

**THIS REPORT IS  
DEDICATED  
TO THE  
MEMORY  
OF**

**ROGER RODONI**

**In recognition of his many years of service and  
hard work on behalf of the citizenry as a  
Humboldt County Supervisor**

# **ACKNOWLEDGMENTS**

**Supervisor Roger Rodoni for his inspiration and leadership.**

**The Board of Supervisors who brought the CETF together.**

**Kathy Hayes and Nancy Hampton for their steadfast support in maintaining the essential lines of communication and all arrangements for 17 CETF meetings and timely distribution of agenda materials, critical to the effort**

**The Civil Liberties Monitoring Project and the Garberville Veterans Association for cosponsoring the seminal public hearing at the Garberville Veterans Hall, on April 4, 2008, with Supervisor Roger Rodoni, Sheriff Gary Philp, District Attorney Paul Gallegos, Code Enforcement Unit (CEU) Inspector Jeff Conner, with over 300 citizens in attendance.**

**CEU Attorney Richard Hendry, Interim County Counsel Wendy Chaitin, Community Development Services Director Kirk Girard, Environmental Health Director Brian Cox, District Attorney Paul Gallegos, Investigator Michael Hislop, Chief Building Officer Todd Sobolik, Supervisor Jimmy Smith, and Supervisor John Woolley for appearing and sharing information with the committee.**

**Humboldt Coalition for Property Rights (CPR) for funding Access Humboldt video broadcast of twelve CETF meetings for public educational viewing.**

**Access Humboldt staff video professionals in broadcasting CETF proceedings and making DVDs available to the public.**

**The general public for showing interest and providing input.**

**Collegially, each task force member to the other for a very interesting and worthwhile effort.**

**2008 Humboldt County**  
**Code Enforcement Task Force**

September 26, 2008

Humboldt County Board of Supervisors  
525 5th Street  
Eureka, CA 95501

Dear Members of the Board,

The Code Enforcement Task Force herewith submits to your Board the CETF Final Report of Recommendations and Findings for general public scrutiny, comment and your consideration for action.

Each task force member selected and prioritized aspects of the issues producing independent findings and recommendations for group critique. As a group, we selected only those recommendations that we could unanimously endorse into Part Two. Those issues upon which we were divided are in Part Three.

All task force member and subcommittee reports of findings and recommendations are contained in Parts Four and Five of this report.

We have found code enforcement to be a very complex and multifaceted topic area. We endeavored to learn and look into as many of the issues brought up by the public and the Board as time permitted. Within the constraints, we each gave it our best. May our recommendations and findings promote public discussion and be of service toward solutions.

The 2008 Code Enforcement Task Force herewith submits this final report of specific recommendations and extensive findings to the Board of Supervisors and the People of Humboldt County, working together for common sense.

Respectfully, task force members,

Jack Bernstein	Bonnie Blackberry	Liz Davidson	Jill Geist
Wes Juliana	Loretta Nickolaus	Johanna Rodoni	
Phil Smith-Haynes	Dan Taranto	Robert Vogt	

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# PART ONE

## INTRODUCTION

The Code Enforcement Task Force (CETF) was appointed by the Humboldt County Board of Supervisors (BoS) on April 22, 2008 to review policies and procedures and to investigate the issues brought before the Board on April 8, 2008, and to return to the Board with findings and recommendations.

The CETF was created and charged as follows:

*On April 8, 2008 "A Motion was made and seconded to:*

- 1. Stop Code Enforcement Unit inspections pending a review of policies and procedures with the exception of cases under the purview of a court or judge, and separate the civil process from the criminal process.*
- 2. Form a 9 member task force comprised of three (3) members of the civil Liberties Monitoring Project (CLMP), one (1) member from the County Administrative Office (CAO), two (2) County Supervisors, and three (3) at large members who will investigate the issues before the Board today (4-8-08)*
- 3. Examine the Code Enforcement Manual and other appropriate procedures, and evaluate the coordination with Community Development Services, Environmental Health, County Counsel, including the Code Enforcement Unit, and the District Attorney's Office.*
- 4. Return to the Board within 45 days with findings and recommendations."*

On July 1, 2008 the Board granted a 90 day extension to the CETF.

Beginning May 23 ending Sept. 26, the CETF conducted 17 meetings, approximately 80 hours total, inclusive of 7-8 hours of additional public testimony. The committee reviewed the CEU manual, transcripts of the public testimony, evaluated the coordination between as many relevant agencies as able, and reviewed an extensive compilation of documents as catalogued in Part Six.

This document is the result of each task force member contributing their independent findings, recommendations and analysis in writing for critique by the whole group and final inclusion into Part Four of the CETF report under the individual author's name.

The task force reviewed and critiqued each others findings and recommendations. Those recommendations with unanimous endorsement are placed in Part Two. Issues upon which the group was divided is in Part Three. All member recommendations, findings and analysis submitted and critiqued are found in Part 4 and subcommittee results in Part Five.

Part Six is a catalogue of public meeting transcripts, and myriad documents submitted for reference and evaluation during the course of CETF work.

## **PART TWO**

### **UNANIMOUS RECOMMENDATIONS**

All recommendations in Part Two are unanimous. The numeric order in which the recommendations appear is not intended as any form of prioritization but is for reference purposes only.

1. The Board of Supervisors has a number of decisions to make regarding the future of the Code Enforcement Unit (CEU). The CETF recommends that the Board make those decisions in light of our findings and recommendations. Such decisions should be made prior to any hiring, restructuring, or budgetary decisions regarding the CEU.
2. The CEU Manual needs to be rewritten. The CEU manual should be reviewed and revised to reflect operational parameters at regular intervals. The CEU manual should contain an "Enforcement Response Plan" to provide clear delineation of appropriate remedies and guideline thresholds for pursuing various code enforcement actions. The document must be formatted and edited so it may be easily used by staff and reviewing authorities, and proposed revisions to standards and procedures must be reviewed and approved by managing department(s) and the Board of Supervisors.
3. The CEU should adhere to the Statement of Responsibilities as adopted/revised by the Board of Supervisors.

4. The Board of Supervisors should review the Statement of Responsibilities to encompass interdepartmental case referrals for voluntary compliance while maintaining its emphasis on serious health and safety violations as verified by the referring department.

5. The CEU needs better supervision/oversight, and a clear chain of command.

6. The civil and criminal roles of the CEU need to be clearly defined and separated, so that Code Enforcement is not used by other law enforcement agencies to pursue non-Code violations.

7. CEU should report to a single managing department.

9. When the CEU requests assistance or backup from law enforcement agencies for security during field activities, such assistance or backup shall be provided in accordance with a pre-established agreement which clearly specifies the role of law enforcement, chain of command, reporting structures, procedures for developing and approving operational plans, and mechanism for after-action reviews.

10. Code Enforcement investigators should not conduct warrant inspections until after development and review (by an attorney not in a supervisory role over the CEU) of a procedure for legally and appropriately seeking and using such warrants, and such procedure should be subject to public scrutiny.

11. No-notice inspection warrants should be used only in clearly identified circumstances dealing with immediate health and safety needs and subject to a review process, and should not be used as a tool for non-Code Enforcement criminal law enforcement purposes.

12. The Board of Supervisors should ensure that Code Enforcement Oversight Committee meetings are attended.

13. The Code Enforcement Oversight Committee should perform a management role for the CEU, which includes: determining CEU priorities/resource allocation; reviewing interdepartmental coordination; ensuring that policies of the Board of Supervisors, including the Statement of Responsibilities, are followed; suggesting needed refinements to CEU procedures; and ensuring that the managing department for the CEU reports to the Board of Supervisors on CEU activities.

14. The Code Enforcement Oversight Committee shall maintain a written record, which shall be subject to periodic review. A case review function shall exist separately from the Code Enforcement Oversight Committee.

15. The CETF recognizes the need for the mediation and problem solving functions of an ombudsman in County interactions with the public and recommends that the Board of Supervisors establish a committee to define this role and clarify how this may be served.

16. The CETF recognizes that the public concerns regarding onerous and punitive enforcement actions are much broader in scope than the CEU. The CETF recommends that the BOS make a priority out of reviewing past documents touching on code compliance issues in the County (as found or referenced in this report) and consider appointment of a new committee to examine these broader enforcement issues, including but not limited to:

- amnesty/clean slate issues
- housing element implementation
- permit process compliance/streamlining
- decriminalization ordinance implementation
- cost of implementation

17. The Board of Supervisors should appoint a blue-ribbon Land Use Clarification Committee.

The Board of Supervisors should appoint a blue ribbon committee made up of a broad base of licensed professionals and officials with relevant portfolio to meet identify, evaluate, make findings and recommendations directed toward the most practical solution of the many problems revealed in the CETF Subcommittee report on pages 129 to 132.

It is recommended that this blue ribbon committee should include, but not be limited to, the following professional, community, and governmental interests: Real Estate Industry; Title Companies; Banking Industry; Appraisal

Industry; Insurance Industry; Farming; Ranching; Forestry Interests; "Suspect" parcel owners; Property Rights Organization; Civil Liberties Organization; Representative of County Departments of Planning, Recorder, Assessor.

18. The Board of Supervisors should appoint a blue ribbon workgroup to include the Environmental Health Department working cooperatively to examine the Experimental Disposal System Program (EDSP) adopted in 1984, determine its current status and areas in need of revision, report findings and recommendations to the Board of Supervisors on how to update and make the program more user friendly and more open to public participation. The workgroup should have representation of interested, experienced and knowledgeable citizens with special alternative system expertise together with the County Environmental Health Department officials.  
(See page 133)

## **PART THREE:**

### **DIVIDED - UNRESOLVED**

1. The CETF is divided on the need for continued existence of a separate CEU and suggests review of other jurisdictions' code enforcement organization.

2. The CETF is divided on the appropriateness of arming Code Enforcement inspectors and suggests further Board review of this matter, in light of the fact that most surrounding counties' Code Enforcement officers are not armed.

## PART FOUR

### ALL MEMBER FINAL REPORTS

All findings, recommendations and analysis, as authored and submitted by individual CETF members and one subcommittee, that were carefully critiqued at least once by the CETF membership. The final reports published below are the exclusive work and responsibility of each respective author.

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**Humboldt County Code Enforcement Task Force  
Final Report, Findings and Recommendations  
September 22, 2008**

Submitted by Jill Geist

**Overview**

The Code Enforcement Task Force (Task Force) was formed as a result of complaints and allegations regarding the use of the County's Code Enforcement Unit's "Warrant Inspections". 'No Notice Warrant Inspections' were conducted at Woods Ranch/Elk Ridge, a 'Notice Warrant Inspection' at Yee Haw (Trinidad) and public complaints presented before the Humboldt County Board of Supervisor's on April 8, 2008.

On April 8, 2008 the Humboldt County Board of Supervisor's created the Code Enforcement Task Force and directed the Task Force to conduct a review of the Code Enforcement Program within the unincorporated areas of Humboldt County. The Board appointed nine members to the Task Force; two Supervisors, three representatives from the Civil Liberties Monitoring Project, three at-large public representatives and a representative of the County Administration Office. Staff support to the Task Force is provided by the County Counsel, District Attorney, Sheriff's Department, Community Development Services and the Division of Environmental Health.

The Board of Supervisor's directed that Task Force members "*...examine the Code Enforcement Manual and other appropriate procedures, and evaluate the coordination with Community Development Services, Environmental Health, County Counsel including the Code Enforcement Unit, and the District Attorney's Office.*"

Task Force members convened May 23, 2008, and continued through September 26, 2008. A total of 15 meetings were held. At the initial meeting, each member was provided a copy of the Board Order's providing the specific Task Force charge and timeframe, and a copy of the Code Enforcement Manual.

The Task Force set itself the job of first, understanding the role, responsibilities, Code Enforcement Unit process, tools for code compliance and enforcement, in particular the use of inspection warrants and second, developed recommendations that could lead towards practical solutions to identified problems. County departments involved with code enforcement to identify problems and recommend potential solutions. Information contained within this report is a result of hearing and examining presentations, code enforcement policies and questions posed to staff members.

The Code Enforcement Unit is responsible for enforcing public nuisance statutes or ordinances which have been enacted, and periodically revised, by state and local legislative bodies. Regardless of the 'standard', it is essential that an effective Code Enforcement Unit have clear policies, operating guidelines and procedures to ensure uniform and equitable enforcement and accountability.

It should be emphasized that the County Departments involved with code enforcement cooperated with the Task Force to the best of their abilities. While these meetings devolved periodically into heated discussion, there was an appreciation by persons present that greatly aided the Task Force in furthering our understanding of the County's existing processes.

At times committee members, and members of the public, wrestled with the separation between the Board directive to examine the Code Enforcement Unit and the 'standards' the

Code Enforcement Unit is responsible for enforcing. There was a strong desire by some committee members to delve into specific Community Development and Environmental Health policies, standards and permitting processes associated with on-site wastewater treatment, alternative-owner builder standards, building codes and solid waste management. Furthermore, housing standards and objectives contained in the County's Housing Element and Annual Housing report, issues associated with the Planning Department's use of 'shaded' parcel notation, the relationship between the Assessor assigning Assessor Parcel Numbers and County recognized legal parcels. While these discussions were informative and valuable, at times the Task Force drifted from their original charge.

It was the intention that Task Force members identify findings and recommendations that the Board of Supervisor's could act upon so that Code Enforcement activities can be applied fairly and consistently now and in the future.

#### **Code Enforcement Unit (CEU) – Program Overview**

In 2002, the Community Assistance Unit was re-named the Code Enforcement Unit. The County's Community Assistance Unit was originally established by the Humboldt County Board of Supervisor's in 1994. The County Counsel was responsible for developing, maintaining and evaluating the day-to-day activities of the unit's staff.

The CEU performs investigations, inspection, abatement and compliance work related to the uses, maintenance and safety of land and structures. This can include zoning, public nuisance, neighborhood preservation, hazardous materials, waste disposal, air pollution, Uniform Codes (building, housing, abatement of dangerous buildings), public health and safety, and abatement of vehicles and related equipment. The Code Enforcement's placement within the Office of County Counsel, and cooperation with the District Attorney, provides the ability to pursue administrative, civil and/or criminal remedies.

The CEU is a unique model when compared to 'traditional' Code Enforcement used by other cities and counties in that code compliance may be achieved using either civil or criminal remedies. To achieve compliance coordination cooperation is necessary between the County Counsel and District Attorney's offices. The County's CEU is located in the County Counsel's Department office. CEU employees are comprised of:

one (1) 0.30 FTE Deputy Counsel; and  
two (2) FTE Investigators; and  
One (1) 0.5 FTE extra-help investigator who specializes in abandoned vehicles.

With the exception of the extra-help investigator, CEU employees are cross-deputized by the District Attorney as either Deputy District Attorney or District Attorney Investigators. As structured, CEU employees report directly to the County Counsel when in the office, and Investigators report to the District Attorney, or designee, for field related activities.

Deputy Counsel – One Deputy Counsel is assigned to work on Code Enforcement on a 0.3 FTE basis. This position is cross-deputized by the District Attorney for purposes of working on cases that may result in criminal complaints being filed in court.

Investigators are peace officers who are granted law enforcement powers by the authority held by the District Attorney's when in the field. Investigators are officers in good standing, certified through Peace Officer Standards and Training (P.O.S.T.) and permitted to carry weapons (side-arms), conduct inspections, prepare warrants for Court review and approval, serve warrants and make arrests. Investigators may serve inspection warrants following review and approval of the Operational Plan by the District Attorney's Chief Investigator.

When necessary, Code Enforcement Investigator's may request additional law enforcement assistance from either the District Attorney's Investigator's and/or the Humboldt County Sheriff's Department. Either the District Attorney's and/or the Sheriff's office make the determination as to the resources deemed necessary to assist CEU Investigators.

#### **Code Enforcement Oversight Committee-**

At the time of the original CEU program formation, a Code Enforcement Oversight Committee (CEOC) was formed. The intent of the Oversight Committee was to establish CEU priorities, review case status reports and identify program issues. From 1994 until 2007, CEOC meetings were scheduled monthly and since 2007 quarterly. Committee members originally consisted of representatives from the offices of the District Attorney, Sheriff, County Counsel, County Administrator, Community Development Services, Agriculture Department, CEU Attorney and the Department of Environmental Health.

On April 27, 2004 the Board appointed Supervisor's Woolley and Smith to the *Code Enforcement Program Task Force* which was charged with exploring alternative funding sources to offset the costs associated with code enforcement activities. Following task completion, Supervisor's Smith and Woolley intermittently attended CEOC meetings.

#### **Code Enforcement Complaint Procedure**

Code enforcement cases are initiated primarily through public complaints reported to the County through a variety of avenues, including: Community Development, Environmental Health, the Board of Supervisor's, Sheriff's Department and others. Occasionally complaints may be initiated internally by County offices or State agencies who suspect a code violation. Complaints are either received, or routed, to the appropriate Department (i.e. Environmental Health, Community Development Services, and/or Animal Control) to exhaust their administrative remedies. If resolution can not be accomplished at the departmental level, a case is then referred to the CEU unit.

The Task Force spent many hours questioning referral Departments as to their internal administrative remedy process, in particular, notification, contact and documentation procedures of property owners. Complaints are often resolved at this administrative level. For those property owners that are non-responsive to County attempts at contact, or a particularly egregious activity, complaints may then be referred to the CEU.

Upon receipt by the CEU, referred case complaints are field verified by an Investigator through use of on-site inspections and prioritized. Two types of inspections include:

'No warrant inspections' - voluntary inspections by the property owner/resident upon request of an Inspector. These 'no warrant inspections' are conducted following contact (phone, mail or email) with the property owner or resident of the property where the (alleged) code violation exists. Inspectors conduct a 'knock & walk' whereby the property owner has voluntarily granted permission to access and inspect the property.

'Warrant inspections' - Inspection warrants may be prepared on the basis of suspected code violations, and there is a provision that allows "no prior notice" to access the property under certain circumstances. Warrants may be processed under either a civil or criminal complaint. The warrant is used as an inspection/evidence gathering tool if there is no cooperation by the owner.

Information gathered during the initial site inspection is then used to determine code compliance and identify necessary corrective actions.

Cases are prioritized by CEU staff based primarily upon their impact to the public, public and

environmental health, the number of complaints received, and the number of code and code-type violations

When a complaint is verified through the initial inspection, and contact with the property owner is made to identify necessary corrective actions, follow up inspections may be conducted to monitor compliance progress. According to statistics provided by County Counsel, a total of 580 inspections were conducted between 2003 and 2007/8. Of these inspections:

531 cases (92%) were 'no warrant inspections'

49 cases (8%) were 'warrant inspections'

In response to the Task Force question, a memo prepared by County Counsel dated June 23, 2008, specified that the Code Enforcement Unit conducted 11 'no notice warrant inspections' during the period of January and June 2008. These inspections included the nine warrants in the Second District and two in the Fifth District.

### **Courses of Remedy**

In the event of non-voluntary compliance of substantiated violations or nuisances, there are three pathways the CEU may employ to pursue remedy, or correction, 1.) Administrative Abatement, 2) Civil Injunction or 3) Criminal Proceedings.

Administrative Abatement proceedings are conducted by the Board of Supervisor's during publicly noticed Board meetings. Cases are typically open a minimum of 18 months to 2 years, with multiple attempts towards voluntary corrective action before advancing to abatement proceedings. Prior to a Board hearing, a Notice of Nuisance & Abatement is provided to the property owner, along with a 30-day compliance request. If the property owner fails to respond, the CEU may initiate the hearing process. When considering necessary findings for action, the Board has discretion as to the type of action, compliance timeframe and whether to allocate clean-up funds. These funds are recovered through agreed upon re-payment schedule or a lien placed against the property for future recovery.

Civil Injunctions are issued through a court restraining order, and are typically reserved for cases posing a serious threat to public health. Prior to requesting an injunction, these cases are (supposed to be) reviewed by the Code Enforcement Oversight Committee. If the Court grants the order, civil penalties may also be issued.

Criminal proceedings are applied to those cases that are infractions or misdemeanors under the applicable code violation. Under the County Code, nearly all nuisances are either infractions or misdemeanors. It is therefore discretionary on the part of the CEU attorney to determine whether a case will be prepared and handled on either a civil or criminal manner. The lack of written guidelines for exercising this discretion, along with the heavy penalties, created significant discussion and discomfort amongst Task Force members.

### **Findings & Recommendation**

There is a public demand for Code Enforcement activities which cannot be carried out solely in an office-setting for a geographically diverse county greater than 3,500 square miles. Consequently, for an effective program field-verification inspections are necessary.

It bears noting that three significant events occurred after the Task Forces' April 8<sup>th</sup> formation which, absent the Task Force findings & recommendations, will ultimately result in necessitating a re-evaluation and possible restructure of the Code Enforcement's program. These include the resignation of an investigator, the retirement of the lead Deputy Counsel and the District Attorney suspending the unit's police authority until formal supervision and

oversight of the CEU investigators is established.

In light of the District Attorney's temporary suspension it is recommended that, prior to acting on the Task Force findings and recommendations, the Board of Supervisor's evaluate and determine the fate of the CEU as currently structured. The Task Force findings and recommendations may provide additional context for some of the 'big picture' decisions which the Board will need to make. These key decisions include:

- Determining the scope and authority of a Code Enforcement Unit
- Determination of CEU investigators carrying side-arms
- Placement of Code Enforcement Unit
- Role of the Oversight Committee
- Field assistance requested of law enforcement
- Determination of civil and/or criminal violation enforcement

Furthermore, it should be noted that due to the serious allegations made at the April 8<sup>th</sup> Board meeting, an independent internal investigation was initiated. Because these are personnel-related, the results of these investigations can not be made public.

The deficiencies with the current CEU fall into two broad categories, (1) organization and management of the Code Enforcement Unit; and (2) the application of law enforcement in the field especially under 'no notice inspection warrants'

**F1. Management and Organization** - Based upon statements by appropriate Department heads, it was demonstrated that the organization and management of the County's Code Enforcement Unit is outdated and inadequate. This appears to be a prime cause of inconsistent enforcement and insufficient Unit oversight.

Establishment of a county-wide centralized case complaint/resolution system is recommended to track complaints received, verification, ensure exhaustion of administrative remedies, CEU referral and documentation/auditing of activities associated with complaints/compliance.

Review and revision of the Code Enforcement Manual. The 488-page manual should be reviewed and revised to reflect existing (and proposed) operational parameters at regular intervals. The CEU manual needs to contain a 'Statement of Responsibilities', organizational hierarchy, and integration of an 'Enforcement Response Plan' to provide clear delineation of appropriate remedies and guideline thresholds for pursuing various code enforcement actions. Furthermore, the document must be formatted and edited so it may be easily used by staff and reviewing authorities and proposed revisions to standards and procedures must be reviewed and approved by both the County Counsel and District Attorney.

Development of an Enforcement Response Plan to provide guidance as to violation type, priority ranking and appropriate remedial action to ensure uniform compliance objectives.

The Code Enforcement Oversight Committee has not acted to provide effective oversight of cases as per the establishing Board directive. The Board of Supervisors should examine the role the committee in order to provide oversight and/or coordination of Code Enforcement activities and their priorities, and function as an objective quality control committee to improve the CEU operations. Additionally, due to the lack of agendas or minutes and poor CEOC attendance, the Board of Supervisors needs to stress the importance of the committee, standards for attendance and criteria for determining CEU priorities.

The CEU managing department should prepare and submit Annual Reports to the Board of

Supervisor's, as originally established by the founding Board directive. Report shall include summary information of complaints received, actions taken, and charges, fees, and penalties, liens and assessments imposed.

**F2. Insufficient law enforcement coordination and oversight, in particular in the field when carrying out 'no notice inspection warrants'.**

Formalization and documentation of the District Attorney cross-deputizing CEU personnel on either a case-by-case or permanent status.

A formal employee evaluation mechanism be developed and implemented to ensure that the County Counsel performs annual evaluations, with input and feedback by the District Attorney, to Code Enforcement Unit inspectors and attorney's.

When Code Enforcement investigators request and obtain assistance or "backup" from other agencies with law enforcement powers, there appears to be a lack of a reporting structure in the field. The Code Enforcement Unit should enter into formal Memorandum of Understandings (MOU) with assisting agencies in advance, and those MOU's should specify chain of command structures.

Code Enforcement officers in the field do not receive supervision from attorneys in the County Counsel's office, because attorneys are not trained to supervise field staff (nor are they certified to supervise law enforcement officers). Further, if the Board determines that the investigators shall continue to carry side-arms that either the Sheriff or the District Attorney provides necessary supervision.

It is recommended that following 'warrant inspections' (whether they are 'notice or no notice') that de-briefing sessions be routinely held to review execution of the warrant and any incidents. It is suggested that the District Attorney, County Counsel and Sheriff (if applicable) attend these de-briefings.

While criminal proceedings may not be appropriate for the CEU to pursue, there may be actions or violations which necessitate further enforcement steps. Therefore, a formalized process should be developed to forward cases to the County District Attorney as a criminal complaint.

The original 1994 Board referred to the County Administrative Officer being involved in the oversight of the CEU; however this apparently did not occur. This was one of several discrepancies uncovered by the Task Force.

In a communication with the District Attorney there is a question whether being 'cross -deputized' is done on a permanent or case-by-case basis

# **Code Enforcement Unit Task Force**

## **Findings and Recommendations – September 2008**

**Humboldt County Supervisor Johanna Rodoni**

**Statement:** Approximately 4 years ago, the Code Enforcement Unit (CEU) procedure policies shifted causing the chain of events that led to the formation of the Code Enforcement Unit Task Force.

**1. Finding:** The CEU is clearly not adhering to the Statement of Responsibilities adopted by the Board of Supervisors.

**Recommendation:** Form a committee to review and/or re-write the Statement of Responsibilities. Once the statement is adopted, the CEU must use it as a guiding document for all activities under their authority.

**2. Finding:** There appears to be no direct supervision mechanism within the CEU when conducting field duties which require law enforcement to be present. The chain of command is unclear which begs the question – who is in charge?

**Recommendation:** Reorganize the CEU. Civil matters such as nuisance and abatement issues should stay within the purview of the County Counsel's office so the Board of Supervisors has oversight over the "yuck" type problems. Criminal investigations by the CEU should be placed either under the purview of the District Attorneys office or the Sheriffs office where a clear chain of command is present. "After action reports" should be required on all CEU investigations. The CEU should embark in outreach efforts to other California rural counties with CEUs for input into the reorganization efforts.

**3. Finding:** The current CEU Oversight Committee is misnamed. In its present form it could be more accurately described as a CEU Case Review Committee.

**Recommendation:** Rename the current Oversight Committee to reflect its roll and/or create a true Oversight Committee that keenly reviews and prioritizes CEU activities. The newly formed Oversight Committee should meet on a monthly basis and keep official records of their business.

4. Finding: There is an ombudsman/mediation employee within the CDS department. It does not appear this position is being utilized to help solve some cases assigned to the CEU.

Recommendation: Form a committee of ombudsmen/mediators to refer people to assist in finding solutions to cases assigned to the CEU whenever feasible.

5. Finding: The County of Humboldt is not meeting it's obligation to properly notify property owners who purchase "suspect, shaded and illegal" parcels. This lack of clarity is the crux of many of the problems the CEU finds itself dealing with. Subdivision Map Act issues should not be sent to the CEU for resolution.

Recommendation: The County of Humboldt should devise a clear and fair action plan to deal with and attempt to find remedy for clearing the backlog of "suspect, shaded and illegal" parcels within a reasonable timeframe.

6. Finding: There is a considerable gap between current Housing Element Policy's (ie: AOB, gray water permits, etc.) and actual implementation of said policy. Good and accurate information in regards to permitting inquiries provided by the County will eliminate many of the problems sent to the CEU.

Recommendation: The County needs to be forthcoming and transparent when citizens inquire about permitting alternative building methods. The County should take steps to recognize, allow and encourage all of the current AOB standards and to develop new or adopt existing proven environmental health codes for sanitation and water management.

7. Finding: There is a California Association of Code Enforcement Officials.

Recommendation: Humboldt County CEU personnel should adopt the California Association of Code Enforcement Officials rules and procedures.

Final thought: The County of Humboldt should focus on assisting landowners to bring their property into compliance – that should be their utmost goal. The CEU should only deal with cases in which the property owner refuses to respond to the county's notice of a potential violation and property owners who refuse to attempt to comply after being contacted by the County.

## **County Administrative Office Findings/Recommendations**

**Finding:** Code Enforcement officers in the field have not had direct supervision from attorneys in the County Counsel's office.

**Finding:** Attorneys are not trained to supervise field staff (and are not certified to supervise staff with law enforcement powers).

**Finding:** There is a continued public demand for Code Enforcement activities which cannot be carried out in an office setting, so field work is necessary.

**Recommendation:** The investigative unit of Code Enforcement should be reorganized in order to receive appropriate supervision and training and placed under the direction of a department that is more equipped to supervise field personnel.

**Finding:** The Code Enforcement Oversight Committee has not been actively involved in the oversight of cases.

**Recommendation:** The Board of Supervisors needs to examine the role of the oversight committee. Does it provide oversight or coordination of Code Enforcement activities?

**Finding:** It does not appear as though the process/procedures for obtaining and acting upon an investigation warrant were followed in the Wood Ranch/Elk Ridge cases.

**Recommendation:** Proper planning, supervision and coordination would further help to insure proper procedure in the future. Therefore, the investigative unit of Code Enforcement should be placed under the direction of a law enforcement official.

**Finding:** When Code Enforcement officers obtain assistance or "backup" from other agencies with law enforcement powers, it is unclear what the reporting structure is in the field.

**Recommendation:** The Code Enforcement Unit should enter into formal written agreement(s) with assisting agencies in advance, and those written agreement(s) should specify chain of command structures.

