

# Sonoma County Civil Grand Jury



**Final Report 2013-2014**



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Application forms to become a Sonoma County Civil Grand Juror are available online at [Sonoma.courts.ca.gov](http://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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## The Sonoma County Civil Grand Jury

PO BOX 5109, Santa Rosa, CA 95402

Phone/Fax: 707.565.6330

email: GJURY@SONOMA-COUNTY.ORG

www.sonomasuperiorcourt.com

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

On behalf of the 2013-2014 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 during our one-year term.

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

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

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

It has been an honor to serve as Foreperson of this dedicated jury. We are a volunteer group of County residents with varied backgrounds, levels of education, and expertise. This jury sought to increase the visibility of the Grand Jury and its work by updating and distributing informational materials in English and Spanish. We participated in an information session for prospective jurors held this spring and worked with members of the press to inform County citizens about this important volunteer opportunity and to encourage them to apply. The applicant pool for the upcoming Grand Jury year swelled to over 80 individuals, a substantial increase over prior years.

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

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

Cheryl Davey, Foreperson

2013-2014 Sonoma County Civil Grand Jury

KENNETH J. GNOSS  
PRESIDING JUDGE

Superior Court  
State of California

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



June 25, 2014

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 2013-2014. 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, Cheryl Davey, 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,

A handwritten signature in blue ink, appearing to read "K. Gness", is written over a light blue rectangular background.

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

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# You Could Make a Difference

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

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

**We invite you to apply for Grand Jury service.**

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# The Probation Department's U-Turn for Safety

## Summary

In 2013, the Sonoma County Civil Grand Jury (Grand Jury) received a complaint concerning the County Probation Department's (CPD) work release program, known as Supervised Adult Crews (SAC). This statewide program is designed as an alternative to incarceration for nonviolent male offenders. Some offenders, after serving a court-ordered period of incarceration, are selected for the SAC program. Those selected are allowed to live at home, maintain outside employment, and participate in mandatory probation programs.

The complaint expressed concerns about SAC staff safety violations and the lack of compliance with required safety procedures and training. When the CPD became aware of these safety concerns, it conducted an internal investigation. Subsequently, the SAC program was suspended for two weeks to ensure staff compliance with proper safety procedures.

CPD officials recognized the seriousness of public safety infractions affecting road work crews and responded promptly to improve the County's SAC program. CPD staff and road crew supervisors evaluated the status of safety compliance on the job. They developed immediate and longer-term goals to enhance and strengthen the SAC program and to ensure safety for the public and the crews.



## Background

The Grand Jury received a complaint regarding the SAC program operated by the CPD. The complaint asked the Grand Jury to investigate crew safety, training, and compliance.

## Approach

The Grand Jury interviewed the complainant and CPD staff and studied materials concerning work release crew responsibilities, restrictions, safety precautions, equipment, training, and working conditions.

## Discussion

### Supervised Adult Crews

Potential SAC participants are referred to Probation Jail Alternatives for screening and assignment. Offenders selected for the program are allowed to complete their probation sentences while living at home and maintaining employment in addition to satisfying their obligations to the court. Low-risk offenders may participate in SAC projects that range from landscaping and roadside cleaning to major maintenance and construction. The SAC program results in savings of about \$725,000 a year in detention facility costs and up to \$400,000 annual savings on County projects. Offenders pay \$18 per day to be on a work crew.

Probation Industries Crew Supervisors are responsible for the onsite safety of each 10-member crew. In addition to formal training, the SAC staff attends weekly safety meetings to review and discuss topics relevant to the projects the crews will perform. Offenders also report to a trained probation officer while completing their sentences. The SAC program has a \$2 million budget, and

80 percent is funded through contracts with the County. Although the County is responsible for workers, the California Department of Transportation (Caltrans) may also monitor the crews on jobs contracted through that agency.

### **Safety Concerns**

The Grand Jury discovered safety and training violations that put crew members in jeopardy. On some days, a barrier truck warning drivers of road work ahead was not used at all or often was too far away to protect the crew. Barrier trucks were seldom used on County roads but always present on highway roadsides. The Grand Jury found evidence that required daily tailgate safety meetings were not always held and that on occasion, crew members were directed to sign a form stating the meeting had taken place when it had not. The Grand Jury discovered that if meeting forms were signed, then CPD assumed that crews had received daily safety instructions.

The Grand Jury learned that members of the work crew had the option of submitting written grievances or complaining directly to their probation officers. Anonymous complaints were not accepted. Some crew members were not aware of the grievance process. Some were concerned that a safety violation complaint to the crew supervisor might result in their removal from the work crew. After being removed from the work crew, offenders must finish serving their sentences in jail. The Grand Jury found evidence that crew supervisors at times responded to crew member grievances with threats of removal from the SAC program.

The Grand Jury found that crew members did not always receive additional safety equipment such as goggles and protective chaps for use with power tools. All crew members receive reflective vests, hard hats and gloves. The Grand Jury explored whether a SAC member can refuse to use unfamiliar power tools. It found that reluctance to use unfamiliar equipment without proper training on the job site was sometimes dealt with in a dismissive manner as if it were a refusal to work. Work safety instructions for crew members, either verbal or in writing, were not available in Spanish at the time of the complaint; and County crew supervisors are not required to speak basic Spanish, even though it appears that a substantial number of road crew members are Spanish-speaking only.

### **CPD Responds to Safety Concerns**

During the course of the Grand Jury's investigation, the CPD learned of these safety violations and initiated an internal investigation into the SAC program. In consultation with County Counsel, the County Administrator's Office, and experts from Human Resources and Risk Management, the CPD decided to temporarily relieve all road work crews and staff of assignments and call them in for additional training.

A new Code of Conduct was developed and a thorough retraining program was introduced to meet goals set by CPD officials. All SAC employees were required to attend a meeting in which concerns about safety were discussed. Policies and procedures were reviewed, including rules for the use of barrier trucks and issuing of proper protective equipment. Daily safety meetings and power tool training sessions were reinstated for all SAC supervisors. Staff retraining on safety procedures was immediately launched, and random spot-checks for safety compliance were instituted at job sites.

All supervisors were required to demonstrate proficiency in the safe use of equipment and in conducting safety meetings. A system for testing and monitoring the safe functioning of all power tools was implemented. Road crews must be instructed on the process for submitting complaints. A new process for allowing anonymous complaints was created. Within two weeks, the SAC crews were back at work.

The mid-term goals set by the CPD included assembling and producing safety tutorials and translating all safety information into Spanish. Long-term goals for the SAC program include ongoing policy reviews, increased crew monitoring, Caltrans training, and equipment safety. The CPD also considered adding safety meeting compliance to an employee's annual review.



The Grand Jury commends CPD officials for recognizing the seriousness of public safety infractions affecting road work crews and for responding promptly to improve the County's SAC program. These efforts will bring a greater level of safety awareness among staff and probationers. Goals undertaken by the CPD will give the County the ability to measure outcomes of its revised policies and procedures and improve overall public safety.

## **Findings**

- F1. Safety violations occurred in the Supervised Adult Crews program, putting crew members and the public at risk.
- F2. An improved training program in the use of power tools and protective gear increases safety for crew members and for the public.
- F3. The Probation Department's failure to provide safety and training information in Spanish endangers road crews and the public.
- F4. A functioning complaint process is important to identifying and correcting safety hazards, resulting in improved work crew and public safety.

## **Recommendations**

The Grand Jury recommends that the Sonoma County Probation Department:

- R1. Establish a method for verifying that daily safety meetings are held at the start of each work day.
- R2. Monitor road crew safety along roadsides and highways to protect both the crews and the public.
- R3. Provide safety training in the proper use of all power tools at daily roadside safety meetings and assure protective gear is worn when power tools are used.
- R4. Provide all written materials related to job safety in English and Spanish and require onsite supervisors to speak and understand basic Spanish.
- R5. Ensure that all Supervised Adult Crew members are aware of the process for registering a complaint about safety or other work concerns.

## **Required Responses**

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

- R1, R2, R3, R4, R5 – Sonoma County Probation Department

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# Graton Casino: A Big Gamble?

## Summary

Graton Resort and Casino (Casino), the largest Indian casino on the West Coast, opened on November 5, 2013. For the past decade, the City of Rohnert Park (Rohnert Park) and Sonoma County, city, and public safety officials have been preparing for the Casino's opening. The debate continues about whether the Casino will be a boon or burden for the County's economy and quality of life.



The Sonoma County Civil Grand Jury (Grand Jury) initiated an investigation into the preparation for the Casino's opening, public safety issues, and the financial relationships between the Casino and local government entities. The Grand Jury's investigation is limited to activities of government entities within the County. The Federated Indians of Graton Rancheria (Tribe) as a sovereign nation is outside the Grand Jury's jurisdiction.

Millions of dollars have been promised to local governments and public safety departments under agreements signed in 2012. These funds are restricted to mitigating the Casino's effects on Rohnert Park and the County by (1) providing for improvement and maintenance of regional and local roads; (2) meeting the demand for increased law enforcement, fire and emergency services; (3) developing enhanced programs for socioeconomic effects, such as gambling or substance abuse addictions; and (4) ensuring the County's groundwater supply and air quality are protected. Eight months after the Casino opened, the long-term effects are still to be determined.

The Tribe will pay 15 percent of net wins into a state fund during the first seven years of Casino operations and 12 percent thereafter. The state distributes money from this fund to the City of Rohnert Park and the County to pay mitigation expenses. This is done in accordance with separate agreements between the Tribe and each entity to alleviate possible detrimental effects of Casino operations. The Tribe's investment prior to the November opening was estimated to be close to \$1 billion. The Casino is expected to draw six million people annually to the County.

As with any business venture, the Casino's revenues can be affected by competition from similar businesses serving the same customer base. On the plus side, the Casino is more conveniently located, and in a more robust economic area, than casinos in more remote areas. However, additional casinos have been proposed nearby. Casino revenues are also vulnerable to economic variables. Statistics show that casino industry profits declined during the 2007-2009 recession. Were the Casino to fail, the financial impact on Rohnert Park and the County could be serious. Rohnert Park and the County must be careful to allocate and expend mitigation funds in a way that does not create the likelihood of unfunded future obligations. Public safety and services generally could be adversely affected by a downturn in Casino revenues.

