

Sonoma County Civil Grand Jury



2021-2022 Final Report

The Grand Jury provides oversight to county, city government and special districts within Sonoma County, bringing positive change in the best interest of all residents.

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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 Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA**



Shelly J. Averill
Presiding Judge
(707) 521-6726

Hall of Justice
600 Administration Drive
Santa Rosa, CA 95403

May 23, 2022

Dear members of the Sonoma County Civil Grand Jury,

Having reviewed your detailed, thorough, and thoughtful investigations and recommendations contained in the Civil Grand Jury final report for the 2021-2022 fiscal year, I find that the report complies with Penal Code section 933.

The members of the Sonoma County Civil Grand Jury have demonstrated tremendous dedication and commitment to the vital role you serve investigating and reporting on matters brought before you. Each member of the Civil Grand Jury is commended for their exemplary service during this time. It has been a unique period of time in that the grand jury has continued to work through a frequently changing landscape around the Covid-19 pandemic. You developed efficiencies through remote technology that enabled you to continue the important work of the grand jury.

On behalf of the Sonoma County Superior Court, I thank you for your collaboration, dedication, and commitment to the important role you served in our community in completing the work of the Civil Grand Jury. A special thank you to your foreperson, Neal Baker, for the leadership, guidance, and organization he provided to the grand jury.

It is with great pleasure that I thank you for your service on the Sonoma County Civil Grand Jury. Congratulations on the completion of your report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shelly J. Averill".

Shelly J. Averill
Presiding Judge

SJA/ml



The Sonoma County Civil Grand Jury

PO Box 5109 Santa Rosa, California 95402

(707) 565-6330

gjury@sonoma-county.org

www.sonomagrandjury.org

June 19, 2022

To the Citizens of Sonoma County and the Honorable Judge Shelly J. Averill:

On behalf of the 2021-2022 Sonoma County Civil Grand Jury and in accordance with California Penal Code Section 933, it is my privilege to present our Final Report.

The mission of the Civil Grand Jury is to facilitate positive change in Sonoma County, including the County's cities and special districts. The Grand Jury's charge is to investigate these government entities to evaluate their efficiency and effectiveness, and to promote accountability and transparency. Where an investigation leads to important Findings, the Grand Jury makes Recommendations to improve the efficiency and effectiveness of the government entity. We have done so in this Final Report.

The Penal Code requires that the Grand Jury inquire into the condition and management of public prisons, including local detention facilities within a county. We conducted inquiry during the term through tours at the Main Adult Detention Facility and we investigated Citizen complaints of practices at the County detention facilities.

The Grand Jury is supported not only by the Superior Court, but also by County agencies. We thank the County Administration staff for their administrative help, County Counsel staff for their legal support, and the Information Systems Department staff for the computer and network assistance that is essential to conducting and communicating this work.

Our complete Final Report is available online at www.sonomagrandjury.org.

I have been honored to serve as Foreperson with this Grand Jury, and I leave with several thoughts. My thanks and appreciation to my fellow jurors, who contributed many hours during our term to investigate, analyze information, and to prepare reports on those investigations deemed significant to the County. In addition, I have come to be impressed by the dedication and expertise of many of our County, city, and special district employees. I will carry forward a deeper understanding and appreciation of the work that they do. Lastly, I encourage any citizen who has an interest in the detailed working of our local government entities to consider volunteering for this worthy and instructive Grand Jury function.

Neal Baker, Foreperson

Introduction

The 2021-2022 Sonoma County Civil Grand Jury began its term six weeks late because of continuing schedule upsets from COVID-19. Nevertheless, the Grand Jury was able to come together and to complete within the foreshortened term a number of investigations, of which six carried through to reports.

This year we had a substantial number (34) of diverse Citizen Complaints. The complaints provided at least the initial rationale for investigations in most of our reports this year. This was true for investigations on affordable housing, available water, the SMART Train, and the County's Department of Health Services reaction to COVID. There were more Citizen Complaints that did not result in a formal public report, but all were evaluated by committees and by the assembled plenary. Some of these Complaints have been recommended to the subsequent Grand Jury, to consider for investigation.

The citizens who were seated on the Grand Jury brought a diverse set of backgrounds and skills. The members included citizens who came from accounting, engineering, County administration, education, health work, research, law, science, and various business backgrounds. The jurors came together effectively, with dedication, and with studied collegiality to work as equals in various inquiries.

