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

June 17, 2008

Summary

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

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

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

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

Goals and Objectives:

- Be an efficient organization committed to promoting safety by reducing criminal behavior and its impact on the community;
- Continually recruit and retain quality staff;
- Provide effective, efficient community supervision:

Mendocino County Board of Supervisors Mendocino County Chief Probation Officer Mendocino County Information Technology Operations Manager

- Expand restorative justice practices; and
- Provide effective services to outlying areas.

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

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

Methods

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

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

Background

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

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

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

The law treats a juvenile offender differently from an adult; therefore, the Department has separate divisions for each. On the front line is the deputy

probation officer (DPO). A DPO may work in either division. Each division requires separate, but largely, overlapping, skills. A DPO is a peace officer who may carry a gun, and can make arrests.

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

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

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

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

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

Findings

1. The Department's Mission Statement does not mention keeping probationers out of incarceration or turning probationers into law-abiding citizens.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

 The Department has been roiled by internal controversies. Issues have included safety, disputes within the union representing the DPOs, management style that differs from the former CPO, and a lack of formal training. The union passed a vote of no confidence in the chief.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department disagrees (wholly or in part) with this finding because formal training has always been provided. Each new Deputy Probation Officer receives a minimum of 179.5 hours of Probation Officer Core training during their first year of employment and a minimum of 40 hours of Standards and Training for Corrections training each year thereafter.

3. The October 1, 2007 "Next Steps Plan" proposed the hiring of Mendocino Dispute Resolution Services to mediate between the CPO and the employees. The plan also proposed contracting with the Corrections Standards Authority for training and team building of the executive staff. Only the latter was implemented.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

4. After the Authority's program, the department set up a task force to devise new training and safety protocols. New employees now spend one week shadowing with a mentor, learning procedures in their division. Every new DPO trains one week in Juvenile and one week in Adult Probation. One week of shadowing is also given to those who begin work in new areas of responsibility.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

5. Turnover has been high; 13 staff, including managers, left in an 18-month period, ending October 1, 2007. Some of the current managers and staff state that morale has improved; some staff disagree.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

6. The 2007/08 budget set staffing for the Juvenile Division at 14 DPOs plus three supervisors. The Adult Division staffing is set 16 DPOs, two supervisors and one training officer. The Probation Department is overseen by the CPO and has additional support staff.

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Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

7. The Board of Supervisors currently requires all departments to leave 10% of all budgeted positions vacant to save the County money. Probation staffing is currently at full capacity, as two new DPOs have been hired.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department disagrees (wholly or in part) with this finding because since the request to submit a budget with a 10% reduction, the County Executive Office recommended restoring the budget to the same net County Cost as budget year 2007-2008.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors disagrees with this finding. As a budget balancing strategy in the 2007/2008 Proposed Budget, departments were requested to submit budgets using vacancies and attrition to meet their assigned net county costs, as a starting point for discussion based on the revenues projected at that time. Probation, as well as all County departments, were requested to describe impacts in their submitted budgets. Through the budget process, the Executive Office recommended funding based on analyzing the submitted budget and impacts and discussed those impacts in budget conferences with the department. The Board of Supervisors adopted a Probation Department budget that restored funding for staffing. In the budget, three positions were left vacant and unfunded, anticipating normal turnover, in order to meet the revised, increased Net County Cost.

8. The County General Fund provides 57.8% of the department's \$2,192,389 budget for the 2007/08 fiscal year. The remaining 42.2% comes from State and Federal funds which are earmarked for special purposes, and other income, which includes fines and fees. The department currently receives no grant money. Information in the 2007/08 budget justification shows that there were 1,260 ongoing adult cases and 240 juvenile cases.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

 One Juvenile Division and four Adult Division DPOs are assigned to the court, investigating cases and making recommendations. These DPOs do not manage any probationers.

The Mendocino County Probation Department agrees with this finding.