## Background

The Grand Jury investigated the preparation for the Casino's November 5 opening. It evaluated the effects of the Casino's operations on County citizens and public safety organizations, including law enforcement, traffic management, fire, and emergency medical services. The Grand Jury also reviewed the Casino's financial arrangements with Rohnert Park and the County. The Tribe itself, as a sovereign nation, is outside the Grand Jury's jurisdiction.

## **Approach**

The Grand Jury researched news media reports leading up to and following the Casino's opening and gathered information from pertinent local governments and websites. The Grand Jury interviewed members of the Rohnert Park City Manager's Office and studied the 2003 Memorandum of Understanding between the Tribe and Rohnert Park as amended. The Grand Jury also reviewed Sonoma County Board of Supervisors agreements related to the Casino and researched the status of Indian casinos in California and other states.

## **Discussion**

Before its opening in November last year, the Tribe's investment neared \$1 billion, becoming the County's largest development. Tribal leaders estimate six million people annually will visit the Casino.

### **Casino Mitigation Efforts**

Prior to the Casino's opening, Standard & Poor's estimated the Casino's net revenues would reach \$440 million annually by 2016. An agreement between the state and the Tribe projected yearly net revenues of \$418 million by 2020. Under its agreement with the Tribe, the County will receive \$9 million annually for 20 years to cover mitigation expenses, of which \$416,000 will go to law enforcement agencies in Santa Rosa, Petaluma, Sebastopol, and Cotati. County fire districts will share \$1 million over the same period. Other mitigation fund allocations by the County include \$2 million for improvements to the major roads and highways serving the Casino, \$4 million for law enforcement and public safety providers, and \$1.5 million for programs related to water use. The County has hired four new Sheriff's deputies with mitigation funds.

Rohnert Park signed its own 20-year agreement with the Tribe to receive \$250 million to pay mitigation expenses. It received a \$2.6 million payment in May 2013 and the first of four payments totaling \$500,000 in July 2013 dedicated to public safety purposes. After July 2014, Rohnert Park will receive about \$11 million annually. Examples of mitigation expenditures include \$3.7 million for a fire station on the west side of Highway 101, \$1.2 million for a ladder fire truck, and two additional public safety officers. In a separate transaction from the mitigation payments agreements, the Tribe paid \$15 million to widen Wilford Avenue at the Highway 101 off-ramp and to obtain access to the main Rohnert Park wastewater pipe carrying sewage to the local treatment facility. In May 2013, Rohnert Park's city council estimated a \$500,000 annual loss in sales tax that may occur as the Casino's food courts draw customers away from local restaurants and deter people from shopping at local stores due to traffic congestion. This lost sales tax revenue cannot be replaced with mitigation funds.

Mitigation funds can only be used for the specified purposes enumerated in agreements with the Tribe. These funds can only be paid for costs to the community directly resulting from the building and operation of the Casino, as spelled out in the agreements with the Tribe. They cannot be used for other purposes, such as to defray local government budget deficits or for discretionary spending. The County and the City of Rohnert Park agreements allow for reopening negotiations if gaming receipts drop to 50 percent of expected revenues.

### **Integrated Public Safety Plan**

The Casino sits on a 66-acre parcel of the 254-acre reservation. As a sovereign nation, the Tribe controls the use of this land. The Sheriff's Department is responsible for public safety in the unincorporated County areas, including the Casino site. To cover contingencies during the opening months of the Casino's operation, County and local public safety departments worked together in advance of the Casino's opening to coordinate 24-hour contingency plans to meet the expected demands on these services.

## Opening Day

An estimated 5,000 people attempted to be on site when the Casino opened on November 5. By 10:00 a.m., most of the Casino's 5700 parking spaces were full, and traffic on Highway 101 and nearby streets was at a standstill. Motorists abandoned cars along roadsides and in residential areas and walked the rest of the way. Within the first 24 hours, an estimated 15,000 people tried to visit the Casino.

As the evening wore on, 911 dispatchers fielded calls from Casino patrons who could not leave the parking garage due to traffic congestion. Within a few days, daily commutes were almost back to normal. Other than the steep hike in law enforcement activity during the Casino's opening days, statistics for crime, traffic incidents, fire, and emergency services through the rest of 2013 remained at near-normal levels. Within the first 30 days after the Casino opened, the Sheriff's Office responded to about 200 calls for assistance, which resulted in 16 arrests.

## Economic Outlook

The National Indian Gaming Commission (Commission) ties the success or failure of casinos to their location. Currently, 63 tribes operate gaming facilities in California. The County is a favorable location for a casino. Commission studies of Indian casinos indicate that after at least four years of operation, positive changes among local Indian populations include young adults moving back to reservations, adult employment increasing by 26 percent, and a 14 percent decline in the working poor. Negative effects in the surrounding communities include increases in auto thefts, larceny, violent crime, and bankruptcies within 50 miles of a new casino. A significant threat to the success of Indian casinos across the nation is the legalization of online gambling.

The Graton Casino reported \$101 million in net revenue for the first quarter of 2014. During the same period, the Dry Creek Rancheria casino near Geyserville experienced a 30 percent drop in revenue—an estimated decrease of \$37 million—and missed a scheduled interest payment on its debt. Last year, Petaluma voters rejected a casino proposed by the Dry Creek Band of Pomo Indians. That Tribe then signed an agreement with the County not to pursue gaming on its 277-acre site south of Petaluma until 2016. In May 2014, leaders of the Cloverdale Rancheria of Pomo Indians announced that its proposed \$320 million casino project is moving forward despite objections from the Sonoma County Board of Supervisors. In Napa County, officials are awaiting the outcome of a U.S. District Court lawsuit in which the Mishewal Wappo tribe of Alexander Valley is seeking federal recognition. A verdict in the tribe's favor could lead to sovereign nation status and eventually the right to build a casino. If any one of these projects moves forward, it could affect the Graton Casino's income stream.

## Findings

- F1. If the City of Rohnert Park and Sonoma County do not oversee the allocation of mitigation funds meant to offset the effects of the Casino on the County's infrastructure and public services, then unfunded future obligations may be created.
- F2. Casino revenue shortfalls may adversely affect public services.

## Recommendations

The Grand Jury recommends that:

- R1. Officials of Sonoma County and the City of Rohnert Park, who oversee their separate agreements with the Federated Indians of Graton Rancheria, release to the public annual financial reports on mitigation funds, including a plan for mitigation fund allocations over the next six months and an accounting of mitigation fund expenditures for previous years.

## Required Responses

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

- R1 – Sonoma County Board of Supervisors, City of Rohnert Park

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

## Bibliography

City of Rohnert Park. *Resolution No. 2013-063*.

\_\_\_\_\_. *Resolution No. 2013-141*.

\_\_\_\_\_. *Review of Proposed Casino Operational Impact Mitigation Implementation Plan for FY 2013-14*.

\_\_\_\_\_. *Casino Mitigation Task Force: Graton Mitigation Program Budget-Financial Status Report*. 2013.

County of Sonoma. Agenda Item, *Intergovernmental Mitigation Agreement between the County of Sonoma and the Federated Indians of Graton Rancheria*. 2012

National Indian Gaming Commission. *Gaming Tribe Report*. 2014

## Appendix

### Federated Indians of Graton Rancheria History

The Tribe, Federated Indians of Graton Rancheria, traces its roots to the Coast Miwok and Southern Pomo tribes in Northern California. The federal government ended the Tribe's status in 1958. In December 2000, Congress restored its federal status as a tribe with 568 members. The Tribal chairman requested federal monies in March 2002 and received more than \$467,000 for housing. After a 2003 announcement that the Tribe would build a casino, membership doubled to 1055 in two years. In 2010, the Federal government took the Tribe land into trust. In February 2013, under the 2012 Hearsh Act, the Tribe obtained the right to use the land as it sees fit without federal approval. This placed the 254-acre reservation under tribal control and allowed development of the land.

Through June 2013, the Tribe received about \$22.5 million in grants for housing and social services, and membership had grown to about 1300. Station Casinos of Las Vegas, Nevada purchased the Casino site in 2005 for \$76 million. It also paid \$24 million for 180 acres along Stony Point Road. A local lawsuit delayed Casino construction until 2010. When the lawsuit failed to stop development, work on the Casino began in June 2013 after successful negotiations with Governor Jerry Brown and ratification by the State legislature the prior year.

The Tribe secured the largest amount of financing ever received for an Indian casino in the history of Native American gaming. When completed, the Casino became the largest casino on the West Coast. As of this report, the Casino has 2000 employees, making it one of the County's largest private employers. A 200-room hotel already approved for the site has not been scheduled for construction.

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# Your County Wants You

## Summary

Sonoma County is known for its high level of civic volunteerism and community involvement. The Sonoma County Civil Grand Jury (Grand Jury) investigated an important example of this: the County's Boards, Commissions, Committees & Task Forces (BCCTFs) that are largely made up of citizen volunteers generally appointed by the Sonoma County Board of Supervisors (Board). As a group, these bodies represent grassroots



engagement in civic work by and on behalf of the public. The Grand Jury investigated how the County attracts citizens to participate, how individual qualifications are matched with County needs, and how individual BCCTF contributions are evaluated. Part of the Grand Jury's purpose in issuing this report is to encourage citizen participation in civic life by assisting the County in its outreach efforts to fill these appointments.

There are 75 County BCCTFs. The diversity of these bodies reflects the wide range of activities for which the Board is responsible. The BCCTFs respond to different federal and state mandates, Board ordinances, and public pressure. The variety of BCCTFs makes it difficult for the County to apply standard procedural and evaluative policies. One size does not fit all. This accounts for the somewhat ad hoc nature of recruitment and ongoing evaluation. The roles of some individual BCCTFs may overlap, but all provide valuable services and opportunities for citizen involvement.

The Grand Jury's recommendations are largely directed toward finding more ways to improve County outreach to involve a broader and more diverse population, and to establish a larger pool of citizens with skills, experiences, and interests for these important and valuable civic functions.

For information about BCCTF opportunities, please visit the Sonoma County Board of Supervisors website at <http://www.supervisors.sonoma-county.org> and select Boards, Commissions, Committees and Task Forces. Other County government volunteer opportunities also exist—primarily within County departments—and are accessed through the Human Services Department. For more information see the Board of Supervisors website (above), select the menu titled Resident, and scroll to Volunteering in Sonoma County.

