-term placement facility, dies, or cannot be located. Abused elders or dependent adults are entitled to refuse APS services even though it may be against their interests, although cases may remain open when APS believes the client is acting under influence or duress.

### In-Home Supportive Services (IHSS)

Assembly Bill 1682 (AB 1682) requires each county to provide in-home supportive services to elderly and disabled persons who cannot perform those services for themselves or safely remain in their home without them. IHSS services include personal care (bathing, dressing, feeding, assistance with medications and prosthetic devices, etc.), heavy cleaning, accompaniment to medical appointments, and paramedical services. IHSS does not employ the caregivers who perform the in-home supportive services. Rather, IHSS performs necessary administrative services that include determining initial and ongoing recipient eligibility, opening case files, assessing and re-assessing recipients' needs, auditing time sheets, and forwarding payroll data to the state. Payment for caregivers' services comes from a combination of federal, state, and county funding sources.

As the 2002-2003 Grand Jury reported, Humboldt County established a "Public Authority" to meet the AB 1682 mandate that it assist IHSS recipients in finding caregivers to deliver in-home supportive services. The Board of Supervisors serves as the Public Authority. AB 1682 states that "any Public Authority... shall provide for all of the following functions:"

- Assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.
- Investigation of the qualifications and background of potential personnel.
- Establishment of a referral system.
- Training for providers and recipients.

Also, AB 1682 gives recipients the right to choose a person as their caregiver who is not on the Public Authority registry, though it also states that the caregiver must be "qualified" without defining "qualified." Although AB 1682 states that the Public Authority is required to investigate "the qualifications and background of potential personnel," Humboldt County DHHS interprets AB 1682 to mean that only those caregivers in its registry must be fingerprinted, background checked, and trained. Humboldt County DHHS does not require that the background of non-registry caregivers be investigated or that they be trained or qualified for the level of care that is to be provided. According to information provided by DHHS, approximately 1,900 Humboldt County residents receive IHSS services each month. Individual IHSS social worker caseloads are about 275, which exceeds the state recommendation of 178.

### The Case Under Investigation

The facts of the case under investigation are grim. Prior to death, the individual suffered from a severely debilitating disease, which confined the person to a wheelchair or hospital bed. The individual was incontinent, could not walk or stand, and could not eat, dress, or bathe without help. In short, the client, who lived in a condemned trailer, was 100% dependent on the caregiver for all daily living needs. APS became involved with the client in August 2000, in response to a report of self-neglect. The client was agreeable to receiving assistance, and the APS caseworker established a service plan, which included in-home caseworker visits, MediCal benefits, and health services from local physicians, physical therapists, and counselors. The individual was also eligible for IHSS benefits, which consisted of payment to the caregiver for the maximum of 283 monthly allowable hours.

Rather than selecting a caregiver who had documented training and had undergone background checks, the individual insisted on having a live-in friend designated as the caregiver. In-home medical services being provided by a health care contractor were discontinued when the caregiver appeared to threaten a worker. In March of 2002, eighteen months after the case was opened, the deceased individual's extremely emaciated body was brought to the emergency room weighing only 60 pounds and covered with bedsores, some bone-deep. The coroner's report identified "lobar pneumonia due to contaminated pressure sores..." as the primary cause of death. One investigator stated that this was the worst case the investigator had seen in 25 years in law enforcement.

In late October of 2001, four months before death occurred, the individual's APS case was apparently closed, though the appropriate paperwork was not completed and signed off by supervisors. Although the caseworker was still concerned for the individual's well-being when APS closed the case, the

individual indicated that APS case management services were no longer wanted or required, and, that the caregiver could arrange for medical and any other services that might be needed. What is unknown, of course, is the degree to which the individual's statements were made under the influence or duress of the caregiver.

Because the case was closed, the APS caseworker who had previously been in frequent contact with the client was unaware of the escalating physical decline. In January of 2002, an out-of-state family member reported suspected abuse by the caregiver to an APS supervisor. However, the case was not officially reopened until March of 2002. The caseworker's attempt to contact the client was unsuccessful and the individual died a few days later. Throughout this entire time, the caregiver continued to receive IHSS payments.

In this case, the APS caseworker tried on three occasions to obtain conservatorship for the client, but conservatorship is based on mental competence rather than physical disability. Three doctors who treated the individual were unwilling to make that determination.

In the course of its investigation, the Grand Jury conducted 16 interviews, obtained written responses to requests for information from DHHS and the Sheriff's Department, and reviewed volumes of documents provided by the Social Services branch of DHHS.

With respect to the APS handling of the deceased individual's case, it is important to note that during this time the department was adapting its procedures and training staff to comply with the relatively new regulations of SB 2199. The Grand Jury concluded that, while the APS caseworker and supervisors were not in perfect compliance with all regulations, particularly in documenting case activities, the caseworker's handling of the case was resourceful and dedicated. However, the failure to properly document and communicate caseworker and department actions creates a significant informational void for future work on a case and exposes the county to risk of liability. Without adequate documentation, no proof is available of home visits or other interventions.

The investigation also revealed a serious error by IHSS in terminating in-home supportive services to the deceased person shortly before death, in that the IHSS caseworker did not follow the correct regulatory requirements and verification procedures to discontinue services.

The true problem lies elsewhere, however. Although the purpose of APS is to protect vulnerable members of society from abuse, neglect, and exploitation, and the purpose of IHSS is to provide assistance that will enable them to live safely in their own homes rather than be institutionalized, both agencies follow an opposing department policy that "when interests compete, freedom is more important than safety." The facts of this case certainly indicate that a department policy which allows a client's freedom over safety can lead to great risk to a client.

The principle of "freedom over safety" is also evident in the regulations that govern caregivers. Recipients of the IHSS funding are not required to hire caregivers from the registry, ones who have had training and background checks. To the contrary, they have the freedom to hire anyone they want. They may hire relatives and trusted friends, or they may—and sometimes do—hire drug addicts, convicted felons, scam artists, and raving psychotics. Nevertheless, it is the practice of IHSS, as it interprets AB 1682 and its implementing regulations, to pay the caregiver selected by a recipient even when that caregiver is known to be unqualified or abusive. The pay for these caregivers comes out of taxpayers' pockets.

Furthermore, whether or not the supportive services that are being paid for with taxpayer dollars are actually being provided by the caregiver is beyond the control of IHSS. As a practical matter, the IHSS caseworkers sometimes don't have time to conduct even the required annual home visit to each client, much less make random visits to verify provision or quality of care. Timesheet auditing merely counts the hours but does not verify performance. Testimony revealed also that there is no auditing system in place to prevent caregivers with multiple clients from claiming 24 hours a day or more because they turn in separate timesheets for each IHSS client, and there is no internal cross-checking of caregiver hours. The

system is riddled with fraud, but even when fraud is investigated and confirmed, the IHSS recipient still may designate that person as caregiver. Unless the caregiver is in jail, he/she will be paid according to the hours submitted on his/her timesheet(s).

The flaw in the caregiver system is exemplified by this case. The caregiver the individual selected (indeed, insisted upon) to provide the in-home supportive services required for the individual's very survival has been described by witnesses as volatile and threatening. It was while in the "care" of this person that the individual's weight dropped from 110 to 60 pounds in four months and the individual died extremely emaciated and ridden with bedsores due to severe neglect. While "freedom over safety" may be the controlling principle here, as the regulations have been interpreted locally, it is a questionable state of affairs when government is complicit and taxpayer dollars funded such a painful and destructive end.

It is the Grand Jury's opinion that IHSS regulations, which allow recipients to choose abusive, exploitative, and unsafe caregivers, must be changed to require investigation of the background and qualification of both registry and non-registry caregivers and to permit IHSS payment only to those caregivers who meet certain standards of acceptability. Humboldt County representatives (including at least one from the Board of Supervisors and the Director of DHHS) have, in fact, joined other counties in lobbying the State for stricter laws and guidelines relating to background checks, training, and qualifications of these non-registry caregivers. To date, their efforts have not been successful.

The first and only legal challenge to date appears to have been in a State Hearings Division "Fair Hearing" case involving the Riverside County IHSS (Hearing No. 2003197126) in which that county addressed this issue of abuse by a caregiver. The Administrative Law Judge (ALJ) upheld the IHSS refusal to reinstate payments to a caregiver who had been accused of mental and physical abuse by the recipient. The recipient had designated another caregiver, then recanted the abuse allegations against the first and wanted to hire him back. The ALJ concluded that the county acted reasonably and in accordance with regulations in terminating the caregiver once there was direct evidence of abuse or failure to properly provide services, and that the county "is under a duty to protect the claimant from further injury or risk." One California county has requested that this ALJ decision be considered "precedent setting." This is a first step toward that county's attempt to formulate a policy which would include refusal to pay for and ability to terminate abusive care providers in the name of protection and safety and would address the resulting potential liability to the county. Such a decision would further strengthen counties' need to implement more stringent policies – which are allowed by state regulations – than they are currently following and would aid APS/IHSS staff in fulfilling their protective role with the vulnerable adults in their care.

The decision to close the Humboldt County APS case was certainly in conformity with the APS and IHSS principle of "freedom over safety" and with the fact that adult protective services are not intended for long-term case management/monitoring. However, regulations do not preclude Humboldt County DHHS from instituting its own APS procedure for long-term case management/monitoring which includes risk factors as a basis for keeping a case open. In fact, regulations include a case closure process, and testimony from management staff revealed that there is opportunity for first, second, and third level supervisors to determine whether or not a case should remain open. One manager stated that if risk or safety factors are an issue, the department's job would be to take those factors into consideration when determining whether or not to close a case. However, if DHHS had such a procedure in place at that time, it was not in writing, nor was it followed in this case. The APS caseworker remained concerned about this case and felt that it should remain open. This effort was denied without having gone beyond the first level supervisor. Following the department's stated process of involving three supervisory levels might have led to a different result in this case. It might also help prevent similar occurrences in the future.

Finally, the Grand Jury is compelled to comment upon an aspect of this case that pertains to the Humboldt County Sheriff's Department (HCSD). Law enforcement personnel, including HCSD deputies, are mandated by law to report suspected or known abuse of elders or dependent adults to APS, and may be involved in the APS investigation of such abuse. Law enforcement personnel are also called upon to perform "welfare checks" at the request of people who are concerned about the safety of family members, friends, or neighbors, in the course of which they may encounter occurrences of abuse.

Following APS' closure of the disabled person's case, an HCSD deputy was assigned to make two welfare checks at the request of a concerned relative. The second assignment was just one month before death occurred. The deputy's report documenting those two visits was written from memory one week following the individual's death and one month after the deputy's last visit. The deputy's report of the condition of the mobile home is inconsistent with testimony received by the Grand Jury from other witnesses and from photographs taken of the trailer shortly after the individual's death.

The Grand Jury learned that HCSD does not have a written policy, procedure, or a training program that covers mandatory reporting of abuse or welfare check procedures.

In summary, this Grand Jury is concerned that the county is exposed to liability because:

- DHHS has not required that all caregivers be investigated and deemed qualified.
- DHHS fails to prevent fraud by caregivers.
- DHHS fails to take adequate protective measures to ensure the safety of each recipient.
- DHHS continues to pay abusive caregivers.
- DHHS fails to adequately communicate potential risk to clients, county personnel, and involved agencies.
- DHHS fails to adequately document case files on actions taken to demonstrate that proper procedures, regulations, and policies have been followed.

Based on the foregoing, the Grand Jury makes these findings and recommendations:

**Response from Humboldt County Department of Health and Human Services:** *As DHHS Administration and Branch Directors were not given the opportunity to discuss the APS or IHSS operations issues raised by the Grand Jury or to respond to the accuracy or completeness of the initial information contained in this report, the Department must take this opportunity to not only respond as determined by law to the Grand Jury Findings and Recommendations, but to correct (albeit unintentional) misinformation or clarify information provided to the public by the Grand Jury to assure an accurate and balanced picture emerges in relation to this Grand Jury report.*

*Further, while it is not a requirement that the Grand Jury provide the Department leadership with an opportunity to correct misinformation, or present additional information or contacts within/outside the agency prior to releasing its reports, it would seem prudent to do so in that adding this step would increase the information available to the Grand Jury relating to an issue or complaint, thus increasing the validity of its findings and recommendations and assure the public received comprehensive and accurate information relating to its government operations. In order to assure that future Grand Jury reports reflect accurate information pertaining to the DHHS operations, the Department recommends the following for Grand Jury consideration:*

1. *Upon having completed its initial investigation of issues or complaints, a meeting with the Grand Jury and the Department Head and involved Branch Directors be established to:*
  - a. *receive the Grand Jury's report on the issue(s) brought before the Grand Jury; and*
  - b. *provide the Grand Jury with any additional information relating to the issue(s) that the Grand Jury may not be aware of, and/or corrections to incomplete or*

*erroneous Grand Jury information, important omissions of information or facts and any supporting documents, and internal/external contacts relating to the issues of focus.*

***The following information, while not mandated, represents the Department's corrections or clarifications to information contained in the Grand Jury Report.***

*In regard to the ability of the DHHS to directly "select" a caregiver or require a caregiver undergo "documented training" or "background checks" the Grand Jury, while correctly stating DHHS "does not employ the caregivers who perform the in home supportive services" and correctly states the Department's "scope of control", the Grand Jury report appears to stray from these findings and imply that a different role could be performed by the Department.*

*The facts pertaining to DHHS' scope of authority relating to IHSS are as follows:*

- 1. The County (DHHS) is not the employer of caregivers and has no authority to select or screen caregivers, or stop a recipient from employing a caregiver;*
- 2. The County has no authority to require and is not funded to provide criminal background checks on caregivers;*
- 3. The County has no authority to demand or direct caregivers attend trainings (and no minimum state standard of training for caregivers is currently provided by the State of California).*

*Further, the Humboldt County DHHS, through Board of Supervisors reports, has repeatedly voiced our concerns relating to the above areas in relation to our ability to provide trained, screened caregivers to Humboldt County residents and our position that increased IHSS provider wages without DHHS authority and funding to conduct criminal background checks is a significant flaw in current IHSS regulations that places recipients at risk.*

*Given the inability of the Department to fund, control or direct these important aspects of assuring client safety and the current lack of State minimum training standards within the State regulations, it is concerning and inaccurate that the Grand Jury report then goes on to state that ". . . DHHS does not require that the background of non registry caregivers be investigated or that they be trained or qualified for the level of care that is to be provided."*

*However, the Department agrees with the Grand Jury's opinion (and has stated so numerous times at Board of Supervisors meetings and to the Grand Jury) ". . . that IHSS regulations, which allow recipients to choose abusive, exploitive and unsafe caregivers, must be changed to require investigation of the background and qualification of both registry and non registry caregivers and permit IHSS payment only to those caregivers who meet certain standards of acceptability."*

*In addition, the Department has stated at the Board of Supervisors that minimum training standards need to be developed at the State level, and that additional Quality Assurance and*

*fraud standards and resources need to be developed at the State level and adequate funding provided to Counties to implement these needed structures.*

*Finally the Grand Jury omits that the Department has, despite lack of new funding added significant staffing and fraud monitoring to its IHSS services and increased APS staffing despite the emerging State budget crisis. The Department has integrated investigators from the Special Investigations Unit into Adult Services and actively investigates suspected instances of fraud in IHSS. Since 1999 staffing levels for APS and IHSS combined have increased 98%. The chart below shows the increase in staffing in APS and IHSS since 1999.*

<b>Staff</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
APS	5.5	6.5	7	14	14.5	14.5
IHSS	11.5	12.5	13	19.4	19.2	19.2
Total	17	19	20	33.4	33.7	33.7
Percentage increase over the previous year	--	12%	5%	67%	1%	0%

**Department of Health and Human Services (DHHS) Corrections/Clarifications to statements contained in the Grand Jury general report:**

**Grand Jury Statement:**

**“The average monthly APS caseload now consists of approximately 200 cases . . .”**

**DHHS Correction:**

*The average monthly caseload for APS is 23.*

**Grand Jury Statement:**

**“... Humboldt County established a ‘Public Authority’ to meet the AB 1682 mandate that it assist IHSS recipients in finding caregivers to deliver in-home supportive services.”**

**DHHS Correction:**

*IHSS in Humboldt County follows Division 30 of the California Department of Social Services Manual of Policies and Procedures. These regulations state how IHSS will be administered by counties and were updated with the passing of AB1682.*

*The Public Authority is separate from the County. It is an entity established by the Board of Supervisors. The Public Authority is defined as a corporate public body exercising public and essential governmental functions to carry out the delivery of in-home support services. (30-767.21)*

*Division 30 states that the Public Authority, through the establishment of a registry, may assist in finding in-home supportive services caregivers, however the IHSS recipients may elect to receive services from in-home supportive services caregivers who are not referred to them by the Public Authority and retain the right to hire, fire, and supervise the work of any in-home supportive services caregivers.*

**Grand Jury Statement:**

**“The Board of Supervisors serves as the Public Authority.”**

**DHHS Correction:**

*The Board of Supervisors serves as the governing board for the Public Authority (30-767.212(a)).*

**Grand Jury Statement:**

**“AB1682 states that any Public Authority ...shall provide for...Investigation of the qualifications and background of potential personnel. ... Training for providers and recipients. .... Humboldt County DHHS interprets DHHS AB1682 to mean only those caregivers in the registry must be fingerprinted, background checked and trained.”**

**DHHS Correction:**

*Division 30 defines qualification of providers as an individual selected by the recipient, or the recipient's personal representative or in the case of a minor, the legal parent or guardian. The recipient and provider are required to complete the State form “Personal Care Program Provider Agreement”. The recipient certifies on this form that, in the recipient's opinion, the provider is qualified to provider personal care. (30-767.5)*

*The State of California does not give the County the legal authority to require, or provide funding, to fingerprint and background check of all care providers enrolled in the IHSS program. Although counties may request fingerprinting and background checks, recipients may refuse to have their selected caregiver fingerprinted and/or background checked and insist that the selected caregiver be recognized as their IHSS caregiver. DHHS does inform recipients that they have the right to request and pay for a fingerprint background check of their care providers (ACL 98-61). Proof of identification is the only requirement in the regulations for being listed in an agency registry (30-776).*

*Regulation requires that access to training be provided to recipients and providers. (30-767.232) In Humboldt County The Caregiver Services Program Registry created through a contract between the Area One Agency on Aging and the Public Authority, requires 33 hours of training for all workers listed on the registry. In fiscal year 2003-04, the Public Authority partnered with community based organizations to provide access to 174 hours of training for care providers in Humboldt County.*

**Grand Jury Statement:**

**“Humboldt County DHHS does not require.....that they (caregivers) be trained or qualified for the level of care that is to be provided.”**

**DHHS Clarification:**

*Qualified has been defined by the State to be determined by the recipient (30-767.5). Humboldt County DHHS does ensure that caregivers meet this definition of qualified. Regulation requires that access to training be provided to recipients and providers. (30-767.232) In fiscal year 2003-04, the Humboldt County Public Authority partnered with community based organizations to provide access to 174 hours of training for care providers in Humboldt County.*

**Grand Jury Statement:**

**“..... both agencies (APS & IHSS) follow an opposing department policy that ‘when interests compete, freedom is more important than safety.’”**

**DHHS Correction/Clarification:**

*There is not a DHHS policy that states, “when interests compete freedom is more important than safety.” APS follows Division 33 of the State of California Department of Social Services Manual. One of the goals of APS stated in 33-105.3 is:*

*Whenever possible, the adult protective services program shall seek to maintain the elder or dependent adult safely in his or her normal environment and by strengthening his or her capacity for self-maintenance.*

*The extent to which APS can intervene is defined in the scope of APS and is defined in 33-110. This section states:*

*The adult protective services program is not intended to interfere with the lifestyle choices of elders or dependent adults, nor to protect those individuals from all the consequences of such choices. (33-110.7)*

*An elder or dependent adult who has been abused...may refuse or withdraw consent at any time to preventive and remedial services offered by an adult protective services agency. (33-110.8)*

*If the elder or dependent adult is incapacitated to the extent that he/she is unable to give or deny consent, a petition for temporary conservatorship may be initiated. (33-110.81) The determination that an adult is incapacitated to the extent that he/she is unable to give or deny consent is determined by a medical doctor. A competent person may deny APS services even if their chosen lifestyle puts them at risk (33.110.8.)*

**Grand Jury Statement:**

**“...it is the practice of IHSS, as it interprets AB1682 and it’s implementing regulations, to pay the caregiver selected by a recipient even when that caregiver is known to be unqualified or abusive.”**

*DHHS Correction: Regulations require that Humboldt County recognize the recipient as the employer (30-701). Recipients retain the right to hire, fire, and supervise the work of any in-home supportive services personnel and certify the qualifications of the provider. Abusive providers are investigated according to APS regulations.*

**Grand Jury Statement:**

**“As a practical matter, the IHSS caseworkers don’t have time to conduct even the required annual home visit to each client, much less random visits to verify provision or quality of care.”**

*DHHS Correction:*

*Required annual visits are made in accordance with state regulations. (30-761) Random visits are made as needed within available resources by social workers and vocational assistants to assess need for services.*

**Grand Jury Statement:**

**“... there is no auditing system in place...and there is not internal cross-checking system of caregiver hours.”**

*DHHS Correction:*

*When timesheets are received by the County, the County is responsible for ensuring each time sheet is appropriately signed and dated, hours entered total to the total entered on the time sheet and that the hours claimed do not exceed hours authorized. On a monthly basis over 2000 time sheets are submitted for payment. In May 2004 payment for 163,047 hours was processed. Monthly reports are generated from the Case Management, Information and Payrolling System (CMIPS) indicating excessive authorized hours for providers. When this occurs steps are taken according to regulation (30-768) to recoup overpayments to the provider.*

**Grand Jury Statement:**

**“The system is riddled with fraud, but even when fraud is investigated and confirmed, the IHSS recipient still may designate that person as caregiver.”**

DHHS Correction:

*DHHS shares the concern that fraud may occur by providers and/or recipients. Fraud detection is made more difficult by the structure of the program that places the recipient of services in the role of the employer. DHHS follows regulations to investigate fraud, prosecute individuals who commit fraud and recoup overpayments. DHHS also has worked closely with the Special Investigation Unit in developing and implementing a policy for investigating IHSS fraud situations. The Special Investigation Unit is a member of the Enhanced Adult Services Committee that meets to discuss policy and program changes as well as recommend new policies. Regulations require that Humboldt County recognize the recipient as the employer (30-701). Recipients retain the right to hire, fire, and supervise the work of any in-home supportive services care provider.*

Grand Jury Statement:

**“... regulations do not preclude Humboldt County DHHS from instituting its own APS procedure for long-term case management/monitoring which includes risk factors as a basis for keeping a case open.”**

DHHS Clarification:

*Regulations do state that APS is not intended to be long-term, on-going case management activity (33-110.2) In Humboldt County there are APS cases held open after the initial investigation. There is a written process in place that requires investigating staff to complete a report of the initial investigation in which an assessment of the individual's risk level is conducted. If it is determined that individual is at high risk, the case may, and many times does, remain open. All APS cases recommended for closure must have supervisor approval.*

**FINDING 1:** Regulations do not prohibit APS from establishing a policy of, and procedures for, ongoing case management/monitoring when there is a valid concern for the physical safety of an APS client.