# **Code Enforcement Task Force Report Recommendations, Findings and Analysis**

by  
**Bonnie Blackberry,**  
Civil Liberties Monitoring Project Member

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## RECOMMENDATIONS

**1. The code enforcement program needs to have policy, procedures and priorities which are clearly articulated, understood and complied with by all County employees associated with code compliance issues.**

*a) The Code Enforcement Unit had policy and procedures in place which were ignored for years, which if adhered to would have prevented many of the problems that occurred.*

**2. Code compliance officers should not be deputized police officers, who carry weapons. Civil and criminal duties and operations need to be clearly separated to insure that the Code Enforcement Unit and its code enforcement inspections don't drift into entanglements with law enforcement issues and tactics.**

*a) Mendocino, Del Norte and Trinity Counties code compliance personnel do not carry weapons*

*b) Humboldt County Building and Health Inspectors and Tax Collector do not carry weapons.*

*b) If code compliance officer, building inspector, health inspector, have safety concerns, there is a process available to request police assistance.*

**3. Code compliance inspections should be done by trained building and environmental health personnel, not police officers.**

**4. Surprise no-notice Administrative Inspection Warrant raids need to be removed from acceptable tactics for code enforcement inspections.**

**5. Humboldt County Sheriff's Department and the Code Enforcement Unit's personnel need improved training, policy and guidelines for a more appropriate, respectful and solutions-oriented approach when assisting County personnel with code inspections.**

**6. Return code enforcement policy and practice to originating purpose as outlined in the CEU Statement of Responsibilities.**

*a) When CEU was reinstated in 2004 because of public demand about need for assistance with cleaning up garbage, solid waste, dumping, abandon vehicles, drug houses with trailers on the side, raw sewage on streets, and similar public nuisances causing harm in neighborhoods  
the  
and areas of the County*

*b) CEU expanded it's scope, beyond it's originating purpose and Statement of Responsibilities when it took the lead role in Williamson Act and the Subdivision Map Act issues.*

**7. The Code Enforcement Unit needs consistent and focused oversight and supervision to ensure proper direction and accountability for code enforcement activities.**

**a) Board of Supervisors needs to monitor code enforcement and insure that appropriate changes are implemented.**

**b) The Oversight Committee needs to have Board of Supervisor members who regularly attend and participate in the Oversight meetings as well as monitor code enforcement activities.**

**c) The Board of Supervisors need to have regular reports from code enforcement, including the yearly report as required in the CEU Statement of Responsibilities.**

**d) There needs to be a process for citizen input to the Oversight Committee.**

**e) Any code enforcement policies, procedures, guidelines and information contained in a Code Enforcement manual, needs to be accessible to the public, including posted on appropriate county web site.**

**8. County employees need to be held accountable for giving accurate information to the Board of Supervisors when important decisions are dependent on the information**

*The BoS and the CETF have been informed by County Counsel Wendy Chaitin, that the “only reason you would get a warrant is if you are not allowed access to the property by the owner” (4-15-08 BOS meeting). When in fact there have been many no-notice warrants executed by the CEU when no attempt had ever been made to seek consent, including the eight during the previous two months.*

**9. County employees need to be held accountable when they do not fulfill their duties and responsibilities.**

*a) The cross deputization combining County Counsel duties and District Attorney duties appears to have ended up in a tangled process with unclear responsibilities, priorities, direction and appropriate supervision for the office and field activities*

*b) Guidelines to bring forth an inspection warrant have not been followed in most cases reviewed by CETF.*

*c) Supervision of Administrative Inspection Warrant applications and requests to the court have been less than adequate, allowing for warrants to be issued without required CEU attorney approval.*

*d) Supervision of CE Unit office and field activities have been inadequate, raising issues of direction, responsibility, accountability and liability.*

**10. The Board of Supervisors must direct and oversee the development of a user-friendly health and safety certification program to address the long-standing existence of an enormous number of structures built outside of the permitting process.**

**11. Given the continued shortfall of available housing for low and very low income families, the County can achieve its projected housing needs by enacting zoning and code variances that allow people to live in various contrived temporary dwellings, until such time as there is adequate code compliant low-income housing available in the County.**

*According to the 2007 Annual Progress Report on Implementation of the Humboldt County Housing Element General Plan Report dated April 15, 2008 , the county has recognized a very seriously increasing deficit to provide for housing for low and very low income families.*

**12. Implement current established general plan housing element policies listed in Findings presented under Housing Element Policies.**

*\*if these polices were implemented as represented to the California Dept of Housing and Community Development (HCD) they would go a long way to correcting the long standing inability of the County to bring the non licensed builders into the permit process.*

# FINDINGS

## CEU POLICY & PROCEDURES

1. The Code Enforcement Unit had policy and procedures in place which were ignored for years, which if adhered to would have prevented many of the problems that occurred.
2. Guidelines to bring forth an inspection warrant were not followed in most cases reviewed by CETF.
3. The CEU self generated cases initiated from referrals by Humboldt County Sheriff's Office (HCSO) and Drug Task Force (DTF) have not followed proper procedures of forwarding complaints/observations to appropriate department for notification and compliance efforts. Instead these cases have been unilaterally acted on by the CEU, with the use of Administrative no-notice Inspection Warrants, assisted by a team of law enforcement officers.  
*(Inspection Warrants & testimony to the CETF)*
4. During 2006 the CEU self generated 25% of the complaints.
5. The cross deputization, combining County Counsel duties and District Attorney duties appears to have ended up in a tangled process with unclear responsibilities, priorities, direction and appropriate supervision for the office and field activities.
6. Adoption of the "Draft" Inspections & Warrants Policy dated May 15, 2008 authored by CEU attorney, *proposing systematic inspections*, would be in direct conflict with the long standing stated purpose of the CEU to coordinate the pursuit of only the most serious violations that affect the health and safety of the neighborhoods and/or the environment, after compliance efforts by the appropriate department(s) have been exhausted.
7. Following the normal required procedure to notify a property owner with a letter or phone call to seek consent to inspect, is a much more reasonable and cost effective method to initiate contact with a property owner of a suspected violation than organizing and carrying out a surprise raid with numerous law enforcement officers.

## CEU POLICY SHIFT

8. According to the 4-24-08 *North Coast Journal* interview with Community Development Services Director Kirk Girard, in 2000 the CDS made a significant change in the Departments code compliance program. Tooby Ranch became the "first special case" where major enforcement action associated with the protection of the Williamson Act program and the state Subdivision Map Act. started.
9. Another major CEU policy shift occurred in 2004 when the CEU began self-generated "complaints", generating 10% of the complaints that year, and 25% in 2006.
10. CEU policy shift includes the CEU collaborating with the Humboldt County Sheriff's Office and the Drug Task Force in choosing targets for no notice inspection search warrants that allows the CEU and assisting officers from the Humboldt County Sheriff's Office and or the Drug Task Force and at times the Drug Enforcement Agency, to participate in the search of the entire parcel including every building. (*Wood Ranch Time Line, Inspection Warrants, testimony of Code Enforcement Officer Jeff Conner at April 4, 2008 meeting in Garberville*)
11. 2000 was first indication of a change in CEU policy to acting on complaints from the Humboldt County Sheriff's Office (HCSO), with first "referral/complaint" from HCSO.
12. 2001 was first time the CEU acted on a "referral/complaint" from the Drug Task Force.
13. As of 2003, complaints from the public were no longer accepted by the CEU.

## ARMED INSPECTORS

14. According to CACEO Code Enforcement Professional Survey 5/20/2008, 6.1% of code enforcement personnel in California carry weapons, which was 10 out of 164 respondents.
15. Mendocino, Del Norte and Trinity Counties code compliance personnel do not carry weapons.
16. Humboldt County Building and Health Inspectors and Tax Collector do not carry weapons.

17. The HCSO has Special Service Deputies that have assisted Code Enforcement and Environmental Health when requested. If code compliance officer, building inspector, health inspector, have safety concerns, there is a process available to request police assistance.

## **CEU INSPECTIONS/ ASSISTANCE**

18. All 2008 Inspection Warrants executed were No-Notice Raids, all were assisted by Sheriff's Deputies, the Drug Task Force or both. (*Wood Ranch Time Line , June 23, 2008 Supplemental from County Counsel CEU attorney*)

*\*Websters dictionary> raid: "a sudden invasion by officers of the law".*

19. The Federal Drug Enforcement Agency has accompanied the Code Enforcement Unit when executing some of the no notice raids with Inspection Warrants.

*"I actually had the Federal D. E. A. on a couple of our Inspection Warrants. I'll never do that again. We tried to explain to them our kinder, gentler attitude, and they pulled out their M1 carbines and went on their way. So, that won't happen again. For the woman who asked where that was, that was on Plume Creek, outside of Willow Creek, and fortunately for my career we didn't contact anybody on that day. Everybody was gone by the time we got there." (CEU officer Jeff Conner on 4- 4- 08 at Garberville public meeting)*

## **CEU ADMINISTRATIVE INSPECTION WARRANTS**

20. " No-notice" inspection warrants served in the form of surprise raids have been used in increasing numbers as the first contact by the County with a property owner regarding a suspected code violation. Many of these suspected violations were identified and "referred" to CEU by the Humboldt County Sheriff's Office or self-created by CEU.

21. " No-notice" inspection warrants for CEU inspection raids increased from 65% of warrants served in past 5 years, to 100% in 2008.

22. Surprise police raids are situations that have an increased level of stress, danger and risk to the public, as well as CEU and police officers.

23. CEU has been requesting and receiving waivers from the courts of the normal practice and lawful requirement to contact the property owner and seek consent before an inspection, giving CEU "Investigators" authority to carry out no-notice raids on unsuspecting citizens for possible code violations. (*Inspection Warrants*)

24. CEU has also been requesting and receiving added authority from the court to go beyond the basic Administrative inspection warrant requirements and protocols, allowing the CEU to do the following:

- a) Forcibly enter onto private property and into structures.
- b) Make inspection in the absence of the owner or occupant.
- c) Enter and inspect/search the entire property and every structure without limitation.
- d) Bring along any other persons deemed necessary by CEU personnel to assist with the inspections, (which has included HCSO and DTF deputies )

25. In first three months of 2008, only two of the eleven "no-notice" inspection warrants executed (presumed complaints) came from the Planning Department. Of the remaining nine "no-notice" inspection warrants served, five were "referred" by the Humboldt County Sheriff's Office and four were self generated by the Code Enforcement Unit. (*Wood Ranch Time Line & 6- 23- 2008 Supplemental from County Counsel's office*)

26. During first three months of 2008, the CEU focused their "no-notice" inspection warrants on District 2 and District 5, with nine used in the 2nd District, two used in the 5th District, and none used in the other three Districts. (*Wood Ranch Time Line, and June 23, 2008 Supplemental from County Counsel CEU attorney*)

27. During past 5 years, only five of the forty-nine "no-notice" inspection warrants issued were used for abatement purposes to clean up junk yards/ solid waste removal. Only 1 of those 5 was a "no-notice" inspection warrant. (*County Counsel 8-27-08 response to CETF*)

28. Of the seventeen (37%) "no-notice" inspection warrants issued during past 5 years by the CEU in District 2, nine were used in first three months of 2008. (*pie chart, Wood Ranch Time Line*)

29. There has never been a denial for any CEU "no-notice" inspection warrants by a Judge in Humboldt County. (*testimony County Counsel CEU attorney Richard Hendry*)

## CEU OVERSIGHT

30. In 2004 an Oversight Committee was created for the CEU which was to meet monthly, until last year when meetings were reduced to 4 times a year.
31. The CEU Oversight Committee is lacking in attendance, record keeping, (no minutes, no agendas), and clear written policy direction regarding criteria for establishing CEU priorities.
32. There are no Board o of Supervisor member representatives on the Code Enforcement Oversight Committee, and the CEU has failed to provide mandated yearly reports to the BoS..
33. Membership on the Oversight committee appears to have had no definite, consistent and clearly understood set of members.

## CEU SUPERVISION

34. Supervision of Administrative Inspection Warrant applications and requests to the court have been less than adequate, allowing for warrants to be issued without required CEU attorney approval.
35. Supervision of CE Unit office and field activities have been inadequate, raising issues of direction, responsibility, accountability and liability.

## ACCOUNTABILITY

36. Over the years the CEU has drifted into an operating mode with no consistent or clear policy, procedures, priorities, oversight or supervision.
37. The Board of Supervisors, the County Counsel and CEU attorney, the members of the Oversight Committee, the Sheriff and District Attorney all bear responsibility for code enforcement mistreatment of Humboldt County citizens and property owners.
38. The Board of Supervisors have been informed by County Counsel Wendy Chaitin, that "the only reason you would get a warrant is if you are not allowed access to the property by the owner." (4-15-08 BOS meeting). When in fact there have been many no-notice warrants executed by the CEU, when no attempt had ever been made to seek consent, including the eight during the previous two months on Elk Ridge and Wood Ranch.

39. It is unknown if there has been any disciplinary action taken by the Sheriff's Office or the County Counsel's office regarding the Yee Haw, Wood Ranch and Elk Ridge raids by the CEU "assisted" by HCSO Deputies and Drug Task Force.

40. Answers to the question, 'who's in charge and responsible' for the direction and tactics used by the Code Enforcement Unit remain a bit vague.

41. Sheriff Gary Philp was invited by the CETF invitation to attend a meeting, or if not available, to provide a written response to questions submitted. He did not attend any Task Force meetings or respond to the following questions submitted:

1. Is it your understanding that families were removed from their homes at gun point by Sheriff officers assisting Code Enforcement Unit at Yee Haw in July 2007? *\*According to The Independent newspaper interview 9-16-08, the Sheriff does not believe this to be accurate.*

2. Has any disciplinary action taken place regarding actions at Yee Haw?

3. Is there special training for deputies assisting the CEU when executing an administrative inspection warrant?

4. Who is responsible for activities by Humboldt County Sheriff officers when assisting the CEU?

5. Is there an operational plan prepared by HCSO? Who supervises these operations?

6. Approximately how many CEU Oversight Committee meetings have you attended in past 4 years?

*\* The Independent Newspaper dated Sept. 16, 2008 reported that the Sheriff said reports from code enforcers and his deputies contradict what has been said at public forums and repeated by task force members and that no complaints have been filed by those making the accusation.*

## **WOOD RANCH and ELK RIDGE RAIDS**

42. Of the eight "no-notice" inspection warrants served on the Wood Ranch and Elk Ridge during February and March of 2008, four of the "no-notice" inspection warrants which were "referred" by the Humboldt County Sheriff's Office, and then assisted by both the Drug Task Force and the Humboldt County Sheriff's Office, the remaining four "no-notice" inspection warrants were self created "referrals" by the Code Enforcement Unit and were assisted by the Humboldt County Sheriff's Office. (*Wood Ranch Time Line*)

43. On February 28, 2008, HCSO Drug Task Force Deputies were supposed to be assisting the Code Enforcement Unit to serve a no-notice administrative inspection warrant on Elk Ridge in Southern Humboldt. They were reportedly seen driving down driveways and through a curtilage as far as two miles from the Code Enforcement Unit's targeted inspection site.

44. . According to testimony received at the Board of Supervisors meeting on 4-8-2008: On the morning of February 28, 2008, two HCSO vehicles were reported to be observed driving into and turning around in a private curtilage which was more than a mile from the code enforcement site. The HCSO vehicles that had reportedly driven down their driveway passed through a closed gate and past three trespassing signs to reach this home. The home owners said that they waved to the drivers of the vehicles but apparently the sheriffs did not see them. They then followed the vehicles out along their driveway to find out what was happening, and when they drove by their neighbor's home on same road, they reportedly found the sheriff's vehicle tracks everywhere and the neighbor's dogs were howling and very upset.

### **YEE HAW RAID**

45. The Code Enforcement Unit and HCSO deputies actions in July 2007 at Yee Haw in Trinidad, was a major factor in public outcry against the Code Enforcement Unit's reported heavy handed use of force, especially the removal of people from their homes at gun point, traumatizing young children, mothers and the other people who where there that day.

46. Testimony given at the 4-8-08 Humboldt County Board of Supervisor's meeting reported that the people who lived at Yee Haw knew Code Enforcement was coming to the property on July 26, 2007. They expected the inspection would be carried out in a similar manner as previous inspections with one or two Code Enforcement officers and maybe an Environmental Health official with clip boards, not accompanied by 12 armed police, dressed in swat gear with guns drawn removing people from their homes at gunpoint.

*\* Apparently the Sheriff has received contradictory reports from CEU and HCSO Deputies, claiming that no guns were pointed at anybody.*

47. Testimony received at 4-8-08 BoS meeting from two young mothers with children who were living at Yee Haw at the time of the July 2007 CEU raid:

a) *"I really feel like my family and I have been treated immorally and inhumanly".*

b) *"I heard some very loud shouts in the direction of my house, I saw that it was a sheriff's deputy with SWAT gear on". (HCSO Deputy )*

c) *"I reached down to grab my dog... and the officer pepper sprayed my dog, and I myself got sprayed in my right eye."*

d) *"When I asked the HCSO Deputy why did he do that, he put his hand on his holster and said, "well it's either that or a bullet in his head." My son was a witness to that comment."*

e) *The young mother reported that after she told the officer she needed to get her shoes and a pair of shorts, the deputy threw a pair of shoes toward her son, then he grabbed her shorts out of her hand, dumped out the pockets, and asked if she was carrying any weapons or grenades or knives.*

f) *Another young mother stated that when she opened her door, the officer had his gun pointed at her, with her 8 month old baby on her hip, and her almost 5 year old son who was standing behind her to witness this.*

48. Testimony from a young man at the BoS 4-8-08 meeting:

*"I am now homeless, I have kind of left Yeehaw. I live in a log that has fallen down and hollowed itself out. I am now a burden on the state. I collect unemployment, food stamps because I can't afford to do anything with my money except save it for proper housing".*

## **Scope and Priorities**

49. When CEU was reinstated in 2004 it was because of public demand about need for assistance with cleaning up garbage, solid waste, dumping, abandon vehicles, drug houses with trailers on the side, raw sewage on the streets, and similar public nuisances causing harm in neighborhoods and areas of the County.

50. CEU expanded its scope, beyond it's originating purpose and Statement of Responsibilities when it took the lead role in Williamson Act and the Subdivision Map Act issues.

51. The following are descriptions which have been used to articulate the intended purpose of the CEU:

- a) CEU would provide an improved level of assistance to neighborhoods concerned about health and safety violations in their community.
- b) CEU would pursue all actions necessary to correct serious health and safety problems that affect entire neighborhoods and communities.
- c) "to coordinate the pursuit of the most serious code violations affecting public health and safety." (7-6-04 BoS agenda item, Supplemental Budget for CE)

52. In forming the Community Assistance Unit, which is currently called the Code Enforcement Unit, the Statement of Responsibilities states: "The intent of the Unit is to coordinate the pursuit of only the most serious violations that affect the health and safety of the neighborhoods and/or the environment."

53. Citizens concerns and complaints about hazardous and toxic waste dumping along the South Fork of the Eel River in Redway/Garberville area were reported to the CEU, who referred the problem to Environmental Health, with no follow-up assistance. (8-1-08 testimony by John Cassali and Estelle Fennell )

*\*Account from Environmental Health Department was inconstant from information received.*

54 Attempts by Southern Humboldt Eel River Clean-Up volunteers over the course of 18 months to enlist the help of county agencies to address this serious environmental problem, while over 115,000 pounds of waste were collected and disposed of by local citizens at their own expense, revealed inadequate response and capability, by the CEU, the Division of Environmental Health and their representative on the Board of Supervisors. (8-1-08 testimony John Cassali and Estelle Fennell )

### **Implement existing Humboldt County Housing Element Policy as a mitigation of code enforcement issues**

55. There are 23 specific established policies which are currently part of the Humboldt County Housing Element of the General Plan which appear to be relevant policies affecting code enforcement issues. Many of these policies have been on the books for over 25 years.

56. These policies are being represented to the public and to the State Dept. of HCD as currently implemented and enforce and effect in Humboldt County.

57. It appears that many, if not most of these policies have not been implemented in fact.

58. Selected Housing policies from 2007 Annual Progress Report on Implementation of the Humboldt County Housing Element General Plan Report, dated April 15, 2008

*1.6 The County shall do all within its power to facilitate the production of affordable housing, particularly for low and very low income residents, including actively pursuing all possible funds to maintain and create low-cost housing in diverse areas of the County, and assisting developers in using State and Federally-funded housing programs*

*1.4 To encourage second units where there are adequate public services and where compatible with adjacent land uses, and allow them in resource lands where compatible with resource protection policies*

*3.1. The County shall devise mutually acceptable means to meld the efforts of citizens and government to address the problems common to us all.*

***\*This particular policy seems to speak directly to the need for developing some type of grandfathering, amnesty, clean slate, certification program which is user friendly intended to help people get permits.***

*3.2. The County shall carefully complete an up-to-date, internally consistent, responsive General Plan and Zoning Ordinance that address the current needs and problems of the County citizenry, and which set forth a compatible vision for the future.*

*3.3. The County shall reduce, or limit increases, in application processing fees which adversely impact housing affordability.*

*3.4. The County shall foster greater responsiveness to public needs.*

*3.6. The County shall encourage and be receptive to new and experimental techniques to facilitate optimum utilization of available sites.*

*3.8. The County shall support tax programs which encourage citizens to maintain and repair their homes.*

*3.10. The County shall apply sensible and flexible housing standards to allow low-cost rehabilitation and repairs consistent with health and safety requirements.*



*6.3. The County shall encourage the formation of citizen organizations to provide input on specific matters in a format consistent with the adopted policies and procedures.*

*6.6 The Planning Commission shall encourage public participation in the land use decision-making process.*

*6.7 The County shall provide centralized public access to all relevant documents and information regarding housing activities.*

	A	B	C	D	E	F	G
1	<b>Complaints acted on by the Code Enforcement Unit 1998-2007</b>						
2							
3	<i>The following has been reformatted for reviewing the information contained in the Pie Charts which were</i>						
4	<i>presented to the CETF by County Counsel CEU attorney on 5-23-08. The number of complaints were</i>						
5	<i>depicted by year as whole numbers, then percentages (%) were used in catagories showing the originating</i>						
6	<i>source of the complaint.</i>						
7							
8	<b>YEAR</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>
9							
10	<b>COMPLAINTS</b>	<b>141</b>	<b>77</b>	<b>85</b>	<b>51</b>	<b>83</b>	<b>37</b>
11							
12	<b>PUBLIC %</b>	<b>68</b>	<b>30</b>	<b>27</b>	<b>4</b>	<b>4</b>	<b>0</b>
13	<b>CDS %</b>	<b>16</b>	<b>47</b>	<b>52</b>	<b>45</b>	<b>72</b>	<b>46</b>
14	<b>DEH %</b>	<b>15</b>	<b>22</b>	<b>16</b>	<b>37</b>	<b>16</b>	<b>54</b>
15	<b>AG COMM %</b>	<b>1</b>		<b>1</b>		<b>1</b>	
16	<b>PWorks %</b>		<b>1</b>				
17	<b>Sheriff%</b>			<b>2</b>			
18	<b>D.A. %</b>			<b>1</b>			
19	<b>unk. %</b>			<b>1</b>			
20	<b>BOS %</b>						
21	<b>Air Quality %</b>				<b>8</b>		
22	<b>CAO %</b>				<b>2</b>		
23	<b>DTF %</b>				<b>2</b>	<b>1</b>	
24	<b>Assesor %</b>				<b>2</b>		
25	<b>P.G. %</b>					<b>5</b>	
26						<b>1</b>	
27							
28							
29							
30	<b>YEAR</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>		
31	<b>COMPLAINTS</b>	<b>40</b>	<b>35</b>	<b>32</b>	<b>65</b>		
32							
33	<b>PUBLIC %</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		
34	<b>CDS %</b>	<b>34</b>	<b>59</b>	<b>36</b>	<b>25</b>		
35	<b>DEH %</b>	<b>47</b>	<b>26</b>	<b>31</b>	<b>28</b>		
36	<b>AG COMM %</b>						
37	<b>PWorks %</b>	<b>3</b>		<b>3</b>			
38	<b>Sheriff%</b>		<b>3</b>			<b>8</b>	
39	<b>D.A. %</b>		<b>3</b>				
40	<b>unk. %</b>						
41	<b>BOS %</b>						
42	<b>Air Quality %</b>		<b>3</b>	<b>6</b>	<b>26</b>		
43	<b>CAO %</b>	<b>3</b>					
44	<b>DTF %</b>	<b>3</b>					
45	<b>Assesor %</b>				<b>2</b>		
46	<b>P.G. %</b>						
47	<b>CEU %</b>	<b>10</b>	<b>3</b>	<b>25</b>	<b>9</b>		
48	<b>Fish &amp; Game %</b>		<b>3</b>				
49	<b>BLM %</b>				<b>2</b>		
50							

**Complaint Referrals, Inspection Warrants, Cases, & Parcels  
Statistical Data for 1998-2008**

*The following has been reformatted for reviewing the information contained in the Pie charts which were presented to the CETF by County Counsel's office CEU attorney, on May 23, 2008, as well as the Wood Ranch Time Line and 6- 23- 2008 Supplemental prepared by the County Counsel 's office.*

**Inspection Warrants first 3 months of 2008 before moratorium.**

Notice = 0%

No- Notice= 100%

**2008 CEU Inspection Warrants**

District 1 > 0 inspection warrants

*District 2 > 9 inspection warrants*

District 3 > 0 inspection warrants

District 4 > 0 inspection warrants

*District 5 > 2 inspection warrants*

**January 2008 CEU cases by District:**

District 1 > 13% of cases

District 2 > 28% of cases

District 3 > 8% of cases

District 4 > 2 % of cases

District 5 > 49% of cases

**2008 CEU cases by category:**

Structures > 32 %

Junk/trash > 20%

Grading > 15%

Trailers >14%

Abandon vehicles > 9%

Dumping >3%

Substandard housing >2%

SMA > 2%.

**During last five years 49 Inspection warrants were used by the CEU.**

**CEU Inspections last 5 years:**

531 no warrant inspections = 92%  
49 warrant inspections +8%

**CEU Inspection Warrants last 5 years:**

Notice = 35%  
No-notice =65%

**CEU Inspection Warrants last 5 years by District**

District 1 > 5 Inspection Warrants (10%)  
District 2 > 17 Inspection Warrants (37%)  
District 3 > 3 Inspection Warrants (8%)  
District 4 > 0 Inspection Warrants (0%)  
District 5 > 24 Inspection Warrants (45%)

**Complaints 1998-2007** (PDF Pies to text)

**1998 > 141 complaints**

Public 68%  
CDS 16%  
Dept Environmental Health 15%  
Ag Comm. 1%

**1999 > 77 complaints**

CDS 47%  
Public 30%  
DEH 22%  
PWrs 1%

**2000 > 85 complaints**

CDS 52%  
Public 27%  
DEH 16%  
Sheriff 2%  
Ag Comm 1%  
D.A. 1%  
unk 1%

**2001 > 51 complaints**

CDS 45%  
DEH 37%  
BOS 8%  
Public 4%  
Air Quality 2%  
CAO 2%  
DTF 2%

**2002 > 83 complaints**

CDS 72%  
DEH 16%  
Assessor 5%  
Public 4%  
Ag Comm 1%  
CAO 1%  
P.G. 1%

**2003 > 37 complaints**

CDS 46%  
DEH 54%

**2004 > 40 complaints**

DEH 47%  
CDC 34%  
CEU 10%  
DTF 3%  
CAO 3%  
PWks 3%

**2005 > 35 complaints**

CDS 59%  
DEH 26%  
F&G 3%  
Sheriff 3%  
D.A 3%  
CEU 3%  
BOS 3%

**2006 > 32 complaints**

CDS 36%  
DEH 31%  
CEU 25%  
BOS 6%  
PWrks 3%

**2007 > 65 complaints**

DEH 28 %  
BOS 26%  
CDS 25%  
CEU 9%  
Sheriff 8%  
DTF 2%  
BLM 2%

**Complaint Referrals from 1998 to 2007**

CDS > 250  
Public > 145 (ended by 2003)  
DEH > 141  
BOS > 24  
CEU > 15  
HCSO > 7  
Assessor > 4  
Ag Commission > 3  
DTF > 2  
D.A. > 2  
CAO > 2  
Public Works > 2  
BLM > 1  
P.G > 1  
Fish & Gam > 1

TO: CETF members  
FROM: Bonnie Blackberry  
FOR: August 29, 2008 CETF meeting

**Subject: Clarification of the Boards directive to separate the civil from criminal aspects of code enforcement. as well as the scope of the CETF mission.**

CETF Members,

Please review the following, as a follow up on our last meetings questions about the scope of CETF mission and clarification of the Board motion to separate the civil from the criminal. I am submitting a few excerpts from transcript of the April 8, 2008 Board of Supervisors discussion to help us clarify the Boards intent. I am also attaching the entire transcript of those discussions if members are interested in the full discussion. Thanks, Bonnie

**Excerpts from transcript of 4-8-2008 Humboldt County Board of Supervisors discussion on motion to form the CETF**

**"Separate the civil process with the criminal process"**

Bonnie Neely: "I like my suggestion for separating out the civil so then that means in regards to our own team that we would be directly supervising that we would focus on that area, the civil area; to have more civilized ways of contacting people who live in the district".

Bonnie Neely: "It seems like after the discussion today that the first thing that really needs to happen in addition to the motion on the floor, is to separate the civil part of code enforcement from the criminal part. We are members of the board of supervisors and we are not here to enforce the marijuana laws. That is the district attorney and the sheriff. Those discussions and reports should come from them".

Bonnie Neely: "I think that it would be great if you could amend your motion to separate those two right now. And we can actually clearly look and see what is civil and leave the criminal piece in the sheriff and the district attorney's purview".

Roger Rodoni: I have no problem with that, but wording, I may need help with that.

Bonnie Neely: It wouldn't be very long just that we would separate out the civil process from the criminal process. Take that action now

**Scope.**

Jimmy Smith: "There were a lot of discussions about grandfathering and amnesty programs. Those I think we are going to have to address in this conversation if this task force is formed. Helping people get up to code how we can use even potentially use our economic development staff. How can we come up with some array of mechanisms to help people get through it to give them the kind of time frames and don't over extend those who don't have the ability to pay. How can we make that happen?"

Jimmy Smith: "The fear of filing a penalty case if you come forward. Those are discussions that we are going to have to have so that people are not afraid and we can help them, honestly them through a difficult process for whatever happened in the past".

# CEU Manual Policy Analysis

1. "The principal mission of the Community Assistance Unit is to coordinate and address complaints relating to the health, welfare and safety of the public; to protect and preserve public and private properties and their associated valuations; to improve the quality of life of the citizens of the county; and to provide instructional and educational services to the public related to these areas."
2. "The function of the Community Assistance Unit can be generally described as performing investigative inspection, abatement and enforcement work under the authority of State and County codes, ordinances and approval conditions related to use, maintenance and safety of land and structures, including zoning, public nuisance, neighborhood preservation, hazardous materials, waste disposal, air pollution, Uniform Codes (Building, Housing, Abatement of Dangerous Buildings), public health and safety, and abatement of vehicles and abandoned equipment."
3. "The Board of Supervisors has directed that the following criteria guide the Community Assistance Unit's efforts: (pg 34 Richard Hendry 1996)
  - 1) The Community Assistance Unit will receive and act only on complaints from the public or the respective County Departments;
  - 2) The Community Assistance Unit will take formal action only if the violation cannot be mitigated through other means."
4. " In January 1995, a new program, the Community Assistance Unit was created by the Board of Supervisors to coordinate the pursuit of the most serious code violations affecting health and safety."
5. "The intent of the Community Assistance Unit is to coordinate the pursuit of only the most serious violations"
6. Complaints (pg37) complaint form pg 33
  1. Violations cases are primarily initiated through the citizen complaint process.
  2. required complainant fill out a "Complaint form" regardless of whether or not he/she chooses to reveal his/her name and address.
  3. will not accept phone complaints
7. Case selection: (pg13) (CAU update report 3/15/96) As directed by the Board. the following criteria guide the Community Assistance Unit's efforts:
  1. "will receive and act only on complaints from the public or the respective County Dept."
  2. "will take formal action only if violation cannot be mitigated through other means"
  3. "the intent of the Unit is to coordinate the pursuit of only the most serious violations that affect the health and safety of neighborhoods, and or environment
8. Violation Notices (pg 52)
  1. The violation notices are the vehicle of first resort in the code enforcement process. sent to property owners (and tenants, if applicable) when a violation has been confirmed on a particular parcel.
  2. Violation notice grace period is thirty (30) days
  3. if no response, a follow up inspection should be scheduled

9. **Exhausted voluntary compliance**(pg61) "It is only after the department inspector's have exhausted all attempts at gaining voluntarily compliance will the Community Assistance Unit's Investigator assume the lead role regarding further investigations"
10. **Inspection warrant appropriate when** (pg 247)
  1. facts and circumstances provide reasonable cause to believe that a violation exist in a particular residence/building or reasonable legislative/administrative standard exist for a routine area inspection **AND**
  2. The occupant of that residence/building has refused to permit a search by the inspector ; **OR**
  3. there has been prolonged, good-faith attempt to contact the owner or occupant for purpose of the inspection.
11. **Inspection Warrants, procedures for field inspection** (pg 240)
  1. Field inspection flow chart (241)
  2. Request to Inspect Form > send to suspected violator(242)
  3. Consent Form (243)
12. **Subject: Protocol for Code Enforcement Referrals** (pg 59)  
 July 24, 1995 Inter Office memo from Richard Hendry. " This memo is intended to set forth a written protocol for referrals to this Unit for code violation enforcement".
  1. "Although the Community Assistance Unit may be involved in providing general guidance and direction regarding any enforcement problem, the primary focus should be in those cases that are being considered for **formal enforcement action**".
  2. "In this regard, cases should not be referred for prosecution unless departmental efforts to compel compliance have failed, and the department has **sent out all required notices and exhausted all department processes**".
13. (page 60) Code enforcement cases will not be accepted for prosecution evaluation unless the submitting agency provides certain information. It is essential that we receive a "package" containing basic information, such as A.P. No., element of the offense, a description of the violation with reference to code sections, information showing knowledge by violator, and **department compliance attempts**.