10.DPOs must remain in court waiting to be called on a case. Recently, they have been assigned wireless laptop computers, which let them prepare reports during such downtime.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

11. The DPOs assigned to work in the field spend most of their time in the office doing probationer and phone interviews, writing reports, keeping statistics, and undergoing state-mandated training. Fieldwork includes inspections at home, school, work sites, and enlisting community resources.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

12. While overtime work is required, direct payment of overtime is discouraged, and is replaced with compensating time off. DPOs are required to do afterhours work, such as probation sweeps and working public functions, such as the County Fair. The budget showed that in 2006/07 the expenditure for overtime was \$16,388.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

13. A primary concern of staff is officer safety. Home visits usually involve two peace officers, but that is not a mandated department policy. Eight DPOs carry guns, and must be undergo training and recertification every 90 days.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

14. Under a recently adopted policy, the County pays for DPOs' safety equipment and weapons.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

Response: (Mendocino County Board of Supervisors)

The Mendocino County Board of Supervisors agrees with this finding.

15. DPOs do not have tasers, but do have pepper spray, which requires training.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

16. In 2007, it was discovered that some bulletproof vests had expired warranties.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

17.DPOs were ordered to stop wearing the out-of-warranty vests; some DPOs worked in the field without protection. The vests have since been replaced.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

18. The Department has set up a new system to track warranties. Information is kept in personnel files which are reviewed annually. There is no system in place to alert the Department before expiration takes place.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department disagrees (wholly or in part) with this finding because the Probation Department already maintains a tracking system to monitor expiration dates on equipment issued to staff such as ballistic vests and pepper spray. The Administrative Services Manager reviews and updates the ballistic vest distribution spreadsheet no less than monthly. In addition, individual employee equipment lists are maintained in personnel files and are monitored no less than annually by the Supervising Staff Assistant. Department staff are advised upon issue that items such as pepper spray and ballistic vests do have expiration dates and they should alert their immediate supervisor if they are aware of an upcoming expiration date on a piece of equipment, which has been issued to them.

19. Before the "Next Steps" plan, the new DPOs and those assigned to new positions often waited months for formal training. Clerical staff instructed new DPOs on how to fill out forms.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

20. Most cases are assigned geographically, but some can be assigned by type of crime, such as drug, sex, domestic violence and gang activity. Some DPOs specialize in these types of cases, which may require more investigation and closer supervision of the probationer.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

21. The Fort Bragg office has 1.5 DPOs for adults and one DPO for juveniles. They handle all types of cases for the entire coastal area.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

22. The Willits office has 1.5 DPOs for adults and one DPO for juveniles. They handle all types of cases in the north/inland area.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

23. There is one gang specialist working in the Ukiah area. A Juvenile and an Adult Division DPO out of Willits also work part of their time on gang cases covering both the north and coastal areas.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

24. The Department's 2007/08 budget shows an average caseload of 123 per adult DPO, and an average caseload of 24 per juvenile DPO, but DPOs may have as few as zero or as many as 200 cases, depending on the type of case or assignment.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

25.On April 29, 2008, the average caseload was 114 for adults and 22 for juveniles.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

26. Court DPOs manage no field cases. There are two Proposition 36 DPOs who share 234 non-violent drug cases. There is one full-time DPO assigned to domestic violence cases in Ukiah. Another DPO who serves in Willits and Fort Bragg works on domestic violence cases part of the time. There are about 234 domestic violence cases. Another DPO has more than 200 low-risk probationer cases.

The Mendocino County Probation Department agrees with this finding.

27. DPOs with many cases have little time to do field work. Probation violations are more likely to go unnoticed when the DPO is unable to do field work.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

28. Some DPOs may spend the bulk of their time on a small number of probationers who require constant supervision.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

29. On April 29, 2008, the total Adult Probation case load was 963.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

30. A pretrial jail release program, for those who don't make bail, is an exception to the rule that adult DPOs become involved in cases only after conviction. There are about 30 cases in this program managed by two DPOs.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

31. Mental health cases require special attention and treatment. The Therapeutic Options Program Grant, for juvenile mental health cases, has expired.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department disagrees (wholly or in part) with this finding because the Therapeutic Options Program Grant, for juvenile mental health cases has not expired. It provides a .5 FTE mental health clinician for minors in the Juvenile Hall.

