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 residents of their counties.

Nineteen jurors, and a minimum of five alternates, are needed to complete the annual 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. Since the Grand Jury is an autonomous panel, its ability to effectively serve its purpose depends on the interests, capabilities and skills of the jurors who volunteer to serve. The Grand Jury is an institution that can benefit from voices and points of view reflecting the diversity in age, ethnicity, gender, and education found here in Sonoma County. The year long 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 can make the commitment, to find out more and apply.

Service on the Grand Jury is a rewarding opportunity to learn about Sonoma County governance and to make a positive contribution to the community.

We invite you to apply for Grand Jury service

www.sonomagrandjury.org
To the citizens of Sonoma County and the Honorable Judge Raima Ballinger:

On behalf of the 2015-2016 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, analyzing information, and preparing reports 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 these entities 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. 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 diverse backgrounds, levels of education, and expertise. This Grand Jury participated in overseeing the accuracy and efficiency of the June primary election. As required by the Penal Code, we inspected the County detention facilities and reported on their condition. This jury expanded outreach activities to potential jurors by publishing ads in local newspapers about Grand Jury service and by holding informational meetings in County libraries. We have also instituted changes in the jury’s internal communications systems so as to provide greater security and accessibility, and an improved ease of use, for the benefit of future Grand Juries.

Our complete Final Report is available online at www.sonomagrandjury.org. Report summaries are published by the Press Democrat and are available as an insert in a number of local newspapers. Hard copies of the Final Report are available for review at County Libraries.

I offer my sincere gratitude to my fellow jurors for their contributions to our mission, thus making it a pleasure to serve on this year’s Grand Jury.

Charlotte Addington, Foreperson
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 2015-2016. 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, Charlotte Addington, for her 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,

[Signature]

Raima H. Ballinger, Presiding Judge
Superior Court of California,
County of Sonoma

RBjlw
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Forward

A common thread runs through the 2015-2016 Sonoma County Civil Grand Jury Report to the citizens of Sonoma County. Each of the seven reports contained herein reflect, to greater or lesser degree, a lack of available funding to provide or maintain services and infrastructure. Whether it be crumbling roads, inadequate stock of affordable housing or understaffed law enforcement it is hard to escape the fact that the County and Cities in Sonoma are struggling to provide an increasing array of services with insufficient funding. This is not a temporary situation. County staff recently estimated annual budget shortfalls in excess of $100 million per year for the next five years.

During the course of its investigations, the Grand Jury was consistently impressed by the dedication and professionalism of the civil servants and elected officials with whom we met. At the same time the Grand Jury found that deciphering the 318 page County budget was very difficult, especially for those of us without financial or accounting backgrounds.

The extent of the anticipated shortfalls in funding across the budget (housing, homelessness, public safety, roads etc,) makes it likely that citizens will be presented with one or more tax initiatives in the near future. It is not the place of the Grand Jury to intrude on those electoral choices. However, given our struggle to understand the budget, the Grand Jury is deeply concerned by the fact that citizens will be asked to approve new taxation without a clear picture of how the County allocates available funds and accounts for reserves.

We strongly urge the County and the Cities of Sonoma to make every effort to provide the financial transparency that is a necessary prerequisite to authorizing further taxation.
SUMMARY

The poor and deteriorating condition of local roads affects all residents of Sonoma County. The depth of concern among residents is perhaps best reflected by the fact that, over the course of 2015, more letters to the editor of the Press Democrat concerned road conditions than any other subject.

County residents were given an opportunity last June to vote on a general sales tax measure that would have generated significant revenue, which the Board of Supervisors (BOS) asserted would be spent primarily on road maintenance and paving. The fact that this measure was soundly defeated at the polls reflects voter skepticism that local government can be trusted on funding priorities.

Because maintenance and paving of our roads was given low priority for the prior several decades, the cost to catch up has been escalating sharply each year. Recognizing this problem, the current BOS doubled General Fund contributions for paving for the past three years. Even this additional funding, however, falls short of the minimum $20 million per year needed to stabilize pavement conditions in the County.

Either budget priorities need to be changed or additional sources of revenue need to be found in order to achieve annual road spending levels that will improve the condition of the County road network over time. After numerous interviews with County staff, however, the Grand Jury is unable to determine what discretionary monies, if any, are available in the County budget.

BACKGROUND

The Grand Jury initiated this investigation in an effort to determine what additional monies from the General Fund and other revenue sources could be allocated to road maintenance and paving, and what funding would be sufficient over time to bring local road conditions to an acceptable level.

METHODOLOGY

During the course of its investigation, the Grand Jury conducted interviews with representatives of the following agencies: Transportation and Public Works (including the Roads Division), the Sonoma County Transportation Authority, the County Board of Supervisors, the County Administrator’s Office, and the Risk Management Division of Human Services. Interviews were also conducted with representatives of Save Our Sonoma Roads, an independent advocacy group founded in 2011.

Primary sources consulted by the Grand Jury are listed in the Bibliography below.

DISCUSSION

Current State of the County Road Network

The current state of the County’s roads network has developed over several decades and has become one of the County’s most challenging legacy problems. In California the distribution of excise taxes on fuels favors population and registered vehicles over road miles. With a 1,370-mile road system and a total of approximately 490,000 registered vehicles, Sonoma County is distinctly disadvantaged under the current tax allocation system.

According to the 2014 Sonoma County Long-Term Road Plan prepared by the County Department of Transportation and Public Works, the eight most populous counties in the State receive approximately 47 percent of fuel excise tax funds. Orange County, for example, receives $45 million annually, but has only 309 miles of county-maintained roads in comparison to Sonoma County, which receives $12 million annually for its roadways. This equates to $145,631 per mile for Orange County roads compared with only $8,759 per mile for Sonoma County roads. This inequity means that Sonoma County is one of the few counties in the State which must invest General Fund money into paving its road system.

The fuel excise tax rate has remained the same...

Sonoma County Civil Grand Jury
since 1993, while inflation has steadily eroded the purchasing power of this funding. More recently, fuel prices have come down and vehicles have become more fuel efficient. The combined result has been that maintenance projects now consume nearly the entire Roads Division budget, with nothing left for paving projects that improve the roadways.

When roads deteriorate to the point at which maintenance procedures - primarily filling potholes, slurry sealing and chip sealing - are no longer effective in preventing road deterioration, the roads need to undergo more expensive heavy-lift paving, if not total rebuilding. For example, chip sealing has an average cost of $50,000 per mile, whereas a heavy-lift of asphalt has an average cost of $255,000 per mile, or five times as much. The penalty for letting roads deteriorate is therefore severe.

Recent Action by the Board of Supervisors

Over the past three years, the BOS has taken a number of measures in support of making the long-term condition of County roads a priority. From 1998 through 2012, annual funding from the General Fund for Roads Division pavement projects averaged $7.49 million. For the 2012-13 through 2014-15 budgets, the average General Fund allocation more than doubled to $16.1 million per year.

In November 2015, the BOS allocated an additional $13.5 million of one-time funding, bringing the total yearly General Fund contribution for roads to an all-time high of $25 million. This funding, which came from a combination of sources within the General Fund, is expected to result in approximately one hundred miles of County roads being repaved during 2017. These efforts demonstrate that the BOS recognizes that a well-maintained road network is essential to the County’s economic vitality and well-being.

In making spending decisions, the BOS has many and varied interests to serve. Most involve programs...
which, if not funded in the present, will not increase in cost over and above what is caused by normal inflation. Other spending programs, however, if not adequately funded in the present, escalate in cost exponentially rather than arithmetically. Funding for road pavement preservation falls into this latter category, as do County pension obligations. As stated above, the difference between maintenance and heavy-lift paving a roadway is fivefold.

This makes it essential that road maintenance remains a high priority. As stated in the Summary Report for the 2014 Long-Term Road Plan:

“A well-maintained road network is vital to economic development. In particular, investment in road infrastructure promotes a healthy economy by creating well-paying construction and engineering jobs, promoting and supporting tourism and recreation, and providing measures of support for agriculture and the environment.”

According to the Long-Term Road Plan, without a minimum investment of $20 million per year, the County road network will continue to decline, creating increasing long-term economic costs. In order to bring the condition of the County road network to a “Good to Very Good” level (defined in the industry as a Pavement Condition Index of 70 or above), an annual investment of $47.7 million will be required over the next 20 years. Is long-term funding at that level a realistic prospect?

**How the County Budget is Constructed**

It is a common misconception that the General Fund portion of the County budget is “discretionary” and may be allocated as the BOS sees fit. The reality is that only a small fraction of these funds is truly unconstrained and unallocated.

Nearly 50 percent of General Fund monies are allocated to law enforcement-related services. This includes the Sheriff’s Department, the District Attorney’s Office and the Probation Department. Another 26 percent is allocated to Administration and Fiscal Services; Health & Human Services receives approximately 10 percent; Development Services, which includes the Department of Transportation and Public Works (which in turn includes the Roads Division) receives approximately 8 percent. Capital Projects receives 2 percent. This leaves only 6 percent of the General Fund as unallocated. In the FY 2015-2016 Recommended Budget, there was approximately $421 million in the General Fund, suggesting that the actual discretionary funds available were $25 million.

In reviewing a variety of financial documents, including recommended budgets, adopted budgets, actual budgets, revised budgets and comprehensive annual financial reports (actual expenditures), the Grand Jury found that amounts reported as “discretionary” varied widely.

**General Fund Reserve Account**

The County budget also contains a General Fund Reserve Account for use in the event of an emergency or unanticipated event. Nowhere in the budget, however, are these amounts disclosed. In the Consolidated Audited Financial Report, which accounts for the actual spending by County departments, there is no line item for any of the County's reserve funds.

A report titled “A Review of County & Agencies Fund Balances,” which was presented to the BOS in November 2015, estimated the General Fund year-end balance for the 2015-2016 fiscal year to be $95 million, $49 million of which was listed as the General Fund Reserve.

There are no statutory mandates that counties maintain a reserve account at any particular level for emergency or unforeseen events. Does the current state of the County roads network, with the prospect of dramatically escalating repair costs, not qualify as an emergency?

There would appear to be enough money in the General Fund reserve account to meet at least one year of the $47.7 million threshold established by the Department of Transportation and Public Works to begin bringing County roads to a “Good to Very Good” condition. The Grand Jury is not advocating that the entire reserve fund be dedicated to roads, but an argument can be made that a portion of this reserve account could be responsibly used for that purpose.

There is in fact recent precedent for tapping a portion of County reserves for road maintenance and repair. On November 10, 2015, the BOS voted to reduce the
reserve requirement in the Tax Loss Reserve Fund (the “Teeter Fund”) from 2 percent to 1.25 percent on a one-time basis, thereby increasing the allocation for road pavement preservation by $6.5 million.

Whether invading the General Fund Reserve Account for road repairs would be a financially prudent course of action is for the BOS to decide. What is clear, however, is that the County budget as published makes it extremely difficult to determine what General Fund dollars are actually unallocated and unconstrained.

If interested citizens could understand what funds within the County budget are truly discretionary, they would be more likely to trust the political establishment with respect to spending decisions. As a result, the passage of a future sales tax measure, general or special, would have a better chance of success.

Alternative Funding Sources

Achieving an annual allocation of $47.7 million for road maintenance and repair over twenty years is a daunting prospect. As discussed above, this is not likely achievable without additional sources of revenue.

The most logical source would be a local tax measure. With the resounding defeat of Measure A in a special election in June 2015, however, it is evident that such a measure would have to be a Special Tax, with revenues allocated exclusively for road repair and maintenance. The difficulty is that, pursuant to California Proposition 218, such a measure would require a two-thirds majority vote in order to pass.

Is such a vote achievable? The Grand Jury found that over the past ten years, 69 percent of special tax measures on Sonoma County ballots were passed. In all but two of these cases, however, the tax measures affected a single local community and were directed toward specific programs, such as school district bond issues. Whether a County-wide sales tax initiative, specific to road repair, can achieve a two-thirds majority vote is problematic.