If there was a theme that was addressed in the disparate reports this year, it is the theme of looking back into issues that were addressed by prior Grand Juries. This was the case for the Sonoma Valley Water, SMART Train, Department of Health Services, and Affordable Housing reports. These topics have been addressed in recent years, but continued to capture attention. Of course, these topics have on-going questions in the minds of citizens, but they also brought a question to the Grand Jury: have Recommendations of the past Grand Jury reports been addressed by the government entities to whom they were directed? Most commonly the period of resolving a concern exceeds the annual term of a Grand Jury or even the subsequent Jury's "Continuity Report." The issue is, then, whether the government entity addresses the matter, and whether anyone follows up. This year, the Grand Jury followed up on some of those issues.

The Grand Jury believes that the six investigative reports in this Final Report are on topics that are important to the citizens of the County:

1. ***Affordable Housing: Past, Present and Future*** addresses availability of affordable housing in the county, and what actions are required to meet State mandates in the Regional Housing Needs Allocation.
2. ***Affordable Housing: Monitoring and Compliance*** evaluates the procedure used by the County and cities to monitor compliance by housing providers to affordable housing regulations.
3. ***Department of Health Services*** reports on the struggle of the County's Department of Health Services to meet the needs of the County during high pressure emergency conditions, as well as concerns with the overall communication, harassment, and morale of its employees.
4. ***Rohnert Park Department of Public Safety*** looks into the efficacy of the changes to the city's Department of Public Safety following highly-publicized reports of officer misconduct.
5. ***SMART Decision Making*** reports on the role of the Citizens Oversight Committee—mandated by Measure Q of 2008 and its associated Expenditure Plan—in advising the Board of Directors of SMART.
6. ***What Happens When the Grand Jury Makes Recommendations*** follows up on prior Grand Jury recommendations to assure adequate water supplies in the Sonoma Valley.

Affordable Housing: Past, Present and Future

“Do It, or the State Will Do It For You”

SUMMARY

Housing in Sonoma County is widely considered to be in short supply and very expensive. The State of California, working through the Association of Bay Area Governments, has mandated that in the next few years 14,562 new houses and apartments should be built in the County. Specific allocations give approximately one-third of the units to Santa Rosa, one third to the other eight Cities, and one-third to the unincorporated areas of the County. This housing expansion is expected to occur between 2023 and 2031 as part of the State’s larger strategic plan; it is referred to as the 6th cycle housing element, following a much less ambitious 5th cycle covering 2015 to 2023. The 5th cycle plan was essentially aspirational and advisory. The 6th cycle plan is mandatory; jurisdictions that do not meet expectations can be fined or even lose local control of housing to the State.

Of the almost 15,000 new homes and apartments in the allocation, more than half are designated as Affordable Housing for very low, low, and moderate-income families. These income categories are defined by the U.S. Department of Housing and Urban Development (HUD) in relation to the Area Median Income (AMI), which is determined annually by HUD. For Sonoma County, the 2022 AMI for a family of four is \$103,300. HUD then defines very low income as 30-50% of AMI, low income as 50-80% of AMI, and moderate income as 80-120% of AMI. (Some programs define low-income as below 60% of AMI.) The 6th cycle allocations for Sonoma County include 3,999 very-low-income units, 2,302 low-income units, and 2,302 moderate income housing units.

Affordable Housing costs cannot exceed 30% of a family’s gross income. This means that rent and utilities for a family of four earning \$50,000 cannot exceed \$15,000 per year or \$1,250 per month, regardless of the much higher market price of equivalent housing. To be economically viable, Affordable Housing development employs a variety of subsidies, inducements, and demands. This report examines factors that affect the development of Affordable Housing, both positive and inhibitory. A companion report, *“Affordable Housing: Monitoring and Compliance,”* looks at governmental oversight of existing Affordable Housing.

Some housing developments are 100% Affordable; every apartment in the complex is rented at a rate determined by family gross income. Affordable Houses are sold on the same basis. These developments are usually created by non-profit, mission-oriented organizations, and they rely heavily on grants, subsidies, and concessions. A second type of development, referred to as inclusionary housing, requires Affordable Housing units to be included within a market rate development. Different inclusionary housing ordinances govern Sonoma County and each of its Cities. They specify that 5% to 20% of apartments or houses, in projects of five to ten or more units, must be dedicated in one or more of the Affordable Housing categories.