**Response from Humboldt County Department of Health and Human Services:** Agree

**RECOMMENDATION 1:** The Grand Jury recommends that DHHS develop and implement a written procedure for ongoing long-term case management/monitoring of APS cases where it is determined that closure of the case presents an unacceptable threat to the physical safety of the client; that DHHS communicate the formalized policy to all staff for use in critical cases; and that the procedure for determining which cases should have long-term case management/monitoring include participation of the caseworker as part of a multi-disciplinary decision-making team.

**Response from Humboldt County Department of Health and Human Services:** *The recommendation has partially been implemented. There is a procedure in place that was implemented in October 2001 to assess closure of cases. APS cases are not closed if the individual is determined to be at risk. Multi-disciplinary team (MDT) case reviews do take place on severe or problematic cases. Enhancing the process to include criteria for keeping an APS case open is currently underway. It is expected to be completed by January 31, 2005 and includes communicating the written procedure to all staff.*

**FINDING 2:** DHHS does not require background checks, fingerprinting, and/or training for potential non-registry IHSS caregivers, thereby putting itself at considerable risk of liability in cases in which abuse is involved.

**Response from Humboldt County Department of Health and Human Services:** *Partially Agree. DHHS does not require background checks, fingerprinting and/or training as DHHS does not have legal authority or funding to require these activities. Although counties may request fingerprinting and background checks, recipients may refuse to have their selected caregiver fingerprinted and/or background checked and insist that the selected caregiver be recognized as their IHSS caregiver. However, DHHS does follow State mandates regarding IHSS providers, which recognizes the role of the recipient as the employer. DHHS does inform the recipient of their right to request and pay for fingerprinting and background checks. DHHS also provides access to training for providers.*

**Response from Humboldt County Board of Supervisors:** *Partially Agree. DHHS does not have legal authority or receive funding to require background checks, fingerprinting and/or training for potential caregivers. Although counties may request fingerprinting and background checks, recipients may refuse to have their selected caregiver fingerprinted and/or background checked and insist that the selected caregiver be recognized as their IHSS caregiver. DHHS follows State mandates on IHSS providers, which recognizes the role of the recipient as the employer. DHHS does inform the recipient of their right to request and pay for fingerprinting and background checks.*

**RECOMMENDATION 2:** The Grand Jury recommends that DHHS develop a certification system and procedures for background checking, fingerprinting, and mandatory training for all IHSS caregivers assigned to provide supportive services to elderly and dependent adults in Humboldt County. Because this will be a cost item for the county, the procedures should include a mechanism for recovering the actual costs of the certifications and training from the potential caregivers as a condition of their employment.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation will not be implemented because DHHS does not have the legal authority to require fingerprinting and background checks or mandatory training of all IHSS caregivers. DHHS will continue to inform recipients, who are recognized as the employer, of their right to require and pay for fingerprinting and background checks. DHHS will continue to follow regulations that mandate recipients retain the right to hire, fire, and supervise the work of any in-home supportive services personnel and certify the qualifications of the provider. There is no legal authority, or funding, given by the State to require a certification system of background checking and fingerprinting. DHHS will continue to provide access to training to care providers*

**Response from Humboldt County Board of Supervisors:** *This recommendation will not be implemented because DHHS does not have the legal authority to require fingerprinting and background checks or mandatory training of all IHSS caregivers. No funds will be allocated for the implementation of this recommendation as the County has no legal authority to require fingerprinting and background checks. DHHS will continue to provide access to training to care providers.*

**FINDING 3:** IHSS social worker caseloads are over 60% above state-recommended levels.

**Response from Humboldt County Department of Health and Human Services:** *Agree.*

**RECOMMENDATION 3:** The Grand Jury recommends that DHHS take action now to relieve the current social worker caseloads whether by re-assigning supervisors or eliminating supervisor positions and hiring additional social workers.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation will not be implemented as there is currently one supervisor for ten IHSS staff. Elimination of this position is not possible. Additional staff will be hired as resources allow.*

**FINDING 4:** APS and IHSS caseworkers are inconsistent in their documentation of client visits and interventions.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. Training on appropriate documentation of client visits and interventions is provided on an on-going basis to staff. Cases are reviewed randomly to ensure proper documentation is occurring.*

**RECOMMENDATION 4:** The Grand Jury recommends that DHHS continue to emphasize the importance of case documentation and provide ongoing mandatory documentation training. Random auditing of caseworker documentation is also recommended.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation has already been implemented. If case documentation is not entered into the case file correctly and timely, the supervisor addresses this performance issue by providing training, and when necessary corrective action.*

**FINDING 5:** DHHS follows a policy of "freedom over safety" in its management of elderly and dependent adult cases. This creates safety issues for clients and risks potential liability for the county.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. APS follows State mandates to keep elderly and dependent adults safe. APS also follows the mandate to not interfere with the lifestyle choices of adults nor to protect adults from all the consequences of such choices (33-110.7). APS follows the mandate that allows adults to refuse or withdraw consent to protective or remedial services (33-110.8.) APS follows the regulations for pursuing conservatorship for those individuals believed incapacitated to give or deny consent. (33-110.81)*

**RECOMMENDATION 5:** The Grand Jury recommends that DHHS develop a written set of objective criteria to measure levels of potential risk to elderly and dependent adult clients. Where safety is an issue cases shall not be closed without convening a multi-disciplinary team, including first, second and third level supervisors and other involved professionals.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation is partially underway. A written procedure for determining risk and case closure is currently in progress and is expected to be completed by January 31, 2005. Further analysis on whether a MDT and third level supervision approval are warranted will be determined by January 31, 2005.*

**FINDING 6:** DHHS continues to pay caregivers who are suspected or known to be abusive and/or unqualified to serve as caregivers. This puts the county at serious risk of liability.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. The County accepts the IHSS timesheets, reviews the signatures, dates and verifies the math and enters the data into the State data system. The State processes the data and authorizes the payment. DHHS follows the State mandates on IHSS providers and recognizes the role of the recipient as the employer. The*

recipient has the right to hire the caregiver of choice (30-701). The recipient authorizes payment for work completed by the caregiver every month that a time sheet is completed and signed by the recipient. If abuse is suspected, an APS referral is made, an investigation is conducted, and necessary actions are taken.

**RECOMMENDATION 6:** The Grand Jury recommends that DHHS discontinue use of taxpayer dollars to pay caregivers who are not providing the levels of care approved for the client, particularly when physical, emotional, or financial abuse is involved.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation will not be implemented as DHHS has no authority to hire or fire a recipient's caregiver. DHHS follows the State mandates on IHSS providers and recognizes the role of the recipient as the employer. If the recipient signs the timesheet verifying that the hours were worked, the timesheet is processed. The State Controller's Office issues payment to the provider. The State then bills the County on a monthly basis for the County's share of the IHSS cost for wages, insurance and taxes. If fraud is suspected, staff follow the written policy in place to refer the situation to the Special Investigations Unit. If abuse is suspected, a referral is made to APS and an investigation is conducted and action is taken.*

**FINDING 7:** DHHS has no centralized system of cross-checking caregiver timecards to verify actual hours of service to clients, leading to fraud.

**Response from Humboldt County Department of Health and Human Services:** *Partially agree. There is no centralized system to verify actual hours of service to clients. However, monthly reports are currently reviewed for correctness and reasonableness of the hours claimed. Hours claimed in excess of authorized time, are investigated. Fraudulent claims are investigated, prosecuted when appropriate and overpayments are recouped.*

**RECOMMENDATION 7:** The Grand Jury recommends that a centralized system for cross-checking and verifying each caregiver's cumulative timecard hours and verifying client timecard signature be established.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation requires further analysis in order to determine if such a system is feasible, and if so the cost of implementing the system will allow implementation. An analysis will be conducted by March 31, 2005.*

**FINDING 8:** DHHS continues to approve payment for caregivers who are known to have committed fraud.

**Response from Humboldt County Department of Health and Human Services:** *Partially agree. When fraud has been established as committed by a caregiver, the recipient is informed. However, the recipient, as the employer, reserves the right to hire and fire caregivers. If the recipient chooses to continue to employ a caregiver guilty of fraud, DHHS has no authority to terminate the recipient's caregiver. DHHS does investigate situations where fraud is suspected and assists in the prosecution of individuals believed to have committed fraud. The passing of the 2004-05 California State Budget on August 2, 2004 included a statutory change to IHSS that prohibits an individual convicted in the last ten years of health care fraud, child abuse, or elder abuse from providing IHSS services. A policy will be drafted and staff trained that meets this new mandate.*

**RECOMMENDATION 8:** The Grand Jury recommends that when a caregiver's fraud has been legally confirmed, that caregiver be permanently disqualified as a caregiver in Humboldt County.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation will be implemented by March 31, 2005. Previously regulation did not allow disqualification of caregivers that were selected by the recipient. The passing of the 2004-05 California State Budget includes a statutory change to IHSS that prohibits an individual convicted in the last ten years of health care fraud, child abuse, or elder abuse from providing IHSS services. A policy will be drafted and staff trained that meets this new mandate by March 31, 2005.*

**FINDING 9:** Lack of communication between APS and IHSS workers in shared cases creates gaps in critical knowledge and case progress and interventions.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. There is not a lack of communication between APS and IHSS. Information is shared on cases in common.*

**RECOMMENDATION 9:** The Grand Jury recommends that a cross-file of shared cases be instituted so that APS and IHSS caseworkers have access to information and status of an individual's case within the other division. When the status of a case is shared, caseworkers and supervisors from both divisions should be included in a multi-disciplinary decision-making team. APS caseworkers whose clients are also IHSS recipients should assist IHSS by verifying authorized caregiver services during regular visits to the client and reporting findings to IHSS.

**Response from Humboldt County Department of Health and Human Services:** *This recommendation is partially implemented. Currently, information is shared and documented in cases that are common to both programs. Workers and supervisors do meet and confer as part of a multi-disciplinary decision making team on cases in common. This occurs when initially identified as being active in both programs as well as when changes occur that impact the other program. A formal written policy on cross-filing in each case file will be drafted and staff trained by March 31, 2005.*

**FINDING 10:** The Humboldt County Sheriff's Department has no written policy or procedure for mandatory reporting of abuse or welfare checks.

**RECOMMENDATION 10:** The Grand Jury recommends that HCSD develop a written policy and establish procedures for mandatory reporting of abuse and welfare checks, including requirement for the documentation of deputy visits and findings immediately following those visits.

**FINDING 11:** The HCSD has no formal training for deputies in the areas of mandatory reporting of abuse and welfare checks.

**RECOMMENDATION 11:** The Grand Jury recommends that, when the new policy and procedures have been developed, annual mandatory training in the newly established policy and procedures regarding mandated reporting of abuse and welfare checks be instituted and a documented record of attendees maintained.

**Grand Jury Report #2004-HS-02**  
**HUMBOLDT COUNTY'S FOSTER CARE PROGRAM NEEDS HELP NOW**

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-HS-02 shall be provided as follows:

- The Humboldt County Department of Health and Human Services shall respond to Findings and Recommendations 1 through 11.
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In 1999 the Little Hoover Commission, an independent state agency charged with recommending ways to increase efficiency and effectiveness in state programs, issued a report on California's foster care system, which outlined a comprehensive strategy for reform. In 2003, the Commission weighed in again by issuing a press release stating, "Three years have passed, but almost no progress has been made in reforming...[the] foster care system." As a result, the California legislature adopted Assembly Bill 636 to bring serious focus to reform. Humboldt County is one of the eleven California counties currently engaged in pilot projects to redesign the state's foster care system. The county will receive over two million dollars in the next four years to support its efforts at reform.

The 2003-2004 Grand Jury received a complaint regarding Humboldt County's Child Welfare Service (CWS), a division of the Department of Health and Human Services (DHHS). A local medical professional alleged serious shortcoming in the foster care program which he believed had adversely affected one particular family. Because of this complaint and other concerns about the county's foster care program, the Grand Jury investigated how the local program works for children and families. The investigation spanned July 2003 to April 2004 and included sixteen interviews of foster parents, current and former caseworkers, supervisors, and agency, medical, and court personnel. Jurors made two unscheduled facility visits, distributed surveys to 21 medical professionals, and reviewed numerous documents.

DHHS asserts that its mission is "to protect children from abuse, neglect and exploitation and to promote the health, safety and nurturing of children..." The Grand Jury found serious deficiencies in the way this mission is being fulfilled. Although the redesign pilot project is underway in the county, foster children, foster parents, and the system itself need help now.

Personnel

The Grand Jury's investigation revealed that CWS is in a constant state of flux with an inordinate amount of caseworker turnover. Promotions, resignations, medical leaves (often stress-related), and employees rotating in and out of jobs have created turmoil and uncertainty for foster children and families. An independent California study demonstrated that "Most social workers' caseloads are ... too high for them to meet all the requirements of the job." Certainly, that is true in Humboldt County. Although state guidelines recommend caseloads of no more than 15 in the Family Maintenance and Family Reunification units, local caseloads currently stand at about 26-27. There are approximately ten vacant caseworker positions – out of 70 allocated – in the department.

Excessive overloading of cases creates major problems in caseworkers' ability to deal with the children and families in their charge. A caseworker is expected to see each foster child and meet with the foster parent once a month. This is often not possible with the almost double caseloads currently being carried by CWS caseworkers. Therefore, they resort to telephoning families or sending forms to be completed rather than making in-person visits. These methods are of limited value for determining the actual condition of the child, the foster parents, or the foster home.

In addition, about a year ago, overtime in the department was eliminated. Caseworkers sometimes make evening and/or weekend visits on their own time in order to find people at home or to be able to complete their required tasks. They are "on-call" to handle after-hours reports of abuse or neglect a minimum of ten times a year. Testimony revealed that this further impacts caseworker effectiveness and morale.

Departmental training for caseworkers is inconsistent. Some training is on-the-job, some is based on computerized programs, and some is conducted by first-level supervisors. Core classes are provided annually for new hires through U.C. Davis. Even specialized training that is offered is not mandatory. There is no ongoing mandatory training, for example, in stabilized case management, conflict resolution, or preparation for court appearances.

Currently, for every five to eight caseworkers, there is a first-level supervisor. This represents an increase in the number of supervisors over the past two years, while the number of programs has increased and the number of caseworkers has decreased.

In spite of the fact that caseworkers are most familiar with family situations, their recommendations are often overruled by supervisors who do not meet with children and families. There is little opportunity for team decision-making or consensus-building in case management. First-level supervisors are generally available and supportive to caseworkers, but caseworker communication with supervisors at the second, third, fourth, and fifth (top) levels are discouraged. This chain of command has created tension within the department. Resignations, early retirements, and stress leaves have decimated the department's staff, and caseworker morale is extremely low.

#### Children and Families

Social, emotional, and developmental costs to children in the foster care system are profound. Many have birth parents burdened with substance abuse, domestic violence, or mental health problems which create an environment of chronic fear and neglect. When children have experienced removal from birth parents, they need new adults in their lives who are stable and consistent.

Grand Jury investigation indicates that this is not happening for many foster children. From the moment of intake into the system or placement in a foster home, children experience a series of changing caseworkers, foster parents, and therapists, which adds to a child's feelings of insecurity. Too often these are paperwork transfers without personal knowledge, insights, or concerns passed on to the next caseworker or foster family.

Also, the Grand Jury was told by witnesses that some of the moves from one foster home to another are due to conflicts between CWS and the foster parents. Children's wishes are not necessarily considered. Oftentimes siblings are split between foster homes. Frequent moves have a negative effect on children's schooling, create disruptions in medical care, and cause lack of continuity in parenting.

Efforts to reunify families and to assist in maintaining the reunified family also fall within CWS' responsibility. The Family Reunification unit has a maximum of 18 months to return children to their biological parents. The Family Maintenance unit has a maximum of 12 months to determine a family's progress. During these time periods, CWS provides visitation for parents with their removed children as well as parental training to correct the behaviors which led to the children's removal. This training usually consists of nothing more than the parents' attendance at several weekly parenting classes.

#### Foster Families

Testimony revealed a major shortage of foster homes in Humboldt County and consistently attributed that shortage to department policies and practices. The number of foster homes licensed in the county varies from 100 to 125. Recruitment seems difficult because of tension between CWS personnel and some foster parents. Some foster homes have spaces available which are not being utilized due to conflicts with the department, while children may wait for weeks for a placement. In many cases they are held in the emergency shelter beyond the 30-day limit. A CWS supervisor may remove a child from a foster home even when the caseworker believes the placement is successful. CWS and foster parents alike need training in conflict resolution and sensitivity.

Because of the extreme need for foster homes, Humboldt County has entered into contractual agreements with two private agencies to provide them. This type of private agency placement does relieve some of the CWS caseworkers' responsibilities, such as the monthly visits.

Foster parents receive 12 hours of training annually through College of the Redwoods. However, insufficient numbers of foster parents are prepared to deal with children with extreme behaviors. Standard foster care homes may accept no more than six children; those designated as therapeutic foster care (TFC) homes are limited to a maximum of two children with extreme physical and emotional problems. Reductions in the number of children with TFC designations, which have higher than standard reimbursement rates, are being made without consultation with foster parents. Testimony indicated this is an attempt by CWS to save money. A Family Intervention Team (FIT) now makes decisions regarding placement of the most difficult cases without consulting the caseworker, the child, the family, or the foster parent. Witnesses testified that decisions are made with regard to money, not to the needs of TFC children.

Foster parents are supposed to receive a Health and Education Passport when a foster child enters their home. This Passport is meant to convey relevant background information about the child, not only to help the foster parents understand and work more effectively with the child, but to warn of potential problems. Foster parents do not always receive this Passport. Oftentimes when they do, its information is incomplete or out-of-date. When that happens, the foster parent is unable to prepare adequately for potential problems such as fire starting, sexual deviance, et cetera.

### Services

Foster children need expert mental health services, not necessarily the cheapest. Children who are extremely disturbed, dysfunctional, or violent need specialized therapies and care. Instead, over the past three years, services to children and families have been severely cut. Even for the high-risk TFC child, the majority of mental health services are made available through the Children, Youth, and Family Services units of the Department of Mental Health. They are provided by a rotating contingent of interns. One Licensed Clinical Social Worker oversees about ten interns who work directly with children. Interns may see the child one hour per week, which may not be adequate for high-risk children. The child may see four to six interns over a two-year span. CWS will not or cannot pay professional private therapists who do not accept MediCal. Dental care is also a problem for foster children because too few dentists accept MediCal and, again, CWS avoids paying non-MediCal rates. It may take weeks for caseworkers to obtain supervisory approval for any services or expenditures.

The Grand Jury received information that CWS does not always follow medical doctors' opinions and recommendations; see attached results of the medical professionals' survey. Even when services are court-ordered, CWS does not always provide funding for them. Sometimes CWS disregards a judge's order rather than going back to court to request modification.

### Court Procedures

Continuances often result from caseworkers being unprepared, absent, or untrained in court protocol. This slows the process to the point where a child and family may be held in limbo for months without resolution of their issues. Finally, there can be a lack of consistency in how families are dealt with from the pre-court stage through the court process. This apparently stems, at least in part, from the fact that CWS both investigates and files the case.

**Medical Professionals Survey Results  
(13 respondents of 21 pediatricians surveyed)\***

Rate your professional relationship with:	Poor	Adequate	Good	Excellent
CWS	3	5	1	
Foster Parents	-	-	9	4
Rate CWS' responsiveness to your:				
Professional Opinion	7	2	1	1
Recommendations	7	2	1	1
Children's Needs	5	6	1	1
Foster Parents' Needs	4	5	3	1

Have your diagnoses/treatment plans been respected/followed by:	Yes	No	Sometimes
CWS	2	1	5
Foster Parents	7	-	2

\*Not all respondents answered every question.

**Summaries of Medical Community Comments:**

1. CWS seems reluctant to open and carry cases, or they close them before it is safe.
2. CWS has a tendency to not adequately investigate or not take action when it appears to be warranted.
3. I have been appalled.
4. CWS sends children to live in homes without heat, or the same home as a convicted child molester, or back to parents who injured them, or allows visitations in jail for infants.
5. I have stopped thinking that CWS referrals would actually help children who need it.
6. Most referrals I made were not investigated or I received a note saying my accusations were not substantiated.
7. Numerous medical staff recommendations that newborn babies be removed from birth mothers due to danger to their infants have been ignored, often resulting in severe neglect, injury, or even death of infants by the very parent CWS was warned about.

Based on the foregoing, the Grand Jury makes the following findings and recommendations:

**Response from Humboldt County Department of Health and Human Services:** *Despite the Grand Jury's intent to provide the public with accurate information, findings and systems improvements needed, this Grand Jury report relating to Humboldt County's Child Welfare System contains significant misinformation, incomplete information, and omissions of significant system change efforts underway.*

*Due to the unprecedented amount of errors and omissions in this report, the Department of Health and Human Services (DHHS) has had to dedicate significant staff time towards providing*

*the public with corrections and clarifications to its contents. This could have been avoided with an improved process of communication between the Grand Jury and DHHS.*

*In order to assure that future Grand Jury reports reflect accurate and complete information pertaining to the DHHS operations, the Department recommends the following for Grand Jury consideration:*

2. *Upon having completed its initial investigation of issues or complaints, a meeting with the Grand Jury and the Department Head and involved Branch Directors be established to:*
  - a. *receive the Grand Jury's report on the issue(s) brought before the Grand Jury; and*
  - b. *provide the Grand Jury with additional information relating to the issues that the Grand Jury may not be aware of, and/or corrections to incomplete or erroneous Grand Jury information, important omissions of information or facts, provide any supporting documents, and internal/external contacts relating to the issues of focus.*

*Through this process, the DHHS hopes to improve the Grand Jury's ability to establish accurate and complete information relating to complex subjects prior to releases of Grand Jury reports to the public.*

*In the case of this Grand Jury report, it must be noted that the Department Head or Branch Directors were not contacted, which has resulted in the release of a Grand Jury report that does not serve the public in terms of providing accurate information, potentially undermines the public confidence in DHHS safety net systems and is unnecessarily demoralizing to staff in terms of diminishing the overall quality of their efforts and successful work with thousands of Humboldt County residents.*

*While the DHHS has ultimate respect for the overall intent of the Grand Jury, without improved communication and mutual respect the missions and credibility of both the Department and the Grand Jury in terms of serving the public can be undermined.*

***While the following responses are not required by the Grand Jury, in the interest of providing balanced and accurate information to the public the DHHS provides the following information relating to its current operations and future plans for improving Child Welfare Services (CWS) in Humboldt County.***

*In relation to the current statewide CWS crisis in California (omitted in the Grand Jury report), the following facts are provided and reference documents noted for the Grand Jury as well as members of the public who may have an interest in an in-depth review of CWS and what is occurring statewide and within Humboldt County to begin to address this public safety issue.*

1. *California's CWS system, which along with 32 other states failed to pass some of the 14 areas of the Federal Performance Review, currently has submitted a state Program Improvement Plan and developed statewide legislation (Assembly Bill 636) in which the California Department of Social Services (CDSS) in partnership with counties will focus on the difficult and long-term goal of improving and restructuring CWS in California.*
2. *In response to this national and statewide crisis in CWS, the State of California developed and released in September 2003 a document titled "CWS Redesign: The Future of CWS - Final Report". The report provides the reader with the scope of the problem California faces in relation to CWS as well as proposed solutions to better protect California's children and strengthen their families. This report can be obtained at [www.cwsredesign.ca.gov](http://www.cwsredesign.ca.gov).*
3. *Due to inadequate funds available to CDSS (and thus counties) for a complete and statewide restructuring of CWS and due to a complex array of state regulatory, statutory and state/federal barriers, the CDSS has selected 11 of California's 58 counties to serve as laboratories toward beginning to address the fundamental reforms needed in CWS. Humboldt County DHHS, based on its integrated structure and its resolve to improve its services, was selected to participate in this important and long-term system restructuring effort.*
4. *Humboldt County DHHS and the 10 other "laboratory" counties have worked with CDSS to develop a matrix to begin implementation of California's first efforts to Redesign CWS and are focusing on three key priority areas:*
  - a) *the implementation of a Standardized Safety Assessment System;*
  - b) *the implementation of Differential Response in geographic areas or with targeted populations; and*
  - c) *the implementation of improved permanency and transitioning youth practices*
5. *Partial funding for the Redesign effort has been obtained by CDSS and will provide for initiating these activities in concert with the State in Fiscal Year 2004-05. The pace and scope of the Redesign will require significant funding to implement. The State's ability to provide fiscal sustainability remains uncertain due to the current budget crisis.*
6. *The Governor's 2004-05 budget has further reduced funds for CWS by \$17.1 million, eliminated funding for the Children's Mental Health System of Care Program for Severely Disturbed children (a \$20 million reduction) and reduced funding to the CalWORKs program that serves primarily women in poverty with children by \$40 million. These funding reductions totaling \$77.1 million are very significant and further limit the ability of Counties to provide essential services to CWS children and at-risk families.*

7. To augment its efforts in relation to the State CWS Redesign project, Humboldt County DHHS has initiated other key actions and initiatives to improve the services available to our children and families: one of significance is the "launching" of six Evidence Based Practices (which are defined as heavily researched national models known to have positive outcomes) targeting Foster Care, Probation and CWS involved children; and a second being the establishment of a community stakeholders group in 2002 to ensure active involvement from foster parents and other stakeholders in restructuring our Foster Care placement system.

