

COUNTY OF SONOMA

BOARD OF SUPERVISORS

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September 28, 2005

TO: The Honorable Robert Boyd
Presiding Judge, Sonoma County Superior Court

FROM: Sonoma County Board of Supervisors

SUBJECT: Response to Final Report of the 2004-2005 Grand Jury

BOARD OF SUPERVISORS
RESPONSE TO THE 2004-2005 GRAND JURY FINAL REPORT

Conflict of Interest

Recommendations: Page 15

Rl. Adopt an Incompatible Activities List

Each commission, committee, board and public agency should have it's 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.

RESPONSE: The recommendation will be implemented in part.

There currently are a substantial number of resources readily available which could be utilized to meet the grand jury's intent. Instead of having each committee, board, and public agency struggle to create its own list of prohibitions, the County will make available to all committees, boards, and agencies, under the Board's supervision, documentation identifying the numerous conflict laws and restrictions that apply to public officials, and summarizing the requirements of those laws. In addition, the County will add to its website a "Government Ethics" link that will identify publications and training material available to assist local officials in becoming better informed on the requirements that apply to them.

R2. 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 the FPPC, have developed a web-based ethics training course. The California League of Cities also has information and guidelines.

RESPONSE: The recommendation has been implemented in part.

The County has already adopted a Conflict of interest Code, which identifies every officer and employee involved in making decisions that could possibly affect any personal financial interest of the employee, and requires those officers and employees to disclose all of their personal financial interests that could possibly be affected by their governmental decisions. All of those "disclosure statements" are public records. In addition, in the early 1990's, the County required each County department to adopt an incompatible activities policy, which prohibits County employees from participating in activities, for compensation, that might be incompatible with their public employment. The County is in the process of updating those policies—a process which should be completed within this fiscal year. The County will also add links to the County web page to government ethics resources.

There is a balance involved in deciding the circumstances in which to prohibit public officials from participating in decisions, and public employees from participating in outside activities. The boundaries of that balance have been established by the people of the State of California in the Political Reform Act, and by the Legislature in the other laws that prohibit conflicts of interest. Public officials have been elected by their constituents to represent those constituents in deciding the public's business. Clearly, when a public official has an interest that would be a conflict under state law, the official should disqualify him or herself from participating in any decision affecting that interest. Each official must determine when to decline to participate in a decision—thus depriving his or her constituents of representation in that decision particularly when the official does not have a conflict of interest, but is merely concerned that his or her participation might be controversial. The official has a responsibility to represent his or her constituency particularly when he or she is not prohibited from doing so. As discussed in the response to RI above, the County is taking steps to increase officials' awareness of the requirements already existing in the law concerning conflicts of interests; however, at this time, the County declines to adopt a broader-reaching code of ethics that might in fact prohibit public officials from lawfully representing their constituents.

R3. Increase fines and penalties; prohibit use of campaign funds to pay penalties

The grand jury recommends that local officials from the County and the nine cities contact their senate and assembly members to consider amending the Political Reform Act to address the following two issues:

- R3. a. Raise fines and penalties commensurate with the amounts realized from personal gain. The cost of penalties for conflict-of-interest violations are insufficient to deter violators, therefore, the fines should be significantly higher-the dollar amount ratio should be closer to the dollar amount gained.*
- R3. b. The grand jury found several officials paid off their FPPC fines with campaign funds. The California Legislature should rescind and amend Government Code § 89513 and § 89514 to prohibit, rather than permit, campaign funds to be utilized to pay off government-imposed monetary penalties.*

RESPONSE: The recommendations provided in R3a and R3b will not be implemented because they are not reasonable or warranted.

State law already provides remedies for local jurisdictions harmed by a public official's failure to disclose an economic interest, or improper participation in a decision. If, in his judgment, the facts support a legal action, the District Attorney, elected city attorney, or any other person residing in the harmed jurisdiction, is authorized (after request to the District Attorney) to file a civil action to recover (1) for a failure to disclose an interest, up to the amount or value not properly reported (Government Code section 91004) or (2) for a failure to disqualify him or herself from a transaction in which a public official has an interest, up to three times the value of the benefit. (Government Code section 91005). The County will add to its website information on how to report violations to both the Fair Political Practices Commission (the state watch-dog agency) and the Sonoma County District Attorney.