For this reason, a number of alternative funding measures have been proposed and should be considered as special taxes or levies for road repairs.

These include:

- An increase in the Transit Occupancy Tax (hotel bed tax);
- A user fee on winery, dairy, water and other commercial vehicles which carry heavy loads over rural roads on a regular basis;
- A road preservation bond issue;
- An increase in refuse-hauling franchise fees;
- A tax on medicinal marijuana.

The problem with most of these measures is that the revenues generated would be insufficient for the task at hand. Nevertheless, these and similar measures should be explored and debated. The cumulative effect of enacting a number of these measures could be significant.

Prioritizing Road Repairs

Failing increased revenues from one or more of the above sources, the harsh reality is that the County may be forced to let some rural, lightly-trafficked roads go to dirt or gravel. Most rural counties in California— and Sonoma County is still classified as such by the State—have never paved their outlying roads. Early in Sonoma County’s history, there were a number of communities that had populations significantly larger than they are today, e.g., Bloomfield and Two Rock. For this reason, County government appropriated a number of theretofore privately owned roads.

Today these roads do not qualify for state or federal support and are maintained entirely by the County. It is only reasonable that funding priority be given to those roads which carry the most traffic and which serve as key traffic arteries between different communities and as conduits by which citizens receive police and emergency services.

The Long-Term Road Plan contemplates such prioritization in order to place limited funding for road maintenance and paving where it will have the greatest impact for the greatest number of citizens. With only limited funding available, residents living in outlying areas of the County may not be able to expect that their roads will be maintained to the same level as roads closer to population centers. Without additional sources of revenue, prioritization of funding is the fiscally responsible thing to do.
FINDINGS

F1. For the past three years, the Board of Supervisors has demonstrated a commitment to improving the condition of County roads by increasing levels of spending from the General Fund.

F2. It is difficult for interested citizens to determine what monies in the County budget are available for spending. The Grand Jury was unable to ascertain what, if any, discretionary funds could be allocated for roads.

F3. In order to prevent further road deterioration and increasing deferred maintenance costs, a minimum annual amount of $20 million from the General Fund must be dedicated to road paving.

F4. It is unrealistic to expect that without additional sources of revenue, the County can meet the $47.7 million per annum threshold necessary to bring all roads up to a Good to Very Good level within 20 years.

F5. Roads that are essential to commerce and industry and which are travelled by the largest number of users should receive funding priority.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. The Board of Supervisors direct the County Administrator’s Office to present the budget in a form which makes it easy to understand what funding is truly discretionary and what reserves currently exist.

R2. The Board of Supervisors set budget priorities such that annual General Fund allocations to the Roads Division meet or exceed $20 million, the minimum amount necessary to stop the decline in the condition of County roads.

R3. The Board of Supervisors explore all reasonable avenues to increase funding for paving County roads, including a Special Tax measure.

REQUIRED RESPONSES

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

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The Road Ahead, County Transportation Funding & Financing, Issue 2, 2014
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Spotlight on Affordable Housing

Housing for All: Promote Private Development Or Spend $40 Million

SUMMARY

Securing housing that is affordable continues to be a challenge for almost half the citizens of Sonoma County. Providing housing options for working families who are well below the median income requires public subsidies. Funding sufficient development to meet the needs of this population and curb the intense upward pressure on rents would require new public investments in excess of $40 million per year. Without significant realignment of current County and city budgets, such sums are simply not available.

In order to increase the housing supply, the County and its cities will have to aggressively promote private sector development. Changing fee structures and improving the permitting process will help private developers include affordable housing in their projects. At the same time, the County and the cities need to prioritize accessing new federal and state subsidies for these housing developments. The Sonoma County Civil Grand Jury learned that the County and the City of Santa Rosa are considering a wide range of policy choices that, if implemented, will eventually begin to increase the supply of housing in the County. Absent new funding, expediting adaptive re-use of County/City owned properties such as Chanate Hospital, Los Guilicos and the underutilized County Administration campus appear to be logical priorities.

BACKGROUND

Communities throughout Sonoma County are grappling with the challenge of housing costs that are increasingly prohibitive for a significant portion of the population. The recession of 2008 resulted in a severe slowdown in construction and renovation that aggravated the imbalance in the supply and demand. In short, without sharing living quarters, working multiple jobs, accepting substandard conditions or commuting long distances, housing affordability is simply out of reach for many citizens of the County. The impact, especially on work force residents, has been profound and has the potential to erode the fabric of our communities. The Grand Jury investigated the mechanisms that could increase the supply of affordable housing to see if there are specific steps that local jurisdictions can take to materially improve the situation.

METHODOLOGY

Between September 2015 and April 2016, members of the Grand Jury conducted more than twenty interviews. These included representatives of the following agencies: the Board of Supervisors; the Community Development Commission (which acts as Housing Authority for all jurisdictions in the County except the City of Santa Rosa); the Permit and Resource Management Department; the Santa Rosa Housing Authority, the Santa Rosa Planning and Economic Development Department and the Petaluma Housing Division. Jurors also interviewed non-profit housing advocates, non-profit housing providers, and both local and national for-profit real estate developers. Jurors researched numerous publications and online resources related to housing, housing finance, zoning, permitting and construction.

DISCUSSION

Affordability in Sonoma County

The conventional measure of affordability is that a family should not pay more than 30 percent of its monthly household income for housing costs. By this standard, Sonoma County ranks as one of the least affordable housing markets in the United States.

According to the 2015 “Out of Reach” Report published by the National Low Income Housing Coalition, 74,000 households, representing 40 percent of the County, are renters. According to the same report, the countywide estimated average rental cost for a two bedroom apartment is $1,370 (many press reports put this figure as high as $1,600). In order to not exceed the 30 percent of income threshold for housing costs, one full-time worker would have to earn $26.35 per hour to afford the average county rent. A household with two wage earners would require average hourly wages in excess of $13 per hour to afford the average rent. The state minimum wage is currently $10 dollars per hour.
On December 15th, 2015, the Sonoma County Board of Supervisors passed a living wage ordinance covering employees of certain companies that contract with the County. Over time, the ordinance will raise the minimum wage to $15 per hour for employees of these contractors. While this ordinance covers only 1,100 workers it is an important step. On April 4, 2016, Governor Brown signed Senate Bill 3 which gradually raises the statewide minimum wage to $15 per hour by 2022. It is important to note, however, that the Governor retains the option to delay wage increases should economic conditions warrant.

Another barometer of the housing crisis is the waiting list for rental assistance from the Housing Choice Voucher program commonly referred to as Section 8 housing vouchers. The Section 8 program offers a monthly subsidy that bridges the gap between what qualifying low-income workers can pay and the actual market rent. Currently 10,000 local applicants, and twice that number of out-of-state applicants, have met the criteria to qualify for the program and are on the waiting list. Only about 300-500 rental units become available each year, leaving the vast majority of eligible Section 8 recipients unable to find housing within the program and having to share housing, accept substandard housing, become a commuter or leave the County.

In the past, the primary source of subsidies for construction of affordable housing came from local redevelopment agencies. These agencies created special redevelopment zones that attracted financing for new commercial and residential development. These redevelopment zones generated new tax revenues. Taxes in excess of those collected prior to the creation of the redevelopment zone were distributed directly to the redevelopment agency. By law, 20 percent of this incremental tax revenue was reserved for investment in affordable housing. Redevelopment agencies were ended in 2012. As a result, Sonoma County and the City of Santa Rosa lost approximately $6 million and $4 million, respectively, of annual funding for affordable housing. This loss represents between 150 - 200 units per year of housing intended for Extremely Low and Very Low Income households. The accompanying table, produced by the Santa Rosa Housing Authority in 2015, covers the City of Santa Rosa but is representative of the situation throughout the County.

The cost of housing is a challenge for many families but, as shown in the chart, for Extremely Low and Very Low Income families it is simply out of reach without financial support. This table is based on ‘family income’ and reflects wages of two or more members of the household.

The private sector cannot build housing that is affordable to Extremely Low and Very Low income families without public funding. Limiting the rent charged makes a unit worth less than the cost of building that unit. Thus there is a funding gap between the cost of the building and its value that must be subsidized. Federal grants and tax credit programs account for as much as 75 percent of the funding gap. The balance must come from local jurisdictions. The Santa Rosa Housing Authority estimates that locally provided subsidies range from $48,000 to $60,000 per unit. The size of the funding gap becomes clear when one looks at the total number of new affordable housing units the Association of Bay Area Governments (ABAG) has allocated to Sonoma County. This allocation target is called the Regional Housing Needs Allocation (RHNA) and is part of a statewide program to track whether housing availability keeps pace with population growth.

The local funding required to meet the RHNA target for the city of Santa Rosa is $155,764,634 for eight years. This equals roughly $19 million per year compared to Santa Rosa’s historical annual spending of $5.6 million and results in a shortfall of $13.4 million. Petaluma estimates a shortfall of $7.7 million per year with respect to its RHNA allowance. The County as a whole faces similar shortfalls in public funding for the affordable housing developments suggested by the RHNA.

### Affordable Housing Categories

- 43 percent of the City’s households are below 80 percent of median income

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<th>Average Household Income Category</th>
<th>Family Income Range</th>
<th>Maximum Affordable Rent</th>
<th>Maximum Affordable Sale Price</th>
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Sonoma County Civil Grand Jury Final Report 2015-2016
County and City Actions Affecting Affordable Housing Development

County and municipal policies covering affordable housing are outlined in the Housing Elements of their respective General Plans. These plans provide roadmaps for growth and development that promote affordable housing construction. Below are examples of some of these policies.

Density Allowances: All jurisdictions provide for “density allowances” that enable a developer to increase the number of units that can be built on a property. To be eligible, a certain percentage of the units, rented or sold, must be affordable to specific income groups. For example, on a parcel zoned for twenty units a developer may be allowed to build thirty units. The extra ten units equal a density bonus of 50 per cent. A developer can build the additional units provided he limits the sale or rental prices of at least 30 percent of the total number of units in the project (nine of thirty) to levels that are affordable to households in the Low Income category.

Fees: The Grand Jury compared Sonoma County building fees to those in other Bay Area cities and found the County’s to be higher than many neighboring jurisdictions. Private sector developers whom we interviewed highlighted fees ranging from $50,000-80,000 per dwelling as a major barrier to increased building activity. Fees are referred to as ‘impact fees’ because they attempt to recover the increased associated costs of community services (fire protection, traffic, police, parks). Fees are traditionally charged on a per-unit basis. This practice has the unintended consequence of penalizing smaller, higher density units and encouraging large single family dwellings. The developer of four small units selling for $400,000 each or $1.6 million total might pay $200,000 in fees while a builder who builds a 4,000 square foot mansion selling for $1.6 million could pay only $50,000 in fees.

By making it more profitable to build large houses, both builders and policymakers acknowledge that the current fee formula promotes construction of large single family dwellings. The County and the City of Santa Rosa are reconsidering the method of calculating fees. The developer of four small units selling for $400,000 each or $1.6 million total might pay $200,000 in fees while a builder who builds a 4,000 square foot mansion selling for $1.6 million could pay only $50,000 in fees.

Fast Track Approval: Most General Plans call for ‘fast track’ approval processes for affordable housing projects. City and County officials are keenly aware that uncertainty surrounding the process of, and delays in, obtaining permits increases developer costs. Both the County and the City of Santa Rosa permitting departments are attempting to streamline and simplify the permitting process. In practice, the complexity of larger developments can and does derail these good intentions. Early in our investigation we could not find a private developer satisfied with the progress made in either Santa Rosa’s or the County’s approval processes. Several industry-wide efforts to correct this problem have produced recommendations for improvements. None has been successfully implemented. It was not the intent of this investigation to address this issue, but the lack of fast track implementation is an important bottleneck that impacts the overall supply and demand for housing countywide. Santa Rosa and the County are taking steps to streamline their processes.

