

Sonoma County Civil Grand Jury



Final Report

2014-2015



You Could Make a Difference

County Civil Grand Juries are unique and powerful institutions which offer opportunities for citizens to directly investigate and influence how well county and city governments are serving the citizens of their counties.

Nineteen jurors, and a minimum of five alternates, are needed to complete the yearly commitment. Here in Sonoma County, about 45% of those who initially apply remain as candidates at the time of the final, random selection at the end of June each year. This means that a minimum of 60 candidates is needed yearly. Since the Grand Jury has autonomy, its ability to effectively serve its purpose depends on the interests, capabilities, and skills of the jurors. The Grand Jury is an institution that can benefit from diverse voices and points of view. The Grand Jury needs candidates who reflect the diversity in age, ethnicity, gender, and education found here in Sonoma County. The yearlong commitment (July–June), and the amount of time required on a weekly basis, mean that potential candidates must give a great deal of thought to the decision about whether or not to serve on the Grand Jury. We encourage those who are willing to consider this opportunity for Grand Jury service to find out more and apply.

We invite you to apply for Grand Jury service.

www.sonomagrandjury.org





The Sonoma County Civil Grand Jury

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June 24, 2015

To the citizens of Sonoma County and the Honorable Judge Kenneth Gness:

On behalf of the 2014 - 2015 Sonoma County Civil Grand Jury and in accordance with California Penal Code Section 933, it is my privilege to present our Final Report. Jury members spent thousands of hours conducting investigations and analyzing information during our one-year term.

The Grand Jury is responsible for overseeing the legislative and administrative departments that make up county and city governments, and special districts in Sonoma County. We investigate to evaluate their efficiency, honesty, fairness, and dedication to serving the public. Based on our findings, we make recommendations for positive change.

With the assistance of concerned citizens, the Grand Jury discovers matters within local government that warrant investigation. This Grand Jury also participated in overseeing the accuracy and efficiency of the November general election process. As required by the California Penal Code, the Grand Jury inspected the County jail facilities and reported on their condition.

We envision that our investigations and reports will result in positive changes for the County and its residents. I would like to express my appreciation to the County agencies that support the efforts of the Grand Jury, and to acknowledge and thank the citizens and local government employees who introduced matters to our attention and gave testimony during our investigations. Their time and energy spent with the Grand Jury helped to ensure relevant, thorough, and accurate reports.

It has been an honor to serve as Foreperson of this dedicated jury. We are a volunteer group of County residents with varied backgrounds, levels of education, and expertise. This jury sought to increase the security and technological level of record keeping. We have also undertaken efforts to improve the training given to incoming juries.

Our complete Final Report is available on line at www.sonomagrandjury.org. Report summaries are published by the Press Democrat and are available as an insert in a number of local newspapers. A hard copy of the complete Final Report is available for review at County libraries.

I offer my sincere gratitude to my fellow jurors for their contributions to making it a pleasure to serve on this year's Grand Jury.

Martin A. Jones, Foreperson



Sonoma County Nature -----



Above photo by: Roger Boulanger



KENNETH J. GNOSS
PRESIDING JUDGE

Superior Court State of California

COUNTY OF SONOMA
HALL OF JUSTICE
600 ADMINISTRATION DRIVE
SANTA ROSA, CALIFORNIA 95403



June 24, 2015

Dear Members of the Sonoma County Civil Grand Jury:

As Presiding Judge of the Sonoma County Superior Court, I have reviewed the Grand Jury Final report for the fiscal year 2014-2015. It complies with all requirements of Penal Code section 933. This report reflects the thorough investigations and conscientious findings and recommendations of our Civil Grand Jury, which has fulfilled its duties with hard work and dedication.

The citizens of Sonoma County are indebted to our Civil Grand Jury for their efforts. The members of the Civil Grand Jury have donated extensive time and effort for the benefit of the citizens of Sonoma County. On behalf of the Superior Court of Sonoma County, I applaud and thank our Grand Jury members for all that you have done.

All of you have discharged your duties in an exemplary manner. I especially would like to thank your foreperson, Martin Jones, for his leadership and dedication to the work of the Grand Jury.

Once again, congratulations to our Civil Grand Jury. You have worked hard and done your job well. Our county is a better place thanks to the work you have done.

Very truly yours,

A handwritten signature in blue ink, appearing to read "K. J. Gness".

Kenneth J. Gness, Presiding Judge
Superior Court of California,
County of Sonoma



Sonoma County Color -----



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Consider Becoming a Grand Juror

Grand Jury service is a tremendously rewarding experience, providing citizens with a meaningful and independent voice in local government. Sonoma County Grand Jurors play a distinct and vitally important role in government. Jurors have broad oversight powers to investigate and influence positive change within the County, its cities, special districts and the many organizations that collectively constitute our local government.

The Civil Grand Jury is made up of a diverse cross section of 19 County residents chosen for a one-year term. Jurors decide what to investigate and how to comment on their findings. They are self-starting and self-directed and are bound by a common interest in promoting transparency and efficiency in government. Special training on grand jury investigative processes is provided to ensure that their work is conducted in a fair and objective manner, consistent with the provisions of the California Penal Code. The experience provides an enhanced understanding of local government and an opportunity to learn what makes our community such a desirable place to live.

Examples of past Sonoma County Grand Jury reports can be viewed online by clicking the link below. For further information and insight into the role that grand juries provide in California, please see the California Grand Jury Association's web site at www.cgja.org

Application forms to become a Sonoma County Civil Grand Juror are available online at Sonoma.courts.ca.gov (click on the Grand Jury tab at the top of the page). You may also obtain an application at the Administrative Office of the Sonoma County Courts, 600 Administration Drive, Room 106, Santa Rosa, CA 95403, phone 707-521-6501. By law, a Grand Juror must be a U.S. citizen 18 years of age or older; a resident of Sonoma County for at least one year; have sufficient knowledge of the English language to participate in meetings, take notes, and write reports; and have no convictions for malfeasance in office, any felony, or any other high crime. In addition to meeting the statutory requirements, a Grand Juror should be able to fulfill the time commitment required to be an effective Grand Juror, be in good health, have the ability to work with others and be tolerant of their views, have a genuine interest in community affairs, and have investigative and computer skills. Applications can be submitted throughout the year. Each spring, judges of the Superior Court interview prospective Grand Jurors from the applicant pool. Several members of the previous year's Grand Jury may be selected to serve a second year in order to provide continuity.



Sonoma.courts.ca.gov

Valley of the Moon Children's Home

Summary

The Sonoma County Civil Grand Jury (Grand Jury) reviewed allegations from a complainant which included claims that staff at the Home had prevented minors from accessing their bedrooms, searched minors' personal possessions and bedrooms without cause, used inappropriate physical restraint techniques, and interfered with minors' privacy during telephone calls.

Occasionally minor children (children to the age of eighteen years) are in need of an alternate living situation. This need can arise for a number of reasons beyond the minor's control. Without a transitional residential facility such as the Valley of the Moon Children's Home (Home), it would be more difficult to stabilize, assess, and locate appropriate alternative places for them to live. Facility professional staff must exercise careful consideration to find a living situation that best meets the needs of the minor. Sometimes a minor returns to his or her own home.

Referrals to the Home can be made by an emergency response unit, social workers, law enforcement, juvenile hall or the courts. These minors may be unable to continue living in their usual home environment for a number of reasons. Many of the minors are traumatized in some way due to living in an unhealthy, abusive, or dangerous environment. Examples of this can include neglect, effect of drugs in the home on the minor, physical abuse, sexual abuse, and human trafficking.

The general objective is that the minors stay no longer than thirty days at the Home. The average stay is two weeks. Sometimes longer stays result from the difficulty in finding an appropriate place for the minor to live. The maximum capacity of the Home is sixty-two beds. The average daily census is about twenty minors. The average number of annual stays for the past three years was 344. The average cost is \$775.00 per minor, per day. The first thirty days of each stay are funded by federal money.

Professional staff provide counseling, health, and dental services. Care of bereaved minors is assisted by consultation from the WillMar Family Grief and Healing Center. The Home's professional staff assess each minor to determine his or her immediate and longer-term needs, which can include mental and/or physical health issues. They then identify the approaches to take while the minor is residing at the Home and the best placement for the minor, which could be within the foster care community.

Direct care staff provide supervision in the facility and work with the minors to assist them as needed. The minors are transported during the day to their usual schools so that their educational process is not interrupted. In addition to attending school in their own community, minors are involved in many activities outside of the Home.

After being screened and hired, staff are provided specialized training prior to working with minors. This training helps the staff provide guidance to minors who are often distressed and prone to act out behaviorally. Staff receive additional training, when necessary, to improve their interactions with minors.

Additional oversight of the Home's activities is provided by volunteers and foundation board members. Approximately seventy-three volunteers assist in the Home. Most volunteers participate at least six months. The average length of service has been about two years. Some current volunteers have been at the Home for seven to ten years and one has been there for twenty-five years. Volunteers go through a screening process and mandatory training prior to and while working with the minors. The volunteers are not allowed to work with the minors without staff present. The Valley of the Moon Foundation has thirteen board members who are involved in fund-raising activities as well as holidays and other special events. A group of individuals over eighteen years of age, called Voices, previously lived in the Home and currently provide mentoring and leadership to the minors.

The Home appears to be a well-regulated, appropriate temporary place for minors to stay while their individual needs and residential status are being assessed and determined.

Background

The Grand Jury received a citizen complaint regarding some aspects of the Home's operations. The Grand Jury investigates only complaints which are of a non-criminal nature. Law enforcement and the Community Care Licensing Division of the California Department of Social Services (Licensing), investigate allegations which are criminal in nature.

Methodology

During its investigation, the Grand Jury spoke with the complainant, and staff from the following: Licensing, the California Foster Care Ombudsman's office, the Sonoma County Department of Human Services including its staff at the Home. The Grand Jury reviewed documents generated by agencies which conduct periodic inspections, unannounced visits and/or provide regulatory oversight of the Home. In January 2015, the Grand Jury toured areas in the Home where minors live, eat and socialize, as well as the facility grounds.

The Home completes a written exit interview at the time each minor is discharged. The Grand Jury reviewed forty-two randomly-selected client exit interviews covering a span of three years (2011-2014).

Discussion

Licensing assesses the Home's compliance with state regulations and the Home's policies and procedures. Licensing analysts make periodic unannounced visits to the Home. They also investigate complaints and facility-generated special incident reports. Depending on the seriousness of an incident, an analyst makes an unannounced on-site visit to the Home after receipt of a complaint or incident report. Licensing issues a report noting both the specifics of the allegation, and the findings of their investigation. If Licensing determines non-compliance with regulations, it can impose varying levels of sanctions. When sanctions are imposed the facility is required to present

a plan to correct the deficient practice. The plan must meet specific requirements to be accepted by Licensing. Licensing returns at a later date to ensure that the facility has carried out its plan of correction.

Licensing's public file concerning the Home is available to anyone who requests to view it. This file does not contain confidential information about the minors and/or staff, including any identifying information. The public file contains reports of Licensing's investigations into complaints about the Home and facility-generated special incident reports. The Home is required by statute to report special incidents to Licensing within a specified time frame. Special incidents are defined by statute, as well as the Home's policies and procedures. These can include incidents such as medication errors, containment situations, and transfer of a minor to a mental health treatment facility or hospital.

This public file documented investigations resulting in some findings of deficient practices which did not constitute serious rights violations. For example, in September 2014, the Home failed to provide privacy for minors during telephone calls. Also, about that time the Home conducted unreasonable searches of minors' personal possessions and back packs. In October 2014, the Home conducted unreasonable room searches and made several late reports regarding special incidents. The Home completed plans of corrections for all incidents; Licensing accepted these plans.

The Sonoma County Juvenile Justice Commission conducts annual inspections of the Home. The commission reviews the facility, services provided, operations, and interviews some of the minors. The interviews revealed no serious problems. In addition to narrative comments, the Commission rates its findings as: 1) satisfactory (or exceeds) or, 2) needs improvement/corrective action. The last three annual inspections resulted in satisfactory findings.

Administrative staff at Sonoma County's Department of Human Services and the Home were cooperative during the Grand Jury's investigation. Staff stated they welcomed oversight by the California Department of Social

Services, the Sonoma County Juvenile Justice Commission and, in this case, the Grand Jury. The staff frankly discussed Licensing's investigations and findings which had been documented in Licensing's public file of the facility.