- R4. Institute regular, mandatory training*
Provide Designated Filers with basic informational training.
Increase utilization of FPPC for training of Form 700 Filing Officers and Clerks
Require Code of Ethics training at the city and County level as similar to that as mandated by state agencies (available online).
Require basic conflict-of-interest training for:
-Incumbent elected and appointed officials
-New appointees and elected officials

RESPONSE: The recommendation will be implemented in part.

The County agrees that it would be helpful to provide more information to designated employees, and to elected and appointed officials. As discussed in the response to R1, the County will provide written information summarizing conflict of interest laws to boards, committees, and commissions, and will establish web links to make that information available to employees and the public. In addition, the County will provide web links to ethics training material developed by the State, and available on line. The County Clerk has indicated she will include additional information to all agencies, boards, and commissions. The County is reluctant to impose mandatory programs on all officials, many of whom are citizens volunteering their time to serve the public, and would prefer that these officials voluntarily participate in programs as they determine best suits their level of expertise in this area. The new links to Government Ethics on the County website will ensure that resources are available to these officials in the event a question arises as to their responsibilities under the various conflict of interest laws.

R5. Re-file Form 700 on a material change

Sonoma County administration and respective cities in Sonoma County should require all 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 § 87103.

RESPONSE: The recommendation will not be implemented because it is not reasonable.

There are, in the County, over 700 designated employees who file annual statements of economic interest (Form 700). In addition, over 292 officials from over 20 boards and commissions, and 603 employees and officials from over 82 separate agencies under the supervision of the Board of Supervisors, file annual statements. The form already requires that for each economic interest, the filer state the date the interest was acquired, and the date it was sold or the interest changed. All new or changed interests therefore become public information upon the filing of the next year's statement of economic interest. In light of the enormous task of monitoring the annual filing process, and the bi-annual process of updating codes for all jurisdictions, the Board is reluctant to impose an additional filing and monitoring requirement.

A Disaster Waiting To Happen!

Findings: Page 26

F9. All County employees are listed as disaster recovery resources, as indeed are members of the grand jury, but there is no clear plan on how they will report in for duty, or how they will be used.

RESPONSE: Partially agree with this finding.

As noted in the County Administrator's response, all County employees are Disaster Service Workers and as such can be called upon to work in response to an emergency. All new full-time employees receive SEMS training and an introduction to the County's Emergency Operations Plan. Each employee's specific role will be determined by their supervisor and may vary depending upon the emergency. Grand Jury Members do not fall under the Disaster Services Worker criteria.

F 11. Of the plans that exist, almost all of them have dates prior to the events of September 11, 2001.

RESPONSE: Partially agree with this finding.

As noted in the joint departmental response, twelve plans have been written and updated since September 11, 2001. County and City staff had been addressing the threat of terrorism well before that date. As a case in point, the County Emergency Operations Plan revision dating from November 2000 addressed Terrorism and Weapons of Mass Destruction and was reviewed post September 11, 2001 but was found to be adequate without further revision at that time.

F13. There is an agreement dated 1997, between the cities and the County, promising help from the County for the construction of, training in, and testing of city-based disaster plans. This assistance is not provided, nor sought on a continually consistent basis, despite the payment of a \$2000 annual fee by the cities.

RESPONSE: Disagree with the finding.

As noted in the joint departmental response, the County does provide advice and assistance in the development of city plans, monitors state and federal program requirements, provides emergency management related public information and literature, assists with city exercises, and arranges for state and federal training to city employees. In addition, under the Operational Area agreement, regular coordination, planning, and cooperation occurs between all the agencies. The County Department of Emergency Services is designated as the lead agency for this effort. Nonetheless, the joint departmental response commits the County Department of Emergency Services to contacting each city to review their plans and provide advice as requested.

F15. The County Mobile Communications Vehicle, funded by Homeland Security, is parked within 200 feet of the County Dispatch Center for which is the backup.

RESPONSE: Partially agree with this finding.

As noted in the joint departmental response, the County Mobile Communications Vehicle

has been parked within 200 feet of the County Dispatch Center. It is not, however the primary back up for the center, the City of Santa Rosa Dispatch Center functions as the primary back up for the County Dispatch Center. The County Mobile Communications Vehicle is intended to assist communications in a disaster and could be used as a back up for the County Dispatch Center with a lesser capacity.. The County is in the process of securing a different location for the vehicle.