## Newspaper Articles

1. **"We act strictly on referrals from departments or neighbor complaints**  
 So if we get a referral from the planning , building or environmental health departments, then we'll follow up because that means that they have gone through all the processes, gone through all of their processes, gone through all of their hoops and haven't been able to gain compliance. And the other way that we get involved is when we get involved in a case is where we get neighbor complaints." Richard Hendry Times Standard interview Oct 25 1996 (pg 26)
2. **"We are here to respond to large scale code enforcement issues- those where major environmental damage is occurring"**. Richard Grimm, August 1995 (pg 21)
3. **" We don't go out looking for violations"** Richard Grimm, August 1995 (pg 22)

# OMBUDSMAN AND USER FRIENDLY, PRAGMATIC APPROACHES TO COMPLIANCE

Liz Davidson

## FINDINGS:

1. **FINDING:** From the October 1994 CAO Report on establishing the CEU: Prior to creation of the Community Assistance Unit (now the CEU) the CAO stated, "...other activities could include the creation of an Ombudsman function." and "It is recommended that this concept be explored by the new Unit and return to the Board within 3 months to present options for an Ombudsman function." It appears that CAO Chris Arnold's recommendation to explore and report on ombudsman options never occurred.
2. **FINDING:** On 10/18/94 the Board of Supervisors adopted the policy Statement of CAU (CEU) Responsibilities: "An Ombudsman/ Mediator function will be a primary focus of the Unit..." It appears that the policy of ombudsmanship was not implemented as the Unit's primary focus.
3. **FINDING:** Supervisor Jimmy Smith stated on April 8, 2008: "Helping people get up to code. How can we... use our economic development staff? How can we come up with some array of mechanisms to help people get through it and give them time frames that are reasonable and don't over extend those who don't have the ability to pay? How can we make that happen? ...to help expedite the permitting to help people get up to code or help them with problems what ever it might be."
4. **FINDING:** Supervisor Jimmy Smith further stated on April 8, 2008: "The fear of filing a penalty case if you come forward, those are discussions that we are going to have to have so that people are not afraid and we can help them, honestly help them through a difficult process for whatever happened in the past."
5. **FINDING:** Supervisor John Corbett, Nov. 9, 1976 Board of Supervisors Agenda, item 26: Proposal for an Ombudsman. "Any citizen should have the services of the Ombudsman in helping them cope with the bureaucratic structure." Corbett said the Ombudsman would disseminate information as well as act as intervener on behalf of the public and as advisor to the public on appeal procedures.
6. **FINDING:** Humboldt County Grand Jury 1974-75 Report on Sewage and Building Codes states: "The Grand Jury urges that local departments assume the posture of helpful public servants. *We believe this can be done without sacrificing health and safety.*" [emphasis mine.]

7. **FINDING:** Humboldt County Grand Jury 1974-75 Report on Sewage and Building Codes quotes the Attorney General opinions of Stanley Mosk (1962) and Evelle Younger (1974) which state that *“local jurisdictions may waive strict compliance with the codes in accord with local topography, geography, or general development.”* Based upon those Attorney General opinions, the Grand Jury Report states: *“Accordingly... local variances... would probably encourage greater cooperation with the department(s) by the citizenry.”* [emphasis mine]

8. **FINDING:** 1988 Humboldt Grand Jury Report on Planning and Building Departments: “The departments can significantly improve effectiveness in serving the builder community.”  
“This can be done by recognizing that “enforcement” problems are the after-effects of prior shortcomings in policy and practice that will have to be corrected before improved code compliance can be expected.”

9. **FINDING:** 1988 Humboldt Grand Jury Report on Relationships with Non-Licensed Builders: “In January 1988, the (Planning) department introduced a code enforcement proposal. Public response to that proposal has brought into focus the long-standing and deeply-rooted inability of the department to establish a working relationship with the non-licensed builders. The Grand Jury suggests that for this reason *most* projects constructed by non-licensed builders are installed *outside the permit requirement*. It is the duty of the department to find and to correct the conditions that cause this to be happening. The changes must begin in the department.”

10. **FINDING: 1988 Grand Jury Report Findings:**

“1. Because of past policies, practices and attitudes the department has a low level of credibility and trust in the non-licensed builder community.

“2. The department has not developed an overall plan for overcoming this accumulated ill-will and mistrust in the non-licensed builder community. The Grand Jury has found, however, that the non-licensed builders do have constructive suggestions for the department to consider.”

...

“4. Many projects of non-licensed builders are not built under the permit requirements because they are fearful of incurring complicated or excessive demands.”

“5. Code compliance for some pre-existing residential construction will be obtained if owners of projects built without permits have an incentive to request compliance inspections to help them to correct hazardous conditions and to legalize their structures.

“6. An amnesty program is a better incentive for encouraging owners of pre-existing residential structures built without permits to request compliance or safety inspections than “code enforcement” as recently proposed.”

11. **FINDING: 1988 Grand Jury Report Recommendations:**

“1. The concept of code enforcement should be abandoned in favor of the concept

'compliance with the permit requirement.'

"2. The Board of Supervisors should support the development of constructive relationships between non-licensed builders and the [Planning and Building] Department by providing for the *Compliance Assistance Specialist* recommended in this report. The primary mission of this employee is to seek effective means for correcting the long standing inability of the department to bring non-licensed builders into the permit process.

"3. The Board of Supervisors should regularly appoint a citizen advisory committee to serve in a liaison capacity between the department and the non-licensed builder community.

...  
"6. The Board of Supervisors should adopt an amnesty program... no other action available to the Board could:be carried out at less cost more effectively accomplish legitimate County objectives

find more support in the non-licensed builder community give the department a better opportunity to develop credibility with the non-licensed builder community provide a better opportunity to get a code compliance program accepted, than an amnesty program for assisting owners of pre-existing construction built without permits to get those projects inspected for hazards and legalized so they would have no further fear of county action against them".

12. **FINDING:** In March of 1988, the Humboldt County Planning Commission, chaired by Dale Reinholtsen, (now a Superior Court judge) voted unanimously to recommend that the Board of Supervisors ensure that new code requirements are not applied retroactively and reconsider an amnesty for owner-builders. (Planning Commission Minutes, March 1, 1988).

13. **FINDING:** Current General Plan Housing Element Policy 3.1 "The County **shall** devise mutually acceptable means to meld the efforts of citizens and government to address the problems common to us all."

14. **FINDING:** General Plan Housing Element Policy 3.4 "The County **shall** foster greater responsiveness to public needs."

15. **FINDING:** General Plan Housing Element Policy 3.13 "The County **shall** mitigate regulatory problems and amend the housing codes to reflect acceptable alternative methods."

16. **FINDING:** General Plan Housing Element Policy 3.15 "The County **shall** promote helpful attitudes by regulatory agencies in order to encourage voluntary compliance with the regulatory process."

17. **FINDING:** General Plan Housing Element Policy 3.25 "*Regulatory changes that cumulatively enhance the ability of Humboldt County's citizens to build and repair their own homes for their own use in a manner suited to their needs and desires shall continue to be encouraged.* (Board of Supervisors Resolution 79-122 adopted Sept. 11, 1979).

18. **FINDING:** A Humboldt County General Plan Housing Element survey published in 1981 indicated at that time that 81% of home owners countywide built or remodeled without permits.

The Element states "...the cumbersome permit process and the excessive regulatory constraints are resulting in a very significant increase in civil disobedience of building, planning and sanitation regulations."

19. **FINDING:** Per statement of Todd Sobolik to the CETF on August 8, 2008, the Building Department has no estimate of the number of unpermitted houses and other structures in Humboldt County. This number was conservatively estimated as 500-1000 structures or more according to the 1988 Grand Jury Report. The numbers must be significantly greater in 2008, given the passage of time and including all unpermitted homeowner repairs and renovations both urban and rural per finding 18 above.

20. **FINDING:** Historically, the lack of creative and pragmatic implementation of the AOB code and failure to promote regulatory changes and variances that suit the on-the-ground reality of rural building and water management needs by County Planning and Building officials have succeeded only to increase civil disobedience or disregard of the codes and to increase the backlog of compliance and enforcement cases by increasing citizen avoidance.

21. **FINDING:** Per statement of Todd Sobolik to the CETF, August 8, 2008: The Building Department has a voluntary compliance program. The proper procedure for the CEU to follow upon discovering an unpermitted building is to refer it to the Building Department for them to begin the compliance process. Only upon exhausting the compliance program would the Building Department ask the CEU to act.

22. **FINDING:** CEU Investigators did not follow the procedure described by Todd Sobolik (Finding #21) when they generated no-notice inspection warrants based upon the discovery of unpermitted buildings in the Wood Ranch neighborhood in February and March 2008.

23. **FINDING:** The February and March 2008 CEU raids that disregarded the voluntary compliance procedure for unpermitted buildings and combined marijuana eradication with 'code compliance inspections', as well as the heavily armed raid of the "YeeHaw" settlement in July 2007 and other raids and heavy-handed searches on Titlow Hill have created widespread resentment of the CEU and exacerbated distrust of county officials.

24. **FINDING:** Per of Todd Sobolik to the CETF, August 8, 2008, the Building Department's voluntary compliance procedure for homeowners seeking to regularize their structures is not meant to be punitive and involves only a doubling of the permit fees that should have been obtained before building. However, regardless of the age of the structure and whether or not it was built to code at the time of its construction, the voluntary compliance program requires that the structure be brought up to all *current* building codes to be considered compliant, greatly increasing the costs of coming into compliance.

25. **FINDING:** The Humboldt County website, [HYPERLINK "http://co.humboldt.ca.us/grandjury/default.asp?pageID=GJinfo"](http://co.humboldt.ca.us/grandjury/default.asp?pageID=GJinfo)

<http://co.humboldt.ca.us/grandjury/default.asp?pageID=GJinfo> states that

“The Grand Jury is part of the judicial branch of government. ... *The civil Grand Jury is an investigative body having for its objective the detection and correction of flaws in government.* The primary function of the Grand Jury is to examine all aspects of county and city government (including special districts and joint powers agencies), to see that the monies are handled judiciously, and that all accounts are properly audited. ... *In general, the Grand Jury seeks to assure honest, efficient government in the best interest of the people.* Grand jurors, in their official capacity, are permitted access to and have the right to inspect prisons, jails, and other government facilities. With limited exceptions, grand jurors also have the right to review official books and records to which other citizens are denied access.” Grand Jury recommendations are based upon exhaustive investigation and are made in the best interest of effective government and the best interests of citizens. The failure of the Board of Supervisors to ensure that County staff enacted the recommendations of the 1988 Grand Jury has resulted in continued citizen disregard of the code and permitting process and the same problems being brought to the Supervisors and this Task Force twenty years later.

### **RECOMMENDATIONS:**

1. The Board of Supervisors should read the 1988 Grand Jury Report findings and recommendations regarding the Planning and Building Departments and a Code Compliance Program. While many of its findings and recommendations are no longer applicable, those excerpted above should be enacted in order to increase citizen compliance with the permit process, address the huge backlog of non-compliant or unpermitted buildings, meet the goals of the General Plan Housing Element, and increase the availability of affordable and low cost housing.
2. The Board of Supervisors should consider the proposal for an independent office of the **Ombudsman** as recommended by Supervisor Corbett in 1976, and place an emphasis on ombudsmanship in the CEU (a return to Community Assistance) as originally defined in the 1994 Statement of Responsibilities. The Board should establish an Ombudsman Committee to respond to and assist citizens with complex or burdensome compliance issues. The OC must be independent of county staff or management (free of employee obligation to the county) in order to fairly mediate cases and should include conventional builders, alternative ('green' or low impact) builders, representatives knowledgeable in safe water and alternative sanitation management, an attorney knowledgeable in planning and land use and an advocate for low income housing.
3. The Board of Supervisors must act to reestablish the credibility of the building and environmental codes and citizen trust of the code compliance policies by directing staff to implement the user-friendly and pragmatic policies already established in the General Plan

Housing Element to serve the diverse needs of Humboldt County's citizenry.

4. The County must update the Environmental Health building and sanitation codes regarding graywater, water storage and management, and alternative sanitation in order to meet the low cost and low environmental impact intentions of the Alternative Owner Builder Code, to proactively address issues of drought and climate change and the impacts of water diversion in rural development, and to ensure a safe and adequate water supply for all county residents. These codes must be flexible and discretionary so they may offer equally creative solutions to urban homeowners who want to catch rain or recycle graywater as well as to alternative owner-builders who seek environmentally appropriate systems.

5. The Board of Supervisors must establish a blue ribbon committee to explore the development of a code compliance program that contains robust, well defined mechanisms for public education, grandfathering, non-punitive health and safety certification, amnesty, ombudsman and mediation, appeals and mitigation, and a paradigm shift to public service and helpful creative approaches to problem solving and to building methods, on behalf of all county permitting and regulatory agencies and staff.

6. In the interim it takes for the Supervisors to direct and implement a comprehensive compliance program, the Board of Supervisors should immediately instruct the Building Department to lessen the unintended punitive effect of their requirement that unpermitted buildings, renovations, or additions be brought to contemporary code by allowing unpermitted buildings to adhere to the codes *as they existed at the time of the construction*. If an owner lacks documentation of the year of building, the year that the Assessor's office began taxing the structures may be used instead.

# CODE ENFORCEMENT TASK FORCE

## FINDINGS & RECOMMENDATIONS 4

September 6, 2008

Wes Juliana

**FINDING 1:** In the last several years there have been a series of no-notice inspection warrants served on the citizens of Humboldt County by the Code Enforcement Unit with the Drug Task Force. This was primarily done to look for marijuana with inspection warrants. These raids are outside the scope of authority of the Code Enforcement Unit and a misuse of inspection warrants. In May of 2008 there was an attempt to justify these raids with the Inspection & Warrants document written by County Counsel. This document was inserted into the Code Enforcement Manual and then considered by the Code Enforcement Task Force to be an unapproved draft document by the Code Enforcement Unit.

**RECOMMENDATION 1:** Stop all inspection warrant raids by the Code Enforcement Unit. Write an inspection warrant policy as follows:

- 1) Inspection warrants will only be used for building, health, safety and zoning violations under the following circumstances:
- 2) Inspection warrants will only be written for the most serious code violations that pose an immediate threat to the health and safety of the community, unpermitted structures, Williamson Act and Subdivision Map Act violations do not fall into this category.
- 3) Inspection warrants will only be written for verified violations and only after notice has been given and all attempts at voluntary compliance have failed. A verified violation is supported by facts and tangible evidence such as legal documents that identify the location, visual observations and photographs, not hearsay, hunches, speculation or conclusions. Notice shall be sent to all landowners and tenants by certified mail. The notice shall contain a description of the location where the violation exists, a list of the verified violations and code sections that apply to them, the repairs necessary or steps that need to be taken to correct the violations, a request to inspect to see if the violations have been corrected or proof that the violations have been corrected and contact information for the department sending the notice. The landowners and tenants shall be given at least two notices, each with a thirty day response time. A written response by the landowner or tenant which states that the landowner or tenant acknowledges the violation and is attempting to correct it shall be seen as cooperation. If the landowner or tenant provides proof that a violation has been corrected, then no further action will be taken.
- 4) An inspection warrant shall be supported by an affidavit, particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is made and the limitations of the inspection. It will be written in the narrowest terms possible and only for the verified code violations. In addition, the affidavit shall contain a statement that consent to inspect has been sought and refused.
- 5) An inspection warrant may not be served between the hours of 6:00 p.m. and 8:00 a.m., nor in the absence of the owner or occupant of the particular place, dwelling, structure,

premises or vehicle to be inspected.

- 6) An inspection warrant shall not be served by means of forcible entry, except when a violation exists that creates an immediately hazardous condition that would be a threat to the health and safety of the community.
- 7) Notice that an inspection warrant has been issued must be given at least 24 hours before the warrant is served. Proof of this notice is required before the warrant can be served.
- 8) A law enforcement officer may only be brought along to serve inspection warrants when there is factual evidence that the owner or occupant of the particular place, dwelling, structure, premises or vehicle to be inspected is known to be violent, and only for the security of the inspector. Once the area to be inspected is secured the law enforcement officer must immediately leave the area.
- 9) All affidavits for inspection warrants and inspection warrants must be approved by a supervising attorney before they can be presented to the court.
- 10) No-notice inspection warrants will not be used. The guidelines listed above will be strictly adhered to.

**FINDING 2:** The Code Enforcement Unit has lost its ability to function, is redundant and unnecessary:

- 1) It has been reduced to one employee, has no employees that have been deputized by the District Attorney and therefore no authority to act as law enforcement officers or to prosecute civil or criminal cases.
- 2) The District Attorney is the only person in Humboldt County who is legally authorized to prosecute civil or criminal cases.
- 3) The District Attorney and the Sheriff are the only persons who can deputize County law enforcement officers.
- 4) This has ~~greatly reduced~~ eliminated the Code Enforcement Unit's capacity to operate as a law enforcement unit and the Code Enforcement Unit has no authority to change it.
- 5) The District Attorney can prosecute code violations if necessary.
- 6) The Sheriff can perform law enforcement activities if necessary.
- 7) Other more appropriate County departments can handle code violations.
- 8) Therefore, the Code Enforcement Unit is redundant because the County has other departments that can handle code violations, and unnecessary because it handles only a small percentage of the cases referred to other County departments. The overwhelming majority of cases are settled by the department that originally gets the complaint.
- 9) The County Administrative Office estimates that the cost to run the Code Enforcement Unit for the fiscal year ending June 30, 2008 was approximately \$312,000.
- 10) Relocation of the Code Enforcement Unit to another department would be complicated, costly and time consuming.

**RECOMMENDATION 2:** Consider eliminating or completely reorganizing the Code Enforcement Unit (CEU). The reduced capacity of the CEU to operate, the cost to run the CEU, approximately \$312,000 per year, the budget crisis, the redundant nature of the CEU, and how costly, complicated and time consuming it would be to relocate the CEU,

considering all of that, the best option is to eliminate the CEU. Reorganization would require finding a new home for the CEU, hiring new employees, rewriting the duties and responsibilities of the CEU, and organizing and rewriting the Code Enforcement Manual (CEM) which at present is 488 pages. All of this would take time and resources that are not presently available to the County. This type of effort would be better spent on changing the problems with the permit process and seeking ways to get the public into voluntary compliance. If there continues to be a need for junkyard abatement, abandoned vehicle removal and trash clean up, there could be a position created within the appropriate department to deal specifically with those issues. If there is a need to prosecute code violators in court, there could be a part time position created within the District Attorney's Office to do that. If there is factual evidence that the owner or occupant of the particular place, dwelling, structure, premises or vehicle to be inspected is known to be violent, then a Deputy Sheriff may be brought along, but only for the security of the inspector and not to look for criminal activity. Once the area to be inspected is secured and the owner or occupant is deemed not to be a threat to the inspector, the law enforcement officer must immediately leave the area.

**FINDING 3:** Hiring law enforcement officers to do code enforcement has created the problems associated with the Code Enforcement Unit.

**RECOMMENDATION 3:** Do not hire law enforcement officers to do code enforcement work.

**FINDING 4:** Getting the public to voluntarily comply with County codes is directly related to problems with the permit process and the attitudes of the leaders of Community Development Services and Environmental Health.

**RECOMMENDATION 4:** Make the permit process easier, friendlier, quicker and less expensive for the public. Change the attitude within Community Development Services and Environmental Health from their present narrow and uncompromising interpretation of the codes to a broad and flexible interpretation that would encourage people to participate in the permit process. Leadership starts at the top; if there is a problem with a department, the leaders must be held accountable.

**FINDING 5:** 94 percent of code enforcement investigators in California do not carry weapons.

**RECOMMENDATION 5:** Permanently prohibit code enforcement investigators from carrying weapons.

**CODE ENFORCEMENT TASK FORCE  
FINDINGS & RECOMMENDATIONS 3**

**August 30, 2008**

**Wes Juliana**

**FINDINGS**

**Finding 1.**

- 1) The Code Enforcement Task Force (CETF) has heard from a very large and diverse group of citizens and many members of County staff including:
  - Interim County Counsel Wendy Chaitin
  - Deputy County Counsel Richard Hendry
  - Director Community Development Services Kirk Girard
  - Director Environmental Health Brian Cox
  - District Attorney Paul Gallegos
  - Chief District Attorney Investigator Mike Hislop
  - Chief Building Inspector Todd Sobolik
  - Supervisor John Woolley
  - Supervisor Jimmy SmithThey have supplied the CETF with important and relevant information about the activities of the CEU.
- 2) Individual members of the CETF were given:
  - A) A copy of the Code Enforcement Manual.
  - B) A transcript of the public meeting held on April 4, 2008 in Garberville, CA and attended by: Humboldt County Supervisor Roger Rodoni, Sheriff Gary Philp, District Attorney Paul Gallegos, Code Enforcement Investigator Jeff Conner and more than 500 citizens,
  - C) A transcript of the April 8, 2008 Board of Supervisors meeting which was attended by more than 500 people,
- 3) Hundreds of pages of documents pertaining to the activities of the CEU.
- 4) The CETF has spent many hours and several months researching, studying and examining the CEU. The combination of all of this information has given the CETF members a good understanding of the authority granted to CEU and the limits to that authority, the operating procedures of the CEU, the duties and responsibilities of the CEU and how the CEU has drifted from its mandate.

**Finding 2.** The Code Enforcement Manual (CEM) was analyzed and that analysis showed that the CEM contains some important documents with clear and relevant information about the operating procedures and authority granted to the Code Enforcement Unit. Some of those documents are:

- 1) Statement of Responsibilities (CEM p2.5)
- 2) Protocol for Code Enforcement Referrals (CEM pp 59-61)
- 3) Civil and Criminal Burden of Proof (CEM pp 89-94)
- 4) Procedures for Field Inspections on Private Property (CEM p240)
- 5) Field Inspection Flow Chart (CEM p241)
- 6) Violation Notices (CEM pp 52-55).

**Finding 3.** The Code Enforcement Unit's enforcement tactics have had a negative effect on some individual families and rural neighborhoods.

**Finding 4.** Through taxation the County and the State have profited and benefited from unpermitted structures and illegal subdivisions. The County and the State have profited from increased revenues created by higher assessments of illegally subdivided parcels and unpermitted structures and thereby benefited directly, through those increased revenues, and indirectly, from the enhancement of the community by citizen investment in their property. The fact that illegally subdivided parcels and unpermitted structures can enhance communities should not be overlooked. This situation creates a conflict for the County and State; to say that something is illegal, and then to tax it and profit from it is hypocritical and creates distrust of the government. This problem is not going to go away and will not be solved easily. The only logical solution is some sort of non-punitive amnesty program to bring people into compliance and concurrently to rewrite the permit process to make it easier, friendlier, quicker and affordable for the citizens of Humboldt County. This can only be done with the cooperation of the involved department heads.

## RECOMMENDATIONS

**Recommendation 1.** The County, the Board of Supervisors and anyone reading the findings and recommendations of the CETF should consider them well informed opinions and take them seriously.

**Recommendation 2.** Parts of the Code Enforcement Manual should be rewritten to be clear and consistent about the duties, responsibilities and authority of the CEU. Other parts of the CEM should be removed as outdated and unnecessary. This should be done under the supervision of the BOS.

**Recommendation 3.** Turn the Code Enforcement Unit into the Junkyard Abatement Program and place it in Community Development Services or Environmental Health. Create a position within the appropriate department that will specifically deal with junkyards, abandoned vehicles and trash clean up. Make it clear that it is about compliance, not enforcement, and do outreach work with the community to find ways to bring people into voluntary compliance. Find solutions that work without having to resort to heavy handed tactics. Raiding citizens with law enforcement officers and then threatening them with large fines and penalties is not the proper way to solve code violations.

**Recommendation 4.** Any landowner with a so called "suspect parcel" should be immediately notified by the County whenever the legality of a parcel is questioned. The County should immediately start to work with all "suspect parcel" owners to bring their parcels into compliance. This should be done in a timely, friendly and helpful way. Landowners that do not have the ability to pay for such a service should be given financial assistance.

# HUMBOLDT COUNTY CODE ENFORCEMENT TASK FORCE

## FINDINGS – inspections & warrants August 6, 2008 - Wes Juliana

1. Code Enforcement Investigators incorrectly believe they are law enforcement officers and that their authority exceeds the authority given to them in the policy created by the Board of Supervisors. The District Attorney has said that the only authority that he has granted to the Code Enforcement Investigators is the authority to carry weapons.
2. The Code Enforcement Unit's attorney believes that his authority as a Deputy District Attorney is greater than the authority granted to him by the Board of Supervisors. The District Attorney has stated that the only authority that he has granted to the Code Enforcement Unit's attorney is the authority to prosecute criminal cases on a case by case basis.
3. The Code Enforcement Unit's attorney prosecutes civil cases under his authority as Deputy County Counsel.
4. The CEU is not requiring the HCSO to verify and document violations as required for referrals in the "protocol for code enforcement referrals". CEM, pp 59-61
5. The CEU and the HCSO are improperly cooperating to use no-notice inspection warrants to look for marijuana.
6. The CEU was created to abate verified public nuisances not to have a "systematic inspection program" to look for code violations.
7. The affidavit for an inspection warrant shall contain a statement that consent to inspect has been sought and refused. CCP 1822.51
8. An inspection pursuant to an inspection warrant may not be made in the absence of an owner or occupant of the particular place, dwelling, structure, premises or vehicle to be inspected. CCP 1822.56
9. CEU investigators have been showing up at private property unannounced, without prior notice to the property owner or occupant.
10. CEU investigators have been entering areas of private property without the consent of the property owner or occupant.
11. CEU investigators have been entering structures on private property without an inspection warrant or the consent of the owner or occupant of the property.
12. An inspection made with an inspection warrant shall not be made by means of forcible entry. CCP 1822.56. Entering a structure without the permission of the owner or occupant is a forcible entry.

13. Inspections or abatements are not frustrated without the use of inspection warrants.
14. Inspection warrants by definition are narrow in scope, that's why they require a lower standard of proof than a search warrant. An inspection warrant shall describe with particularity each place, dwelling, structure, premises, or vehicle to be inspected and designating on the warrant the purpose and limitations of the inspection. CCP 1822.54
15. CEU investigators are improperly requesting the assistance of the HCSO to serve inspection warrants. Affidavits for inspection warrants have lacked justification for bringing along the HCSO.
16. An inspection warrant may only be used to conduct an inspection relating to building, fire, safety, plumbing, electrical, health, labor or zoning. They may not be used to look for unrelated violations of the penal code or marijuana.
17. The CEU has been operating as an independent police force with no law enforcement supervision.
18. The BOS has no authority to create an independent police force.

# HUMBOLDT COUNTY CODE ENFORCEMENT TASK FORCE

ANALYSIS – operating procedures and penalties  
August 5, 2008 – Wes Juliana

## Introduction

This is the second of two memoranda that examine the Code Enforcement Manual. It follows the memo of July 8, 2008 which analyzed the authority granted to the Code Enforcement Unit and limits placed on that authority by the Board of Supervisors. The memos are intended to fulfill the Task Force's mandate to examine the Code Enforcement Manual.

This memo examines the long-established operating procedures and penalties developed by the CEU. This analysis is based on review of the Code Enforcement Manual, available Board of Supervisors deliberations and decisions; statements of County officials and citizens in a public meeting held in Garberville, California on April 4, 2008; the Board of Supervisors meeting held on April 8, 2008; and statements of County personnel before the Code Enforcement Task Force.

**This document does not purport to constitute a legal analysis or legal advice.**

## Operating Procedures

Although the story of code enforcement begins long before the 1994 establishment of the Code Enforcement Unit, the Unit prior to July of 2007 and the Unit we are currently examining in the Code Enforcement Task Force proceedings is the subject of this memo and this analysis.

There is no clear or easily available set of procedures for the Code Enforcement Unit. Rather, prescribed activities are buried in the text of some but not all of the 16 sections of the Code Enforcement Manual. This memo discusses the procedures that could be identified.

## History

At the time that the Code Enforcement Unit was established, the Board of Supervisors carefully defined the powers of the CEU. The attorney assigned to the CEU developed operating procedures in accordance with that policy. In 2007, the CEU began to initiate investigations without public complaint, input or any referral from other County agencies, except the Humboldt County Sheriff's Office; began to plan and carry out armed raids and applied for no-notice inspection warrants; took actions without the approval or review of their supervisors; began to invite federal agents to accompany them on their raids; and began to use inspection warrants as a pretext to enter forcibly onto private property, admittedly in order to attempt to find probable cause to justify a search warrant for marijuana.<sup>1</sup>

## *The intent of the Board in establishing the Code Enforcement Unit*

The object of the CEU was intended to be the abatement of nuisances that offended public well-being, affected neighborhood sensibilities or the health of the environment in general, and yet were not so serious as to require an emergency response or which qualified as a crime more serious than a misdemeanor. Examples of such nuisances included junked vehicles or appliances, junkyards, or accumulations of materials such as wooden pallets or old vehicle tires. The CEU Counsel still uses photos of junkyard sites abated as a prime example of his accomplishments through CEU activities.<sup>2</sup>

<sup>1</sup> Statement of Jeff Connor, Garberville, CA, April 4, 2008

<sup>2</sup> Photos and statements to the Task Force, CEU Counsel, May 23, 2008

In 1995, Richard Hendry expanded the mandate of the CEU to include referrals from County agencies.<sup>3</sup> There is no record available of a Board order to CEU Counsel to expand that mandate. He apparently reported that command decision to the Board in his March 19, 1996 progress report to the Board.<sup>4</sup>

### ***The Protocols for Code Enforcement interactions with other County Agencies***

On July 24, 1995, Richard Hendry circulated a memorandum to personnel of other County agencies (Dennis Kahlson, Environmental Health; Kirk Gothier, Planning; Todd Sobolik, Building; Terry Farmer, District Attorney; Dennis Lewis, Sheriff and John Murray, Public Works). In this memorandum, he laid out the "Protocol for Code Enforcement Referrals." In this memo, CEU Counsel included referrals from other County agencies as a source of cases acceptable for review by the CEU. There is no record in the Manual of a Board directive expanding the acceptable source of cases from the general public to include agency referrals. Please see Analysis of Authority and Limits of Code Enforcement Unit to Operate for an examination of this key document.<sup>5</sup>

The protocols state that a CEU investigator may advise the staff of another agency in their early stages of responding to a complaint, but make it clear that an agency other than the CEU must be the party of first resort in remediating any nuisance, and that the investigator must gain specific authorization to advise other staff.

The Protocols require that all referrals be accompanied by documentation that the referring agency had fulfilled notice requirements and had exhausted all their departmental procedures for notifying an alleged violator and attempting to abate a problem; had proof of a violation and documentation of what code was violated; and had documentation of fulfillment of an alleged violator's right to due process before a case would even be considered by the CEU.

### ***An advisory role, not an active role in actions by other County agencies***

The CEU's procedures direct CEU personnel to advise staff from other departments upon approval of Counsel, to assist them in their duty to address an identified nuisance. The CEU Manual contains no record of Board authorization to Counsel to designate active involvement or leadership in the work of another agency.

It is clear from the Statement of Responsibilities and the Protocols that the CEU was established to remediate problems that had been documented and had been subject to activity by other county agencies, or formal written complaints received from individuals who also provided proof of their allegations. It seems (albeit it is not stated) that the CEU might refer citizen complaints to an appropriate agency, and then if the agency's remedies became exhausted without resolution, the CEU might accept a properly documented case, upon the approval of the County Administrative Office. It is clear that the CEU was not established to initiate investigations or to self-generate searches of private properties for violations of any code or statute.