Finally, in relation to developing a planned and organized commitment to identifying strengths and service gaps or weaknesses in our CWS system, the Humboldt County CWS Division, pursuant to AB 636, has recently completed a Self Assessment of its services (a copy of this report can be obtained on the County's website [www.co.humboldt.ca.us/hhs/socialservices](http://www.co.humboldt.ca.us/hhs/socialservices): select "Social Services" from the menu on the left, then under "Child Welfare Services" select "Reports") and is in the process of developing a System Improvement Plan. Both of these activities will assist CWS in the identification of focus areas where the Division will focus attention on improving services and outcomes.

That being said, the DHHS does not dispute that the CWS system in Humboldt County is in need of significant restructuring and increases in state funding if Humboldt County CWS (and California) is to better protect children and strengthen families.

However, the issues relating to this system failure of CWS in California are complex and not restricted to Humboldt County or funding alone, but linked to the current structure of the system's mandates as well as regulatory, statutory and other complex barriers that must be addressed in a well planned and organized manner at the local, state and federal levels in order to begin to address the enormous scope of the problem.

One fundamental issue that needs to be addressed is the apparent lack of resolve in terms of the public voice in making the safety of California's (and Humboldt County's) children a priority, if not the priority, in California. We see a statewide focus and commitment in funding and focus in terms of providing children with a quality education, but until California makes protection and safety of its children at least an equal priority we will as a state and as a county fall short in terms of reaching this vital goal.

Further, the State's ability to address the funding of this system restructuring is exacerbated by the current State budget crisis where the focus on public safety is most often prioritized in terms of police and fire protection and not generally in terms of front line protection and safety functions performed by DHHS in relation to CWS (or other health and human services "safety net" programs).

What is important for the public to understand is that despite these factors the DHHS has made, and will continue to make within our available resources, important and continuous improvements in services to enhance the safety of and services to our county's children.

**Grand Jury statement:**

**“Although state guidelines recommend caseloads of no more than 15 in the Family Maintenance and Family Reunification units, local caseloads currently stand at about 26-27. There are approximately ten vacant caseworker positions – out of 70 allocated – in the department.” And “This is often not possible with the almost double caseloads currently being carried by CWS caseworkers.”**

**DHHS Correction:**

*Humboldt County’s caseloads are all **below** the California caseload standards.*

*The existing state workload standards are:*

- *Emergency Response (ER) - 15.8 (investigations per month)*
- *Family Maintenance (FM) – 35*
- *Family Reunification (FR) – 27*
- *Permanent Placement (PP) – 54*

*The average caseload for social workers in Humboldt County is:*

- *ER - 10.5 (investigations per month)*
- *FM - 17.5*
- *FR - 17.5*
- *PP - 22.5*

*Child Welfare Services (CWS) has 57 allocated social worker positions. As there has been a County-wide hiring freeze and California did not have a state budget until August 2, 2004, the Department has had to exercise caution in filling positions based on funding estimates and the Branch has had to seek exemption from the freeze in order to fill any vacancies. The number of vacancies is a fluid number as staff are hired, promoted or leave. As of August 3, 2004 CWS has 14 existing Social Worker vacancies, and has three CWS Social Worker positions unbudgeted. Additional vacancies will be recruited within available resources. Due to the Governor “blue penciling” (i.e., eliminating) \$17.1 million in funds to CWS in his 2004-05 budget, the DHHS will be further impacted in its ability to expand staffing for CWS.*

**Grand Jury statement:**

**“Therefore, they resort to telephoning families or sending forms to be completed rather than making in-person visits.”**

**DHHS Correction:**

*This statement has no basis in fact or CWS practice. CWS is required by state regulations, California Department of Social Services (CDSS), Policy and Procedures Manual, Division 31, Section 320 (Division 31-320), to make in-person visits. All social workers are fully expected to comply with Division 31 requirements. Telephone calls or sending forms is not an acceptable*

*alternative that the DHHS has approved. If the social workers do not comply with Division 31 requirements, it becomes a work performance issue, which their supervisors must address. Supervisors, management, and CDSS monitor compliance.*

**Grand Jury statement:**

**“In addition, about a year ago, overtime in the department was eliminated. Caseworkers sometimes make evening and/or weekend visits on their own time in order to find people at home or to be able to complete their required tasks.”**

**DHHS Correction:**

*Overtime has not been eliminated. All staff are compensated for overtime pursuant to the MOU between the County and AFSCME Local 1684. Social workers are not permitted to make home visits on their own time on evenings or weekends. Non-emergent overtime must have a Program Manager's approval.*

**Grand Jury statement:**

**“They are “on-call” to handle after-hours reports of abuse or neglect a minimum of ten times a year.”**

**DHHS Clarification:**

*The CWS social work staff are informed at their initial job interview and when they are hired, that they are required to share after-hours standby coverage on a rotation basis. The after-hours standby shifts during the workweek are from 5:00 pm to 8:30 am. On weekends and holidays the standby shifts are either 12 or 24 hours in duration. Depending upon staffing levels and length of shifts, each social worker may be required to work 10-15 after-hours shifts per year.*

**Grand Jury statement:**

**“Departmental training for caseworkers is inconsistent...Core classes are provided annually for new hires through U.C. Davis. Even specialized training that is offered is not mandatory. There is no ongoing mandatory training, for example, in stabilized case management, conflict resolution, or preparation for court appearances.”**

**DHHS Correction:**

*In January 2003, CWS initiated standardized training for all new social workers. New social workers remain in the training unit for 3-6 months, depending on their training needs. During this period of time, new social workers receive comprehensive standardized training on a wide variety of topics, while they are gradually integrated into a caseload. In addition to initial education and training provided by the division, the agency takes advantage of ongoing training opportunities provided primarily by U.C. Davis and by other agencies within our community. Additional training is provided to staff on a regular basis at the monthly all-staff meeting, and*

weekly unit meetings. Social workers exhibiting specific training needs as identified by supervisors or managers are required to attend a related training.

The graphics below and on the following pages demonstrate the subject material and number of staff attending various CWS trainings offered in Fiscal Year 2003-04.

### Child Welfare Services (CWS) Staff Training 2003/20004

#### University California Davis Classes

Name of Training	Number of CWS Staff Attending	Total Number of Hours
Being Effective With Difficult People	11	38.5
Multidisciplinary Team Training	10	60
Social Work Values and Ethics	20	120
Parenting and Human Development	7	136.5
Assessment and Intervention	6	156
Legal Mandates, Case Planning and Service Coordination	6	117
Interviewing Skills, Self-Care and Safety	6	117
Medications For Mental Disorders - DSM IV	32	192
Multi-Ethnic Placement Act (MEPA)	4	16
Adolescent Health and Development	8	48
Lesbian, Gay, and Bisexual Youth	8	48
Animal Abuse and Child Abuse	11	66
Using Data to Improve Agency Performance	27	162
Parent/Child Visitation	17	102
Making Child Welfare Decisions	12	72
Child Sexual Abuse	14	150
Court Procedures	3	69.75
Strength-Based Relationships	12	72
<b>TOTAL</b>	<b>214</b>	<b>1742.75</b>

## Child Welfare Services (CWS) Staff Training 2003/20004

### In-service Training

<b>Name of Training</b>	<b>Number of CWS Staff Attending</b>	<b>Total Number of Hours</b>
Sexual Abuse Field Interviews	10	40
Childhood Injuries and Trauma	38	38
Understanding Traumatized Children	31	31
Crisis Intervention	13	78
Caring Parents Program	28	14
California State Adoptions	19	14.25
CWS/Welfare-to-Work Collaboration	12	6
CWS/Case Management System (CMS) Case Plan Creation	6	18
New Social Worker Orientation	5	20
CWS/CMS Program Training	37	82
New Social Worker Training	4	32
Family Connection Center	26	26
Cultural and Disability Training	36	36
Mental Health Screening Tool, Early Years, Reunification	40	40
Budget and Redesign	47	47
California Children's Services	40	40
Family-to-Family	21	42
Suicide Intervention	21	126
Integrated Services	22	132
Concurrent Planning	32	32
<b>TOTAL</b>	<b>488</b>	<b>894.25</b>

## Child Welfare Services (CWS) Staff Training 2003/20004

### Out-service Training

Name of Training	Number of CWS Staff Attending	Total Number of Hours
Foster Parent Training	35	105
Car Seat Training	21	42
Evidenced Based Practice	110	220
Surviving Adverse Childhoods	11	82.5
African American Issues - Mental Health	4	8
<b>TOTAL</b>	<b>181</b>	<b>457.5</b>

### Grand Jury Statement:

**“In spite of the fact that caseworkers are most familiar with family situations, their recommendations are often overruled by supervisors who do not meet with children and families. There is little opportunity for team decision-making or consensus-building in case management . . . This chain of command has created tension within the department.”**

### DHHS Correction:

*Supervisors participate in decisions related to the safety and well-being of children, and rely heavily on line-level social workers' assessments and recommendations. Ultimately, it is the supervisor's responsibility to ensure that children's safety needs are met, that mandates are satisfied, and that agency policies and procedures are followed. If a supervisor disagrees with a social worker's assessment or recommendation, it is discussed between them, and a consultation with the program manager can occur. The program manager, should the dispute remain, will have final authority over the issue. There are several points at which team decision-making occurs in staffing CWS cases:*

- *Each social worker is provided a weekly staffing with their supervisor. If the social worker and supervisor need further consultation, CWS also offers daily staffing to discuss a case with other supervisors.*
- *Family Unity meetings which are an opportunity for the family to identify key people in their support system, community resources, and agency staff to come together to develop a plan to address barriers in providing safety for the children in the home.*

- *Team Decision-Making is a meeting that includes family members, foster parents, service providers, and social worker. These meetings occur when there is a concern by individual parties regarding the placement of children.*
- *CWS has a Service Review Team that is offered twice monthly. The Service Review Team is a case review and decision-making team, comprised of a CWS social worker and supervisor, a Mental Health Branch (MHB) Child, Youth and Family Services (CYFS) worker, a Public Health Branch (PHB) representative, and community members who are knowledgeable in the area of families and children.*
- *Wraparound meetings are a family-focused, strength-based approach to assist in stabilizing the home and addressing issues regarding child safety. The team membership is developed in concert with the child and family, and includes members of their support system, community resources, and agency staff.*

*Finally, CWS program managers are available for supervisors and social workers for additional consultation. Of the previously mentioned decision-making meetings, all are dependent on the social worker's knowledge and assessment of the case and the resources of the team to reach a consensus regarding the direction of the case.*

**Grand Jury statement:**

**“Also, the Grand Jury was told by witnesses that some of the moves from one foster home to another are due to conflicts between CWS and the foster parents.”**

**DHHS Correction:**

*Moving children from one home to another is not a decision that is made without a thorough assessment of the current placement. CWS has made diligent efforts to improve relationships with foster parents, and would not consider removing a child unless there were concerns about the care the child was receiving, a need to facilitate a permanent placement, or to place the child with separated siblings. According to statistics for Humboldt County as listed in the April 2004 Assembly Bill 636 (AB 636) Program Improvement Plan (PIP) report, 84.3 percent of the children in Humboldt County foster care had two or fewer placements in the prior 12-month period, compared to the State average of 83.7 percent.*

**Grand Jury statement:**

**“Children's wishes are not necessarily considered.”**

**DHHS Correction:**

*The feelings of the children are always considered, and are presented by the social worker, if the child is not in attendance, in the various decision-making meetings.*

**Grand Jury statement:**

**“Oftentimes, siblings are split between foster homes.”**

**DHHS Clarification:**

*CWS is mandated by Welfare and Institutions Code (WIC), 16002 (a) to make every effort to keep siblings together when considering placement. Statistics from the April 2004 AB 636 PIP report illustrate that 48.5 percent of children are placed with all their siblings in Humboldt County compared to the State average of 41.9 percent. Further, 74.6 percent of Humboldt County children are placed with some siblings, compared to the State average of 65.9 percent. To increase this joint sibling placement rate, CWS continues to expand foster parent recruitment efforts. Unfortunately, when we have sibling sets of three or larger, it is difficult to find foster homes with the needed capacity.*

**Grand Jury statement:**

**“This training usually consists of nothing more than the parents’ attendance at several weekly parenting classes.”**

**DHHS Correction:**

*Division 31-315 mandates that service-funded activities shall be available to children and their families in all phases of the CWS program, as specifically identified in the child’s case plan. The range of service-funded activities provided to CWS families in Humboldt County includes, but is not limited to:*

- *Case management*
- *Transportation*
- *Parenting training*
- *In-home parenting support*
- *Visitation*
- *Counseling*

**Grand Jury statement:**

**“Testimony revealed a major shortage of foster homes in Humboldt County and consistently attributed that shortage to department policies and practices. The number of foster homes licensed in the county varies from 100 to 125. Recruitment seems difficult because of tension between CWS personnel and some foster parents.”**

**DHHS Correction:**

*Recruitment of foster parents is a difficult enterprise statewide. Child welfare agencies and foster family agencies across the nation point to the shortage of foster families for children.*

*Humboldt County's experience is no different. There have been communication issues between some foster parents and CWS. In order to address these issues and strengthen the partnership of the Department and foster parents, in 2002 DHHS and the Probation Department began an ongoing series of committees and meetings with foster care stakeholders. That body has become the Foster Care Community Partners group. This group meets bimonthly to address making positive changes to our foster care system and program operations. A focus group subcommittee meets weekly to work on issues. That group includes, but is not limited to, CWS, Mental Health Branch (MHB), Public Health Branch (PHB) and Probation management; foster parents, including a Tribal parent; State Adoptions; Court Appointed Special Advocates (CASA); College of the Redwoods; and a community volunteer. Among their many accomplishments is a recently drafted foster parent grievance procedure.*

**Grand Jury statement:**

**“Recruitment seems difficult because of tension between CWS personnel and some foster parents.”**

**DHHS Correction:**

*CWS has implemented several strategies to improve relationships with foster families and to increase recruitment efforts. In May 2003, the Community Partners identified areas that needed particular focus. Two subcommittees were formed: One group was to address communication and collaboration, and the other group was to address recruitment, training, and support. As of this date, there continues to be a combined subcommittee, the Community Partners Foster Care Focus Group, which is co-chaired by a foster parent and a CWS program manager and which meets weekly to address these issues. There are representatives from CWS, State Adoptions, CASA, College of the Redwoods, Mental Health Branch, Probation Department, a community volunteer, and five foster parents, one of whom is also a Tribal parent.*

*CWS has also implemented new foster parent recruitment strategies, and is working with the State affiliated New Directions Foster Family Association to increase outreach efforts. The New Directions Foster Family Association has a goal of improving relationships with CWS, and the foundation for a successful and ongoing working relationship has been established.*

*Finally, CWS employs a Foster Care Coordinator social worker who is a former foster parent, and understands the issues that foster parents face.*

**Grand Jury statement:**

**“Some foster homes have spaces available which are not being utilized due to conflicts with the department, while children may wait for weeks for a placement.”**

**DHHS Correction:**

*It is in the child's best interest for the social worker to ensure that the child is placed with a family that is the best fit for the child. At times there are openings in foster family homes that*

*might not be the best fit for the child, and it is preferable to secure a placement that best meets the child's needs. In accordance with Division 31-420.1, foster care placements are made based on the needs of the children, including, but not limited to:*

- *The least restrictive, most family-like environment.*
- *Capability, willingness and ability of the caregiver to meet specific needs of the child, to facilitate family reunification, and provide the child's permanency alternative, if necessary.*
- *The most appropriate placement selection.*

**Grand Jury statement:**

***"In many cases they are held in the emergency shelter beyond the 30-day limit."***

**DHHS Clarification:**

*There have been children in our Children's Center for more than 30 days due to difficulty in locating an appropriate placement match. While this is not optimum, the Children's Center is staffed by trained Mental Health professionals who provide the children not only with assessment and treatment services, but also with a warm and supportive environment. The alternative would be to place them in temporary foster or group home placements. With the implementation of new and promising foster parent practices such as Family to Family recruitment strategies, CWS looks forward to shortening the length of time that a child spends in the Children's Center. Family to Family focuses on using the community to assist in recruiting and supporting resource families, so that children are more often able to stay in their communities.*

**Grand Jury statement:**

***"A CWS supervisor may remove a child from a foster home even when the caseworker believes the placement is successful."***

**DHHS Clarification:**

*Supervisors participate in decisions related to the safety and well-being of children, and rely heavily on line-level social workers' assessments and recommendations. Ultimately, it is the supervisor's responsibility to ensure that children's safety needs are met, that mandates are satisfied, and that agency policies and procedures are followed. If a supervisor disagrees with a social worker's assessment or recommendation, it is discussed between them, and a consultation with the program manager can occur. The program manager, should the dispute remain, will have final authority over the issue.*

**Grand Jury statement:**

***"Foster parents receive 12 hours of training annually through College of the Redwoods."***

DHHS Correction:

*In Humboldt County, foster parents are required to complete an initial 24 hours of pre-service training before they receive placements. This is more than the 12 hours of pre-service training required by the CDSS – Community Care Licensing (CCL) before issuing a foster care license. Foster parents are required by CCL to attend 8 hours of additional training per year to keep their foster care licenses valid. Humboldt County requires Therapeutic Foster Parents to complete 20 hours of training per year. Active foster parents usually receive more than the minimum hours of ongoing training. For example, this year, New Directions Foster Family Association, College of the Redwoods, and CWS facilitated a two-day conference, “Building a Team.” Foster parents were credited with training hours for attending the conference.*

*Finally, CWS, in collaboration with College of the Redwoods, has developed a Mentor Program to connect new foster parents with more experienced foster parents to provide support and training to new caregivers.*

**Grand Jury statement:**

**“Reductions in the number of children with TFC designations, which have higher than standard reimbursement rates, are being made without consultation with foster parents. Testimony indicated this is an attempt by CWS to save money.”**

DHHS Correction:

*There are approximately 15 Therapeutic Foster Care (TFC) providers in Humboldt County, with approximately 20 children who require TFC, placed in these homes. More than half of these children are rated at level 3, the highest level, with the rest rated at levels 1 and 2. CWS has never changed the placement of a child who required TFC based on rate. However, CWS is required, by the CDSS-approved TFC plan, to reassess each child who requires TFC at least every 6 months. The reassessments are conducted with the care providers’ input, both verbally, and with a monthly behavioral log, which the care provider is responsible for maintaining. As the steward of public funds, DHHS must continue to closely monitor the appropriateness of placement types and levels to assure funds are not paid to provide services beyond the level required and based on the child’s needs.*

**Grand Jury statement:**

**“A Family Intervention Team (FIT) now makes decisions regarding placement of the most difficult cases without consulting the caseworker, the child, the family, or the foster parent. Witnesses testified that decisions are made with regard to money, not to the needs of TFC children.”**

DHHS Correction: *The Family Intervention Team (FIT), comprised of co-located Supervisory/Lead staff from each of the core agencies, including Probation, CWS and Mental Health Branch, operates under the leadership of a multi-agency FIT Coordinator. FIT partners with lead agency staff responsible for the case supervision, with the goal being to reach consensus-based recommendations regarding placement type and level; develop team based*

*treatment plans (goals, outcomes, changes in behaviors, resources), and estimated length of stay. Information shared with FIT, comes from the lead agency, often through treatment team meetings, and direct gathering of information that the lead agency has with the child's family, care provider, schools, and other service providers. It is not FIT's role to consult directly with the child, the family, or the foster parent. Further, it must be emphasized that final placement decisions are not made unilaterally by FIT, but in concert with the case worker and in collaboration with the lead agency responsible for placement, in a consensus based process. As the steward of public funds, DHHS must continue to closely monitor the appropriateness of placement types and levels to assure funds are not paid to provide services beyond the level required and based on the child's needs.*

**Grand Jury statement:**

**"Foster parents are supposed to receive a Health and Education Passport when a foster child enters their home. This Passport is meant to convey relevant background information about the child, not only to help the foster parents understand and work more effectively with the child, but to warn of potential problems. Foster parents do not always receive this Passport. Oftentimes when they do, its information is incomplete or out-of-date. When that happens, the foster parent is unable to prepare adequately for potential problems such as fire starting, sexual deviance, et cetera."**

**DHHS Clarification:**

*At the time of out-of-home placement, the social worker provides information to the care provider, on the Child Health and Disability Program (CHDP), and offers to assist with any scheduling and transportation necessary to ensure that medical care is provided to meet CHDP requirements. WIC 16010 (c) mandates that at each initial placement, the social worker provide the caregiver with a Health and Education Passport (HEP) within 30 days from the placement date. The HEP includes all known health and education information about the child. All efforts are made to research each child's medical records through their current and previous providers. Children who are new to CWS do not have a current medical history available at the time of their initial placement. A public health nurse is assigned to CWS, who obtains up-to-date health records for the case worker.*

*For subsequent placements, WIC 16010.5 mandates that the social worker is to provide the HEP to the caregiver within 48 hours of placement. The care provider documents all medical and educational services provided and reports these to CWS*

each month. Per June 2004 CWS SafeMeasures statistics, HEP information is delivered in a timely manner in 94 percent of cases.