Recommendations: Page 29

R2. The Board of Supervisors should:

Initiate an annual review of the County Emergency Plan. Since this may lead to budgetary outcomes, the event should be included as a part of the budget cycle, starting with 2006-2007.

The review should include the following tasks as a minimum:

Examine status of the actions from the previous year's review.

Review any tests completed during the year and any plan changes required as a result of the tests ("no change" is an unlikely outcome).

Require evidence of detailed changes to the plan occasioned by known state, national I or world emergencies that occurred during the year.

Require evidence of detail changes to the plan required by directives from the Department of Homeland Security (with due regard to any security and secrecy requirements).

*Concur, by a vote, that the review has **been** completed successfully.*

RESPONSE: The recommendation has been mostly implemented.

There is a continual review of the County's Emergency Operations Plan and Annexes. Each year the Department of Emergency Services' budget includes a detailed accounting of plan revisions, exercises conducted, and current projects. The County staff, under the direction of the County Administrator (Emergency Operations Director), conducts annual exercises and tests the efficacy of plans. Furthermore, two exercises are planned for this winter. The exercises will take into account possible lessons learned from the Hurricane Katrina disaster.

The Chairman of the Board of Supervisors, as mandated by law, chairs the Sonoma County/Operational Area Emergency Council, with participation from numerous County departments and city representatives. This semi-annual meeting concentrates on emergency management issues including those mentioned by the Grand Jury. The Emergency Council, in recent years has focused on the detailed changes and directives from the State and Feds, including the Department of Homeland Security. At these meetings, the members agree by vote on the goals for the Department of Emergency Services for the next year. Because of the high level of participation by the County and its officials in review of the Emergency Operations Plan, we do not agree that annual approval is necessary.

*R5. 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: The recommendation has been partially implemented.

The Department of Emergency Services has offered numerous SEMS trainings to all County employees, to individual County Departments, and as part of EOC trainings. SEMS training has been a part of the County's New Employee Orientation since 1996. As part of the County's New Employee Orientation, employees are advised that they should contact their immediate supervisor as to their specific role in an emergency event or disaster. In a letter sent to all Sonoma County employees, Human Resources outlined the general Disaster Service Worker responsibilities. This information can be found on the County's Intranet site in Sonoma County's Policies & Procedures, Miscellaneous, Release of Employees After Disaster. Nonetheless, the county and its employees can never be too prepared for disasters. As a result, the Department of Emergency Services will insure that another communication will occur that outlines employee's responsibilities in the event of a disaster, and will direct staff and supervisors to discuss reporting steps and potential roles they might play. The Department of Emergency Services is also providing SEMS and related training to all employees that potentially may be in the Emergency Operations Center during a prolonged disaster. All of the above will be accomplished by the end of the calendar year.

The County feels the most effective use of employees is to focus on the protection of lives and safety of our employees and the public - not business resumption. Nonetheless, the County's Information System Department is in the process of completing a Continuity of Government plan that address business resumption, after the immediate concerns of life safety.

Keeping people informed on how to better prepare themselves for disasters is one way to accomplish this. The Department of Emergency Services mails out Disaster preparedness literature to the public as well as County employees, publishes various disaster articles in the County Reporter newsletter, supports a website with links to relevant preparedness information, and maintains an "Emergency Bulletin" button that will have up to date information should an event occur.

Housing Assistance for Sworn Officers

Recommendations: Page 47

RJ. 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.

RESPONSE: The recommendation will not be implemented because it is measurable.

The Board of Supervisors shares the concerns of the Grand Jury regarding the rising cost of housing in Sonoma County. While the grand jury report is focused on sworn officer housing, the Board has concerns about the affect housing prices have on all of its employees and prospective employees, in addition to sworn entry-level officers. While requiring residency in the County may not be legal, or practical given family and personal considerations, we agree that employees living in the County where they work is beneficial.

In the Sheriffs response to the sworn officer housing issue, he noted that ideal housing location for deputies was often driven by a particular patrol assignment, and the sheriff s department estimates that over 90% of their sworn officers reside within the County. Based on this estimate and the recognition that of those who live outside the County, do so out of personal preference, the Board does not feel that this analysis is an appropriate use of the County's limited resources at this time. The Board is interested in looking further into the housing issue and will ask the County Human Resources Department to undertake the following:

With the assistance of Treasurer-Tax Collector and Community Development Commission, develop a report on low cost programs, if any, the County might be able to implement to assist all employees in obtaining housing here in Sonoma County, and provide this report to the County Administrator for consideration. Any program implementation would be subject to the legal requirements and time frames of the negotiation process with the employee organizations.