The Grand Jury toured the Home and found it to be clean, bright, attractive and in good repair. Areas of the facility are set up so that minors in similar age groups and of the same gender reside together. The Home is unlike a single-family residence due to the nature of its congregate living. Meals, snacks and, if needed, medications are provided. The minors have access to computers, books, games, televisions and outdoor recreational areas. Housekeeping staff clean all areas of the facility daily.

Doors and gates are locked to prevent access to the Home from the outside rather than to prevent minors from leaving the facility. Closed circuit television cameras allow staff to view outside areas of the Home; alarms will sound if outside gates are opened. Staff will not physically restrain a minor who chooses to leave. Instead, they will try to convince the minor to return. If the minor refuses to return, and safety is an issue, staff will contact law enforcement.

The staff person in charge of the minor's living unit conducts a one-on-one exit interview with the minor just prior to discharge from the Home. Standardized questions are designed with the goal of providing the minor with opportunity to comment on his or her stay in the Home. The staff person completes the interview form for those younger minors who are unable to write. Older minors fill out their own forms. The Grand Jury reviewed forty-two exit interview forms, and found no comments or suggestions of material problems.

Findings

- F1. The Home appears to be an appropriate temporary place for minors to stay while their permanent residential status is being assessed and determined.
- F2. Although some minors' rights had been occasionally violated, the scope, severity and frequency of

these violations were not critical and the Home quickly and appropriately corrected these violations.

- F3. The Home is effectively regulated and monitored by the Community Care Licensing Division of the California Department of Social Services and inspected by the Sonoma County Juvenile Justice Commission.
- F4. Administrative staff of the Sonoma County Department of Human Services and the Home are cooperative with and receptive to being evaluated by outside agencies.

Recommendations

None

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



Sonoma County Pension Reform

Summary

Due to a series of events, culminating in the recession of 2008, the County's unfunded pension liabilities have grown from \$10.8 million dollars in 2000 to almost a half billion dollars in 2014. The Sonoma County Civil Grand Jury seeks to determine if the County has a long-range plan to reduce its accumulated pension liabilities, to contain costs and to provide the citizens of the County with a consistent, understandable measurement of the County pension system's financial health.

The Sonoma County Board of Supervisors recognized pension obligations were on an unsustainable course. In 2011, they created an Ad Hoc Committee to look into the matter and make recommendations. Because pension funding is a widespread problem, in 2012, the State of California passed legislation reforming how things are done. This law, California Public Employees' Pension Reform Act of 2013 (PEPRA), made some changes for all employees but the biggest impact is with new employees hired after January 1, 2013, requiring a new employee tier with reduced benefits and additional cost savings. Further changes affect retirement age, salary caps, and the compensation pensions are based on. Spiking—the practice of inflating final compensation—was essentially eliminated. As employees retire, their positions are filled by lower pension cost employees. Eventually, the entire workforce will be operating under the new law.

In addition, the County employees, through their unions, agreed to concessions beyond what the new law required, continuing to contribute 3 percent of pay toward the unfunded pension liability. These changes have already saved the County \$33 million in pension costs and allowed for a \$3.5 million payment toward unfunded liabilities. Many of these reforms put in place by the State 2013 pension reform law are noted by the County's 2015 Pension Reform Update and discussed in this Report.

It is helpful to understand how the system works and which laws govern the pension system. The Grand Jury has provided an overview and a historical perspective, giving greater clarity to those specialized terms that are used by the professionals who control pension decisions, County agencies, and public special interest advocacy groups.

Whether the County can meet its pension obligations in the future seems to be the subject of much debate. No matter what the measurement, it is clear that required pension contributions by the County and its employees are projected annually and the County is paying 100 percent of its required contribution to the pension system. The system gets 40 percent of income from these contributions and 60 percent from investment income. While investment earnings are projected by experts, they have no control over the end result. Any investment losses (and gains) are borne by the County only. The County has a clear goal of reaching full funding of pension liabilities for current and future retirees.

Methodology

In our preliminary investigation of the County's pension system and employment expenses we were struck by the complexity of the issues. There was no lack of scholarly articles, evaluations by public interest groups and extensive information published by the County of Sonoma. The reading list facing the Grand Jury was well over one thousand pages, with over 80 percent dealing with Sonoma County alone.

The Grand Jury examined written materials from inside and outside the County and thereafter interviewed the authors and staff who assembled the materials. The Grand Jury seeks to determine if the County has a long-range plan to reduce its accumulated pension liabilities and contain costs, and to provide the citizens of the County with an understandable and consistent measurement of the financial health of the County's pension system.

Discussion

Sonoma County's Pension Obligations: 2000-2012

"Sonoma County's pension obligations are on an unsustainable course. If continued upon, more and more resources will be needed to meet obligations at the expense of community needs."—Sonoma County Board of Supervisors, Ad Hoc Committee on Pension Reform Report, 2011

In 2000, the County of Sonoma's pension fund was financially healthy. However, through a series of events including increased benefits because of a tight labor market, baby boomers retiring, legal decisions expanding types of pensionable compensation, the collapse of the housing market and the subsequent economic recession, the amount of unfunded pension liabilities has increased exponentially. In 2000, the unfunded pension liability was \$10.8 million. Increased costs coupled with stock market losses and lower than expected investment earnings saw the unfunded pension

liability grow to \$449 million in 2014.



Recognizing that Sonoma County's pension obligations were on a precarious course, the Sonoma County Board of Supervisors appointed an Ad Hoc Committee on Pension

Reform to study the County's pension situation and make recommendations to the Board of Supervisors. In November of 2011, the Ad Hoc Committee issued its report to the Board of Supervisors who then approved the pension reform recommendations. The report identified three goals with suggested strategies to achieve these goals: (1) contain costs, (2) maintain market competitiveness and workforce stability, and (3) increase accountability and transparency. The Grand Jury focused its attention on the first goal, asking the question: Has the County put

policies in place to contain pension costs and reduce unfunded liabilities to ensure future funding?

Sonoma County's Retirement System and its Employees

"... to ensure that the County has a set of policies to guide future decisions which reflect the County's needs as a provider of public services, a large employer and an organization that values and respects its workforce."—Sonoma County Board of Supervisors, Ad Hoc Committee on Pension Reform Report, 2011

A pension system, in its simplest form, is the manner by which an employer provides a group of its employees with post-retirement financial security through periodic payments after the employee retires. Responsible planning requires that these expenses be funded as they are earned so that the funds will be available when needed.

The County's retirement system is shaped by State legal requirements, various court rulings, and retirement benefits negotiated in good faith between the County and its fourteen employee bargaining units.

The State of California features over sixty public retirement systems, ranging from smaller city and county employee and teacher retirement plans to one of the largest public pension plans in the United States. According to Article XVI of the California State Constitution, counties can provide pensions by establishing an independent system, operating under the provisions of the County Employees Retirement Law of 1937, known as the 1937 Act, or by contracting with the California Public Employee Retirement System, known as CalPers—an agency of the California executive branch.

Of California's fifty-eight counties, twenty counties, including Sonoma, operate under the 1937 Act. This law defines and governs all provisions of the County's retirement compensation benefits, including the retirement formulas, the conditions under which employees are eligible to retire, calculation of service hours, and the level and limit of employee contributions into the retirement system. Changes to the law's provisions require State legislative action.

One must keep in mind two important points. First, Sonoma County's retirement system is governed solely by the California Employees Retirement Law (1937 Act). Most of the other counties and cities in California (for example, the City of Santa Rosa) are part of CalPers: the California Public Employees Retirement System. Second, many of the reports and statements in the public materials do not make this distinction clear.

On September 12, 2012, the Governor signed into law the California Public Employees' Pension Reform Act of 2013, known as PEPRA. The law's stated goal is to create a more sustainable pension system by reducing employer liability and increasing employee contributions toward their pension benefits. This major change in pension law applies to all public employees, in all public retirement systems in the State.

The Sonoma County Employees' Retirement Association (Retirement Association) was established by the County of Sonoma to provide retirement, disability, death, and survivor benefits for its members. The Retirement Association operates under the authority of the 1937 Act and PEPRA and is governed by a nine-member Board. The Board, along with its specialized staff, is responsible for administering the program and investing members' contributed funds. Members of the Board serve in a fiduciary capacity in discharging their duties with respect to the Retirement Association and the pension trust fund.

The 1937 Act authorizes the Board of the Retirement Association with exclusive control over the Trust's investment portfolio. The assets are managed by external professional investment firms. The investment staff and the Board implement investment policies and long-term investment strategies, reflective of variations in the stock market returns on investments over five (13.2 percent), ten (7.2 percent) and twenty (8.0 percent) year periods. For the year 2008, investment return saw a staggering loss of 30 percent. Presently, the Retirement Association maintains a diversified investment portfolio and asset allocation that is structured to meet long-term funding requirements. Examples of asset allocation

include: US equities, international equities, global equities, fixed income, and real estate. For the year ended December 31, 2013, the Retirement Association portfolio experienced a return of 19.9 percent.

All County employees are members of the Retirement Association, which is run as an independent defined benefit retirement plan. There are more retirees and beneficiaries currently receiving benefits (4,394) than current active members (3,383). The retired employee receives a set income every month, for the rest of his or her life.

The Retirement Association requires full funding in reserve before granting a cost of living adjustment (COLA) to retirees. Low program reserves and the continuing impact of investment losses have prevented the Board from recommending a COLA. Sonoma County has seen a 13 percent increase in the cost of living since the last COLA in 2008.

As of December 31, 2013, the distribution of payments was:

- Less than \$10,000/year: 18.70 percent
- \$10,000 to \$19,999/year: 23.42 percent
- \$20,000 to \$49,999/year: 39.41 percent
- \$50,000 to \$99,999/year: 15.68 percent
- Over \$100,000/year: 2.73 percent

Some of the pension benefits are determined by laws in place prior to the employee's retirement and may reflect increases as a result of a statewide class action lawsuit settlement to which the County was a party in early 2000, known as the Ventura Decision.

Funding of the Retirement System

"Sonoma County has not been alone in seeing cost growth."—Sonoma County Board of Supervisors, Ad Hoc Committee on Pension Reform Report, 2011

Contribution rates to the retirement system by the employee and employer are set by the Retirement Association within 1937 Act guidelines, and the by-laws and procedures adopted by the Board. The rate is based on the future requirements forecast by actuaries (a group of mathematicians and statisticians). The yearly contribution is based on a number

of assumptions. These include payroll growth, mortality rates, expected new retirees and estimated earnings from the trust fund's investments over time, known as the Discount Rate. Sixty percent or more of the Retirement Association's income comes from earnings on the trust fund investments. The forecasts are continuously updated as actual data becomes available and new predictions are made. The actuaries determine the overall cost if everyone retired today. This is the actuarial accrued liability (AAL).

Any shortage to that amount is the unfunded actuarial accrued liability (UAAL). The unfunded liability amount shows any shortage should all earned pension benefits come due and payable immediately. It is important to understand that this event will not actually happen. Throughout their work-life, many employees have earned benefits and will be employed for many years. In addition, the retirement benefits are not paid in a lump sum, but in monthly increments. In the County, as a result of labor negotiations, both the employer and the employees have contributed to reducing the unfunded liability.

Pension bonds were issued in prior years to fund the County's unfunded pension liability. A pension obligation bond, known as a POB, aims to use borrowed funds to generate a higher rate of return than the cost of the debt. The combined outstanding balance of the County's two remaining pension obligation bonds is \$459.2 million. The County's financial staff strongly asserts there is no intention to issue any additional pension bonds.

While contribution rates by an employee are set only by the Retirement Association, the County's contribution can be increased by action of the Board of Supervisors. The actuaries use a five year smoothing model to level out the peaks and valleys of investment losses and gains in the Retirement Association's trust fund, stabilizing contribution rates.

The County's portion of funding is called the Annual Required Contribution (ARC), a very sophisticated estimate of the County's yearly pension cost. This required contribution from the County to the Retirement Association adds to the trust fund's assets, with a portion of that contribution designated to reduce the projected shortage described as unfunded liability.

