



City of Sebastopol

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CITY COUNCIL

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August 16, 2005

Judge Allan Hardcastle
Presiding Judge of the Superior Court
Hall of Justice
P.O. Box 5109
Santa Rosa, CA 95402

Re: Response to the Sonoma County Grand Jury Report of FY 2004-05

Dear Judge Hardcastle:

As required under the California Penal Code Section 933 the Sebastopol City Council is submitting to you our responses to the Grand Jury report of FY 2004-05.

A Disaster Waiting to Happen

***Finding 10** – The city plans are not consistent in scope and detail. The City of Santa Rosa has a well-structured but dated plan. Cotati's plan is literally a copy of the county plan, Cloverdale is still using the 1989 two volume door-stopper plan that existed before the adoption of SEMS, and Healdsburg's plan is dated 1987. See Exhibit D for a table comparing the format and date of the county and city plans.*

Response: It would not be unexpected to have differences in scope and details between Sonoma county and the various cities in Sonoma county. Each jurisdiction has different capabilities, resources, and risk factors associated with any emergency response. We cannot comment on the adequacy of the emergency response plans of other jurisdictions, but we believe the Sebastopol plan sufficiently outlines the assignment and allocation of our resources during an emergency and identifies those resources we would be dependent upon county and state agencies to assist us.

The City of Sebastopol Emergency Operations Plan was created in 1996, with the assistance of Sonoma County Operational Area Staff. The plan was originally written for San Mateo County (by Sonoma County Emergency Services Coordinator Sandy Covall-Alves) and modified and adapted to meet the needs of Sebastopol. The plan is SEMS based and meets State requirements with a statement to that effect found on page 4-1 of the plan, and provides appropriate direction to city staff. The plan is consistent with other plans in the Operational Area and has been exercised jointly with the county plan.

In regard to Finding #10 as it relates to the City of Sebastopol, we disagree with this finding.

Recommendation 3 – Each city council should:

- *Initiate an annual review of its disaster plan, coincident with the budget cycle, starting with the 2006-2007 cycle. These reviews should include the following tasks as a minimum:*
 - o *Examine status of the actions from the previous year's review.*
 - o *Review any tests during the year and any plan changes required as a result of the tests ("no change" is an unlikely outcome).*
 - o *Request detail of any changes to the plan occasioned by known state, national or world emergencies that occurred in the review year.*
 - o *Request detail of any changes to the plan required by directives from the Department of Homeland Security (with due regard to any security and secrecy requirements).*
 - o *Concur by vote, that the review has been completed successfully.*

Response: The City's management staff has reviewed the disaster plan on a periodic basis and made changes as needed to improve efficiency or in response to field testing, current events and new regulations. The considerations outlined in Recommendation #3 have been a part of that review.

We will implement recommendation #3 before or as part of the FY 2006-07 cycle in order to create a regular discussion of our emergency response plan and ensure that it is current with state and federal regulations, relevant in regard to potential disasters and ready to be effectively implemented by the EOC management staff.

Recommendation 5 – The Board of Supervisors and each city council, should:

- *Demand that plans be put in place to ensure that all existing employees have been or will be trained in SEMS and the Emergency Recovery Plan for the county, and/or their city. The training should be completed by year-end 2005.*
- *Document the reporting steps employees must take as support individuals in the event of a disaster.*
- *Endorse that the most effective use of most employees is to focus on business resumption.*

Response: It has been state law for many years now that all employees and volunteers be trained in SEMS. The city has performed this training many years ago, with refreshers as needed. New employees (1 or 2 per year) are trained on an as needed basis. The city is very aware of SEMS and it is the base of all of our emergency planning. There is no "Emergency Recovery Plan" on it's own. Recovery is part of our emergency operations plan and one of the objectives that is detailed during the creation of action plans by EOC staff during the emergency. Recovery is such a wide and varied subject, depending on the exact circumstances of the disaster, that it would be next to impossible to create such a document that would adequately address all situations. This being the case, staff has not been trained on this non-existent plan.

City staff has been instructed to report to their normal work location in the event of a disaster. EOC staff and department supervisors will direct staff to those tasks deemed most necessary. With the small number of city staff in Sebastopol, except for the EOC personnel, it would not be appropriate to identify tasks for each individual. The city EOC management staff, through the creation of action plans, should determine how best to utilize staff.

