

## **MENDOCINO COUNTY POLICY 22**

### **WHO HAS ACCESS?**

#### **SUMMARY**

The County's current Information Technology (IT) policy 22 regarding the use of technology and management access to employee email is outdated and should be updated to provide better controls over how and when that access is granted. The current County email software provides such access only in an unrestricted fashion—a County manager who is granted access receives the ability to access ALL County email accounts, including those containing confidential and/or privileged communications. The obsolete policy 22 and the current email system places the County at risk of inappropriate access to those communications, and may lend itself to abuse, and possible legal consequences.

#### **BACKGROUND**

The Grand Jury undertook this investigation after learning of certain allegations.

#### **METHODOLOGY**

The Grand Jury conducted interviews with former and current County employees including the Chief Executive Officer, (CEO), and IT Services Department, and with the *Unlimited Mailbox* Software Engineer. The Grand Jury also reviewed relevant County policies and documents. One Jury member was recused from this investigation.

#### **FACTS AND DISCUSSION**

Mendocino County has one email system, *Unlimited Mailbox*, purchased in 2010 from the County Counsel's budget that is owned, controlled, and maintained by the County. The Manager of IT administers this system and has 'super user' access to the Mail Auditor function in the software. No employee can access the email of another employee without such super-user permissions or the employee's password. Prior to departmental consolidations in April 2015 when the CEO's office

assumed management of the IT department, the IT department operated under the General Services Division. In the past, department heads and other management staff requested, and were given access by IT staff as a super-user, to the email accounts of their employees for the purposes of monitoring or investigating their department employees' proper company use of the system.

Some legitimate reasons for monitoring an employee's account include: job-seeking, shopping, harassment of any kind, gambling, pornography, other illegal activities, and the selling of products over the Internet. Such monitoring is legal and common, and the County regularly informs employees that it may occur. Mendocino County Policy 22 addresses the County administration and IT use. Policy 22 states that:

The County owns or has an unlimited right to access any and all information and data stored on County-owned, -leased, or -controlled computers, equipment, or networks. County management reserves the right to access any information or data, including electronic mail, stored on County-owned, -leased, or -controlled computers.

Policy 22 further states:

All County-employee access to the Internet using County-owned, -leased, or -controlled computers, use of County-owned, -leased, or -controlled computer and networked equipment, including centralized systems, servers, personal computers, local area networks, and wide area network equipment shall be for County business purposes only. However, employees may engage in reasonable incidental personal use, to the extent permitted by the employee's department head, as long as such use does not detract from an employee's productivity, duties, service to the public or to the County, violate any law, or any County policy, procedure, or regulation.

Because of the inability of the County email software to segregate super-user access to specific accounts, access by management to employee email is unrestricted. Super-user email access is all or nothing. While in place, any County manager who is granted access, has complete and total access to **all** email accounts in the County system. This leaves the County exposed to legal risks and potentially creates the opportunity for a ‘dirty admin’ to abuse the email system. As a super-user with access to the mail auditor function, any County manager may obtain unrestricted access to highly sensitive and confidential messages within the Offices of the County Counsel, the District Attorney, Human Resources, the Sheriff, and the Board of Supervisors and Grand Jury, to name some examples.

The Grand Jury received allegations that this system of unrestricted access has led to abuses. County IT staff reported that the *Unlimited Mailbox* software used by the County provides no tool for proving or disproving those allegations via computer logs or other devices. However, the *Unlimited Mailbox* software engineer testified that there is a binary log feature that can’t be altered or deleted, that would capture any such access. Further, the software allows for complete re-creation of an employee’s email box on a specific date that would allow further investigation of such allegations. It is common that such uses of the email software occur for Public Records Act Requests for information.

County Policy 22 was adopted in 2003 and is now thirteen years old. In 2010, IT management stated that a revised Policy 22 was drafted and presented to the CEO. The Grand Jury could find no evidence that the CEO presented this to the BOS for adoption. Neither the 2003 version of the policy nor the proposed 2010 draft establish any protocols or procedures regarding County management access to employee email accounts. In 2016, the CEO informally established a procedure for such access, but the updated policy has not been formally presented to, nor adopted by the Board of Supervisors. This

informal policy requires department heads and other managers who wish access to employee emails to obtain prior approval from the CEO or designee. When requested, the Grand Jury discovered that no log of email access requests or granted permissions currently exists or is maintained either by IT or the CEO's office.

The Grand Jury learned that the current bargaining ground rules for negotiating successor labor contracts contains language contrary to Policy 22. Specifically, the ground rules currently allow union members to use the county's email system for union communications.

## **FINDINGS**

F1. Policy 22 is obsolete and requires updating and formal adoption by the BOS.

F2. The current *Unlimited Mailbox* software does not adequately allow for super-user segregation of certain sensitive email accounts, e.g. Sheriff, DA, County Counsel, Board of Supervisors, Grand Jury.

F3. The limitations of the County email software that allows unrestricted super-user access to employee email by County management puts the County at risk for violating the protected nature of some communications, lends itself to abuse by County management, and exposes the County to unnecessary liability.

F4. The current bargaining ground rule that allows employee access to the County's email system for the purposes of bargaining is in direct conflict with provisions of Policy 22, which does not permit email use for non-county business.

## **RECOMMENDATIONS**

The Grand Jury recommends that:

R1. Policy 22 be updated by the IT department in cooperation with County Administration and adopted by the BOS as soon as possible. This policy update should define the circumstances by which email access is requested and granted, and must require maintenance of a log of all such transactions. (F1 – F3).

R2. The County acquire email software that adequately allows for super-user segregation of certain sensitive email accounts and provides management access to employee email only under circumstances as defined by County policy. (F1- F3).

R3. The County adopt in its revised Policy 22, a best business practice to restrict the Mail Auditor function to one vetted employee. (F1-F3).

R4. The County's bargaining agent and the union consider modifying the mutually agreed-upon ground rules to prevent unlimited employee use of the County's email system for the purpose of bargaining, at the earliest opportunity. (F4).

### **Required responses:**

Pursuant to Penal Codes §933 and §933.05, responses are required from the following:

Board of Supervisors – (All Findings and Recommendations)

Chief Executive Officer – (All Findings and Recommendations)

### **Requested responses:**

Pursuant to Penal Codes §933 and §933.05, responses are requested from the following:

County Counsel – (All Findings and Recommendations)

IT Manager –Findings (1-3) and Recommendations (1-3)

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.