The Retirement Association's evaluation as of December 31, 2013 (the most recent date available) found that the pension trust fund is approximately 82 percent funded. This measuring system is based on the concept that benefits are fully funded when the employee retires, unlike Social Security where today's workers are paying for current retirees' benefits. A 100 percent funding ratio would indicate that there are sufficient funds and revenues to pay all current and future obligations and ensure long term stability and preclude negative impact upon the County budget and services.

Because of the nationwide concern over the difficulties of comparing and assessing pension plans, the Federal Government Accounting Standards Board (GASB) issued new rules for government employers. The new rules (GASB Statements 67 and 68) provide for more transparent disclosure of information to shed light on often severe underfunding of public pension plans and are to be phased in over two years. The County's latest financial statement notes this significant upcoming change to their accounting policies effective for the County's fiscal year ending June 30, 2015, adding, "Management has not determined the effect of this statement." The actual results of the changes will not be available until the 2015 year end statement is completed. However, the County's financial staff preliminarily estimate a positive impact from the changing economy and the new GASB regulations on the real value of pension assets resulting in a corresponding decrease in unfunded pension liabilities.

Changing the Landscape: California's Pension Reform Law of 2013

"A new tier will provide an opportunity to produce long term savings..."—Sonoma County Board of Supervisors, Ad Hoc Committee on Pension Reform Report, 2011

The County's 2011 Ad Hoc report outlined strategic goals to contain future pension costs, many of which became law from State legislative action known as PEPPRA: the California Public Employee's Pension Reform Act of 2013. PEPPRA is intended to make public retirement systems more viable by increasing employee contributions and lowering the employer's costs. This State law

created a new, lower benefit formula (tier) to be used for calculating pension benefits for all new employees hired after January 1, 2013. There are currently two employee tiers— Plan A or Legacy employees, and Plan B employees hired after January 2013. The number of active employees in each tier changes frequently with turnover. The savings to pension costs will build slowly but consistently over the coming years as Legacy employees retire and more of the active workforce is covered by the new benefit formula plans.

The Retirement Association set forth policies to implement PEPRA, the new California law. Many of the policies to control and maintain pension costs represent not only changes made by this law, but in addition, good-faith bargaining with County employees. The practice of inflating the final year's compensation to increase pension benefits, commonly called "Spiking" was essentially eliminated. Cash-outs (also called buy-backs) of unused vacation, sick leave, or compensatory time-off are limited to what is earned and payable in one year. Any banked hours above this amount are not included. This change alone accounted for a \$33 million savings to the County in Fiscal Year 2013-2014. The new law also capped total compensation for pension calculation to the total of compensation subject to Social Security taxation: \$118,500 for 2015.

PEPRA's greatest impact rests with employees newly hired after January 1, 2013, named Plan B members. In general, PEPRA requires reduced benefit formulas for these employees (general employees, with a comparable change for safety employees) of 2 percent per year of service at age sixty-two and 2.5 percent per year of service at age sixty-seven. These pension benefits are based on an average of the final thirty-six months of pensionable salary. This is in dramatic contrast to current Legacy Plan A employees who are eligible for 3 percent per year of service at age sixty (general employees) based on their most recent twelve month pensionable salary.

The County's Pension System in 2015

"There is no simple answer, silver bullet or overnight solution. A solution must be achieved, one based on the County's values,

borne through commitment and achieved through collaboration."—Sonoma County Board of Supervisors, Ad Hoc Committee on Pension Reform Report, 2011

The County Administrator's Office issued its first Pension Reform Update (Update) in December 2014 and presented the report to the Board of Supervisors on January 27, 2015. The Update reviews the progress made and recommends next steps in continuing the effort to address the unsustainable course that Sonoma County pension costs had been on throughout the prior decade.

The Update addresses goals and strategies, all previously outlined in the 2011 Ad Hoc Report. Achievements toward meeting the goal of containing pension costs include:

- Two tier retirement benefits
- Elimination of Spiking
- Limiting cash-outs or buy-backs of accrued sick and annual leave
- Final pensionable compensation formulas increased from one year to three
- Total pension compensation caps
- Contribution by all employees toward unfunded pension liability.

No present discussion of the County's pension system is complete without taking into account the cost of post-retirement healthcare. The County is the plan sponsor of a postemployment healthcare plan. The County pays into a trust, accumulating resources to fund future benefit payments in a cost-sharing plan with the retiree. Retirees and the County share the cost of the monthly premium for medical coverage. In 2009 the County began to phase in a contribution maximum paid by the County toward the cost of the plan. That phasing is now complete and capped at a \$500 per month maximum contribution, which effectively capped the future liability for these costs.

For the fiscal year ended June 30, 2014, the County contributed \$26 million to the health trust. The County's financial report demonstrates an increase to the health fund contribution, with a corresponding increase to future health care obligations, based on

actuarial valuations of over \$300 million of unfunded liabilities in the health trust.

The discussion of pension reform in 2015 also requires mention of background events that impacted this last decade. In 2002, the County agreed to provide retroactive pension increases. The County's decision, based on a legal settlement and labor negotiations, was made with the understanding that employees would bear the full cost of the enhanced retroactive benefit over the course of twenty years with an additional 3 percent contribution to the pension fund. However, initial estimates, stock market volatility, and accelerated retirements caused an unexpected increased cost to the County as more and more employees started to draw their pensions, instead of contributing to them. In the following years, the County negotiated agreements with



bargaining units to partially pay a percentage of this employee contribution.

In the course of recent labor negotiations, the County and its employees agreed to eliminate any County contribution toward the employee's share of retirement costs. In addition, both Legacy Plan A and new Plan B employees agreed to continue a 3 percent pay contribution toward the County's unfunded liability associated with the previous retroactive pension increases.

Additional Strategies to Fund Pension Liabilities by Fiscal Year 2023-2024

"The County is committed to working with labor organizations to seek mutually acceptable solutions to reducing the

County's pension costs."—Sonoma County Board of Supervisors, Ad Hoc Committee on Pension Reform Report, 2011

Current employees accrue retirement benefits each year. This is the "Normal" or expected cost and is shared by the employee and the County. Unexpected costs are the adjustments to projections and the fluctuations in investment earnings. These costs are borne by the County alone and may add to or reduce (if there is a gain) the unfunded liability. One method to contain costs going forward is to share the risk for unexpected costs. This strategy would require greater contributions from the employees over time and will require coordination with the County Administrator, Human Resources, employee bargaining units and the Retirement Association.

In January of 2015, the Board of Supervisors approved an additional \$3.5 million payment to the current projected unfunded pension liability, continuing the County's effort to strengthen fiscal management. This payment, as well as recommended additional payments, is expected to save future financing costs and ultimately pay down the unfunded pension liabilities. In addition, the Board of Supervisors approved a temporary raise in the County's contribution rates to the retirement system for January through June of this year.

The impact of these new County generated policies has been projected by the actuaries to achieve an unfunded liability (UAAL) of zero in the mid 2020's. Management at the Retirement Association believe it will happen somewhat sooner. Both the County and the Retirement Association offer the reminder that projections provide an educated guess at future events. The County must continue to monitor progress and adjustments need to be made in a timely fashion when unexpected factors enter into the pension equation.

Determining the Health of the Pension System

"The County should proceed, based on the commitment to do what is right for all we serve and all who serve."—Sonoma County Board of Supervisors, Ad Hoc Committee on Pension Reform Report, 2011

In light of the Ad Hoc report of 2011, the Update this year, and interviews from sources within and without the County, the Grand Jury's inquiry leads to the additional question: what measurement should be used to determine whether the County can meet its pension obligations in the future? That answer seems to be the subject of much debate.

The 2011 Ad Hoc report stated the goal to reduce pension costs to 10 percent of total compensation (salary and benefits) within ten years, with an ultimate target date of Fiscal Year 2023-2024. In 2011, pension costs were 19 percent of total compensation and expected to grow. This



year's Update Report altered the previous measurement by adding an additional financial element to the calculation; prior to 2014, the yearly costs associated with payments toward the pension obligation bonds were not included in the ratio.

The County's 2015 update projects pension costs (salary, benefits, and payment to pension bonds) over the next ten years to be about one percent over the previous 10 percent goal. While over the target goal, it is on course to contain and reduce pension costs, rather than increasing costs to further unsustainable levels. While the forecast is encouraging, caution must be exercised until a trend is established.

The County's major cost is employee salaries. While the County can reduce the number of employees, it cannot reduce its contractual obligations such as pension obligations for past services. Making significant reductions in pension costs over time can make more funds available for County services, such as maintaining roads, parks and recreation, health and human services, or cultural activities. No matter what the measurement, it is clear that pension contributions are projected annually by the Retirement Association, the County is paying 100 percent of their actuarially

required contribution (ARC), and the County and the Retirement Association policies have a clear goal of reaching full funding of pension liabilities for current and future retirees.

Findings

- F1. The information related to pensions is daunting and difficult for the lay person to understand.
- F2. The County, its employees, and retirees are well served by the Retirement Association.
- F3. Sonoma County, with the assistance of new State laws and good-faith bargaining with employees, has made strides towards reducing unfunded pension liabilities.
- F4. Periodic comprehensive update reports on pension reform are valuable tools for gauging the progress of reducing the unfunded liability.
- F5. A standard method of measuring performance would help citizens gauge the progress of County's goal of pension reform and funding pension liabilities.
- F6. Including annual payments toward the County's pension obligation bonds is a more accurate measurement of the financial health of the pension system.
- F7. Actuarial predictions cannot anticipate extreme market volatility, which may result in investment losses and increased unfunded liabilities.

Recommendations

The Sonoma County Civil Grand Jury recommends that:

- R1. The Office of the County Administrator publish yearly a Pension Reform Update.
- R2. The Office of the County Administrator continue to include the annual payment toward pension obligation bonds in its measurement of the County's ability to meet its future pension obligations.

Required Responses

Pursuant to Penal Code section 933.05, the Grand Jury requires responses as follows:

From the following governing bodies:

- R1. and R2. – Sonoma County Board of Supervisors

Suggested Reading

The California Employees Retirement Law of 1937

The Public Employees Pension Reform Act of 2013

Sonoma County Board of Supervisors Ad Hoc Commission On Pension Reform Report, November 3, 2011

Sonoma County Board of Supervisors Pension Reform Update, December 2014

The 2014 Pension Reform Update presented to the Board of Supervisors on January 27, 2015 at www.sonomaCounty.ca.gov/Board-of-Supervisors/Meeting-Agendas-Minutes-and-Videos

Agendas, minutes, and resolutions of the Sonoma County Board of Supervisors

Agendas, minutes, and resolutions of the Retirement Board of the Sonoma County Employees Retirement Association

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Letters and actuarial studies from Bartel Associates, Inc. (actuaries) to the Sonoma County Administrator's Office

Comprehensive Annual Financial Report (CAFR) of the County of Sonoma for the fiscal year ended June 30, 2014

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Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 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 Grand Jury.

County Detention Facilities

Summary

California Penal Code Section 919 mandates that each County Civil Grand Jury conduct an annual inspection of detention facilities within its jurisdiction. In Sonoma County there are four facilities which fall within this mandate: the Main Adult Detention Facility (MADF), the North County Detention Facility (NCDF), the Juvenile Justice Center (JJC), and the Juvenile Probation Camp (JPC). MADF and NCDF are administered by the Sonoma County Sheriff's Office, while the JJC and JPC are administered by the County Probation Department.

MADF is currently dealing with a number of challenges. As a result of budget cuts arising from the 2008 recession, the Sheriff's Office lost approximately 20 percent of its custodial personnel. In order to cover the required shifts at the main jail, the Department has had to impose significant mandatory overtime levels. This has resulted in an increase in on-the-job injuries and increased stress on detention staff.

Staff levels have thus far failed to keep pace with normal attrition, despite an intensive effort to recruit new personnel. For reasons which are unclear, the percentage of applicants who are ultimately hired as Correctional Deputies is very low, and it appears that the return to pre-recession staffing levels is going to be a long and challenging process.

Another serious issue facing MADF and county jails throughout the State is overcrowding. There are several factors at play here, but the most significant is the Public Safety Realignment Act (commonly known as Realignment), which took effect in October 2011. The Act provides that individuals sentenced for nonviolent and non sex-related offences may serve their sentences in county jails instead of a State prison. Historically, the maximum sentence which could be served in county jail was one year, plus time awaiting trial and sentencing. In the wake of Realignment, however, inmates are serving as long as fifteen years at MADF and other county facilities.