### ***Review and approval by County Administrative Office required before action taken by CEU***

The CEU was intended to review cases referred by other agencies after a violation was proven and the referring agency had verifiably exhausted its administrative remedies. Once a referred case was reviewed, it was to be approved for acceptance (or not), and then each action taken by the CEU in a case was subject to review and approval by the County Administrative Office.

### ***Procedures of the CEU According to the Manual***

The CEU Manual provides the following procedures for addressing code violations (their emphasis):

*Violation notices are "the vehicle of first resort" in the code enforcement process. They are sent to property owners (and tenants, if applicable) when a violation has been confirmed on a particular parcel<sup>6</sup>.*

<sup>3</sup> Memo, "Protocol for Code Enforcement Referrals," Section 2, File Establishment, pp 59-61, CEU Manual

<sup>4</sup> "Case Selection," CAU Update Report 3/19/96, Section 1, Creation of the Community Assistance Unit, p 13 CEU Manual

<sup>5</sup> Memo to Task Force, Analysis of Authority and Limits of Code Enforcement Unit to Operate, July 8, 2008

<sup>6</sup> Violation Notices, Section 2, File Establishment, pp 52-55, CEU Manual

*The first violation notice is sent as soon as the violation is confirmed by an inspection report from the Inspector.*

*Blind copies should be sent to any complainants that have indicated a desire to be notified of the case progress.*

*Since the violation grace notice period is thirty (30) days, a thirty-day tickler notice should be set.*

*If, at the end of the thirty (30) days, the property owner/occupant has not responded to the CEU, a follow-up inspection should be scheduled. If the inspection report indicates that the violation is still present, a second violation notice should be sent. As with the first notice, blind copies should be sent to the complainant where appropriate*

*Sometimes the follow-up inspection reveals that the property owner has made some progress toward correcting the violation or has actually brought the property into compliance.*

*At that time, a letter should be sent to the owner thanking him/her for their efforts. If additional correction is still necessary, the letter can outline those remaining steps.*

#### *NOTICE TO ABATE NUISANCE*

#### *NOTICE OF NUISANCE*

#### *NOTICE OF LIS PENDANS*

#### *NOTICE OF LIEN*

#### *NOTICE OF ASSESSMENT<sup>7</sup>*

This directive, taken together with the above-referenced Protocols, makes clear that an inspection is to ensure that abatement has occurred, not that a violation exists. The duty of the CEU is not to determine the existence of a violation, but rather, to determine whether a problem has been appropriately addressed.

The steps identified do not describe the full range of activities that an investigator may undertake when properly approved by the County Administrative Office. If the responsible party refuses to abate a nuisance, the CEU has the capacity to request that the Board of Supervisors conduct an administrative adjudication, a process which also provides an alleged code violator with the right to be present, to be heard, to face one's accusers, and to defend one's position or explain one's circumstance. Acting as administrative court, the Board of Supervisor's authority includes the power to order abatement at County expense and charge the responsible party with the costs to the County to abate a nuisance, as a nuisance is legally described in the State Government Code. Finally, should the responsible party be unable or unwilling to reimburse the County the cost of ordered abatement, the Board may order Counsel to add abatement costs to a property tax bill or place a lien on property on which abatement has occurred.

#### ***Public Statements of CEU Personnel about Nuisance Abatement***

The CEU's first Investigator, Richard Grimm, identified the following steps as standard procedure for the Unit to remediate code violations:

- 1. Contact owner, inform of violation*
- 2. Notice of Nuisance to owner*
- 3. 30 days wait to allow owner to abate nuisance (generally)*
- 4. Hearing before Board of Supervisors to explain violation, allows owner to explain position, Board of Supervisors orders abatement or closes case*
- 5. Abatement order runs 30 days to allow owner to address problem.<sup>8</sup>*

<sup>7</sup> Violation Notices, Section 2, File Establishment, pp 52-55, CEU Manual

<sup>8</sup> Interview with Richard Grimm, Eureka Times Standard, date not recorded, Section 1, Creation of the Community Assistance Unit, pp 19-20, CEU Manual

6. If owner does not comply, the CAU empowered to abate at owner's cost (added to tax bill).<sup>9</sup>

A subsequent interview with CEU Deputy Counsel Richard Hendry reiterated the above priorities and steps and added to the list of possible remedies:

7. Cost of County abatement of nuisance becomes a lien on property.
8. County may file civil action for injunction, restraining order, or to vacate property until nuisance is abated if imminent health/safety risk.
9. County may file criminal complaint; violation of code is a misdemeanor, usually filed against repeat offenders.<sup>10</sup>

The above statements explain the policy of the CEU very simply: a code violation must be verified as existing and supported by tangible, concrete proof; the responsible party must be documented as informed and the referring party verified as having exhausted departmental remedies prior to entrance onto the scene by the CEU. Once the CEU is involved, they have a set of actions that they must take. Those actions are set out in dazzling clarity by the first CEU Investigator and CEU Counsel.

### **Penalties**

In establishing the CEU, the Board of Supervisors ordered that

*Fines, penalties, fees, assessments or other charges will be levied only upon proven violators. Charges will include only those appropriate fines, penalties, fees and assessments related to the abatement of the violations and any costs directly associated with the case that are incurred by the County.*<sup>11</sup>

In the view of the CEU Counsel, each day that a code violation takes place constitutes a new violation and thus, a penalty may be charged daily. This in itself may be considered a departure from the Board mandate that a person found in violation of the codes be charged an amount no greater than the cost to the County to abate a nuisance.

Section 14 of the CEU Manual is devoted to describing the penalties that may be assessed on violators of the code. With the exception of a "Drug House" penalty, which is described as a \$25,000 penalty whether the offense is a misdemeanor or a felony criminal offense, or a "Coastal Zone" code violation, which might cost as much as \$15,000 per violation per day, penalties were derived from the civil code and were limited to \$500 per day and/or up to 6 months in jail. As above, these penalties may be considered a departure from the Board dictum to not penalize a code violator for an amount greater than the cost of the County to abate the nuisance.

On November 19, 2004 the Board ordered that "the amount of the administrative penalty to be imposed shall be set by the Code Enforcement Unit which is responsible for issuing the administrative penalty order." This was accompanied by additional orders which changed the CEU penalty schedule to the State Penal Code schedule; and specified penalties that could be applied for specific code violations.

According to the CEU Counsel, there has never been a change to the original Board order, which states fines, fees, penalties and administrative costs charged to a person found to be in violation of codes enforced by the Code Enforcement Unit could not exceed the costs to the County to abate the nuisance caused by that violation. In other words, the Board enabled a larger amount to be charged to a code violator, but also ordered that the penalty could not exceed the cost to the County to address the problem. Any penalties, fees or charges in excess of that might be

<sup>9</sup> Interview with Richard Grimm, Eureka Times Standard, date not recorded, Section 1, Creation of the Community Assistance Unit, pp 19-20, CEU Manual

<sup>10</sup> Interview with Richard Hendry, Eureka Times-Standard, Oct 25, 1996, Section 1, Creation of the Community Assistance Unit, pp 25-26 CEU Manual

<sup>11</sup> Memo, "Community Assistance Unit Statement of Responsibilities" BOS Order, October 18, 1994; Section 1, Creation of the Community Assistance Unit, p 2.5 CEU Manual

found to be a violation of the Board order and that amount, possibly with interest, may be returned to a violator who petitions for a refund.

### ***Assigning Penalties through Mutual Settlement***

Section 7 of the CEU Manual, Mutual Settlement Program, adds to the operating procedures for the CEU by requiring a report be generated and reviewed by CEU Counsel. At that time, CEU Counsel sends a registered letter to the alleged code violator, identifying the maximum civil and/or criminal charges and penalties, offering a settlement appropriate to the situation, and setting a two-week deadline for the alleged violator to respond.<sup>12</sup> If the alleged violator fails to respond, the CEU Counsel attempts to contact the party, and completes the settlement or files civil or criminal charges and attempts to assess the fine through a court order.

There is no provision for oversight or approval by a disinterested party. This procedure places CEU Counsel in the position of investigating, prosecuting and assigning penalties on a landowner, which according to California Government Code Section 11425.30(a) constitutes a conflict of interest.<sup>13</sup> It makes it possible for the CEU Counsel to essentially act as a one-man Star Chamber. It fails to meet the Constitutional requirement for due process.

### ***Power to prosecute civil actions in court***

Government Code Sections 26520, 26522, 26523 and 26524 direct the District Attorney to variously advise, represent and/or defend branches of local government including the Board of Education, the Auditor, the Treasurer and the officers of the Court. Section 26526 establishes that County Counsel shall be advisor to the Board of Supervisors. Section 26529 conveys all the above named duties to County Counsel if County Counsel exists.

Code of Civil Procedure section 731 and Government Code Section 26528 confer authority to the District Attorney to undertake civil action on behalf of the county; those sections confer authority to file civil actions to abate nuisance specifically to a city attorney or District Attorney. County Counsel is specifically excluded in the code language from similar authority.<sup>14</sup>

The District Attorney has stated that CEU Counsel does not have a blanket, all-encompassing deputization to act on behalf of the District Attorney. Rather, CEU Counsel is deputized on a case-by-case basis to prosecute criminal cases after review of the case and approval by the District Attorney.<sup>15</sup>

CEU Counsel acts as a deputy of County Counsel to investigate and pursue allegations of civil code infractions. However, state codes provide the authority to prosecute both civil and criminal cases solely to the District Attorney, and for County Counsel or the CEU Counsel to bring any case in court, it must be done under the authority of the District Attorney.<sup>16</sup> If County Counsel is not deputized by the District Attorney to prosecute civil cases, then County Counsel may have no authority to bring any case in civil court, and CEU Counsel may not act as County Counsel's deputy in matters of civil litigation.

There is no record available that County Counsel has been deputized to represent the County in civil litigation. There is no record in the CEU Manual that the Board ordered, approved, or even commented upon a proposal to cross-deputize counsel to act in civil and criminal matters.

<sup>12</sup> "Policy, Mutual Settlement Program, Section 7, p 224 CEU Manual

<sup>13</sup> Appendix 1: California Codes and Rule Cited In Text

<sup>14</sup> "Civil Action," Section 4, Administrative Abatement, p 92 CEU Manual

<sup>15</sup> Correspondence, Paul Gallegos, July 23, 2008

<sup>16</sup> Appendix 1: California Codes and Rule Cited In Text

### ***Board Ordinance Required to Authorize Nuisance Abatement Procedure***

In order to empower the Code Enforcement Unit to take actions to remediate a public nuisance with public funds on private property, the State requires that the Board of Supervisors act to establish the procedure that the Code Enforcement Unit must follow. CEU Counsel included the direction provided by the State in the Government Code.

In Section 4 of the CEU Manual, entitled "Administrative Abatement," a subsection entitled "Abatement" includes as follows (emphasis added):

*Section 25845 provides:*

*(a) The board of supervisors, by ordinance, may establish a procedure for the abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of a parcel and anyone known to the board of supervisors to be in possession of the parcel, be given notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county...However, nothing in this section prohibits the summary abatement of a nuisance upon order of the board of supervisors, or upon order of any other county officer authorized by law to summarily abate nuisance, if the board or officer determines that the nuisance constitutes an immediate threat to public health or safety.<sup>17</sup>*

The Manual does not include text of an ordinance by which the Board may have established such a procedure.

The same Administrative Abatement section of the Manual continues (emphasis added):

*The county's authority under the above statutes is limited by the Due Process Clause of the California and US Constitutions. The basic requirements of procedural due process include notice and the opportunity to be heard.*

*...action in seeking to abate nuisance must afford the property owner a due process hearing consisting of an opportunity to be heard...either in the form of a judicial determination or a hearing before an administrative body in which respondents had the opportunity to present evidence and cross examine the city's witnesses...Furthermore the court stated that the due process hearing also requires that any order of demolition of private property under the police must be based on competent sworn evidence...provisions for sworn testimony, presence of respondent's counsel, presence of respondent, presentation of evidence and cross examination of witnesses would probably satisfy due process requirements.*

*Failure to comply with due process requirements could result in the filing of a 42 US Code section 1983 action against the county.<sup>18</sup>*

*While some counties using this administrative procedure for the abatement of nuisances rely solely on the administrative order, others have the administrative order approved by the Superior Court.<sup>19</sup>*

This warns that inappropriate actions of the Code Enforcement Unit (or a failure to act), including extraordinary decisions or assertions or actions that are negligent of the rights of citizens by its Counsel may leave the county vulnerable to lawsuits for damages, punitive charges and fee and cost reimbursements. (Please see "County Counsel Is Fatally Conflicted," page 8, memo, Analysis of Authority and Limits of Code Enforcement Unit to Operate, July 8, 2008, for a further discussion of conflict of interest in the multiple roles of County Counsel and CEU Counsel as investigator, prosecutor and advisor to the Board in a single case.)

<sup>17</sup> "Abatement," Section 4, Nuisance Abatement Authority, p 95 CEU Manual

<sup>18</sup> "Abatement," Section 4, Nuisance Abatement Authority, p 97 CEU Manual

<sup>19</sup> "Abatement," Section 4, Nuisance Abatement Authority, p 98 CEU Manual

### ***When an inspection warrant is appropriate***

A document entitled "Affidavits In Support of Inspection Warrants" in the CEU Manual establishes the following criteria for CEU personnel (their emphasis underlined, emphasis added in bold):

*An inspection warrant is appropriate when:*

- 1. The facts and circumstances provide reasonable cause to believe that a violation exists in a particular residence/building or reasonable legislative/administrative standards exist for a routine area inspection AND*
- 2. The occupant of that residence/building has refused to permit a search by the inspector; OR*
- 3. There has been a prolonged, good-faith attempt to contact the owner or occupant for purpose of the inspection.*

*After it has been determined that an inspection warrant is appropriate in a particular case, the inspector must draft an affidavit in support of the issuance of the inspection warrant. This affidavit is designed to provide the Judge issuing the warrant sufficient factual information to justify the issuance of a warrant. "Factual information" in this regard means tangible observations and concrete data (such as descriptions of visual observances, descriptions of neighbor complaints, information concerning zoning classifications, etc...) "Actual information" does not include conclusions, hunches or speculations about the actual condition of the property.<sup>20</sup>*

State law requires that the party being inspected be present and consent to the implementation of an inspection warrant, although exigent circumstances provide a reason for the respondent to be absent. The same law requires that an inspection warrant be specific to the alleged violation to be inspected for.<sup>21</sup> A no-notice warrant is an exception, not a rule, but increasing the CEU has resorted to no-notice warrants. Similarly, state law requires that an inspection be limited to the alleged code violation, yet CEU personnel excuse their accompaniment by large bands of armed law enforcement as necessary to inspect entire large properties to ensure that all possible violations are noted.<sup>22</sup> This practice appears to use inspection warrants as an excuse to explore private properties in a general search, which might be found to violate the rights to privacy defined in State and Federal constitutions.

The CEU Council has been charged with the duty to oversee CEU personnel in order to ensure compliance with procedures. An Oversight Committee has been developed to prioritize cases and to review and possibly approve actions proposed to alleviate problems. No case is supposed to proceed without direct approval by the County Administrative Officer.<sup>23</sup> Still, according to CEU Counsel, actions in violation of all the policies of the Board and procedures found in the Manual were undertaken by CEU personnel in 2007 and 2008, without resultant discipline to the parties who violated the procedures. In fact, the County Counsel attempted to remedy the situation not by disciplining the errant staff, but by changing the mandate of their program in order to validate their flagrant malfeasance.

### **How the CEU Operates Today**

Before July of 2007, the Code Enforcement Unit undertook the relatively benign acceptance of verified formal complaints from citizens or verified referrals from County agencies involving nuisances created by intractable citizens. Those nuisances were prioritized according to relative impact: serious enough to affect neighborhood wellbeing but not so serious as to create an emergency or constitute a crime greater than a misdemeanor.

In July of 2007, the Code Enforcement Unit added a second investigator to their staff. From that time onward, the CEU created complaints against citizens, initiated investigations of private property without review by staff supervisors or designated County overseers; sought criminal search warrants thinly veiled as code inspection

<sup>20</sup> "Affidavits In Support Of Inspection Warrants," Section 8, "Inspection Warrants," p 247, CEU Manual

<sup>21</sup> Code of Civil Procedure Section 1822.50-1822-56

<sup>22</sup> Statement of Richard Hendry, June 13, 2008

<sup>23</sup> "Statement of Responsibilities," Board order, October 18, 1994

warrants, and actively sought to investigate imagined criminal activity of citizens. Rather than accepting referrals from other agencies, CEU has generated investigations which are later followed up by correspondence from the agencies that, according to the procedures, should have preceded the CEU in contact with the citizenry. It is all backwards from what the Manual requires. There is no record that the Board ordered such a reversal of duties and responsibilities. There have been no complaints accepted from the public by the CEU in 2008. Only 2 inspection warrants have been generated by referrals from other agencies since 2007. In 2008, every single inspection warrant issued has been a no-notice warrant served at gunpoint on peaceful citizens by a covey of law enforcement traveling in armed convoys. Things have changed.

### ***Oversight, Review and Supervision***

The CEU has apparently replaced the supervisory role of the County Administrative Office with an Oversight Committee and with day-to-day supervision by 2 part-time CEU Counsel who are deputized by County Counsel and/or the District Attorney. In a statement before the Code Enforcement Task Force, CEU Counsel Richard Hendry admitted that the Oversight Committee meets irregularly and that he cannot recall when the Committee met with full attendance.<sup>24</sup> CEU Counsel and County Counsel refused to provide the Task Force with agendas, minutes, documents reviewed by the Oversight Committee, or a record of decisions by the Oversight Committee, claiming that they pertained to "investigations in progress."<sup>25</sup> Apparently, the records of review and decision were covered by this blanket protection from public review even when the issues and decisions were discussed and resolved more than a decade ago.

CEU Counsel further disclosed that recent code inspection warrants sought for CEU raids were submitted to the court without review by Counsel and without approval by the Oversight Committee.<sup>26</sup> County Counsel verified this statement, saying, "...supervision of the drafting of warrants...could have been better...had some warrants been reviewed, they would have been noticed."<sup>27</sup> In other words, oversight and action-by-action review and approval of cases by the County Administrative Office has been replaced with review of ongoing materials by an Oversight Committee that is not attended by its members, does not meet regularly and has no record of review or decision; day-to-day supervision of activities of CEU personnel has been neglected; personnel are not required to submit applications for warrants for review by the CEU Counsel; there is no record of CEU personnel training in operating procedures of the Unit; no disciplinary measures have been enforced when CEU personnel violate procedures; and finally, when violations occur of such severity that the public rises in outrage, CEU Counsel acted without direction of the Board to attempt to revise policy rather than to discipline staff that had violated it.

### ***The CEU has drifted from trash cleanup to inspecting private homes***

The CEU Counsel has expanded his mandate to include investigations of zoning or building permits, grading or other alleged code infractions which do not appear to pose a threat or a nuisance to neighbors or the environment in general. Some of those investigations derived from citizen complaints, some from agency referrals, and some were generated within the Code Enforcement Unit. The mandate of the Code Enforcement Unit is to respond to citizen complaints. It may be that logically the referrals of complaints from other agencies constitute public complaint, but there is no record in the Manual of an order from the Board of Supervisors expanding the scope of the CEU's acceptance to referrals from County agencies. Additionally, the CEU is required to prioritize and gain approval for their acceptance of such complaints before they even open a file. Since the top priority of CEU cases was mandated by the Board to be issues in which the wellbeing of neighbors or the environment was threatened, one might assume that zoning or permit issues would be fairly low on the list and that garbage, junk yards, junked appliances or vehicles would be addressed before a question of whether or not a landowner had a permit to build a shed, for example. But increasingly, issues of zoning and permits have been at the forefront of CEU activities.

By 2005, 32% of CEU inspections were related to permit issues and 15% of their activities were following issues of grading while public dumping was relegated to 3% of CEU activities, and junk or trash cleanup received 20%

<sup>24</sup> Statement of Richard Hendry to the Code Enforcement Task Force, June 13, 2008

<sup>25</sup> Statement of Wendy Chaitin to the Task Force, June 13, 2008

<sup>26</sup> Statement of Richard Hendry to Task Force, June 13, 2008

<sup>27</sup> Article, "County Counsel admits warrant supervision was lacking," Times Standard, last visited June 20, 2008

of their time; failing septic systems received their attentions only 9% of their work allocations, and people living in trailers or substandard housing were attended to 14% and 2% of the time respectively. Investigations of parcels according to the Subdivision Map Act accounted for 2% of CEU time allocation.<sup>28</sup> There is no information available as to whether building permit, grading, or Subdivision Map Act issues were referred by other agencies, resulted from citizen complaints, or were undertaken by the CEU of their own accord.

### ***CEU personnel follow different procedures than those in the CEU Manual***

CEU Investigator Jeff Connor described how cases are selected and priorities established as follows:

*The priorities are established by the attorneys involved, and the investigators. For a long time, when I was the sole CE investigator, I pretty much did the priorities too. A second investigator was hired in July of this year so that I could concentrate mainly on enforcement of development without permits in rural Humboldt County. At the same time, some of my decision-making capabilities was taken away and assigned to an attorney. So, currently the priorities are done basically by the whole group.*<sup>29</sup>

At the same meeting, Officer Connor described the authority of the CEU as follows:

*"Code Enforcement can come down, tear down those structures, and pass on the bill to the property owner."*<sup>30</sup>

On working with law enforcement in serving an inspection warrant, Officer Connor contributed:

*"The way it usually works . . . the way it's always worked so far, is that Code Enforcement Unit is in charge of the operation until "probable cause" for some other kind of crime is developed. . . . Wonder what that other crime might be? At that point in time, it's bifurcated, and the Sheriff Department or Drug Task Force takes over the investigation of whatever other crime that might be, if its marijuana, and the Code Enforcement Unit continues to do its investigation into illegally-constructed structures or other development, basically done without permits."*<sup>31</sup>

From this, one might gather that the CEU self-generates cases, and each employee of the CEU is responsible for going about his business as he sees fit, with no supervision and no oversight. It appears that Code Enforcement routinely invites law enforcement and other agencies along on their code enforcement inspections on the chance that something illegal may be found, and so, give them an opportunity to establish probable cause to apply for a search warrant.

In generating investigations in this manner, CEU personnel enable law enforcement to essentially make a warrantless search of private property, without having met the requirement of having established probable cause for entry onto private lands, as established in the Fourth Amendment to the Constitution and interpreted by the Supreme Court.

### ***CEU justifies warrantless searches by law enforcement***

At the public meeting in Garberville following CEU armed raids on private homes in the Southern Humboldt area, CEU Investigator Connor stated:

*I'll start because I write Inspection Warrants, and then perhaps the DA can follow. The process for an Inspection Warrant is very similar to the process for a Search Warrant. The judges do require some "probable cause" that there are County Code violations there. However, this is a lot easier to obtain than "probable cause" that marijuana is being grown.*<sup>32</sup>

<sup>28</sup> Pie Chart submitted by Richard Hendry to Task Force, May 23, 2008

<sup>29</sup> Statement of Jeff Connor, Public Meeting, Garberville CA April 4, 2008

<sup>30</sup> Ibid

<sup>31</sup> Ibid

<sup>32</sup> Ibid

This statement reveals intent on the part of the CEU investigator to utilize a warrant issued to inspect for infractions of the civil code in order to initiate a search for criminal code violations. It reveals that this CEU investigator perceives his role as getting a foot in the door for law enforcement to follow. Such behavior violates the citizen's right to privacy under state and federal constitutions; it is a classic example of a "pretext" or a "fishing expedition" action.

The above statement reveals the lack of care being exerted by CEU investigators in the field. It also provides the strongest case for reforming the CEU by removing police powers from the Unit, bringing them into line with 85% of the code enforcement units in the state of California.<sup>33</sup>

### ***CEU utilization of no-notice warrants violates Policy, Procedures***

The CEU Manual makes it clear that there is no situation in which a no-notice warrant is applicable in serving an inspection warrant, in that it requires a prolonged, good-faith attempt to contact the owner to have been made (and verified to have been made) and that the owner or responsible party has refused to permit a search. (The inspector must have probable cause, and meet a much higher standard of proof, to return to the court for a search warrant, which may be served without the presence or permission of the responsible party.) The Manual makes clear that in order to obtain an inspection warrant, CEU personnel must have proof (not speculation), that attempts to remedy a problem have been undertaken, that the responsible party is aware of an allegation and has an opportunity to remedy the situation prior to application for a warrant.

### ***CEU Counsel takes action despite Conflict of Interest***

In light of statements clarifying the limits to CEU Counsel powers granted by the District Attorney to in-court representation in criminal allegations against citizens approved on a case-by-case basis,<sup>34</sup> it may appear that CEU Counsel has acted beyond his authority in developing orders for Board approval such as an institution of fines in accordance with Penal Code, rather than Civil Code standards, and in developing new "policy" documents such as "Inspections and Warrants" for which CEU claims authority granted to him in his role as a Deputy District Attorney.<sup>35</sup>

When CEU Counsel acts as investigator and prosecutor in a case, s/he may not also undertake to advise the Board of Supervisors (or a task force appointed thereby) in that case without the written consent of their client.<sup>36</sup> The conflicting duties may cloud the judgment of Counsel. Case law states, "A city attorney could not subsequently advise the reviewing board because it involved "an objective overlapping of the supposedly neutral decision maker." Similarly, County Counsel may not be in the dual role of advisor to the board while having an interest in the matter.<sup>37</sup>

### ***CEU claims authority to develop new policy that violates Board orders***

A new, policy-level document entitled "Inspections & Warrants" was inserted into the CEU Manual by CEU Counsel in May, 2008. The document purported to establish policy that authorized the armed, no-notice, general search raids conducted by CEU personnel in conjunction with Sheriff's deputies, other state law enforcement personnel, and in some cases, federal agents. The authority was developed after the fact of the suspension of such CEU actions by the Board of Supervisors. The development of "Inspections and Warrants" was not ordered by the Board as a replacement to the standing policy document, and the standing policy was not rescinded. The CEU Counsel has no authority to develop policy reliant on criminal codes or authorized as law enforcement policy, because, according to the District Attorney, the CEU Counsel is deputized solely to prosecute criminal misdemeanor charges in code enforcement complaints and has no further authority as a deputy District Attorney.<sup>38</sup>

<sup>33</sup> Statement, Jeff Connor, before public at meeting in Garberville, CA April 4, 2008

<sup>34</sup> Correspondence, Paul Gallegos, July 23, 2008

<sup>35</sup> Statement of Richard Hendry, June 13, 2008

<sup>36</sup> California Rule of Professional Conduct 3-310 (A)

<sup>37</sup> *Nightlife Partners v City of Beverly Hills* (2003) 108 CAL APP 4<sup>th</sup> 81

<sup>38</sup> Correspondence, Paul Gallegos, July 23, 2008

# HUMBOLDT COUNTY CODE ENFORCEMENT TASK FORCE

## FINDINGS - authority and limits July 28, 2008 - Wes Juliana

1. The Board of Supervisors (BOS) has the ultimate authority over, and responsibility for, the actions of the Code Enforcement Unit (CEU).
2. The BOS is responsible for establishing policy for the CEU. The CEU under the direction of County Counsel is responsible for establishing procedures that comply with the policy set by the Board.
3. The BOS clearly described the duties and limits to the authority of the CEU in the October 18, 1994 Board Order establishing the CEU. (Code Enforcement Manual [CEM] p2.5 ) There are no known changes by the BOS to the duties and limits to the authority of the CEU. One known decision by the BOS, on January 24, 1995, the day to day direction of the CEU was assigned to County Counsel. This action was directly related to Item One of the CEU Statement of Responsibilities. It did not change any of the responsibilities or duties of the CEU.
4. Originally the CEU was limited to responding to complaints from the public. Referrals from other County agencies were added.
5. The CEU has no authority to self-generate code inspections.
6. The CEU is directed to act as a mediator in order to resolve problems.
7. The CEU is empowered to abate public nuisances, not to enforce penal code violations unrelated to its mandate.
8. The CEU must be renewed annually by a finding of the BOS, or its mandate expires. (CEU Statement of Responsibilities #6, CEM p2.5)
9. A 1995 memo from the CEU counsel established the "protocols for code enforcement referrals". (CEM pp 59-61) All alleged violations are required to be verified before being accepted by the CEU.
10. A 1988 memo from the Director of Community Development Services and inserted in the CEU manual describes the "procedures for field inspections on private property". (CEM p240) "There are only two methods by which an inspection may take place: 1) with the written consent of the property owner and 2) with a duly issued inspection warrant."
11. There is no record that the District Attorney (DA), in cross-deputizing CEU personnel, provided for any powers, duties or responsibilities greater or other than those established by the BOS, except the authority for the code enforcement investigators to carry weapons and the CEU attorney to prosecute criminal allegations on a case by case basis.

12. When the CEU became involved in criminal investigations rather than abatement of civil code infractions or minor, misdemeanor level nuisances, it strayed from the limits imposed upon its duties by the BOS.

13. The CEU is required to limit any fees, costs, charges or penalties imposed on responsible parties to the specific costs to the County to abate a nuisance. The CEU is specifically prohibited from levying punitive charges above costs of abatement to the County. (CEU Statement of Responsibilities #7, CEM p2.5)

14. County Counsel acts as overseer, administrator, advocate, investigator and prosecutor for the CEU and as advisor and analyst to the BOS on CEU issues and cases. This creates an appearance of a conflict of interest for County Counsel. (Nightlife Partners v. City of Beverly Hills (2003) 108 Cal. App. 4<sup>th</sup> 81)

15. The BOS acts as the administrative court in which relief or abatement of a persistent nuisance is adjudicated. The BOS has the authority to order the cost of the abatement be charged to the responsible party.

16. City attorneys and district attorneys are authorized to file civil actions to abate nuisances by CCP 731 and GC 26528. County Counsel has no similar authority. (CEM p92)

17. "The (CE) Unit will make a full annual report to the Board in a published format available to the public which shall include information of all complaints received, actions taken and all charges, fees and penalties levied, liens and assessments imposed. The report shall also include any and all comments or input from the community." The CEU has not fulfilled this duty. (CEU Statement of Responsibilities #6, CEM p2.5)

# HUMBOLDT COUNTY CODE ENFORCEMENT TASK FORCE

ANALYSIS -- inspections & warrants document dated May 15, 2008  
July 24, 2008 -- Wes Juliana

## INSPECTIONS & WARRANTS

### Introduction

During the last year and a half there have been a series of no-notice inspection warrants served on the citizens of Humboldt County by the Code Enforcement Unit with the Drug Task Force. These raids are outside of the scope of authority of the CEU as described in the Code Enforcement Manual. In May of 2008 there was an attempt to justify these raids by the insertion of the Inspection & Warrants document written by County Counsel.

**This analysis does not purport to be a legal opinion or legal advice.**

**CCP 1822.50** "An inspection warrant is an order ... to conduct any inspection ... relating to building, fire, safety, plumbing, electrical, health, labor or zoning."

Inspection warrants are not written for penal code violations. Penal code violations require a search warrant.

**The following quotes are from the Inspections & Warrants document.**

### Quote 1:

**Page 1, paragraph 1**

"STATUTES OR ORDINANCES EXIST TO PROTECT THE HEALTH, SAFETY AND WELFARE OF HUMBOLDT COUNTY CITIZENS AND TO CONTRIBUTE TO NEIGHBORHOOD VITALITY BY SETTING MINIMUM STANDARDS FOR STRUCTURES AND SURROUNDING PROPERTY".