Explore the possibility of offering employee training that would provide options and resources available for purchasing a home.

Review with the Sheriff s department and other County departments, the County's collective efforts at recruiting, and consider additional efforts to attract, qualified applicants and market the County as an "Employer of choice".

R2. 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.

RESPONSE: The recommendation will not be implemented because it is un measurable.

As previously stated, the County will explore the options available for providing assistance to all employees, not just entry-level sworn officers, in obtaining housing within the County within the financial realities of the problem and availability of limited staff resources to perform the initial analysis. Until that review is completed the Board cannot make a commitment to implement any programs.

R3. By December 2006 an evaluation instrument will have been designed and used to determine the effectiveness of the new program (s).

RESPONSE: The recommendation will not be implemented because it is unreasonable. "

This recommendation assumes that employee housing assistance programs can be implemented and evaluated by December of 2006. The Board would need to understand full impacts of any program before committing to both the development and use of an evaluation instrument. Refer to responses provided to Recommendations 1 and 2.

Mental Health Services Division: On the Mend?

Recommendations: Page 55

R5. Insufficient consideration has been given to the Director's tenure affecting MHS Division turmoil. Mental Health Services should be examined by an oversight committee consisting of one or more representatives from the Board of Supervisors, the County Administrator, and the Director, Health Services to uncover the underlying reasons why MHS has lost four directors in the last fifteen years.

RESPONSE: This recommendation will not be implemented.

The Board of Supervisors concur with the Department of Health Services response that the new Mental Health Services Director brings significant knowledge and understanding of the Division's history to this key position. We expect this background to be of significant value in addressing the concerns discussed by the Grand Jury. We also concur with the County Administrator that the Board has given the Division substantial attention for some time. In addition, the Board is actively monitoring and focused upon the financial and operational challenges and opportunities facing Mental Health Services.

Protecting the County's Assets

Findings: Page 62

F26. As the grand jury uncovered in a "A Disaster Waiting to Happen: investigation, much of the detailed work in the disaster planning is done by a few dedicated mid-level staff people.

This quickly leads to introspective approaches by the planner. Senior management is not providing the continuous effort to ensure that communication with the major stakeholders and junior staff is intensive and frequent.

RESPONSE: Disagree with this finding.

As noted in the County Administrator's response and that of the Director of Information Systems, the Countywide Disaster Recovery Plan is being updated by senior management and, upon approval by the Board, will be distributed to departments for communication with stakeholders and affected staff at all levels.

F27. With regard to County departments, neither the Board of Supervisors nor the County Administrator calls for a periodic review of the disaster recovery or business resumption plans.

RESPONSE: Partially agree with this finding.

As stated earlier in our response to "A Disaster Waiting To Happen", there have been regular reviews of our disaster recovery plans. Yet, specific to "Business Resumption Plans," the Information Services Department is updating their Disaster Recovery Plan, which has been substantially updated several times in the past. The intent is to review and update as necessary in order for the key elements to remain current. This has and will continue to be the practice.

Recommendations: Page 64

RI8. Ensure that all disaster recovery and business-resumption planning efforts are continuously supported and reviewed by appropriate stakeholder groups.

RESPONSE: The recommendation will be implemented by December 2005.

As noted in the departmental responses, the County continues to involve customer departments and stakeholders in system prioritization and other disaster recovery planning efforts.

Disaster Recovery Plan review will be coordinated with other departments and stakeholders including the County Department of Emergency Services.

RI9. Require that all County departments file a formal statement of their disaster recovery requirements, for computer-based and manual systems, with detailed descriptions of the necessary steps to return the business to normal.

RESPONSE: This recommendation will be implemented by December 2005.

As noted above and in the departmental responses, disaster recovery planning will be coordinated with customer departments and other stakeholders. Most County departments will have more specific internal plans and procedures relating to their own functions. For security

purposes, some of the above information will not be published or widely distributed. Business resumption priorities will focus on public health and safety response and restoration of the most essential services for ensuring public health and safety.

Respectfully Submitted,

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CAO:TS:17603

T~MIT~, <fHAIRMAN

cc: The Honorable Judge Allan H. Slocum, County Clerk, Superior Court
Eeve Lewis, County Clerk, County of Sonoma
Denise Gordon, Executive Officer of the Superior Court