With offenders serving longer sentences, there has been a significant increase in the volume of contraband coming into the jail. The result has been more medical emergencies and violent behavior. To combat this problem, the Sheriff's Office is preparing to deploy a full-body scanning device designed to detect substances which have been ingested or inserted into the body. Additionally, the Department is preparing to deploy a Detention K-9 which has been trained to detect drugs.

Another issue of concern is a lack of adequate space in the intake/booking area. In order to properly process incoming detainees, a booking sheet and pre-acceptance medical screening questionnaire need to be completed. The space constraints in this area of the jail mean that staffing is often inadequate, and there can be serious delays in the admissions process. Department administrators are well aware of this problem and are seeking funding to re-design the area so that booking and intake can work more efficiently.

Despite these ongoing challenges, the Sonoma County Civil Grand Jury is satisfied that proper standards of administration, custodial care, and safety are being maintained at MADF and other detention facilities.

Background

This is a self-initiated report. No specific complaints of misconduct or abuse were received by the Grand Jury during the present term.

Methodology

The Grand Jury conducted inspections at each of the facilities listed above. Jury members met with managers, line staff, medical personnel, and contract personnel. Two members of the Grand Jury participated in the semi-annual Sheriff's Office Citizen's Academy in the fall of 2014, which included touring the jail facilities and meetings with senior staff. Grand Jurors also reviewed the booking/intake and psychological evaluation

process, medical and pharmacy coverage, grievance procedure, developmental programs, and recreational activities.

Discussion

Main Adult Detention Facility

In September and October 2014, members of the Sonoma County Civil Grand Jury (Grand Jury) toured the MADF and interviewed senior staff. MADF is located in Santa Rosa adjacent to the Hall of Justice Complex. The facility is a medium/maximum security jail which houses both pre-trial and sentenced inmates. It operates on a direct supervision model for inmate management, which encourages officer contact with inmates to develop trust and rapport. The design capacity at MADF is 916 inmates; as of March 2015, the inmate population was 795, or 86.7 percent of capacity.

Staffing Shortages. The 2008 recession had a profound impact on Sonoma County budget projections. One result was an approximate 20 percent drop in staffing for the Sheriff's Department and the loss of a large number of custodial officers. Despite recent improvements in the local economy, both the Law Enforcement and Detention Divisions of the Sheriff's Office are still far short of pre-recession staffing levels. The Department has dealt with this shortage in several ways, including an increase in mandatory overtime levels. In 2014, the average number of overtime hours worked by correctional officers was 36.1 hours per month.

Not surprisingly, the long hours now required of staff at County detention facilities have resulted in a significant rise in on-the-job injuries. This has increased the number of correctional staff who are unavailable to cover required shifts, compounding the need for mandatory overtime as existing staff are required to cover the open shifts. Almost without exception, Department personnel who were interviewed by the Grand Jury indicated that they liked their jobs, but that the amount of overtime was a serious strain on their health and on their personal lives.

Despite intensive hiring efforts, staffing levels have not kept pace with normal attrition. While there is no lack of applicants for jobs as

Correctional Deputies, fewer than 10 percent of those who apply are ultimately hired. This is due in part to County Civil Service Rules, which limit the number of individuals who have passed background checks and a written examination from being interviewed. Beyond that, however, it is unclear why there is such a high attrition rate during the hiring process. Salaries are competitive with most Bay Area Sheriffs' Departments, prior drug use guidelines appear to be reasonable, and a high percentage of applicants who take the written exam are successful.

In reviewing the most recent available data for Correctional Deputy recruitment (February 2015), it was evident that a substantial number of recruits wash out during the interview process. The Sheriff's Office appears to be setting a very high bar in the interview process, on the theory that it is ultimately less expensive for the County to hire only highly motivated and qualified personnel than to expedite the hiring process by lowering standards. The Grand Jury concludes that, despite continued recruiting efforts and an outreach program to attract more qualified female and minority applicants, the return to pre-recession staffing levels is going to be a long and challenging process.

Overcrowding. MADF is currently operating at an inmate population level in excess of what best practices prescribes, i.e., 85 percent of design capacity. This is significant in light of the staffing shortage described above. The Grand Jury's investigation disclosed that there are several factors at work here. First and foremost is the Public Safety Realignment Act (Assembly Bill 109), which took effect in October 2011. This legislation was the result of a federal court ruling which mandated that California drastically reduce inmate populations in its thirty-three prisons to 137.5 percent of design capacity. Commonly known as Realignment, the law provides that individuals sentenced for non-violent and non sex-related offences may serve their sentences in county jails instead of a state prison.

Historically, the longest sentence that could be served in county jail was one year, plus time that the offender spent in jail while awaiting trial and sentencing. As a result of Realignment, however, inmates are now serving sentences

of up to fifteen years. Individuals coming into MADF as a result of Realignment (21.4 percent of the inmate population as of March 2015) tend to be more serious offenders, having previously served time in state prison. Because they are serving longer sentences, they are more inclined to smuggle contraband into the facility, increasing the burden on custodial staff.

Although MADF is still a fairly modern facility, it was not designed to house individuals serving long sentences. It is inadequate in terms of recreation and outdoor access, visiting protocols, and rehabilitative programs.

One development which may ameliorate the overcrowding problem is California Proposition 47, which was passed in a referendum vote last November. Essentially, Prop 47 has the effect of converting many non-violent crimes, such as drug and property offenses, from felonies to misdemeanors. The measure affects both future convictions and allows for individuals currently incarcerated for crimes covered by the measure to petition for resentencing.

Although this measure passed by a substantial majority vote (59.3 percent), it was publicly opposed by the Sonoma County Sheriff and District Attorney, as well as many other law enforcement professionals around the State. Their concern is that many of the individuals affected by Prop 47 will reoffend if released without serving the sentence imposed by the court, and that crime rates will increase.

The criminal court system is currently overwhelmed with applications for resentencing, and many inmates have already had their sentences reduced or have been released from custody for time served. The result at MADF has been the release of approximately fifty inmates who would otherwise have remained in custody to serve their sentences. It is premature to estimate the eventual impact of Prop 47 on the jail population and public safety, but it is expected to have a beneficial effect on the current overcrowding situation.

More than 50 percent of the MADF inmate population is awaiting trial or sentencing. It has been suggested that relaxing bail standards could ease the overcrowding problem by permitting more pre-trial inmates to avoid

incarceration, either by being released on their own recognizance or on minimal bail. The Grand Jury is persuaded, however, that bail decisions are best left to the discretion of trial judges.

A more effective approach is the Electronic Monitoring Program currently in effect at both MADF and NCDF. Offenders may apply to serve their sentences at home while wearing an electronic monitoring device. The objective of the program is to allow offenders to continue their education or keep their job and otherwise remain productive members of society while serving their sentence.

Drugs. The influx of illegal drugs into MADF is a problem of growing concern. Although this is due in part to increasing drug use—particularly marijuana and methamphetamine—within the general population, Realignment has resulted in an increasing number of individuals being incarcerated for longer periods of time. Parole violators are more likely to attempt to smuggle illegal substances into the jail, either for sale to other inmates or for personal use. This presents a serious challenge for custodial personnel, since they must deal with an increasing number of medical emergencies and unruly behavior resulting from drug use. Since July 2014, there have been more than 220 incidents of contraband coming into County detention facilities.

To combat this problem, the Sheriff's Office is planning to join a number of other counties in the State that have installed full-body scanning devices designed to detect substances which have been either ingested or inserted into the body. In addition, the Department is in the process of deploying a Detention K-9 which has been trained to detect drugs on or inside the body. These measures, which are scheduled to be implemented within the next several months, are expected to significantly reduce the volume of drugs coming into the jail.

Intake/Booking Process. One area needing improvement at MADF is the intake/ booking process. While the protocol for processing new inmates into the facility appears to be sound, the area where screening and intake occurs is inadequate. A comprehensive pre-acceptance medical screening questionnaire needs to

be prepared for every incoming inmate. The booking officer must be satisfied that the individual meets screening requirements before the jail will admit him or her. If an individual is not ambulatory or exhibits signs of severe emotional disturbance, for example, he or she will be transported to a local medical facility.

Once an individual has been admitted, a Classification Officer determines whether the inmate can join the general jail population or must be relegated to one of the restricted modules, safety cells, or sobering cells. In making this decision, the Classification Officer reviews all available information, including charges filed, past in-custody behavior, and any gang affiliation.

At present, there is insufficient physical space within the booking and intake areas to efficiently process and assess individuals entering the facility, particularly on weekends. If jail personnel are not made aware of medical or substance abuse issues, for example, the inmate may not be properly monitored. If an inmate who is at risk for a violent assault, such as a gang recusant or sex offender, is assigned to the wrong housing unit, the results can be very serious. These factors make it imperative that intake and booking personnel have adequate space and facilities to perform their duties.

Department officials are very much aware of this problem and have been working to find a viable solution. One approach would be to close down the existing kitchen and truck in meals from the Juvenile Justice Center. Alternatively, a stand-alone kitchen could be constructed at another location on the MADF grounds. The existing kitchen would then be converted into an expanded booking/intake area with increased staffing. Either of these projects would be expensive to implement, and the Grand Jury is advised that there is no budget allocation as yet.

Earthquake Preparedness. The August 24, 2014 earthquake centered south of Napa has been described by senior Sheriff's Office personnel as a wake-up call for Sonoma County. In November 2014, the Grand Jury met with senior staff at MADF to investigate what steps have been taken to ensure the safety of

inmates, staff, and visitors in the event of a major seismic event.

The Department has put in place a comprehensive protocol to deal with a number of exigencies which could arise in the event of a 6.0+ magnitude earthquake. This includes the installation of an emergency generator to maintain critical facility operations. In the event of a power shortage or failure, the emergency power generator will activate automatically in approximately eight seconds.

Evacuation routes are now posted in all housing quarters, public areas, and common hallways. Battery powered emergency lighting has been installed at all emergency exits. All electrical and pneumatic locks are now programmed to remain in the locked mode in the event of a power failure. Protocols have also been established for a line of command succession in the event that the Watch Commander is incapacitated or otherwise unavailable.

Mutual Aid contacts have been established with other counties to assist in the event that an evacuation is necessary. Arrangements have been made for use of buses from Alameda and other local counties to transport inmates in the event that an evacuation is required. Three days worth of meals are now maintained on premises. Santa Rosa and Rincon Fire agencies have toured MADF to become familiar with access routes.

The Grand Jury applauds this proactive effort on the part of the Sheriff's Office to assure that any major earthquake or similar disaster will be met with an organized and effective response.

North County Detention Facility

In February 2015, Grand Jury members inspected the NCDF and met with the Senior Detention Lieutenant in charge of the facility. NCDF is located adjacent to the Charles M. Schulz County Airport. It houses low-risk inmates who are normally transferred from MADF when their eligibility has been determined. Inmates at NCDF are assigned to one of several work crews and receive work credits to reduce their time in custody. Until recently, there was a women's unit, which is now closed due to a shortage of female staff.

The current inmate population is approximately 250 minimum-security individuals. With Realignment, the inmate population is becoming more sophisticated, and smuggling of contraband is increasing. Inmates are pat-searched daily and randomly strip-searched.

Staffing is down, despite an aggressive recruiting effort (discussed above). As of February 2015, there were twenty-three staff members working at the facility, which constitutes less than 50 percent of full strength. The result is that five out of seven housing units are currently closed, and the Department has found it necessary to contract with Alameda County to house approximately fifty low-to-medium risk individuals at the Santa Rita jail. It is unfortunate that staff shortages preclude more inmates from serving their sentences at this facility.

Inmates generally want to work. Some are employed in an ambitious horticultural program on the NCDF grounds. Plants are sold to the public, which makes the program essentially self-supporting. A number of inmates work on road crews or at the County fairgrounds, while others may serve weekends on work release.

During the Grand Jury's inspection, the atmosphere at NCDF appeared to be relaxed, and relations between the staff and inmate population appeared to be congenial. Inmates do not want to jeopardize their ability to serve their sentence at this facility by acting out. With increasing drug use, however, misconduct and escapes from work crews are becoming a more serious problem.