### Opinion 1:

Code violations that do not affect the health, safety or welfare of the general public in a significant way should be of the lowest priority. Minimum standards for structures should be neighborhood friendly.

### Quote 2:

**Page 1, paragraph 2**

"AS PART OF A SYSTEMATIC INSPECTION PROGRAM, CEU INVESTIGATORS INSPECT THE PROPERTY FOR COMPLIANCE".

**Opinion 2:**

A "systematic inspection program" needs to be clearly defined. It should never be a code enforcement investigator going door to door through a neighborhood and inspecting every piece of property for every code violation he can find. This would seem to constitute a general search, which of course is prohibited.

**Quote 3:**

Page 1, paragraph 2

"IT IS SOMETIMES NECESSARY TO INSPECT OR ABATE PUBLIC NUISANCES OR DANGEROUS CONDITIONS ON PRIVATE PROPERTY WITHOUT THE CONSENT OF THE OWNER OR OCCUPANTS. EMERGENCY, OR SUMMARY INSPECTIONS AND ABATEMENTS ARE ALSO SOMETIMES NECESSARY".

**Opinion 3:**

CCP 1822.51 "The affidavit (for an inspection warrant) shall contain ... a statement that consent to inspect has been sought and refused."

CCP 1822.56 "An inspection pursuant to this warrant may not be made ... in the absence of an owner or occupant of the particular place, dwelling, structure, premises or vehicle".

What is a "dangerous condition"? It appears not to be an emergency, the exigent circumstances exception to the warrant requirement of the 4<sup>th</sup> Amendment, and therefore, any inspection of private property for "dangerous conditions" without the consent of the owner or occupants must not be allowed.

**Quote 4:**

Page 1, at A.1

The meaning of "CAUSE" to include "PROIR COMPLAINTS AND INSPECTIONS INVOLVING THE SAME PROPERTY, PROPERTY OWNER, PROPERTY OCCUPANT, PROPERTY MANAGER AND ANY OTHER ENTITY."

**Opinion 4:**

CCP 1822.52 "Cause shall be deemed to exist if either reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular place, dwelling, structure, premises, or vehicle."

It is unclear whether or not "prior complaints and inspections involving the same property, property owner, property occupant, property manager and any other entity" meets the appropriate standard.

**Quote 5:**

**Page 2, at A.5**

“APPARENT AUTHORITY” is defined as: “A PERSON WHO REASONABLY APPEARS TO BE EITHER THE OWNER OR ANY OTHER PERSON TO WHOM THE OWNER HAS GRANTED CARE, CUSTODY, AND CONTROL OVER THE PROPERTY.”

**Opinion 5:**

In *U.S. v. Reid* (9<sup>th</sup> Cir 2000) 226 F3rd 1020, the court held that the fact that the person giving consent answered the door and appeared to be alone in the apartment is insufficient to show actual or apparent authority to give consent.

**Quote 6:**

**Page 2, at B, opening paragraph**

“CEU INVESTIGATORS, UPON IDENTIFYING THEMSELVES ARE AUTHORIZED TO ENTER WITHOUT DELAY ONTO PROPERTY AND TO INSPECT THE PROPERTY FOR COMPLIANCE”.

**Opinion 6:**

Investigators should not show up unannounced at private property. Notice should be given to the owner and occupant of the property before the investigator shows up. There needs to be a clear procedure for verification of a code violation. The first option would be that investigators require the referring agency to stick to the protocols described in the memo from Richard Hendry to County department heads on July 24, 1995 “protocol for code enforcement referrals” (page 59 – 61 CEM). Another option would be that the investigators comply with the notice requirements (with some modification) in Humboldt County Code sections 351-11 to 351-15. A third suggested option is attached as Attachment 1, Code Violation Verification Procedure.

**Quote 7:**

**Page 3, at B. 3**

“INVESTIGATORS MAY ENTER AREAS OF PRIVATE PROPERTY IF IT REASONABLY APPEARS THAT THE AREA TO BE ENTERED IS OPEN FOR USE BY THE GENERAL PUBLIC”.

**Opinion 7:**

The curtilage of a home (the immediate area around the home that is used in the daily activities of the home) is a protected area and it may not be entered without the consent of the owner or occupant. See *Oliver v. United States* 466 U.S. 170, 104 S. Ct. 1735 (1984). In order to determine whether a particular area falls within 4<sup>th</sup> Amendment protection there is a “twofold requirement” articulated in *Katz v. United States* 389 U. S. 347, 88 S. Ct. 507 (1967). The “twofold requirement” is (1) whether an individual has exhibited “an actual (or subjective) expectation of privacy” and (2) the expectation is

“one that society is prepared to recognize as ‘reasonable.’” This idea was reaffirmed in *Terry v. Ohio* 392 U.S. 1, 88 S. Ct. 1868 (1968) which states that “wherever an individual may harbor a reasonable ‘expectation of privacy’ ... he is entitled to be free from unreasonable governmental intrusion”. In *Rakas v. Illinois*, 439 U.S. 128, 99 S. Ct. 421 (1978) the court stated that “one of the main rights attaching to property is the right to exclude others ... and one who owns or lawfully possesses or controls property will in all likelihood have a legitimate expectation of privacy by virtue of this right to exclude.”

**Quote 8:**

**Page 3, at B. 4**

“IF THE STRUCTURES ARE UNOCCUPIED AND OPEN, THE INVESTIGATOR MAY ENTER TO DETERMINE IF IMMINENTLY HAZARDOUS CONDITIONS EXIST”.

**Opinion 8:**

This should never happen. There is no definition of what is an “imminently hazardous condition” and to say that a structure that does not reasonably appear to be actively used is “unoccupied” is too subjective and open to abuse. No Code Enforcement Investigator should be allowed to enter any structure without the permission of the owner or occupant, except when exigent circumstances exist. Many people in the hills leave their houses and outbuildings unlocked and go to town or to work for the day. That does not mean their houses and outbuildings are “unoccupied and open” and Code Enforcement Investigators may enter.

**CCP 1822.56 states that** “An inspection pursuant to a warrant shall not be made by means of forcible entry”.

Entering a structure without the permission of the owner or occupant is a forcible entry. “Once (the occupant) had explicitly refused to consent to the inspection, the authority to execute the warrant ended”. “To continue the search by any forceful means, however, required another warrant containing a judge’s specific authorization of a forcible entry.” *People v. Tillery* 211 Cal. App. 3<sup>rd</sup> 1570 at [2b].

**Quote 9:**

**Page 4, at C. 2 a (4)**

“INSPECTION OR ABATEMENT MIGHT BE FRUSTRATED IF ENTRY WERE SOUGHT WITHOUT AN ADMINISTRATIVE INSPECTION WARRANT”.

**Opinion 9:**

This is the same kind of language that was used to serve no-notice inspection warrants with the Drug Task Force. “If the foreknowledge of this inspection warrant is given to the owners of the property, they could use the advance warning to obfuscate the conditions on the ground”. Declaration for Inspection Warrant no: 08-010 IW at 14. “Violators of county code, especially those who may grow marijuana in grow buildings, will attempt to hide or conceal non-permitted buildings”. Declaration for Inspection Warrant no: 08-010 IW at 13. Clearly, this type of language is being used to look for marijuana with no-

notice inspection warrants. This is not the jurisdiction of the CEU. If there is a reason to believe that criminal activity exists at a particular property, that is the jurisdiction of the Sheriff and the Sheriff needs to get a search warrant based on probable cause as required by the United States Constitution.

**Quote 10:**

Page 4, at C. 2 a (4)

“INSPECTION IS REASONABLY BELIEVED TO BE NECESSARY IN ORDER TO DETERMINE OR VERIFY WHETHER ANY SUCH VIOLATIONS EXISTS”.

**Opinion 10:**

This sounds like a fishing expedition and should not be allowed. This could apply to anyplace anytime. It's too broad. Inspection warrants by definition are narrow in scope. That's why they require a lower standard of proof. "Reasonably believes" means that a person believes that a given FACT exists and that the circumstances a person knows are such to cause a reasonable person to believe the same. (Taken from Black's Law Dictionary) Here, the investigator merely asks to see if any violations exist. This is in direct conflict with CCP 1822.51 "An inspection warrant shall be supported by an affidavit, particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is made". Also, CCP 1822.54 "The warrant particularly describing each place, dwelling, structure, premises, or vehicle to be inspected and designating on the warrant the purpose and limitations of the inspection".

**Quote 11:**

Page 5, at C. 3 c

“PEACE OFFICERS AND OTHER PERSONS DEEMED NECESSARY BY THE INVESTIGATOR MAY BE REQUESTED TO ASSIST IN THE EXECUTION OF THE ADMINISTRATION INSPECTION WARRANT”.

**Opinion 11:**

This appears to be another attempt to bring in the Drug Task Force. The investigator should be required to have a realistic reason that applies to the particular property he seeks to inspect, not just speculation that he might run into resistance because of some generic belief, before he can bring along a posse of armed peace officers. Although there was no attempt to describe any reason for bringing along other law enforcement officers in the declaration to get Inspection Warrant no. 08-010 IW, the warrant itself authorized the Code Enforcement Investigator to bring "such other persons as you deem necessary to assist you in conducting the inspection". The other persons of choice seem to be the Drug Task Force. Is this because the investigator believes he will find marijuana growing at the target property? If so, this is out of his jurisdiction and the case should be turned over to the sheriff. You can not use an inspection warrant to look for marijuana.

CCP 1822.50 "An inspection warrant is an order ... to conduct any inspection ... relating to building, fire, safety, plumbing, electrical, health, labor or zoning." It does not say penal code violations or marijuana.

**Conclusion:**

The Inspections & Warrants document does not comply with the rules set forth in the CCP Sections 1822.50 to 1822.56. And it may violate the 4<sup>th</sup> and 14<sup>th</sup> Amendments, the right to privacy and due process. Also, it does not comply with the policy and procedures set for the CEU by the Board of Supervisors. Based upon my education, training and experience and review of above described documents, statements by County officials (see Attachment 2) and individuals who where subject to no-notice inspection warrants, news media reports and my independent investigation, I have reached the conclusion that this document is an attempt to justify no-notice inspection warrants to look for marijuana. It needs to be significantly rewritten or discarded.

## **Attachment 1**

### **Analysis of Inspections & Warrants by Wes Juliana, July 24, 2008**

#### **CODE VIOLATION VERIFICATION PROCEDURE**

1. Any emergency or immediate threat to the health and safety of the public, such as a hazardous material spill, should be dealt with by the appropriate agency as required by law.
2. Code violation verification inspections for code violations that are not an immediate and egregious threat to the health and safety of the public do not require law enforcement involvement.
3. All code violation verification inspections will be for code violations only and not criminal activity.
4. There will be no unannounced code violation verification inspections.
5. Code violation verification inspections will be for a specific purpose and only for the purpose requested.
6. Land owners must be notified in writing of the specific alleged code violation(s) and given 30 days to respond to it. If the property owner provides proof that an alleged code violation doesn't exist, or has been corrected, then no further action will be taken.
7. Code violation verification inspections will be by appointment that has been arranged with the land owner and/or tenant.
8. Code violation verification inspections will be made only by qualified civilian inspectors, known as code compliance inspectors. Inspectors shall have a basic knowledge of zoning, building, health and safety codes. Inspectors will be helpful and friendly toward the public and offer suggestions on the easiest ways to remedy code violations. In the rural, unincorporated areas of the County, inspectors will be open to alternative ideas of compliance.
9. If the land owner has failed to respond to a request for an inspection within 30 days, the code compliance inspector may make a visit to the property to seek permission to inspect.
10. If permission to inspect is denied, or the inspector is unable to contact the owner and/or tenant of the property, then a written notice shall be posted at the property which clearly describes the alleged code violation(s), remedies available to the land owner, the consequences for non compliance and contact information for the code compliance inspector.
11. If there is no response after 30 days of posting the written notice at the property, then an inspection warrant may be sought, but only for the specific code violation(s) alleged. The inspection warrant will comply with all of the rules outlined in CCP 1822.50 to 1822.56. There will be no exceptions to the rules. Law enforcement officers may only be brought along to serve an inspection warrant when there is a verifiable need for such assistance and never to look for penal code violations. Their participation in the execution of an inspection warrant will be one of security only.

**Attachment 2**

**Analysis of Inspections & Warrants by Wes Juliana, July 24, 2008**

**STATEMENTS BY HUMBOLDT COUNTY OFFICIALS**

**April 4, 2008 public meeting in Garberville, California**

**Paul Gallegos, District Attorney**

**Gary Philp, Sheriff**

**Jeff Conners, Code Enforcement Investigator**

Paul: When asked to explain the relationship of the DA to code enforcement officers, The DA said "I have no supervisory powers over them".

Jeff: When talking about the Wood Ranch, Jeff said "when he (Desadier) discussed his intentions with some of the Sheriff's deputies that we normally work with".

Jeff: When asked about marijuana busts and building code violations Jeff said "For about the last two to three years, when the Drug Task Force has a search warrant for an indoor marijuana grow we are usually contacted".

Jeff: When asked who was in charge when they serve an inspection warrant Jeff said the "Code Enforcement Unit is in charge of the operation until probable cause for some other kind of crime is developed".

Jeff: When asked who was responsible he rambled a little and then Jeff said "I actually had the federal DEA on a couple of our inspection warrants ... we tried to explain to them our kinder, gentler attitude and they pulled out their M1 carbines and went on their way."

Jeff: When asked what are the conditions that would require a no-notice inspection warrant Jeff told a story about Tooby Ranch in November of 2006. When he had been doing an inspection with the property owner they came upon a tree that had fallen across a road. Apparently not wanting to walk past the down tree he went back to the office and wrote a no-notice inspection warrant. When he returned and served the warrant he found an indoor marijuana grow at the end of the road.

Jeff: When asked that the Tooby Ranch story seemed to be about marijuana Jeff said "That's true, but all that marijuana, these were all indoor marijuana grows, were being grown in buildings that were constructed without permits."

Jeff: In response to a question Jeff said "I'm also a police officer. I'm not just a code enforcement officer. It is also my job to enforce the laws of the state as well as the county and commercial marijuana grows are illegal."

Jeff: When asked about it being easier to get an inspection warrant than a criminal warrant Jeff said: "The judges do require some probable cause that there are County code violations ... However this is a lot easier to obtain than probable cause that marijuana is being grown."

Paul: When asked if it was proper to use an inspection warrant with its lower threshold of cause to get into a building when they were really looking for a criminal violation Paul said that his policy was to "err on the side of protecting the Fourth Amendment rights of your citizenry and get a warrant ... we get criminal warrants ... we do not use administrative warrants".

Gary: In response to a report that there were 15 sheriff's vehicles in southern Humboldt, Gary went off the subject and said "Certainly we know on many occasions if we go with them (the CEU) we're probably somewhere along the line going to run into a marijuana grow. ... We're not going to lie to you and say, like, oh we don't have any idea. We don't have prior intelligence maybe, but we know, in certain parts of this county, we go there we're probably going to sometime run into them (marijuana plants)." He went on to say when they are asked to assist with inspection warrants "do we think we're going to run into some of these things (marijuana) heck yea, we know we're going to, I mean come on".

Jeff: In response to a question about the need for no-notice inspection warrants Jeff said "the honest answer to your question is that when we do not give notice we have a high expectation of some other illegal activity going on the property and that's marijuana".

Gary: In a response to a statement by a Yee Haw resident Gary said "I'd prefer to see if you have an inspection warrant, that it'd be nice if you'd just notice the people and go out there and do your inspections ... that would work for me".

Jeff: When asked about the Feds involvement with the CEU, Jeff said "There was some interest from the DEA ... they were very interested in what it was we found. And when they sent their DEA agents up for a week to assist the County's marijuana eradication efforts, they participated in three inspection warrants".

Paul: In response to a statement by a Yee Haw resident and in reference to the cross-deputization of the CEU, Paul said "it is an arrangement I have been unhappy with for a while." In reference to code enforcement investigators, Paul said "I have no authority over them ... I feel uncomfortable with having this arrangement".

Jeff: In response to a statement Jeff talked about a survey by the Code Enforcement Officers Association. Jeff said that only 15% of code enforcement officers in the state of California carry firearms and that "most of the code enforcement work done in the state of California is done by non law enforcement personnel".

Jeff: In some situations we ask the sheriff's department to go with us. ... based on the probability ... that there's additional criminal activity going on".

Paul: "If you're going in to investigate criminal activity, the Constitution is pretty clear, you have to have probable cause to get a warrant. ... Administrative warrants ... they're not generally intended for the investigation of criminal activities. ... Probable cause is you have to have articulable facts".

# HUMBOLDT COUNTY CODE ENFORCEMENT TASK FORCE

**ANALYSIS -- authority and limits of code enforcement unit to operate  
July 8, 2008 -- Wes Juliana**

## **Introduction**

In this analysis the source of authority of the Code Enforcement Unit (CEU) and limits placed on their authority and actions are examined. The memo is intended to fulfill part of the Task Force's mandate to examine the Code Enforcement Manual.

It is important to keep in mind that the duty of the Board of Supervisors is to establish public service agencies and define the policies which guide their actions, and the duty of County personnel to develop procedures that comply with and fulfill Board policy directives, unless personnel are specifically ordered to develop policy by the Board. The Board is ultimately responsible for all policy whether it authors it or approves policy written at their direction.

The Board relies on County Counsel for analysis of the legality and the possible effect of policy and actions of County personnel. When County Counsel is required to analyze the legality or the potential effects of policy which it has written, there can be a tendency to defend a policy rather than to analyze it. An appearance of impropriety may exist when County staff is pressed by any party other than the Board of Supervisors to develop policy or to change policy established by the Board. The policy established by the Board clearly limits the scope of actions of the CEU. Unless the Board has formally ordered that CEU personnel write new policy to replace existing policy, the staff is acting beyond its scope of authority when it attempts to replace Board orders with their own.

This analysis is based on review of the Code Enforcement Manual, available Board of Supervisors deliberations and decisions from the inception of the CEU until present day; statements of County officials and citizens in a public meeting held in Garberville California on April 4, 2008 in response to armed, CEU-instigated raids on private homes; the Board of Supervisors meeting held on April 8, 2008; and statements of County personnel before the Code Enforcement Task Force.

**This analysis does not purport to constitute a legal opinion or legal advice.**

## **Source of Authority**

The CEU was established by the Board of Supervisors in a motion dated August 30, 1994. This decision is referred to in a follow-up memorandum by County Administrative Officer Chris Arnold dated October 18, 1994, which is included in the CEU Manual.<sup>1</sup> The CEU Manual received by the Task Force included portions of the follow-up memo but did not include the official Record of Decision or Statement of Responsibilities by the Board of Supervisors. The office of the Clerk to the Board of Supervisors, provided with correct dates of meetings, produced the record of decision, which was subsequently provided to all Task Force members. The Clerk also provided the Board-approved Statement of Responsibilities, which clearly defines the scope of duties delegated to the CEU.<sup>2</sup> After the 7-point Statement was delivered to the Task Force, we included it as page 2.5 of the Manual. That

<sup>1</sup> Memo, "Community Assistance Unit Statement of Responsibilities," Section 1, Creation of the Community Assistance Unit, pp 2-4, CEU Manual

<sup>2</sup> Memo, "Community Assistance Unit Statement of responsibilities," Section 1, "Creation of the Community Assistance Unit, p 2.5, CEU Manual

original order has never been superseded or changed by the Board of Supervisors.<sup>3</sup> The search for relevant documents from the Board of Supervisors continues and may shed light on the deliberations and informed actions of the Board at that crucial period of time in establishing the Code Enforcement Unit.

The Code Enforcement Unit (CEU, originally known as Community Assistance Unit, or CAU; hereafter CEU) is empowered by the Board of Supervisors to enforce actions in accordance with the state Civil Code. The CEU's authority to operate is drawn from sections of the Civil Code.<sup>4</sup> In a 1995 memo entitled "Protocol for Code Enforcement Referrals," CEU Counsel Richard Hendry defined the CEU as "providing guidance and direction without active involvement."<sup>5</sup>

### ***Powers under Civil Code and Penal Code***

The CEU Manual states (emphasis added):

*Civil Code section 3492 provides that the remedy of indictment or information is regulated by the Penal Code. Therefore, this remedy is strictly prosecutorial and clearly falls within the duties of the district attorney.*

*City attorneys and district attorneys are authorized to file civil actions to abate nuisance by Code of Civil Procedure section 731 and Government Code section 26528. County Counsel has no similar authority.*

*Government Code section 26529, which sets out the duties of the County Counsel, states:*

*"In counties which have a county counsel, the county counsel shall discharge all the duties vested in the district attorney by Section 26520, 26522, 26523, 26524, and 26526."*

*Government Code section 26528 provides that the district attorney may, and when directed by the Board of Supervisors shall, bring a civil action in the name of the people of the State of California to abate a public nuisance in his county.*<sup>6</sup>

The above section describes the State-defined powers and limitations of powers among District Attorney and County Counsel. According to California Government Code, County Counsel may undertake certain duties of the District Attorney to the County.<sup>7</sup> A county has a choice as to whether to employ County Counsel; in the absence of County Counsel, the District Attorney must fulfill certain civil duties. Humboldt County retains County Counsel, which undertakes civil duties but has no authority in alleged Penal Code violations or to abate a public nuisance.

Only through cross-deputization by County Counsel and District Attorney does the CEU Counsel derive authority to bring both civil and prosecutorial tools to bear. Should the District Attorney determine that the judgment applied by the cross-deputized CEU Investigators or Counsel may lack the acuity or may not comply with the policies of the District Attorney, he may then un-deputize that party, as he has done with current CEU personnel.

### ***Cross-Deputization by County Counsel, District Attorney***

A memorandum dated May 10, 1995 from Tamara Falor (then Assistant County Counsel) to Terry Farmer (then District Attorney) proposed a "chain of command" in which the DA oversees County Counsel (they are not co-equal managers) and County Counsel oversees staff of the CEU.<sup>8</sup>

<sup>3</sup> Statement of Richard Hendry before CEU Task Force, June 6, 2008

<sup>4</sup> "Civil and Criminal Burden of Proof" Section 4, Administrative Abatement, pp 89-90 CEU Manual

<sup>5</sup> Memo, "Protocol for Code Enforcement Referrals," Section 2, File Establishment, pp 59-61, CEU Manual

<sup>6</sup> Civil and Criminal Burden of Proof, "Civil Action," Section 4, Administrative Abatement, p 92 CEU Manual

<sup>7</sup> California Government Code Sections 26520, 26522, 26523, 26524, 26526 See Appendix 1

<sup>8</sup> Memo, "Community Assistanct (sic) Chain of Command," Section 1, Creation of the Community Assistance Unit, p 5, CEU Manual

There is no evidence in the Manual that this proposal was considered, approved or changed by the Board of Supervisors. There is no evidence that the Board discussed the issue or even was informed, or that the Board took any actions other than to define the scope of CEU responsibilities by its act establishing the CEU. Nor is there any record that cross-deputization took place or became a standard. It simply appears that at some time between May 10, 1995 and December 1996, CEU personnel were cross-deputized by County Counsel and the District Attorney.<sup>9</sup> It may be inferred that cross-deputization became a standard but there is no record of an event or a policy, or a procedure. The search for Board deliberations, or any history of cross-deputization, continues.

There is no documentation provided that establishes how County Counsel or the CEU intended to use extraordinary powers to implement its assigned duties; however, it seems that the District Attorney's role has been reduced to providing empowerment rather than providing guidance, supervision, or discipline. The "chain of command" described in the May 10 memo (see above) from Falor to Farmer does not appear to be in effect. Paul Gallegos, the current District Attorney, has described his role in the Code Enforcement Unit as one in which he deputizes CEU personnel, which empowers them to act as armed law enforcement officers, who are then overseen in their duties by County Counsel (in this case, the cross-deputized Deputy County Counsel, Richard Hendry). Mr. Gallegos further described his role as one in which he has "responsibility but no authority" over actions of the CEU. In his words,

*They are deputized by me. They carry firearms under my authority. I am not passing the buck to anyone. It is a situation I...It is an arrangement I...I have been unhappy with for awhile. I've been speaking with County Counsel. I have all the responsibility but none of the authority over Code Enforcement....*

*They are Code Enforcement Investigators. I rely on Jeff and the officers under County Counsel to do their job appropriately. I operate under that expectation, but if they do something wrong, the way it currently is, I have no authority over them. This has been something that the County Counsel and I have been discussing for a while, this arrangement. It's an uncomfortable arrangement for me, because if something happens, under my deputization, with people I have no authority over, I cannot discipline them, I'm the one responsible."<sup>10</sup>*

The above reveals that today the District Attorney apparently has no authority over the actions or procedures of the CEU. Lack of record hampers our ability to determine whether the "chain of command" proposed by Falor to Farmer actually was established. There is no currently available record to show that the cross-deputization concept was approved by the Board of Supervisors. A record of the decision or order to cross-deputizes CEU personnel, or report of cross-deputization, is not included in the Manual. The search for documents that record the information provided to the Board by County Counsel and District Attorney, as well as the deliberations and discussions of the Board, continues.

## **Limits on Authority**

This section considers the policies established by order of the Board of Supervisors, the policy statements developed by the CEU Counsel but apparently not approved by the Board, and the procedures developed by the CEU Counsel over time, and the limits established by these bodies to the

<sup>9</sup> Article, "Community Assistance Unit" County Counsel Association Newsletter, Section 1, "Creation of the Community Assistance Unit," pp 29-31 CEU Manual

<sup>10</sup> Statement of Paul Gallegos, Transcript of public meeting, Garberville, April 4, 2008, p 16  
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authority of the Code Enforcement Unit. This section considers the evolution (or drift) of the perceived scope of powers of the CEU.

### ***Statement of Responsibilities***

The authority granted to the CEU is set forth in the October 18, 1994 order which specifically defines and limits the actions of the CEU as follows:

1. *The Unit will act under the day to day direction of the County Counsel or County Administrative Office, as deemed appropriate by the Board of Supervisors.*
2. *The Unit will receive and act only on complaints from the public.*
3. *An Ombudsman/Mediator function will be a primary focus of the Unit and will investigate and prioritize those problems those which involve code violations and cannot be mitigated by non-enforcement means. Priority will be determined according to the, 1) severity of the impact on the public and/or the negative effects on the environment, and 2) number of verified complaints.*
4. *Verified and prioritized complaints will be reviewed with the CAO, discussed with the appropriate involved departments and approved by the CAO for further follow up action.*
5. *Approved cases will be followed up with the most appropriate legal or civil action. The intent of the Unit is to coordinate the pursuit of only the most serious violations that affect the health and safety of the neighborhoods and/or the environment.*
6. *The Unit will make a full annual report to the Board in a published format available to the public which shall include information of all complaints received, actions taken and all charges, fees and penalties levied, liens and assessments imposed. The report shall also include any and all comments or input from the community. Upon presentation of the annual budget, the Unit shall be disbanded unless the Board of Supervisors makes a finding that the function is necessary for another year.*
7. *Fines, penalties, fees, assessments or other charges will be levied only upon proven violators. Charges will include only those appropriate fines, penalties, fees and assessments related to the abatement of the violations and any costs directly associated with the case that are incurred by the County.<sup>11</sup>*

The above order has not been countermanded or changed by the Board of Supervisors.<sup>12</sup> Therefore, the CEU has specific, limited authority to act as directed in this seven-point statement of responsibilities. It means that the CEU has no authority to act on referrals from any governmental agency; federal, state, county or municipal. Every action considered must be approved specifically by the County Administrative Office (CAO), regardless of direction by County Counsel. Even if an oversight committee is formed and functioning, even if an attorney from County Counsel's office reviews cases and approves actions, every action must be approved by the CAO prior to implementation. Even if CEU staff are cross-deputized by the District Attorney, the full scope of their duties remain defined by this Board order.

The CEU's primary function is to mediate problems and ensure that nuisances are abated. The CEU's primary function is not to apprehend but to resolve. The CEU is charged with the responsibility of determining the relative gravity of a nuisance, and the relative threat it provides to neighborhood wellbeing and general environmental health.

Proper review of cases is required and approval by the CAO is required to establish a case history of review and judgment as to gravity of a situation. There is no record that such review by the CAO and approval as required by the CAO has ever taken place. There is no record that

<sup>11</sup> Memo, "Community Assistance Unit Statement of Responsibilities" BOS Order, October 18, 1994

<sup>12</sup> Statement of Richard Hendry before CEU Task Force, June 13, 2008

the Board ordered the County Counsel to assume the duties assigned to the CAO. There is no record that the Board ever ordered that the County Counsel or the CAO be assigned the separate duty of day-to-day oversight of the CEU.

The Board of Supervisors required that the CEU to report its actions by publishing a detailed annual report and making a presentation to the Board every year, and apparently considered that duty to report so important that it attached a sunset clause to the CEU and required that the Board act specifically to renew the CEU following reception of the report. According to the Statement of Responsibility, if the Board did not act specifically to renew the CEU, the Board was considered to have automatically retired it. If the CEU has not been renewed annually by order of the Board in adoption of the annual budget, then the CEU is disbanded. There is record in the CEU Manual of one annual report to the Board from the CEU.<sup>13</sup> There are no further annual reports included in the Manual and there is no evidence that any reports were made available to the public. There is no record in the CEU Manual that the CEU has ever been annually renewed.

In the Statement of Responsibilities, the Board ordered that any fines, penalties, fees or other charges imposed by the CEU to be no greater than the costs to the County to abate a nuisance. There is no record in the CEU Manual of a Board order to change that charge structure to add punitive costs to a landowner or resident.

The Board requires that the CEU limit its actions to response to citizen complaints that are made in a formal process and verified by additional materials which must be included with a complaint for a case file to be opened. Within less than a year, CEU Counsel expanded the scope of the CEU to include referrals from County agencies, and developed entire procedural directives around it, while still limiting CEU participation to cases that were very clearly documented. In this manner, the CEU apparently followed course for the next 12 years, with very little public notice and no appreciable opposition or disapproval.

In 2007, all of that changed, with the addition of a new CEU Investigator, the advent of no-notice raids under the guise of "code inspection warrants," participation of federal and state agents on "code inspection" raids near Trinidad, Willow Creek, and Redwood Valley, and no-notice raids operating under the guise of "code inspection warrants" in the company of the Sheriff's Drug Task Force at Titlow Hill, Tooby Ranch, Wood Ranch and Elk Ridge. Those new-style code enforcement raids had no official policy to act in such a manner until CEU Counsel inserted two documents into the CEU Manual ("Inspections and Warrants" and "Humboldt County District Attorney's Office Use of Force") in May of 2008.<sup>14</sup>

Before those documents were inserted into the CEU Manual, the District Attorney had reportedly suspended the cross-deputization of CEU staff, and the Board of Supervisors had suspended the use of inspection warrants, pending the findings and recommendations of the CEU Task Force and subsequent Board action. At question, then, is whether at the time that CEU Counsel inserted those new "policy" documents, he was empowered to do so, as he claims due to his cross-deputization. With the inspection warrants program suspended and cross-deputization suspended as well, did CEU Counsel have any authority to make changes to the program?