**Grand Jury statement:**

**“Foster children need expert mental health services, not necessarily the cheapest.”**

**DHHS Clarification and Correction:**

*Humboldt County Mental Health, like all other counties' mental health systems, has been significantly impacted by steep mental health funding cuts from the State over the last three years. Despite the Governor eliminating Children's System of Care funding (a \$20 million reduction) in his 2004-05 budget, Humboldt County continues to provide, within available resources, Mental Health services for CWS children and their families. A major consequence of these cuts has been a reduction in staff at Children, Youth and Family Services (CYFS) Mental Health division. In Fiscal Year (FY) 2001/2002 CYFS had 28 positions, with 25 filled. During FY 2003/2004, CYFS had the same number of positions, with 19 filled, a 24% reduction in force. However, when client contacts are compared over the same period, CYFS clinicians provided more, not less, services. In FY 2001/2002 CYFS clinicians made 11,818 client contacts, and in FY 2003/2004, they made 13,460 contacts, a 12% increase. Staff at CYFS develops treatment plans with their clients, which determines the type and amount of services to be delivered. There is no “cookie cutter” plan for any client.*

*An important qualitative change was made last FY (2003/2004) when Social Services and Mental Health joined our private community providers into one pool. This was done for two reasons. The first and most important reason was to put all of the therapeutic services under one professional umbrella, so all such services could be authorized and reviewed by County mental health professionals to improve quality of care monitoring and service delivery. The second reason was to increase the amount of federal dollars provided for these treatment services as a way of expanding the resource. Just two of the case serving, private providers working with CWS prior to this positive system change decided not to participate in this effort. The Department also increased reimbursement amounts to child-serving private providers by 38%. This added cost to the system but insured that Humboldt County had an expanding, not shrinking, pool of private (contract) clinicians providing care for referred CWS clients.*

*Additionally, last year the Mental Health Branch of DHHS engaged in an effort to significantly expand our “Organizational Provider” (contract) resource. The Department worked with all child-serving “contractors” and they agreed to significantly expand their ability to provide services to County minors and their families. This was made possible through our Medi-Cal revenue enhancement efforts.*

*It is also important to note that access to Mental Health services for CWS involved minors has been improved by adapting a “five day” access to Mental Health services policy for non emergency Mental Health services which significantly reduced the waiting period for CWS children.*

*This enhanced access, coupled with a new Mental Health Children's Center for minors removed from their homes or having failed foster care system placements, are further significant improvements made in Humboldt County to provide Mental Health care to CWS involved children.*

*Finally, the Department's Mental Health and Social Services Branches, in collaboration with Probation, are close to opening a new evidence-based foster care program called Multi Dimensional Treatment Foster Care (MTFC). This program will offer intensive Mental Health services to high risk children who have been unsuccessful in traditional foster care homes.*

**Grand Jury statement:**

**“Even for the high-risk TFC child, the majority of mental health services made available through the Children, Youth, and Family Services units of the Department of Mental Health. They are provided by a rotating contingent of interns.” “Interns may see child one hour per week, which may not be adequate for high-risk children.”**

**DHHS Correction:**

*The only interns that the Mental Health Branch has had in the last few years have been five staff from CWS who were in the Long Beach State “distance learning” Masters in Social Work program who completed their clinical internship at CYFS (two were supervised by one licensed staff person and the other three by another). The source of the misinformation contained in the Grand Jury report regarding the interns and the inaccurate portrayal of scope and quality of services provided is unknown.*

**Grand Jury statement:**

**“Dental care is also a problem for foster children because too few dentists accept MediCal and, again, CWS avoids paying non-MediCal rates. It may take weeks for caseworkers to obtain supervisory approval for any services or expenditures.”**

**DHHS Clarification:**

*A shortage of dentists who accept MediCal is a statewide problem. CWS keeps a list of dentists who accept MediCal, and refers foster parents to these providers. In accordance with Division 31-315, service-funded activities are provided to children and their families in all phases of the CWS programs, as identified in the child's case plan. State funding of service-funded activities is limited to the amount allocated to each county by the CDSS. If service-funded activities are available through other public and private sources, the county is mandated by Division 31-315.31 to exhaust those sources prior to authorizing the expenditure of state funds appropriated for the purpose of funding child welfare services. CWS has a process for social workers to make a request for payment of services not covered by MediCal as a high priority, which expedites the approval process.*

**Grand Jury statement:**

**“Finally, there can be a lack of consistency in how families are dealt with from the pre-court stage through the court process. This apparently stems, at least in part, from the fact that CWS both investigates and files the case.”**

DHHS Correction:

*Division 31-101 to 31-135 requires that a CWS social worker must investigate referrals of suspected child maltreatment and a CWS social worker must file petitions in Juvenile Court.*

*CWS is committed to consistency in the assessment of safety and risk in service delivery. With that goal in mind, CWS has implemented and used (a research-based approach) Structured Decision Making (SDM) since January 1999. One of the goals of SDM is to achieve consistency at key decision-making points throughout the life of the case. Humboldt County was one of seven California counties to participate in the development and piloting of California's version of SDM. Staff attends periodic training on SDM and other topics related to consistency in assessment, intervention, and treatment.*

**Summary of Medical Community Comments:**

**Grand Jury statement:**

**“CWS seems reluctant to open and carry cases, or they close them before it is safe.” “CWS has a tendency to not adequately investigate or not take action when it appears to be warranted.”**

DHHS Correction:

*Humboldt County CWS utilizes the California Emergency Response Protocol to determine whether or not a reported situation meets the criteria for an in-person response by a social worker. This protocol was developed by the state to ensure that counties utilize agency resources for children most at risk. Once a family has been investigated, state decision-making tools, in conjunction with social worker expertise and supervisor and group consultation, are used to complete assessments of safety and risk. Children who are deemed high risk for future maltreatment are opened as a case for ongoing intervention, unless additional extenuating information leads the social worker, the supervisor and the program manager to agree that a case opening is not warranted. After a child has been removed, agency and state protocol exists which guide decisions about returning the child home after a placement. The state risk reassessment must be completed by the social worker every 180 days, or prior to court hearing, whichever comes first; or whenever return home is being considered.*

*When reports of suspected child maltreatment do not meet the criteria for an in-person response by a social worker, the family is often referred to the Alternative Response Team (ART). ART was created in 1996 to provide services by Public Health staff to families with young children. This alternative system is not funded at a level that is needed to ensure all families can receive*

*these non-mandated services. It is hoped that as we move towards implementing CWS Redesign and Differential Response, CWS and community partners' capacity to assess and provide non-mandated services will be further enhanced.*

**Grand Jury statement:**

**“I have been appalled.” “I have stopped thinking that CWS referrals would actually help children who need it.” “Most referrals I made were not investigated or I received a note saying my accusations were not substantiated.”**

**DHHS Clarification:**

*CWS provides a written response to mandated reporters stating the referral's outcome. To assist the community in understanding the reporting process, quarterly mandated reporter training is offered by CWS through HSU-Office of Extended Education. However, CWS acknowledges that the current system does not provide for funding for earlier (non mandated) preventative interventions or sufficient family strength based services. It is hoped that through CWS Redesign an enhanced and more responsive and preventative based system can be developed in Humboldt County and California.*

**Grand Jury statements:**

**“CWS has children live in homes without heat, or the same home as a convicted child molester, or back to parents who injured them, or allows visitations in jail for infants...”**

**“Numerous medical staff recommendations that newborn babies be removed from birth mothers due to danger to their infants have been ignored, often resulting in severe neglect, injury, or even death of infants by the very parents CWS was warned about.”**

**DHHS Corrections:**

*Humboldt County CWS utilizes the California Emergency Response Protocol to determine whether or not a reported situation meets the criteria for an in-person response by a social worker. This protocol was developed by the state to ensure that counties utilize agency resources for children most at risk. Once a family has been investigated, state decision-making tools, in conjunction with social worker expertise and supervisor and group consultation, are used to complete assessments of safety and risk. Children who are deemed high risk for future maltreatment are opened as a case for ongoing intervention, unless additional extenuating information leads the social worker, the supervisor and the program manager to agree that a case opening is not warranted. After a child has been removed, agency and state protocol exists which guide decisions about returning the child home after a placement. The state risk reassessment must be completed by the social worker every 180 days, or prior to court hearing, whichever comes first; or whenever return home is being considered. Visitation between infants and their parents from whom they were removed is mandated by the state and ordered by the court in almost all cases, regardless of whether or not the parent is incarcerated.*

*When reports of suspected child maltreatment do not meet the criteria for an in-person response by a social worker, the family is often referred to the Alternative Response Team (ART). ART was created in 1996 to provide services by Public Health staff to families with young children. This alternative system is not funded at a level that is needed to ensure all families can receive these non-mandated services. It is hoped that as we move towards implementing CWS Redesign and Differential Response, the CWS and community partners' capacity to assess and provide early intervention services will be further enhanced.*

**FINDING 1:** The number of CWS supervisors has increased while the number of caseworkers has decreased in the past two years. Caseloads per caseworker have risen to nearly double state guidelines.

***Response from Humboldt County Department of Health and Human Services:** Partially agree. During the past two years, the number of supervisor positions increased by one to accommodate the creation of a standardized training unit. Due to the State budget and the county hiring freeze, the filling of vacant social worker positions has slowed in the past two years. As of August 3, 2004 CWS has 14 vacant CWS Social Worker positions and has three CWS Social Worker positions unbudgeted. Additional vacancies will be recruited within available resources.*

*The following chart illustrates the current state workload standard, and the current caseload levels in Humboldt County:*

CWS Basic Program	Current State Workload Standard	Humboldt County CWS Current Caseloads
Emergency Response	15.80	10.5
Family Maintenance	34.97	17.5
Family Reunification	27.00	17.5
Permanent Placement	54.00	22.5

**RECOMMENDATION 1:** The Grand Jury recommends that DHHS take action now to reduce the current CWS caseworker caseloads, either by re-assigning supervisors or eliminating supervisor positions and hiring additional caseworkers.

***Response from Humboldt County Department of Health and Human Services:** The recommendation has already been implemented. CWS is in the process of further reducing current caseloads by hiring additional social workers.*

**FINDING 2:** Caseworker work time is not flexible enough for expected job performance.

***Response from Humboldt County Department of Health and Human Services:** Disagree. While Social Workers are not permitted to make home visits on their own time during evenings or weekends, they are allowed to flex their hours to meet the consumers' needs.*

**RECOMMENDATION 2:** The Grand Jury recommends that DHHS develop a plan for flexible hours for those CWS caseworkers who need to make home visits on nights and/or weekends.

***Response from Humboldt County Department of Health and Human Services:** The recommendation has already been implemented. Staff are in fact encouraged to work flexible hours in order to meet with clients. For example, if a social worker has a 5:30 p.m. meeting with*

*a family, he/she is encouraged to adjust his/her hours that day to come in later to accommodate the visit. If scheduling does not permit the adjustment of hours, program manager approval is required for non emergent over time.*

**FINDING 3:** Training is inconsistent, often not mandatory, and does not always prepare the workers to perform their duties.

***Response from Humboldt County Department of Health and Human Services:*** *Disagree. In January 2003, CWS initiated standardized training for new social workers. A new Social Worker Supervisor position was added to coordinate the standardized training and to provide supervision to newly hired staff. New social workers remain in the training unit for 3-6 months, depending on their training needs. During this period of time, new social workers receive comprehensive training on a wide variety of topics, while they are gradually integrated into a caseload. In addition to initial education and training provided by the division, the agency takes advantage of ongoing training opportunities provided primarily by U.C. Davis and by other agencies within our community. Additional training is provided to staff on a regular basis at the monthly all-staff meeting, and weekly unit meetings. Social workers exhibiting specific training needs are required to attend a related training.*

**RECOMMENDATION 3:** The Grand Jury recommends that DHHS provide regular, mandatory training for all CWS caseworkers and supervisors. This should include case management, conflict resolution, and, for those employees who make court appearances, training in court protocol, case preparation, and presentation.

***Response from Humboldt County Department of Health and Human Services:*** *The recommendation has already been implemented. CWS is providing regular standardized training for social workers and supervisors. As deemed appropriate by the Social Services Branch Director, additional training may be mandated. The topics suggested by the grand jury are already included in the CWS standardized training plan.*

**FINDING 4:** CWS caseworker morale is extremely low because of stress, poor communication with their upper-level supervisors, lack of decision-making authority, and exclusion from team decision-making.

***Response from Humboldt County Department of Health and Human Services:*** *Partially agree. Studies throughout the state have illustrated that CWS stress levels are high due to the nature of the profession; Humboldt County CWS is no different.*

*CWS has identified a need for better communication between line-level social workers and upper-level supervisors. Efforts are underway to encourage dialogue between line staff and management. For example, program managers have been attending individual unit meetings, and have been soliciting supervisors and line staff to participate in work groups formed for the purpose of system improvement.*

*DHHS disagrees that social workers are excluded from team decision-making. Whenever a family's case is being staffed, the social worker's presence is required. In the event that the social worker is unable to attend, the social worker's supervisor, or another designee, attends in the social worker's place.*

**RECOMMENDATION 4:** The Grand Jury recommends that DHHS develop team building, open communication between caseworkers and upper-level management, and respect the opinions and recommendations of those who work directly with children and families.

*Response from Humboldt County Department of Health and Human Services:* The recommendation that DHHS develop team building and open communication between caseworkers and upper-level management has not yet been implemented, but will be implemented in the future. Management has identified the need for improvement in this area, and efforts are already underway to encourage dialogue between line staff and management. For example, program managers have been attending unit meetings and have been soliciting supervisors and line staff to participate in work groups formed for the purpose of system improvement. CWS supervisors and line staff will be participating in retreats with upper-level management to address improving team building and communication. It is anticipated that this recommendation will be implemented by 8/31/05.

*The recommendation that DHHS respect the opinions and recommendations of those who work directly with children and families has been implemented. Supervisors and managers rely heavily upon line-level social workers' knowledge and expertise, and respect that the social workers have firsthand information about children and families.*

**FINDING 5:** Supervisors often make critical decisions affecting children and families without input from those who have first-hand knowledge, including the caseworker, children, parents, or foster parents.

*Response from Humboldt County Department of Health and Human Services:* Disagree. Supervisors participate in decisions related to the safety and well-being of children, and rely heavily on line-level social workers' assessments and recommendations, which reflect input from the family and care provider. Ultimately, it is the supervisor's responsibility to ensure that children's safety needs are met, that mandates are satisfied, and that agency policies and procedures are followed. If a supervisor disagrees with a social worker's assessment or recommendation, it is discussed between them, and a consultation with the program manager can occur. The program manager, should the dispute remain, will have final authority over the issue. There are several points at which team decision-making occurs in staffing CWS cases:

- *Each social worker is provided a weekly staffing with their supervisor. If the social worker and supervisor need further consultation, CWS also offers daily staffing to discuss a case with other supervisors.*
- *Family Unity meetings are an opportunity for the family to identify key people in their support system, community resources, and agency staff to come together to develop a plan to address barriers in providing safety for the children in the home.*
- *Team Decision-Making is a meeting that includes family members, foster parents, service providers, and social worker. These meetings can occur when there is a concern regarding the placement of children.*
- *CWS has a Service Review Team offered twice monthly. The Service Review Team is a case review and decision-making team, comprised of a CWS social worker and supervisor, a Mental Health Branch Child, Youth and Family Services worker, Public*

*Health representative, and community members who are knowledgeable in the area of families and children.*

- *Wraparound meetings are a family focused, strength based approach to assist in stabilizing the home and addressing issues regarding child safety. The team is developed by the child and family, and includes members of their support system, community resources, and agency staff.*

*In addition, program managers are available for supervisors and social workers for additional consultation. Of the previously mentioned decision-making meetings, all are dependent on the social worker's knowledge and assessment of the case and the resources of the team to come to a consensus regarding the direction of the case.*

**RECOMMENDATION 5:** The Grand Jury recommends that DHHS establish a policy that supervisors will make no critical decisions regarding a child's future placement or services without first meeting with the caseworker, the child, and the parent/foster parents, and making a careful review of all relevant information in the case file.

***Response from Humboldt County Department of Health and Human Services:*** *The recommendation has already been implemented. CWS supervisors make no decisions regarding a child's future placement or services without first meeting with the caseworker. CWS supervisors request that the caseworker meet with the child and parent/foster parent(s) before making an assessment or request for services, which are then presented to the supervisor. Supervisors obtain information from social workers as well as from case files.*

**FINDING 6:** CWS policies, poor recruiting practices, and failure to maintain good relations with foster parents adversely affect the number of citizens willing to serve as foster parents. Because too few foster homes are currently available, children are often held in the emergency shelter too long while awaiting placement.

***Response from Humboldt County Department of Health and Human Services:*** *Partially Agree. CWS continues to make efforts to improve relationships with foster parents, and has implemented several strategies to increase recruitment efforts. CWS, in collaboration with College of the Redwoods, has developed a Mentor Program to connect new foster parents with more experienced foster parents to provide support and training to new caregivers. CWS has been meeting with foster care stakeholders since July 2002. In May 2003, the Foster Care Community Partners identified areas that needed particular focus. Two subcommittees were formed: One group was to address communication and collaboration, and the other group was to address recruitment, training, and support. As of this date, there continues to be a combined subcommittee, the Community Partners Foster Care Focus Group, which meets weekly to address these issues. There are representatives from CWS, State Adoptions, CASA, College of the Redwoods, MHB, Probation Department, a community volunteer, and five foster parents, one of whom is also a Tribal parent. This group has been able to work on several issues, and recently drafted a grievance policy.*

*CWS is working with the State affiliated New Directions Foster Family Association to increase outreach efforts. The New Directions Foster Family Association has a goal of improving*

*relationships with CWS and recruiting foster parents. The foundation of a good working relationship has been established.*

*CWS agrees that there have been children in our Children's Center for more than 30 days due to difficulty in locating an appropriate placement. With the implementation of Family to Family recruitment strategies, CWS looks forward to shortening the length of stay in the Center. Family to Family focuses on using the community to assist in recruiting and supporting resource families, so that children are able to stay in their communities.*

**RECOMMENDATION 6:** The Grand Jury recommends that DHHS partner with foster parent associations to implement an active recruitment campaign for new foster parents and appoint an independent arbitration panel to resolve conflicts which arise between foster parents and CWS.

***Response from Humboldt County Department of Health and Human Services:*** *The recommendation has been implemented in terms of establishing an active recruitment campaign. Specifically, CWS has implemented new foster parent/kinship caregiver recruitment strategies with the State affiliated New Directions Foster Family Association (FFA) to increase outreach efforts. New Directions falls under auspices of the California State Foster Parent Association, Inc. New Directions has a goal of improving relationships with CWS, and the foundation of a good working relationship has been established.*

*The recommendation will not be implemented in terms of establishing an independent arbitration panel. In accordance with Division 31-020, a grievance policy has been created to address conflicts, which ensures issues can be addressed but maintains clear county oversight in relation to foster parent services and payments.*

**FINDING 7:** Once in the system, children are moved frequently, have their wishes often ignored, and can be separated from their siblings.

***Response from Humboldt County Department of Health and Human Services:*** *Partially Agree. Moving children from one home to another is not a decision that is made without a thorough assessment of the current placement. CWS would not consider moving a child unless there were concerns about the care the child was receiving, a need to facilitate a permanent placement, or to place the child with separated siblings. According to statistics for Humboldt County, as listed in the April 2004 Assembly Bill 636 (AB 636) Program Improvement Plan (PIP) report, 84.3 percent of the children in Humboldt County foster care had two or fewer placements in the prior 12-month period, compared to the State average of 83.7 percent.*

*CWS makes every effort to keep siblings together when considering placement. Division 31-206.311 mandates that the social worker must document this effort in the case plan: "If siblings are not placed together, the social worker shall document the diligent efforts to place siblings together and why they were not placed together, if applicable." Statistics taken from the April 2004 AB 636 Program Improvement Plan Report show that 48.5 percent of children are placed with all siblings in Humboldt County compared to the State average of 41.9 percent. Also, in Humboldt County, 74.6 percent of children are placed with some siblings, compared to the State average of 65.9 percent. The County continues to expand recruitment efforts. Unfortunately,*

when we have sibling sets of three or larger, it is difficult to find foster homes with the needed capacity.

*The feelings of the children are always considered, and are presented by the social worker, if the child is not in attendance, in the various decision-making meetings.*

**RECOMMENDATION 7:** The Grand Jury recommends that, in order to avoid the court taking jurisdiction and the child going into the foster care system, CWS follow a strict practice of contacting relatives, including those who might be out of the area, who would be willing and able to care for children being removed from biological parent(s). This contact and placement should be completed within the first 15 days of involvement.

**Response from Humboldt County Department of Health and Human Services:** *The recommendation to search for relatives has already been implemented with the exception of the 15 day limit. It is CWS protocol to always explore potential placements with relatives or non-related extended family members (NREFMs), which is mandated by Division 31. CWS, at the time of removal, asks the parents and the child for the names, addresses, and telephone numbers of relatives/NREFMs who might be able to care for the child. CWS has a full-time Relative Placement Specialist social worker, who coordinates relative/NREFM placements with the caseworker.*

*Although CWS makes securing relative placement a high priority, placement with a relative is not done in lieu of Juvenile Court intervention, because an order from the Juvenile Court is required to allow placements outside of parental custody.*

**FINDING 8:** CWS decision-makers often override or ignore court orders rather than seeking modifications.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. CWS follows all court orders.*

**RECOMMENDATION 8:** The Grand Jury recommends that CWS return to court seeking a modification order if the original order cannot or should not be carried out.

**Response from Humboldt County Department of Health and Human Services:** *The recommendation has already been implemented. CWS social workers are trained to follow court orders verbatim. If the original court order cannot be implemented, CWS files an amended court report to seek modification of the court order.*

**FINDING 9:** Adequate funds are often not made available to caseworkers to manage immediate needs in a timely manner.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. Division 31-315 mandates that service-funded activities shall be available to children and their families in all phases of the CWS program, as specifically identified in the child's case plan. Service-funded activities are provided as necessary to ensure the protection of the child. If service-funded activities are available through other public and private sources, the county is mandated by Division 31-515.31 to exhaust those sources prior to authorizing the expenditure of*

state funds appropriated for the purpose of funding child welfare services, which expedites the approval process.

**RECOMMENDATION 9:** The Grand Jury recommends that CWS establish a more efficient process for approving funds for caseworkers to expend on the immediate needs of foster children.

**Response from Humboldt County Department of Health and Human Services:** *The recommendation has already been implemented within all available resources. Social workers currently may request expedited approval of funding to meet foster children's immediate needs. Staff and/or supervisors can stipulate which requests should be reviewed with a high priority.*

**FINDING 10:** Contrary to its mission statement, some CWS decisions appear to be based on dollars rather than the welfare of children.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. Fiscal issues are never prioritized over the well-being of children. When the Grand Jury misunderstands CWS mandates (such as the mandates and fiscal constraints described in Finding 9, outlining that CWS must exhaust any public or private funding sources before authorizing the expenditure of funds appropriated for CWS), the Grand Jury may draw inaccurate conclusions about the basis for funding decisions.*

*DHHS is also actively involved in efforts to augment funding for CWS which is generally underfunded by the State given the scope of services needed in counties. For example, Humboldt County recently applied, and was accepted as a member of the first cohort of counties to implement the CWS Redesign. Only 11 California counties were approved based on their readiness to be in the first cohort. This participation will augment CWS funding to improve the options available in Humboldt County to prevent child abuse and strengthen families over a multiyear phase-in.*

*CWS decisions are not made in a vacuum. Line staff, supervisors, program managers, staff from the other DHHS branches and other community agency staff are often included in decision-making. The focus of these discussions is family dynamics, safety and risk factors, treatment needs, and family/child strengths and needs. Often, key decisions are made by the Juvenile Court, whose personnel provide oversight and structure to the CWS decision-making process.*

**RECOMMENDATION 10:** The Grand Jury recommends that DHHS re-allocate funds to better meet the physical, emotional, and social needs of the children in their care.