The final recommendation, that employees should focus on business resumption, is unclear. If the intent is that the resumption of city services is the highest priority then we disagree with this recommendation. Action plans, created by EOC staff should direct the most efficient use of all

resources. There are many situations where basic city services will be curtailed until other more urgent requirements to protect the health and safety of the public are addressed. If the question is intended to focus city staff on the resumption of private sector business resumption, again, EOC Management will make that decision based on prudent action plans, depending on the situation.

We believe this recommendation has already been implemented in Sebastopol in an appropriate and effective manner.

Conflict of Interest Codes in Sonoma County

Recommendation R1 – Adopt an Incompatible Activities List

Each commission, board and public agency should have their own Incompatibility Activities list as a supplemental resource. This list would assist the officials in understanding how to avoid conflict-of-interest issues, enhance the assurance of public trust—the integrity of officials—and political processes as well. The following is a sample of the type of list the grand jury recommends:

Incompatible Activities – Sample List

- 1. Cannot have an interest in a contract made by the board, commission or committee that one is involved with.*
- 2. Cannot request, receive or agree to receive anything of value or other advantages in exchange for a decision.*
- 3. Cannot influence decisions relating to potential business or prospective employers.*
- 4. May not acquire property interests within redevelopment areas over which one has decision-making influence.*
- 5. Cannot receive compensation from third parties for speaking, writing an article or attending a conference.*
- 6. Cannot use public agency resources (money, travel expenses, staff time and agency equipment) for personal or political purposes.*
- 7. Cannot participate in decisions that may affect (positively or negatively) their personal interests, interests of their immediate family or their business partners.*

Response: Having a list of incompatible activities as a supplemental resource is desirable and the Grand Jury’s list is identical to that list provided by the Institute for Local Self Government (“Key Ethics Law Principles for Public Servants”) which further advises that one should consult with their agency’s legal counsel to discuss the specifics of their situation. It is doubtful whether any document could reasonably address all the potential conflicts of interest or substitute for effective legal advice on these complex matters. We typically consult with our City Attorney when potential conflicts of interest arise and have received excellent guidance from the City Attorney. We will ensure that all public officials receive a copy of the ILSG guide on incompatible activities.

The City Council will ensure that this recommendation will continue to be implemented through the distribution of the ILSG publication.

Recommendation 2 – Adopt a Code of Ethics

Sonoma County and each city should establish and implement a Code of Ethics. All commissions, committees and boards, as well as elected and appointed officials, should review the Code of Ethics and attest to understanding the policy as it pertains to their position. Thereafter, the county and city officials should mandate periodic ethics training and testing, just as is required of federal

and state employees. For establishing a Code of Ethics, the Attorney General's Office and FPPC, have developed a web-based ethics training course. The California League of Cities also has information and guidelines.

Response: While the City Council and appointed public officials have ample opportunities to learn about the ethical standards required in public service, a comprehensive Code of Ethics can be a useful reference for this City. With consideration toward the availability of staff time and resources, the City Council will implement the recommendation to prepare and adopt a Code of Ethics for the City of Sebastopol during the next 12 months. After a Code of Ethics is adopted, mandated training will be considered as to whether it is necessary or practical. Testing on the city's Code of Ethics will not be considered at this time.

Recommendation 4 – Institute regular, mandatory training

- (a) Provide Designated Filers with basic informational training.*
- (b) Increase utilization of FPPC for training of Form 700 Filing Officers and Clerks*
- (c) Require Code of Ethics training at the city and county level as similar to that as mandated by state agencies (available online).*
- (d) Require basic conflict-of-interest training for:*
 - o Incumbent elected and appointed officials*
 - o New appointees and elected officials*

Response: Adequate training as recommended by the grand jury under 4(a) already exists in Sebastopol. All candidates for elected office are provided information by the City Clerk for them to complete the "State of Economic Interest Form 700". When public officials are elected or appointed by the City Council, the City Clerk provides and explains to them the Form 700 for their "Assuming Office Statement" which is due to the FPPC within 30 days. Annual filers under Gov. Code Section 87200 are notified in January/February of the requirement to file by April 1st and advised of the FPPC information telephone help line available to assist them in completing the form. As a courtesy, the City Clerk provides two reminders to this group of filers to complete their forms. The FPPC is the 'Filing Officer' and therefore the most appropriate source of information for those required to file under GCS 87200.