## Background

Initially considering the broader question of the public input process in government affairs, the Grand Jury narrowed its focus to investigate County policies and procedures regarding BCCFTs, including how qualified candidates are recruited to serve, how the work of BCCTFs is evaluated and recognized, and what kind of public outreach is done for them.

## Approach

The Grand Jury reviewed the County's website, which outlines the purpose, role, and composition of each of the 75 County BCCTFs. The Grand Jury interviewed members and staff of the Board and staff of the County Administrator's Office.

## Discussion

Examples of the 75 Sonoma County BCCFTs include the Advisory Council to Area Agency on Aging, Agricultural Preservation, Civil Service Commission, Planning Commission, and Camp Meeker Sewer

Advisory Committee. Some are decision-making groups, most are advisory, and a few make policy. BCCTFs are composed of local citizens as well as elected officials and staff from the County, cities, special districts, and agencies. Membership varies from as few as three to as many as 56. Most BCCTFs provide no financial remuneration, although some offer a small stipend.

BCCTFs come into existence in various ways. Some are the direct result of federal and state mandates; others originate from Board ordinances, which often respond to public concerns over specific issues. Due to the diversity of these BCCTFs, creating standard policies is difficult and can become counterproductive. With respect to citizen participation on BCCTFs, the Grand Jury investigated the following questions:

- What is the outreach and recruitment program?
- How is the assessment of candidates' qualifications conducted?
- What are the criteria for appointment?
- How are vacancies filled?

No specific recruitment program applies to all. Some BCCTFs self-recruit. The Board recommends and appoints BCCTF members, sometimes jointly with other government agencies. Supervisors and staff review candidate qualifications and conduct interviews. Assessment of qualifications is done at the time of application. The County provides a web page for each BCCTF that gives term lengths of appointments and lists of members and vacant positions. The Grand Jury found that with some exceptions, these individual BCCTF web pages do not explain qualifications necessary for appointment.

Although accountable to the Board, each BCCTF is largely self-governing and functions with a large amount of independence from County governance. The Grand Jury investigated whether and to what extent the County or the Board evaluates and recognizes the work of individual BCCTFs. Ongoing evaluation is spotty and inconsistent, varying considerably from one BCCTF to another. This, combined with the lack of publicly available information about past activities and accomplishments of individual BCCTFs or their members, makes it challenging for citizens to understand what they do and to assess their performance. For some of the BCCTFs it is also difficult to find details about past agendas and meetings. This information could be useful for public outreach. The Grand Jury also found formal recognition of BCCTF efforts to be largely nonexistent.

The Grand Jury wishes to acknowledge the 850 volunteers as well as the County officials and staff who participate on BCCTFs. It strongly urges citizens to volunteer in this civic work that is a vital part of County government and administration. For information about BCCTF volunteer opportunities, visit the Board website at <http://www.supervisors.sonoma-county.org>. Select Boards, Commissions, Committees and Task Forces. Information about volunteer positions in County agencies can be found by selecting Residents at the Board website and going to Volunteering in Sonoma County. The Grand Jury also recognizes citizens who volunteer in other human service activities in the County. For information on these opportunities, visit the Volunteer Center of Sonoma County at <http://www.volunteernow.org> or call 707-573-3399.

## Findings

- F1. Sonoma County's online information on each board, commission, committee, and task force does not fully explain the qualifications necessary for appointment.
- F2. The decentralized nature of individual boards, commissions, committees, and task forces precludes a uniform evaluation of their work.
- F3. The County provides limited recognition of the work done by the boards, commissions, committees, and task forces, and their members.

- F4. Sonoma County's outreach efforts to encourage participation on the boards, commissions, committees, and task forces are insufficient.

## **Recommendations**

The Grand Jury recommends that:

- R1. On each website of the individual boards, commissions, committees, and task forces, the County Administrator's Office include information specifying the qualifications necessary for appointment.
- R2. The Board of Supervisors direct that each board, commission, committee and task force post, on its website, an annual one-page report about its activities and accomplishments that will provide accountability and transparency.
- R3. The Board of Supervisors adopt a program to recognize the boards, commissions, committees, and task forces and their members, to solicit greater public interest and participation.
- R4. The County Administrator's Office provide increased visibility of and public access to board, commission, committee, and task force meetings and activities.

## **Required Responses**

Pursuant to Penal Code Section 933.05, the Grand Jury requires responses from the following:

- R1, R4 – Sonoma County Administrator's Office
- R2, R3 – Sonoma County Board of Supervisors

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

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# It's 10 p.m. Do You Know Where Your Dog And Cat Are?

## Summary

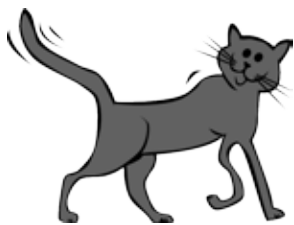
The Sonoma County Civil Grand Jury (Grand Jury) received complaints about Sonoma County Animal Services (SCAS), formerly Sonoma County Animal Care and Control, located near the Sonoma County Airport in northwest Santa Rosa. The complaints expressed concerns about the welfare of the animals and the professionalism of the staff. The Grand Jury found that SCAS management and staff are working diligently and effectively to keep up with increasingly higher standards in medical, behavioral, and humane animal care. A dedicated volunteer corps enables SCAS to meet and maintain these standards.



SCAS is the animal control agency for the cities of Santa Rosa and Windsor and the unincorporated areas of the County. From July 1, 2012 to June 30, 2013, SCAS provided services for almost 5000 animals with 76 percent of them released to current or new owners or to other animal-care groups. The number of adoptable animals far exceeds the number of available homes. Long-term sheltering is not a solution, either for the animal or for the County.

The Grand Jury investigated SCAS and found that it has programs to limit the growth of the County's population of stray and unwanted dogs and cats. The Love Me/Fix Me mobile clinics offer low-cost spay and neuter surgeries and related services in various County locations. The Free Mom Spay program spays female cats and dogs whose litters are being relinquished to SCAS for adoption. The Community Cat Love Me/Let Me Stay program focuses on the feral cat population.

Feral cats are difficult, if not impossible, to domesticate, making most of them unsuitable for adoption. In the past, most feral cats brought into the shelter were euthanized. Love Me/Let Me Stay encourages citizens to trap feral cats, have them neutered or spayed, and return them to where they were found.



SCAS believes that healthy stray cats will eventually reunite with their owners if left alone. It no longer picks up or accepts them. Only 2 percent of lost cats are reclaimed by their owners. SCAS does accept stray cats that are sick, injured or otherwise at risk.

SCAS holds stray dogs at least ten days before evaluating their suitability for adoption. In the interim, volunteers, who do most of the dog walking, cannot interact with them because SCAS has not evaluated the dogs' behavior. Therefore, unclaimed dogs receive less exercise and socialization, and any behavior problems tend to worsen. Only about 25 percent of stray dogs are reclaimed.

SCAS discourages owners from surrendering animals with no advance notice to the shelter. To encourage owners to consider other options, SCAS imposes a seven-day waiting period. Exceptions are made for animals at risk of abandonment or physical harm.

SCAS follows the euthanasia guidelines known as the Asilomar Accords, developed by animal-care professionals and advocates in 2004. All SCAS euthanasia procedures must be approved by the Director and performed by licensed or certified staff professionals.

## Background

The Grand Jury received complaints about the care and welfare of animals housed at the SCAS facility, staff qualifications, and its general policies and procedures concerning animal care.

## Approach

The Grand Jury interviewed the complainants, staff from the County Health and Human Services Department, and SCAS staff and volunteers. It toured the shelter facility and reviewed job descriptions, procedure manuals, and the SCAS website. The Grand Jury also analyzed various SCAS policy documents as well as state and County regulations and ordinances.

## Discussion

In 2013, SCAS experienced a major change in leadership when the Director suddenly resigned on June 4. An interim Director was appointed and a new Director began work on September 18.

SCAS continues its previous policies to reduce euthanasia, increase the rate of pet retention by owners, and promote the Community Cat program for feral cats. SCAS provided services for nearly 5000 animals in fiscal year 2012-2013, with 76 percent of them released to owner, adopted, placed in foster care, or transferred to other animal-care organizations. Within the next three years, SCAS aims to raise this figure to 95 percent, reducing the use of euthanasia to control the high number of unwanted animals.

SCAS offers programs designed to limit the County's population of stray and homeless animals over the long term. The Love Me/Fix Me mobile van provides low-cost spay and neuter clinics throughout the County. More than 2400 surgeries were performed in 2013, and SCAS aims to double this figure in 2014. A monthly calendar on the SCAS website shows the dates and locations of the clinics. Advance appointments are required. The Free Mom Spay program targets female dogs and cats whose owners are surrendering their litters to SCAS for adoption. Litters must be at least two months old when surrendered.

Feral cats are very difficult to domesticate, making them unlikely candidates for adoption. In the past, most feral cats were euthanized. The Community Cat Love Me/Let Me Stay program offers an alternative. Residents are encouraged to trap feral cats, take them to Forgotten Felines of Sonoma County to be fixed, and return them to the place they were found. Forgotten Felines, a nonprofit organization dedicated to the care and control of feral cats, gives tips on trapping the cats and provides spay and neuter services.



An overcrowding problem with cats has led SCAS to stop routinely picking up or accepting the surrender of healthy stray cats. The assumption is that wandering cats will eventually return home. Only 2 percent of lost cats taken in by SCAS are reclaimed by their owners. SCAS does accept stray cats that are sick, injured or otherwise considered at risk.

For stray dogs entering the shelter, the law mandates a 72-hour holding period for owners to pick up their animals. This period does not include the day the animals enter or leave the shelter and the days the shelter is closed. About 25 percent of lost dogs taken in by SCAS are reclaimed. To accommodate owners who want their dogs but delay picking them up, SCAS has held dogs up to a month. This hold status delays the dog's behavioral evaluation, which limits its exercise and socialization. Volunteers, who do most of the dog walking, cannot interact with an unevaluated dog because it could put them at risk. The hold period aggravates any pre-existing behavioral problems that a dog may have.

In the past, SCAS permitted an owner to relinquish an animal on a walk-in basis with no advance notification. The policy adopted in 2013 requires an owner to make an animal-surrender appointment with a waiting period of seven days. During that week, a counselor discusses other options with the

owner. This policy has changed the minds of some owners, but its long-term impact is unknown. Exceptions to this policy can be made for animals that might be abandoned or physically harmed.