Rent Control: Rent controls are often cited as a serious measure to address soaring rental prices. While rent control may provide temporary relief, many economists argue that such restrictions can inhibit new building and reduce maintenance levels of existing rental stock. Imposing rent controls would also require establishing an enforcement mechanism. With limited budgets, it might be more productive to invest in improving code enforcement rather than investing in a new bureaucracy. It is unclear to the Grand Jury how rent control effectively addresses the underlying shortage of housing. This view is echoed in the California State Legislative Analyst’s 2016 Report entitled “Perspectives on Helping Low Income Californians Afford Housing.”

Inclusionary Zoning Versus ‘In Lieu’ Fees: In 2016 the United States Supreme Court allowed a California Supreme Court’s decision to stand, which upheld the use of Inclusionary Zoning laws. Inclusionary Zoning requires developers of more than twenty housing units to market 15 percent of those units at affordable rates. Inclusionary Zoning is therefore a tool that the County and cities will continue to use to promote affordable housing construction.
In the past, developers have had the option to pay fees instead of actually building the affordable units. In theory, these 'in lieu' fees are used in partnership with non-profit housing developers to build affordable housing. There is rarely a direct accounting trail linking 'in lieu' fees to actual construction of affordable housing, making it difficult to track the effectiveness of these fees. The City of Santa Rosa is currently studying the possibility of raising 'in lieu' fees to dissuade developers from paying their way out of the obligation, forcing them to build and market lower cost housing. Raising fees in order to increase private sector building is counterintuitive. The Supreme Court’s validation of inclusionary zoning laws has increased our jurisdiction’s leverage to induce the private sector to build affordable housing.

**Fighting “Not in My Backyard” (NIMBY) Obstruction:**
Public complaints can derail projects that meet all local zoning requirements. Recent approval of housing on North Street in Santa Rosa is an example of a project that neighbors challenged even though it met all existing zoning and building code requirements. Elected officials can be tempted to mediate such disputes, but, in doing so, they undermine the General Plan and the ability of the planning department to promote private sector development. City and County planners cannot attract developers if the rules of the game are going to be rewritten as part of the process. The appropriate time to challenge zoning and defend neighborhood character is during the periodic review of the General Plan. Large scale developments that include affordable housing, meet existing zoning requirements, and comply with all other codes, merit expedited approval without being derailed by NIMBYism. The 1982 Housing Accountability Act has repeatedly been upheld by the courts. Sometimes called the Anti-Nimby law, this act makes it illegal to force developers to decrease the number of units in a proposal that otherwise complies with all local zoning and codes.

**Area Specific Plans (ASP):** Developers frequently cite the delays and complexities of complying with CEQA as a major impediment to getting homes from planning to permit. County and city planners can create Area Specific Plans that pre-qualify a project area for development. Once an ASP has been approved, CEQA obligations have been met, making parcels within the ASP more attractive to developers. Our investigation disclosed numerous instances where housing development was stymied by CEQA challenges. This 1970 law is a major impediment to housing development throughout California. CEQA has prevented rampant development, but it has become a blunt instrument in need of reform. Advances in conservation techniques should, for example, allow Sonoma County to develop a countywide plan to preserve the tiger salamander. This could be more effective than repeated CEQA challenges that discourage and delay needed housing projects. Absent such reform, ASPs are the only way that the County and cities can eliminate this risk factor for developers.

**Building Homes and Homelessness:** Any discussion of housing affordability must mention homelessness. Assisting the chronically homeless is part of the overall equation of housing supply and demand and thus has an impact on housing affordability. This is particularly true with respect to use of public funds. In 2015, the County Board of Supervisors voted to adopt, as priority policy, the Sonoma County Community Development Commission report “Building Homes: A Policy Maker’s Toolbox for Ending Homelessness.” This report presents a series of policy tools and regulatory steps that fulfill the goal of eradicating homelessness in Sonoma County. The central premise of Building Homes is that the investment required to shelter the 2,000-4,000 chronically homeless people in Sonoma County by 2025 will yield a significant savings in reduced health care, emergency services, jail stays and mental health services. Nevertheless, the estimated net cost of implementing all the Building Homes recommendations is $11 million per year over ten years. Although the Board of Supervisors has endorsed Building Homes, it is unclear that this endorsement will translate into budget allocations.

**County/City Owned Surplus Property:** The County and most cities within the County own property that is either abandoned or underused. In addition, the County faces a maintenance backlog estimated to be $70 million over the next five years. Abandoned properties, like the hospital on Chanate Road or the
Los Guilicos facility adjacent to the new Juvenile Justice Center, represent significant opportunities to negotiate for affordable housing commitments from developers. The Los Guilicos property, with current maintenance costs in excess of $700,000 per year, has significant residential and recreational potential if developed. The County Administration Campus offers significant redevelopment potential that could also yield savings in County office costs. Similarly, the City of Santa Rosa has thirty vacant parcels that possibly could be used for affordable housing. The City of Petaluma has two such parcels.

Private Sector Role in Creating Affordable Housing

Without significant new public funding for affordable housing, the private sector must be encouraged to add supply to the housing market. There are several ways to promote private construction efforts:

Developers, both for-profit and non-profit, using only existing density bonus allowances, can and do build housing with up to 30 percent of the units with affordability restrictions. These units would meet the needs of Low and Moderate Income residents. However, because of delays in obtaining permits, many builders prefer not to attempt such developments. One frustrated developer has abandoned projects on several suitable properties because of permitting delays and uncertainties.

The Land Trust Model, buying land and holding it in trust for the benefit of the community, effectively removes the cost of land from the equation. By partnering with for-profit developers, Land Trusts help bridge the funding gap and encourage construction of affordable housing. A Land Trust retains ownership of the land to assure permanent affordability. This model has been successfully used in the County.

Individual Home Owners play both positive and negative roles in the supply and demand for all types of housing. On the negative side, vacation rentals take supply off the market. The impact of vacation rental properties on housing supply is difficult to assess. In today's market, with a 1 percent vacancy rate, shifting even a small number of houses from long-term leases to vacation rentals can increase rental prices for the remaining supply.

Private home owners could also have a positive impact on availability of alternative housing in the County. Vancouver, British Columbia loosened its zoning and permitting requirements covering accessory dwelling units (granny units) and saw over a thousand of these units built in a short period of time. Cities in our County have differing rules covering additions of this type. In some cases, like Santa Rosa, fees on the order of $23,000 per granny unit may be prohibitive. Nevertheless, accessory dwellings represent an opportunity to quickly increase supply and diversity of housing options.

Similarly, Shared Housing and Resource Exchange (SHARE) of Sonoma County, which began in 2014, attempts to match the growing number of older County residents living in larger homes with tenants. SHARE is modeled after a program in San Mateo County that has matched more than 1,000 homeowners with tenants since it began. The County is drafting amendments to its zoning rules to permit this practice.

New Sources of Funding

Affordable housing development for Extremely Low and Very low income residents requires leveraging local grant funding plus County or city concessions to obtain federal tax credits. Since the end of Redevelopment Agencies, and barring new general fund outlays, there are no significant sources of supplemental funding for the construction of housing. Federal funds are limited to the Federal Housing and Human Development Agency (HUD) administered programs such as Community Development Block Grants (CDBG) and HOME Investment Partnerships Program (HOME). These programs annually yield about $2 million in awards that are allocated to various programs across the County. According to 2015-16 allocations, only $612,721 out of the $2
million is committed to actual new construction. The balance is committed to Americans with Disabilities Act (ADA) compliance upgrades, homelessness services and maintenance of existing affordable units. While the current funding picture is limited, there are important sources of funding that may be available to cities and the County, such as:

**Cap and Trade Funds:** California’s Cap and Trade law created an auction market for carbon credits. Companies that do not want to invest in factory improvements to reduce carbon emissions can buy carbon credits. The funds generated by the purchase of carbon credits have been reserved by the State, in part, to subsidize “Transit Oriented Development”. The goal is to encourage development around transit hubs to increase the use of mass transport. The opening of the Sonoma Marin Area Rapid Transit (SMART) train will create the opportunity for communities along the rail line to compete for grants from these ‘cap and trade’ funds. The State has started a competitive bidding process and anticipates that $200 million per year will be awarded under this program.

**Surplus Land Sales:** California Assembly Bill 2135 (AB 2135) amended the State Surplus Land Statute to permit the sale of public land at below market rates. The City of Santa Rosa and the County control numerous properties that are unused or underutilized. Since land acquisition represents an important component of housing development cost, AB 2135 permits the County or City to discount the sale of land in exchange for affordability restrictions on the dwellings that would be constructed there. The County could take advantage of this legislation in their efforts to redevelop the recently vacated hospital site off Chanate Road in Santa Rosa.

**New types of Redevelopment Areas:** California Assembly Bill 2 (AB 2), signed into law on September 22, 2015, allows for the creation of Community Revitalization and Investments Areas (CRIA). These are similar to the now ended Redevelopment Zones. The criteria for creating a CRIA are so stringent that they will likely preclude all but a few of the poorest neighborhoods in the County from this new designation. If CRIA eligibility can be established, these neighborhoods will function in the same way they did under redevelopment. Incremental tax revenues will be directed to local control and 25 percent of these monies will be reserved for affordable housing. Another recent California law, Senate Bill 628, amends Title 5 of the Government Code to allow for the creation of Enhanced Infrastructure Financing Districts (EIFD). Such EIFDs will be allowed to capture incremental tax revenues generated from improvements constructed within the district. The purposes of the EIFD are restricted but include affordable housing development.

**National Housing Trust Fund:** The two federal mortgage finance companies, Fannie Mae and Freddie Mac, collect a small fee on every mortgage transaction. A portion of this fee is designated for the National Housing Trust Fund to support affordable housing construction and rehabilitation nationwide. Following the 2008 recession these funds were restricted. With the economic recovery, they are scheduled to be released and California could receive as much as $89 million annually.

**Building Homes and Jobs Act:** Pending California Assembly Bill 1335 (AB 1335) proposes a $75 fee on real estate transactions. Some monies raised from this fee would be reserved for housing. If passed, the Bill will raise as much as $300-$400 million annually of which 20 percent would be designated for workforce housing and 10 percent for farmworker housing. The remainder would be used to match funds placed in a local or regional housing trust fund. When our investigation began, few agencies in the County had officially supported this bill. We are pleased to report that both the County and the City of Santa Rosa have done so.

**The Community Reinvestment Act (CRA):** The CRA “...is intended to encourage depository institutions to help meet the credit needs of the communities in which they operate.” Along with direct lending activity, financial institutions may fulfill their obligations under this Act by investing in special purpose Community Development Entities (CDEs), which facilitate capital investments in low to moderate income communities. County officials have indicated an interest in forming public/private partnerships with local financial institutions to encourage such CDE investments in Sonoma County.

Without unrealistic sums of public funds, increasing the supply of affordable housing will be a long-term challenge for Sonoma County. Elected officials and administrators should focus on those policies that can accelerate construction of all types of housing and on building consensus for those policies.
FINDINGS

F1. The downturn in new home construction following the recession, combined with low vacancy rates, high rents, wage stagnation and the desirability of Sonoma County as a place to live or vacation, has resulted in systemic undersupply of housing of all types.

F2. The end of redevelopment agencies reduced funding for affordable housing by $10 million annually between the County and City of Santa Rosa.

F3. Increasing the supply of affordable housing is dependent upon budgeting priorities because a $48-$60,000 local subsidy is required for every unit of Very Low and Extremely Low Income Housing.

F4. The County would need to invest $40 million annually to ensure adequate development of affordable housing for Very Low and Extremely Low Income Housing.

F5. Density bonus allowances make it possible for private sector developers to build Low and Moderate Income housing without public subsidies.