32. Juvenile records do not follow juvenile probationers when they become adults. Judges often do not know if a new young adult defendant has a long experience with probation and what crimes were committed.

Response: (Mendocino County Chief Probation Officer)

The Mendocino County Probation Department agrees with this finding.

33. There is a defined procedure to address complaints made by probationers.

The Mendocino County Probation Department agrees with this finding.

34. Adult probation statistics show that of the 1,235 adult probationers in September 2007, 122 or 9.8% had multiple offenses in Mendocino County. Crimes committed when the probationer has been off probation for three years, are counted as a first offense for statistical purposes.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

35. Staff members disagreed about the definition of recidivism, and had only rough estimates of figures, ranging from 9% to 100%.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

36. The County uses a system called JALAN for tracking offenders. This system is accessed by police departments, the sheriff, jail, courts, the district attorney and the Probation Department. Used since 1990, JALAN creates a file for each person at the time of arrest and follows the person through further dealings on the case through law enforcement and the courts, updating as it goes. The system is not designed to track statistics across many files. JALAN does not maintain the rap sheet of prior offenses. That information comes from the California Law Enforcement Telecommunication System. Because multiple Mendocino County police agencies and county departments use the JALAN, any upgrade would require all agencies to change over simultaneously.

Response: (Mendocino County Chief Probation Officer)
The Mendocino County Probation Department agrees with this finding.

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

Response: (Mendocino County Information Technology Operations Manager General Services Agency (GSA) Director)
The GSA Director agrees with this finding.

Recommendations

The Grand Jury recommends that:

1. the Probation Department continue to evaluate, upgrade and improve training and team building and find ways to assess performance; (Findings 3-5, 19)

This recommendation has been implemented. The Department organized a training focus group in the winter of 2007-2008. That group is responsible for implementing a training orientation module for new and transferring DPO's and created a Department Training Manual for Probation Officers. As such, morale has improved and performance can be assessed regularly.

 the Department use electronic communication, and wireless laptop computers to speed reporting from the field and to cut down on desk time and on driving to central offices; and that reports to judges and attorneys be sent by e-mail resulting in quicker turnaround; (Findings 10, 11, 21-23, 26,28)

Response: (Mendocino County Chief Probation Officer)

This recommendation requires further analysis. Although wireless laptop computers are now available to court officers and placement officers for efficiency when not working at their desks, filing probation reports electronically is not within Probation's discretion.

Response: (Mendocino County Board of Supervisors)

This recommendation requires further analysis. The increased use of electronic devices, such as laptops, offers advantages in operational productivity and the County and the Probation Department will continue to look for efficiencies in this arena. Communicating and sending materials electronically to the Court would require changes in software, equipment, and protocols that are under the authority of the Court.

3. the Department have a written policy regarding when it is appropriate for a field officer to make an on-site visit alone, and when the presence of a second peace officer is required; (Finding 13)

Response: (Mendocino County Chief Probation Officer)

This recommendation has not yet been implemented, but will be in the future. A focus group will be organized to review Department policy on field work and make revisions, if deemed appropriate by September 30, 2008.

 new DPOs be trained and evaluated in the field by other experienced DPOs; (Findings 3, 4, 19)

Response: (Mendocino County Chief Probation Officer)

This recommendation has been implemented. Supervisors, with the help of experienced mentors, are now required to review and document that an officer is sufficiently trained to perform fieldwork.

5. there be a written policy stating that DPOs safety be a first consideration; (Findings 11,13,14,16-18, 19,20,27)

Response: (Mendocino County Chief Probation Officer)

This recommendation has not yet been implemented, but will be in the future. A focus group will be organized to review the Department policy on DPO safety and make revisions, if deemed appropriate by Sept. 30, 2008.