Staff and volunteers walk and socialize dogs awaiting adoption. Information cards kept on kennel doors indicate the dates and times of the walks as well as notes on the dogs' behavior. Volunteers provide many valuable services to SCAS. In addition to walking dogs, they socialize with the cats, assist with laundry duties, foster animals, clean the kennels, work at fundraisers, and provide customer service, as well as performing other tasks.

The field-based Animal Control Officers' vehicles are now equipped with laptops, which are linked to SCAS software. New microchip scanners have replaced outdated, malfunctioning scanners. When officers pick up a microchipped stray, they scan the information into the laptop. Sometimes they can identify the owner and take the pet to its home rather than to the shelter. SCAS software also links to Pet Harbor, a popular website for owners seeking lost pets, rescue groups, prospective foster homes, and potential owners nationwide. The SCAS website features photos and detailed descriptions of the shelter's stray and adoptable animals.



The Love Me/License Me program urges dog owners to license their dogs as required by law. Licensing is an obvious way of matching lost pets to owners. The program provides revenue to SCAS and lessens its dependency on public funds.

SCAS faces challenges in treating animals with serious behavioral issues. Behavioral issues may make an animal unsuitable for adoption and long-term confinement can cause them to become "kennel crazy." Under pressure from animal-rights advocates who attack shelters for practicing euthanasia under any circumstances, SCAS keeps questionable dogs kenneled for extended periods.

The decision to euthanize an animal requires the SCAS Director's approval. SCAS uses guidelines known as the Asilomar Accords, developed by animal-care professionals and advocates in 2004. The veterinarian, animal health technicians, supervising animal control officers, and the animal control officers are certified to perform euthanasia.

A professional animal behaviorist, who evaluates and rehabilitates dogs, would help SCAS determine if a dog is dangerous or beyond rehabilitation. SCAS does not have such a position. A professional behaviorist could also give prospective owners a clear idea of the dog's condition as well as advice for retraining. This guidance would increase the chances for successful, long-term adoption. SCAS recognizes the need for a professional behaviorist and hopes that the Sonoma County Board of Supervisors will authorize the position on a full-time basis.

On an unscheduled tour of SCAS, the Grand Jury observed a well-maintained facility. The dog kennels were large and clean. The animals appeared to be in good condition and well cared for by the staff. A large number of volunteers were on site. The office area is small and crowded. The cramped conditions are not only uncomfortable but also hamper SCAS's ability to accommodate the occasionally high numbers of customers, volunteers, and animals.

## Findings

- F1. When owners delay picking up their pets from Sonoma County Animal Services, the resulting increase in the holding period adversely affects the animals' health.
- F2. Sonoma County Animal Services programs to decrease the unwanted animal population through spay and neuter services appear to be effective.
- F3. A professional animal behaviorist can evaluate the possibility of successful rehabilitation of borderline-adoptable dogs and prescribe the best course of action.
- F4. Sonoma County Animal Services lacks sufficient office space.

## Recommendations

The Grand Jury recommends that:

- R1. Sonoma County Animal Services enforce a firm deadline for owners to retrieve their animals or relinquish them for adoption.
- R2. Sonoma County Animal Services continue and expand its spay and neuter services.
- R3. The Board of Supervisors authorize the position of full-time animal behaviorist for Sonoma County Animal Services.
- R4. The Board of Supervisors provide additional office space at the Sonoma County Animal Services facility.

## Required Responses

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

- R1, R2 – Sonoma County Animal Services
- R3, R4 – Sonoma County Board of Supervisors

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

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

# “The Train Has Left the Station”

## Five Years Later – The Outlook for SMART



### Introduction

**The creation of a passenger rail service spanning Sonoma and Marin Counties is the largest infrastructure commitment ever undertaken in the region. With construction progressing toward a start of service in 2016, a heightened level of oversight is required to ensure that funding and operating requirements are met.**

### Summary

The California State Legislature created the Sonoma-Marín Area Rail Transit District (SMART) in 2003. It gave SMART the authority to plan, build, and operate a passenger railway from Sonoma County to a ferry terminal in Marin County with connection to San Francisco. In 2008, voters passed Measure Q, authorizing a 1/4-cent sales tax over 20 years to fund the development and operation of a passenger rail service and bicycle/pedestrian pathway. Initial plans called for SMART to use the existing Northwestern Pacific Railroad corridor. The proposal envisioned 14 stations along a 73-mile corridor between Cloverdale and Larkspur, weekday commuter service at 30-minute intervals, and shuttles linking to other public transportation systems.

The Measure Q Funding Plan also included obtaining regional, state and federal transportation grants (Grants), as well as a bond issue backed by future sales tax revenue. Operation was scheduled to begin in 2014. Financial models indicated that the proposed tax would generate over 60 percent of SMART’s 20-year funding requirements. If the economy did well and consumers spent money, SMART would be on sound financial ground. But if these assumptions did not hold, SMART and the public would face delays, reduced services, or higher taxes.

The Sonoma County Civil Grand Jury (Grand Jury) investigated SMART’s development, financial projections and funding outlook. It found significant financial gaps between the projections provided to voters at the time Measure Q was approved in 2008 and the current reality. SMART attributes this difference to the 2007-2009 economic downturn. To address funding shortfalls and cost increases, SMART extensively revised its plans, delaying the start of service to 2016. It limited the initial route from downtown San Rafael to the Sonoma County Airport and decided to build in stages and as funds became available.

The Grand Jury also investigated SMART’s governance and management. It found that SMART has sound executive leadership. However, within public agencies such as SMART, the boards of directors are accountable to the public for oversight and information. When boards limit their involvement and rely extensively on management to set and enact policy, the public can be shortchanged. A more active role with stronger oversight by SMART’s Board of Directors (Board) could create a more proactive culture, reducing the risks from unpredictable future events.

At the core of the Grand Jury's recommendations is the regular use of the Board's standing committees, especially the Executive Committee. These committees can bring a higher level of attention to the important issues affecting policy.

SMART is overseen by a 12-member Board. A General Manager directs day-to-day operations, staff, and contractors. A Citizen's Oversight Committee (COC), mandated by Measure Q and appointed by the Board, only provides input and direction to SMART's Strategic Plan and its updates.

Attracting sufficient funding to honor its obligations to voters remains the prime challenge. To date, SMART has raised \$123 million of the estimated \$353 million required to complete the project. Greater public input and transparency can benefit the cause. SMART has begun to show initiative in this area with more comprehensive reporting and plans for public advisory groups.

## Background

The 2009-2010 Marin County grand jury issued a report on SMART. Records indicate that no investigative report has been issued on SMART by the Sonoma County Grand Jury. With more than four years of development on the passenger rail line completed and the start of service in sight, the Grand Jury initiated an investigation into the current status of SMART's development, focusing on its future operation and viability.

## Approach

The Sonoma and Marin County grand juries have undertaken independent investigations into SMART's current infrastructure development and the outlook for future operations. Although the two grand juries combined their resources for interviewing, the interpretation, analysis, and reporting have been handled independently by each jury in accordance with civil grand jury law and protocol, as defined in the California Penal Code.

The Grand Jury interviewed SMART management, Board members, members of the COC, Metropolitan Transportation Commission management, and community adversaries opposing the project. It reviewed and analyzed various governing documents, project data records, and reports provided by SMART. The Grand Jury also attended SMART Board meetings. A detailed summary of reference materials is included in the bibliography.

## Discussion

In November 2006, voters of Sonoma and Marin Counties narrowly defeated a measure to create a passenger rail system. In November 2008, the following ordinance and its accompanying Expenditure Plan were approved with the required two-thirds majority:

***Measure Q – To relieve traffic, fight global warming and increase transportation options, shall Sonoma-Marin Area Rail Transit District be authorized to provide two-way passenger train service every 30 minutes during weekday rush hours, weekend service, a bicycle/pedestrian pathway linking the stations, and connections to ferry/bus service, by levying a 1/4-cent sales tax for 20 years, with an annual spending cap, independent audits/oversight, and all funds supporting these environmentally responsible transportation alternatives in Marin and Sonoma Counties?***

At the time of its acceptance, the cost of constructing the rail and pedestrian/bicycle system between Cloverdale in the north and Larkspur in the south was estimated to be \$541 million. Eight months later, the 2007-2009 economic downturn was taken into account, and the estimate increased to \$664 million. Today, construction plans have been scaled back and are being managed in segments. The first phase, between Sonoma County Airport and San Rafael, represents approximately 60 percent of the system's intended distance at a projected cost of \$428 million. SMART estimates another \$230 million will be required to complete the entire 73-mile project.

SMART's inability to generate accurate cost and revenue projections puts into question the reliability of its forecasting methodology.

## Funding

When Measure Q was passed, the 20-year revenue stream generated by sales tax was forecasted to total \$890 million. Eight months later, that projection was reduced to \$845 million. Based on a combination of SMART's actual income to date plus forecasts, it now appears that amount will be \$769 million.

Faced with the fallout from the 2007-2009 economic downturn, SMART took steps in 2011 to deal with declining revenue projections and growing costs by scaling back the project and only building what was currently affordable. The first 43-mile segment with 10 stations servicing downtown San Rafael to the Sonoma County Airport is expected to be operational sometime in 2016—two years later than specified in Measure Q.

### **SMART Funding Projections** (Sonoma County Grand Jury Analysis)

	<b>Measure Q</b>	<b>2009 Strategic Plan</b>	<b>Current</b>
<b>Sales Tax</b>	\$890 million	\$845 million	\$769 million
<b>Bond Issue</b> , (Issued Dec. 2011)	TBD (20 year term)	\$215 million	\$180 million
<b>Grants</b> , (regional, state & federal)	\$210 million (est.)	\$327 million	\$353 million **
<b>Other</b> , (fares, fees, advertising, SCTA)	\$300 million (est.)	\$230 million	\$118 million ***
<b>TOTAL*</b>	<b>\$1.4 billion</b>	<b>\$1.402 billion</b>	<b>\$1.240 billion</b>

\*Excludes bond proceeds to be repaid from sales tax.

\*\*As of 5/1/2014 - \$123 million of required \$353 million secured.

\*\*\*Grand Jury estimate.