F6. Private sector developers, including individual homeowners with granny unit potential, are often stymied in their efforts to pursue development opportunities due to high unit-based permitting costs, long bureaucratic delays, neighborhood opposition and CEQA compliance.

F7. Area Specific Plans can accelerate the development approval process and would facilitate private development.

F8. New or untapped sources of public and private monies are accessible to jurisdictions within the County.

F9. The impact that vacation rentals have on the overall supply of housing in the County is difficult to quantify.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. The Sonoma County Permit and Resource Management Department and the City of Santa Rosa Planning and Economic Development Department reduce impact fees where possible by changing from per unit to per square foot calculation and prioritize working with for-profit developers by continuing to improve permitting turnaround time (F5, F6).

R2. The City of Santa Rosa Planning and Economic Development Department and the Petaluma Planning Department encourage construction of granny units by reducing permit fees and zoning restrictions (F6).

R3. The Sonoma County Board of Supervisors, City Council of Santa Rosa and City Council of Petaluma improve regulation and oversight of vacation rental activity in order to determine how rental rates are affected by having long-term rentals removed from the market (F9).

R4. The Sonoma County Board of Supervisors, City Council of Santa Rosa and City Council of Petaluma develop appropriate tax and fee schedules to offset the impact of short-term vacation rentals on housing supply (F9).

R5. The Sonoma County Community Development Commission and the Santa Rosa Housing Authority take necessary steps to pre-approve building sites with maximum density allowance to take advantage of transit-oriented development grants available from Cap and Trade funds (F 4,5,8).

R6. The Sonoma County Board of Supervisors, Community Development Commission and Santa Rosa Housing Authority prioritize the development of new sources of affordable housing funding by supporting the passage of AB 1335, applying for grants from the National Housing Trust Fund and creating Community Revitalization and Investment Areas or Enhanced Infrastructure Financing Districts (F8).

R7. The Sonoma County Board of Supervisors coordinate with local and regional financial institutions to discharge their Community Reinvestment Act obligations by investing in affordable housing efforts (F8).

R8. The Sonoma County Community Development Commission and the Santa Rosa Housing Authority expedite formation of Area Specific Plans to facilitate
private housing development (F7).

R9. The Sonoma County Board of Supervisors, City Council of Santa Rosa and City Council of Petaluma consider invoking AB 2135 to donate surplus lands to Land Trusts or to sell these properties at below market rates to developers in exchange for commitments to include affordable housing (F7,8).

REQUIRED RESPONSES

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

R1. The Sonoma County Permit and Resource Management Department, the City of Santa Rosa Planning and Economic Development Department

R2. City of Santa Rosa Planning and Economic Development Department, Petaluma Planning Department

R3. Sonoma County Board of Supervisors, City Council of Santa Rosa, City Council of Petaluma

R4. Sonoma County Board of Supervisors, the City Council of Santa Rosa and the City Council of Petaluma

R5. Sonoma County Board of Supervisors, Community Development Commission, Santa Rosa Housing Authority

R6. Sonoma County Board of Supervisors, Sonoma County Community Development Commission, Santa Rosa Housing Authority

R7. Sonoma County Board of Supervisors

R8. Sonoma County Board of Supervisors, Sonoma County Community Development Commission, Santa Rosa Housing Authority

R9. Sonoma County Board of Supervisors, City Council of Santa Rosa, City Council of Petaluma

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North Bay Biz: Cost of Living Article

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Sonoma County Community Development Commission 2016-2017 Budget

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The 1982 Housing Accountability Act Strong Towns - Santa Rosa: A City In Flux

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The Law Library On The Brink
Running On Empty

SUMMARY

The California Business and Professions Code requires all counties to maintain law libraries that are free to the public. The Sonoma County Law Library (Law Library) provides legal resources, information about current legislation, rooms for lawyer/client meetings and depositions, and computers for word processing and internet research. The Law Library is also a continuing education provider for attorneys and a legal education resource for the public.

Approximately 95 percent of the Law Library’s revenue comes from a portion of fees assessed to litigants by the Superior Court when a case is filed in a civil matter. Because its revenue from filing fees has significantly declined in recent years, the Law Library is faced with making severe reductions in services. There are two major reasons for this decline in filing fees. The most significant reason stems from State legislation enacted in 2012 that allowed trial court judges to grant waivers of filing fees to litigants who assert an inability to pay the fees. In addition, revenue from filing fees has been negatively affected by the fact that more and more potential litigants are choosing to resolve their claims in mediation or arbitration and, therefore, do not pay civil filing fees. The Law Library’s financial situation is further complicated by recent, sharp increases in the cost of specialized legal publications.

Further reduction of services will have the greatest impact on people who cannot afford an attorney, and on sole-practitioner attorneys. The Law Library is exploring alternative sources of revenue. In the interim, the Law Library has asked the County to provide emergency assistance.

BACKGROUND

This is a self-initiated report. No specific complaints against the Law Library were received by the Grand Jury during the present term. The Grand Jury became aware of the Law Library’s financial situation after reviewing Sonoma County Special District financial reports.

METHODOLOGY

The Grand Jury conducted interviews with Law Library management, representatives from the Law Library Board of Trustees, a member of the Sonoma County Board of Supervisors, the County Administrator’s Office and the Sonoma County Bar Association. The Grand Jury also reviewed pertinent financial data and related documents.

DISCUSSION

History and Statutory Structure of the Law Library

The rules governing county law libraries in California are found in the Business and Professions Code Sections 6300 to 6364. The original statute was enacted in 1891 and mandated the creation of law libraries in every county. Code Section 6360 provides that “A law library established under this chapter shall be free to the judiciary, to state and county officials, to members of the State Bar, and to all residents of the county, for the examination of books and other publications at the library or its branches.”

Law Library Governance

Pursuant to Business and Professions Code Sections 6300-6307, each California county shall establish a Law Library Board of Trustees (Trustees). The Trustees are charged with making and enforcing all rules, regulations, and by-laws necessary for the administration, governance and protection of law libraries.

In accordance with the applicable statutes, the Law Library’s Board of Trustees is composed of five Superior Court judges, who are appointed by the Presiding Judge; a representative appointed...
by the Board of Supervisors; and an attorney from the Sonoma County Bar Association. One of the most important contributions provided by boards of trustees of non-profit organizations is assistance in fund-raising. Unfortunately, given the serious financial situation facing the Law Library, its Trustees who are also judges are prohibited from fund-raising activities. The California Judicial Conduct Handbook, Section 10.42, states: “Judges shall not personally participate in the solicitation of funds or other fund-raising activities.”

The Law Library and its Patrons

The Law Library serves approximately 250 patrons each week. Originally the Law Library served only the judiciary, legal community and members of the bar. Currently, 75 percent of the patrons are non-attorneys. These patrons may research state and federal laws, draft their own contracts and wills, organize businesses, research property issues or complete academic assignments. What many of the patrons have in common is their inability to afford attorney fees.

Current Financial Status and its Causes

Filing fees paid by litigants in civil matters have historically been 95 percent of the Law Library’s revenue. The fee for filing an unlimited civil matter is $435 of which $35 is designated by statute for the Law Library. The general decline in court filing fees has resulted in a decline of revenue to the Law Library and ensuing financial trouble. Other reasons for the Law Library’s financial crisis include:

- a reduction in civil filings overall due to the increased use of arbitration and mediation;
- the State’s assumption of litigation in child support cases that were previously handled as civil matters;
- a decrease in civil filings due to an increase of Small Claims jurisdictional limits to $10,000;
- a current State law prohibition against increasing the Law Library’s share of filing fees;
- an increase in the cost of legal publications by more than 61 percent since 2007.

In addition, a judge may waive the filing fee based on the litigant’s inability to pay. Such waivers are reported to be more frequent due to the increasing amount of filing fees and a decline in the economy resulting in more litigants being unable to pay. These waivers result in less revenue to support both law libraries and the courts that depend on these fees.

An independent FY 2012-13 Financial Audit of the Law Library states: “It is more likely than not that without changes in funding the Law Library will be unable to meet its obligations within 12 months after the financial statement date of June 30, 2013.” Nevertheless, the Law Library has survived by implementing cutbacks and tapping its emergency reserves, which are nearly depleted.

The following table illustrates the decrease in revenue over the last five years. Changes in expenses are

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Filing Fee Revenue</th>
<th>Other Revenue</th>
<th>Total Revenue</th>
<th>Expenses</th>
<th>Net Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>$531,906</td>
<td>$29,180</td>
<td>$561,086</td>
<td>$517,200</td>
<td>$43,886</td>
</tr>
<tr>
<td>2011-12</td>
<td>$430,218</td>
<td>$29,191</td>
<td>$459,409</td>
<td>$535,725</td>
<td>($76,316)</td>
</tr>
<tr>
<td>2012-13</td>
<td>$420,824</td>
<td>$35,236</td>
<td>$456,060</td>
<td>$489,307</td>
<td>($33,247)</td>
</tr>
<tr>
<td>2013-14</td>
<td>$359,721</td>
<td>$45,871</td>
<td>$405,592</td>
<td>$445,467</td>
<td>($39,875)</td>
</tr>
<tr>
<td>2014-15</td>
<td>$336,699</td>
<td>$41,094</td>
<td>$377,793</td>
<td>$379,134</td>
<td>($1,341)</td>
</tr>
</tbody>
</table>
largely due to reductions in periodical and publication subscriptions as well as reductions in staff. In government finance the use, or non-use, of reserves is considered a yardstick of financial health. Regular tapping of reserve funds is seriously frowned upon by nearly all governmental agencies.

As a result of this negative operating cash flow, the Law Library depleted its reserves to pay expenses. Over the period in the chart above, these reserves declined from $105,000 to $15,000. By the end of March 2016 the Law Library’s reserve balance was a negative $15,465. In April 2016, monthly revenue from filing fees of $25,246 brought the reserves back up to $15,000. Nevertheless, the Law Library is still without sufficient funds to cover payroll and expenses.

**Effects of Reduced Revenue**

In an effort to offset declining revenue, starting in FY 2012-13, the Law Library cancelled a number of subscriptions to legal publications. Each year the Law Library made the following net reduction in spending on publications and periodicals:

<table>
<thead>
<tr>
<th>Year</th>
<th>Reduction in Spending</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012-13</td>
<td>($59,962)</td>
</tr>
<tr>
<td>FY 2013-14</td>
<td>($26,725)</td>
</tr>
<tr>
<td>FY 2014-15</td>
<td>($24,806)</td>
</tr>
<tr>
<td>FY 2015-16</td>
<td>($24,446)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>($135,939)</strong></td>
</tr>
</tbody>
</table>

Additionally, the Law Library reduced staff from two full-time employees, including the Director, and one part-time employee, to the full-time Director and two part-time employees. Because the cost of legal publications continues to increase, the only other substantial cost savings that could be made would involve reducing employee hours and/or hours of operations. These reductions would further impair the Law Library’s ability to effectively meet the needs of our community.

**The County’s Role**

Business and Professions Code Section 6324 states: “The board of supervisors may appropriate from the county treasury for law library purposes such sums as may in their discretion appear proper.” The Board of Supervisors has provided the Law Library with a space that is large and welcoming. However, the Board has not provided any financial assistance to meet the Law Library’s current needs. The Grand Jury found that a number of counties do provide direct financial assistance to their law libraries. Additionally, some counties provide maintenance, custodial service, insurance and utilities.

In September 2013, and again in July 2015, the Law Library requested emergency funding from the County. To date, no action has been taken by the County on this request.

**Alternative Funding Efforts**

The Law Library has implemented the following public-private and alternative funding measures:

**Empire College:** Partnering with Empire College, which will contribute about $23,000 annually to the Law Library. In exchange, the Law Library will reopen on Saturdays and Empire College students will have exclusive access to the Law Library on weekdays from 4:00 to 6:00 p.m.

**Conference Room Rental:** Offering conference space to rent for classes, depositions and mediations. Conservative estimates of possible revenue are $3,000 per year.