Many programs exist to support construction of Affordable Housing. Financing is usually a central concern. Federal tax credits, which can be sold to investors to provide cash for planning and construction, are the most common. Low interest long term loans and HUD loan guarantees

also provide financing. Grants are sometimes available, often to support Affordable Housing directed to specific groups such as farm workers, veterans, or seniors. Builders of Affordable Housing may be eligible for specific concessions such as reduced or waived costs for fees, expedited review, modification of housing density limitations, or reduction of requirements for amenities such as off-street parking or landscaping.

Recent changes in the State law also encourage the production of Affordable Housing. California Senate Bill 9 allows, with specific limitations, construction of a second rentable house on an existing lot. Senate Bill 10 encourages zoning changes that allow the development of smaller projects as infill, within existing neighborhoods and especially near public transit centers such as SMART stations or bus hubs. Senate Bill 35 allows qualifying projects with at least 50% Affordable Housing units to move more easily through the approval process and restricts the ability of local governments to reject qualifying projects. Other laws simplify construction of rentable Accessory Dwelling Units (sometimes called in-law units) on a lot with an existing house.

There are also many impediments to the creation of Affordable Housing. Land costs in Sonoma County are high and typically constitute about 20% of the cost of a project. The availability of financing is highly competitive and very complex. Proposals are subjected to careful scrutiny and analysis before consideration, and the process is very slow. For example, federal loan guarantees may take seven months to a year for approval. Projects normally need several different forms of financing, each of which has its own application procedures, regulations, and timetable.

Inclusionary housing ordinances differ for each jurisdiction in the County. The same is true of various mitigation fees, designed to offset the costs to the jurisdiction of additional demand for parkland, fire and police services, sewage, traffic, and separately to school districts. There are also different fees and procedures for building permits in the Cities and County. The complexity generated by different fees and rules, each subject to interpretation, increases the cost and difficulty of building Affordable Housing. The cost of permits and mitigation fees is significant; a range of 11-20% of building costs is cited by several interviewees.

A major problem in the development of Affordable Housing is public opposition, often summarized by the phrase “Not In My Backyard” or the acronym NIMBY. Opposition takes many forms: anti-development or environmental concerns, traffic worries, potential property value losses, and more, including both open and unspoken racial and ethnic prejudices. It is vital that local opinions are heard and that accommodations be made whenever reasonable. Several interviewees indicated that no Affordable Housing will be built if a small number of opponents cannot compromise.

This is a self-initiated report by the 2021-2022 Sonoma County Civil Grand Jury (Grand Jury). The Grand Jury makes several recommendations that could simplify and accelerate the development of Affordable Housing and help the County and its Cities reach their Regional Housing Needs Allocation mandates.

GLOSSARY

- ABAG Association of Bay Area Governments
- ADU Accessory Dwelling Unit
- AMI Area Median Income
- CDC Sonoma County Community Development Commission

- CEQA California Environmental Quality Act
- HAP Housing Assistance Payments
- HLT Housing Land Trust of Sonoma County
- HUD U.S. Department of Housing and Urban Development
- JADU Junior Accessory Dwelling Unit
- LIHTC Low Income Housing Tax Credits
- NIMBY Not In My Backyard
- RHNA Regional Housing Needs Allocation
- SCHA Sonoma County Housing Authority
- YIMBY Yes In My Back Yard

BACKGROUND

In 2021, The Press Democrat published a series of articles detailing the rental of Affordable Housing units to unqualified individuals at an apartment development near Santa Rosa. The Grand Jury also received citizen complaints about this particular situation. A companion report, *Affordable Housing: Compliance and Monitoring*, details the Grand Jury’s investigation of the general problem of oversight of existing Affordable Housing in Sonoma County. Further questions arose during the investigation, leading the Grand Jury to an expanded look into Affordable Housing in the County and its cities.

The term ‘affordable housing’ can have different meanings depending on context:

“**AH**” = In this report and more generally in the housing industry, we use capital letters to identify Affordable Housing as apartments or houses that are potentially available to rent or are deeded as Affordable for those who earn a specified percentage of the median income.

“**ah**” = Lower case letters are used to differentiate between the two meanings of affordable housing; “ah” is a more general term. An apartment that rents for \$3,500/month might be affordable to a company executive but may not be affordable to a junior employee, a retiree, or a person with disabilities.

Affordable Housing in the context of this report refers to housing that is priced on the basis of ability to pay, and not on the market rate of a rental apartment or of a house to buy or rent. Affordability is defined relative to the Area Median Income (AMI), the income at which an equal number of families earn more and an equal number of families earn less. The AMI value is determined annually by the [U. S. Department of Housing and Urban Development](#) (HUD) and is specific to an area.