### ***Board Order and CEU Policy***

<sup>13</sup> CAU Update Report 3/19/96 pp 8-15 CEU Manual

<sup>14</sup> "Inspections and Warrants," "Humboldt County District Attorney's Office Use of Force" Section 8, Inspection Warrants, pp 256-271 CEU Manual

The following definition of authority of the CEU was included in a report to the Supervisors by Richard D. Hendry, CEU Attorney in his March 19, 1996 Update Report on Community Assistance Unit (emphasis added):

*As directed by the Board, the following criteria guide the Community Assistance Unit's efforts:*

*(1) The Community Assistance Unit will receive and act only on complaints from the public or the respective County Departments;*

*(2) the Community Assistance Unit will take formal action only if the violation cannot be mitigated through other means. Approved cases are followed up with the most appropriate civil or criminal legal action. The intent of the Community Assistance Unit is to coordinate the pursuit of only the most serious violations that affect the health and safety of neighborhoods and/or the environment.*

*In establishing procedures, staff set priorities for enforcement by defining and treating major violation cases and minor violation cases differently. Priority will be determined according to the severity of the impact on the public and/or the negative effects on the environment, and the number of verified complaints. Major violations are those with moderate to serious impact on the environment and/or which involve a substantial number of verified complaints and/or violations involving multiple departments.<sup>15</sup>*

This clearly declares that the Board of Supervisors has established the above-noted limits to the authority and actions of the CEU; however, the Board's approved statement of responsibilities limited the CEU to respond to complaints from the public, with no authority to respond to agency referrals. There is no record in the CEU Manual of Board-approved change to or expansion of the power granted to the CEU. Similarly, the CEU Manual contains no record of decision or citation of expansion of the powers granted the CEU.

In the same report to the Board of Supervisors, Mr. Hendry reported the following:

*Several cases in which the Community Assistance Unit took formal action resulted in the property owners thereafter voluntarily abating the nuisance. It took this formal action to compel voluntary compliance (sic). Several property owners finally cleaned up their premises after an administrative hearing in which the Board ordered the property cleaned up. Several other property owners still did not comply with the Board's order and the County physically abated the nuisances at their expense.<sup>16</sup>*

#### ***Actions Limited to Response to Formal Complaints***

As then-Investigator Richard Grimm stated in 1995, "We are not the guys who hide behind garbage cans waiting to catch someone breaking codes. We are here to respond to large-scale code-enforcement issues—those where major environmental damage is occurring...We respond to complaints, we don't go looking for violations."<sup>17</sup>

Richard Hendry reiterated that position with: "I might mention that we are not the guys who hide behind garbage cans to look for violations. We act strictly on referrals from departments...And the other way we get involved in a case is where we get neighbor complaints."<sup>18</sup>

In Section 3 of the CEU manual (Report Writing), the document entitled "Crime Report Overview states, ***"The cases pursued by the Code Enforcement Unit will be misdemeanor level cases..."***<sup>19</sup> This

<sup>15</sup> "Case Selection," CAU Update Report 3/19/96 p 13 CEU Manual

<sup>16</sup> See "Caseload" CAU Update Report 3/19/96 p 14 CEU Manual

<sup>17</sup> See Interview, Humboldt Times, Tuesday August 1, 1995 p 22 CEU Manual

<sup>18</sup> See Interview, Times Standard, Friday, October 25, 1996 pp 25-26 CEU Manual

<sup>19</sup> See "Crime Report Overview, Section 3, Report Writing, p 63, CEU Manual

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indicates that at the time that this document was developed, the CEU had been cross-deputized, which empowers CEU personnel to carry a weapon and to respond to allegations of minor Penal Code violations, in addition to allegations of Civil Code infractions.

In a 1995 memo to other county agencies, CEU Counsel set forth the standards that agencies must meet in order to refer a case to the CEU. The following standards are excerpted (emphasis added):

*Cases should not be referred ...unless departmental efforts to compel compliance have failed... It is essential that we receive a "package" containing basic information, such as AP Number, elements of the offense, a description of the violation with reference to code sections, information showing knowledge by the violator, and department compliance attempts.*

*The following would also be helpful:*

- 1. A complete narrative report outlining their preliminary investigation. This should include a summary of all statements obtained and the names, addresses and phone numbers of all witnesses needed to prove the case in court. The report should make use of the standardized "Code Violation" report form provided by the Community Assistance Unit.*
- 2. Any supportive documents such as agency reports, letters, memos, and other materials needed to prove the criminal allegation.*
- 3. Copies of any relevant photographs, audio or video tapes, diagrams or other similar materials.*
- 4. An "Enforcement Request" face sheet on the form provided by the Community Assistance Unit.*
- 5. A complete and well-documented statement from the suspect in the case, as well as any potential witnesses. This is a critical portion of the investigation. It is the belief of the Community Assistance Unit that anyone accused of a violation has the right to provide a statement prior to the formal enforcement process.*

*...It is only after the department inspector's (sic) have exhausted all attempts at gaining voluntary compliance will the Community Assistance Unit's Investigator assume the lead role regarding further investigations.* <sup>20</sup>

### **Limits on Exercising Warrants**

The Code Enforcement Manual includes a memo dated September 16, 1988 from then-Director of Community Development Services Thomas Conlon on the subject of "Procedures for field inspections on private property." Excerpts follow (original emphasis included):

*"As discussed with the County Counsel, the risk of liability can arise when a County Inspector improperly enters private property. Therefore, there are only two methods by which you are authorized to enter private property: 1) with the written consent of the property owner and 2) with a duly issued inspection warrant. In either case, the inspector will be provided with a copy of the signed consent form or the issued inspection warrant before the scheduled inspection. When you received an inspection request on a violation case, you will receive a copy of the Assessor's parcel map of the property to be inspected and the surrounding area. The map should designate which roads are privately owned, but also watch for signs or marking indicating private ownership (i.e., "Not a County Road" signs, survey markings, fences or gates across roadways, etc). If you do encounter a private roadway or private parcel that accesses the parcel to be inspected, document the fact and discontinue the inspection.*

*A member of the Planning staff will research the property ownership issue and will arrange for the appropriate written consent or inspection warrant. If you have any questions when you are in the field about the propriety of entering onto a parcel or roadway, postpone that inspection until the questions can be satisfactorily answered by staff or County Counsel.* <sup>21</sup>

<sup>20</sup> Memo, "Protocol for Code Enforcement Referrals," Section 2, pp 59-61 CEU Manual

<sup>21</sup> Memo, "Procedures for field inspections in private property," Section 8, Inspection Warrants, p240, CEU Manual  
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The CEU still depends upon the above-quoted memorandum as their authority in the CEU Manual, which was last updated in February 2004 (prior to the challenged documents inserted into the Manual in May, 2008). It strictly prohibits inspectors from traveling on private roads or to crossing private lands that they do not have a warrant to enter, even in order to reach a parcel for which an inspection warrant has been issued.

***Board Ordinance Required to Transfer Authority to Inspect***

State law requires that an order or ordinance be passed by the Board of Supervisors to convey authority from Community Development Services to the Code Enforcement Unit in order for the CEU to lawfully conduct code compliance inspections.<sup>22</sup> The above-noted memo that prohibits unwarranted entry originates from CDS/Planning and Building but there is no indication that it is proper to infer that CEU may draw on CDS as their authority to conduct building inspections. The CEU Manual does not contain a motion, ordinance or order from the Board of Supervisors that conveys that authority to inspect for building code compliance from CDS to CEU. The same law underlines that the Board of Supervisors has authority over the Code Enforcement Unit and that limits to the authority of the CEU are the provenance of the Board of Supervisors.

***County Counsel Is Fatally Conflicted***

California Government Code Section 11425.30(a) disqualifies the presiding officer or decision maker of an administrative hearing from also being an investigator, prosecutor, or advocate in the proceeding or its pre-adjudicative stage.

The role of County Counsel as overseer, administrative reviewer, investigator and assigner of fines or fees, while also acting as advisor and analyst to the Board of Supervisors, creates a situation in which this agency and its staff become deeply conflicted. There is no separation between investigation, report and assignment of costs or fines.

In establishing the CEU and defining its powers in the Statement of Responsibilities<sup>23</sup> the Board of Supervisors identified either the County Administrative Office or the County Counsel to be assigned supervision of the day to day work of the CEU. Further, the Board required review of all cases by the CAO, and finally required approval of actions proposed on a case-by-case basis by the CAO. Assigning oversight of the CEU to the County Administrative Office rather than the County Counsel effectively removes the fatal conflict of investigation, prosecution or advocate in a pre-adjudicative stage of nuisance abatement. There is no record in the CEU Manual that this day-to-day oversight duty was assigned to County Counsel rather than CAO. The duties of review and final approval of proposed actions in specific cases has not been changed from CAO to County Counsel.

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<sup>22</sup> California H&S Code Sectns 17960-17967, Humboldt County Code Sectns 312-51.1 - 51-2, 331-22, 331-23, and 612-5

<sup>23</sup> Memo, "Community Assistance Unit Statement of Responsibilities" BOS Order, October 18, 1994

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## **Conclusions**

The Board of Supervisors has authority over the establishment and development of policy of the Code Enforcement Unit. The Board clearly limited the duties of the CEU to respond to (1) written complaints from the public; and (2) acting specifically in an advisory capacity to law enforcement officers and/or personnel of other County agencies.

The Board of Supervisors has historically participated in an administrative court function in the resolution of code enforcement issues. In those instances, the CEU has historically deferred to, or directed to the Board, decisions on abatement of serious code violations and non-compliance by responsible parties.

The only authority for the CEU was approved by the Board of Supervisors and dates to October 18, 1994. There has been no change to the duties or limits to authority of the CEU by the Board.

There is no record that the District Attorney, in cross-deputizing CEU personnel, provided for any powers, duties or responsibilities greater or other than those established by the Board of Supervisors.

The CEU Manual states that the CEU has authority to address misdemeanor level complaints. There is no directive to that effect found in the CEU Manual.

The CEU Manual indicates that for the purposes of misdemeanor level code violation complaints, the District Attorney has authority over County Counsel. The current understanding of the District Attorney, however, is that he has no direct authority over personnel of the CEU other than to empower them to carry weapons.

The Board did not authorize the CEU to respond to agencies other than those of Humboldt County.

If the CEU, acting under the guidance and discipline of the District Attorney, the Sheriff's Department, or any other law enforcement agency, becomes involved in criminal investigations rather than abatement of civil code infractions or minor, misdemeanor level nuisances, then it has strayed from the limits imposed upon its duties by the Board of Supervisors.

Procedures developed by CEU Counsel in response to the Board order and followed for more than ten years clearly reflect the limits to CEU duties and the requirements to the public and other County agencies to provide verification of complaints.

The CEU has no authority to self-generate code inspections. The CEU is limited to pursuing verified, formal public complaints.

The CEU is required to limit any fees, costs, charges or penalties imposed on responsible parties to the specific costs to the County to abate a nuisance. By order of the Board, The CEU is specifically prohibited from levying punitive charges above costs of abatement to the County.

The office of County Counsel is conflicted by its respective duties to the Board as advisor and its responsibility as investigator, advocate and prosecutor in the Code Enforcement Unit.

County Counsel has incorrectly assumed responsibilities of review and approval assigned to the County Administrative Office. This assumption of responsibilities has created a conflict of interest for County Counsel and all CEU personnel.

## **Appendix One: California Codes and Rule Cited In Text**

**Government Code Section 26520.** The district attorney shall render legal services to the county without fee and may render legal services to school districts and to other local public entities as requested. The district attorney may charge a school district or other local public entity a fee, not to exceed the total cost to the county, for the legal services rendered.

**Government Code Section 26522.** Upon request of any board of education, board of school trustees, or high school board, the district attorney may prepare all the legal papers and forms necessary for the voting of school bond issues within the county and may advise them in relation to school bond issues. The district attorney may charge a board of education, board of trustees, or high school board a fee not to exceed the total cost to the county for those services.

**Government Code Section 26523.** Upon request of the auditor or treasurer, the district attorney shall defend or prosecute any action brought by or against the auditor or treasurer for the purpose of testing the validity or constitutionality of any act of the Legislature or of the board of supervisors or of any order providing for the payment of any funds held in the county treasury in those cases only where the interest of the county is not adverse.

**Government Code Section 26524.** Upon request of any judge of the superior or municipal court, the district attorney shall appear for and represent the court or judge if the court or judge in his or her official capacity is a party defendant in any action

**Government Code Section 26526.** The county counsel, or if none the district attorney, is the legal adviser of the board of supervisors. The county counsel or if none, the district attorney, shall attend its meetings, when required, and shall attend and oppose all claims and accounts against the county he or she deems unjust and illegal.

**Government Code Section 25845** The board of supervisors, by ordinance, may establish a procedure for abatement of nuisance. The ordinance, shall at a minimum, provide that the owner of that the owner of the parcel..., be given notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county.

**California Government Code Section 11425.30(a)** disqualifies the presiding officer or decision maker of an administrative hearing from also being an investigator, prosecutor, or advocate in the proceeding or its pre-adjudicative stage.

**California Professional Rule of Conduct 3-310(A)** If a member has or had a relationship with another party interested in the representation, or has an interest in its subject matter, the member shall not accept or continue such representation without all affected clients' informed written consent.

# **Reports of Findings and Recommendations**

by Dan Taranto

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**CEU MANUAL**  
**&**  
**STATEMENT OF RESPONSIBILITIES**

Dan Taranto

**RECOMMENDATIONS:**

1. The Board of Supervisors should insist that the CEU abide by the official adopted Policy Statement of Responsibilities adopted on October 18, 1994, until such time as the Board of Supervisors themselves authorize specific changes to that policy.
2. The Board of Supervisors should immediately direct the CEU to provide a summary report as is required by Responsibility number six, *"The Unit will make a full annual report to the board in a published format available to the public which shall include information of all complaints received actions taken. The report shall also include any and all comments or input from the community..."* This required report has not been provided for over 10 years.

**FINDINGS:**

Each member of the CETF was provided with a copy of the CEU Manual, a 488 page document with sixteen sections. The following findings refer to the first few pages of Section One "Creation of the Community Assistance Unit and the Board adopted Statement of CEU Responsibilities:

**FINDING 1:** There was only one 488 page copy of the CEU Manual at the time of the first request for it by Supervisor Roger Rodoni following the April 4 public meeting of concerned citizens organized by CLMP. Lacking pagination, the CEU manual was found to be cumbersome and functionally difficult to utilize as a reference document.

**FINDING 2:** Section One, Page One of the CEU Manual titled "Creation of the Community Assistance Unit " contained only the cover page of a four page original submittal from the CAO, Chris Arnold, dated October 11, 1994, responding to the Board of Supervisors directive of August 30, 1994 to bring back a Statement of Responsibilities for the Community Assistance Unit. The Statement of Responsibilities adopted by the Board on October 18, 1994 does not appear anywhere in the CEU Manual provided to the CETF.

**FINDING 3:** The County Counsel's Office can reference no documented Board of Supervisors action restating, rescinding, or expanding the the original CAU authority granted in 1994.

**FINDING 4:** Testimony from Ms. Chaitin, Interim County Counsel (on June 13, 2008), stated that the authority and activities of the CEU in question may have gradually "evolved" internally overtime.

REVIEW OF THE ORIGINAL STATEMENT OF RESPONSIBILITIES ADOPTED  
BY THE BOARD OF SUPERVISORS ON OCT. 18, 1994:

*"The central purpose for establishing the Community Assistance Unit is to coordinate and address neighborhood complaints regarding issues of public weal. The following elements shall guide the Unit's efforts:"*

*"1. The Unit will act under the day to day direction of the County Counsel or County Administrative office, as deemed appropriate by the Board of Supervisors."*

**FINDING 5:** Day to day direction by the County Counsel or CAO has not been occurring. The Board of Supervisors have issued no documented direction beyond the Oct 18, 1994 Statement of Responsibilities.

*"2. The Unit will receive and act only on complaints from the public."*

**FINDING 6:** The CEU no longer acts on complaints from the public. it currently acts only upon referrals from governmental agencies including the CEU itself.

*"3a. "An Ombudsman/Mediator function will be a primary focus of the Unit..."*

**FINDING 7:** Public testimony at the April 4 and April 8, 2008 hearings indicate the Ombudsman/Mediator function is not the primary f focus of the Unit.

*3b. "...and will investigate and prioritize those problems which involve code violations and cannot be mitigated by non-enforcement means. Priority will be determined according to the, 1) severity of impact on the public and/or the negative effects on the environment,*

**FINDING 8;** Public testimony at the April 4 and April 8, 2008 hearings indicate that prioritization has not been based upon severity of impact upon the public and/or negative impacts upon the environment.

*3c. "...and 2) number of verified complaints."*

**FINDING 9:** Public Testimony indicates that the Number of public complaints may no longer be a factor on establishing priorities.

*"4. Verified and prioritized complaints will be reviewed with the CAO, discussed with the appropriate involved departments and approved by the CAO for further follow up action."*

**FINDING 10:** The CAO has not been involved in reviewing and approving complaints for further follow up action as required.

*"5.a. Approved cases will be followed up with the most appropriate legal or civil action..."*

**FINDING 11:** CEU cases have not been approved by the CAO for further action in accordance with responsibility element five.

*5.b. The intent of the Unit is to coordinate the pursuit of only the most serious violations that affect the health and safety of the neighborhoods and/or the environment."*

**FINDING 12:** Public testimony at the April 4 and April 8, 2008 hearings indicate that the intent of the Unit is not "...the pursuit of only the most serious violations that effect the health and safety of the neighborhoods,

*6.a "The Unit will make a full annual report to the board in a published format available to the public which shall include information of all complaints received actions taken and all charges, fees, and penalties levied, liens and assessments imposed..."*

**FINDING 13:** The CEU has not complied with the responsibility element six requirement to make a full annual reports to the board including information on all complaints received and actions taken. Only one report, in 1996, has been filed in fourteen years".

*6.b "...The report shall also include any and all comments or input from the community..."*

**FINDING 14:** The CEU has not complied with responsibility element six to prepare an annual report and to include any and all comments from the public.

*6.c "...Upon the presentation of the annual budget, the Unit shall be disbanded unless the Board of Supervisors makes a finding that the function is necessary for another year."*

**FINDING 15:** The Board of Supervisors has not complied with this statement of responsibility to make an annual finding of necessity.

*7. "Fines, penalties, fees, assessments or other charges will be levied only upon proven violators. Charges will include only those appropriate fines, penalties, fees and assessments related to abatement of the violations and any costs directly associated with the case that are incurred by the County."*

**FINDING 16:** The CEU compliance with the seventh element of responsibility is yet to be determined due to the failure of the CEU to comply with the sixth element of responsibility to provide a comprehensive annual report.

# DECRIMINALIZATION OF CODES

by Dan Taranto

## RECOMMENDATIONS:

1. The Board of Supervisors acknowledge Humboldt County Ordinance #1087 which decriminalized the codes for all home owner-occupants throughout the county by unanimous order of the Board on July 22, 1976. Ordinance #1087 is extant as HCC §331.5-22(c) and has been part of the Humboldt County Code for the past 32 years.
2. The Board of Supervisors instruct the appropriate county departments to comply with the provisions of Ordinance #1087.

## FINDINGS

1. **FINDING:** 1975 Humboldt County Grand Jury Report on Sewage and Building Codes: "Attorney General Opinions of Stanley Mosk (1962) and Evelle Younger (1974) state that local jurisdictions may waive strict compliance with the codes in accord with local "topography, geography, or general development."  
39 OPS.CAL.ATTY.GEN. 324 & 57 OPS.CAL.ATTY.GEN. 443

Based upon those Attorney General opinions the Grand Jury Report states:  
"Accordingly... local variances... would probably encourage greater cooperation with the department(s) by the citizenry."

2. **FINDING:** June 8, 1976. Opinion of Humboldt County Counsel Concerning Decriminalization of Building Code Violations: "I have reviewed the pertinent statutes and Judicial opinions on the question. It is my opinion that Government Code Section 25132 permits the Board of Supervisors by ordinance to decriminalize the violation of any county ordinance."
3. **FINDING:** July 22, 1976. The Humboldt County Board of Supervisors **unanimously Decriminalized the building codes** for all home owners in the County by adoption of Ordinance # 1087 into the Humboldt County Code.
4. **FINDING:** July 17, 1979, Item 25. The Humboldt County Board of Supervisors unanimously rejected the proposal of the Planning and Building Departments to recriminalize code violations for home owner occupants throughout the county.
5. **FINDING:** Board Resolution 79-122 Adopted Sept. 11, 1979: "*Regulatory changes that cumulatively enhance the ability of Humboldt County's citizens to build and repair their own homes for their own use in a manner suited to their needs and desires shall be developed in the process of revising the Housing Element of the County of Humboldt.*"

**5. FINDING:** Current General Plan Housing Element Policy 3.25: *“Regulatory changes that cumulatively enhance the ability of Humboldt County’s citizens to build and repair their own homes for their own use in a manner suited to their needs and desires shall continue to be encouraged.”*

**6. FINDING:** March 1, 1988 Humboldt County Planning Commission recommendations to the Board of Supervisors following four code enforcement hearings for a total of 16 hours attended by 4500 citizens, rejected the Planning Department code enforcement proposal for recriminalization of codes - excerpts:

‘The Board should ...appoint a citizen's committee to review and reassess the code enforcement program and related matters...’

- **Do not consider criminal penalties for owner-builders”**
- **Do not consider the infraction process.”**
- Ensure that new code requirements are not applied retroactively.”
- Reconsider an **amnesty** for owner-builders.”
- Reactivate the **Appeals Board.**”
- Increase **cooperation** between county departments and the public.”

**7. FINDING:** On May 17, 1988 the Board of Supervisors unanimously rejected the 1988 code enforcement proposal by the Planning Department to recriminalize and infractionalize violations of the codes in favor of civil abatement procedures.

**8. FINDING:** CEU Inspector Jeff Conner stated at the Garberville Hearing, on April 4 2008, that criminal enforcement was not applicable to persons who had obtained an AOB permit.

**9. FINDING:** CEU Attorney testified before the CETF that criminal code enforcement sanctions were exempted only for persons with AOB permits.

**10. FINDING:** The CEU staff have a misconception of the applicability of the home owner decriminalization provision of the Humboldt County Code and since 1996 has apparently taken an unquantified level of criminal action against home owner-occupants in contradiction to the provisions of Ordinance #1087.

**11. FINDING:** Attached:

- May 11, 1976 Board directs Counsel opinion regarding Decriminalization;
- May 13, 1976 Union - “..**proponents score decriminalization win.**”;
- June 8, 1976 Counsel Opinion supports Board authority to decriminalize;
- July 20, 1976 Humboldt County Ordinance 1087 - Decriminalizing codes for home owners.

# Build your own proponents score decriminalization win

United Stand of Humboldt scored an important victory Tuesday in its battle to loosen building restrictions for owner-built housing.

After two hours of discussion, the county supervisors approved in concept decriminalization of the building code for structural variances which do not present a threat to the occupant or neighbors.

Ted Kogan of Humboldt United Stand called the board's action "a positive approach" to "build your own home your own way."

## Removing restrictions

For over two years, United Stand supported removing many building restrictions on persons who want to build their own home in rural areas in California.

The owner-builders object to requirements such as flush toilet sewage systems and mandatory electric wiring.

United Stand advocates changes in the building code to allow compost privy sewage systems, log cabins and homes without electrical wiring or indoor plumbing. United Stand contends owners can build their homes to be safe and environmentally sound at low expense without adhering to current building code regulations.

## Intimidated

Since these regulations are enforceable by law, Kogan says many people are intimidated into unwilling compliance or forced to hide their homes from building inspectors.

United Stand has proposed decriminalization as a short term solution to the problem.

The building code was recently decriminalized in Mendocino County by the county supervisors on recom-

mendation from the district attorney's office. The county now does not press charges for minor violations of the building code on owner-built houses which do not present a direct threat to

the owner-occupant or neighbors.

Selective enforcement While the Humboldt County supervisors wanted to remove many of

(Continued on page 2)

the current restrictions from the owner builder, they were not sure that selective enforcement of the law is the way to go.

"The building code is a state law that must be enforced and it is not in your power not to enforce it," County Counsel Ray Schneider told the board.

"If the district attorney refuses to enforce the law, the state attorney general can come in and enforce it," Schneider said this had happened

once before in Humboldt County in what he termed "red light abatement proceedings."

## Supported concept

After a long discussion between Schneider and two United Stand attorneys, the supervisors unanimously approved the concept of decriminalization of the building code. However, they could not decide on a method for decriminalization so they directed county counsel to prepare an outline of the options available to the

board in implementing the decriminalization of the building code.

The board will take up decriminalization and several other related United Stand issues June 21.

One of the proposals involves changing the role of building inspector from "policeman to helper." United Stand contends the inspector should focus on helping people build safe houses instead of strict enforcement of the building code.

## Conspicuous absence

Conspicuous by his absence at Tuesday's meeting was county chief Building Inspector Eric Johnson. Johnson and United Stand have conducted a running battle over the proposals. Both sides have accused the other of not cooperating in getting the United Stand proposals to the supervisors for consideration.

Other positions that the supervisors will consider in June are:

—An amnesty period for those who have built without proper approval and authorization to conform to existing regulations by obtaining the necessary approval.

—A recognized differences between residential use buildings and farm use buildings.

—A definition of what constitutes a good structural condition of a dwelling.

—Restrictions or a complete ban against sale, rent or lease of owner-built dwellings.

—Provisions allowing owner-built housing with different standards than contractor-built housing.

United Stand Attorney Robert Cogen said owner-builders see their home as a form and expression of individual liberty which should not be controlled until it infringes on the rights of others.

Cogen said contractors should continue to be regulated because they only see houses as "a way to turn a tidy profit."

Since 1886  
VOL. 88 No. 31  
Copy 15c

# The Miner

Arcata, Calif. Thurs. May 13, 1976  
TWENTY TWO PAGES

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

Certified copy of portion of proceedings, Meeting on May 11, 1976

**PROPOSED REVISIONS TO BUILDING CODE;  
COUNSEL TO PREPARE OPINION RE BOARD'S  
OPTIONS FOR DECRIMINILIZATION OF VIOLATIONS**

This Board of Supervisors hereby requests the County Counsel to prepare a written opinion with the assumption that this Board wishes to decriminalize violations of the Building Code and setting forth this Board's options in so doing.

Adopted on motion by Supervisor Peterson, seconded by Supervisor Renner and the following vote:

AYES: Supervisors— Renner, Murguia, Peterson, Bass, Dorsey  
NOES: Supervisors— None  
ABSENT: Supervisors— None

STATE OF CALIFORNIA  
County of Humboldt

I, DONALD R. MICHAEL, County Clerk of the County of Humboldt, State of California, and ex-officio Clerk of the Board of Supervisors of the County of Humboldt, do hereby certify the foregoing to be a 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 May 13, 1976

DONALD R. MICHAEL  
County Clerk and ex-officio Clerk of the Board of Supervisors of the  
County of Humboldt, State of California

By Ann J. Scott Deputy Clerk



COUNTY COUNSEL  
**COUNTY OF HUMBOLDT**  
EUREKA, CALIFORNIA 95501 PHONE (707) 445-7236

June 8, 1976

The Honorable Board of Supervisors  
County of Humboldt  
Courthouse  
Eureka, California 95501

Re: Opinion of County Counsel Concerning Decriminalization  
of Building Code Violations

Gentlemen:

By order dated May 11, 1976, the Board requested the County Counsel to prepare written opinion with the assumption that your Board wished to decriminalize violations of the building code and to set forth the Board's options in doing so.

I have reviewed the pertinent statutes and judicial opinions on the question. It is my opinion that Government Code Section 25132 permits the Board of Supervisors by ordinance to decriminalize the violation of any county ordinance: in other words the possibility of imprisonment for such offenses could be eliminated. That statute permits a county board of supervisors to designate that a violation of a county ordinance is either a misdemeanor or an infraction. The difference between an infraction and a misdemeanor is stated in Penal Code Section 15, 16, 19 and Government Code Section 25132 (copies attached).

Therefore, it is my opinion that the options of the Board of Supervisors in the subject matter are to:

1. Make no change in the existing Building Ordinance which declares violations thereof to be a misdemeanor; or
2. Direct County Counsel to prepare an amendment to the Building Code Ordinance declaring that violations of that ordinance are an infraction.

Nothing in this opinion should be construed as an endorsement of or criticism of the proposal. Furthermore, no position

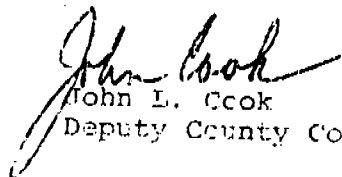
Honorable Board of Supervisors  
June 8, 1976  
Page 2

is taken on the question whether or not the penalty prescribed for an infraction would be a sufficient economic penalty to deter and punish offenders.

The penalty for violating the Building Ordinance may be changed without making the findings relative to local conditions required by Health and Safety Code Sections 17958.5-17958.7. This follows from the fact that the penalty provisions contained in Uniform Codes legally cannot be adopted by reference. That which cannot be adopted by reference need not be modified because it has no force and effect. Furthermore, the finding requirement applies only when changes are made in the State "regulations" adopted pursuant to Section 17922. Review of regulations reveals the absence of a proposed uniform penalty clause. Therefore, a change in the penalty clause is not a change in the State "regulations". \*

Changes or the modifications to the State "regulations" that must be adopted by reference have been proposed by various individuals and groups. The Board is authorized to make such changes in the codes "as it determines are reasonably necessary because of local conditions." Before making modifications, the Board must make a written finding that specified local conditions make the changes necessary. In two opinions, the California Attorney General has interpreted the phrase "local conditions" to mean physical conditions such as topography, rainfall, etc. Copies of these opinions are provided for the use of the Board in the event that it decides to make changes in the Uniform Codes. The opinions are sound. I concur with them.

Very truly yours,

  
John L. Cook  
Deputy County Counsel

JLC:cbh

Encl.

cc: Eric Johnson, Chief Building Inspector

Attachments enclosed include:  
39 OPS.CAL.ATTY.GEN. 324  
57 OPS.CAL.ATTY.GEN. 403

OK 1/4  
ORDINANCE NO. 1087

ORDINANCE AMENDING ORDINANCE NO. 777  
(BUILDING, MECHANICAL, PLUMBING AND ELECTRICAL ORDINANCE)  
RELATIVE TO PENALTY CAUSE

The Board of Supervisors of the County of Humboldt do ordain as follows:

SECTION 1. Section 14 of Humboldt County Ordinance No. 777 is amended to read as follows:

SECTION 14. Penal Provisions.

(a) No person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this ordinance or any order issued by the Building Official or the Health Officer hereunder.

(b) Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail of the County of Humboldt for not more than six (6) months, or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of the

provisions is committed, continued or permitted by such person.

(c) The provisions of subsection (b) shall not apply to an owner of real property, building or improving structures thereon, or appurtenances thereto, who does such work himself, provided that:

(1) Such structure or structures are not intended or offered for sale, lease or rent; and

(2) Such structure or structures are single family dwellings, farm or ranch buildings, which are not more than two stories in height.

In all actions, criminal or civil, brought under this ordinance, proof of the sale, leasing or renting or the offering for sale, lease or rent of any such structure by the owner-builder within one (1) year after completion of same is presumptive evidence that such structure was undertaken for purposes of sale, lease or rent.

SECTION 2. This ordinance shall take effect thirty (30) days after the date of its adoption.

PASSED, APPROVED AND ADOPTED this 20th day of July,

1976, on the following vote, to wit:

AYES: Supervisors: Renner, Murguia, Bass, Dorsey

NOES: Supervisors: None

ABSENT: Supervisors: None

Pat Wawry  
Vice-Chairman of the Board of Supervisors  
of the County of Humboldt State of  
California.

(SEAL)

ATTEST:

DONALD R. MICHAEL  
County Clerk and ex officio Clerk  
of the Board of Supervisors of the  
County of Humboldt, State of California.

By Anne J. Scott  
Deputy Clerk

**CEU PENALTIES**  
**PUNISHMENT IS NOT HEALTHY OR SAFE**

Dan Taranto

**RECOMMENDATIONS:** More carrot, less stick.

1. Abide by the spirit and intent of Board Ordinance 1087 (HCC §331.5-22(c)) Decriminalization of home owners home improvement activities throughout the county.
2. Clarify that homeowners are exempt from HCC §2132-4(a) application of infraction penalties throughout the county as inconsistent with HC Ordinance 1087 ( HCC §331.5-22(c) exempting homeowners from criminal sanctions).
3. Rescind the HCC §2132-4(a) provision of declaring each day a violation continues to exist constitutes a separate additional violation as unfair, excessive, wrong, cruel, unusual and too easily destructive economically to home owners and a clear circumvention of applicable statutes of limitations.
4. Return to the sane and civilized civil abatement procedures in use by the County from 1976 until 1995.
5. Change the name of the CEU to Community Health & Safety Assistance Team.
6. Equip the Health and Safety Team with shovels, brooms and hammers to provide needed community health and safety assistance.