**Continuing Education:** Expanding continuing education offerings for attorneys, which could provide revenue as high $20,000 per year.
Friends of the Law Library: The Law Library recently re-activated a Friends of the Law Library group to promote future fund raising. The new Friends group has 501(c)(3) non-profit status to encourage tax-deductible donations.

Santa Rosa Junior College: The Law Library has approached Santa Rosa Junior College Paralegal Program officials in an effort to identify mutually beneficial ways of working together.

The Law Library is an active member of the Northern California Association of Law Libraries: This group has retained a lobbyist to advocate for changes to the funding mechanism for law libraries.

Income from these alternative revenue sources is unknown and may not be available immediately. Moreover, it may be insufficient to consistently bridge the gap between decreasing filing fee income and increasing expenses. Given the current situation, it is just a matter of time before the quality of service at the Law Library is more severely affected.

Legal Resources in the Community

The Grand Jury noted that there is some overlap, or duplication, of Law Library services and resources with other agencies that provide free, or low-cost, legal services to the community. For example, the Family Justice Center maintains a very limited law library. There are several other agencies offering legal support to low-income persons and families including California Rural Legal Assistance, Inc. and the Legal Aid Society of Sonoma County.

The Grand Jury found that the Law Library and its Trustees have not been proactive regarding the Library’s serious financial situation. A determination of how the situation was allowed to deteriorate to the point where reserves were consumed was beyond the scope of our investigation. Addressing these issues is essential to ensure that the Law Library can continue to provide the resources and services which the community needs and expects.

FINDINGS
Sonoma County Public Library
Retiree Benefits Unfunded But It’s Not Too Late

SUMMARY

The Sonoma County Library (Library) is a joint venture between the County and major cities in the County. Public libraries have served the residents of Sonoma County for over one hundred years. The Library is considered an asset to the community and provides a wide variety of services. Recently, new management has assumed responsibility and has instituted improvements to the Library’s management and governance structure.

The financial health of the Library, however, is a cause of great concern. It has accumulated a $17 million unfunded employee benefits liability. This has caused the net position (net worth) to go negative and has left the Library with liabilities exceeding assets by more than $4 million. This deficit consists principally of unfunded liabilities in funds for its pension benefits, its retiree health benefits and its compensated absences benefits. Because the Library is not fully funding its current employee benefit costs, this problem continues to grow. Essentially the Library has been deficit-financing its current operations.

The Grand Jury recommends that the Library develop a prudent financial plan that covers the cost of operations as well as the accumulation of funds to pay for future benefit liabilities. This plan would match current spending to current revenue. Ideally, the liabilities would be reduced over time. Active efforts to identify new funding sources will be required.

GLOSSARY

**Actuary:** A business professional who analyzes the financial consequences of risk. Actuaries use probability, statistics, and financial theory to study uncertain events, especially those of concern to insurance and pension programs, and periodically issue actuarial reports projecting future liabilities and assets.

**Amortization:** The gradual write-off of an asset or liability. In the context of this report it refers to the write-down of unfunded liabilities for pension, health benefits, or compensated absences.

**CalPERS:** The State agency that administers most of the municipal, county, school and state pension programs.

**Compensated Absences:** A labor expense primarily pertaining to employee sick leave and other excused days. These terms are usually negotiated with labor unions.

**JPA:** A Joint Powers Authority is an entity permitted under California law whereby two or more public authorities may jointly exercise any power common to all. In the context of this report, it refers to the consolidation of all separate Sonoma County libraries into a common organization.

**MOU:** A Memorandum of Understanding is typically an agreement between two or more parties. In the context of this report, MOU refers to the agreement between the Sonoma County Library and its employees’ union.

**Net Position:** An accounting term used in governmental or not-for-profit accounting. Net position is the difference between total assets and total liabilities. In accounting for private organizations, this term is referred to as net worth.

**OPEB:** Other Post-Employment Benefits usually refers to both current and retired employee health benefits and compensated absences.

**UAAL:** Unfunded Actuarial Accrued Liability is an actuarial term that refers to the difference between the actuarial values of assets (AVA) and the actuarial accrued liabilities (AAL) of a plan. Essentially, the UAAL is the amount of retirement benefits owed to an employee in future years that exceeds current assets and their projected growth.
BACKGROUND

This is a self-initiated report. No specific complaints against the Sonoma County Library were received by the Grand Jury during the present term. The Grand Jury became aware of the Library’s financial stresses after reviewing financial audits of Sonoma County’s Independent Special Districts.

METHODOLOGY

The Grand Jury conducted interviews with the Sonoma County Library staff and representatives from the Sonoma County Library Commission. The Grand Jury also reviewed pertinent financial data, labor union MOU’s and recent actuarial reports.

DISCUSSION

History of the Sonoma County Library

The Sonoma County Library, the fourteenth public library in California, is a free public library system established pursuant to the California Education Code. Since its creation in 1859, the Library has been successful in providing free library services including community education and literacy programs. Based on a 2012 Grand Jury recommendation, in 2014 cities in Sonoma County revised the JPA for the purpose of improving public library services. Currently, library services are provided through the Central Santa Rosa Library, eight regional libraries, and rural stations in Occidental and Forestville. Roseland, which is being annexed by Santa Rosa, also has a small library. In addition, Mendocino County’s Bookmobile provides service for the far northwest corner of Sonoma County.

A countywide library system saves the public money by eliminating the need for administrative services at each library, while offering access to the resources of every library across the United States. The County and its cities provide the buildings that house libraries in their communities. Administratively the Library is organized as follows:

- The Library is governed by an independent eleven-member Library Commission as specified in the revised JPA. The City Councils of Cloverdale, Cotati, Healdsburg, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma, and Windsor, along with the Sonoma County Board of Supervisors, each appoint a Library Commissioner. The City of Santa Rosa and the Sonoma County Board of Supervisors also jointly appoint one additional Commissioner.

- Nine Library Advisory Boards serve as links to each branch library’s community. They advocate for the Library in each community and advise the Library Commission and Library Director on ways to provide the best possible service.

Additional nonprofit groups that support the library system include:

- Friends of the Library groups support each of the nine regional libraries — raising funds and volunteering in the libraries.

- The Sonoma County Public Library Foundation raises funds for countywide library services.

The Library has nearly 200 employees to serve the people of Sonoma County. Patrons borrow over 2.5 million items a year, including books, e-books, audiobooks, CDs, DVDs and periodicals.

The Library estimates that nearly half the County population has a library card. Reference librarians answer nearly a quarter of a million questions annually for individuals, businesses and government agencies. During the school year, hundreds of classes either visit a library or are visited by a children’s librarian. The Library also operates an adult literacy program that trains volunteers to tutor individuals who lack basic reading skills.

Impending Financial Issues

Operating a library requires more than promoting literacy and providing a venue for media access and research. A successful library includes a business component that raises revenue and manages expenses to achieve financial stability. Balancing revenues with expenses is the hallmark of a well-run enterprise.
The Grand Jury found that the liabilities of the Library exceeded its assets, resulting in a negative net position. At the close of the most recent fiscal year this deficit was $4,558,443. Our investigation found that the deficit occurred due to the failure to adequately fund pension and health benefits in prior years. Current staff indicates that former management did not recognize the financial danger of allowing these liabilities to increase to current levels.

These liabilities are composed of three employee-related expenses that have been allowed to accrue without setting aside sufficient funds to pay for them in the future, as per accompanying table:

<table>
<thead>
<tr>
<th>Liability Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensated Absences (employee excused absences, funded by operating expenses as they incur):</td>
<td>$ 803,935</td>
</tr>
<tr>
<td>Net Pension Liability (annual cash payments by the Library to a pension plan and the earnings thereon):</td>
<td>$ 9,378,768</td>
</tr>
<tr>
<td>Net obligation for post-retirement health benefits (recently funded by a cash payment of $1.1 million):</td>
<td>$ 6,661,872</td>
</tr>
<tr>
<td>Total Unfunded Liabilities as of June 30, 2015</td>
<td>$16,844,575</td>
</tr>
</tbody>
</table>

Based on an Actuarial Valuation prepared for the Library, as of June 30, 2014, its pension plan had a present value of projected liabilities of $65,743,630, of which $49,239,539 was paid-up trust fund assets and $7,958,585 was unfunded liabilities. The Library’s contribution to the plan was 15.919 percent of payroll and the employees’ contribution was 6.99 percent of wages. The total annual payroll of employees covered by the plan was $7,532,252. The plan had 147 retired members, whose average age was 69.2 years and who received an average annual retirement benefit of $18,467. There were 148 active members, whose average age was 54.67 years and whose average annual wages were $50,894.

These liabilities (a form of debt) do not have to be paid immediately but are expected to be paid over the next twenty to twenty-five years, similar to a home mortgage. Unlike mortgage payments, these amounts can fluctuate because of changes in employee salaries, life expectancies, investment returns and other factors. Pension benefit payments start as the Library employees retire. These payments are not optional, and failing to pay them is a form of insolvency. Failing to set aside funds to pay these employee benefit liabilities as they are incurred is a form of debt financing. In a sense, the Library is funding some of its current operations with deficit spending. If this practice is allowed to continue, the unfunded liability grows. Evidence that the Library already finds itself in a cash bind can be seen in reduced operating hours and failed efforts to enact a County sales tax.

The Library’s total unfunded liability of $16,844,575 is more than double its current annual payroll of $7,953,750, and is an amount equal to 2015’s total revenue. Not only is this unfunded liability seriously high, it is increasing. In FY 2013-14, the Library’s unfunded health benefits liabilities increased by more than $800,000. That deficiency improved in FY 2014-15, but the unfunded liability still increased by $230,000. Current Library plans are to contribute additional funds to narrow this gap. However, these plans are subject to funds being available after normal operational expenses are paid and thus have been considered discretionary by current management.

These financial difficulties are complicated by the fact that the average age of the Library’s employees is fifty-four. This suggests that a large part of the staff will be retiring in the next ten to fifteen years, meaning they will no longer be contributing to the benefit plans but, instead, will be recipients of plan funds. This difficulty is not as severe in the pension fund because the existing trust fund currently provides 86 percent of future benefits.

The more serious problem is the unfunded retiree health care benefits. These stand at $6.6 million, against which there is only $1.1 million in reserves, invested with CalPERS, which represents only 16 percent of future benefits. Paying down this deficit will be difficult. Some of the more common approaches to reducing deficits are raising revenues, reducing expenses, and establishing and funding a trust fund. All options are effective and all are painful. The long-term goal should be clear: Do not increase the unfunded liabilities for the current year and begin to pay down long-term liabilities for the prior year’s expenses. Simply put, pay your expenses as they are incurred.
Addressing the Fiscal Challenge

The Library has added to its staff a new Executive Director and a new Finance Director, both of whom appear to be bringing improved management practices to the Library. Further, the Library has taken some important steps to broaden its revenue base. Each “Friends” group conducts modest fund-raising activities, such as book and cake sales, for their respective library branches. In addition, a new Library Foundation Director has been charged with identifying significant additional funding. Finally, the Library Commission is in the process of forming a Revenue Generation Committee.

A tax increase remains an option. In 2014, an effort was made through an election to ask voters for a quarter-cent increase in the sales tax. The measure was narrowly defeated. Sales tax revenue is dependable, it can be predicted and it can produce a significant amount of increased revenue that can generally be devoted to any Library purpose. In addition, the Library can seek financial grants for specific needs. Grants tend to be one time events and would need to be applied for repeatedly. As such, they would not be as dependable and flexible a source of funding as sales taxes.

While adding new revenue is part of any solution to the Library’s fiscal challenge, controlling expenses is the flip side of good financial management. Unfortunately, the Grand Jury did not learn of any specific initiatives aimed at reducing expenses. It is important to note that 79 percent of the Library’s operating expenses are employee-related. Thus, hiring policies have an outsized impact on annual budgets. Every time an employee is hired, not only is the employee’s salary added to the expense structure, but also the retirement benefits (e.g., for pensions, health benefits and compensated absences) are increased.