The AMI for a family of four is derived from selected census data. As of January 1, 2022, this value for Sonoma County is \$103,300. This number is updated annually. AMI values for other sized families are determined mathematically using this number as a basis. Four-person family income limits that define eligibility for Affordable Housing are then defined in several categories as shown below.

Category	Percent of AMI	Maximum Annual Income
Acutely Low Income	15%	\$15,500
Extremely Low Income	30%	\$34,900
Very Low Income	50%	\$58,150
AMI*	60%	\$69,780
Low Income **	80%	\$93,050
Median Income	100%	\$103,300
Moderate Income	120%	\$123,950

Table 1. Income Limits to Qualify for Affordable Housing

Source: CDC

*60% of AMI is used as a data point for other programs using the local region’s “Housing Affordability Index” (HAI)

**HUD defines Low income as 50-80% of AMI and Very Low Income as 30-50% of AMI to qualify for Section 8 housing vouchers.

Annual costs for Affordable Housing are then determined as a maximum of 30% of gross income. As an example, a family of four with a gross income of \$45,000 would be classified as Very Low-Income. Their maximum housing costs would be 30% of \$45,000 or \$13,500 per year / \$1,125 per month. Utilities are included within the 30% limit, as are property taxes and insurance for owner-occupied housing. The calculations above are only relevant if an Affordable Housing unit is available. Housing officials, builders, and advocates have all told this Grand Jury that Affordable Housing units are in very short supply with long wait lists.

The Association of Bay Area Governments (ABAG)

The [Association of Bay Area Governments](#) (ABAG) periodically evaluates the housing situation in the region, including Sonoma County, and makes recommendations for specific housing goals. The County is currently involved in planning its [6th Cycle Housing Element](#), a part of the County’s general plan. The housing element includes:

- A housing needs assessment.
- Evaluation of past performance—in this case 5th cycle success or failure.
- An inventory of potential housing sites.
- Community outreach.
- Analysis of constraints and barriers to housing development.
- Establishment of policies and programs to meet the goals.

The 6th Cycle Housing Element covers the period of 2023 to 2031. [Regional Housing Needs Allocation](#) (RHNA) from ABAG demands a large increase in all areas of the County, including significant numbers of new Affordable Housing units. For example, unincorporated Sonoma County is mandated to create 3,881 new housing units—apartments or single-family homes—during this period, and 1,632 of these should be Affordable in the low and very-low income categories. This is a sharp increase over the total of 515 units allocated to unincorporated Sonoma County in the 5th cycle. The nine cities of the County also have specific 6th cycle allocations as shown in Table 2.

Jurisdiction	VERY LOW INCOME (<50% of Area Median Income)	LOW INCOME (50-80% of Area Median Income)	MODERATE INCOME (80-120% of Area Median Income)	ABOVE MODERATE INCOME (>120% of Area Median Income)	TOTAL
SONOMA COUNTY					
Cloverdale	74	43	45	116	278
Cotati	60	34	39	101	234
Healdsburg	190	109	49	128	476
Petaluma	499	288	313	810	1,910
Rohnert Park	399	230	265	686	1,580
Santa Rosa	1,218	701	771	1,995	4,685
Sebastopol	55	31	35	92	213
Sonoma	83	48	50	130	311
Unincorporated Sonoma	1,036	596	627	1,622	3,881
Windsor	385	222	108	279	994
TOTAL	3,999	2,302	2,302	5,959	14,562

Table 2: The Final RHNA Allocation

Source: [ABAG Regional Housing Needs Allocation \(RHNA\) Plan 2023-2031](#)

RHNA allocations in the past have been strong recommendations and housing goals for Sonoma County and its nine cities. These recommendations and goals have not always been met. Recent legislative changes make the 6th cycle allocations more of a mandate, with the threat that if counties or cities do not fulfill their obligations, they can be fined and even lose authority to the State over their housing programs. The chart in Appendix A outlines this process.

In this report the Grand Jury examines the larger questions surrounding the need for additional housing in Sonoma County, and in particular its shortage of Affordable Housing. What is planned? What progress is being made? What are the incentives? What are the obstacles to meeting housing goals? This is a self-initiated investigation of a topic of wide concern and activity.