**FINDINGS:**

1. **1976 Decriminalization Ordinance # 1087**, The Board of Supervisors decriminalized violations of codes for home owners following several hearings of intensive broad based public testimony. The Board unanimously believed that home owners should not be treated as criminals for working on their own homes.
2. **1979 Board of Supervisors Resolution 79-122:** "Regulatory changes that cumulatively enhance the ability of Humboldt County citizens to build and repair their own homes for their own use **in a manner suited to their needs** and desires shall continue to be encouraged and developed." This resolution was passed shortly after a failed staff proposal to have the Board rescind the decriminalization ordinance 1087.

### 3. March 1, 1988 Humboldt County Planning Commission

**recommendations** to the Board of Supervisors following four code enforcement hearings for a total of 16 hours attended by 4500 citizens, rejected the Planning Department code enforcement proposal for recriminalization of codes - excerpts:

- **Do not consider criminal penalties for owner-builders**
- **Do not consider the infraction process.**
- Ensure that new code requirements are not applied retroactively."
- Reconsider an **amnesty** for owner-builders."
- Reactivate the **Appeals** Board."
- Increase **cooperation** between county departments & the public."

### 4. 1988 Grand Jury Recommendations:

1). "The concept of code enforcement should be abandoned in favor of the concept of compliance with the permit requirement".

2). "The Board of Supervisors should **regularly appoint a citizen advisory** committee to serve as a **liaison** capacity between the department and the non-licensed builder community."

3). "The Board of Supervisors should adopt an **amnesty program** to more effectively accomplish the legitimate objectives... to develop credibility with the non-licensed community and provide a better opportunity to get a code compliance program accepted."

4). The Board should appoint an **ombudsman** to investigate complaints of unfair treatment by the department.

5. July 26, 1988 **General Plan Housing Element Committee** Report to the Board of Supervisors: Recommendation to complete the 1985 Housing Element programs to provide for a:

- a Health and Safety **Certification Program**,
- an **Appeals Board** for homeowners,
- an **Amnesty Program**.

Work on these projects was approved by the Board but never implemented.

6. **Times-Standard July 27, 1988** "County supervisors to hear from public on code compliance": "the most controversial provisions...to change... violations... **to infractions...**" "Nearly every speaker during the four commission hearings **opposed** the plan."

7. CEU 2004 - 2008, HCC §2131-4(a) **Administrative Penalties**: "The amount of the administrative penalty to be imposed by the Code Enforcement Unit which is responsible for issuing the administrative penalty order. Each day a violation continues or occurs constitute a separate violation. Administrative penalties may be imposed in any amount not less than one hundred dollars (\$100) nor more than ten thousand dollars (\$10,000) per violation." CEU decides how much.

COUNTY OF HUMBOLDT  
PUBLIC AGENDA ITEM TRANSMITTAL

TO: BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT  
FROM: Dan Taranto, Chairman, C.A.C.H.E.

CONTACT FOR INFORMATION

NAME: Dan Taranto  
ADDRESS: 890 Cloudswood Rd.  
Fieldbrook, CA 95521  
TELEPHONE: 839-4844

MEETING DATE:  
July 26, 1988

SUBJECT: C.A.C.H.E. report to the Board on the  
Housing Element and related county housing issues

TIME REQUIRED:  
45 minutes

PLEASE SUMMARIZE THE ISSUE THAT YOU WISH TO PRESENT TO THE BOARD:

The C.A.C.H.E. has completed its review of the 1985-1992 Housing Element; the Housing and Nutritional Assistance Initiative; Reports of the Grand Jury, the American Homeless Society, Redwood Legal Assistance; and documents and testimony concerning homelessness and code enforcement issues. We wish to present our report and recommendations on the Housing Element and relevant county housing issues to the Board.

EXPLANATION OF INFORMATION RELEVANT TO THE ISSUE WHICH YOU WISH TO PRESENT TO THE BOARD:

See attached.

ARE YOU REQUESTING THAT THE BOARD TAKE A SPECIFIC ACTION ON THE ISSUE WHICH YOU ARE PRESENTING? YES  NO  
IF YES, PLEASE SUMMARIZE YOUR REQUEST.

1. Direct the Planning Dept. to make the Housing Element corrections as recommended by the C.A.C.H.E.
2. Direct the Planning Dept. to incorporate the Housing Element amendments as recommended by the C.A.C.H.E. into the next General Plan amendment package to the Planning Commission.
3. Reassert opposition to the Housing and Nutritional Assistance Initiative as recommended by the C.A.C.H.E.
4. Adopt the "Builders Bill of Rights" as written by the 1987-1988 Grand Jury.
5. Adopt the C.A.C.H.E. Recommendations directing staff and the Housing Regulations Committee to complete the Certification, Appeals and Amnesty components of the compliance program as originally directed.
6. If the Board should choose to create a committee to investigate and make recommendations concerning housing code compliance, in the interest of continuity, it give consideration to including representatives of the Housing Regulations Committee.
7. Direct the Planning Dept. to publish the 1985-1992 Housing Element, to make at least 200 copies available to the general public, and to send a copy to every library in Humboldt County.

FOR OFFICIAL USE ONLY

Signature

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT  
Upon motion of Supervisor  
seconded by Supervisor  
and unanimously carried by those members  
present, the Board hereby approves the  
recommended action contained in this Board  
report. Board Order No.:

Dated:

ROBERT E. HENDRIX  
Clerk of the Board

by:

Deputy

# County supervisors to hear from public on code compliance

By Mark Rathjen  
Times-Standard staff writer

EUREKA — A sleeping giant stirred Tuesday.

The Board of Supervisors agreed to hold public hearings Sept. 12 on compliance with the county's planning and building codes — an issue that brought thousands of enraged county residents to 15 hours of public hearings before the Planning Commission in February and March.

The supervisors will hold two hearings that day — one at 1:30 p.m. and another at 7:30 p.m.

The board also gave its blessing Tuesday to general plan revisions by a citizens committee whose chairman was at the forefront of the code compliance uprising.

Planning and Building Department officials infuriated rural homeowners in January when they published a plan for overhauling the county's planning, building, health and safety code enforcement procedures.

The most controversial provisions of the plan were to make homeowners subject to citation if they violated the code while working on their own homes and to change many violations from misdemeanors to infractions to make them easier to prosecute.

Nearly every speaker at the four commission hearings opposed the plan. Most said the new procedures would allow building inspectors to search their homes without warrants and impose heavy fines and jail sentences for minor code violations.

In May, the board accepted the commission's recommendation that the plan be scrapped and that the board hold its own public hearings on code compliance.

At the May meeting, some supervisors suggested the hearings might focus on directions to be given to a citizens advisory committee which the board would appoint to study code compliance.

However, in a statement drafted Tuesday, the board said only that the purpose of the hearing would be to "gather public input about code compliance and related matters."

"This information will be used to aid in establishing goals and guidelines for the Planning and Building Department and the Health Department," the statement said.

The board also agreed Tuesday to publish a revision of the part of the

General Plan that deals with housing.

The revision was prepared in 1985 by the Citizens Advisory Committee on the Housing Element. After lying dormant for three years, the revised edition was typed by planning personnel earlier this year and then approved by the committee.

The document addresses several issues that have contributed to county residents' mistrust of the Planning and Building Department, committee Chairman Dan Taranto has said.

Those issues include communication between the department and the public, the county's owner-builder ordinance and proposed streamlining of the building permit process.

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# **1988 CODE ENFORCEMENT PROGRAM**

## **HISTORY REPEATS ITSELF**

Dan Taranto

### **RECOMMENDATION:**

The Board of Supervisors should revisit the 1988 Humboldt County Planning Commission recommendations regarding the Code Enforcement Program - the relevance is compelling.

Chaired by Dale Reinholtsen, the 1988 Planning Commission recommendations were formulated subsequent to presiding over 16 hours of hearings attended by 4500 citizens representing a very broad cross section of the Humboldt County citizenry.

### **FINDINGS:**

1. The 2008 and 1988 Code Enforcement Programs have similarities.
2. 1988 Board of Supervisors scheduled hearings for public comment prior to implementation of the 1988 proposed code enforcement program and public comment killed the program.
3. 1995-2004 Board of Supervisors implemented a code enforcement program without consideration for public comment.
4. 1988 Planning Commission unanimous recommendations (next page)
5. Selected 1988 related news clippings:
  - Feb. 5, 1988 Times-Standard "Angry crowd attacks county plan"
  - Mar. 2, 1988. The Union: "Wounded code enforcement limps to fourth, final hearing"
  - Mar. 2, 1988 Times-Standard. "Dump code enforcement, panel urges"
  - Mar. 4, 1988 The Union. "Commission rejects code proposal"
  - Mar. 3, 1988 Times-Standard. "Rural residents still mistrustful"
  - May 17, 1988 Times Standard. "Board kills code enforcement plan"
  - May 17, 1988 Times Standard. "Building officials must help citizens grand jury warns"

The 1988 Humboldt County Planning Commission recommendations share common concerns with those being considered by the 2008 Code Enforcement Task Force. The Planning Commission held four public hearings first at the Eureka High School Auditorium and subsequently at Redwood Acres Fairground on February 4, 16, 25 & March 1, 1988. There was an enormous public participation of 4500 people in 16 hours of testimony. The Commission rejected the enforcement plan as indicated by the following unanimously adopted recommendations for the Board of Supervisors.

HUMBOLDT COUNTY PLANNING COMMISSION

M I N U T E S

MARCH 1, 1988

COMMISSIONERS PRESENT: Judy Longshore  
Tom Odom  
Dale Reinholdtson  
Bob Kenwick  
Don Roberts  
Orinda Samuelson.  
Jim Sorensen

COMMISSIONERS EXCUSED: None

STAFF PRESENT: Larry Henderson, Current Planning

THE PUBLIC HEARING WAS CLOSED.

By a unanimous vote, the Planning Commission recommended to the Board of Supervisors as follows:

1. The Board should reject the proposed Code Enforcement Revision in its present form.
2. The Board should consider to either appoint or direct the Planning Commission to appoint a citizens' committee to review and reassess the code enforcement program and related matters, and should provide guidelines for the committee's membership in the event the board directs the Planning Commission to appoint such a committee.
3. The Board should adopt the following charges for the Citizens' Committee:
  - a. Independently assess whether the law governing code enforcement needs changing.
  - b. If not, assess whether any administrative changes should be made to eliminate commercial or flagrant code violations.
  - c. Focus only on commercial and flagrant violations.
  - d. Do not consider the infraction process.
  - e. Do not consider criminal penalties for owner-builders.
  - f. Consider whether only civil and not criminal penalties would be adequate for all builders.
  - g. Ensure that new code requirements are not applied retroactively.
  - h. Do not allow searches without warrants.
  - i. Reconsider an amnesty for owner-builders.
  - j. Reactivate the Building and Housing Appeals Board for people who have disagreements with the county departments.
  - k. Recommend ways of increasing cooperation between county departments and the public.
    1. Hold meetings in communities throughout the county.
4. The Board should direct that the Housing Plan be published.
5. The Board should hold hearings of their own on code enforcement.

# Angry crowd attacks county plan

## Residents object to building code change

By Mark Rathjen  
Times-Standard staff writer

EUREKA — Rural county residents jammed the Eureka High School auditorium Thursday evening to shout in protest against a plan they said threatens their way of life.

More than 1,000 people, some standing in the lobby and the aisles, came from as far as Garberville and Shelter Cove to attend the Planning Commission hearing on proposed changes to the county's building and planning code enforcement procedures.

With cries of "Steg Heij" and "communists," the crowd did its best to shout down county staffers and a handful of residents who defended the plan. The audience cheered and stomped its feet, however, for speakers denouncing the changes.

"This code enforcement program is ill-conceived and needs to be completely trashed," Dan Taranto told the commission.

"The entire spirit of this document is wrong. You should scrap it," Peter Childs said.

The proposed changes include allowing building officials to fine people who violate the code while



Times-Standard photo.

The Eureka High School Auditorium was filled to capacity with residents concerned over stricter code enforcement.

working on their own homes and to cite code violators the same way a traffic officer cites a speeder.

Planning and Building Department staff members said they are only trying to streamline existing cumbersome procedures that

allow people to flout the law.

But the majority of speakers at the hearing said the department already has all the power it needs to enforce significant violations and called the proposed changes a threat to individual rights.

"(The enforcement procedures) are supposed to be cumbersome so that they can't be misused," Childs said.

"Where real problems exist, they should have the power they need, but not one bit more," he

said. Although the proposal code would not change the Alternate Owner/Builder Code, which allows less-strict construction standards in some rural areas, many

See CODE, Back of Section

## Wounded code enforcement limps to fourth, final hearing

By Lisa Ladd  
Staff Writer

The Planning Commission was ready to call it quits last Thursday night, but the opposition to the county's proposed code enforcement program wanted one more hearing to condemn the plan.

Commission Chairman Dale Reinholtsen said the commission was in agreement to reject the plan and call for a citizen's committee for suggestions, but members of the audience who hadn't had a chance to speak at the three hearings held so far requested a fourth meeting. The fourth and presumably final hearing was held last night after presstime.

Opposition spokesperson Dan Taranto said he urged the commission for one more hearing because there was still testimony to be heard. Although it appeared Thursday night his side had won its fight, he said some persons had viable alternatives to the code proposal to offer.

"Even though (the commission) had heard enough, there are people still willing to participate in our democratic process, and that one person might have the best idea yet," he said. "More heads involved make for a better decision."

At the beginning of Thursday's hearing, held at Redwood Acres for the second time, planners Tom Conlon and Larry Henderson presented the commission with a series of options, working under the assumption the third hearing was to be the last. Their suggestions included:

— Extending the deadline for written comments on the revision report to March 14;

— Creation of a Planning Advisory Committee, made up of individuals who have "expressed interest" in the proposal;

— Directing staff to prepare a draft "Issues Identification" summarizing the concerns raised at the hearings.

Reinholtsen said Friday that the commission will probably accept at least one of those suggestions, that of creating an advisory committee. Such a committee would consider whether the present code enforcement system is indeed in need of revision, whether to eliminate owner/builders from penalties and eliminate right-of-entry provisions, and consider whether the county should set up an amnesty program for old violations.

That would be good news for the vast majority of people who have attended each of the Planning Commission hearings. Most of those testifying have been against the proposed system, which would create a citation/infracton code enforcement program and "recriminalize" owner/builders who don't obtain proper permits.

The public testimony at Thursday's meeting was not substantially different from testimony at the previous two hearings. Audience opinion was decidedly against the proposal, focusing again on rural lifestyles, constitutional rights and a history of bad relations with the county's Planning and Building Department.

"Didn't you know we would be furious with this apparent attack on our homes?" asked Bea Stanley, a

Southern Humboldt resident. "You should simply throw out this whole ill-thought out and ill-conceived program."

Turning to Planning Director Tom Conlon and planner Larry Henderson, she added that they, too, should recant the program "or gracefully resign."

"There's a lot of people out there who simply can't afford to do everything to code," said Robert Gellman, who also suggested the planners responsible for the proposal be fired from their jobs.

Breen Ilah didn't ask that staff be fired but rather that they needed "an education." Richard Cooper agreed.

"The Planning Department is out of touch with what's going on in the rural areas," he said, and he listed complaints of rural residents: being subject to "a paramilitary operation" (CAMP); an "unprecedented apple maggot program" complete with "carcinogenic chemicals"; the D.U.E. garbage fee; and proposed drilling off the North Coast. "This is why people are so upset. These are the kinds of things we've had to deal with.

"The bottom line is, you cannot mess with my family, you cannot mess with me, and you cannot mess with my home," he concluded, receiving a standing ovation from the crowd.

Cox Cable will air this third hearing on its cable access channel 10 this Thursday from noon to 3:30 p.m. The final hearing on the code enforcement proposal was scheduled for 7 p.m. last night at Redwood Acres.

# Times-Standard

WEDNESDAY, MARCH 2, 1988

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EUREKA, CALIFORNIA

## Dump code enforcement, panel urges

### Planning group recommends citizens evaluate compliance

By Mark Rathjen  
Times-Standard staff writer

EUREKA — County supervisors should reject a hotly debated plan to streamline the county's code enforcement procedures, the planning commission recommended Tuesday.

The commissioners, who have listened to 14 hours of often-angry testimony during four public hearings, also recommended that a citizens committee be appointed to see if code compliance can be improved.

"The whole thing should go back to ground zero," said Commissioner Don Roberts, who made the motion to reject the proposal.

The code enforcement changes, proposed by Planning and Building Department staff members in January, have outraged many rural residents who call them a threat to their homes and way of life.

Speaker after speaker at the four hearings said the plan would allow inspectors to search their homes without warrants and impose heavy fines and jail sentences for minor violations of the code.

While planning staff members said they were after commercial opera-

tions, not homeowners, opponents of the plan said a long history of alleged bad treatment made them distrust county officials.

At Thursday's hearing speakers were less angry than at previous hearings and more willing to make suggestions for improving relations between rural residents and county officials.

Several said the key is to respect the abilities and good intentions of homeowners and involve them in the code compliance process.

The commissioners recommended that supervisors either appoint or have the commission appoint a citizens committee to "reassess the whole issue of code enforcement and related matters."

The commission said the citizens committee should:

- Independently consider whether the law governing code enforcement needs changing.

- If not, consider whether any administrative changes should be made to eliminate commercial or flagrant code violations.

- Focus only on commercial and See CODE, Back of Section

for people who have complaints about their dealings with the Building Department.

- Recommend ways of increasing cooperation between county departments and the public.
- Hold meetings in communities throughout the county. If the board tells the commission to appoint the committee, the board should also give some guidelines on who should serve on the panel, the commissioners said.

The commission also recommended that the supervisors hold a public hearing of their own on code enforcement.

## CODE

Continued from Page 1

flagrant violations.

- Not consider criminal penalties for owner-builders.
- Consider whether only civil and not criminal action should be taken against commercial or flagrant violators.
- Ensure that new code requirements are not applied retroactively.
- Not allow searches of homes without warrants.
- Reconsider an amnesty for owner-builders.
- Reactivate the board of appeals

# The Union

Serving Northern Humboldt County, California

Friday, March 4, 1988

24 pages including Science Magazine

## Commission rejects code proposal

By Lisa Ladd  
Staff Writer

After more than 12 hours of public testimony spread out over four hearings, the Planning Commission recommended scrapping the county's proposed code enforcement changes Tuesday night.

The commissioners instead will urge the Board of Supervisors to appoint a citizen's advisory committee to look at current code enforcement and see what, if any, changes are needed.

At the end of Tuesday's meeting, Commissioner Don Roberts suggested "starting from ground zero" in tossing out the code proposal, which had recommended a change in county code enforcement from a misde-

meanor to a citation/infraction system of fines. Roberts' recommendations centered on appointing a citizen's committee to assess the code enforcement situation in Humboldt County.

The committee, he said, should either be appointed by the Board of Supervisors or by the Planning Commission with board guidelines. The list of recommendations for the proposed committee and other suggestions included:

— Assessing the current code enforcement procedures to see if anything needs to be changed. This, he recommended, should be done by the committee independent of the Planning Commission, Planning Department or Board of Supervisors;

— If any changes are deemed

necessary, these changes should be geared toward commercial and/or flagrant violations and not toward homeowners;

— The committee should consider whether criminal procedures are necessary for code enforcement, or whether civil penalties are adequate;

— The committee should look into excluding owner/builders from criminal enforcement if it deemed criminal enforcement necessary;

— Any code revision should focus on new violations and not be applied retroactively;

— There should be no searches of property without a warrant;

— The committee should consider an amnesty process for owner/builders;

— The committee should explore

"specific means" of implementing policies to ensure cooperation of the Planning Department with the community.

Roberts also recommended reactivating the Board of Appeals for persons who have complaints or difficulties adhering to the county code, and he declared the infraction process to be "inappropriate" for Humboldt County. Commissioner Jim Sorensen added that it was important that the community be involved in future decisions, preferably through county-wide meetings and discussions.

The hearing Tuesday night brought out the smallest crowd yet in the month-long series of meetings on

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## Code Continued from page 1

the code enforcement proposal, with approximately 150 persons in attendance. In comparison, nearly 1,000 residents showed up to the first hearing held Feb. 4 at Eureka High School's auditorium. As the numbers decreased with each meeting, so did the level of anger expressed at the commission, but Planning Director Tom Conlon and staff came under fire each night. Tuesday was no different.

Cynthia Tratna of Eureka said she was considering filing a lawsuit against the county and the Planning Department for violating sections of the Uniform Building Code and sanctioning the construction of un-

safe buildings. Her speech received a loud round of applause when she suggested Conlon and staff consider going to Hollywood and starring in a movie titled "Fatal Infraction."

Other testimony centered on the "punitive" nature of the code plan, a theme which had come up again and again in previous meetings. Darlene Garrett, who had experience working with the planners of Kansas City, Mo., said the difference between that city's enforcement and the Humboldt County plan was one of cooperation.

"You can't have a successful program unless residents are in-

involved," she said. "You do not go into a community and tell them what to do. You will meet with hardship and uncooperation at every doorway. You can plan on it."

She said any code enforcement program should be mainly interested in "maintaining quality housing stock" and in health and safety "rather than monetary gain and invasion of privacy."

"Your place is to work with the population, work with the needs they have, and not against them," she said. "This (plan) is not helping people to help themselves. It's blatantly punitive for being a property owner."

Both Garrett and Marty Ross made a series of suggestions to the Planning Commission, including more involvement of the citizens affected by the plan, simplification of the permit and building process and creation of an advisory committee. Apparently the commission listened.

The Board of Supervisors may also be listening to recommendations from citizens on code enforcement. The Planning Commission will suggest to the supervisors that they, too, hold at least one public hearing in their chambers before taking any action on the proposal.

# Rural residents still mistrustful Citizens committee likely to get code enforcement questions

Mark Rathjen

Times-Standard staff writer

EUREKA — Now that the proposed revision of the county's code enforcement procedure is apparently dead, friends and foes of the plan are beginning to look at where to go from here.

The month-long battle over the proposed changes apparently ended Tuesday night when the Planning Commission recommended that county supervisors reject the plan.

The commission responded to four nights of angry testimony from county residents who said the changes could cost them their homes.

The supervisors have not acted on the recommendation but are expected to agree with the commission.

As the dust settled from the fray, two questions remained.

- What should be done to deal with the building code violations that prompted the enforcement revision proposal?

- How can county officials overcome the resentment and mistrust of rural county residents that became so evident during the public hearings?

On the first question, both camps seem to accept the Planning Commission's suggestion that the issue be turned over to a citizens advisory committee.

Larry Henderson, the principal author of the proposed revisions, said county staffers may have made a mistake by waiting to hear from residents until after the draft code enforcement revisions were finished.

The citizens committee should begin its work by clearly defining the problems with code enforcement, Henderson said.

Peter Childs, a leading opponent of the revisions, agreed, adding that the committee should then compare those problems with all possible solutions to find those most appropriate.

At least a majority of members of the Board of Supervisors also have expressed support for the appointment of a citizens committee.

Although both sides may now agree in general on the proper path to code compliance, the road to peace between county building officials and rural residents still looks rough.

Henderson, a target of much criticism during

the recent hearings, said he still believes critics misunderstood the intent of the code enforcement revision proposal.

However, he also said he was excited by some of what he heard.

"There were a lot of good suggestions that came out of the hearings," he said.

"We need information and we need to get information out. The more public information (we receive) the better," Henderson said.

He said the main message he got from listening to the testimony at the hearings was that people are willing to obey the law, but they want government officials to make that easier — not harder — for them to do.

Childs, however, was skeptical.

"The real problem is an attitude on the part of (county) staff, of which this code enforcement proposal is simply the latest and worst example," he said.

"They're saying some things that seem pretty nice now, (but) we will judge them by their works," he said.

# Building officials must help citizens, grand jury warns

By Mark Rathjen  
Times-Standard staff writer

EUREKA — County planning and building officials need to act less like policemen and more like public servants, the county grand jury says in a report made public Monday.

In a 31-page investigation of the Planning and Building Department, the grand jury concludes that many county residents build without permits because they don't understand department rules or don't trust department employees.

Some of the illegal construction is probably unsafe, the report warns.

If people are going to obey the rules, the Planning and Building Department must change its image, the grand jury says.

"The department can choose between an image that would be perceived as 'we are here to enforce 13,000 pages of law' or an image that would be perceived as 'we are here to help you find the least burdensome ways to do what you want to do and still (comply with the law),' " the report says.

The panel's report comes in the wake of public outrage over a department plan to strengthen county code enforcement.

That plan would have would have made it easier for county officials to prosecute building code violators.

During 15 hours of public hearings on the plan, witnesses accused department officials of making it difficult if not impossible for them to obey the county's rules.

According to the grand jury, the hearings "brought into focus the long-standing and deeply rooted inability of the department to establish a working relationship with the non-licensed builders."

The non-licensed builder "sees himself as deprived of access to departmental assistance by fear of unmanageable demands upon his project and upon his financial resource," the report says. "He sees the department as punitively oriented."

The grand jury recommends several steps to improve relations between the Building Department and non-licensed builders.

• The Board of Supervisors should hire a "compliance assistance specialist" to help the department encourage voluntary

compliance with the building code.

• The board should appoint a citizens advisory committee to serve as a liaison between the department and non-licensed builders, the report says.

The committee and the compliance assistance specialist would meet at least once a month with department personnel.

• The board should also appoint an ombudsman to investigate complaints of unfair treatment by the department.

• The board should establish an amnesty program to encourage people have dangerous code violations identified and corrected.

During the one-year amnesty, the department would perform free safety inspections and issue compliance certificates after repairs were made.

• Finally, the board should adopt a builder's bill of rights specifying how builders are to be treated by the Building Department.

A suggested builder's bill of rights is included in the report.

Provisions include the right to prompt and courteous service, clear and complete information and the right to build in any way that meets minimum legal standards.

## Board kills code enforcement plan

### August hearings scheduled on building issue

By Mark Rathjen  
Times-Standard staff writer

EUREKA — Rural homeowners outraged by recent attempts to beef up county building code enforcement will get a chance to tell county lawmakers how they feel this summer.

However, in voting Monday to hold public hearings on code compliance, members of the Board of Supervisors emphasized they don't want to dwell on the past.

A controversial staff plan to revise code enforcement is dead, board members agreed.

"We're going back to ground zero, starting from scratch," Supervisor Ervin Renner said. The board will hold two hearings Aug. 22, one in the afternoon and one in the evening. Specific times were not set.

The hearings will probably focus on what instructions to give a citizens advisory committee the board is expected to appoint to study the code enforcement issue.

The board made its decision to hold the hearings during a joint study session with the county Planning Commission. That meeting was held to

discuss the commission's recommendations on a code enforcement revision report published by the Planning and Building Department in January.

The plan would have overhauled county planning, building, health and safety code enforcement procedures.

Among other provisions, the controversial plan would have changed many code violations from misdemeanors to infractions to make them easier to prosecute.

The plan also recommended making homeowners subject to citation if they violated the code while working on their homes.

The commission held four public hearings on the proposal during February and March, drawing overflow crowds to local auditoriums.

Nearly every speaker at the hearings opposed the plan, which they said would allow building inspectors to search their homes without warrants and impose heavy fines and jail sentences for minor violations of the code.

Following the hearings, the commission recommended that the plan be scrapped.

• Grand jury report critical of county building officials, Page 3.

The board did not vote on the commission's recommendation at Monday's meeting, but each board member had previously endorsed it.

Several board and commission members at Monday's meeting repeated that the staff plan had gone too far. County officials should try to encourage code compliance through education and use penalties as a last resort, they said.

Renner and Commissioner Judy Longshore, however, argued that county codes exist to protect the public and must be enforced.

Peter Childs, a vocal opponent of the staff enforcement plan, responded that codes should be enforced where they protect public health and safety.

However, most code violations are simply non-conforming and don't hurt anyone, he said.

Several county department heads also testified during the meeting.

In their reports, District Attorney Terry Farmer and Environmental Health Director Jeff Arnold agreed that Farmer's office needs more personnel to handle code violation cases.

# COUNTY NONCOMPLIANCE

Dan Taranto

## RECOMMENDATION:

**1. It would be helpful if the County would set a good example for citizens to follow by bringing its own house more thoroughly into compliance with a number of policies and codes.**

## FINDINGS:

**1. Finding.** Promulgation of Board Policy as set forth in the Board Oct. 18, 1994 adopted "Statement of Responsibilities" which gave birth to the CEU was missing from the CEU Manual and the 2008 CEU appears to be somewhat remiss in the performance of those Responsibilities.

**2. Finding.** The 2006 Grand Jury Report together with public testimony have articulated palpable observations that the County has somehow historically become inadvertently incognizant of being somewhat accumulatively not in compliance with Government Code 66499.36 ever since 1974.

**3. Finding.** Hearing testimony and individual CETF member report findings point to a substantive number of the adopted County General Plan Housing Element policies, designed to help resolve compliance problems with low to moderate income housing, do not appear to have been implemented as recently represented to the Board of Supervisors and the California Department of Housing and Community Development.

**4. Finding.** The Humboldt County Home Owner Decriminalization Ordinance 1087, which decriminalized codes for all home owners throughout the unincorporated area of the County appears to have somehow been forgotten. Ordinance 1087 was never superseded and has been applicable to all county homeowners for the past 32 years. County CEU staff incognizance of or blatant disregard for this County Code suggests the County may have some potentially serious problems with institutional memory loss. Higher authorities often assert that to forget history dooms one to repeating the same mistakes over and over.

**5. Finding.** Code of Government § 1222. Willful omission to perform duty. Every willful omission to perform any duty enjoined by law upon any public officer or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor.

# OMNIBUS CLEAN SLATE HOME SAFETY ACT

Dan Taranto

## FINDING:

Variously the County has accumulated a horrendously huge unmanageable backlog of noncompliance situations. Staff are unable to reverse the ever increasing backlog. History shows that the periodic tendency toward punitive coercion only serves to exacerbate community distrust and avoidance of county agencies. The "gargantuan backlog" is undermining any County efforts to reestablish trust, credibility and genuine respect from the public. The Board has the authority to adopt a reasonable Clean Slate Home Safety Program.

## RECOMMENDATIONS:

1. The Humboldt Omnibus Clean Slate Home Safety Amnesty Trust Reform Act concept is directed toward assertive seminal actions to eliminate the enormous bureaucratic backlog of irregularities; Reestablish community respect for reasonable criteria of health and safety; Reverse increasing avoidance and distrust of county agencies; and, place emphasis upon correction of actual immediate real time public health and safety situations.
2. This could be accomplished by the fair exercising of all existing county options including abrogation, nullification, decriminalization, amnesty, grandfathering, certification, correction, dismissal, resolution, initiative or statute of limitation in whatever combination will totally eliminate the backlog not later than December 31, 2010. Either the red tags are valid public health and safety issues that need enforcement, or they are not.
3. The use of economic duress should be suspended as not appropriate nor in the best long-term interest of the County to pursue voluntary public code compliance with threats of inordinately large fees and exaction's or ordeals.
4. The Planning Department, Assessor and Recorder shall immediately formulate and execute an equitable, prioritized plan to close out the entire backlog of 2000 neglected or unreasonably delayed real or suspect subdivision violations throughout the County.
5. The County immediately develop an ombudsman appeal process concerning all code enforcement violations to enhance the ability of residents to have all their cases resolved in a friendly and timely manner with a guarantee that they are provided due process options, including unbiased hearing officers and decision makers.
6. The County institute a mediation peocess for citizens complaining of code enforcement abuse or abuses that utilizes mediators not under the control or influence of the County staff and who files his or her reports through the Board of Supervisors for appropriate action by the CAO.
7. The County institute a periodic sensitivity training program for all code enforcement personnel as well as other staff who interface with the citizenry.