Although identifying cost savings was beyond the scope of our investigation, we did note that the Library serves as the repository of Sonoma County’s historical archives at its own expense. Furthermore, when any County agency needs to access documents from the archives, the Library delivers them free of charge. Considering the Library’s financial situation, it may be more equitable for Sonoma County to pay for this service.

During our investigation we were unable to ascertain whether the Library management had recently conducted rigorous financial planning. Staff demonstrated awareness of the fiscal challenges confronting the Library but, as far as we could discern, did not have a carefully thought-out plan to get from deficit financing to adopting a budget which insures that expenses will be paid for as they are incurred. Financial planning is a necessary first step to a healthy financial structure. Creating a financial plan would permit management and Library Commissioners to establish operating priorities and corresponding budgets that maintain valued library services and begin to reduce unfunded liabilities.

FINDINGS

F1. The Library’s pension fund appears to be stabilized and the Library is making current payments. However the unfunded liability is still excessive in relation to the Library’s total revenue.

F2. The Library’s OPEB (health and absences) obligation is seriously underfunded. The Library fails to completely fund its costs for current benefits as well as costs for its future unfunded liabilities.

F3. The $1.1 million fund for future OPEB costs, invested with CalPERS, does not appear in the Library’s financial reports.

F4. New management is aware of the Library’s financial difficulties and is developing new programs
for revenue building. However, revenue for these programs will compete with Library operating needs as well as paying down unfunded liabilities.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. Library management draft a business plan that projects future revenues and expenses and provides for liability reduction.

R2. The Library Commission review the current financial status at least quarterly to verify that the unfunded liability is decreasing, and annually report to the public on the progress being made towards solvency.

R3. The Library fund its current OPEB costs and not allow its unfunded liability to increase. Monies set aside for these benefits should be placed in a non-revocable trust fund similar to the one created for pension benefits.

R4. The Library allocate any new revenue to ensure that all the Library’s current expenses are paid as they are incurred and that its pension and OPEB liabilities are not allowed to grow.

R5. The Library include a summary of its pension reform progress in the Management and Discussion Analysis section of its annual financial report. This summary should discuss the identification of the OPEB, past and future contributions to the Health and Compensated Absences trust funds, and their status and change in value.

REQUIRED RESPONSES

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

R1, R2, R3, R4, and R5: The Sonoma County Library Commission

BIBLIOGRAPHY

CalPERS Actuarial Valuation as of June 30, 2014 for the Miscellaneous Plan of the Sonoma County Library, (CalPERS ID: 6462278835) (Rate Plan ID: 1137)
County Spending on Libraries

<table>
<thead>
<tr>
<th>County</th>
<th>Per capita</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sonoma County</td>
<td>$34</td>
</tr>
<tr>
<td>Napa County</td>
<td>$68</td>
</tr>
<tr>
<td>Marin County</td>
<td>$79</td>
</tr>
<tr>
<td>San Francisco County</td>
<td>$124</td>
</tr>
</tbody>
</table>

Source: SonomalIndependent.org
SUMMARY

California Government Code Section 16271(d) defines a special district as “any agency of the State for the local performance of governmental or proprietary functions within limited boundaries.” In plain language, a special district is a separate local governmental entity that delivers a limited number of public services to a specific geographical area.

Most taxpayers have little understanding of special districts, of what they provide and how they are funded. As a result, these districts receive minimal public scrutiny. Special district boards are either elected by the public residing within their district boundaries or appointed by the Sonoma County Board of Supervisors. The forty-five independent special districts in the County receive $52 million in property tax assessments each year. More than 200 Sonoma County citizens serve on special district boards with little or no compensation.

Special districts escape wide public attention because their functions are narrow and technical. Most residents pay little attention to their special districts until problems arise. The special district component of local government is designed to effectively and responsibly deliver core services such as fire protection, water, and parks. The Grand Jury’s recommendations are intended to improve existing oversight functions, providing enhanced transparency and accountability.

BACKGROUND

The Grand Jury initiated this investigation to raise public interest and awareness of the often invisible, largely unsupervised agencies that have many of the same powers as the County and cities, and operate with limited external review.

METHODOLOGY

Members of the Grand Jury conducted interviews with the following County agencies and departments: the Office of the Sonoma County Auditor-Controller-Treasurer-Tax Collector (County Auditor), the Sonoma County Administrator’s Office, and the Local Agency Formation Commission. Additionally, members of the Grand Jury reviewed financial statements and audits from forty special districts for Fiscal Year 2014-15.

The Grand Jury contacted the Accounting and Reporting Division as well as the Division of Audits of the State Controller’s Office, the California Special District Association, the Sonoma County Clerk’s Office, the Sonoma County Registrar of Voters, the Sonoma County Administrator’s Office and the Sonoma County Water Agency. The Grand Jury also reviewed written sources of information listed below in the Bibliography.

DISCUSSION

What is a Special District?

The California State Senate Local Government Committee pamphlet “What’s So Special about Special Districts?” provides this information:

“Inadequate revenue bases and competing demands for existing taxes make it hard for counties and cities to provide all of the services that their constituents want. When residents or landowners want new services or higher levels of existing services, they can
form a special district to pay for them. Fire districts, irrigation districts, cemetery districts, and mosquito abatement districts exist today because taxpayers were willing to pay for public services they wanted. Special districts localize the costs and benefits of public services, allowing local residents to get the services they want at prices they’re willing to pay. To pay for their regular operations, special districts generate revenue from three basic sources: taxes, benefit assessments, and service charges.

Special districts have four distinguishing characteristics: they are a form of government, have governing boards, provide services and facilities, and have defined boundaries.

There are two types of special districts: Independent special districts are separate local agencies, created by local petition or through popular election, and are directly accountable to their constituents. Dependent special districts are administrative extensions of the county. In Sonoma County the Board of Supervisors assumes the role of Board of Directors for the dependent districts.

**Legal Requirements and Oversight**

All special districts are required by law to conform to democratic safeguards for transparency and accountability. The Ralph M. Brown Act (public meeting protocols), the Public Records Act (recordkeeping and public access to information), and the Political Reform Act (fair elections and service to all citizens) are laws that insure special districts are accountable, open and public. Special districts’ websites can be an effective means of providing information to the public. Residents should be able to easily find a description of services provided, the names and contact information of board members and management, budgets, agendas, minutes and schedules of meetings.

The Grand Jury’s review of the forty-five special district websites revealed that most districts failed to provide financial information, the names of staff and the names of board or commission members, and minutes of board or commission meetings. Only four websites included information about how residents could apply to serve on the boards of their special districts.

California Government Code Section 26909 requires all special districts to file annual audits with their County Auditor and the State Controller within twelve months of the end of the fiscal year, or years, under examination. We found that not all special districts submit their audit reports to the County Auditor in a timely manner. The Grand Jury reviewed the process by which the County Auditor ensures that special districts comply with their audit requirements. If a special district fails to submit an audit, State law requires that the County Auditor either conduct an audit or hire a Certified Public Accountant to audit these districts, at the district’s expense.

In September 2015, when the Grand Jury began its review of the audits of the special districts, twenty-one audits for that year had not been submitted. By January 2016, five audits still had not been submitted. The County Auditor’s Office reports that it seldom reviews special district audit submissions. Four of the forty audits the Grand Jury reviewed contained independent auditor’s notes recommending remedial action by the special district. Of these, we found two districts with financial situations that led the Grand Jury to conduct separate investigations.

Audits are costly for special districts, especially for those with limited budgets. By unanimous request of its governing board, and with unanimous approval of the County Board of Supervisors, a special district may replace the annual audit requirement with either a biennial or a five-year audit. Special districts may also request a less-expensive financial review in lieu of a full scale audit. These options would provide cost savings for small districts.

Another agency with responsibility for special districts is the Local Agency Formation Commission (LAFCO). Pursuant to State law, among its other responsibilities LAFCO has authority over special districts relating to formation and dissolution, annexation and detachment of territory, and extension of services to territory outside their boundaries. According to California Government Code Section 56430, LAFCO is required to review special districts every five years in a process called Municipal Service and Sphere of Influence Reviews. Although its policy manual says it will perform these reviews, the LAFCO staff reports this obligation is rarely met.

In addition to oversight from the County Auditor and LAFCO, the State requires that special district board members receive education and training to fulfill their duties. Resources that support best practices include:
The Special Districts Association is a membership organization that offers regional educational workshops and webinars designed for special districts.

The Special District Leadership Foundation offers a number of scholarships designed to help special districts’ elected or appointed officials and staff participate in the Foundation’s programs and other educational offerings.

Locally, the Volunteer Center of Sonoma County provides important member services including a Volunteer Referral Program, workshops, training and roundtables (webinars and video podcasts will be available soon).

Website creation software, specifically designed for California special districts, is available from Digital Deployment, a private company.

Citizens interested in further information can identify special districts in their area at the Register of Voter’s District and Elected Official Lookup at https://secure.sonoma-county.org/vote/districtlookup

**Special Districts in the News**

LAFCO is involved in two issues related to Sonoma County’s special districts in the news. Several Fire Protection Districts are considering a reorganization or consolidation which would provide opportunities to improve services. There are more than three dozen rural fire agencies in the County. The Board of Supervisors voted unanimously to help these fire agencies form regional partnerships and to set up an advisory council aimed at giving fire agencies a stronger voice at the County level. In December 2015, the Board of Supervisors pledged to seek an additional $800,000 for fire services, a boost that would add to the $1.1 million already set aside.

The Palm Drive Healthcare District has also received community attention this year, as a group of west county residents want to be released from the District. This could be accomplished through a LAFCO process called “detachment” which would change the boundaries of the district.

**Conclusion**

Independent special districts spend $52 million of taxpayer money annually and provide critical services. However, these districts operate with little oversight of their financial accounting or whether they meet their legal requirements for open meetings, public access to information, and detailed websites, all of which would promote transparency and accountability.

**FINDINGS**

F1. A complete list of all dependent and independent special districts in Sonoma County is not available, depriving residents of information that would allow them to become involved in this component of local government.

F2. Many special districts lack consistent County oversight and supervision to assure compliance with the Ralph M. Brown Act, the Public Records Act and the Political Reform Act laws.

F3. Special districts with limited budgets find full-scale financial audits costly.

F4. The Sonoma County Clerk’s Office does not maintain a formal Roster of Public Agencies, listing special districts within the County, as required by Government Code Section 53051.

F5. The lack of readily available financial information and records prevents citizens from exercising their right of oversight of their local special districts.

F6. The Local Agency Formation Commission does not complete Municipal Service and Sphere of Influence Reviews for special districts every five years as required by Government Code Section 56430.

**RECOMMENDATIONS**

The Grand Jury recommends that:

R1. The Sonoma County Auditor-Controller-Treasurer-Tax Collector, LAFCO and the Sonoma County’s Clerk-Recorder-Assessor cooperate to create and publish a listing of Sonoma County special districts on the County website. The list should include existing websites, names and terms of office of board members and special district contact information.

R2. The County Auditor track, monitor and review the audit reports of independent special districts. Non-submissions, late reports and audit report findings
functioning of government. The public has the right to inspect public records during the office hours of any government agency and to request and obtain copies of records, subject to the payment of fees.

**Political Reform Act** – passed by voters in 1974 to ensure elections are fair and that State and local officials perform their duties impartially and serve all citizens equally. The Act includes a number of ethics rules for government officials.

**Ralph M. Brown Act** - designed to ensure government actions and deliberations are conducted openly so that all people “may retain control over the instruments they have created”. The Act requires that meetings of local governmental bodies be conducted during noticed public meetings.

**The Local Agency Formation Commission (LAFCO)** - was created by State law in 1963 to regulate the boundaries of cities and special districts. Each LAFCO is an independent public agency, whose objectives are: to encourage the orderly formation of local government agencies and promote the efficient provision of public services, to preserve agricultural land and open-space resources, and to promote orderly growth and discourage urban sprawl.