Juvenile Justice Center

In March 2015, members of the Grand Jury conducted an inspection of the Juvenile Justice Center and met with senior staff. The JJC is located off of Highway 12 near Kenwood. It currently has the capacity to house 140 juveniles, with an expansion potential for up to 240 beds. Juvenile Hall, as it is commonly known, provides housing for both pre- and post-adjudicated young people. It is administered by a Probation Department Project Management Team consisting of eight individuals. The Grand Jury found that the facility is secure and that staff levels comply with State requirements.

The California Welfare and Institutions Code (Section 841) stipulates that:

“(t)he Juvenile Hall shall not be in, or connected with, any jail or prison, and shall not be deemed to be nor treated as a penal institution. It shall be conducted in all respects as nearly as a home as possible.”

The facility has a modern design and appears clean and well-lighted. Art work created by the detainees is displayed throughout the facility. A wide range of programs and activities is offered, ranging from arts and crafts to Tai Chi and weight training. Weekly Narcotics Anonymous meetings and a voluntary tattoo removal program are also offered.

Juvenile detainees enter the system through arrest, court order, or by turning themselves in. They are assigned to housing units using various criteria including age, gender and severity of charges. The primary objective of the program is to rehabilitate the detainees and assist in their reintegration into the community.

A very small percentage of juveniles apprehended by enforcement agencies are detained at Juvenile Hall; most are released to the custody of their parents or guardians. The Grand Jury found that the current detainee population is well below capacity (seventy-four juveniles as of April 2015), and the facility appears to be underutilized.

Juvenile Probation Camp

In October 2014, members of the Grand Jury toured the Juvenile Probation Camp in Forestville and met with senior Probation Department administrators. The JPC was originally established by the County Board of Supervisors in 1955, making it one of the oldest programs of its kind in California. The Camp has the capacity to house twenty-four young males, aged sixteen to eighteen. Following arrest, an assessment occurs, based on a number of factors, to determine whether the juvenile is eligible to live at the facility during his period of detention.

The Camp offers daily academic classroom instruction in collaboration with the County Office of Education. Training in welding, woodworking and the culinary arts is also offered. The juveniles can earn money by

making such products as park benches and tables. These funds may be applied to pay any court-ordered restitution.

The Camp is well maintained, and relations between residents and staff appeared to be good. As with the JJC, the Grand Jury found that occupancy at the Camp is down, due to less recidivism, fewer referrals from JJC, and a general reduction in crime committed by juvenile offenders.

Findings

- F1. MADF and other detention facilities within the County are well managed and maintained.
- F2. The current influx of drugs into adult detention facilities poses an increased risk of violent behavior, medical emergencies, and a burden on the correctional staff.
- F3. The increased jail population resulting from Realignment is placing a strain on MADF staff and has resulted in onerous mandatory overtime requirements.
- F4. Inadequate space and staffing in the intake/booking area is resulting in long delays in the admissions process.
- F5. Both the Juvenile Justice Center and the Juvenile Probation Camp are currently underutilized.

Recommendations

The Grand Jury recommends that:

- R1. Use of a full-body scanning device and a trained K-9 sniffer dog be implemented at the earliest opportunity to reduce the flow of contraband into the jail.
- R2. Aggressive efforts to recruit new correctional officers be pursued in order to reduce mandatory overtime requirements and maximize the use of NCDF.
- R3. The Department continue efforts to expand the booking/intake area at MADF.

Required Responses

Pursuant to Penal Code Section 933.05, the Grand Jury requires responses as follows:

- R1, R2, R3- Sonoma County Sheriff in charge of MADF.

Bibliography

California Penal Code Sections 919(b) and 933.05.

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Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 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 Grand Jury.



Complaint Handling At Permit And Resources Management Department

Summary

Several years ago, the Sonoma County Permit and Resource Management Department (PRMD or Department) made changes with the goal of becoming more customer friendly. Some of these changes included: 1) centralizing the Department in one building to provide a one-stop shop to help customers navigate the permitting process, 2) initiating a Citizen's Academy which includes workshops to educate owners/builders about permitting and the latest regulatory information, and 3) the development



of the Professional Priority time slot program to expedite the permitting process for building professionals. In addition, the position of Ombudsman was created within PRMD to help customers navigate the permitting process and generally assist in providing a more user friendly atmosphere to resolve problems with permits, land use and development issues. PRMD's focus on improving customer service, while successful in many ways, does not provide a process to inform customers who have lodged complaints about code violations as to the status of their complaints. Neither does PRMD provide sufficient, accessible information about its services to Spanish speaking customers.

The Department issues permits for the development of real property and for regulated uses and activities. PRMD is also responsible for enforcing building codes which address health and safety standards as defined by federal, state, and county codes and policies.

Each year PRMD receives nearly one thousand complaints from citizens concerned with property violations. Timely attention to those complaints serves an important role in enforcing codes and policies that protect health and safety for property owners and the general public.

The Department receives complaints from customers who object to building and land use practices, as well as the Department's own code enforcement practices. Complaints may be filed confidentially. A single customer complaint may result in the recognition of numerous violations or none at all. Once a complaint is filed there are several factors why customers are not informed of their ongoing complaint status: 1) once a complaint is assigned, the relationship between PRMD and the complainant ends to be superseded by a relationship between PRMD and the alleged violator, and 2) the high volume of code enforcement complaints makes it difficult for PRMD's limited code enforcement staff to respond.

There are approximately one hundred Department employees. The code enforcement section has seven technical staff and a supervisor, all of whom actively work on cases. In recent years, there has been a 40 percent reduction in staff due to the 2008 recession and a resulting decrease in economic activity. Despite recent renewal in economic development within the County, Department staffing levels have not been fully restored, resulting in heavy caseloads for many enforcers.

The PRMD reception lobby provides informative pamphlets and video monitor instructions, in English only, to assist customers.

There is a lack of adequate information about PRMD's services in Spanish for Spanish speaking customers.

The Sonoma County Civil Grand Jury's recommendations address improving communications between PRMD and its customers, by clarifying its procedures for recording and tracking complaints and by providing more accessible information and assistance to PRMD customers, including those who are Spanish speaking.

Background

In 2014, the Grand Jury received a citizen complaint alleging that the PRMD failed to resolve his complaint about a code violation in a timely manner. He alleged that the complaint he filed with PRMD in September 2012 was still awaiting resolution two years later. His concerns prompted the Grand Jury to investigate PRMD's policy for complaint handling, response, and disposition to determine if the Department's policies are adequate and, if so, are being followed.

Approach

The Grand Jury interviewed the complainant and a number of PRMD staff, including the Director, the Ombudsman, supervisors, code enforcers, and clerical staff. We toured the Department and reviewed PRMD's website, its written and online policies and procedures, and its records of complaints, including the various types of violations, staff assignments, and the handling and disposition of complaints.

Discussion

Over the past few years, PRMD has consolidated departments in an effort to become more responsive and customer friendly. For example, PRMD provides integrated one-stop permitting services for a broad range of functions inherent in building and land development. PRMD also provides an opportunity for customers to question

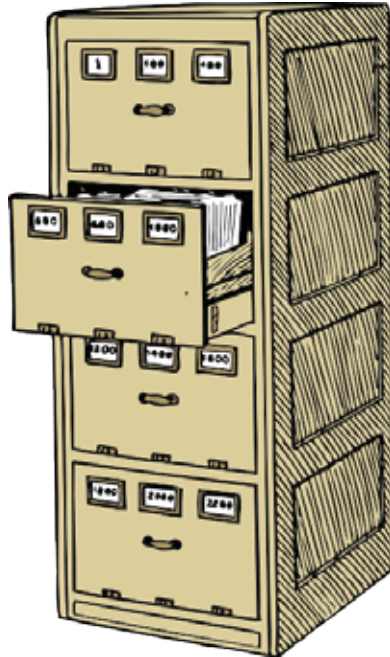
and/or register complaints about observed nonconforming building and land use practices, as well as object to the Department's own code enforcement practices.

Citizens can file code enforcement complaints confidentially by phone or in person. The Department receives nearly one thousand complaints each year. Complaints are logged in and assigned to appropriate code enforcement personnel for investigation. Pursuant to PRMD practices, the log notes the date a

complaint is received and its assignment. Complaints are prioritized and assigned with regard to urgency: health and safety or life-threatening issues are given priority. After the preliminary investigation, senior code enforcement personnel decide how each complaint should be handled. Approximately 40 percent of these complaints are dismissed as invalid or lacking sufficient substance to merit further attention. Each remaining complaint may identify one or more violations that warrant code enforcement and, for that reason, there are more outstanding code violations

than there are outstanding complaints. A complaint is closed when any of the following occurs: 1) code enforcement staff determines the complaint is unsubstantiated; 2) the facts are insufficient to support taking action; or, 3) a violation is identified and further enforcement is warranted.

The PRMD tracking system fails to show the number of complaints outstanding at any given time. The present system tracks only open violations and not the complaints which gave rise to those violations. Thus, PRMD was unable to provide statistics for the number of outstanding complaints. However, PRMD is considering a computer program which could improve ways to submit complaints, receive immediate automated feedback upon request, and assist code enforcement in their field duties. Such a program could solve many of these issues.



The existing customer complaint process is not customer friendly. Once a complaint has been filed, no further information on its progress is provided to the complainant because PRMD's relationship is transferred to the alleged violator. For that reason, the burden is on the complainant to pursue the disposition of his/her complaint, which often results in numerous phone calls, letters, emails or visits to PRMD. Such repetitive contacts consume staff time and result in frustrated and upset customers and staff, who are often diverted from one task to another.

As another means of improving its customer service, PRMD should strive to reach out to its Spanish speaking customers by providing information about its services in Spanish as well as in English. According to current Sonoma County demographics, 24 percent of residents identify as Hispanic or Latino . Spanish speaking staff is sometimes available, but customers are not informed about their availability.

Findings

- F1. PRMD is committed to creating a customer friendly service department and has made significant progress in achieving this goal.
- F2. The PRMD code violation complaint process is unable to provide customers with notification of the status or the resolution of their complaints.
- F3. Spanish speaking customers are not well served by PRMD's information services, most of which, including the code violation complaint forms, are provided only in English.

Recommendations

The Sonoma County Civil Grand Jury recommends that:

- R1. PRMD design and implement a process to notify customers when their code violation complaints have been resolved or otherwise concluded.
- R2. PRMD identify an employee to assist customers with their questions or concerns about the complaint process.

- R3. PRMD provide all relevant information concerning customer services in both English and Spanish.

Required Responses

Pursuant to Penal Code section 933.05, the Grand Jury requires responses as follows:

- R1, R2, R3 - Sonoma County Permit and Resource Management Department

Bibliography

Sonoma County Civil Grand Jury Final Report 2012-2013, "Permit and Resource Management Department: Is Change Permitted?" pg. 13-15.

Sonoma County Permit and Resource Management Department www.sonoma-county.org/prmd.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 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 Grand Jury.



Sonoma County Fatal Incidents

Summary

A fatal incident is defined as:

“A specific incident occurring in Sonoma County involving one or more persons, in which a law enforcement employee is involved as an actor or injured person; when a fatal injury occurs.”

This definition appears in the Sonoma County “Law Enforcement Employee-Involved Fatal Incident Protocol” (Fatal Incident Protocol), adopted by the Sonoma County Law Enforcement Chiefs’ Association in 1993 and most recently revised in 2010.

The Fatal Incident Protocol defines the procedures and guidelines to be used by law enforcement employees and the required response by law enforcement agencies when such an event has occurred, including securing the scene, providing necessary medical attention, determining a lead agency, sequestering involved personnel, and interviewing witnesses.

Pursuant to the Fatal Incident Protocol:

- The involved agency conducts an internal investigation to assure that agency policies and procedures were followed.
- An outside law enforcement agency conducts a complete criminal investigation of the incident and assembles a report which is forwarded to the District Attorney’s Office. Some investigations may require additional assistance from multiple law enforcement agencies.
- After the investigative report has been completed by the outside agency, the District Attorney’s Office analyzes the facts to determine whether criminal liability exists. If involved parties, including law enforcement personnel, have violated criminal law they may be prosecuted.

In 2000, the Fatal Incident Protocol was amended to incorporate procedural review of investigations by the Grand Jury. Since this involvement is not compelled by law, each newly seated jury makes the decision of whether it

will participate in the process. The sole purpose of the Grand Jury’s investigative review is to determine whether law enforcement agencies complied with the Fatal Incident Protocol.