# Code Enforcement Unit Task Force

Findings and recommendations  
Jack R. Bernstein (at large member)

## INTRODUCTION:

The Code Enforcement Unit Task Force (hereafter referred to as CEUTF) has heard from only a small number of public citizens, land use rights advocates, and staff members. Therefore, all findings reflect a narrow perspective of the actual scope of duties, history and activities of the Code Enforcement Unit. Anyone reading these or other findings should take into consideration the limited amount of information, experiences and oral arguments made before the (CEUTF).

These Findings and recommendations will focus on only the issues surrounding the CEUTF's original objectives. 1) Examination of the CEU manual, 2) examine the policies and activities that led up to inspection warrants served in Southern Humboldt and Yee-Haw.

## Findings and Recommendations:

1. The Code Enforcement Unit manual has come under considerable scrutiny for being unorganized, outdated and contradictory. Having myself spent two plus years working for the CEU I agree the manual is lacking to both employees and outside parties. At the time of the warrants in question the manual had enough deficiencies that could have potentially contributed to CEU Investigators and staff working outside their charted duties.

**Recommendation:** The Code Enforcement Unit manual must be redone by an outside entity that has expertise in creating similar documents. Upon creation CEU members should receive training on an ongoing basis in high risk low occurrence policies such as use of force and arrest tactics. This training will be documented and records available upon subpoena. Portions of the manual that are deemed appropriate should be available to the public.

## Code Enforcement Unit Task Force

Findings and recommendations

Jack R. Bernstein (at large member)

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2. The Code Enforcement Unit executed several no-notice inspections warrants in the Southern Humboldt region causing considerable public outcry. In addition a raid in the Yee-Haw parcel owned and operated by Mr. Charles Garth shocked the conscience of many citizens. These events called into question the priorities of the Code Enforcement Unit. Many have suggested the above activities were not within the scope of the duties of the CEU and were heavy handed actions.

**Recommendations:** The Code Enforcement Unit must have a clear set of priorities that regulate their case loads and enforcement actions. Since it is often difficult to agree on what should be classified as dangerous to the public or hazardous I suggest the CEU use the Statement of Responsibilities as their guide.

***1) Severity of impact on the public and/or the negative effect on the environment, and 2) number of verified complaints.***

**Note:** As long as Code Enforcement Investigators enter into the rural and urban landscape they will encounter criminal activity. We should never eliminate their ability to squash criminal activity when encountered during their normal investigative duties.

## Code Enforcement Unit Task Force

Findings and recommendations

Jack R. Bernstein (at large member)

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3. The Statement of Responsibilities require the CEU to receive complaints only from the public. It is clear that this is not the current practice that does not take cases from the public. The CEU caseloads originate at the department level, self initiated cases and/or directly from the Board of Supervisors.

**Recommendations:** The current practice is far more practical due to sheer volume of reports that come from the public. In addition, requiring an internal compliance effort by the various departments will remedy many of the violations. Further ensuring the CEU will only receive cases of violations that have been verified and an extensive effort has been made to gain compliance.

Self initiating complaints must be reserved for only the most serious violations observed by the Investigators in the field. This deviation from the Statement of Responsibility seems to have freed up the Investigators and staff to work on the actual violations. It must be clear that this new practice is approved by the Board of Supervisors.

**Note:** Many of the complaints generated by citizens having neighborhood concerns will include issues revolving around controlled substances and criminal activity. As a matter of practicality the CEU Investigators will routinely cooperate with and communicate information to outside law enforcement officers. This should not be looked at as anything other than routine.

## Code Enforcement Unit Task Force

Findings and recommendations

Jack R. Bernstein (at large member)

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4. The Code Enforcement Unit Investigators do not have Law Enforcement Supervision and the hybrid nature of the Unit at times is confusing. This confusion poses a serious liability exposure to the County.

**Recommendation:** The Board of Supervisors, District Attorney, County Counsel and the Sheriff must come together and decide what the best home is for the Code Enforcement Unit. It was clear to this member that District Attorney Paul Gallegos was willing to take over the unit. Perhaps that is not as simple as it seems however an agreeable solution must be created.

**Note:** All Law Enforcement Agencies/units must have an established Chain of Command who is accountable for the actions of its members. Lack of supervision has been accountable for most of the abuses of police power in recent history. It is in the best interest of the County to establish a mechanism for supervising the daily activities of the Code Enforcement Unit.

### **Conclusion:**

Since the creation of the CEUTF the County of Humboldt and staff have made some positive steps toward fixing the issues of original concern. We have seen staff changes, a resolution of the Yee-Haw suit, and increased attendance at the oversight committee meetings.

# Draft Findings, Recommendations, and Action Items for Code Enforcement Unit Improvement

## Robert Vogt

### General Questions

#### 1. Grand Jury Report (#2006-PW-02), Finding 1, Recommendation 1

Grand Jury urges B.O.S. to assist, approve, expedite the recommendations of the Permit Reform Committee (PRC) and closely monitor the effectiveness of reforms implemented.

*Question:* What is the status of the PRC? Is it working? Are there meetings of the PRC and if so what types of items are addressed?

*Improvement Suggestion:* Improve permit process turn around time through suggestions from the PRC. Potentially look at automated approach to assigning permits for those that do not require focused work from staff members.

#### 2. Grand Jury Report (#2006-PW-02), Finding 2, Recommendation 2

“Suspect” legality of parcels in County, CDS must proactively manage these parcels by contacting landowners. Permits not issued until Determination of Status made or Certificate of Compliance issued if necessary.

CDS Response: “...will work with the Assessor to establish the appropriate notification”

*Question:* What is the status of the appropriate notification work with the Assessor? Who is monitoring the notification process with the Assessor? How many “illegal” parcels described in the Grand Jury or DOC audit have been noticed?

*Improvement Suggestion:* When rural land (possibly defined by a combination of location, acreage, and whether it is serviced by a municipality or similar) is sold in the County there needs to be paperwork notifying the new landowner of development, and corresponding permitting requirements of the parcel, as well as environmental compliance with State regulations and County codes. Also, though

I would have assumed this already occurs but apparently not, the Title needs to disclose if the parcel has been considered "illegal" under the purview of the CDS Department.

3. Grand Jury Report (Final Report 2005-2006) information from 6/6/08 meeting, pg. 28

"Whenever a local agency has knowledge that real property has been divided in violation of California Code or local ordinances, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation..."

CDS does not comply with this code because parcels are considered "suspect" not illegal.

*Question:* Are any certified mail notices being sent? If so how many and what determines which ones are sent? Why is there apparently no coordination with the Assessor's office when new parcels get assigned?

*Improvement Suggestion:* This is a critical step in the process between assigning assessor parcel numbers (APN), taxing those parcels, and the lack of knowing which ones are "suspect" or not "suspect" until after the process has been completed and submitted to the CDS. This has to happen prior to assigning an APN. Also, need to deal with the current amount noted as "suspect" so that a true new starting point can be established, the problem is not going away and doing nothing proactively about it is only compounding the situation.

4. Grand Jury Report (Final Report 2005-2006) information from 6/6/08 meeting, pg. 29

Finding 2, Recommendation 2.

The Grand Jury strongly recommends that CDS begin sending form letters to the taxpayers of all newly assigned APN's that are not recognized on an approved subdivision map.

*Question:* What is the status of this recommendation? Has the CDS started to proactively manage these "suspect" parcels? What type of assistance is being offered to bring these parcels into compliance?

5. Department of Conservation Williamson Act Audit July 2005

Finding 1., pg. 2 of 11, Recommendations B.

28 cases of the contract not being valid, the County should resolve all 28 cases and keep the Department informed of all progress.

*Question:* Has the County resolved these cases from prior to July 2005? How many have been resolved, what is current number still listed as not valid?

#### 6. Inspections & Warrants Handout from May 23, 2008 Meeting

“The Code Enforcement Unit (CEU) is responsible for enforcing public nuisance statutes or ordinances which have been enacted by state and local legislative bodies. ....”

*Question:* Is there an overriding Policy Statement or Goals for the CEU? Are “other means of investigation defined in the Code Enforcement Manual (CEM)?

*Improvement Suggestion:* The CEM needs to be updated, it is poorly organized and is not currently serving as an efficient field or office tool.

#### Findings:

1. The CEU is a useful tool for the County Departments to use for abatement of issues not otherwise successful through individual Department processes or procedures.
2. The CEU has had a limited amount of oversight/supervision in the last few years and has made some changes that have gone largely undetected by management and administration.
3. “Suspect” and/or “illegal” parcels are further exacerbating the problem with compliance determinations within the CDS Department.
4. The Assessors Office and the CDS Department do not coordinate amongst themselves in determining if parcels are legal or not prior to the Assessor assigning APN’s for them.
5. The deputizing of the CEO’s can only be accomplished by the DA or the Sheriff.
6. CEO’s are placed in stressful situations periodically when they go out in the field to perform an investigation or serve a warrant, after other regulatory remedies have been exhausted.
7. The Statement of Responsibilities needs to be updated for the CEU, it does not reflect current activities. Also, the name needs to be updated from the Community Assistance Unit.

8. The rural community at large maintains some level of responsibility for the current enforcement situation by turning a "blind eye" to the questionable nature of some landowner's business practices. Illegal subdivisions, housing, roads, water systems, domestic waste disposal systems, etc. have direct and often immediate harmful impacts to the environment. When these activities go unreported the impacts can grow quickly and once they get to the County can be large cases requiring many Departments to respond.
9. County Departments sometimes send cases to the CEU prior to exhausting all the avenues available to them in their respective Departments
10. After review of history of the Community Assistance Unit (CAU) which is the beginnings of the present day CEU, and review of the newspaper articles pertaining to the same, it is apparent that the reason for the current organizational structure is that early on when the CAU was solely based out of the DA's office it was considered low priority due to budget constraints and case loads involving homicide, and burglary. Going after junk cars, illegal buildings, and sanitation problems did not get the attention they rightly needed. The articles referenced can be found in the current version of the Code Enforcement Manual at the end of Section One titled "Newspaper Articles". They are: Times Standard article from 3/16/? titled "Humboldt Readies nuisance -control team, Times Standard article (no date) titled "Face to Face Rick Grimm", and Times Standard article 10/25/96 titled "Face to Face Richard Hendry".

### Recommendations:

1. The Board of Supervisors (BOS) should continue to support and have oversight for the CEU. This must be managed through increased participation on the Oversight Committee, and the Oversight Committee needs to become an action committee that is continually proposing improvements to the CEU's investigation and inspection process.
2. The Code Enforcement Manual needs to be updated and or changed to reflect the current operational parameters in which it functions. Further the document needs to be edited so it is more useable and can be used by officers and others involved in serving warrants.
3. Improved organization of the officers involved with serving warrants needs to take place and the Operational Plan needs to be reviewed with all parties involved in the serving of the warrant.

4. CDS Department needs to address the status of the "illegal" versus "suspect" parcels in the County. They also need to be proactive in the management of these parcels sending out notices to get back to a baseline condition so the County can get into compliance with the Williamson Act but also to address the situation of landowners currently out of compliance. Can not continue to ignore the estimated 2,000 parcels that are "illegal".
5. Coordination has to take place between the CDS Department and the County Assessor's office to determine legal versus illegal parcels prior to assigning APN's
6. Oversight Committee needs to start functioning as an objective quality control committee to improve the CEU operations. Attendance should be required for a certain number of meetings for all members; also those members whose issues fall under their jurisdiction must be present.
7. Follow-up with additional public outreach campaign with title companies, real estate companies, assessor office, and CDS Department for understanding issues relating to selling and developing rural properties.
8. County Departments must exhaust their internal processes and maintain more connection with the rural community through various outreach projects. Suggestions would include pamphlets for each Department that can be handed out at community events. Also, these should be handed out at time of all property transactions, coordinated through real estate and Title companies. Fairs, farmer's markets, neighborhood watch meetings, County Grange Associations, Homeowners Associations, etc. can all be used to get the "compliance message" out to the rural communities.
9. Maintain the CEU under the current organizational structure with improvements to oversight, internal management, and continual process improvement work. Placing the CEU under the DA's office will rebound back to the situation that existed in the early 90's when priority was not given appropriately to human health, safety, and environmental issues, when cases involving homicide and burglary exist.

### Action Items

1. Recommend other committees be formed to deal with updating items such as the County regulations dealing with greywater systems, coordination with Child Welfare Services when warrants served on families, etc. Those items that are necessary for review but outside the scope of work for the Code Enforcement Task Force.

- i. I made this suggestion at the July 18, 2008 meeting but there was no action, motion, or appointments or apparent interest on this issue. I feel that this is the only way to complete our task as outlined by the BOS with the given time frame. The idea in question was to have a committee formed to review all the particulars of the Yee Haw and other pending cases and then have the committee report back to the CETF.

2. Review of Code Enforcement Manual

- i. We have made no headway at our meetings dealing with this aspect of our assigned tasks to date. Recommendation is to have an outside entity perform a thorough review of the Code Enforcement Manual.

**PART FIVE**  
**CETF Subcommittee**

**LAND USE CONFUSION CLARIFICATION**

Robert Vogt, Bonnie Blackberry, Dan Taranto

**FINDINGS:**

**1. Finding:** There is a reasonable public misperception that if one is receiving a tax bill from the County Tax Collector for a property which one presumes to have purchased, that the fact of being taxed for the subject parcel is defacto evidence of official government recognition of the legitimacy of that ownership.

**2. Finding:** There is a reasonable public misperception that if a Title Company insures the chain of title and that a transfer of property has been legally recorded by the County Recorder is defacto evidence that the transaction is in legal conformance.

**3. Finding:** Grand Jury Report (#2006-PW-02), Finding 1, Recommendation 1  
Grand Jury urges B.O.S. to assist, approve, expedite the recommendations of the Permit Reform Committee (PRC) and closely monitor the effectiveness of reforms implemented.

**4. Finding:** Grand Jury Report (#2006-PW-02), Finding 2, Recommendation 2  
"Suspect" legality of parcels in County, CDS must proactively manage these parcels by contacting landowners. Permits not issued until Determination of Status made or Certificate of Compliance issued if necessary.

CDS Response: "...will work with the Assessor to establish the appropriate notification"

**5. Finding;** Grand Jury Report (Final Report 2005-2006) information from 6/6/08 meeting, pg. 28: "Whenever a local agency has knowledge that real property has been divided in violation of California Code or local ordinances, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation..."(GC 66499.36)

CDS does not comply with this code because parcels are considered "suspect" not illegal.

**6. Finding:** Grand Jury Report (Final Report 2005-2006) information from 6/ 6/ 08 meeting, pg. 29 Finding 2, Recommendation 2.] The Grand Jury strongly recommends that CDS begin sending form letters to the taxpayers of all newly assigned APN's that are not recognized on an approved subdivision map.

**7. Finding:** Department of Conservation Williamson Act Audit July 2005 Finding 1., pg. 2 of 11, Recommendations B. 28 cases of the contract not being valid, the County should resolve all 28 cases and keep the Department informed of all progress.

**8. Finding:** The 2005-06 Grand Jury Report states that "Community Development Services does not comply with this code [Ca. Gov. Code 66499.36] because the parcels in question are considered "suspect" but not necessarily illegal." ... "CDS officials admit this is a big problem." ... "The county does not notify owners of "suspect" properties that they have a problem, because CDS officials claim the man-hours necessary to accomplish this feat are not included in the budget."... "Additionally, the responses to such notice would obviously cause an overwhelming increase in work load for the existing CDS staff."

**9. Finding:** The 2005-06 Grand Jury Report states: "Although no one has actually counted the number of "suspect" parcels in the county, an official estimated it is at least 2,000. This number continues to increase whenever the County Assessor assigns an Assessor's Parcel Number (APN) to a newly recorded piece of property when entering it onto the tax roll. This information is passed on to CDS, who then notes the new parcel in the appropriate map book and shades it as "suspect" if it doesn't correspond to an existing approved subdivision map." *(note: The CETF interprets that the grand jury intended to say that newly recorded parcels may increase the number not in legal conformance)*

**10. Finding:** The 2005-06 Grand Jury found that: "Many parcels of land in Humboldt county are of "suspect" legality under the CA Subdivision Map Act. CDS does not proactively attempt to rectify this problem by contacting the owners of these "suspect" properties.

**11. Finding:** Many "suspect parcels" have been in existence for decades, and have been bought and sold many times.

**12. Finding:** Enforcement without GC§ 66499.36 notice causes unnecessary hardship for the uninformed owner's of "suspect" parcels.

**13. Finding:** There appears to be no statute of limitations on how long a "suspect" parcel can go unnoticed by the county before enforcement is promulgated as a consequence to the county's failure to comply with its duty under GC § 66499.36 to provide notice.

**14. Finding:** The County is complicit in the exacerbation of this problem by dodging its responsibility to provide notice to consumers of illegal parcels.

**15. Finding:** The County Assessor's Office is complicit in the exacerbation of this problem by assigning APN numbers to illegal or "suspect" parcels.

**16. Finding:** The County is complicit in the exacerbation of this problem by assigning and collecting taxes on illegal or "suspect" parcels.

**17. Finding:** Unwitting owner's of "suspect" properties are subject to punitive enforcement abatement actions of the CEU in lieu of fair treatment to be notified at the time of transaction that there may be a technical problem with the parcel.

**18. Finding:** The County Recorder, County Assessor, and County Planning do not appear to coordinate sufficiently to avoid the unwitting transfer of properties that may be in violation of the Map Act, Williamson Act, and other Zoning restrictions which conflict with the new owner's reasonable expectation to be able to use the property for the purpose for which it was represented at the time of purchase.

**19,** Private professional portfolios involved in property, sales such as Title Companies, Realtors and Financial Institutions, may have an important role to play in helping to resolve this growing problems with "illegal" or "suspect" parcels.

**20. Finding:** The County is attempting to correct the problems consequent to the above mentioned findings through a code enforcing mechanism that threatens punishment by a system which has failed to provide the notice required by Govt. Code 66499.36.

### **RECOMMENDATIONS:**

#### **Action Items**

Recommend other committees be formed to deal with updating items such as the County regulations dealing with greywater systems, coordination with Child Welfare Services when warrants served on families, etc. Those items that are necessary for review but outside the scope of work for the Code Enforcement Task Force.

**ONE:** The BoS should appoint a blue ribbon committee made up of a broad base of licensed professionals and officials with relevant portfolio to meet identify, evaluate, and make findings and recommendations directed toward the most practical solution of the many problems revealed by the findings stated above.

**A broad based blue ribbon committee** should include, but not be limited to, the following professional, community, and governmental interests: Real Estate Industry; Title Companies; Banking Industry; Appraisal Industry; Insurance Industry; Farming; Ranching; Forestry Interests; "Suspect" parcel owners; Property Rights Organization; Civil Liberties Organization; Representative of County Departments of Planning, Recorder, Assessor.

**TWO:** CDS Department needs to address the status of the "illegal" versus "suspect" parcels in the County. They also need to be proactive in the management of these parcels sending out notices to get back to a baseline condition so the County can get into compliance with the Williamson Act and Subdivision Map Act but also to address the situation of landowners currently out of compliance. Can not continue to ignore the estimated 2,000 parcels that are "illegal".

**THREE:** Coordination has to take place between the CDS Department and the County Assessor's office to determine legal versus illegal parcels prior to assigning APN's

**FOUR:** Follow-up with additional public outreach campaign with title companies, real estate companies, assessor office, and CDS Department for understanding issues relating to selling and developing rural properties.

**FIVE:** County Departments must exhaust their internal processes and maintain more connection with the rural community through various outreach projects. Suggestions would include pamphlets for each Department that can be handed out at community events. Also, these should be handed out at time of all property transactions, coordinated through real estate and Title companies. Fairs, farmer's markets, neighborhood watch meetings, County Grange Associations, Homeowners Associations, etc. can all be used to get the "compliance message" out to the rural communities.

**SIX:** When rural land (possibly defined by a combination of location, acreage, and whether it is serviced by a municipality or similar) is sold in the County there needs to be paperwork notifying the new landowner of development, and corresponding permitting requirements of the parcel, as well as environmental compliance with State regulations and County codes. Also, though it would be assumed this already occurs but apparently not, the Title needs to disclose if the parcel has been considered "illegal", "suspect" or "shaded" under the purview of the CDS Department.

**SEVEN:** GC§66499.36 notification is a critical step in the process between assigning assessor parcel numbers (APN), and taxing those parcels. The lack of knowing which parcels are "suspect" or not "suspect" until after the process has been completed and submitted to the CDS is an ongoing problem. Notification needs to happen prior to assigning an APN. Also, there is a need to deal with the current parcels noted as "suspect" so that a true new starting point can be established, this problem is not going away and doing nothing proactively about it is only compounding the situation.

**ENVIRONMENTAL HEALTH ALTERNATIVE**  
**SANITATION SYSTEMS**  
**ORDINANCE & POLICY IMPLEMENTATION**

**CETF Subcommittee**

Robert Vogt, Bonnie Blackberry, Dan Taranto

**FINDINGS:**

**Finding:** Humboldt County General Plan Housing Element Policy: 5.5. The County shall support the use of innovative construction and design methods that make more efficient use of land and building materials **including water conserving waste disposal systems**, energy systems, dwelling designs, and uses of recycled materials for building. This policy has been a part of the Humboldt County General Plan since 1984.

**Finding:** Testimony, including expert testimony, has indicated that many alternative systems are routinely approved in other counties.

**Finding:** A statement made by the Environmental Health Director before the CETF that the Experimental Disposal System Program (EDSP), adopted by the Board of Supervisors in 1984, has had no applicants.

**Finding:** Testimony before the CETF indicates that the Environmental Health Department may be inadvertently discouraging participation in the Humboldt County EDSP program designed to encourage voluntary use of water conserving and waterless alternative disposal systems.

**Finding:** The EDSP program was developed as an implementation of the Humboldt County General Plan Housing Element in 1984 "to **support the use of innovative water conserving waste disposal systems**" and was historically designed to resolve the alternative disposal system users past code compliance disputes. Inexplicably this program has not been promulgated as legislatively intended resulting in regulatory constraints having a chilling effect on permitting of alternative onsite sanitation systems.

**RECOMMENDATION:**

Appoint a Blue Ribbon Citizens Workgroup to work cooperatively with Environmental Health Department to examine the EDSP Program adopted in 1984, determine its current status and areas in need of revision, report findings and recommendations to the Board of Supervisors on how to make the program more user friendly and more open to public participation. the workgroup should have representation of interested and knowledgeable citizens with special alternative system expertise together with environmental health officials.

## PART SIX

### CATALOGUE OF DOCUMENTS dt

This section is a catalogue of all reference documents received and reviewed by the CETF membership and on file with the Clerk to the Board of Supervisors.

#### CATALOGUE OF DOCUMENTARY REFERENCE MATERIALS -

1. Board order authorizing the establishment of the CETF. 4-8-08.
2. Board subsequent "clarification" of moratorium on warrants. 4-15-08
3. Board appointments to the CETF. 4-22-08
4. Transcript of April 4, 2008 Public Hearing in Garberville with Supervisor Roger Rodoni, Sheriff Gary Philp, District Attorney Paul Gallegos, CEU Investigator Jeff Conner, and approximately 600 citizens from the general public. 32 pages
5. Humboldt Access video DVD of the April 8, 2008 Humboldt County Board of Supervisors Public Hearing at which the Board declared a moratorium on code Enforcement and approved proposal to appoint a 9 member CETF to investigate "the matters brought before them that day" 3 DVD set
6. Transcript of April 8, 2008 Humboldt County Board of Supervisors Code Enforcement Hearing, Part One, first 27 pages and Part Two, 34 pages.= 61 pages
7. Copy of the CEU Manual. 488 pages
8. Humboldt County District Attorney's Office Use of Force policy to be added to the end of chapter 8 of the CEU Manual.
9. Wood Ranch Warrants Time-Lines, as submitted by the CEU.
10. CEU Complaints from 1998-2007 - 12 pie charts as submitted by the CEU.
11. CEU Inspection during the past 5 years - 2 pie charts as submitted by the CEU.
12. CEU Inspection Warrants by District - 2 pie charts as submitted by the CEU.
13. CEU Organizational Chart and Its Relationship with County Departments and Other Agencies, as submitted by the CEU.
14. CEU Organizational Chart, as submitted by the CEU.
15. CACEO - Code Enforcement Professional survey, as submitted by the CEU. 134

16. Department of Conservation Audit Report dated July 1, 2005.
17. Humboldt County response to the DOC audit report as prepared by the Department of Community Development Services and the Humboldt County Assessor dated August 26, 2005.
18. Humboldt County Grand Jury Report #2006-PW-02  
"Department of Community Development Services (CDS) Planning Division"
19. Response to the Humboldt County 2005-06 grand Jury Final Report from Community Development Services of Humboldt County, dated August 8, 2006.
20. Yee Haw Warrants & Complaint: Public Nuisance & Unlawful Business Practices 2007.
21. Letter to Hum. Co. B o S regarding Yee Haw, from CETF member Liz Davidson, dated July 21, 2008
22. "Annual Progress Report on Implementation of the Humboldt County Housing Element General Plan report requirement pursuant to Section 65400 of the Government Code" dated 1/1/2006 to 12/31/06. Submitted during public testimony 7/25/08
23. Humboldt Land Title Company letter dated July 25, 2008 from Vice President Debbie Provolt regarding Government Code Section 66499.36
24. Letter From Charles Ciancio, RPF #317 dated 7/25/08
25. 1/24/ 1995 1/24/1995 Item D-7 BoS Reallocation of 1.0 FTE Deputy County Counsel, class 600, and 1.0 FTE Investigator (D.A.) class 412, from department 103 County Administrative Office to Department 121, County Counsel.
26. The Brown Act, Open Meetings for Local Legislative Bodies, 2003.
27. Letter and attachments dated 7/31/08 to CETF from Elena S. Susmilch - 13 pages.
28. Sample "NOTICE OF SUBDIVISION MAP ACT VIOLATION" - 8 pages from Ms Provolt, VP Humboldt Land Title Co. submitted on Aug. 1, 2008.
29. 3 Photographs of the tons of Eel River garbage problem as presented by John Casali in behalf of "WWW.EelRiverCleanUp.Org" submitted on Aug. 1, 2008.
30. Ombudsman information packet assembled by Liz Davidson including 1974 and 1988 Humboldt County Grand Jury Report excerpts, Builders Bill of Right, original CAO discussion of CAU Statement of Responsibilities, and Websters definition, 29 pages
31. Community Development Services letter dated August 6, 2008 responding to Humboldt Land Title letter dated July 25, 2008. 4 pages
32. PERMIT PROCEDURES FOR AS-BUILT CONSTRUCTION, submitted by Todd Sobolik, CBO on Aug. 8, 2008, 10 pages

33. Ombudsman packet of documents assembled by Liz Davidson containing:
  - Ombudsman and Mediation definitions. 1 page
  - 1994 CAO Analysis of need for a Community Assistance Unit. 4 pages
  - 2008 Building Control & Enforcement: Maladministration Causing Injustice. 2 pages
  - 1974-75 Humboldt Grand Jury report on Sewage and Building Codes. 4 pages
  - 1988 Humboldt Grand Jury Report on Planning and Building Departments, Code Compliance and the Builders Bill of Rights. 18 pages
34. Ombudsman packet #2 of documents assembled by Liz Davidson containing:
  - Humboldt County Board of Supervisors Agenda Item #26, Nov. 9, 1976
  - Proposed Ombudsman for Planning and Building Departments. 2-pages
  - Ombudsman proposal newsclips from the Times Standard Nov. 10 & 23, 1976, and The Union Nov. 11 & 25, 1976. 4 pages
35. Charles Cianco 8/15/08 letter to CETF regarding Ombudsman and other ideas. 1 pg
36. CAO submitted packet of Agenda submittals regarding the CEU from 2001 & 2002.
  - F-4 12/ 18/ 01. Change of name of Community Assistance Unit. 4 pages
  - F-3 4/ 9/ 02. Amending Co. Code §351-45 use of buildings for sale of controlled substances. 2 pages
  - F-4 4/ 9/ 02 Amending C. Code §352-1 Removal of junk vehicles. 2 pages
  - F-5 4/ 9/ 02 Amending Co. Code § 2121 Code enforcement cost recovery. 2pgs
  - F-6 4/ 9 02 Amending Co. Code § 2131 Administrative Penalties. 2 pages
  - F-3 4/ 9/ 02 Amending Co. Code §351-45 Use of buildings for sale of controlled substances. 4 pages
  - C-10 4/ 9/ 02 Amending Co. Code 352-1 Removal of junk vehicles. 5 pages
  - C-11 4/ 9/ 02 Amending Co. Code §2121 Code enforcement cost recovery 3pgs
37. Charles Cianco 8/29/08 Sample outline of process to Record Code Violations without Health and Safety problems. 2 pages
38. Peter Child's, United Stand, Aug. 29, 08 letter Emphasizing concerns for the negative message being sent to the community by CEU activities and the critical need for direct oversight by the Board of Supervisors, and more. 2 pages
39. CAO Office printout of the County Counsel Revenues and Expenditures with Encumbrances For the Period Ending Sunday, August 31, 2008. One Page.
40. Debbie Provolt, Humboldt Land Title, Aug. 29, 2008 letter Addressed to CETF & Kirk Girard. Apology for an incorrect statement, and a tutorial presentation with sample parcels maps explaining and showing how easily illegal parcels are inadvertently created by lack of coordination between all concerned agencies. 2 pages plus two maps.
41. Humboldt Association of Realtors letter dated Sept. 3, 2008 - clarifying Realtor Disclosure Responsibilities in response to a comment attributed to the CDS Director before the CETF. 4 pages
42. County Administration Office print outs on:
  - 1) Code Enforcement Trust fund 3440 transaction history from inception to present.
  - 2) County Counsel Total Revenue & Expenditures for fiscal Year ended June 30, 2008 - including CEU components comparatively segregated from the overall budget.

43. Survey of Legal; vs Illegal building activities in Humboldt County excerpt from the adopted, and HCD approved, 1981 General Plan Housing Element. Being the most recent effort to quantify the extent of the civil disobedience problem in Humboldt County. It is suspected that the 1981 figures have supported a recognition for the very high level of disdain for compliance. Submitted by Liz Davidson for background support of her Ombudsman proposals before the CETF. 8 pages.
44. Governor's Office of Pete Wilson, Calif. Dept. of Water Resources, 1995. "GRAYWATER GUIDE - Using Graywater in Your Home Landscape - promoting the use of graywater systems throughout California - Brochure 2 pgs presented by Tom Grover.
45. Humboldt County Ordinance 1087. Decriminalizing Codes in 1976. 3 pages
46. Humboldt County Counsel Opinion on authority for Humboldt County Board of Supervisors to decriminalize the code, 1976 with supplemental docs. 11 pages
47. Humboldt County Planning Commission Code Enforcement Hearings Minutes and Final Recommendations to the Board of Supervisors during the 1988 uprising with supplemental documentation. 17 pages
48. Humboldt Code Enforcement 1988, Newsclip and Selected Documents Historical Documents File, United Stand Humboldt. Archive. document 111 pages.
49. Charles Cianco letter dated September 12, 2008 final recommendations 1 page
50. Peter Child's letter dated Sept. 12, 2008. 2 pgs
51. Charles Cianco letter dated Sept 19, 2008. 1 page
52. Charles Cianco letter dated Sept 26, 2008 1 page