**REQUIRED RESPONSES**

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

**R1.** Sonoma County Auditor-Controller-Treasurer-Tax Collector, LAFCO Commissioners, Sonoma County’s Clerk-Recorder-Assessor

**R2, R3, R4:** Sonoma County Auditor

**R5.** LAFCO Commissioners

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About Special Districts Guide, California Special Districts Association, Copyright, 2016

Guide to Special Districts, Sonoma Local Agency Formation, January 2013

Laws Governing Special Districts, California Special Districts Association, December, 2015

“Minimum Audit Requirements and Reporting Guidelines for California Special Districts”, State Controller’s Office, Division of Audits

“What’s So Special about Special Districts?” A Citizen’s Guide to Special Districts in California, Senate Local Government Committee, October 2010

**GLOSSARY**

**California Public Records Act** – enables the public to have access to information needed to monitor the
SUMMARY

In 2015, The President’s Task Force on 21st Century Policing provided guidelines for building trust, using social media and technology, and implementing community policing. In keeping with the public demand for more community oversight, this report provides an examination of citizen procedures in three law enforcement agencies in Sonoma County.

Occasionally, someone files a complaint with a local law enforcement agency arising from an interaction with a law enforcement officer. Agencies offer several methods for filing complaints, and each agency has its own internal policies and procedures for handling those complaints. The criteria for determining which matters should be logged as citizen complaints, and the method of tracking complaints, differ among law enforcement agencies.

Each agency has procedures for conducting an internal investigation. At the conclusion of an internal investigation, a letter is sent to the complainant stating the outcome. If the complainant is dissatisfied with the outcome, each organization has procedures whereby the complainant may escalate his/her concerns to the agency’s senior staff.

Statistics on the number and outcome of citizen complaints are tracked within each agency and filed annually with the California Department of Justice. However, because each agency uses different criteria for logging and tracking complaints, the numbers reported are not useful for comparison purposes.

BACKGROUND

Law enforcement agencies in Sonoma County have taken steps to implement the recommendations of the Final Report of “The President’s Task Force on 21st Century Policing.” This task force was created to strengthen community policing and trust between law enforcement officers and the communities they serve. The Sonoma County Civil Grand Jury initiated an investigation into the policies and procedures used by local law enforcement agencies in responding to citizens’ complaints.

METHODOLOGY

The Grand Jury conducted interviews with the Santa Rosa Police Department, the Rohnert Park Police and Fire Department and the Petaluma Police Department. The Grand Jury also examined written materials covering each department’s policies and procedures concerning citizens’ interactions with law enforcement personnel. We reviewed hard copy and online information about filing a complaint from each agency’s website and obtained statistical information from the Office of the California State Attorney General.

DISCUSSION

Many law enforcement agencies have developed programs to increase their visibility with the public. Each agency’s objective is to expand its presence within the community and to be responsive to issues that arise. To reach that goal each agency offers several forms of outreach programs including town hall meetings and “coffee with cops.” The
agencies we interviewed direct beat officers to walk their downtown business areas to introduce themselves, hand out business cards and talk to citizens and business owners.

Citizen complaints can be submitted in person at the local police department or online at the agency’s website. Complaint forms are posted in most agency lobbies. Both web-based and paper complaint forms are available in English and Spanish. Complaints may also be submitted by telephone. Some complainants wish to remain anonymous. Anonymous complaints are investigated in the same manner as those submitted by a named citizen. Each agency offers telephone-based translation services for individuals whose primary language is other than English or Spanish.

The agencies we interviewed state that they take citizens’ complaints seriously and respond accordingly. Each of the agencies has its own policies and procedures for handling complaints and uses its own criteria for tracking complaints. In some cases, a complaint is resolved immediately by discussion with an officer or employee at the front desk. If the complainant is not satisfied with the resolution, the Duty Officer is called to speak with him/her. Should the Duty Officer determine that the complaint warrants further review, an internal, administrative investigation is initiated. Such investigations follow a specific protocol and are led by a Sergeant or higher-ranking staff member. The status of on-going complaints is reviewed weekly with the Chief.

Agencies maintain logs where complaints are recorded and assigned a case number. Investigators are assigned to each case and meet weekly with their Chief until the investigation is concluded. Each jurisdiction uses somewhat different terminology for identifying the resolution of a complaint. For example, we have included below a copy of the Santa Rosa Police Department’s 2014 Report, summarizing the number of complaints the Department received and the categories assigned to the complaints. The common definitions used by the agencies in their investigations correspond to the following:

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unfounded</td>
<td>When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel.</td>
</tr>
<tr>
<td>Exonerated</td>
<td>When the investigation discloses that the alleged act did not occur, or that it occurred and the act was deemed justified and lawful.</td>
</tr>
<tr>
<td>Inconclusive</td>
<td>When the investigation discloses that there is insufficient evidence to sustain the complaint or to fully exonerate the employee.</td>
</tr>
<tr>
<td>Sustained</td>
<td>When the investigation discloses sufficient evidence to establish that the act occurred and that it constitutes misconduct.</td>
</tr>
</tbody>
</table>

At the conclusion of an internal administrative investigation, the investigating officer prepares an outcome recommendation, detailing the findings, which is forwarded to the Chief of the agency. A letter setting forth the outcome is also sent to the complainant, unless the complaint was submitted anonymously. The agency’s letter to the complainant does not include any information pertaining to disciplinary measures which may have been taken against any officer who was the subject of the investigation. Such disclosures are prohibited by California’s Public Safety Officers Procedural Bill of Rights Act.

Occasionally the complainant is dissatisfied with the outcome. In that event, he/she may ask to speak with a senior staff member for further consideration of the complaint. Should the complainant still not be
satisfied, the agency Chief will meet with him/her in a further attempt to reach a resolution. If a resolution still cannot be reached to the complainant’s satisfaction, he/she may seek recourse by forwarding the complaint to the California Attorney General’s Office.

Recently, in part as a response to public demands for civilian oversight of law enforcement policies and practices, the Sonoma County Board of Supervisors created the Independent Office of Law Enforcement Review and Outreach. Santa Rosa’s City Manager and its Police Department have also hired an Auditor of Oversight for the Santa Rosa Police Department. The cost and effectiveness of these measures remains to be seen.

FINDINGS

F1. The Sonoma County law enforcement agencies interviewed by the Grand Jury have policies and procedures in place to respond to citizen complaints.

F2. Each agency uses its own criteria to determine and categorize citizen complaints.

RECOMMENDATIONS

None.

RESOURCES


The California Department of Justice Policy Governing Citizen Complaints Against Law Enforcement, Section 2, General Policy, states: “It is the Department of Justice general policy that local government will be primarily responsible for citizen complaints against law enforcement agencies or employees and that appropriate local resources (e.g. sheriff or police department, district attorney, etc.) within the area or jurisdiction be utilized for resolution of such complaints prior to a request for intervention by the Attorney General. “

In 2014, SRPD had over 230,000 citizen contacts from which the department received 86 external personnel complaints. In addition, the department had 5 internally generated complaints. All complaints are formally documented and are forwarded to the employees’ supervisors for follow-up. Below is a comparison of complaints received in 2013 and 2014. To follow up on a previously filed complaint, call (707) 543-3559.

<table>
<thead>
<tr>
<th>Finding</th>
<th>Internal</th>
<th>External</th>
<th>Total</th>
<th>Percent Change</th>
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</thead>
<tbody>
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<td>Unfounded</td>
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<tr>
<td>Sustained</td>
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<td>9</td>
<td>17</td>
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</tr>
<tr>
<td>Inconclusive</td>
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<tr>
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</tr>
<tr>
<td>Resolved</td>
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<td>16</td>
<td>19</td>
<td>-19%</td>
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<tr>
<td>Total</td>
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<th></th>
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<tbody>
<tr>
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<td>9</td>
<td>12</td>
<td>+33%</td>
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<tr>
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<td>0</td>
<td>2</td>
<td>+100%</td>
</tr>
<tr>
<td>Exonerated</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>+100%</td>
</tr>
</tbody>
</table>

Definitions of Findings:
Unfounded: The alleged act(s) did not occur or did not involve department personnel.
Sustained: The act(s) did occur and it constituted misconduct.
Inconclusive: There is insufficient evidence to sustain the complaint or fully exonerate the employee.
Exonerated: The alleged act(s) did occur but the act was justified, lawful and/or proper.
Resolved: Complaint was resolved and no further action was taken.
SUMMARY

California Penal Code Section 919 (b) mandates that grand juries inquire into the condition and management of public prisons within the county. The Sonoma County Civil Grand Jury (Grand Jury) interprets this section of the Penal Code to require the inspection of the adult detention facilities within the County. In addition, the Grand Jury opted to inspect the two County detention facilities that house juvenile offenders.

In Sonoma County there are four detention facilities. The Grand Jury inspected the Main Adult Detention Facility (MADF), the North County Detention Facility (NCDF), the Juvenile Justice Center (JJC), and the Juvenile Probation Camp (JPC). The adult facilities - MADF and NCDF - are administered by the Sonoma County Sheriff’s Office. The juvenile facilities - JJC and JPC - are administered by the County Probation Department.

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. Jury members met with command staff, managers, line staff and medical personnel and conducted interviews with detainees at several of the facilities. We inspected all housing modules, booking/intake areas, medical and pharmacy areas, kitchen and dining areas, control center and visitation areas. We reviewed the grievance procedures, educational and behavioral programs and recreational activities.

DISCUSSION

The adult facilities (MADF and NCDF) continue to deal with a number of challenges, including staffing levels, mental health issues, lack of body cameras and overhead video in the housing modules, drugs and contraband. We also reviewed the inmate programs, educational classes and earthquake and disaster preparedness.

Main Adult Detention Facility

The MADF handles the processing, care and management of adult inmates. This is a medium to maximum security jail that houses male and female inmates for pre-trial, sentencing and short to long-term incarceration. MADF consists of thirteen inmate housing modules, several with sub-modules. Modules contain single- and double-occupancy cells, a central open area with stationary tables and seating, showers, phones, a television and a guard station. The Grand Jury observed MADF to be well maintained, clean and well lighted.

The maximum capacity of this facility is 918 inmates. On the day of our inspection, the inmate population was 643. An additional ninety-two inmates were temporarily held at NCDF under maximum security, due to the remodel of a housing module in MADF. Since our inspection, the remodel of this housing module has been completed and is now operational. At the time of our inspection, we were advised that forty-four inmates were housed at the Santa Rita Jail in Alameda County due to budget and staffing constraints. According to command staff, it is more cost-effective to house inmates at
Santa Rita when there are fewer than the minimum number of inmates to justify housing them in one of the MADF housing modules. The practice of housing inmates in Alameda County will remain an option to minimize overtime and staffing shortages.

As the accompanying chart shows, on the day of our inspection, two-thirds of the inmates were classified as having mental health issues – 394 male and 39 female.

Due to the nature of their crimes, 144 inmates are housed separately because of possible danger from other inmates. Twenty-seven inmates have been charged with murder. Approximately 30 percent of the inmate population has some type of gang affiliation. A member of the MADF Gang Taskforce identifies and segregates gang members at the time they are booked.

MADF is currently operating with an average inmate population of 79 percent of capacity. Assembly Bill 109, the Public Safety Realignment Act, took effect in October 2011. This legislation mandated that California reduce inmate population in its State prisons. To achieve that goal, individuals sentenced for non-violent and non sex-related offences serve their sentences in county jails instead of a State prison. Prior to the implementation of this Act, inmates could be sentenced to county jails for a maximum of one year. As a result of realignment, inmates at MADF are now serving sentences of up to fifteen years. MADF was built and occupied in 1991. This facility was not designed to hold long-term inmates and lacks adequate recreation and outdoor access.