The District Attorney’s Office prepares a summary report of the investigation. The total investigative process may take several months to over a year depending upon the circumstances involved. The summary report is submitted to the Foreman of the Sonoma County Civil Grand Jury (Grand Jury) for review.

Approach

The 2014-2015 Grand Jury received seven fatal incident reports from the District Attorney’s Office. The Grand Jury reviewed each of the reports and requested clarification from the District Attorney’s Office as necessary.

Independent of reviewing the fatal incident reports, the Grand Jury toured the Main Adult Detention Facility, the North County Detention Facility, and the County Morgue. During these routine inspections, the Grand Jury interviewed key personnel at each location. Jurors also interviewed leadership staff from the Sheriff’s Office and the District Attorney’s Office. Several Jurors also attended the Sheriff’s Citizen’s Academy in the fall of 2014.

Discussion

Summaries of the seven fatal incident cases appear below. These summaries are not intended to replace the extensive, in-depth investigations conducted by investigating agencies or the District Attorney’s office. Certain confidential information has been withheld.

Suicide—North County Detention Facility

This fatal incident occurred at the North County Detention Facility on April 19, 2013, at approximately 9:15 p.m. An inmate alerted a correctional officer to a medical emergency in the 502 Housing Unit bathroom. The responding officer found a 55-year-old male

inmate unresponsive and bleeding profusely from his right wrist.

The Sheriff's Dispatch called medical personnel and additional correctional staff to the scene to assist with first aid and emergency medical services. Medical and correctional personnel used towels and pressure to slow the bleeding. A broken, disposable shaving razor was subsequently located on the floor nearby.

Firefighters from the Rincon Valley Fire District evaluated the inmate and began CPR. American Medical Response Paramedics continued resuscitation efforts. Medical staff determined the subject had suffered a substantial blood loss.

The inmate was transported to Kaiser Hospital. While enroute the inmate suffered a cardiac arrest and an unsuccessful attempt was made to defibrillate him. Kaiser hospital staff continued attempts to revive the inmate. At 10:15 p.m. the inmate was pronounced deceased.

During intake at the jail facility the subject had minimized the extent of his suicidal past when answering the pre-booking medical/mental health screening questions. The subject had a long history of depression and drug abuse and had made previous suicide threats and attempts. He was currently serving a 120-day sentence in jail for a parole violation and drug charges. He was due to be released from custody the next day, April 20, 2013.

Due to the misinformation provided by the subject, mental health staff did not identify him as a suicide risk. Staff and inmates did not observe any behavior that would be considered typical of a person contemplating suicide. Although the subject appeared to be in good spirits in the days leading up to his death, issues related to his release appeared to have triggered his suicide.

Pursuant to the Fatal Incident Protocol for a death in custody, the lead agency in this investigation was the Sonoma County Sheriff's Office Violent Crimes Unit. All aspects of the Fatal Incident Protocol were followed.

Fatal Incident—Windsor

This fatal incident occurred on June 8, 2013, at approximately 7:40 a.m. in the Town

of Windsor, which contracts with the Sonoma County Sheriff's Office for law enforcement services. A 48-year-old male armed with a knife went to a coffee shop in the Windsor Town Green expecting to find his estranged wife. The subject confronted his wife as she stepped outside the coffee shop and stabbed her several times. Witnesses observed the subject stabbing himself in the abdomen as he began leaving the area on foot.

Two Sonoma County Sheriff's Deputies were dispatched to the scene. They eventually located the subject who was walking back toward the coffee shop. The Deputies attempted to stop the subject with verbal commands. When that failed they used a taser which also failed to stop him. The subject continued to advance on the Deputies challenging them to kill him. As he was advancing, he began stabbing himself in the stomach.

In his apparent effort to return to the coffee shop, the subject ignored the Deputies' orders to stop and suddenly lunged towards one of the Deputies with his knife. When he came into close proximity, both Deputies fired their weapons, striking him several times. The suspect died at the scene.

The Fatal Incident Protocol was invoked. Santa Rosa Police Department was the lead agency in the investigation. All aspects of the Fatal Incident Protocol were followed.

Fatal Incident—Santa Rosa

This fatal incident occurred in the City of Santa Rosa on October 16, 2013, at approximately 2:54 a.m. Santa Rosa Police Department Dispatch received a call reporting a disturbance at an apartment involving a 38-year-old male who appeared delusional and was making threats. Santa Rosa Police Officers responded and located a naked suspect barricaded behind some furniture in the bedroom of the apartment.

The officers attempted to calm the suspect, but he became increasingly agitated. The suspect appeared to be under the influence of drugs. He accused the uniformed Officers of not being law enforcement personnel.

The suspect continued his erratic behavior, refusing to comply with orders by the Officers.

When one of the Officers attempted to handcuff him he actively resisted. The suspect yelled that the officers were trying to kill him and that he was being raped.

Officers attempted to control the suspect as he kicked, twisted and flailed. The Officers were eventually able to handcuff him. The suspect's demeanor alternated between periods of active resistance and periods of passivity in which he appeared to rest. During one of the suspect's passive periods an Officer checked and found him to have a strong steady pulse. A short period of time passed without further resistance, which prompted one of the Officers to check the suspect's pulse again. He had no detectable pulse.

Officers immediately removed the restraints from the suspect and began to administer CPR. Officers requested that Dispatch send paramedics to the scene. Paramedics arrived and continued life saving measures. They were unable to resuscitate the suspect.

The scene was secured and the Santa Rosa Police Department invoked the Fatal Incident Protocol. The Sheriff's Office assumed responsibility for the investigation. All aspects of the Fatal Incident Protocol were followed. In an autopsy conducted on October 17, 2013, the suspect was found to be under the influence of a high level of methamphetamine. The cause of death was determined to be cardiopulmonary arrest.

Fatal Incident—Santa Rosa

This fatal incident occurred in the City of Santa Rosa on October 22, 2013, at approximately 3:13 p.m. A 13-year-old male subject was walking north on Moorland Avenue carrying an air-soft gun that closely resembled an assault weapon. The weapon lacked the orange tip required by federal law that would identify the gun as a toy. The subject was carrying the gun in plain view on his left side by the grip, with the barrel pointed down.

Two Sonoma County Sheriff's Deputies were on routine patrol when they observed a subject carrying what appeared to be an AK-47. The uniformed Deputies in a marked Sheriff's Office patrol car called for additional units, activated their emergency lights and pulled

their patrol vehicle across the street into the opposing lane of traffic. The patrol vehicle stopped approximately sixty feet to the rear of the subject as he continued to walk north on Moorland Avenue.

The Deputies momentarily "chirped" their siren, exited the vehicle, and verbally challenged the subject, ordering him to drop the gun. The subject did not drop the gun but began turning in the direction of the Deputies and raised the muzzle of the weapon. One Deputy fired his duty handgun, striking the subject multiple times.

With the subject down, Deputies held a position at their patrol vehicle until back-up units arrived. The subject's medical condition was evaluated and life saving efforts were started by Deputies on scene. Upon their arrival paramedic personnel took over. At approximately 3:27 p.m. the subject was pronounced deceased.

The scene of the shooting incident was secured and the Fatal Incident Protocol was invoked. The Santa Rosa Police Department assumed responsibility for the investigation, assisted by members of the Petaluma Police Department. A Sonoma County Chief Deputy District Attorney and an experienced District Attorney Investigator were assigned to oversee and provide assistance to the investigation as necessary. All aspects of the Fatal Incident Protocol were followed. A forensic pathologist conducted an autopsy on October 24, 2013. The post mortem examination determined the cause of death to be gunshot wounds to the subject's chest and abdomen. The toxicology report indicated that the subject tested positive for marijuana.

Fatal Incident—Guerneville

This fatal incident occurred in the Town of Guerneville on November 18, 2013, at approximately 11:00 p.m. A 58-year-old male, who suffered from long-term medical issues, had been drinking heavily. The subject began arguing with his wife of many years, threatened her, and armed himself with a rifle.

After his wife and daughter called the Sonoma County Sheriff's Office Dispatch Center they ran to the River Sub-Station in Guerneville, located

close to their residence. Deputies moved the wife and daughter to the rear of the Sub-Station and called for additional units. As back-up units began to arrive, Deputies could hear gunshots being fired in close proximity to the Sub-Station.

Deputies established a perimeter in the area of the suspect's residence and called for support from the Sheriff's Office Special Weapons and Tactics (SWAT) Team. Prior to the arrival of the SWAT team, the suspect appeared on his front porch and fired his weapon in the direction of the Sub-Station. Two Deputies opened fire on the suspect with a rifle and a shotgun. Deputies observed the suspect lying on the porch but were unable to determine his condition.

Upon arrival the SWAT team was able to determine that the suspect was lying face down but could not see his hands. A Sheriff's Office Canine Unit was on the scene. The dog was deployed and was able to roll the suspect over so that his hands were visible. A paramedic was allowed onto the scene to evaluate the suspect's condition. He pronounced the suspect deceased at 1:41 a.m.

The scene was secured and the Fatal Incident Protocol was invoked. The Petaluma Police Department assumed responsibility for the investigation of the shooting incident. Members of the Santa Rosa Police Department assisted with evidence collection and the Sonoma County District Attorney's Office also participated in the investigation. All aspects of the Fatal Incident Protocol were followed.

An autopsy was conducted on November 20, 2013. The attending forensic pathologist determined that the suspect's death was caused by a single gunshot wound to his torso. The suspect's blood alcohol content at the time of this incident was extremely high.

Fatal Incident—Healdsburg

This fatal incident occurred in the City of Healdsburg on February 14, 2014. The 43-year-old male suspect was under investigation for alleged lewd acts with a minor. In an attempt to execute an arrest warrant, Healdsburg Police Officers arrived at the suspect's former residence where his wife was currently residing. The suspect was not there and the Officers left.

Subsequently the suspect phoned his wife on his cell phone from an unknown location. The wife thought she heard a gunshot during the call and called the police. Law enforcement, with the assistance of the telephone company, attempted unsuccessfully to locate the suspect through his cell phone.

That afternoon, in a seemingly unrelated incident, Healdsburg Police were dispatched to an interrupted residential burglary. A woman and her two children had just returned home when one of the children observed an unknown person inside their home. When her husband returned home moments later, he entered the residence and found the suspect lying on the floor in a fetal position under a blanket. The homeowner subdued the suspect and held him down until the police arrived.

Police officers arrived on the scene and attempted to take the suspect into custody. At that point the suspect managed to gain access to a small, semiautomatic handgun he had concealed upon his person and shot himself in the head. Emergency medical personnel were called to the residence and pronounced the suspect deceased. Later the deceased was identified as the 43-year-old subject of the original arrest warrant.

The Fatal Incident Protocol was invoked. Detectives from the Sheriff's Office conducted the investigation with the assistance of members of the Sonoma County District Attorney. The District Attorney's Office confirmed that the only weapon fired was in possession of the suspect and the fatal wound was self-inflicted. All aspects of the Fatal Incident Protocol were followed.

A forensic pathologist conducted an autopsy on February 18, 2014, and determined that the cause of death was a gunshot wound to the head. The bullet retrieved from the suspect's brain was found to match the ammunition found on his person and the caliber of his weapon.

Fatal Incident—Kenwood

This fatal incident occurred on April 2, 2014, at approximately 6:38 p.m. in Kenwood. A 32-year-old male suspected of being a contract killer for a cartel and wanted for

numerous felony charges took a woman hostage, barricading himself inside a travel trailer which began a thirty-hour standoff with law enforcement. The suspect was wanted on several charges including weapons violations, possession of stolen property, possession of drugs, and child endangerment. The suspect was also wanted for questioning in relation to a kidnapping which was later confirmed to be a homicide.

The convoluted chain of events leading up to this stand-off included:

- January 16, 2014—While test-driving a truck in Rohnert Park, the suspect with his companion car-jacked the vehicle, holding the owner at gunpoint. After extorting weapons from the victim's wife, the suspect left the victim tied up in a vineyard. Two vineyard employees found the victim and gave him a ride to Sonoma where he called the Rohnert Park Public Safety Department to report the incident.
- February 8, 2014—During a routine traffic stop in Napa, the suspect in question was stopped by a Napa Police Officer and arrested for possession of narcotics, paraphernalia, and a magazine for a firearm. A search warrant was served at the suspect's residence where the car-jacking victim's two stolen handguns were recovered. The suspect posted bail and was released from custody, but failed to appear for his scheduled court date.
- April 1, 2014—Napa Police Department attempted to locate the second suspect involved in the above-mentioned kidnapping case utilizing cell phone tracking technology. They were able to apprehend that suspect without incident on a traffic stop. This individual stated the original suspect had provided the gun used in a drive-by shooting in Napa, was currently staying in a trailer in Kenwood, and was in possession of additional firearms.