**Response from Humboldt County Department of Health and Human Services:** *The recommendation is already being implemented as resources allow. CWS core funding is determined by CDSS on an annual basis and is expended pursuant to Division 31 regulations. Additional funding from multiple sources is constantly sought and applied as the Department's budget allows.*

**FINDING 11:** Biological parent visits and training during the family reunification and maintenance processes are ineffective in improving parental skills.

**Response from Humboldt County Department of Health and Human Services:** *Disagree. Families served in Humboldt County's reunification program do very well compared to most other counties in California. According to California's Child Welfare Services Outcome and Accountability County Data report, during the 12 month period ending June 30, 2003, 84.1 percent of Humboldt County's families that were served in the program successfully reunified. This was well above the State average of 65.3 percent.*

*In accordance with Division 31-315 mandates, service-funded activities are available to children and their families in all phases of the CWS program, as specifically identified in the child's case plan. The current range of service-funded activities includes, but is not limited to:*

- *Case management*
- *Transportation*
- *Parenting training*
- *In-home parenting support*
- *Visitation*
- *Counseling*

*Further, the Department is always engaged in continuous quality improvement in this area, as is demonstrated by the introduction of Evidence-Based Practices such as Parent Child Interaction Therapy and Incredible Years Parenting Interventions, which are programs designed to enhance parenting skills.*

**RECOMMENDATION 11:** The Grand Jury recommends that DHHS work closely with child development specialists to design and implement a new approach to parent-child visits and parental training.

**Response from Humboldt County Department of Health and Human Services:** *The recommendation has already been implemented. CWS acknowledges the importance of quality visitation and parent education programs for successful reunification. For the past year, DHHS has been working with an expert in Evidence-Based Practices. Beginning this year DHHS will be implementing Evidence-Based Practices, which will address visitation and parent training. CWS will be implementing Incredible Years, an Evidence-Based Practice, which will be provided to parents by DHHS staff beginning in Fall 2004. Incredible Years training promotes emotional and social competence, by building skills in problem solving, anger management, giving and getting support, depression control, and communication, using praise and rewards, discipline and limit setting. In addition, Parent Child Interaction Therapy, another Evidence-Based Practice being implemented at selective sites in the community, will provide parents with relationship enhancement, self-discipline and parenting skills.*

*CWS refers clients to independent service providers to provide training and support to biological and adoptive parents and guardians. In addition, the CWS Family Connection Center offers an opportunity for parents to practice their parenting skills while visiting their children in a family-friendly environment.*

*CWS will continue to assess whether further contact with Child Development Specialists should be integrated into its restructuring plan under CWS Redesign.*

**Grand Jury Report #2004-JL-01-10**  
**HUMBOLDT COUNTY'S JAILS AND HOLDING FACILITES**  
**Introduction**

California Penal Code Section 919(b) provides that the Grand Jury may inspect all jail and holding facilities within the County. The Grand Jury completed an inspection of all such facilities. This inspection involved visiting each facility and interviewing its personnel.

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-01 through JL-05 shall be provided as follows:

- No responses are required for Grand Jury Reports #2004-JL-01 through #2004-JL-05.
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**Grand Jury Report # 2004-JL-01**  
**EUREKA POLICE DEPARTMENT**

The Eureka Police Department jail was inspected August 18, 2003. The holding cell area was clean and in good repair. All three holding cells are monitored by audio and the two interview rooms have audio-visual monitoring. No meals are served to detainees, who are held an average of 90 minutes before being transported or released. In the event a detainee presents a medical or behavioral problem which cannot be accommodated, that person is transported directly to the Humboldt County Correctional Facility in Eureka, or another appropriate facility. Jewelry and belts are removed and detainees who do not seem suicidal may retain shoes and shoelaces. Each cell may hold up to two detainees; no visitation is allowed. There are no detox or safety cells. No medical services are provided.

**Grand Jury Report # 2004-JL-02**  
**ARCATA POLICE DEPARTMENT**

The Arcata Police Department jail was inspected on September 18, 2003. There is one holding cell with two concrete bunks, a stainless steel sink and toilet. The holding cell was clean and in good repair. This cell is not monitored by either audio or video devices; however, it is easily within earshot of the officers' work area.

There are two interview rooms, one of which is equipped with audio-visual monitoring. Detainees are held an average of 30 minutes before being transported or released. When booking at this facility is necessary, it typically takes 20-60 minutes. Booking photos are taken with a digital camera, which is integrated with a countywide computer system. In the event a detainee presents a medical or behavioral problem which cannot be accommodated, that person is transported directly to the Humboldt County Correctional Facility in Eureka or another appropriate facility. Jewelry, belts, and pocket contents are removed. Unless detainees are to be held for an hour or more, they may retain their shoes and shoelaces. No visitation is allowed. No medical services are provided; no meals are served.

**Grand Jury Report # 2004-JL-03**  
**FORTUNA POLICE DEPARTMENT**

The Fortuna Police Department jail was inspected September 24, 2003. The two holding cells are clean and well maintained, and are monitored by video and audio at all times. Detainees may be held up to four hours before being released, transported to the Humboldt County Correctional Facility in Eureka, or taken to another appropriate facility. Food may be provided in the form of TV dinners. First aid is given when needed. Female detainees are processed by female officers.

The Fortuna Police Department maintains an animal holding facility at the city's corporation yard which was inspected on September 24, 2003. The facility is approximately four years old, clean, very well maintained and ventilated, with ample sunlight for the animals. Ten holding pens are available for smaller animals and one area accommodates larger ones. Animals may be held in this facility up to five days, after which time they are taken to Miranda's Animal Rescue.

**Grand Jury Report # 2004-JL-04**  
**SHERIFF'S AGRICULTURAL FARM**

The Humboldt County Sheriff's Department maintains an agricultural farm located on 22 acres adjacent to the Rohnerville Airport. The facility, inspected on September 25, 2003, has an average of 80 pigs and four cattle. In addition, produce is grown for use at the Humboldt County Correctional Facility (HCCF). The facility is for the most part staffed by participants in the Sheriff's Work Alternative Program (SWAP). These participants pay a one-time administration fee of \$60 and \$18 each day they work at the farm. This program is offered in lieu of serving jail time.

Although produce and livestock from the farm are primarily for inmate consumption, approximately 30 pigs are sold each year to the public for \$150 each. Revenue from the sale of pigs is held in a trust fund and used to purchase supplies for the farm operation. The pigs are inspected once a week by a state veterinarian and housed in a well-ventilated structure with a metal roof and concrete floor, which is cleaned and disinfected each day by SWAP personnel. Food fed to the pigs includes products picked up from local area donors. The animals are not fed table scraps or food that has had contact with the human mouth.

Produce grown at the farm includes corn for silage that is fed to the cattle. Root crops, cucumbers, tomatoes, and squash are grown to supply the HCCF. The farm also has a greenhouse that is used to start field crops and grow onions. The farm utilizes a tractor that was obtained from a U.S. government surplus program. However, the tractor has no bucket, which limits its use as a farm implement.

**Grand Jury Report # 2004-JL-05**  
**EEL RIVER AND HIGH ROCK CONSERVATION CAMPS**

As mandated by California Penal Code Section 919(b), the Grand Jury inspected Eel River and High Rock Conservation Camps on January 21, 2004. This was the first inspection of these camps in the history of the Grand Jury. Both facilities were found to be clean, well-maintained, and well-managed. The morale of the inmates and staff appeared to be high.

The camps are jointly operated by the California Department of Corrections (CDC) and the California Department of Forestry and Fire Protection (CDF). Their main mission is to provide inmate fire crews for fire suppression in the Humboldt/Del Norte CDF Ranger Unit area. The CDC/CDF inmate crews may be dispatched anywhere in California and up to 25 miles into Nevada. In addition to fire suppression, CDC/CDF inmate crews provide a work force for flood control, environmental conservation and community improvement projects. Noteworthy projects include extensive work at South Fork High School

and various other public schools, State parks, State/county roadways, U.S. land improvement, and a successful camp recycling program. The CDF maintains the camps, supervises inmate fire crews, and is responsible for the custody and safety of each inmate while on assignment. The CDC is responsible for the selection, security, supervision, health, welfare, and discipline of the inmates. CDC staff may accompany the inmate crews to provide additional security and care of inmates when assigned outside the local area. Inmates have 24-hour-a-day direct supervision while on projects and incidents. Especially noteworthy is the fact that these camps provide a cost avoidance (savings) to the taxpayers of California in excess of \$2,000,000 per year.

The CDC inmates are selected and trained at the California Correctional Center at Susanville. After receiving fire training inmates are assigned, on average, to serve the last nine months of their sentence in the camp. In order to be accepted for camp placement, inmates cannot have a history of escapes, arson, sex-related offenses, or have a high potential for violence. Most of the inmates are serving time for alcohol, drug-related, or property offenses. Inmates live in open dormitories with a dining hall staffed with inmate cooks supervised by CDC staff. The CDC staff provides around-the-clock, seven-day-a-week supervision of inmates while in camp.

Inmates are paid for their work. The majority are laborers who receive \$1.45 per day. Skilled inmates may earn up to \$2.56 per day. Skilled inmates include mechanics, clerks, plumbers, welders, carpenters, and electricians. The Lead Cook may earn up to \$3.90 per day. While assigned to fighting fires, inmates earn an additional \$1.00 per hour. Inmates may participate in crafts and other leisure-time activities during their off-work hours. Visiting is conducted during the weekends. Spiritual services are provided by community volunteers. Inmates learn skills that will help them upon release. They have the opportunity to build a strong work ethic, develop self-esteem, and perform important public service conservation work.

The camps are well-run and provide benefits to the inmates and to the taxpayers of California. The Grand Jury commends the CDC and the CDF for their success in operating the Eel River and High Rock Conservation Camps. The Grand Jury encourages local government agencies to avail themselves of the skills and services provided by these fine programs.

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### **Grand Jury Report # 2004-JL-06 HOOPA SHERIFF'S SUBSTATION**

#### **WHO SHALL RESPOND:**

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-JL-06 shall be provided as follows:

- The Humboldt County Department of General Services shall respond to Findings and Recommendations 1, 2, and 3.
  - The Humboldt County Board of Supervisors shall respond to Finding and Recommendation 3.
  - The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 1 and 2.
- 

The Hoopa Sheriff's Substation was inspected on October 23, 2003. Budget cuts for fiscal year 2003-2004 have resulted in the loss of two positions at this facility. Current staffing now consists of one sergeant and five deputies. The facility was generally clean and well maintained.

The facility has four cells. One cell has been converted to an office and evidence locker. Two cells are equipped with four metal-framed bunk beds each, with one cell used for females or juveniles and the other for adult males. The fourth cell is unfurnished and used as a detox cell. There are no electronic monitoring devices for any of the cells. Security screens are still bolted over the office windows as reported by the 2002-2003 Grand Jury. Two cells are equipped with 47-year-old concrete toilet/sink units, as reported by the last two Grand Juries.

No meals are served to detainees. Detainees are typically held 30 minutes before being transported or released but may be held four to six hours. In the event a detainee presents a medical or behavioral problem which cannot be accommodated, that person is transported directly to the Humboldt County Correctional Facility in Eureka or another appropriate facility. Jewelry, belts and pocket contents are removed. Detainees may retain their shoes unless they are deemed to be a potential danger to themselves. No visitation is allowed and no medical services are provided. Detainees are permitted no phone calls, except for emergencies.

## **FINDINGS AND RECOMMENDATIONS**

**FINDING 1:** Security screens are bolted over the outside of the office windows, posing a threat in the event of fire. Staff may be trapped with no egress from the office.

**Response from Humboldt County Department of General Services:** *Disagree partially. There is more than one exit for the Sheriff's Substation, so if a fire does occur it is unlikely that the windows would be used as an escape route.*

**RECOMMENDATION 1:** The Grand Jury recommends yet again that the steel security screens be retrofitted forthwith to allow evacuation from the office in the event of fire.

**Response from Humboldt County Department of General Services:** *In the FY 2001-2002 response, the prior director indicated that these changes would be made, but we are unsure that they are warranted. There are more than two exits through doorways that should suffice for emergency exits and there is no need to exit through a window. However, the retrofit has not been scheduled and may not be done unless we determine that they can be retrofitted.*

**FINDING 2:** Two cells are equipped with 47-year-old toilet and sink facilities, which are difficult to maintain in a sanitary condition.

**Response from Humboldt County Department of General Services:** *Disagree partially.*

**RECOMMENDATION 2:** The Grand Jury recommends yet again that the two aging toilets/sinks be replaced with stainless steel combination sink and toilet units without further delay.

**Response from Humboldt County Department of General Services:** *Regarding Finding 2, the toilets are actually aluminum and will be replaced with stainless steel. This is on our to do list, but it will require two employees working for at least a week in Hoopa to replace the toilets. It will be done as priorities allow us to spend the resources to replace the toilets, which should be before September 2004.*

**FINDING 3:** Recommendations 1 and 2 above have been made numerous times by past Grand Juries. To date no action has been taken although such action has been promised. Obvious liability to the county exists should employees be trapped behind screens in case of fire if Recommendation 1 is not implemented. Recommendation 2, though less serious than 1, poses a health threat to inmates and should be implemented.

**Response from Humboldt County Department of General Services:** *Disagree wholly.*

**Response from Humboldt County Board of Supervisors:** *Disagree. Because of the existence of other exits, it is unlikely that the windows would be used as an escape route. The toilets and sinks are old, but do not pose a health threat to inmates.*

**RECOMMENDATION 3:** The Grand Jury recommends that the Board of Supervisors direct the Department of General Services and encourage the Sheriff to implement Recommendations 1 and 2 forthwith.

*Response from Humboldt County Department of General Services: Due to key changes in personnel within the current General Services Department management did not have any information regarding the prior recommendations. With the notification in the Spring of 2004, the General Services Department has indicated that they will complete the toilet replacement by September 2004. The department has also indicated that it needs to inspect the "screened windows" to determine how to address the problem, if there is one. There is more than one exit for the Sheriff's Substation, so if a fire does occur it is unlikely that the windows will be used as an escape route. However, the General Services Department will inspect the devices to determine whether to remove them, retrofit them or replace them with another type of device.*

*Response from Humboldt County Board of Supervisors: Recommendation with respect to the toilets will be implemented by September 2004. With respect to the screened windows, General Services will evaluate the need to retrofit within the next six months. There is more than one exit for the Sheriff's Substation, so if a fire did occur it is unlikely that the windows would be used as an escape route.*

**Grand Jury Report # 2004-JL-07  
GARBERVILLE SHERIFF'S SUBSTATION**

**WHO SHALL RESPOND:**

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-JL-07 shall be provided as follows:

- The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 2 and 3.
  - The Humboldt County Department of General Services shall respond to Findings and Recommendations 1 and 2.
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The Garberville Sheriff's substation, which is approximately 50 years old, was inspected on October 9, 2003. The facility has three holding cells, each with a newly-installed stainless steel toilet and sink unit. Two cells are equipped with beds and mattresses; a third cell is used as a detox cell with no furnishings. All cells are clean and well maintained. There is no audio/video monitoring of the three cells. According to substation personnel, the facility is too small to accommodate the various law enforcement agencies that use it. In addition, the evidence locker contains items that have been on the premises for several years. Maintenance and repairs for the facility are provided by the Humboldt County General Services Department. Two previous Grand Juries pointed out several violations of the Americans With Disabilities Act, including wheelchair inaccessibility. Although General Services agreed to the recommendation to bring the building into compliance, no action has been taken.

**FINDINGS AND RECOMMENDATIONS**

**FINDING 1:** The facility is not in compliance with the Americans With Disabilities Act (ADA).

*Response from Humboldt County Department of General Services: Disagree*

**RECOMMENDATION 1:** The Grand Jury recommends that the General Services Department develop a plan for making the building ADA compliant within six months.

**Response from Humboldt County Department of General Services:** *This recommendation will not be implemented. The focus of Title II, Americans with Disability Act, is to make programs accessible, not buildings. If it is possible to ensure accessibility through alternative means such as providing auxiliary aids, relocating programs or making home visits, structural changes are not required. Only when it is absolutely necessary to achieve program accessibility are public entities required to retrofit existing facilities. General Services Department will work with the Sheriff's Office to ensure that its programs are accessible. Also, due to budget constraints and reduced personnel, the General Services Department is unable to commit to developing a plan for building ADA compliance within six months.*

**FINDING 2:** The substation is too small to adequately handle the volume of law enforcement activity which occurs on holidays and special event weekends in Southern Humboldt County.

**Response from Humboldt County Department of General Services:** *Disagree*

**RECOMMENDATION 2:** The Grand Jury again recommends the building be remodeled and enlarged.

**Response from Humboldt County Department of General Services:** *The recommendation will not be implemented because it is not warranted or is not reasonable. There are other alternatives that can be used to meet the needs for special event weekends or holidays by the Sheriff's Office.*

**FINDING 3:** The evidence locker/storage area contains items that have been on the premises for several years.

**RECOMMENDATION 3:** The Grand Jury recommends that these items be properly disposed of or transferred to the Sheriff's central evidence locker in Eureka.

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**Grand Jury Report # 2004-JL-08**  
**JUVENILE HALL**

**WHO SHALL RESPOND:**

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-08 shall be provided as follows:

- The Humboldt County Probation Department shall respond to Finding and Recommendation 1.
  - The Humboldt County Department of General Services shall respond to Finding and Recommendation 1.
- 

The Juvenile Hall facility (Hall) was inspected November 17, 2003. The Hall houses male and female detainees from ages eight to eighteen years. The Hall is managed by the Humboldt County Probation Department. The Humboldt County Office of Education operates the Von Humboldt School on the premises. The two-story facility was built in 1970, with a substantial remodeling of the intake area and kitchen completed in January of 2002. There is no elevator. The Hall has a rated capacity of 26 beds. At the time of this inspection there were 23 detainees in residence, although overcrowding has been reported in previous years. Close monitoring and management have kept the facility at or below capacity for the first ten months of 2003, with only occasional overcrowding. Audio monitoring is available for the

individual rooms; video monitoring is provided in several areas and in two of the individual rooms. Staff members carry personal safety alarms, which are monitored from the central control room. The Hall's computerized record system is connected to a statewide juvenile database. The facility has the services of a nutritionist; medical services are provided 40 hours per week by contract with the California Forensic Medical Group. The facility was generally clean and well maintained at the time of inspection.

**COMMENDATION:** Poor lighting in the multi-purpose room, hallways, bathrooms, and detainee rooms is now being upgraded. The upgrade is 80% completed and is projected to be finished by June 30, 2004. The new fixtures are a remarkable improvement. The Grand Jury commends the Probation Department for the lighting upgrade.

## FINDINGS AND RECOMMENDATIONS

**FINDING 1:** The facility does not comply with the American With Disabilities Act (ADA). In particular, there is no wheelchair access between the two floors.

**Response from Humboldt County Probation:** Disagree

**Response from Humboldt County Department of General Services:** Disagree

**RECOMMENDATION 1:** The Grand Jury recommends the building be made ADA compliant.

**Response from Humboldt County Probation:** The recommendation would be difficult to implement and does not appear to be required by the American with Disability Act (ADA) in that the focus of the Act is to make programs accessible, not buildings. If it is possible to ensure accessibility through alternative means such as providing auxiliary aids or relocating programs structural changes are not required. Only when it is absolutely necessary to achieve program accessibility are public entities required to retrofit existing facilities. The Probation Department believes that it can make accommodations and meet the letter and spirit of ADA. The Probation Department will work with the General Services Department to ensure that its programs are accessible.

**Response from Humboldt County Department of General Services:** This recommendation will not be implemented. The focus of Title II, Americans with Disability Act, is to make programs accessible, not buildings. If it is possible to ensure accessibility through alternative means such as providing auxiliary aids, relocating programs or making home visits, structural changes are not required. Only when it is absolutely necessary to achieve program accessibility are public entities required to retrofit existing facilities. General Services Department will work with the Probation Department to ensure that its programs are accessible.

**Grand Jury Report # 2004-JL-09**  
**REGIONAL FACILITY**

**WHO SHALL RESPOND:**

Pursuant to Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-09 shall be provided as follows:

- The Humboldt County Probation Department shall respond to Finding and Recommendation 1.
  - The Humboldt County Department of General Services shall respond to Finding and Recommendation 1.
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The Regional Facility (Facility) was inspected on November 17, 2003. The Facility provides high-risk children who have been placed by the court with specialized long-term services. The Facility was built in 1998 to serve four counties in northwestern California; however, since its opening, fewer than five juveniles have been placed in the Facility from other than Humboldt County. The Facility, which is operated by the Humboldt County Probation Department, houses male and female juveniles from ages 12 to 18 years. At the time of inspection there were 17 detainees in residence. The Facility's rated capacity is 18, with each detainee in a single-occupancy cell. Detention here typically ranges from four to six months while each detainee undergoes structured, personalized education and rehabilitation programs.

Medical services are shared with Juvenile Hall through a contract provider. Food services are provided from Juvenile Hall next door. At the time of inspection, the Facility was generally clean and well maintained.

**COMMENDATION:** The clothes washer and dryer are non-commercial, receive heavy use, and have experienced venting problems. Plans and funds have been approved to replace this equipment and retrofit the venting system.

**FINDINGS AND RECOMMENDATIONS**

**FINDING 1:** Unsightly damage caused by detainees was observed in the acoustical ceiling tiles of two day rooms.

**Response from Humboldt County Probation:** Agree

**Response from Humboldt County Department of General Services:** Agree

**RECOMMENDATION 1:** The Grand Jury recommends that all affected ceiling tiles be replaced.

**Response from Humboldt County Probation:** *The ceiling tiles are in the process of being removed to be replaced with either new ceiling tiles or an alternative material to reduce ability to damage the ceiling in the future.*

**Response from Humboldt County Department of General Services:** *The ceiling tiles have been removed and either new ceiling tiles will be installed or an alternative material to reduce ability to damage the ceiling in the future.*

**Grand Jury Report # 2004-JL-10**  
**HUMBOLDT COUNTY CORRECTIONAL FACILITY AND ITS COMPUTER SYSTEM**

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT #2004-JL-10 shall be provided as follows:

- The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 1 and 2.
  - The Humboldt County Department of General Services/Information Services shall respond to Findings Recommendations 1 and 2.
  - The Humboldt County Board of Supervisors shall respond to Findings and Recommendations 1 and 2.
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Pursuant to California Penal Code, Section 919(b), the Grand Jury of Humboldt County inspected the Humboldt County Correctional Facility (HCCF). The facility was found to be clean and generally well maintained, resulting in no findings or recommendations for the physical plant itself. However, during the course of that inspection and other interviews with County officials, it was learned that the computer system known as "CMS+" which services the HCCF is an outdated, difficult to use, DOS-based system subject to frequent operational problems and does not interface with other county systems. The CMS+ system was purchased in 1993 and operates on proprietary software which the County has not been allowed to upgrade or expand since its installation. Although the County purchased the source code for the software, the County has been prohibited by the vendor from making any modifications to the system except for those directly associated with fixing program errors.

The CMS+ system has required an average of 43.4 trouble-shooting service calls for each of the past four years, approximately one call every eight days. On several occasions, the system required correction of items such as: incorrect inmate population, incorrect housing index, and erroneous SWAP Team listings. Several witnesses testified that the CMS+ system is difficult to use, prone to errors, and generally regarded as the least user-friendly system in the County. In addition, several times during the last ten years, inmates at the HCCF have been either released too early or held too long due to problems with the computer system. This situation places the County in a potentially liable position.