California Proposition 47, implemented in 2015, converts the sentences of non-violent drug and property offences from felonies to misdemeanors. Proposition 47 affects future convictions and allows for individuals currently incarcerated for the covered offenses to petition the courts for resentencing. In time this law is expected to reduce overcrowding at MADF and State prisons.

North County Detention Facility

This facility houses low-risk male inmates transferred from MADF. Eligibility for transfer is determined by a risk assessment conducted by MADF staff.

The Grand Jury observed the housing modules at NCDF to be secure, clean and well-lighted. The grounds within this facility are only adequate for short stays. This facility was not designed to hold long-term inmates and lacks adequate recreation and outdoor access.

The maximum capacity of this facility is 557 inmates. On the day of our inspection, the inmate population was 369. Of the 369 inmates, 150 were awaiting sentencing.

There are seven housing modules at this facility, two of which remain empty. One of the empty modules previously housed female inmates.

Inmates assigned to one of several work crews receive work credits to reduce their time in custody. Some inmates work on road crews throughout the County or at the County fairgrounds, while others serve weekends on work release. Some inmates work in the horticultural program on the grounds of NCDF. This program gives inmates knowledge of cultivating plants and of the surrounding environment. Plants are grown and sold to the public. The proceeds are
invested into the horticultural program.

Upon return from one of the off-site work programs, inmates are taken to MADF for body scans, pat-searches and random strip-searches before returning to NCDF.

Prior to 2008, females were housed at this facility. Today, all female inmates are housed at MADF due to budget constraints and a shortage of female detention staff to serve at NCDF. As a result, female inmates whose behavioral status would make them eligible for incarceration at NCDF are precluded from participation in the work force programs available to their male counterparts.

**Challenges Facing Both Adult Detention Facilities**

**Staffing**

The total current staffing is 236. The mandatory overtime worked by a correctional deputy averages more than thirty-six hours per month. This overtime is necessary due to a shortage of correctional staff and absences due to workers compensation leave or personal time off. Mandatory overtime has been linked to on-the-job injuries.

The Sonoma County Sheriff’s Department recruits prospective deputies twice a year. This process produces a large number of applicants, however, fewer than 10 percent of those who apply are hired. The application and interview process is stringent and includes: an application appraisal, written exam, oral exam, background check, performance exam, physical agility exam, medical exam, psychological exam and alcohol and drug testing. The process complies with the Sonoma County Rules of the Civil Service Commission. The Department states that it is committed to recruiting and specifically attracting more female and minority candidates.

**Mental Health**

On average, 40 percent of the inmates at the combined adult facilities have some form of mental health issue. These inmates suffer from minor to acute mental health problems that require medication as ordered by medical professionals.

MADF and NCDF have certified mental health staff on duty 24/7. Staff members include psychiatrists, licensed social workers, marriage/family therapists, a licensed vocational nurse, physician’s assistants and a psychiatric technician.

The mental health modules are staffed by two deputies and medical personnel. In some circumstances, inmates require treatment that the staff cannot provide. These inmates are transferred to Napa, Atascadero or Porterville State Hospitals. Unfortunately, these transfers can be delayed three to four months while waiting for space to become available. Some of these inmates have been deemed incompetent to stand trial. The goal of getting proper treatment is to restore them to competency so they can be tried in court. There is ongoing training for staff members on how to deal with mental health issues including crisis intervention and communication skills.

A $40 million State grant has been awarded to Sonoma County for the purpose of building a new 72-bed Behavioral Health Housing Unit at MADF. The County will provide $9 million of the estimated $49 million cost of this project. Construction is expected to be completed in 2020. This housing unit is being designed to provide the best therapeutic environment for the inmate population with the most critical of the mental health and substance abuse issues.

**Body Cameras and Overhead Video in Housing Modules**

The Specialized Emergency Response Team (SERT) is tasked with responding to incidents, riots, cell extractions, mass searches or disturbances. The SERT correctional deputies are required to be available to respond day and night. They are currently the only correctional deputies issued body cameras. Due to operational priorities, video cameras within MADF have not been in the budget for many years. Operational costs have been a higher priority, removing the funding for body cameras and video from the budget. MADF is twenty-five years old and pre-dates modern technology. Because of the age and design of the facility, installing these features is problematic. The new Behavioral Health Housing Unit will have overhead video cameras.
Drugs and Contraband

Jail staff report that shifting prisoners from State prisons, in accordance with the Realignment Act, has created an increase in the influx of drugs and contraband (weapons, cell phones, cigarettes) into MADF and NCDF. The Sheriff’s Department has taken steps to deter this activity by installing a full-body scanning device at MADF. The scanner is designed to detect substances that have been ingested or inserted into the body. This scanner is used during the booking process before an inmate is placed into a housing unit. NCDF inmates are also scanned when they return from off-site work detail and all inmates are subjected to random pat searches. The department has deployed a Detention K-9 (canine) sniffer dog trained to detect drugs. The K-9 unit works primarily at MADF but is deployed to NCDF when requested. When off duty, the dog remains with its handler and is on-call 24/7.

Inmate Programs and Education

There are classes offered to the inmates at MADF and NCDF including General Education Development (GED), English as a Second Language (ESL), reading and writing, religion and anger management. The facilities have a mandatory program called Starting Point which addresses issues dealing with drugs and alcohol abuse, recovery, life skills, group and individual counseling sessions and post-release planning. The goal of the program is to build self-awareness and develop life skills so that when the inmates leave MADF or NCDF, they are better prepared for a successful reintegration into the community and less likely to reoffend. The Starting Point program also assists with placement into a Sober Living Environment. The Grand Jury conducted confidential inmate interviews to get additional input on the custodial care, education and counseling provided at MADF and NCDF. The interview feedback was generally positive.

Earthquake and Disaster Preparedness

The MADF and NCDF have a comprehensive protocol to deal with the consequences of disasters. An emergency generator will maintain critical facility operations. The generator will activate automatically within eight seconds of a power failure. Evacuation routes and battery powered lighting have been installed at all emergency exits. The department conducts emergency and fire drills periodically. Mutual aid contacts have been established with other counties to transport and house inmates in the event that an evacuation is necessary.

Juvenile Facilities

The Grand Jury inspected the Sonoma County juvenile facilities (JJC and JPC). These are state of the art facilities, each in its own way. We also reviewed their community-based programs, educational classes and vocational opportunities. Both facilities have comprehensive protocols to deal with the consequences of disasters.

Juvenile Justice Center

The California Welfare and Institutions Code Section 850 stipulates that:

“The board of supervisors in every county shall provide and maintain, at the expense of the county, in a location approved by the judge of the juvenile court or in counties having more than one judge of the juvenile court, by the presiding judge of the juvenile court, a suitable house
or place for the detention of wards and dependent children of the juvenile court and of persons alleged to come within the jurisdiction of the juvenile court. Such house or place shall be known as the “juvenile hall” of the county. Wherever, in any provision of law, reference is made to detention homes for juveniles, such reference shall be deemed and construed to refer to the juvenile halls provided for in this article.”

The Grand Jury inspected JJC and met with staff. JJC provides housing for both pre- and post-sentenced juveniles. The facility is modern and efficient and is administered by the County Probation Department. It is considered a state of the art facility and has been toured by Probation Departments from other States.

The Grand Jury observed JJC to be clean, well lighted and secure. Each housing unit has natural light through windows and skylights. There are three large covered outdoor gymnasium-sized courts for group sports in all weather conditions and an outdoor recreation field for soccer, running and other active sports.

The maximum capacity of this facility is 140 juveniles. JJC houses both boys and girls ranging in age from thirteen to eighteen. A small percentage of juveniles apprehended by law enforcement agencies are detained at JJC. Juvenile detainees enter the system through either arrest, court order or by turning themselves in. Most are released to the custody of their parents or guardians. A Judge of the Juvenile Court determines whether a juvenile will be held at the JJC or released to their parents or a guardian.

On the day of our inspection there were sixty-three residents, fifty-two boys and eleven girls. There are seven housing units, each of which is self-contained. Each contains sleeping quarters, a classroom, medical exam room, a small outdoor recreation yard, and program and activity spaces to support a decentralized operational program. This design affords the highest level of security for the juveniles. Juveniles remain in the housing units except for recreational activities, court appearances or attorney meetings. Meals are prepared on-site in the facility’s central kitchen and delivered to the housing units.

Residents are assigned to a housing unit based upon age, gender, risk factors and severity of charges. Each resident is assigned a counselor who works with the resident, his or her family, Probation Department and community based organizations such as the Boys and Girls Club, scouting and fitness programs. JJC offers a range of educational programs and activities including drug and alcohol services, aggression replacement training, teen parent support groups and book and writing clubs. These innovative programs are designed to achieve positive behavioral changes, develop good moral character and support the youth in re-entering the community with skills and resources in place.

Juvenile Probation Camp

The JPC was established by the County Board of Supervisors in 1955, making it one of the oldest programs of its kind in California. The Grand Jury observed JPC housing unit to be clean and well lighted and the surrounding grounds beautiful. The occupational shops appeared clean and safe and the relations between residents and staff seemed to be cooperative and congenial.

The camp has the capacity to house twenty-four young males, ages sixteen to eighteen. A Juvenile
Court Judge assigns residents to JPC based on his or her assessment of each resident’s ability to benefit from the JPC program. Due to facility and staffing limitations, there are no female residents. There are no equivalent programs available to females within the juvenile detention system.

On the day of our inspection, JPC had twelve residents. The housing facility has dormitory style sleeping arrangements, common areas for games and relaxation and a kitchen and dining area. The camp offers daily academic classroom instruction in collaboration with the Sonoma County Office of Education. The camp also offers training in welding, woodworking, fork-lift operation and culinary arts. Instructors in the vocational programs are accredited. Residents can earn money by making products such as park benches, tables, fire pits and BBQ’s for use at state, county and city parks. Residents’ earnings are applied to pay any court-ordered restitution.

The average stay at JPC is eleven to twelve months. A caseworker is assigned to each resident and conducts weekly meetings to discuss the resident’s progress. A five-step program allows the resident to achieve goals at each step, affording him increasing privileges and access to the vocational training workshops. These privileges may include a brief furlough with family. The goal of the JPC is to work with the young men and their families in order to give them skills needed for a successful reintegration into the community.

The Grand Jury conducted confidential interviews with residents to get their perspective on the custodial care, education and counseling provided. The feedback was generally positive.

**FINDINGS**

F1. Programs and opportunities available to men are not available to women who would be eligible for transfer to NCDF.

F2. Programs and opportunities available to boys at the Juvenile Probation Camp are not available to girls who would otherwise be eligible for transfer to a similar probation camp.

**RECOMMENDATIONS**

The Grand Jury recommends that:

R1. The Sheriff’s Department develop and prioritize a plan to accommodate female residents at the NCDF.

R2. The Probation Department develop and prioritize a plan to provide vocational opportunities and family-oriented rehabilitation programs for girls at the JJC.

**REQUIRED RESPONSES**

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

R1. The Office of the Sonoma County Sheriff.

R2. The Sonoma County Probation Department.

**RESOURCES**

Assembly Bill 109, the Public Safety Realignment Act

California Penal Code Section 919 California Proposition 47

California Welfare and Institutions Code Section 850

Psychology Internship Program United States

NJ Journal Issue No. 252: Reentry Programs for Women Inmates (http://nij.gov/journals/252/Pages/reentry.aspx)


Sonoma County Rules of the Civil Service Commission, Effective November 15, 2015 (https://hr.sonoma-county.org/documents/civil_service_rules.pdf)
2015 - 2016
Sonoma County Civil Grand Jury

Back row to front

Matt Stone
Tom Vasgird
Donna Carlson
Joan Picard
Peter Andrews
Barbara Colley (absent)
Gayle Farkas
Christine Mandoli
Patricia Souza
Susan Moreno
Steve Klotz
Beverly Kelvie
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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.

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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.

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Sonoma County
Civil Grand Jury

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