The most significant component of SMART's funding plans has always been the revenue generated from sales tax, which is dependent on local economic trends. If the economy is healthy, and taxable retail sales in Sonoma and Marin Counties grow, SMART revenues will grow. Economic trends such as those experienced in 2007-2009 can result in declining revenue. SMART's financial forecasts are highly sensitive to fluctuations in the economy.

Bonds backed by Measure Q sales tax revenue were issued to finance the project and accelerate the construction phase. They must be repaid within the 20-year term specified by Measure Q.

At the time of this report, SMART forecasts a 3-percent annual growth in sales tax revenue each year after 2014. This may seem reasonable under current conditions where the recovering economy contributed a 7-percent increase in tax revenue during 2013. However, SMART's forecasts should also account for potential economic fluctuation over the next 15 years, including possible economic downturns. A shortfall in projected revenue means Sonoma and Marin residents may be subject to more compromises, reduced service, or new taxes. The local economy went through several periods of expansion and contraction from 1990-2010, resulting in an average annual growth rate of 2.5 percent. Over the next 15 years, a 1/2-percent change in the annual growth rate will result in an equivalent +/- \$16 million fluctuation in sales tax revenues.

In 2009-2010, SMART had not adequately foreseen and was forced to react to funding shortfalls, cost increases and changes in the bond market. SMART should keep this in mind and be especially vigilant as it develops new forecasts for the 2014 Strategic Plan Update. Although the current strategy of 'only build what we can afford' has provided a tighter control on budgets, SMART has yet to quantify future train operating costs.

## Development and Construction

To complete the 73-mile Cloverdale to Larkspur system promised voters, SMART will need to attract additional Grants. To date, approximately \$123 million in commitments have been secured for the Phase 1 construction. SMART estimates an additional \$230 million will be required to complete the remaining 30 miles of the project and portions of the bicycle/pedestrian pathway. Sales tax revenues, fares and local revenues have been leveraged as far as possible at this stage. The remaining funds required to complete the project will need to come from higher levels of government. SMART contends that attracting such funds can be more successful once train service is operational. However, SMART’s ability to compete for available funds may be compromised by the low population density of the unfunded northern segment.

The anticipated connection with San Francisco via the Larkspur ferry still needs to be funded. SMART is optimistic that federal grants and matching regional funds will be committed later in 2014. However, even with sufficient funds in place, SMART and the public face serious logistic challenges, including an extremely awkward diagonal crossing at Andersen Drive and a foot path of up to a half mile between the Larkspur train station and the ferry dock.

Beyond funding the Larkspur extension, SMART has not assigned priority or timing to the other uncommitted segments. Funding for these is dependent on the availability of Grants.

SMART’s plans do not include the construction of new commuter parking, limiting riders to existing services and facilities.

### **SMART Development Cost Projections**

(SMART February 19, 2014– Project & Status Update Report)

<b>Project Segments</b>	<b>Phase 1</b>	<b>Unfunded</b>
Downtown San Rafael-Sonoma County Airport	\$428 million	
Bicycle/Pedestrian Pathway		\$40 million
Cloverdale Extension		\$61 million
Healdsburg Extension		\$46 million
Larkspur Extension		\$45 million
Petaluma Additional Station		\$11 million
Windsor Extension		\$27 million
<b>Total</b>	<b>\$428 million</b>	<b>\$230 million</b>

Experience from Phase 1 development has revealed that the environmental and permitting process has been the most significant variable impacting construction, time, and cost. Although the true impact of this has been unclear, it has most certainly contributed to the two-year delay in operations. For each segment of construction between two stations, up to 15 approvals can be required from federal, state and regional authorities. SMART was not prepared for the delays and resulting cost increases brought about by environmental permitting.

## Operations

Once service begins, revenue generated by sales tax will be required to offset operating and maintenance costs. Fares and other subsidies (leases, advertising, parking, etc.) are only expected to cover 20 to 30 percent of ongoing expenses. To date, SMART has only identified operating and maintenance reserves in its long-term forecasts. Actual costs will not be understood until labor contracts and operating logistics are better known—probably in 2015. The unpredictability of operations and maintenance costs represents an enormous economic risk. SMART has limited options for dealing with unexpected costs.



Although the Grand Jury's investigation focused primarily on financial matters, the train system faces significant safety challenges. Among other issues, the San Rafael to Santa Rosa line, a distance of 45 miles, includes approximately 70 grade-level street crossings, a concentration much higher than faced by similar systems serving densely populated areas.

### **Ridership**

SMART has not conducted ridership studies since early 2011. These surveys indicated that weekday use between San Rafael and Santa Rosa will rise progressively over 20 years, from 2800 to 4800 riders per day. Growing tourism may augment these forecasts. Obtaining more recent projections should be an important component of SMART's 2014 Strategic Plan Update. The project has been justified to voters and funding sources on its ability to remove traffic from Highway 101. A better understanding of ridership is therefore important to attracting new funding.

### **Management**

SMART has faced several significant management changes since Measure Q was approved in 2008. Such transitions can often be disruptive and even catastrophic for a public works project. In this case, these adjustments appear to have generated positive change. For example, greater transparency is evident in financial reports and project reviews. The Board is to be commended for successfully handling the management changes.

### **Direction and Governance**

As specified by the SMART Administrative Code, the Board is comprised of elected officials in Sonoma and Marin Counties and two representatives from the Golden Gate Bridge Highway and Transportation District. The 12-member Board is responsible for the creation of policy, direction and oversight of all financial matters and the administration of all staffing and contractual relations.

Like most boards, the SMART Board concerns itself with the important role of directing policy and providing oversight. To be effective, however, Board members, individually and collectively, must be willing to involve themselves and provide direction to the important strategic considerations facing SMART, especially financial planning. Standing committees of the Board can provide concentrated effort in the critical areas affecting policy. The SMART Administrative Code provides for three standing committees: Executive Committee, Real Estate Committee, and Operations Committee. Standing committees report to the Board and provide a closer level of oversight not afforded by the full Board. Currently no standing committees are in use.

To date, the two most significant challenges faced by the Board have been the impact from the economic downturn that began in 2007 and the construction delays caused by the complicated bureaucratic challenge of securing environmental permits. The Board seems to have been blindsided by these factors, which might not have occurred had the Board been attending more carefully to its governance responsibilities.

SMART and its Board cannot ignore the public's demand for a higher level of accountability from public and private boards. Lack of attention resulting from time constraints and other commitments renders a board passive and reactive. In the case of the SMART Board, this can shortchange the expectations of Sonoma and Marin residents.

Subsidized public transit systems appear to benefit from a broad cross-section of public input on a multitude of issues. The COC has the mandated role of providing input and direction to the Strategic Plan and its updates. This role could be expanded to provide opportunities for greater public oversight. So far, however, the Board has not welcomed such an expansion. The 2014 Strategic Plan Update will test the value of the COC while offering the Board an opportunity to demonstrate its commitment to public input.

The SMART train has left the station. Residents of the County are committed. Shelving this billion-dollar project is not an option. Only the persistent application of proactive oversight by the Board can mitigate future risks and render a valuable service to Sonoma and Marin Counties.

## Findings

- F1. The completion of Phase 1 in late 2016 will not satisfy what was promised to voters in 2008.
- F2. The current two-year delay in service caused by construction shortfalls represents a 10-percent loss in value generated by 20 years of sales tax revenue.
- F3. The Sonoma County Civil Grand Jury's financial analysis indicates that SMART faces potential funding challenges to complete the 73-mile project.
- F4. The Sonoma County Civil Grand Jury's financial analysis raises concerns with the forecasting assumptions and contingencies used to project future revenues generated by the 1/4-cent sales tax.
- F5. Operating plans and finances are dependent on sales tax revenues, and any shortfall could have serious consequences.
- F6. While its name suggests that it performs a public oversight function, the Citizen's Oversight Committee has not provided broad oversight; its actual contributions to the SMART project have been confined to the mandated role of overseeing the Strategic Plan.
- F7. SMART management has demonstrated resourcefulness throughout the construction phase and a prudent control of finances, but competent management is no substitute for effective Board governance.
- F8. The members of the Board of Directors have heavy time commitments, resulting in a lack of sufficient attention for SMART and an absence of the effective oversight voters expected when Measure Q was adopted.
- F9. Although an economic crisis began in 2007, SMART failed to inform voters in the November 2008 election of the resulting risks to the revenue projections contained in the Measure Q Expenditure Plan.
- F10. The Board of Directors failed to mitigate the serious impact of the economic downturn and of the land-use environmental approvals process.
- F11. The Board of Directors would operate more efficiently and effectively if it were using the standing committees defined in the SMART Administrative Code.
- F12. The lack of station parking, road-crossing disruptions, and failure to connect directly with the Larkspur ferry terminal will create serious logistical difficulties.
- F13. Once construction has been completed, public safety needs to become the highest priority.

## Recommendations

The Grand Jury recommends that:

- R1. The 2014 Strategic Plan Update include a comparison between the original financial plans in the Measure Q Expenditure Plan and the current outlook in the Updated Strategic Plan.
- R2. SMART engage the services of an independent economist to provide a forecast of the revenue to be generated by the 1/4-cent sales tax.

- R3. The 2014 Strategic Plan Update provide a forecast of operating and maintenance costs associated with the future operation of the system.
- R4. SMART provide an annual update to long-term financial forecasts which includes notification to the public of any risks associated with uncontrollable factors such as economic fluctuations and the potential consequences of such risks in its “Comprehensive Annual Report.”
- R5. SMART appoint a Citizen’s Advisory Committee to investigate and report on concerns regarding scheduling, fares, pedestrian/bicycle pathways, connecting services and safety.
- R6. The Board of Directors utilize standing and advisory committees to more effectively fulfill its obligation to provide comprehensive oversight on major policy issues.
- R7. Management issue a quarterly status report addressing the development, operations, and financial matters currently facing SMART, which could be provided in conjunction with the regular General Manager’s reports to the Board of Directors.
- R8. The Board of Directors create an ad hoc Safety Committee to provide conscientious oversight of the system’s safety policies and elevate the overall importance of safety.