**FINDINGS AND RECOMMENDATIONS**

**FINDING 1:** The DOS-based CMS+ computer system is difficult to use, prone to errors, and not upgradeable or expandable.

**Response from Humboldt County Department of General Services:** *Disagree*

**Response from Humboldt County Board of Supervisors:** *Neither agree nor disagree as the Board of Supervisors has no direct experience with individual departmental computer systems and defers to Information Systems and the applicable using departments.*

**RECOMMENDATION 1:** The Grand Jury recommends that a new state-of-the-art computer system be purchased for the HCCF as soon as possible which will interface with other county systems as needed.

**Response from Humboldt County Department of General Services:** *The recommendation will not be implemented because it is not warranted or is not reasonable. Currently there is no funding to replace the system. The current system does interface with law enforcement system (CRIMES), which is used by all*

local law enforcement agencies and the Court to exchange information. The current jail system will also have interfaces with the new District Attorney STAR system and Court SJE system, which will be implemented in 2005. When funding is available, then this is a computer system that should be upgraded.

**Response from Humboldt County Board of Supervisors:** The recommendation will not be implemented because it is not reasonable in light of the current financial situation. When funds become available, then the acquisition of state-of-the-art computer systems can be prioritized in conjunction with other services and equipment needs.

**FINDING 2:** The CMS+ computer system operates on proprietary software which the county cannot upgrade or expand under the present contract.

**Response from Humboldt County Department of General Services:** Agree

**Response from Humboldt County Board of Supervisors:** Neither agree nor disagree as the Board of Supervisors has no direct experience with individual departmental computer systems and defers to Information Systems and the applicable using departments.

**RECOMMENDATION 2:** The Grand Jury recommends that the terms of purchase for any future computer system for the HCCF incorporate the authority and ability to upgrade and/or expand the system.

**Response from Humboldt County Department of General Services:** The recommendation requires further analysis. When selecting a computer system the County can indicate our specifications for a program, but the final selection is based on the overall rating of a proposal, which may or may not allow the authority and ability to upgrade and/or expand a system. There are times when the only systems available are proprietary.

**Response from Humboldt County Board of Supervisors:** The recommendation requires further analysis, which will be performed when a new correctional management system is acquired. There are both advantages and disadvantages to providing for the ability for local upgrades and expansion. Allowing for local modifications may negatively impact our ability to acquire system upgrades from the system provider, as local modifications could potentially impact system compatibilities. This will all be considered during selection of a replacement system.

**Grand Jury Report #2004-LJ-01  
PUBLIC DEFENDER, COUNTY CONFLICT COUNSEL,  
AND ALTERNATE CONFLICT COUNSEL**

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of the GRAND JURY REPORT # 2004-LJ-01 shall be provided as follows:

- No responses are required for this report.

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The Grand Jury made an independent review of the offices of the Public Defender, the County Conflict Counsel, and the Alternate Conflict Counsel. The Public Defender unit was last reviewed by the Grand Jury in 1985 and the two Conflict units had never been reviewed. From testimony taken and documents reviewed in November, 2003, the Grand Jury determined the following facts:

The three offices employ 17 attorneys, four investigators, and eight legal/clerical staff. Defendants in criminal matters who cannot afford private legal counsel are assigned to the offices by the Judge at arraignment. In the fiscal year ended June 30, 2003, they handled more than 5,000 cases, including 3,500 misdemeanors, 820 felony charges, and about 850 juvenile and miscellaneous filings. Approximately 95% of the cases were plea-bargained or otherwise settled.

If a Judge assigns a case to the Public Defender, and the Public Defender has a conflict of interest either with the person, property, or action, that case is assigned to the Conflict Counsel. If the Conflict Counsel has a conflict of interest, then it is assigned to the Alternate Conflict Counsel.

Activities are funded primarily by the County's General Fund, supplemented by Proposition 172 and juvenile delinquency and dependency funds as shown in the following chart:

**PUBLIC DEFENDER, CONFLICT COUNSEL, AND ALTERNATE COUNSEL  
SCHEDULE OF REVENUES AND EXPENDITURES – BUDGET AND ACTUAL  
FISCAL YEAR JUNE 30, 2003 \***

	<u>Public Defender</u>		<u>Conflict Counsel</u>		<u>Alternate Counsel</u>	
	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>
<b>REVENUES</b>						
Humboldt County						
General Fund	\$795,139	\$809,253	\$99,463	\$434,108	\$358,155	\$409,890
Non-County Sources	588,267	559,272	497,835	158,281	111,258	52,441
Total Revenues	<u>1,383,406</u>	<u>1,368,525</u>	<u>597,298</u>	<u>592,389</u>	<u>469,413</u>	<u>462,331</u>
<b>EXPENDITURES:</b>						
Salaries and Benefits	1,232,998	1,218,744	541,007	538,122	418,079	413,458
Services, Supplies, Etc.	150,408	149,781	56,291	54,267	51,334	48,873
Total Expenditures	<u>1,383,406</u>	<u>1,368,525</u>	<u>597,298</u>	<u>592,389</u>	<u>469,413</u>	<u>462,331</u>
<b>TOTAL REVENUE OVER</b>						
EXPENDITURES:	\$0	\$0	\$0	\$0	\$0	\$0

• Source – Humboldt County Auditor's Office

**Grand Jury Report#2004-LJ-02  
AN INSPECTION OF THE HUMBOLDT COUNTY SHERIFF'S STORAGE YARD.**

**WHO SHALL RESPOND:**

Pursuant to California Penal Code Section 933 and 933.05, response to the Findings and Recommendations of Grand Jury Report # 2004-LJ-02 shall be provided as follows:

- The Humboldt County Sheriff's Department shall respond to Findings and Recommendations 1, 2, 3 and 4.

In response to a citizen's complaint, members of the Grand Jury inspected the Sheriff's Storage Yard on December 16, 2003. Evidence and lost-and-found property is stored there for safekeeping. Evidence is marked by an assigned case number. There is no computerized inventory system. A secure building contains the smaller and weather-sensitive items. However, unneeded items have been retained in this facility for as long as ten years. Periodically the excess items are auctioned at Carl Johnson's and on the websites [www.propertyroom.com](http://www.propertyroom.com) and [www.stealitback.com](http://www.stealitback.com).

**FINDING 1:** Much of the property stored in the Sheriff's yard is no longer needed in the legal system.

**RECOMMENDATION 1:** The Grand Jury recommends that the Sheriff identify items no longer needed in the legal system and make an attempt to return them to their owners or dispose of them at auction or by other means.

**FINDING 2:** Some lost-and-found items remain unclaimed after many years.

**RECOMMENDATION 2:** The Grand Jury recommends that the Sheriff identify lost-and-found property that remains unclaimed after one year and either auction or dispose of it in other ways.

**FINDING 3:** The contents of the facility are not well organized with many items scattered at random.

**RECOMMENDATION 3:** The Grand Jury recommends that the Sheriff organize and store all items in a neat and logical manner.

**FINDING 4:** No accurate inventory was available.

**RECOMMENDATION 4:** The Grand Jury recommends that the Sheriff complete the installation and use of a computerized inventory system.

#### **Grand Jury Report #2004-PW-01**

#### **CITIZEN COMPLAINTS ABOUT COMMUNITY DEVELOPMENT SERVICES (CDS)**

##### **WHO SHALL RESPOND:**

- The Humboldt County Community Development Services Department shall respond to Findings and Recommendations 1, 2, and 3.
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In the course of investigating several citizen complaints, the Grand Jury conducted a series of interviews with officials of the Humboldt County Community Development Services (CDS), and others. The Grand Jury's inquiry spanned the period from August of 2003 through January of 2004.

CDS has 45 employees in six divisions: Building Inspection, Current Planning, Advanced Planning, Permit Assistance, Economic Development, and Support Services. The Grand Jury's investigation determined that CDS lacks an effective system of handling complaints received from the public about its services, particularly those involving the Building Inspection, Permit Assistance, and Current Planning Divisions. The three divisions share a common public reception area at CDS offices located in the Clark Complex at 3015 H Street in Eureka.

Approximately 28 brochures on various topics are available in the public reception area; 32 are available on the department's website: <http://www.co.humboldt.ca.us/planning>. However, nothing is available that explains CDS customer complaint policy or procedures for problem resolution. Customers should be informed of their rights, obligations, and the process by which to file a complaint.

The lack of a customer complaint system was specifically addressed in the 1995-96 Grand Jury report limited to the Building Inspection Division. The department leadership, in its response to the report, agreed to implement the recommendations, including: "... the department will revise our questionnaire to include an area for the public's compliments and concerns regarding personnel." In spite of past promises to the contrary, and an acknowledgment that such a system is desirable, no system of filing, storing, tracking, or analyzing customer complaints has yet been developed at CDS.

Many complaints and/or inquiries are handled by County Supervisors attempting to get quick answers for their constituents who are having problems with the inspection/permitting/planning process. Indeed, a survey of the Humboldt County Board of Supervisors revealed to the Grand Jury that in 2003 the Supervisors personally handled over 200 complaints about personnel and/or inquiries into the status of various projects. It appears that, at least in this area, the Board of Supervisors is fulfilling a major role as a complaint resolution mechanism for the CDS. To complicate matters, the Supervisors have no direct access to the CDS computer system. They must take the time to telephone CDS personnel for information in an effort to resolve problems and inform complainants of the status of their project or application. The resolution often seems to be a simple matter of CDS determining and communicating the project status to all parties with an interest in the project, including the complaining party, along with reasons for the delay.

Land use regulations, environmental issues, and government agencies in addition to CDS are also often involved and complicate matters for less-experienced applicants. People who deal with permitting, planning, and land use issues on a regular basis naturally have fewer problems with the processes than the average citizen.

The current CDS Director was employed after the 1995-96 Grand Jury report and has made some progress in customer relations. However, there is still no comprehensive, centralized system of receiving, tracking, resolving, or using complaints as a learning tool. Written complaints are filed only in the related project file, which precludes any further analysis; telephoned or oral complaints are not routinely documented. Failure to learn from one's mistakes condemns one to repeat those mistakes.

#### **FINDINGS AND RECOMMENDATIONS**

**FINDING 1:** CDS does not have a system of recording, classifying, tracking, and resolving customer complaints that allows CDS to learn from its customers' experiences and feedback.

*Response from County Community Development Services Department: Partially disagree. CDS does have a system for resolving customer complaints but does not formally record, classify or track complaints. CDS does employ other means to learn from customer's experiences including surveys, one-on-one communications, organizational meetings and public hearings.*

**RECOMMENDATION 1:** The Grand Jury recommends that CDS develop a written customer complaint system of documenting and classifying complaints in a manner which facilitates analysis and reporting to top management.

*Response from County Community Development Services Department: CDS concurs with this recommendation and will implement a complaint tracking and reporting system in Fiscal Year 2004-2005.*

**FINDING 2:** No customer complaint forms with instructions are available.

*Response from County Community Development Services Department: Agree. CDS recently retired the latest version of our customer complaint form and has not developed the replacement form as planned.*

**RECOMMENDATION 2:** The Grand Jury recommends that a standardized customer complaint form and instructions be developed and made available with each new permit application as well as at the customer reception area and on the website.

*Response from County Community Development Services Department: CDS will complete the new customer feedback form and make it available as the Grand Jury recommends in Fiscal Year 2004-2005.*

**FINDING 3:** County Supervisors spend an inordinate amount of time researching and communicating the status of CDS project applications. They determine and explain delaying factors to constituents who were not warned about them at the beginning of the process.

*Response from County Community Development Services Department: Partially agree. CDS supports the goal of reducing the time Supervisors have to spend on pending project applications and agree that improved communication between CDS and applicants will help.*

**RECOMMENDATION 3:** The Grand Jury recommends that all brochures be reviewed, and, where appropriate, be re-written to adequately describe the pitfalls and potential delaying factors in planning/building/permitting processes

*Response from County Community Development Services Department: CDS will improve applicant communications, including brochures, to better inform applicants how to efficiently move through the permit process. Communications will include the most common reasons that permit processes are delayed.*

#### **Grand Jury Report #2004-PW-02**

#### **THE LEGALITY OF COUNTY BUILDING INSPECTION DIVISION "RAPID CHECK" AND "RAPID PROCESS" SURCHARGES**

##### **WHO SHALL RESPOND:**

Pursuant to California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of GRAND JURY REPORT # 2004-PW-02 shall be provided as follows:

- The Humboldt County Board of Supervisors shall respond to Findings and Recommendations 1 and 2.
- The Humboldt County Community Development Services Department shall respond to Findings and Recommendations 1, 2, 3, 4, and 5.

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In response to a citizen complaint, the Grand Jury conducted an investigation of the manner in which certain fees are charged by the Building Inspection Division (BID) of Humboldt County Community Development Services (CDS), and whether those fees are proper. The investigation included interviews of five officials and employees of CDS between October and December, 2003. CDS provided various documents and data in response to a Grand Jury subpoena, and the Grand Jury obtained additional information from the County Administrative Office. The Grand Jury was also provided with a number of legal opinions by the office of Humboldt County Counsel.

By way of background, property owners who wish to build or modify existing structures on their property must submit written plans to BID for approval in order to obtain building permits. This process is called the plan check. Only one employee in BID (whose job title is Plan Checker) regularly performs the plan checks. He is assisted by one part-time Plan Checker who works one day per week. On occasion their supervisor, the Chief Building Official, also performs plan checks.

Plans are checked on a first-come, first-served basis. The length of time it will take for a particular set of plans to come to the top of the pile varies greatly, depending on the number and complexity of the plans that were submitted before it. In addition, there is increased customer demand during Humboldt County's non-rainy season, when the majority of construction takes place. Finally, the Plan Checker and Chief Building Official are entitled to sick days, holidays and vacation, which also may affect the time that lapses before a particular set of plans is checked.

There is a fee for the plan check service, which varies according to the type and extent of work to be done. These fees are included in the Humboldt County Schedule of Fees and Charges, which is reviewed by the Board of Supervisors on an annual basis and enacted via ordinance. Current fees and charges for the County are set forth in Ordinance No. 2312. Attachment 262B to this ordinance contains the fees which BID is authorized to charge (Fee Schedule).

Several years ago, BID instituted a system that it termed "rapid check" and "rapid process." Documents provided by CDS in response to a Grand Jury subpoena indicate it began in fiscal year 1999-2000. With this system, BID provides its plan check service on an expedited basis to applicants who pay a surcharge in order to avoid having to wait their ordinary turn. Under "rapid check," plans are usually returned within a few days after they were submitted – often as soon as the following day. "Rapid process" includes the expedited plan check plus follow-up assistance in completion of the remaining necessary steps toward obtaining a building permit (e.g., obtaining approval from other county departments as well as various state and federal agencies). The "rapid check" surcharge is 50% of the BID fees for checking a particular set of plans according to the BID Fee Schedule, and the "rapid process" surcharge is 100% of the scheduled fees.

Example: Mr. Smith submits plans for a second-story addition to his house to the BID. The fee for checking those plans is calculated to be \$500 according to the Fee Schedule. Mr. Smith pays \$500 and his plans go to the bottom of the pile in the plan checker's in-basket, to be checked in due course. Under "rapid check," Mr. Smith will pay a 50% surcharge of \$250, for a total of \$750, and his plans will be checked overnight by the Plan Checker. Under "rapid process," Mr. Smith will pay a 100% surcharge, for a total of \$1,000, and receive expedited plan checking plus whatever other assistance is necessary to obtain the permit.

There are a number of significant aspects to this "rapid check" and "rapid process" system:

- The 50% "rapid check" and 100% "rapid process" surcharges are not listed in the BID fee schedule.
- The availability of "rapid check" and "rapid process" is not advertised or made known by BID or CDS to the general public in any brochures, announcements, or other written materials. Applicants submitting plans may learn about the faster service by word of mouth from other applicants. They may also learn about it from BID staff if they ask if anything can be done when they find out there may be a long wait to have their plans checked.
- BID staff do not routinely inform applicants of "rapid check" and "rapid process" when they submit their plans to be checked, because the expedited service is not always available. The Plan Checker and the Chief Building Official have total discretion as to whether they will perform the expedited service and which applicants will receive it.
- The Plan Checker and the Chief Building Official perform this expedited service only on overtime. The Plan Checker is paid for these overtime hours but the Chief Building Official, a management-level employee, does not receive overtime pay. It is unclear whether the "rapid process" portion of the work, which is additional to the expedited plan check and involves assisting the applicant in completing additional steps in the permit application process, is performed on overtime or during regular work hours.
- The surcharges for "rapid check" and "rapid process" are intended to cover the overtime pay of the Plan Checker. When a rough calculation was made by the Chief Building Official in the initial year the service was offered, it indicated that the surcharges did cover this additional budget expense. No additional analyses were performed in subsequent years.
- The Plan Checker performs overtime work in addition to "rapid check" and "rapid process." His total overtime hours are recorded, but there is no distinction made between those overtime hours which

are incurred in connection with expedited plan checks and those which are unrelated to them. Thus, when asked for a record of the number of overtime hours the Plan Checker had worked each year on expedited plan checks, CDS could only provide an estimate.

- When the Grand Jury requested an accounting of the amount paid for overtime work on expedited plan checks, CDS responded that it was not available because the Plan Checker also receives compensation time for some of his overtime work, in lieu of overtime pay. Thus, CDS could only provide an estimate of the overtime paid for the expedited service, which was itself based on an estimate of overtime hours worked.
- Because the Chief Building Official receives no overtime pay or compensation time for the expedited plan checks he performs on overtime hours, the applicants whose plans he checks on overtime are paying surcharges that bear no relationship whatsoever to the cost of the service.
- The Grand Jury requested an accounting of the amount of "rapid check" and "rapid process" surcharges BID had received. Again, CDS could only provide an estimate because it does not keep a running total of the amount of surcharges received from all applicants during any fiscal year. Instead, separate files are kept for each individual plan check application. In these individual files, the surcharges for the expedited plan check are sometimes combined with the basic fees rather than listed separately, due to "limited space."

The Grand Jury was concerned that CDS could not provide documentation that the "rapid check" and "rapid process" surcharges described above had been approved by the Board of Supervisors before such surcharges were instituted. Advice about the proper procedures for obtaining that approval was sought from the Assistant County Counsel assigned as the Grand Jury's advisor. County Counsel informed the Grand Jury that:

- County fees for building permits and other planning services may not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless the amount in excess of the estimated reasonable cost has been approved by a popular vote of two-thirds of the electors voting on the issue (Government Code Sections 65104 and 66014).
- In order for the Board of Supervisors to adopt new fees or service charges, or to increase existing ones, the county is required to hold at least one open and public meeting at which oral or written presentations are made. At least ten days before the meeting the county must make data available to the public which supports the amount of the cost or estimated cost that will be required to provide the service for which the new or increased fee is being proposed. These procedures must be followed unless there is voter approval of the new fee or service charge. The action taken by the county must be by ordinance or resolution. (Government Code Sections 66016 and 66018.)

Based on the evidence obtained during its investigation, and the information provided by County Counsel, the Grand Jury makes the following findings and recommendations:

**FINDING 1:** The "rapid check" and "rapid process" surcharges are invalid because they were not created through the procedures required by Government Code Sections 66016 and 66018.

***Response from Humboldt County Board of Supervisors:*** Partially agree. The surcharges were not established through the fee update process as government by the Government Code; however they were referenced in public documentation as part of the budget process.

***Response from Humboldt County Community Development Services:*** Partially disagree. The fees associated with this service are not new fees. Since the service is performed on an overtime basis the plan check fee is charged at a 150% of its normal rate to cover the overtime rate of time and one-half. This service was established to provide a requested service to our customers without causing any additional cost to the County.

**RECOMMENDATION 1:** The Grand Jury recommends that the "rapid check" and "rapid process" services be discontinued until they are adopted by the Board of Supervisors pursuant to the procedures required by law.

**Response from Humboldt County Board of Supervisors:** *The recommendation has been implemented. The services have been discontinued until they can be presented to the Board for adoption of the appropriate fee, at which time they will be added to the fee schedule of the Building Inspection Division.*

**Response from Humboldt County Community Development Services:** *The services of Rapid Check will be presented to the Board of Supervisors in September 2004. Staff will be requesting approval of the program and adoption of the appropriate fees at that time.*

**FINDING 2:** The surcharges for "rapid check" and "rapid process" are invalid because they are arbitrary figures that do not relate to the estimated reasonable cost of providing the service as required by Government Code Sections 65104 and 66014.

**Response from Humboldt County Board of Supervisors:** *Disagree. The fees are not arbitrary, but represent the cost for providing this service. The fees are based on a percentage of the normal plan check rate to cover the associated cost of performing this service on an overtime basis.*

**Response from Humboldt County Community Development Services:** *Disagree. The fees for this service are not arbitrary and do represent the estimated reasonable cost of providing this service. The fees are based on a percentage of the normal plan check rate to cover the associated cost of performing this service on an overtime basis.*

**RECOMMENDATION 2:** The Grand Jury recommends that, if the "rapid check" and "rapid process" services and surcharges are properly established through the required legal procedures, CDS develop a method of keeping accurate payroll records. This method should include accounting for overtime hours worked, overtime wages paid, and compensation time earned in order to establish that its surcharges for "rapid check" and "rapid process" are not arbitrary and do, in fact, relate to the estimated reasonable cost of providing the services.

**Response from Humboldt County Board of Supervisors:** *The recommendation will be implemented. A report will be prepared by Community Development for the Board to consider adoption of the appropriate fee for this service. The method of computation that describes the fee/service and the method used to determine the fee request will be included in this report.*

**Response from Humboldt County Community Development Services:** *Board Report will be presented to the Board of Supervisors for the adoption of the appropriate fee for this service. The fee for this service along with the method of computation that describes the fee/service and the method used to determine the fee request will be include in this report.*

**FINDING 3:** The general public is not informed about the existence of "rapid check" and "rapid process" through brochures or other written materials. These services are subject to being made available in an unfair, arbitrary and potentially discriminatory manner.

***Response from Humboldt County Community Development Services:*** Disagree. Expedited services are made available to applicants under severe time constraints that can only be met if their applications are processed by management personnel or through staff overtime. Due to CDS's limited capacity to provide the service, it has not been widely advertised and usually is only offered to avoid serious consequences expressed by the applicants.

**RECOMMENDATION 3:** The Grand Jury recommends that if the "rapid check" and "rapid process" services and surcharges are properly established through the required legal procedures, the general public be informed of their existence by all the usual written and oral methods, including informational brochures and the CDS website: [www.co.humboldt.ca.us/planning](http://www.co.humboldt.ca.us/planning).

***Response from Humboldt County Community Development Services:*** The general public will be informed of expedited service options after adoption by the Board.

**FINDING 4:** The time required to hire a replacement Plan Checker through normal county hiring procedures takes as long as six months. Therefore, an unanticipated absence by the Plan Checker for a significant period of time – or permanently – would have a serious adverse effect on both residential and commercial construction in the county's jurisdiction.

***Response from Humboldt County Community Development Services:*** Agree. CDS has recently trained a Senior Building Inspector to perform Plan Checker duties. In case of Plan Checker absence, the trained Senior Inspector would be temporarily assigned to the Plan Checker position and CDS would make greater use of outside commercial plan checking services.

**RECOMMENDATION 4:** The Grand Jury recommends that CDS develop a plan for dealing with the possible long-term absence of its sole full-time Plan Checker which will ensure that plan-checking will proceed without delay in the event of his absence.