The Napa Special Investigations Unit requested the assistance of the Sonoma County Sheriff's Office in the execution of an outstanding arrest warrant for the suspect at the Kenwood location. Sonoma and Napa County SWAT teams arrived and ordered the occupants to exit the trailer. The legal tenant

of the trailer exited and confirmed that the suspect was currently inside the trailer with a handgun, a ballistic vest, and a woman friend of the tenant. Additional attempts were made over the public address system requesting the suspect to release the hostage and come out peacefully.

During the standoff, the suspect refused to comply with the Hostage Negotiation Team's repeated requests to surrender himself. The suspect's behavior was erratic, threatening, and hostile. During their conversation the suspect made several incriminating statements regarding past violent felonies, including murder. As negotiations continued the suspect made statements indicating law enforcement Officers would have to kill him or he would end up killing himself.

Early the next morning the suspect released his hostage unharmed. The hostage confirmed that the suspect was armed with a rifle and was wearing a bullet proof vest. That afternoon negotiators allowed the suspect to engage in a supervised telephone conversation with the suspect's ex-girlfriend in an effort to convince the suspect to surrender peacefully, but to no avail.

The suspect fired at SWAT personnel who then deployed gas into the trailer. The suspect fired additional shots striking the armored SWAT vehicle, nearby buildings, and other vehicles.

Several hours later the Sonoma and Napa County SWAT teams introduced flash bang grenades (noise and light emitting devices used as a distraction) and additional CS (tear) gas into the trailer without results. Approximately one hour later a Sheriff's Deputy fired a CS Spede-Heat round (which is considered flammable) into the trailer. Moments later the suspect again began firing his rifle, walked out the front door of the trailer, and collapsed onto the ground.

The suspect's hands were not visible which precluded SWAT personnel from determining his condition. A Sonoma County Sheriff's Office K-9 Unit was deployed. The dog bit the suspect's arm; the suspect did not react. A non-lethal sponge was then fired and struck the suspect, also resulting in no reaction. An

EOD (Explosive Ordinance Disposal) robot was deployed to assess the suspect. At that point a fire broke out inside the trailer which forced SWAT personnel to approach the suspect. The suspect was moved to a safer location where he was medically evaluated and pronounced deceased at 6:53 p.m.

The Fatal Incident Protocol was invoked. The Petaluma Police Department was the lead agency in the investigation. All aspects of the Fatal Incident Protocol were followed.

On April 7, 2014, an autopsy was performed by a forensic pathologist who concluded that the suspect suffered a single gunshot wound to the chest. The injury was consistent with a self-inflicted, close contact wound. The toxicology report indicated the presence of amphetamine and methamphetamine in the suspect's system.

Findings

- F1. The required Sonoma County Law Enforcement Employee-Involved Fatal Incident Protocol was followed by all of the involved law enforcement agencies and their respective personnel in each of the seven fatal incidents reviewed.

Recommendations

None.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 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 Grand Jury.



Sustainable Water for Sonoma County

“Water for the Present and the Future”

Summary

Within the past year, great strides have been made toward managing water resources for sustainability—satisfying current needs without compromising the future. The Sonoma County Water Agency, in cooperation with affected stakeholders, completed a major study of the Santa Rosa Plain groundwater basin. Sonoma County adopted new regulations protecting riparian (adjacent to the river) exposures from pollution. An agreement was effected to reduce gravel mining from the Russian River. Print and film media drew attention to what is going on right here at home. And remarkably, because it has never happened before, the State of California amended its Water Code to require sustainable groundwater management and enforcement.

Some of the recent progress remains to be implemented. Governments, water districts, farmers, and others need to push for prompt, effective application of water sustainability guidelines. Some of the changes will be implemented through local Groundwater Sustainability Agencies (GSAs) which have yet to be formed, but need to be without further delay. The GSAs are responsible for improved monitoring of groundwater and pumping, studies and modeling of groundwater basins, and decisions about how to achieve sustainability goals. Sustainability may require balancing current values against important future benefits. Citizens need to be informed of the changes and how they are affected personally.

Although the new water law is already in place, many of the provisions follow a timeline that stretches out for ten years and longer. Sonoma County has already accomplished part of what needs to be done. We are in a good position to move ahead and stay ahead of the deadlines—and we should. Sustainable water management becomes more difficult every year that we disregard it. The 2014-2015 Sonoma County Civil Grand Jury (Grand Jury)

recommends that governments, organizations, and individuals within Sonoma County adopt sustainability practices with all deliberate speed.

Background

In 2014, the California legislature passed sweeping changes in water law. The key is sustainability: using water and other resources at levels that can be sustained each year without causing an undesirable result. The emphasis is on managing groundwater: “Groundwater is one of California’s most ubiquitous, widely used resources that is unseen and misunderstood. We must manage groundwater wisely.”¹

Approach

The Grand Jury studied California’s new water law; investigated related interests through printed and digital documents; interviewed County officials in key departments including water and development; reviewed public media including local newspapers; and interviewed outside interests offering insights in economics and hydrology. The Grand Jury found widespread agreement that water issues need attention; there is substantial willingness to work cooperatively toward solutions, but a greater sense of urgency is needed for moving quickly.

Discussion

*Excessive groundwater extraction can cause overdraft, failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence that damages infrastructure and diminishes the capacity of aquifers to store water for the future.*²

Groundwater was plentiful at the beginning of the 20th century. Water in saturated soil beneath the surface of the earth could be easily pumped for use and its availability fostered urban and agricultural growth. As demand for groundwater increased, effective



management became critical to protecting the future availability and quality of the supply. This was accomplished primarily on the local level, because groundwater is a local resource used locally. Many well owners choose to think of their water use as having no impact on others, although it does. Demands for water from an ever increasing number of people, municipalities, farms, and industry gradually exceed the capacity of the aquifers, until they fail. Where there is no regulation on pumping, groundwater basins have often been overused. Groundwater in Sonoma County has not been impacted as strongly by overuse as it has in California's Central Valley, but there are problems here, and there is potential for worse.

Over the years there have been attempts to make California's groundwater laws more uniform, equitable, and effective. Piecemeal efforts have helped but fallen short of the needs. Finally, last year, new legislation was passed and signed into law, modifying the California Water Code in more fundamental ways.

Sustainable Water Management—the legal setting

Old water laws and their weaknesses—The history of California is linked to the history of water rights. Whoever controls the water controls the wealth, and therefore it is a history of struggle in the legislature, in the courts, and in the field. The struggle continues each year, seeking balance between exclusive individual rights versus the need to preserve access to water for everyone.

Problems with weak, inconsistent water laws were not new when amid high hopes the legislature passed laws in 2001 to strengthen the California Environmental Quality Act (CEQA). CEQA, enacted in 1970, requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. Among the provisions were requirements that municipalities approving a new development project would evaluate the water supply and forecast that it would be sufficient for 20 years. That is the process followed in 2004 when the City of Rohnert Park prepared a Water Supply Assessment and on the strength of it certified

a new development project for the city. A local environmental consortium headed by the O.W.L. Foundation pointed to deficiencies—which the City proceeded to address. However, after the courts sided with the City's original position, many observers concluded that a stronger law was needed. Apparently the legislature agreed.

The new water law and its potential—Legislation passed in 2014 is widely understood to provide the strongest groundwater management law that California has ever had. The new law:

- Adopts a goal that all groundwater use be sustainable,
- Establishes local agencies responsible for sustainable water use,
- Grants authority to the local agencies to enforce sustainable use, and
- Grants authority to fund the local agencies.

The local agencies are called Groundwater Sustainability Agencies. Each GSA is responsible for a careful analysis of an aquifer and how it is being used, in the form of a groundwater sustainability plan consistent with criteria established in the law. The GSA is responsible for preparing the plan and making it work on a sustainable yield basis. Initially, the mandates apply to the most critical aquifers, those with high and medium priorities for action, as assigned by the California Department of Water Resources (DWR).

It is unlikely that the new law will resolve all water concerns, or indeed that it will go unchallenged in the courts. But it provides a fresh framework with new powers around which the community can gather cooperatively to obtain more rational, equitable water management results than before. And while the law deals primarily with the management of groundwater resources, it is clearly tied to the management of surface waters as well.

Groundwater Resources in Sonoma County

The County has been mapped into fourteen aquifer basins by the United States Geological Survey (USGS) and affirmed by the DWR. In Sonoma County, three of those basins have been singled out by DWR as medium priority basins selected for early attention,

for a combination of reasons that include the overlying population, its projected growth, irrigated acreage, reliance on groundwater, and impacts such as overdraft, subsidence, and saline intrusion. They are:

- Santa Rosa Plain sub-basin
- Petaluma Valley basin
- Sonoma Valley sub-basin

Figure 1 shows where the groundwater basins in Sonoma County are located.

can be managed. The first results of those efforts have been realized in two groundwater management plans:

- Sonoma Valley Groundwater Management Plan, December 2007.
- Santa Rosa Plain Groundwater Management Plan, October 2014.

Efforts are under way to develop a similar groundwater management plan for the Petaluma Valley basin.

An outstanding feature of these plans is

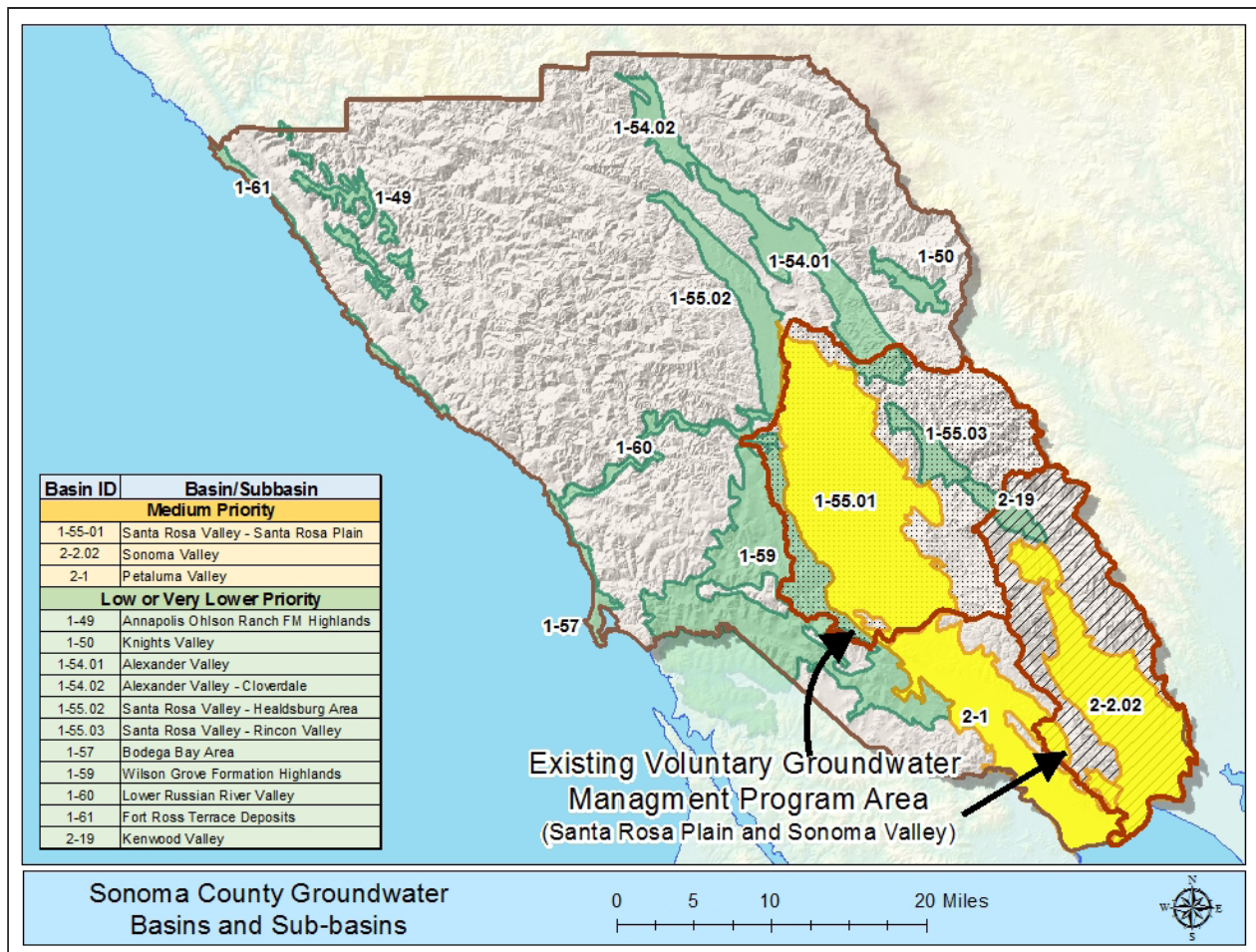


Figure 1 Groundwater Basins in Sonoma County - Courtesy of Sonoma County Water Agency