6. the Department institute a management system for warranties that will automatically warn when equipment is nearing expiration; (Findings 13,14,16-18)

Response: (Mendocino County Chief Probation Officer) Recommendation numbered 6 has been implemented.

7. the Department publish information regarding the range and types of caseloads; (Findings 20-30,34)

Response: (Mendocino County Chief Probation Officer)

This recommendation requires further analysis. It is unclear how the Grand Jury wishes the Department to publish information regarding range and type of caseloads. The ranges and types of caseload are available upon request however both are subject to change at any given point in time and based on Department needs.

8. the Department define the various types of recidivism to track the effectiveness of programs; (Findings 34-36)

Response: (Mendocino County Chief Probation Officer)

This recommendation have not yet been implemented, but will be in the future. A focus group will be organized to research agency standard definitions for recidivism and document their results by September 30, 2008.

9. the Department establish a recidivism baseline, with information from prior years, to compare present and future performance. Apply for a grant, or use Criminal Justice college students as interns for this project; (Findings 34-36)

Response: (Mendocino County Chief Probation Officer)

This recommendation has not yet been implemented, but will be in the future. Once the Department researches and documents agency standard definitions for recidivism, it will work with IS to create a method via JALAN to capture the data. Discussion with IS is underway. Probation will remain open to grant opportunities.

10. the Department track and publish current recidivism statistics on a regular basis; (Findings 34-36)

Response: (Mendocino County Chief Probation Officer)

This recommendation has not yet been implemented, but will be in the future. As IS and Probation create a program to capture recidivism data, the results will be tracked and published as appropriate.

11. the Board of Supervisors fully fund the Department's yearly budget and add two additional DPO positions; (Findings 6-8,11,21-24,26,27)

Response: (Mendocino County Chief Probation Officer)

This recommendation requires further analysis. The Probation Department will continue to make its needs known to the Board of Supervisors, but the final decision is in their hands and subject to overall County needs.

Response: (Mendocino County Board of Supervisors)

This recommendation requires further analysis. The budgetary needs of the Probation Department, along with all facets of law enforcement, continue to be of concern and a priority to the Board of Supervisors. Careful review and evaluation of Federal and State funding are key components to assessing and responding to the Department's, as well as the County's, budgetary needs. The County has not been able to add any new County-funded positions this fiscal year.

12. the County begin planning a replacement for the antiquated JALAN software with a more flexible program, which would include better statistical extraction. (Findings 34-36)

Response: (Mendocino County Chief Probation Officer)

This recommendation requires further analysis. The Probation Department has noted the limitations of JALAN. Moving to a new system must be reviewed, discussed and approved by the Board of Supervisors and is subject to overall County needs.

Response: (Mendocino County Board of Supervisors)

This recommendation will be implemented over the next few years as financial resources become available. The County has identified the criminal justice system as one of the next areas of focus for technological upgrade. The planning process for a new or enhanced system will involve multiple County departments, as well as the Court system, and the County Executive Office. It will need to interface with a variety of other systems in order to be effective for interagency communication, case management and tracking, as well as statistical extraction.

Response: (Mendocino County Information Technology Operations Manager General Services Agency (GSA) Director)

The GSA Director agrees with this recommendation and plans to begin the process of creating a Criminal Justice IT System Replacement Committee in December 2008 when the County's Microwave Project has entered into the completion phase.

Comments

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

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

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

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

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

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

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

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

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

The Grand Jury recognizes that the information in this report only scratches the surface of the conditions and responsibilities of the Department. Managers and some staff report improvement in morale, while others are still concerned about trust and communication. The newer staff is reported to be "gung ho." Despite budgetary difficulties and problems within the Department, the DPOs manage to do their job.

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

Required Responses

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

Requested Responses

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

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

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