***Response from Humboldt County Community Development Services:*** The recommendation has been implemented.

**FINDING 5:** Failure to keep a record of the overtime hours the Plan Checker and the Chief Building Official spend performing the expedited plan checks gives a skewed picture of BID's staffing needs.

***Response from Humboldt County Community Development Services:*** Disagree. Staffing needs are assessed by evaluating total workload demand, including management and staff overtime. New positions are allocated when current personnel cannot meet workload demand and revenue is sufficient to support additional positions. Tracking expedited plan checking costs is more important to document that expedited fees are based on the actual cost of providing expedited service.

**RECOMMENDATION 5:** The Grand Jury recommends that BID keep complete accounting records of all overtime hours worked, which identify the category of the work performed, for all employees including management.

*Response from Humboldt County Community Development Services: Total overtime hours are tracked by CDS. CDS will segregate overtime hours by task when necessary for the cost accounting needs of individual programs, such as expedited service.*

**Grand Jury Report #2004-CC-01**

**FOLLOW-UP ON RESPONSES TO THE GRAND JURY FINAL REPORT OF 2001-2002**

**WHO SHALL RESPOND:**

Pursuant to the California Penal Code Section 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report # 2004-CC-01 shall be provided as follows:

- No responses are required for items discussed in this report

**Introduction**

The Grand Jury of Humboldt County has the authority and responsibility to investigate and report on the functioning of local government. Entities which are the subject of Grand Jury reports are required by state statutes to reply to the Presiding Judge of the Superior Court within a specific time, using a limited range of responses, pursuant to California Penal Code Sections 933 and 933.05.

Grand Juries are obligated to monitor local governments' responses to the findings and recommendations of prior Grand Juries. This is to determine what actions have been taken by local governments regarding recommendations they agreed to implement or to study for possible implementation. Time allowed for items to be studied shall not exceed six months [Penal Code 933.05(b)(3)].

**Procedure**

The 2001-2002 Grand Jury Report contained 205 findings, 58 conclusions, and 45 recommendations. The 2003-2004 Grand Jury reviewed written responses to the 2001-2002 Grand Jury Report. All recommendations which officials agreed to implement, or to study for possible implementation, were identified for follow-up. Appropriate documents were inspected and officials were contacted to determine if there had been implementation of the recommended improvements.

Following is a brief summary of the recommendations and responses contained in the 2001-2002 Grand Jury Final Report and results of investigation into those areas where changes were expected to be implemented (at some future date):

**2001-2002 GRAND JURY RECOMMENDATION STATUS AS OF 9/30/02**

Report #	Title	Recommendations	Implemented	Will Be*	Will Not Be Implemented
02-01	Sheriff's Evidence Room	4	3	1	
02-02	Jail Facilities:	1			
	Hoopa	4	2	1	2
	Garberville	5	1	1	3
02-03	Regional Facility Juvenile Hall	3	2		1
02-04	Sheriff's Farm	1	1		
02-05	PACE <sup>1</sup>	2	2		
02-06	Parks	9	2	6	1

<sup>1</sup> Probation Alternatives in a Community Environment

02-07	HMP <sup>2</sup>	1	1		
02-08	Eureka Public Parking	4	3		1
02-09	County Counsel	8	6		2
02-10	CWS <sup>3</sup>	2			2
02-11	Community Schools	1	1		
TOTALS		45	24	9 *	12

\* Reviews of the current status of these items follow. To examine a full text of the recommendations and responses contained in the 2001-2002 report, visit any branch of the Humboldt County Library or the website <http://www.co.humboldt.ca.us/grandjury>.

#### Report # 02-01 Sheriff's Evidence Room

**Recommendation R-3** The 2001-2002 Humboldt County Grand Jury recommends that the evidence room has [sic] a computer database program to catalog the evidence.

**Sheriff's response:** This recommendation has not yet been implemented. The Computerized Records Management System implemented during Fiscal Year 2001-2002 has a separate property management module that will be added when all the problems are worked out of the base system.

- The 2003-2004 Grand Jury finds that as of March, 2004, the Sheriff's office is still in the process of correcting the flaws in the base system.

#### Report # 02-02 Humboldt County Jail Facilities

**Hoopa Recommendation R-2** The 2001-2002 Humboldt County Grand Jury recommends that toilets are [sic] replaced with stainless steel toilet and sink units in the Hoopa Sheriff's substation.

**Sheriff's response:** The recommendation has been partially implemented.

- The 2003-2004 Grand Jury finds that only one of the three replacement stainless steel toilet and sink units has been installed. Both the 2000-2001 and 2002-2003 Grand Juries also recommended that these same 48-year-old toilets be replaced; the Sheriff and the General/Administrative Services response was that the recommendation would be implemented. After being promised for four years, the work is scheduled for March, 2004. Although having agreed to do so for the past four years, neither the Sheriff's Department nor the General Services Department has complied with the Grand Juries' recommendations. As this is an ongoing health and safety issue, these toilets should be replaced immediately.

**Garberville Recommendation R-2** The 2001-2002 Humboldt County Grand Jury recommends that the existing building be upgraded to A.D.A. standards.

**Administrative Services' response:** The recommendation will be implemented.

- The 2003-2004 Grand Jury finds that the Garberville building has not been upgraded to A.D.A. standards. The 2002-2003 Grand Jury also recommended that the Garberville building be upgraded to A.D.A. standards, and Administrative Services responded that the recommendation would be implemented. However, the Board of Supervisors has allocated only \$7500 for all A.D.A. compliance retrofits for county facilities in this fiscal year. The Americans With Disabilities Act was passed in 1990. Private property owners have been required to comply, but accessibility to public facilities for handicapped citizens of Humboldt County remains a problem that should be addressed immediately.

#### Report # 02-06 County Parks

**Recommendation R-1** The 2001-2002 Humboldt County Grand Jury recommends that the County correct the county park brochure and make it readily available to the public.

**Public Works Department's response:** The brochure will be revised by January 2003.

<sup>2</sup> Healthy Moms Program

<sup>3</sup> Child Welfare Services

- The 2003-2004 Grand Jury finds that the brochure has not been revised due to budget constraints but information on the county parks has been included on the Public Works web page <http://www.co.humboldt.ca.us/pubworks>.

**Recommendation R-2** The 2001-2002 Humboldt County Grand Jury recommends that the County do an annual inventory of all park equipment.

**Public Works Department's response:** This will be done and completed by January 2003.

- The 2003-2004 Grand Jury finds that the Public Works Department has inventoried the equipment as of the end of June, 2002, and added new or replacement equipment to that inventory.

**Recommendation R-3** The 2001-2002 Humboldt County Grand Jury recommends that the County provide funding to maintain all the parks in the county park system.

**Public Works Department's response:** Reallocation of general fund monies would be a policy decision to be made by the Board of Supervisors. The budget for fiscal year 2002-2003 will be adopted within the next three months. The Department may recommend additional funding at the final budget hearings. In addition, funds will be available within one to two months from the National Oceanographic and Atmospheric Administration grant.

- The 2003-2004 Grand Jury finds that funds were obtained from the National Oceanographic and Atmospheric Administration for seasonal park staff maintaining Humboldt County coastal parks for fiscal years 2002-2003 and 2003-2004.

**Recommendation R-4** The 2001-2002 Humboldt County Grand Jury recommends that the County hire a park ranger to enforce park ordinances and the collection of the fees.

**Public Works Department's response:** The County does not currently have a position titled "Park Ranger." A possible alternative would be to have a sheriff's deputy assigned seasonally to enforce regulations in the parks provided said deputy is trained in the park ordinance regulations and enforcement. In addition, it would be beneficial to have all deputies informed of the contents of the park ordinance.

- The 2003-2004 Grand Jury finds that one grant-funded deputy sheriff was assigned to patrol all county beaches and enforce park ordinances but not to collect fees.

**Recommendation R-5** The 2001-2002 Humboldt County Grand Jury recommends that the County, where possible, have one entry control point for each park.

**Public Works Department's response:** A single entry control point may not be necessary at all county facilities. Currently, the parks staff are focused on creating a single point of entry at parks which permit overnight camping. Clam Beach County Park has the greatest need for a singular entry point.

- The 2003-2004 Grand Jury finds that where possible, single-point entries have been established to overnight camping areas. At Clam Beach County Park camping has been restricted to the southern parking lot which has a single entry point.

**Recommendation R-7** The 2001-2002 Humboldt County Grand Jury recommends that the County work with the residents of Southern Humboldt County to keep Tooby Park in the county park system.

**Public Works Department's response:** The Department is negotiating an arrangement with the current landowner, Southern Humboldt Working Together, whereby the County would obtain an easement over Tooby Memorial Park restricting its use to recreational purposes. In turn, after obtaining the easement, the County would contract with Southern Humboldt Working Together to maintain Tooby Memorial Park. This item needs to be taken to the Board of Supervisors for review and approval.

- The 2003-2004 Grand Jury finds that a final draft agreement has been developed as of March of 2004 and is being reviewed by Southern Humboldt Working Together. When it is returned to Public Works, it will be taken to the Board of Supervisors for final approval.

**Grand Jury Report #2004-CC-02  
FOLLOW-UP ON RESPONSES TO THE GRAND JURY FINAL REPORT OF 2002-2003**

**Introduction:**

The 2003-2004 Grand Jury of Humboldt County elected to evaluate responses to Final Reports of both 2001-2002 (see Report #2004-CC-01) and 2002-2003 (this Report) in order to provide continuity with the work of previous Grand Juries in a timely fashion. This practice allows the Grand Jury to monitor the commitment made by affected agencies in their responses to the findings and recommendations in previous reports, and their progress toward these stated goals.

**Procedure**

Penal Code Section 933(a) requires the Grand Jury submit to the Presiding Judge of the Superior Court a Final Report of its findings and recommendations that pertain to county government matters. Section 933(c) also requires comments from the governing body, elected county officer, or agency head to the Presiding Judge of the Superior Court on these findings and recommendations.

The responses and comments submitted were evaluated using Penal Code Section 933.05 (Appendix A) which requires the agency, officer, or governing board to (I) agree or disagree, wholly or in part, with each Finding, and to (II) provide one of four possible responses to each Recommendation: (1) have implemented the recommendation, (2) will implement the recommendation, (3) will study the recommendation, with an implementation plan available within six months, or (4) will not implement the recommendation. The last response generally includes the reason(s) why not.

The 2003-2004 Grand Jury reviewed written responses to the 2002-2003 Grand Jury Report, which contained 89 findings and 64 recommendations. All recommendations which officials agreed to implement, or to study for possible implementation, were verified through document inspection and official testimony.

This is a brief summary of the recommendations and responses; to examine a full text, visit any branch of the Humboldt County Library or the website <http://www.co.humboldt.ca.us/grandjury>.

**WHO SHALL RESPOND:**

Pursuant to the California Penal Code Sections 933 and 933.05, responses to the Findings and Recommendations of Grand Jury Report #2004-CC-02 shall be provided as follows:

- No responses are required for items discussed in this report.

**2002-2003 Grand Jury Recommendation Status as of 5/24/04**

Report #	Title	Recommendations	Implemented	Will Be*	Will Not Be Implemented
03-AF-01	AV Board of Supervisors <sup>4</sup>	3	3		
03-AF-02	Real Property Division	6	3		3
03-CD-01	Eureka Utility User's Tax	6	4		2
03-CD-02	Special Districts	3	2		1
03-HS-01	Human Rights Commission	6	2	3	1
03-HS-02	Caregivers & In-Home Health	3	1	1	1

<sup>4</sup> Audiovisual Access to Meetings

03-JL-01	Sheriff's Boats	2		1	1
03-JL-03	Arcata Jail	1			1
03-JL-04	Sheriff's Farm	1		1	
03-JL-05	Hoopa Sheriff's Substation	4		3	1
03-JL-06	Garberville Sheriff Station	5		4	1
03-JL-07	Eureka Jail	1	1		
03-JL-08	Juvenile Hall	3	1	1	1
03-JL-09	HCCF <sup>5</sup>	3	1	1	1
03-JL-10	Regional Facility	2	1	1	
03-LJ-01	Complaints to Law Enforcement	1			1
03-PW-01	A.D.A. <sup>6</sup>	3		3	
03-PW-02	Animal Control	5	3	1	1
03-PW-03	RNP <sup>7</sup> Bldg.	6	3		3
<b>TOTALS:</b>	19 Reports	64	25	20	19

\* Will be studied, or will be implemented. Reviews of the current status of these items follow.

**Report # 03-HS-01 Human Rights Commission**

**Recommendation R 1** The grand jury recommends the installation of a computer-based complaint reporting work station in the courthouse that allows access and report preparation by HRC commissioners.

**Board of Supervisors' Response to R 1** This recommendation requires further analysis. The General Services Department will contact the Human Rights Commission to discuss the need for a computer-based complaint system within the next 60 days. If there is a demonstrated need for such a system, the cost for acquisition and installation will need to be considered in concert with all other budgetary requests.

**General Services/Information Services Response to R 1** The General Services Department will contact the Human Rights Commission to discuss the need for a computer-based complaint system within the next 60 days.

- The 2003-2004 Grand Jury finds that the General Services Director met with two Human Rights Commissioners, who stated they are not interested in a computer system to track their complaints because they have a program that sorts through their meeting minutes that allows them to tally their complaints.

**Recommendation R 2** The grand jury recommends a centralized filing system resource be made available to members of the HRC in an area of the courthouse where access could be controlled.

**Board of Supervisors' Response to R 2** This recommendation requires further analysis. Staff is unaware of the existence of the referenced filing cabinet resources. The General Services Department will contact the Human Rights Commission within the next 60 days to discuss the need for filing resources and will evaluate whether those needs can be reasonably met.

**General Services/Information Services Response to R 2** Requires further analysis. The Human Rights Commission will be contacted within the next 60 days to discuss the need for filing resources in addition to the need for a computer-based complaint system.

- The 2003-2004 Grand Jury finds that General Services substantiated the need for a filing cabinet, has acquired one and reportedly has installed it.

<sup>5</sup> Humboldt County Correctional Facility

<sup>6</sup> Americans with Disabilities Act

<sup>7</sup> Redwood National Park

**Recommendation R 6** The grand jury recommends the HRC continuously monitor and review cultural diversity/sensitivity training programs for all city and county law enforcement personnel.

**Board of Supervisors' Response to R 6** This recommendation requires further analysis. The Board supports cultural diversity/sensitivity training programs for city and county law enforcement personnel as well as personnel assigned to other departments, but defers to the Human Rights Commission as to whether this is a project the Commission is ready and willing to accept as part of their stated function to "aid in eradication of discrimination in housing, employment, education and public accommodation." Communication update indicates HRC will be offered the opportunity to be included on Humboldt County's web site to assist them in the management of information.

- The 2003-2004 Grand Jury finds that the Sheriff sends officers to training which stresses "understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment." A new mandated class on racial profiling has just recently become available at College of the Redwoods for officers. In addition, Probation officers, Mental Health and Social Service employees receive a number of cultural/sensitivity programs and newsletter articles.

#### **Report # 03-HS-02 Care Givers & In-Home Health Care**

**Recommendation R 2** The grand jury recommends that the Board of Supervisors pursue publicizing the [caregiver] registry.

**Board of Supervisors' Response to R 2** The recommendation has not yet been implemented, but will be implemented in the next three to six months. The registry of care givers, currently operated by the Humboldt Senior Resource Center under contract with the Area 1 Agency on Aging [A1AA] as part of its Caregiver Support Project, will end on July 31, 2003. On August 1, 2003, the A1AA will begin operation of a care giver registry for In-Home Supportive Services (IHSS) providers and recipients, under contract with the Governing Board of the Public Authority for IHSS. The registry will be publicized by the Humboldt County Public Authority; by Humboldt County IHSS Social Workers; by the Advisory Board on the IHSS Program; and, following contractually required approval by the Public Authority, by the A1AA through press releases and public service announcements.

- The 2003-2004 Grand Jury finds that the caregiver registry has been publicized in regular public service announcements to newspapers, radio stations, and public access television; monthly articles in *Senior News*; broadcast faxes to local referral sources; and the *Caregiver Quarterly* sent to caregivers, recipients, and providers.

#### **Report # 03-JL-01 Sheriff's Boats**

**Recommendation R 1** The grand jury recommends that the Sheriff's Department consider charging a fee for towing.

**Sheriff's Response to R 1** This recommendation has not been implemented; it requires further analysis, and we will monitor this type of activity during this year.

- The 2003-2004 Grand Jury finds that of the few boat tows made, most occur during routine patrol operations and are not call-outs, which normally go to the Coast Guard or Coast Guard auxiliary, so a fee will not be charged. In addition, the State pays most of the boat operating expenses.

#### **Report # 03-JL-04 Sheriff's Agricultural Farm**

**Recommendation R 1** The grand jury recommends that the Sheriff's Department obtain a bucket for the Farm tractor.

**Sheriff's Response to R 1** This recommendation will be implemented as soon as is feasible. The tractor currently in use at the Sheriff's Farm was acquired through the Defense Reutilization Program with negligible cost to the county. We will price the cost of purchasing a suitable bucket and also attempt to locate a suitable one in the Defense Reutilization Program system. Obtaining a bucket will be dependent upon the cost or ability to locate one in the DRMO system.

- The 2003-2004 Grand Jury finds that the farm tractor – after several years of Grand Jury recommendations - still has no bucket.

**Report # JL-05 Hoopa Sheriff's Substation**

**Recommendation R 1** The grand jury recommends that the steel security screens be retrofitted so they can be opened from inside the office as a means of escape in the event of an emergency.

**Sheriff's Response to R 1** This recommendation will need to be implemented by another County Department. Maintenance of the station and the building it is located in is, by agreement, the responsibility of the Hoopa Tribe and the County of Humboldt Building Maintenance Department. This recommendation will be forwarded to the Risk Manager and Building Maintenance for action.

- The 2003-2004 Grand Jury finds that the General Services Department has not scheduled the retrofit of the security screens on the outside office windows; they need to inspect them to determine whether they can be retrofitted. General Services had no record that this information had previously been passed on to them, so they had not previously responded to the issue.

**Recommendation R 2** The grand jury recommends that the substation be on a fixed maintenance schedule.

**Sheriff's Response to R 1** This recommendation will need to be implemented by another County Department. The maintenance of the station is subject to an agreement between the Hoopa Valley Tribe and the County of Humboldt as to whom is responsible for what type of maintenance to be done and janitorial service. This request will be forwarded through the County of Humboldt General Services Department.

- The 2003-2004 Grand Jury finds that the maintenance is handled by the Hoopa Valley Tribe.

**Recommendation R 4** The grand jury recommends that the two concrete toilets be replaced with stainless steel combination sink and toilet units.

**Sheriff's Response to R 4** This recommendation will need to be implemented by another County Department. As pointed out, this problem was previously addressed in the 2001-2002 grand jury report; however, the problem still exists. This request will again be forwarded to the General Services Department for resolution.

- The 2003-2004 Grand Jury finds that General Services Department has not scheduled this replacement, as it will require two employees working for at least a week in Hoopa to do the work. It will be done as priorities allow the spending of resources, which should be before September of 2004.

**Report # 03-JL-06 Garberville Sheriff's Substation**

**Recommendation R 1** The grand jury recommends that the Substation be enlarged.

**Sheriff's Response to R 1** This recommendation will need to be forwarded to the General Services Department as a request for a capital project; General Services is the department that manages County real property and buildings.

- The 2003-2004 Grand Jury finds that General Services is conducting a space needs study and will add this item for review by the end of the year.

**Recommendation R 3** The grand jury recommends structural modification to the door threshold for wheelchair accessibility.

**Sheriff's Response to R 3** This recommendation will need to be implemented by another County Department. Since it is a county building, we will forward this request to the General Services Department.

- The 2003-2004 Grand Jury finds that General Services has completed its Transition/Barrier Removal Plan, with \$7,500 set aside for ADA improvements in the current fiscal year. No

funds are available for next fiscal year because of budget constraints. The County is working on a plan to address required barrier removal issues but has no timeframe for completion because of budget issues.

**Recommendation R 4** The grand jury recommends weed removal and maintenance.

**Sheriff's Response to R 4** This recommendation will be implemented. Normally the weeds are removed for this very reason [fire danger when dry]. We will contact building maintenance and also look at the possibility of utilizing our SWAP program to assist in keeping up with proper weed abatement.

- The 2003-2004 Grand Jury found that the weeds were removed at the time of the next inspection, October 9, 2003.

**Recommendation R 5** The grand jury recommends the janitorial schedule be increased.

**Sheriff's Response to R 5** This recommendation should be implemented; however, janitorial service is provided through the General Services Department, Building Maintenance Division. This has been an ongoing problem based on budgetary concerns. We will again request increased janitorial service for the station.

- The 2003-2004 Grand Jury finds that General Services increased janitorial services hours to the facility.

#### **Report # 03-JL-08 Juvenile Hall**

**Recommendation R 3** The grand jury recommends that when the washer and dryer need to be replaced, that they be replaced with a commercial grade washer and dryer.

**Board of Supervisors' Response to R 3** This response requires further analysis, including a cost-benefit analysis of having commercial grade equipment. This analysis will be done when the washer and/or dryer need to be replaced.

**Probation Department Response to R 3** The recommendation requires further analysis.

- The 2003-2004 Grand Jury finds that the analysis has been done for a similar recommendation at the Regional Facility, where the machines have been replaced with commercial models.

#### **Report # 03-JL-09 Humboldt County Correctional Facility**

**Recommendation R 3** The grand jury recommends that in order to reduce suicide attempts paper bags be used for commissary goods delivery and trash containers in cells.

**General Services Response to R 3** The recommendation has been implemented by the HCCF pursuant to information previously received from the HCCF.

- The 2003-2004 Grand Jury finds that the HCCF commissary items now come in plastic bags manufactured with several holes in them as a measure against any possible suffocation. They are collected in the open area general population dormitory units once the inmate has removed the items, and are removed at the time of delivery in all celled units. The Grand Jury commends the Sheriff for this change.

#### **Report # 03-JL-10 Regional Facility**

**Recommendation R 2** The grand jury recommends that when the washer and dryer require replacement, they are replaced with commercial appliances.

**Probation Department Response to R 2** The recommendation requires further analysis.

- The 2003-2004 Grand Jury finds that the washer and dryer are being replaced with commercial appliances. The Grand Jury commends the Regional Facility for finding a funding source for the new machines and the expanded venting required by them.

**Report # 03-PW-01 Americans with Disabilities Act**

**Recommendation R 1** The grand jury recommends the County make these restroom facilities [Freshwater, Centerville Beach, Moonstone Beach, Tooby Memorial, Luffenholtz Beach and Mad River Boat Ramp] ADA compliant. However, due to the major remodeling costs involved in most of these locations, the County should provide ADA approved portable toilets in the interim.

**Board of Supervisors' Response to R 1** Will be partially implemented, but some of the recommendation will not be implemented because it is unreasonable given the County's financial situation. ADA approved portable toilets will not fully resolve handicap accessibility in that infrastructure and other improvements would be necessary to secure access to the toilets, the cost of which is beyond current budget capabilities. There are, however, plans to remodel the restroom facilities at Freshwater and Luffenholtz Parks and Mad River Boat Ramp to include ADA compliance issues by using the 2002 per Capital [sic] Park Bond funding.

**Public Works Response to R 1** Centerville Beach, Moonstone Beach and Tooby only have portable toilets. The cost to replace existing portable toilets with ADA approved toilets would cost an additional \$2,000 annually. The cost to put portable ADA approved toilets at the other three parks would be \$4,500. The current Parks budget could not absorb this additional cost. The department plans to remodel the restrooms and make them ADA compliant with 2002 Per Capita Park Bond funding.