**Required Responses**

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

- R1, R2, R3, R4, R5, R7 – SMART General Manager
- R2, R4, R5, R6, R8 – SMART Board of Directors

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

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# Sheriff-Coroner's Office and Morgue Inspection

## Summary

The Sonoma County Civil Grand Jury (Grand Jury) received a citizen complaint requesting an investigation into the County's contractual arrangements with Forensic Medical Group (FMG) of Fairfield, California to provide pathology services at the County Morgue. The Grand Jury was also asked to investigate whether the County could be better served by an alternative to the current elected Sheriff-Coroner model and whether the County might establish a modern, scientific facility designed specifically for the investigation of human deaths.



The Grand Jury researched the contractual agreement between the County and FMG. The Grand Jury also researched the history of electing a Sheriff-Coroner. With respect to the County's Morgue facilities, after determining that the Grand Jury had not published a report on these facilities in the last 15 years, the Grand Jury conducted an inspection of the Coroner's Office and Morgue.

The Grand Jury found that FMG, the current County contractor for pathology services, has consistently been late in providing final autopsy reports. Fines specified in the contract have never been imposed.

The County has had an elected Sheriff-Coroner since 1974. The vast majority of California counties use this model. Prior to 1974, the coroner and the sheriff were elected separately, a model still used by some California counties. In lieu of an elected coroner, a few counties appoint a medical examiner, a licensed forensic physician. A nationwide shortage makes it difficult for counties to recruit and retain qualified forensic pathologists. The Grand Jury recognizes that the use of the Sheriff-Coroner model is a matter of current concern because of potential conflicts of interest between the sheriff and the coroner roles, but it takes no position on the appropriateness of this model for the County.

With respect to the Morgue's physical facilities, the Grand Jury found that the administrative office space on the upper level and autopsy examination rooms, equipment, and the body-receiving area on the lower level are separate, secure, and well maintained. However, it also found the administrative office space to be small, overcrowded, and lacking in modern technology such as an up-to-date computer case management system. The Morgue needs a hands-free recording system for dictating autopsies during the procedure.

## Background

The Grand Jury may routinely investigate all departments in its jurisdiction at any time or upon receiving a citizen complaint alleging irregularities in local governmental bodies or boards. In addition to investigating the complaint, the Grand Jury also inspected the operations and facilities of the Coroner's Office and Morgue. Prior Grand Juries have not issued a report on this department since 1999.

## Approach

The Grand Jury inspected the Coroner's administrative office space and morgue facilities. The Grand Jury also interviewed members of the Sheriff-Coroner's Office and the County Administrator's Office. The Grand Jury evaluated the facilities and internal functions of the Coroner's Office and

Morgue using criteria set forth by the National Association of Medical Examiners. It also reviewed documents related to the operation of the Coroner's Office and researched pertinent websites. Jurors attended meetings of the Law Enforcement Accountability Subcommittee of the Community and Local Law Enforcement Task Force concerning the suitability of the Sheriff-Coroner model.

## **Discussion**

### **Contractual Arrangements with FMG**

FMG was awarded a five-year contract in 2012 to provide forensic services to the Coroner's Office and Morgue, and it has provided forensic services to the County since at least 2000. Although not the lowest bidder, FMG offered a comprehensive level of services which involved accepting all requests for post mortems. The contract provides for penalties if required reports are not submitted on time.

Documents provided to the Grand Jury revealed that some final autopsy reports were more than a year overdue. As of March 5, 2014, over 300 autopsy reports remained incomplete:

- For 2010 and 2011, one autopsy report in each year was still incomplete.
- For 2012, 286 reports were completed and 110 reports were incomplete.
- For 2013, 104 reports were completed and 244 reports had not yet been submitted.

The Coroner's Office was unable to provide the number of overdue final reports from December 2013 or the first two months of 2014.

Final reports include autopsy results, investigative reports, and all laboratory reports. Investigative reports are compiled by the four detectives assigned to the Coroner's Office and include death scene information as well as data from persons interviewed and laboratory reports. Laboratory results may take from two to four weeks to complete and are provided by independent laboratories. Final reports are not complete until autopsy results are received stating the cause of death.

The Coroner's Office works with families of the deceased to expedite paperwork required for legal, insurance, or other matters to ensure they receive the information needed to settle the estate. Legal cases that involve criminal activity or suspicious deaths are expedited and are never late.

The Grand Jury found that in all cases, overdue final reports were incomplete because they were missing autopsy results. The current contract with FMG calls for a 2 percent daily penalty for final reports not completed within 30 days, unless delayed laboratory results necessitate a 30-day extension. This fine has never been imposed.

### **Sheriff-Coroner Model**

The Sheriff-Coroner is a County-wide elected position. The Sheriff provides law enforcement, court security, and detention services. The Coroner's Office and Morgue operate under the Sheriff's Office Investigations Bureau. Administrative offices and morgue facilities are supervised by a detective sergeant who serves as Deputy Coroner. The Deputy Coroner is a three-year position with the possibility of reappointment.

Four detective investigators also rotate through the Coroner's department approximately every three years. According to the Coroner's Office, skills acquired in forensic services can prove useful when these detectives rotate to other units within the Sheriff's Office.

The County began electing a Sheriff-Coroner in 1974. Prior to that, coroner and sheriff were separate elected positions. As an alternative, some counties appoint a medical examiner. A medical examiner is a licensed forensic physician hired by a county to obtain medical findings through autopsies to determine the cause of death. In California's 58 counties, 48 use the Sheriff-Coroner

model, six have independent coroners, and four have medical examiners. Potential conflicts of interest exist between the sheriff and coroner roles. However, a national shortage of forensic pathologists makes it difficult for counties to recruit and retain qualified pathologists or medical examiners.

The responsibility of the Coroner's Office is to provide competent and timely law enforcement and scientific investigations of all deaths that meet the criteria as defined by the California Government Code Section 27490-27512 and California Health and Safety Code Section 102850-102870. The Health and Safety Code requires that a death certificate be issued within three days of examination of the deceased and be signed by a physician. However, the Coroner's Office reported that issuing certificates may take up to eight days. Certificates for deaths resulting from criminal activity are a priority and are delivered on time.

### **Coroner's Office and Morgue Facilities Inspection**

The Grand Jury investigated Morgue operations and toured the facilities. Information provided here is given as of the inspection date. Remodeled in 1990, the building has been in use as a morgue since 1970, and before that as a boiler room for the old Community Hospital.

#### **Physical Facilities**

**Facilities:** Office space is limited with room for the two assistants and office equipment near the entrance. Four workstations for the detective investigators and a semi-private office for the Deputy Coroner are in an open work area that also serves as a passageway through the office. Space for filing and storage of reports is insufficient. Stacks of boxes line the floor and walls in an adjacent room. Active files are stored in boxes kept close by for easy access and review.

**Security:** Access to the facility is well controlled and secured by locked entrance doors. The waiting room is small and separate from the rest of the building. Doors accessing the building's office areas are kept locked. Morgue facilities located on the lower level are locked and separate from office work areas.

**Administrative Space:** Four detective investigators assigned to this department share an open work area with office staff, the Deputy Coroner, and a lunch/break area. The administrative area at ground level is separate from the Morgue, autopsy area, and body-receiving area on the lower level. Visitors and business contacts can work with the Coroner's staff without exposure to visual, auditory, or olfactory effects from the Morgue or any autopsy procedures that may be underway.

**Safety:** Employees are safe from physical, chemical, and biological hazards. Blood-borne pathogen controls are in place. Hazardous material is kept in proper containers, and safety cabinets are used for volatile solvents. Evacuation routes are posted.

**Maintenance:** The public and administration areas, even though small and crowded, seemed well maintained. All scientific equipment appeared to be clean and functional.

**Identification:** If the decedent has not yet been identified upon arrival at the Morgue, the facility has access to tests that may confirm identity using fingerprints, photographs, dental exams, x-rays, serology, and DNA analysis.

#### **Morgue Operations**

The Morgue is well maintained and meets the cleanliness and safety standards for this type of facility.

**Body Handling:** All bodies are handled using standard safety precautions in areas sequestered from public view. The refrigerated space appears adequate for the Morgue's storage needs. Access to this area is monitored and limited.

**Autopsy:** Two autopsy stations appear to serve the Morgue's needs. They are clean, well-lit, and free from odors. Protective gear is readily available. No dictation equipment is available in the autopsy room. The pathologist makes written notations as the autopsy is being performed. Post-mortem findings are dictated by the pathologist after the autopsy is completed.

From an adjoining room, a viewing window allows observation of autopsy proceedings, and observers are able to communicate via microphone with the pathologist during the autopsy procedure. Autopsies are only performed where the manner of death is undetermined or in situations required by law. The pathologist's office is small with poor lighting. Storage space for pathology files appears inadequate.

**Isolation equipment:** An adequate supply of plastic gowns, gloves and masks is available.

**X-ray:** The x-ray room contains lead aprons and radiation monitoring badges to measure radiation exposure. This equipment was most recently inspected on January 31, 2013 and passed with no corrective actions needed.

**Laboratory:** Local laboratories are usually utilized for testing, and turnaround time can be a few days to a couple of weeks.

**Toxicology:** Multiple blood, body fluid, and tissue specimens are collected and sent to a laboratory in Pennsylvania. The return of final lab results may take two to four weeks.

**Histology:** Tests on tissue samples are done by FMG per County contract.

**DNA:** These specimens are kept indefinitely.

**Medical Waste:** During an annual inspection in 2009, County inspectors recommended the development of a waste management plan with a decontamination procedure. In 2010, the plan was implemented and included a decontamination plan for blood spills. Recent inspections revealed no violations.

**Transcription Services:** This service is provided by FMG per County contract.

**Reports and Record Keeping:** Because file storage space is insufficient, case files and related materials are filed in cardboard boxes stored on the floor and in an additional room. The Coroner's Office has recently recommended that an updated computer case management system will effectively organize information unique to staff needs and allow enhanced data management. File security is guaranteed by locked entry doors.

**Coroner Investigators:** Coroner detectives respond to the scene of a suspicious death and assist in securing the area and gathering evidence along with the involved law enforcement agencies. These agencies may include the Sheriff's Office, city police, or fire departments. Detectives at the scene send photographs of the suspected crime scene to the Coroner's Office for use by the pathologist and investigators, who also have access to emergency room records and hospital charts.