The second category of filers are 'code filers' designated in the city's Conflict of Interest Code (eg. department heads, Design Review Board members, consultants). For these classifications, the City Clerk is the 'filing officer'. These Form 700 submittals are retained by the City Clerk and only forwarded to the FPPC if no report is filed after 90 days after two additional notifications are made from the City Clerk to gain compliance.

In response to recommendation 4 (b), we do not believe it necessary to increase FPPC training for public officials in our city. Based upon our current procedures described above, the City Clerk is highly qualified and knowledgeable about the reporting requirements and effectively administers our Conflict of Interest reporting program while clearly advising filers of the FPPC resource for information.

In response to grand jury recommendations 4 (c) and (d), we do not believe mandated training for code of ethic or conflict of interest is warranted. Besides the opportunities made available from the FPPC, League of California Cities and the Institute for Local Self Government, we already provide adequate training on the subjects of a code of ethics and conflict of interest through the City Attorney's individual meetings with newly elected and appointed officials, the periodic local training provided by the City Attorney, the distribution of informational and educational materials and the support for attendance of elected and appointed officials at League of Cities sponsored conferences that address this topic.

We will not be implementing these recommendations.

Recommendation 5 – Re-file Form 700 on a material change

Sonoma County administration and respective cities in Sonoma County should require Designated Filers to file amendments to Form 700 with clerks of the county or city within 30 days of a material change. “Material Change” is defined in Government Code Section 87103.

Response: Currently, there is no requirement by the FPPC that Form 700s be amended between reporting periods and there does not appear to be a definition of “material change” in Government Code Section 87103 as referenced by the grand jury. However, GCS 87103 does define the concept of a conflict of interest when a public official has a financial interest in a decision where that decision will have a “material financial effect” distinguishable from the effect on the public generally, to the benefit of themselves, members of their immediate family or assets, income, business associates or donors above certain monetary thresholds. Public Officials who have a financial interest in a decision are already obligated to identify the conflict of interest or potential conflict immediately prior to even the consideration of the matter and must disclose the nature of the conflict “in detail sufficient to be understood by the public” and are required to recuse themselves from further participation on the matter before the decision making body. This requirement and subsequent procedure is outlined in Gov. Code Sec. 87105. This would seem to provide the public with a more immediate disclosure than requiring additional paperwork that occurs well after the event in question. We do not intend to implement this recommendation.

Housing Assistance for Sworn Officers

Recommendation 1 - By December 2005 the governing bodies of the county and each city should have:

- *Evaluated the housing needs for sworn officers, targeting the entry-level officer*
- *Appointed a liaison to local banks and lending institutions to begin dialogues outlining possible solutions.*

Recommendation 2 - By February 2006 the governing bodies of the county and each city will have established qualification criteria for each program, and the nature of the investment protection.

Recommendation 3 - By December 2006 an evaluation instrument will have been designed and used to determine the effectiveness of the new program(s).

Response: Upon reading the grand jury report, it appears that these recommendations are based upon the findings that some law enforcement officers live outside the county and some have a commute as long as 3.5 hours. The response provided by our Police Chief indicates that is not the case in Sebastopol. None of the 15 sworn officers live outside Sonoma County and therefore none have more than a one hour commute if even that long.

However, we too are concerned about the high cost of housing throughout California and especially in Sonoma County. That is why we initiated an aggressive affordable housing development program that will result in approximately 60 units being constructed over the next two years that will provide owner and renter occupied housing for low and moderate income families. Also, we have instituted a 20% inclusionary housing requirement on all new housing development and jobs-housing fee on commercial development. These programs will be available to all sworn police officers who qualify under the low and

moderate income guidelines. We are aware that the income level of law enforcement officers exceeds the qualifications for consideration under the low and moderate income guidelines and therefore may need housing financial assistance from conventional mortgage loan sources. In addition, it is our view that the cost of rental housing, while increasing significantly from 10 years ago, still provides an affordable alternative to the cost of home ownership for individuals and families whose income exceeds the county low and moderate income standards. Regardless of the existing opportunities available for law enforcement employees to obtain affordable housing we are also concerned about how the high cost of housing might impact our ability to recruit and retain all city employees as well as the employees working in local businesses. We are interested in learning about those housing programs that may be available to provide housing assistance to recruit and retain all city employees. However, we do not intend to implement these recommendations

Thank you for the opportunity to respond to the 2004/05 Grand Jury report.

Sincerely,

Larry Robinson
Mayor

C City Council