- The 2003-2004 Grand Jury finds that 2002 Per Capita funds have only recently been released; the permitting process for the remodeling has begun.

**Recommendation R 3** a. The grand jury recommends signs be placed along park walkways and entrances directing visitors to the location of restroom facilities and indicating their ADA status. b. The grand jury further recommends that all park literature indicated [sic] the ADA status of each Park restroom.

**Public Works Response to R 3** a. Signage will be placed in accordance [with] the Americans with Disabilities Act Accessibility Guidelines and Title 24 of the California Building Code. Signage will appropriately identify accessible restroom facilities and associated routes as recommended in the Grand Jury findings. b. The County Park Information sheet will be updated to include restroom ADA status.

- The 2003-2004 Grand Jury finds that the signs, information sheets, and website will be revised as the remodeling nears completion.

**Report # 03-PW-02 Animal Control**

**Recommendation R 5** The grand jury recommends that a clear line of responsibility to monitor and control animal abuse situations be established.

**Board of Supervisors' Response to R 5** Requires further analysis. This may already be partially resolved through the implementation of new procedures for both Community Development Services and Health and Human Services, to refer unresolved nuisance complaints to the Code Enforcement Unit. This may be further resolved through a transfer of the animal control function to the Sheriff's Office scheduled to take place early in 2004. This will be monitored and further evaluated once the transition has taken place and new staff is in place commensurate with the opening of the animal care facility.

- The 2003-2004 Grand Jury finds that the transition of animal control to the Sheriff's Department has occurred. The Department has applied for funding for personnel to operate the new animal care facility and handle animal abuse situations.

**Note on 03-PW-03: The Redwood National Park Building in Orick** The County Planning Commission permitting approval – and the cascade of decisions that followed – was based on the proposition by the developer and the National Park Service that the building was to be visitor-serving. This triggered Ordinance Number 1687, allowing the approvals to be "ministerial" and thus quick and thorough. However, Grand Jury investigation indicates the building is not providing services to visitors at this time, nor has it been since opening. It is an office building and not a visitor service facility as required by the commercial recreational local zoning regulations.

RECEIVED

AUG - 9 2004

HUMBOLDT COUNTY  
SHERIFF'S OFFICE

CAO

DATE: August 5, 2004  
TO: THE HONORABLE TIMOTHY P. CISSNA  
PRESIDING JUDGE OF THE SUPERIOR COURT  
FROM: GARY PHILP, SHERIFF  
RE: RESPONSE TO 2003 - 2004 GRAND JURY

**2004-HS-01 - ADULT PROTECTIVE SERVICES AND IN-HOME SUPPORTIVE SERVICES.**

**FINDING 10:**

The Humboldt County Sheriff's Department has no written policy or procedure for mandatory reporting of abuse or welfare checks.

**SHERIFF'S RESPONSE TO 2004-HS-01 FINDING 10:**

Disagree. A formal, written policy and procedure was implemented in April 2004.

**RECOMMENDATION 10:**

The Grand Jury recommends that HCSD develop a written policy and establish procedures for mandatory reporting of abuse and welfare checks, including requirement for the documentation of deputy visits and findings immediately following those visits.

**SHERIFF'S RESPONSE TO 2004-HS-01 RECOMMENDATION 10:**

The recommendation has been implemented. Our Office has established a comprehensive, uniform, written Sheriff's Office policy and procedure for the investigation and documentation of suspected cases of abuse and neglect of elders and dependent adults as outlined by California Penal Code 368 and Welfare and Institutions Code, Chapter 11, Division 9, Section 15630. This policy was adopted in April 2004.

**FINDING 11:**

The HCSD has no formal training for deputies in the areas of mandatory reporting of abuse and welfare checks.

SHERIFF'S RESPONSE TO 2004-HS-01 FINDING 11:

Partially Disagree. Although prior to April of 2004 this Office had no formal in-service training all of our deputies had received training as part of the initial Basic Academy training.

RECOMMENDATION 11:

The Grand Jury recommends that, when the new policy and procedures have been developed, annual mandatory training in the newly established policy and procedures regarding mandatory reporting of abuse and welfare checks be instituted and a documented record of attendees maintained.

SHERIFF'S RESPONSE TO 2004-HS-01 RECOMMENDATION 11:

The recommendation has been implemented. Annual mandatory training on our established policy and procedures for all deputy sheriffs was implemented with the dissemination of our policy beginning in April 2004. All in-service training is recorded and maintained. In addition to our in-service policy guideline training our deputies receive an annual mandatory two hours of P.O.S.T. certified training, which our staff members recently completed for this year.

2004-JL-06 – HOOPA SHERIFF'S SUBSTATION

FINDING 1:

Security screens are bolted over the outside of the office windows, posing a threat in the event of a fire. Staff may be trapped with no egress from the office.

SHERIFF'S RESPONSE TO 2004-JL-06 FINDING 1:

Agree.

RECOMMENDATION 1:

The grand jury recommends yet again that the steel security screens be retrofitted forthwith to allow evacuation from the office in the event of fire.

SHERIFF'S RESPONSE TO 2004-JL-06 RECOMMENDATION 1:

The recommendation has not yet been implemented. Maintenance of the station and the building it is located in is, by agreement, the responsibility of the Hoopa Tribe and the County of Humboldt, General Services, Building Maintenance Department. This recommendation has been forwarded to Building Maintenance in the past with a request for the screens to be retrofitted as soon as possible. We will again request that the General Services Department of the County have the window security screens retrofitted as soon as possible.

FINDING 2:

Two cells are equipped with 47-year-old toilet and sink facilities, which are difficult to maintain in a sanitary condition.

SHERIFF'S RESPONSE TO 2004-JL-06 FINDING 2

Agree.

RECOMMENDATION 2:

The grand jury recommends yet again that the two aging toilets/sinks be replaced with stainless steel combination sink and toilet units without further delay.

SHERIFF'S RESPONSE TO 2004-JL-06 RECOMMENDATION 2:

Recommendation has not yet been implemented, as this is the responsibility of the County of Humboldt General Services, Building Maintenance Department. Recommendation has been forwarded.

FINDING 3:

Recommendations 1 and 2 above have been made numerous times by past Grand Juries. To date no action has been taken although such action has been promised. Obvious liability to the county exists should employees be trapped behind screens in case of fire if Recommendation 1 is not implemented. Recommendation 2, though less serious than 1, poses a health threat to inmates and should be implemented.

SHERIFF'S RESPONSE TO 2004-JL-06 FINDING 3:

Agree.

RECOMMENDATION 3:

The grand Jury recommends that the Board of Supervisors direct the Department of General Services and encourage the Sheriff to implement Recommendations 1 and 2 forthwith.

SHERIFF'S RESPONSE TO 2004-JL-06 RECOMMENDATION 3:

The recommendation has not yet been implemented, but should be implemented in the future, however, I am unable to provide a specific time frame, as these are issues are the responsibility of the General Services Building Maintenance Division and the work needs to be scheduled and handled by that department.

## 2004-JL-07 - GARBERVILLE SHERIFF'S SUBSTATION

### FINDINGS 2:

The Substation is too small to adequately handle the volume of law enforcement activity, which occurs on holidays and special event weekends in Southern Humboldt County.

### SHERIFF'S RESPONSE TO 2004-JL-07 FINDING 2:

Disagree.

A Sergeant and five-deputy sheriffs presently staff the Garberville Sheriff's Station. Generally there are only two to three staff members on duty at any given time. On those few occasions when extra personnel are assigned to the area seldom would they be in numbers large enough to make the station too small of a work space. If that were an issue then we have the capability of sending down a mobile command post and/or can work in cooperation with other public safety departments located in the Southern Humboldt area for adequate staff space support. Generally, the deputies working in the Southern Humboldt Area should be utilizing a staffing and operational plan that would keep the majority of officers in the field at any given time providing for public safety and crime prevention.

### RECOMMENDATION 2:

The Grand Jury recommends that the building be remodeled and enlarged.

### SHERIFF'S RESPONSE TO 2004-JL-07 RECOMMENDATION 2:

The recommendation will not be implemented because it is not reasonable at this time. At this time the facility size and number of staff assigned to it are compatible, in fact our staff size has decreased due to budget conditions. Enlarging or remodeling the facility to make it larger is not within the financial capability of the County of Humboldt nor is it presently necessary.

### FINDING 3:

The evidence locker/storage area contains items that have been on the premises for several years.

### SHERIFF'S RESPONSE TO 2004-JL-07 FINDING 3:

Agree.

### RECOMMENDATION 3:

The Grand Jury recommends that these items be properly disposed of or transferred to the Sheriff's central evidence locker in Eureka.

**SHERIFF'S RESPONSE TO 2004-JL-07 RECOMMENDATION 3:**

The recommendation has been implemented. This is an issue we had become aware of prior to this Grand Jury report. We have been working with our Garberville Station Sergeant to correct the situation and ensure that all property is being properly stored and/or disposed of. We anticipate having this situation corrected on or before August 30, 2004.

**2004-JL-10 – HUMBOLDT COUNTY CORRECTIONAL FACILITY AND ITS COMPUTER SYSTEM**

**Finding 1:**

The DOS-based CMS+ computer system is difficult to use, prone to errors, and not upgradeable or expandable.

**SHERIFF'S RESPONSE TO 2004-JL-10 FINDING 1:**

Agree.

**RECOMMENDATION 1:**

The Grand Jury recommends that a new state-of-the-art computer system be purchased for the HCCF as soon as possible, which will interface with other county systems as needed.

**SHERIFF'S RESPONSE TO 2004-JL-10 RECOMMENDATION 1:**

The Sheriff's Office in conjunction with the County's Information Technology personnel plans to study the recommendation, with an implementation plan available within six months.

**Finding 2:**

The CMS+ computer system operates on proprietary software that the county cannot upgrade or expand under the present contract.

**SHERIFF'S RESPONSE TO 2004-JL-10 FINDING 2:**

Agree.

**RECOMMENDATION 2:**

The Grand Jury recommends that the terms of purchase for any future computer system for the HCCF incorporate the authority and ability to upgrade and/or expand the system.

SHERIFF'S RESPONSE TO 2004-JL-10 RECOMMENDATION 2:

The Sheriff's Office will implement the recommendation in the future. The recommended terms of purchase will be incorporated in future Requests for Proposals for a new correctional management computer system.

2004-LJ-02 – AN INSPECTION OF THE HUMBOLDT COUNTY SHERIFF'S STORAGE YARD.

FINDING 1.

Much of the property stored in the Sheriff's yard is no longer needed in the legal system.

SHERIFF'S RESPONSE TO 2004-LJ-02 FINDING 1:

Disagree. Most of the property stored in the Sheriff's yard is there for a variety of legal reasons. Many of the items there were taken under a search warrant and have to be cleared by the court in order to dispose of them. It is also our responsibility to attempt to locate the owners of this property if at all possible. Some of this property is held longer than necessary because of the difficulty in determining ownership.

Some evidence, such as in the case of a homicide, has to be maintained after the case has been adjudicated in case of appeal by the defendant, or if there has been no arrest or conviction then the items are retained indefinitely or until someone is charged. We do have homicide evidence going back into the 1960's.

RECOMMENDATION 1:

The Grand Jury recommends that the Sheriff identify items no longer needed in the legal system and make an attempt to return them to their owners or dispose of them at auction or by other means.

SHERIFF'S RESPONSE TO 2004-LJ-02 RECOMMENDATION 1:

The recommendation has been implemented. It has always been and continues to be our practice and responsibility to identify items no longer needed in the legal system and make an attempt to return them to their owners or dispose of them at auction or by other means as allowed by law.

FINDING 2.

Some lost-and-found items remain unclaimed for many years.

SHERIFF'S RESPONSE TO 2004-LJ-02 FINDING 2:

Disagree. We are unaware of items in these categories that would still be in our facility "after many years".

RECOMMENDATION 2:

The Grand Jury recommends that the Sheriff identify lost-and-found property that remains unclaimed after one year and either auction or dispose of it in other ways.

SHERIFF'S RESPONSE TO 2004-LJ-02 RECOMMENDATION 2:

The recommendation has been implemented. It has always been and continues to be our practice and responsibility to make an attempt to return found property items to their owners or dispose of them at auction or by other means as allowed by law. Our staff does the best and most timely job possible of returning or disposing of found property as allowed by law considering our limited staffing and the amount of hours in the day they have to carry out all of their many duties and responsibilities. It is a constant and very work intensive process.

FINDING 3:

The contents of the facility are not well organized with many items scattered at random.

SHERIFF'S RESPONSE TO 2004-LJ-02 FINDING 3:

Disagree. Much of the property/evidence is stored at the facility because they are too bulky or large to store in the courthouse facility. All of the property stored there has case numbers assigned and our staff maintains maps of the storage yard that contain the case numbers for the items and indicate their storage location.

RECOMMENDATION 3:

The Grand Jury recommends that the Sheriff organize and store all items in a neat and logical manner.

SHERIFF'S RESPONSE TO 2004-LJ-02 RECOMMENDATION 3:

The recommendation will not be implemented because it is not warranted. Our Property/Evidence Technicians believe that the facility is well organized for our purposes. Again, all property is labeled and referenced by a case number and the placement of the property mapped within the facility or logged into specific evidence lockers or bins. During the past 18 months metal storage racks were placed at the facility to allow for increased and neater storage capability.

FINDING 4:

No accurate inventory is available.

SHERIFF'S RESPONSE TO 2004-LJ-02 FINDING 4:

Partially disagree. Our Property/Evidence staff does maintain an inventory.

RECOMMENDATION 4:

The Grand Jury recommends that the Sheriff complete the installation and use of a computerized inventory system.

SHERIFF'S RESPONSE TO 2004-LJ-02 RECOMMENDATION 4:

The recommendation requires further analysis. We do have an inventory and a system for locating property/evidence held by our Office. It is maintained on our storage cards, which are submitted with each case and item and maintained in our records and property storage files. The cost of purchasing a computerized system are currently beyond our fiscal capability nor do we presently have the staff and staff time that would be needed for data entry.

cc: CAO

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AUG - 4 2004



CAO  
**CITY OF BLUE LAKE**

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Post Office Box 458, 111 Greenwood Road, Blue Lake, CA 95525  
Phone 707.668.5655 Fax 707.668.5916 E-mail BlueLakeCity@aol.com

July 28, 2004

Marilyn B. Miles  
Presiding Judge  
Humboldt County Superior Court  
825 Fifth Street  
Eureka, CA 95501

Re: Response to 2003-04 Grand Jury Final Report

Dear Judge Miles:

The 2003-2004 Humboldt Grand Jury has requested that the City of Blue Lake respond to findings and recommendations 1 and 4 in Grand Jury Report No. 2004-AF-01. This letter constitutes the response of the City of Blue Lake prepared and submitted in accordance with Penal Code Section 933 and the Humboldt County Standard Format for Responses.

**FINDING 1: THE HUMBOLDT COUNTY AND THE CITIES OF ARCATA, BLUE LAKE, EUREKA, FERNDAL, FORTUNA, RIO DELL, AND TRINIDAD HAVE ADOPTED BY ORDINANCE THE FINANCIAL CONFLICT OF INTEREST REGULATIONS REQUIRED BY THE POLITICAL REFORM ACT. HOWEVER, HUMBOLDT COUNTY AND THE CITIES OF BLUE LAKE, EUREKA, FERNDAL, RIO DELL, AND TRINIDAD HAVE NOT FORMALLY ADOPTED ETHICS CODES OR ANY SIMILAR CODES OF CONDUCT THAT IDENTIFY AND INCORPORATE OTHER IMPORTANT PUBLIC POLICIES AND PRINCIPLES OF LAW REGARDING ETHICS AND CONFLICTS OF INTEREST.**

**RESPONSE:** Agree with finding to the extent it applies to the City of Blue Lake.

**RECOMMENDATION 1: THE GRAND JURY RECOMMENDS THAT HUMBOLDT COUNTY AND THE CITIES OF BLUE LAKE, EUREKA, FERNDAL, RIO DELL, AND TRINIDAD REVIEW AVAILABLE MODEL ETHICS CODES AND ADOPT THEIR OWN CODES OF ETHICS, TO APPLY TO ALL OFFICIALS, ELECTED AND APPOINTED.**

**RESPONSE:** The recommendation will not be implemented because it is

not warranted. Members of the Blue Lake City Council are already bound by the California Fair Political Practices Act and the Conflict of Interest Code adopted pursuant thereto. Those rules and regulations are enforceable by the Attorney General's Office and/or the Humboldt County District Attorney's Office. Ethics decisions, beyond the scope of the Fair Political Practices Act, the Ralph M. Brown Act, and the local conflict of interest code, must be made by each Councilmember as an individual. The City Council is advised by the City Attorney that it has no legal authority to impose limitations on the manner in which each elected Councilmember exercises his or her discretion, on any matter, including matters of ethics. An ethics code, if adopted, is virtually unenforceable. Imposition of sanctions on members whose conduct does not comport with ethical standards adopted by the City Council amounts to little more than rhetoric, and could in fact enflame hostility among the members of the Council charged with working together for the common benefit. Rather, the City Council agrees that education through ethics workshops conducted by the Humboldt County Administrative Office would be beneficial and is welcome. The City Council would urge its members to attend such workshops so that each member may exercise his or her individual ethical discretion in an intelligent manner.

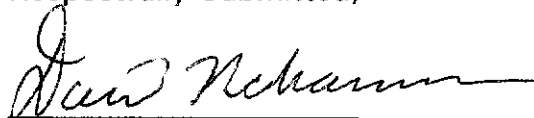
**FINDING 4:           GENERALLY ACCEPTED PRINCIPLES OF GOOD GOVERNMENT INDICATE THAT CITIZENS HAVE MORE CONFIDENCE IN THE INTEGRITY AND FAIR OPERATION OF THEIR LOCAL GOVERNMENT WHEN THEIR VIEWS ARE GIVEN CONSIDERATION IN DECISION-MAKING AND THE FORMULATION OF POLICY.**

**RESPONSE:**           Agree with finding.

**RECOMMENDATION 4: THE GRAND JURY RECOMMENDS THAT HUMBOLDT COUNTY AND THE CITIES OF ARCATA, BLUE LAKE, EUREKA, FORTUNA, RIO DELL AND TRINIDAD INCLUDE CITIZEN PARTICIPATION IN THE DEVELOPMENT (OR IN THE CASE OF ARCATA, MODIFICATION OR SUPPLEMENTATION) OF THEIR CODES OF ETHICS.**

**RESPONSE:**       Agree that the City of Blue Lake should include citizen participation in developing a code of ethics, *if the City of Blue Lake were to develop such a code.*

Respectfully Submitted,



David Nakamura, Mayor  
City of Blue Lake

DN/aw

cc: Board of Supervisors  
Loretta Nickolaus, Humboldt County CAO



# CITY OF EUREKA

531 K Street • Eureka, California 95501-1146 • (707) 441-4200

MAYOR

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SEP - 7 2004

CAO

August 25, 2004

The Honorable Judge Marilyn M. Miles  
Presiding Judge Humboldt County Superior Court  
825 5<sup>th</sup> Street  
Eureka, CA 95501

Dear Judge Miles:

The 2003-04 Humboldt County Grand Jury Report addressed the subject area of ethics codes for the City of Eureka.

At the Eureka City Council meeting on August 17, 2004, the City Council discussed the Grand Jury findings, conclusions, and recommendations. As directed, the City Council provides their response for the 2003-04 Grand Jury's Report.

Sincerely,

PETER LAVALLEE  
MAYOR  
CITY OF EUREKA

Cc: Judith D. Schmidt, Foreperson, 2003-04 Grand Jury  
County Administrative Office

**GRAND JURY REPORT NO: 2004-AF-01**  
**CODE OF ETHICS**  
**FINDINGS AND RECOMMENDATIONS**

**F1:** The grand jury found that the City of Eureka has not formally adopted ethics codes or any similar codes of conduct regarding ethics or conflicts of interest.

**R1:** The grand jury recommends that the City of Eureka review available model ethics codes and adopt their its own codes, to apply to all officials, elected and appointed.

**RESPONSES:**

**THE FOLLOWING RESPONSES TO REPORT 2004-AF-01 ARE REQUIRED PURSUANT TO PENAL CODE 933 AND THE STANDARD FORMAT FOR RESPONSES.**

**R1. Response: Partially agree.**

The City of Eureka, and its elected and appointed officials, are subject to a number of state laws, administrative regulations, and judicial decisional law concerning ethics in office and public employment. The grand jury report identifies the California Fair Political Practices Commission as one of the state agencies involved in setting guidelines and enforcing certain state laws with respect to conduct by public officials. However, there are other state laws as well, such as Government Code § 1090 which prohibits an elected official from participating in the making of a contract in which that official has a financial interest. There are other legal principles and court decisions that also define the scope and parameter of ethical conduct by public officials.

Additionally, the Eureka City Charter addresses conflicts of interest and prohibited activities. For example, Section 807 prohibits the Council and City staff from becoming directly or indirectly financially interested in City work or business.

The City of Eureka is aware that some other communities have found it desirable to adopt their own local code of ethics, which could expand upon the state requirements. Other communities have studied the issue and determined that while ethical conduct is a core value of that agency, that another local document describing that conduct was unnecessary.

Certainly ethical conduct is not assured by simply having a code of ethics, and what works for one community does not necessarily work for another community.

Nevertheless, the City Council of the City of Eureka will agendize discussion concerning a local code of ethics for discussion at a City Council meeting to be held prior to the end of 2004.

**GRAND JURY REPORT NO: 2004-AF-04**  
**CODE OF ETHICS: CITIZEN INVOLVEMENT**  
**FINDINGS AND RECOMMENDATIONS**

**F4:** The grand jury found that generally accepted principles of good government indicate that citizens have more confidence in the integrity and fair operation of their local government when their views are given consideration in decision-making and the formulation of policy.

**R4:** The grand jury recommends that the City of Eureka include citizen participation in the development of its code of ethics.

**R4 Response:** Agree.

The City Council of the City of Eureka will invite the public in its meetings and discussions concerning possible adoption of a local code of ethics.



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AUG 11 2004

August 9, 2004

CAO

The Honorable Marilyn M. Miles  
Presiding Judge of the Superior Court  
Humboldt County Court House  
Eureka, CA 95501


Subject: Grand Jury Report 2004-AF-01

Your Honor:

This letter is to memorialize the City of Ferndale's response to the Humboldt County Grand Jury Report 2004-AF-01 (the Report). The City Council of the City of Ferndale reviewed the Report and agrees with Finding 1. The City of Ferndale has not adopted an ethics code. The City has reviewed Recommendation 1 and will not be adopting an ethics code. Accordingly, the City will not undertake the action outlined in Recommendation 4. While the City understands the issues raised in the Report, we opine that these recommendations form another unfunded mandate; that they are an imposition by the Grand Jury upon the legal rights of the City of Ferndale as they do not address an issue of State law; that incidents of ethical concern are best handled at the local level; and that there are far more grave instances of ethical and possibly illegal activity occurring that the Grand Jury should consider.

On behalf of the City of Ferndale, we thank the Grand Jury for their service. Should you have any questions, please feel free to contact me.

Very truly yours,

  
Michael Powers  
City Manager

cc. Ferndale City Council  
Loretta Nickolaus, County of Humboldt  
Correspondence File-Grand Jury Reports

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