**Organ donors:** The contracted pathologist is mandated to cooperate and support the authorized removal and disposal of human tissue from bodies of deceased persons as authorized by the California Uniform Anatomical Gift Act. The Sheriff's Office is consulted to confirm that the donor procedure does not adversely interfere with an investigation or the determination of the cause of death.

## Findings

- F1. The close to 400 delinquent final autopsy reports due from FMG show a lack of effective oversight by the Sheriff-Coroner's Office.
- F2. The Sheriff-Coroner's Office has not exercised means within its control to bring about the timely issuance of final autopsy reports by imposing the 2-percent daily fine for overdue reports.



- F3. The Coroner's Office lacks adequate storage for the extensive records currently in cardboard boxes stacked throughout the facility.
- F4. Coroner operations can be negatively affected by delays resulting from failure to use up-to-date file management software tailored to its needs or hands-free recording equipment during autopsies.

## Recommendations

The Grand Jury recommends that:

- R1. The Sheriff-Coroner's Office impose contractually stipulated penalties for late autopsy reports while evaluating the suitability of its continued relationship with FMG for forensic services.
- R2. The Sonoma County Board of Supervisors give priority to exploring possibilities for remodeling or relocating the existing Coroner's Office and Morgue.
- R3. The Coroner's Office and Morgue adopt technological improvements, including a modern file management system and hands-free recording devices in the autopsy room.

## Required Responses

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

- R1, R2, R3 – Sonoma County Sheriff-Coroner
- R1, R2, R3 – Sonoma County Board of Supervisors

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

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# Keeping the Public in the Loop: The Russian River Fire Protection District and the Brown Act

## Summary

The Ralph M. Brown Act (Brown Act) is California's open meeting law. The law's intent is that the actions of public commissions, boards and councils in California be taken openly and that their deliberations be conducted openly. It is based on the principle that "the people of this State do not yield their sovereignty to the agencies which serve them" (Government Code Section 54950).



The Sonoma County Civil Grand Jury (Grand Jury) received multiple complaints alleging Brown Act violations by the Board of Directors (Board) of the Russian River Fire Protection District (District). The complaints related to discussions held and decisions made during closed Board sessions. The allegations were found to be true. The violations appeared to result from a combination of lack of awareness of and training in the Brown Act, along with the Board's tradition of handling these matters 'the way it had always been done.'

Some members with past professional experience had served on the Board for many years. During the investigation, the Grand Jury found evidence that some Board members consider themselves better versed on relevant issues than the paid staff of the District. This resulted in serious staff morale problems that were further escalated by frequent, secret discussions during closed Board sessions.

## Background

The Grand Jury received several complaints from residents of the Russian River area alleging Brown Act violations by the District Board.

## Approach

The Grand Jury interviewed District Board and staff members and reviewed the District Policy and Procedures manual, the Brown Act, training materials, the District's website, and other resource material related to the District. Representatives of the District Attorney's Office (DA) were also interviewed regarding Brown Act enforcement in the County.

## Discussion

The Brown Act is based on the principle that agencies that serve the people are responsible to the people for their actions. The law's intent is that the actions of public commissions, boards, and councils in California be taken openly and that their deliberations be conducted openly (Government Code Section 54950). In general, a quorum of board members may not legally meet informally and discuss board action, but fewer than a quorum may do so.

Closed meetings of a board are legally permitted only in limited, specific situations to discuss certain topics: personnel matters, pending litigation, labor negotiations, and property negotiations. All actions taken in closed session must be publicly reported according to specified rules. The District Board Policy and Procedures manual specifically states:

Board members are expected to be familiar with the rules of the Brown Act regarding open meetings, required notices thereof and the requirements for entering into closed session.

Russian River Fire Protection District Administrative Manual, Section 4.2; Job Description

The Grand Jury investigation revealed that the Board failed to adhere to the Brown Act on a recurring basis by failing to make agendas publicly available on its website and, during general meetings, holding closed sessions to discuss items such as administrative matters that the Brown Act requires be discussed in open session.

Most violators of the Brown Act in the County receive a letter from the DA concerning the specifics of the violation. The board in question usually responds by agreeing to conduct the necessary training, thus allowing its members to continue serving and conducting board business. According to the DA, this has proven to be an effective method of dealing with Brown Act violations.

## **Findings**

- F1. The Board of Directors of the Russian River Fire Protection District knowingly violated the Brown Act.

## **Recommendations**

The Grand Jury recommends that:

- R1. All members of the Board of Directors of the Russian River Fire Protection District be required to obtain appropriate training in the Brown Act.
- R2. The Board of Directors of the Russian River Fire Protection District adopt meeting policies and procedures to ensure compliance with the Brown Act.

## **Required Responses**

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

- R1, R2 – Board of Directors of the Russian River Fire Protection District

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

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# Up Against the Wall: Sonoma County Detention Facilities

## Summary

The Sonoma County Civil Grand Jury (Grand Jury) inspected the Main Adult Detention Facility (MADF), the North County Detention Facility (NCDF), and the Juvenile Justice Center (JJC) in September, 2013.

The Grand Jury found all detention facilities to be clean, well maintained, and secure. The Grand Jury's major findings relate to the impact of State Assembly Bill 109 (Public Safety Realignment, or Realignment). The situation is aggravated by a high number of unfilled positions. The investigation also found that the MADF is dealing with a significant population of inmates with mental and physical illnesses.

Realignment requires the prison system to redirect nonviolent offenders to local jails. From January 1, 2012 to December 31, 2013, the incarcerated population rose by 537 due to Realignment. This increase brought both adult facilities to 95 percent of their capacities. The average length of jail sentences has risen to 27 months. The MADF is designed to hold prisoners up to three years. Probation records show 65 percent of those diverted to local jails through Realignment are classified at high risk to re-offend, requiring greater supervision.

Correctional deputies can work up to 60 hours of mandatory overtime per month, depending on the jail population and the number of deputies unavailable due to illness or injury. The increased population of offenders with mental health needs at the MADF has required facility upgrades to increase safety for both personnel and inmates.

The Grand Jury's recommendations focus on the Sheriff's Office, encouraging it to continue efforts to address the impact of Realignment and to address the needs of inmates with health problems.

## Background

California Penal Code Section 919(b) requires that each civil grand jury conduct annual inspections of detention facilities in its county.

## Approach

The Grand Jury inspected the MADF, the NCDF, and the JJC. It also reviewed policies and procedures for intake and processing, medical and psychological evaluations, and educational programs and activities.

## Discussion

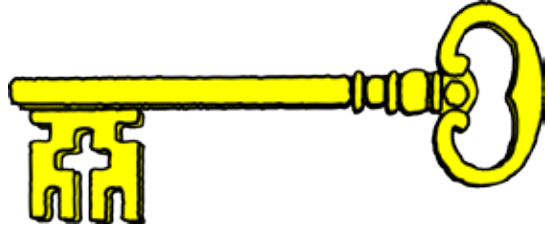
### Main Adult Detention Facility (MADF)

The MADF was built in 1991 with a capacity of 500 inmates. In 1997, an addition of 290 beds brought capacity to 790. The MADF houses medium- and maximum-security inmates, both pre-trial and sentenced. Under Realignment, those convicted of crimes not considered violent, serious, or sexual serve time in local jails instead of state prisons. An increase in the inmate population has also resulted in longer sentences. The extreme case is a 15-year sentence, with 10 years served in jail.



As of December 31, 2013, the active adult population was 1068 including inmates and probationers. The active population is the net of the total intake less those who have exited the system. Some inmates require increased mental and medical health care, and the MADF has expanded and remodeled accordingly. But the influx exceeds what was anticipated. Probation records show that 65 percent of those released are classified as high risk to reoffend, which requires heightened supervision. As a result, several vacant housing units in the North County facility were opened.

As of September 2013, 20 correctional deputy positions remained vacant, in addition to the 20 percent of staff on leave due to injuries or illness. Twenty new deputies had been hired by the end of 2013, and the Sheriff's Office had 10 to 15 positions to fill as of March 2014. This shortage has led to mandatory overtime of up to 60 hours a month for correctional deputies. For every 700 applicants, 250 are interviewed and undergo background checks. Of those, approximately 3 percent are hired.



The MADF is designed for direct, close supervision of inmates. It is divided into modules, each one a self-contained cell block with one guard station. Cameras and intercoms continuously monitor inmates and employees. Two modules house inmates with alcohol, drug detox, and mental health issues. A third module houses females, and the fourth is designated for maximum-security inmates. Visiting is strictly regulated: three visits per week, limited to 30 minutes, permitting no physical contact. The dress code is strictly defined. All visitors must pass through a security detector.

Sixty-six percent of inmates require medication for physical and/or mental conditions. Due to an increasing population of inmates with illnesses, the MADF has made upgrades to increase the safety for personnel as well as inmates. Coverage by nursing staff is provided 24 hours a day, seven days a week. An onsite physician and ancillary staff (lab, x-ray, etc.) are available during business hours and on call. Local hospitals provide acute and emergency care. All correctional deputies are trained in first responder aid and CPR. Automatic electronic defibrillators are available. The watch commander is directly linked to the County EMS system via radio dispatch. A discharge planner assists in placing some inmates into County mental health treatment following release from the MADF.

### **North County Detention Facility (NCDF)**

The NCDF houses minimum-security male inmates. At the time of inspection, approximately 365 were at the facility, which has a capacity of 561 inmates. The average daily population at NCDF is 300. Those held for pre-trial hearings or sentencing are housed in a separate building from the general population and have access to a fenced, covered recreation area. The other inmates share dormitory facilities with bunk beds that can house up to 60 prisoners each and offer access to designated outdoor recreation areas.

Inmates dress in jeans, shirts, and tennis shoes devoid of ornamentation, printing, or gang colors. Suitable clothing and boots are provided for those who qualify for outside work duties, such as assignments at the County fair, the 2-acre onsite garden, or road clean-up crews. The jail industry program allows eligible, low-risk volunteers to care for many plant varieties. Vegetables from the garden are served at the NCDF and the MADF. Local food banks receive any excess produce. The program also offers free vegetable starts and seeds to schools. Twice per year, it holds a public plant sale, with proceeds going to support its programs.

In addition to the agricultural program, inmates may participate in educational and personal development programs, such as English as a Second Language, parenting, anger management,

and alcohol and drug awareness. They may also take courses in general education. Those who complete the requirements earn a diploma and may participate in a graduation ceremony.