Sonoma County Water Agency (SCWA) is a wholesale supplier of water to about twenty cities and other agencies in Sonoma County.³ During recent years, SCWA has been working with stakeholders (people with vested interests) throughout the County to identify how their interests within the groundwater basins

cooperative effort between SCWA and the USGS: “[E]ach ground-water basin will be studied and the hydrologic information will be added to a geographic-information system being developed by SCWA and Sonoma County.” The groundwater flow models will eventually be “unified into an optimization model for water supply”—in other words, an effective tool to help in managing the groundwater basins.⁴

That is an important step toward sustainability because there still isn't enough information to complete a good optimization model. Most well owners don't report basic information such as how much water they pump and what the water depth is. Existing groundwater management plans are voluntary agreements between stakeholders about collecting more such information. In the future, there will be more data. As information improves, groundwater models and management decisions will also improve.

Management of Groundwater Resources—planning

When properly managed, groundwater resources will help protect communities, farms, and the environment against prolonged dry periods and climate change, preserving water supplies for existing and potential beneficial use. Failure to manage groundwater to prevent long-term overdraft infringes on groundwater rights.⁵

The groundwater sustainability plan mandated for each of Sonoma County's three medium-priority water basins will need extensive information to respond to all the criteria in the new law. A short list includes detailed basin description, measurable objectives, timeline for implementation, means for accomplishing the goals, monitoring provisions, and coordination with city and county general plans. A water sustainability plan needs to consider all factors that affect the balance of the water system, with conjunctive management of surface water and groundwater resources. While good data are available for water used by municipalities and water districts within the county, considerably less is known about water use in areas outside those limits – where most of the individual wells and most of the county's agriculture is located. Data collection and monitoring will need to be early goals of the new GSAs.

Sonoma County's two recent groundwater management plans provide much of the information required for the new groundwater sustainability plans, but important additions are needed. The existing groundwater management plans fall short of actually managing the basins on a sustainable basis. If compliant water use is

not achieved voluntarily, there will be additional provisions for enforcement.

The Petaluma Valley water basin underlies both Marin and Sonoma counties. The groundwater sustainability plan for that basin will call for further cooperation between agencies and stakeholders in both locations.

Cooperating to Get the Most Benefit Out of the New Law

Information on the amount of groundwater extraction, natural and artificial recharge, and groundwater evaluations are critical for effective management of groundwater.⁶

Sharing the water in an underground aquifer can work well as long as everyone follows a "good neighbor" policy and cooperates. Some aquifers, however, serve thousands of neighbors and it isn't always easy to get the needed cooperation. The new groundwater sustainability law provides a structure for cooperation and a way to accomplish common goals.

*Getting started now with groundwater sustainability management—*The new groundwater sustainability law defines sustainable management as managing and using groundwater in a way that can be continued over a long period of time. Specifically, sustainable yield is defined as the amount of groundwater that can be withdrawn annually without:

- chronically lowering groundwater levels,
- causing seawater intrusion,
- degrading water quality,
- causing land subsidence, or
- depleting interconnected surface water (such as creeks, streams and rivers) in a manner that causes significant and adverse impacts.

What sets the new law apart from earlier legislation is that it establishes mandates, i.e. for sustainability, a timeline for implementation that stretches incrementally to 2025, and regulatory authority. Authority is vested in local agencies to interpret and apply the mandates as long as mandates are met; in default, the State will take over.

Some observers believe that actions should be taken timely, to preserve local control. In fact, there is a palpable advantage in moving ahead promptly well ahead of the deadlines; Sonoma County should be able to gain that advantage. Indeed, after January 1, 2015, new groundwater management plans and plan renewals for high and medium priority basins must include sustainability provisions. For example, delays in implementing these plans could impede updating city master plans. In addition, the general plans adopted by cities and county must coordinate with the new groundwater sustainability plans.

The first deadline for local action is June 30, 2017, by which time the GSA must be identified. Each distinct groundwater basin may have a separate GSA to address unique concerns, or a GSA may serve several basins. The law sets qualifications for which agencies may serve as GSAs but is unclear about how the GSAs are to be selected, and yet that process will determine how effective the GSAs are. A reasonable goal is that formation of the GSA will provide for representative governance by local stakeholders, such as:

- Rural residential property owners who rely on groundwater,
- Agricultural property owners,
- Municipal water agencies that rely in whole or in part on groundwater supplies,
- Mutual water companies that rely on groundwater supplies,
- Water quality/environment/wildlife representatives,
- Agencies that have land use authority within the groundwater basin, including cities and the County.

The law provides that those living in a specific groundwater area may form a GSA that allows them broad representation and independent governance. The default GSA for water basins in Sonoma County that are not otherwise included in a specific GSA is the County Board of Supervisors. The Supervisors also serve in a dual role as the Board of Directors of SCWA.

Working with groundwater sustainability management—Under the new water law, Groundwater Sustainability Agencies are

assigned one essential responsibility: attaining sustainability for their respective groundwater basin or basins. It will take time to achieve this goal. At best, it is likely to take several years to decide what a sustainable yield is for each basin, longer to establish a plan for sustainability, longer to implement the plan, and still longer to demonstrate that the adopted measures are working—that the groundwater basin is performing as expected to achieve long-term sustainability goals — without any of the adverse conditions identified above. It is this lead time that pointedly illustrates why it is important for Sonoma County to have operational GSAs, without delaying until the deadline—because permanent damage to groundwater basins can occur and there is reason to believe some damage may already be occurring. In the even more immediate future, a functioning GSA might be able to help with the current drought, including the Governor’s Executive Order mandating cutbacks in water consumption.

The new water law grants powers that the GSAs may need to carry out their responsibilities, notably obtaining information about the water basin and how much water is being extracted from it. The powers allow the GSA to fund its own operations and enforce its own rules. Which powers are enacted and how they are implemented become decisions of the local GSA based on local needs. One of the first things a new GSA is likely to do is gather as much information as possible about the aquifer and how the water in it is being used. Some data are already known through the work of USGS and the DWR, but more information will be needed. The GSA is likely to ask well owners for help in gathering information about well inventories, well characteristics, and well monitoring. Further attention will be given to approval of monitoring technology, groundwater basin monitoring, water demand projections, basin recharge rates, ground subsidence, basin carrying capacity, and limits on development and pumping.

Carrying capacity has to do with how many people can be supported indefinitely with the available resources and services. A study of carrying capacity is an opportunity to bring

many ideas and people together in search of balance and consensus. In the broadest sense, water is only one important part of that picture. For purposes of water management, carrying capacity includes available resources, population, and per capita consumption. A carrying capacity study should consider how an economic part, a social part, and an environmental part come together to make up community. Carrying capacity should be studied broadly across the entire county through an independent team representing resources, disciplines, stakeholders, and other interests.

Some of this may be difficult to accept after years of unregulated groundwater use, but easier to accept than a well going dry when a property owner is relying on it—or a whole water basin that is no longer available to anyone. Water is essential to life and our enjoyment of life. Groundwater sustainability management is an essential step in making sure water is available to us and to those who follow us.

Findings

- F1. Recent changes in California water law establish requirements for managing groundwater as a long-term sustainable resource, administered by local Groundwater Sustainability Agencies.
- F2. Sonoma County is better served if Groundwater Sustainability Agencies are established in advance of state-mandated deadlines, using criteria that assure broad participation.
- F3. Water agencies within Sonoma County have yet to sufficiently educate groundwater users about their responsibilities for sharing water resources, potential limitations on water use, and the advantages of making sure, through sustainability, that water will be available in the future for their own use.
- F4. Most governmental entities in Sonoma County — departments, cities, and other agencies — have yet to adopt sustainability provisions in their mission statements, goals, and programs, or to

coordinate those efforts with other government entities.

- F5. The Sonoma County Water Agency has participated significantly in preparations for sustainable water management, and can continue to contribute in the transition to management through groundwater sustainability agencies.
- F6. Economic and environmental sustainability are interdependent; economic sustainability can be achieved only when critical resources such as water are also managed for sustainability.
- F7. There has been no cross-discipline study of carrying capacity in Sonoma County that projects what population the water and other resources in Sonoma County are capable of supporting.

Recommendations

The Grand Jury recommends that the Board of Supervisors and Sonoma County Water Agency:

- R1. Establish goals that include sustainability and recognize water sustainability as a specific goal.
- R2. Assign a high priority to implementing the new water sustainability law.
- R3. Conduct a county-wide study of carrying capacity.
- R4. Use the existing groundwater management plans as foundations for issuing new groundwater sustainability plans for two of Sonoma County's major water basins.
- R5. Continue funding as appropriate for the Sonoma County Water Agency to support the formation of suitable groundwater sustainability agencies and their early operations.

Required Responses

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

- R1, R3, R5 - Sonoma County Board of Supervisors
- R1, R2, R3, R4, R5 - Sonoma County Water Agency

Endnotes

- 1 “California’s groundwater problems and prospects,” UC Davis Center for Watershed Sciences, January 2013. <http://californiawaterblog.com/2013/01/30/californias-groundwater-problems-and-prospects/>
- 2 California Legislature finding in AB1739 (2014).
- 3 See <http://www.scwa.ca.gov/> and <http://www.scwa.ca.gov/water-system/>
- 4 “Water Resources Availability and Management in Sonoma County, CA” U.S. Geological Survey / California Water Science Center, 14 Jun 2011. http://ca.water.usgs.gov/user_projects/sonoma/index.html
- 5 California Legislature finding in AB1739 (2014)
- 6 California Legislature finding in AB1739 (2014)

Glossary

“Groundwater sustainability agency”: One or more local agencies that implement the new sustainable groundwater management provisions of California’s water law.

“Groundwater sustainability plan”: A plan established by a groundwater sustainability agency to achieve sustainable groundwater management.

“Sustainable”: (1) meeting the needs of the present without compromising the ability of future generations to meet their own needs; (2) improving the quality of human life while living within the carrying capacity of the Earth’s supporting eco-systems.

“Sustainable groundwater management”: Management and use of groundwater in a way that can continue for a very long time without causing undesirable results.

Suggested Reading

“Sustainable Development”, Water in the West, Stanford Woods Institute for the Environment, 2014. <https://woods.stanford.edu/research/centers-programs/water-west>

“Sustainable Groundwater Management Act,” Sonoma County Water Agency, 2015. <http://www.scwa.ca.gov/sgma/>

“Sustainable Groundwater Management Act in Sonoma County” http://www.scwa.ca.gov/files/docs/water-resources/groundwater/sgma/SGMABOSBOD_3_17_15_FINAL_a.pdf

Kevin M. O’Brien, Alice in Groundwater Land: Water Supply Assessments and Subsurface Water Supplies, 4 Golden Gate U. Envtl. L.J. (2010). pp.131-144 <http://digitalcommons.law.ggu.edu/gguelj/vol4/iss1/7>

“Groundwater Law” 2014. Water Education Foundation, Sacramento: Aquapedia. <http://www.watereducation.org/aquapedia-background/groundwater-law>

California 2014 water law revisions: SB 1168, SB 1319, and AB 1739

“Sonoma County General Plan 2020: Water Resources Element”, September 2008. <http://www.sonoma-county.org/prmd/gp2020/wre.pdf>

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 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 Grand Jury.

2014 - 2015 Sonoma County Civil Grand Jury



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