Medical services at the NCDF are similar to those at the MADF.

Visiting hours are strictly controlled. Visitors' attire, identification, and behavior are closely monitored. All visitors must pass through a metal detector. They may visit one hour per week. Minors must be accompanied by an adult.

The Grand Jury found the facilities to be clean and well maintained.

### **Juvenile Justice Center (JJC)**

The JJC is a modern building completed in 2005. It contains two juvenile courtrooms; offices for public defenders, a district attorney, and probation officers; a kitchen; and a command center with video monitoring throughout all areas of the complex. The Grand Jury found the facility to be carefully maintained. Art work done by the youthful offenders brightens the walls.

Teachers work with children from mid-elementary through high school and tailor the curriculum to each student. Food is served in the common area visible from each living unit. Three secure, large, covered outdoor areas provide ample exercise opportunities. Many community-based organizations provide programs and services to help youth gain the skills needed to function successfully upon return to the community. These organizations continue monitoring these youth after they complete detention and are released on probation. The population at the center averages about 70 youth, who typically remain at the facility for 22 to 30 days. The Probation Department currently supervises 392 juveniles at the center and on probation. Members of the staff, 125 in 2013, work with incarcerated youth and with those released on probation. The continuum of support from incarceration through diversion to home-supervised probation underscores the emphasis on rehabilitation and return to responsible living. An evaluation program is being instituted to measure the effectiveness of evidence-based interventions that the JJC has employed for several years.

### **Findings**

- F1. Realignment continues to pose challenges to adult detention facilities.
- F2. Mandatory overtime is an increasing burden for correctional personnel.
- F3. Inmates with medical and mental health issues make significant demands on the MADF staff and facilities.

### **Recommendations**

The Grand Jury recommends that:

- R1. The Sheriff's Office continue to improve the expansion and safety of adult detention facilities.
- R2. The Sheriff's Office keep up its efforts to hire new personnel to deal with the growing inmate population.
- R3. The Sheriff's Office continue treating inmates with mental and physical health issues to improve their chances for successful adjustment to independence upon release.

### **Required Responses**

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

- R1, R2, R3 – Sonoma County Sheriff's Office
- R1, R2, R3 – Sonoma County Board of Supervisors

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

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# The Civil Grand Jury and Critical Incident Reviews

## Summary

The 2013-2014 Sonoma County Civil Grand Jury (Grand Jury) has not reviewed the Critical Incident Report submitted by the District Attorney (DA).

Critical Incidents are defined as officer-involved fatalities. Critical Incident Reports are case file summaries that are prepared by the DA. After a case has been investigated and a final ruling of no criminal liability is issued, the Critical Incident Report is sent to the Grand Jury for review. During this Grand Jury's term, questions have been raised in public forums and the media about the Grand Jury's role in the review process.

The Grand Jury, under the jurisdiction of the California Superior Court of Sonoma County, offers a civil watchdog oversight of the County, special districts, and city governments or agencies. The California Penal Code defines the scope, powers and responsibilities of the Grand Jury.

By investigating the origins and history of Critical Incident reviews, the Grand Jury found no evidence that this body is any more or less qualified than any other citizen group to perform these reviews.

However, the Grand Jury operates under legal and practical constraints of strict confidentiality, annual turnover, little continuity, limited funds, and no support staff. Historically, the Grand Jury has not reflected Sonoma County's demographic diversity. These considerations make the Grand Jury a questionable choice to review Critical Incidents.

## Background

Since 2001, the Grand Jury has issued reviews of Critical Incidents based on case file summaries received from the DA's office. Jurors review these documents to determine if law enforcement agencies have followed the protocol set forth by the Sonoma County Law Enforcement Chiefs' Association in its Law Enforcement Employee-Involved Fatal Incident Protocol (Chiefs' Protocol).

## Approach

The Grand Jury studied both current and archived reports in the County and other California counties regarding the current practice of reviewing Critical Incidents. The Grand Jury also reviewed the 2000 report of the California Advisory Committee to the U.S. Commission on Civil Rights, in addition to the Chiefs' Protocol. Individuals currently serving on the Grand Jury, in their capacity as private citizens, gave a presentation to the Sonoma County Community and Local Law Enforcement Task Force about the Grand Jury's purpose and functions.

## Discussion

Grand Jury members are drawn from a pool of potential volunteers and are not required to have specific backgrounds, experience, or training in order to serve. In July of every year, jurors begin a one-year term by deciding what to investigate and how to proceed. Investigations are not held over from one year to the next. The Grand Jury meets as a body once a week to conduct business. Members also participate in committee meetings, conduct citizen interviews, and voluntarily work from home to keep up with the workflow. At the end of the one-year term, the Grand Jury submits its reports to the County Superior Court for public distribution. The Grand Jury members are legally bound to maintain strict confidentiality both during and after their terms of service.



## **Critical Incident Reports**

The Grand Jury has conducted annual reviews of Critical Incident Reports since 2001. Critical Incidents are defined as officer-involved fatalities, including deaths of those in custody. The 2013-2014 Grand Jury investigated this practice and found that the annual review of Critical Incidents began after the recommendations from the 2000 report of the California Advisory Committee to the U.S. Commission on Civil Rights were rejected by County law enforcement agencies. Reference to the Grand Jury's involvement in Critical Incident reviews is first mentioned in the 17-page Chiefs' Protocol in 2000.

By accepting the Critical Incident Reports for review, the Grand Jury may have created the impression that its members have the time, expertise, and experience to routinely perform in-depth investigations of all law enforcement-involved deaths. However, the Grand Jury must select from among many matters worthy of investigation. If it investigated a Critical Incident thoroughly, the Grand Jury could find its time and resources wholly consumed by such work.

## **Civil Grand Jury's Role**

The Chiefs' Protocol states that law enforcement agencies conducting investigations send their final reports to the DA, who then rules on whether violations of criminal law occurred. If no criminal liability is found by the DA, the Grand Jury receives the Critical Incident Report for review. If the DA's Office does find evidence of criminal liability on behalf of law enforcement, the case remains open while the DA investigates the matter or prosecutes the case. No Critical Incident Report is sent to the Grand Jury until the DA issues its final ruling. Since adoption of the Chiefs' Protocol, no criminal charges have been brought against law enforcement as a result of a Critical Incident.

The Grand Jury's role is to review the Critical Incident Report to confirm that the Chiefs' Protocol was followed. The Grand Jury may choose to pursue its own investigation or review original investigatory documents summarized in the Critical Incident Report.

## **County Grand Jury History of Critical Incident Involvement**

Several important investigations of police shootings and deaths in custody have been done by prior Grand Juries. These investigations focused on the care of inmates with chemical dependency problems or chronic illnesses and resulted in beneficial change in the detention system. Reviews of Critical Incident Reports involve ensuring that the Chiefs' Protocol was followed and that the DA's ruling on the absence of criminal liability is based on the facts in the case summary. A Grand Jury review of the DA's summary report may lead the public to believe this body performs in-depth investigations of all officer-involved fatalities. By issuing this report, the 2013-2014 Grand Jury wishes to correct this possible misconception.

As a result of a 1996 police shooting in Santa Rosa, 28 citizen complaints were received by the Grand Jury, which led to an investigation of a law enforcement-involved shooting. The Grand Jury found that the Santa Rosa Police Department's investigation contained errors, omissions, and a case of mistaken identity. The Grand Jury's 1997 report recommended a protocol change, requiring agencies involved in officer-related fatalities to refer investigations to an outside law enforcement agency. Except for this case, there were no Grand Jury reports on Critical Incidents before 2000.

Between 1997 and 2000, a significant increase in law enforcement-involved fatalities and inmate deaths occurred. The U.S. Commission on Civil Rights asked its California Advisory Committee to investigate. In its final report, issued in 2000, the Advisory Committee recommended the establishment of civilian review boards in the County and in the cities of Santa Rosa and Rohnert Park. The recommendation was not adopted. The Grand Jury began reviewing Critical Incident Reports in 2001.

## **Grand Jury's Responsibility**

The 2013-2014 Grand Jury has declined to review Critical Incident Reports, which is within its right under the Penal Code. A civil grand jury is an independent institution with the principal function of overseeing all aspects of county, special districts, and city governments in a county to ensure that the best interests of the citizens are being served. With scant resources, confidential investigations and deliberations, lack of time, and its practice of responding to citizen complaints, this Grand Jury has chosen not to follow the practice of prior grand juries in reviewing Critical Incidents.

## **Findings**

- F1. While the Sonoma County Civil Grand Jury may investigate officer-involved fatalities, it does not have the resources to perform in-depth reviews or lengthy investigations of every officer-involved fatality.
- F2. By accepting Critical Incident Reports, the Sonoma County Civil Grand Jury may mislead the public to believe it initiates in-depth investigations of every officer-involved fatality.

## **Recommendations**

None.

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# 2013 - 2014

## Sonoma County Civil Grand Jury



### Sonoma County Civil Grand Jury 2013-2014

Gayle Farkas	Robert Mitchell	Martin Jones	Ellen O'Connor	Bruce Kunkle	Richard Burtis	
Larry MacDonald <i>Sergeant-at-Arms</i>	David Christopher	Dee Stewart	Mickey Cooke	Hiedie Conner	Tony Mountain	Leanne Bynum
Eileen Adams <i>Recording Secretary</i>	Sally Hopkins <i>Treasurer</i>	Cheryl Davey <i>Foreperson</i>	Kenneth Gness <i>Presiding Judge</i>	Jose Guillen <i>Court CAO</i>	Fel Leech <i>Pro Tem</i>	Jackie Brittain <i>Corresponding Secretary</i>



# **Sonoma County Civil Grand Jury**

The principal function of the Grand Jury is to exercise oversight of all aspects of county and city government and special districts within Sonoma County to ensure that the best interests of its citizens are being served.



## **How to Submit A Complaint to The Grand Jury**

Complaint forms can be found at [Sonoma.courts.ca.gov](http://Sonoma.courts.ca.gov) (click on the Grand Jury tab at the top of the page) or by calling the Grand Jury at 707-565-6330. You can mail completed forms to P.O. Box 5109, Santa Rosa, CA 95402, or fax them to 707-565-6328. Only the Grand Jury has access to the postal box and fax to ensure confidentiality.

**[Sonoma.courts.ca.gov](http://Sonoma.courts.ca.gov)**