METHODOLOGY

For this investigation, the Grand Jury conducted 21 interviews including:

- Housing representatives from Sonoma County and its nine cities
- Individuals involved in planning, construction, and management of Affordable Housing
- Housing advocates and advisors

The Grand Jury also examined multiple websites and documents dealing with aspects of Affordable Housing policy, programs, and regulations. In addition, Grand Jury members attended public meetings on this topic.

DISCUSSION

California is infamous for its housing costs and shortages, and Sonoma County is no exception. Based on house sales data, The Press Democrat reported median resale house prices in January 2022 exceeded three quarters of a million dollars in the County; median prices in Healdsburg or along the coastline were twice as high. Houses that were too expensive a year ago are more expensive now. The State of California recognizes that we have a housing crisis, and in

particular a significant shortage of Affordable Housing. Sonoma County has become a place where people with ordinary incomes cannot afford to live.



Factors that Favor the Development of Affordable Housing

Governmental Policies and Commitment

The State of California has mandated the creation of new housing, including significant amounts of Affordable Housing. This mandate is quantified through the Association of Bay Area Governments (ABAG) determination of needs in the San Francisco Bay Area. ABAG allocates housing units through its Regional Housing Needs Assessment (RHNA) for the 6th Cycle Housing Element. Sonoma County and each of the nine Cities officially favor increasing the supply of housing, although not always with full acceptance of RHNA allocations. Results from the 5th Cycle Housing Element are also informative. Although the 5th cycle continues through the end of 2022, and all housing jurisdictions reported progress, though not all their goals, such as those for low-income and very low-income units, will be attained. Fifth cycle allocations were recommendations, and they were small compared to the 6th cycle requirements. The jurisdictions will need to increase their efforts to avoid the possibility of State sanctions or State assumption of local control over housing: *“Do It, or the State Will Do It For You”*

Changes in Law

The State of California has passed several new laws to encourage housing development in general, and Affordable Housing in particular.

- [SB 9 Housing Development: Approvals](#), which took effect January 1, 2022, allows construction of a second full unit on a lot that already has a single-family home or duplex. Because cities and counties maintain local control under SB9, and can impose limitations on lot size, etc., it is unclear how often it will be used. It allows larger structures than the existing [Accessory Dwelling Unit](#) (ADU) or ‘in-law’ unit, and can be available for rent. This law also allows for the modification to an existing dwelling unit to include rentable space as a Junior Additional Dwelling Unit (JADU). However, in most jurisdictions, there is no guarantee that the ADU or JADU will be affordable housing.
- [SB 10 Planning and Zoning: Housing Development: Density](#), which took effect January 1, 2022, eases the development of small housing complexes (10 or fewer units) as infill within cities or near transit hubs such as SMART stations or bus hubs. Infill can be described as building on unused and underutilized lands within existing development

patterns. The Governor’s Office of Planning and Research states that infill is critical to accommodating growth and redesigning our cities to be environmentally and socially sustainable. While maintaining local control, SB 10 allows pro-housing governments to re-zone appropriate land parcels with fewer potential roadblocks. It does not change the approval process for the building(s).

- [SB 35 Planning and Zoning: Affordable Housing: Streamlined Approval Process](#), has been in effect since 2018. It allows qualifying projects with at least 50% Affordable Housing units to move more quickly through the approval process. It also restricts the ability of local governments to reject qualifying projects, and in some cases removes requirements for [California Environmental Quality Act](#) (CEQA) review of the project.
- [SB 330 Housing Crisis Act of 2019](#), modifies planning and zoning law. It prohibits local jurisdictions from enacting new laws or raising administrative barriers that would reduce or delay housing construction. This law was set to expire in 2025, but [SB-8](#) (2021) extends parts of the legislation to 2030 and 2034.
- [AB 491 Housing: Affordable and Market Rate Units](#), enacted in 2021, requires that Affordable Housing apartments in multifamily developments be integrated within the complex and have the same access to common areas and amenities. [AB 1043](#) (2021) adds “Acutely Low Income”, defined as below 15% of AMI, as a category of lower income households that can be targeted for Affordable Housing.

Local housing ordinances have also been passed or modified to increase the percentage of Affordable units in a project and to lengthen the time period that the units must be rented as Affordable Housing. Many earlier projects had 30-year timespans for required affordability while current restrictions usually range from 50 to 99 years.

Paths to Affordable Housing

The two major paths to the creation of Affordable Housing are:

- *100% Affordable Housing complexes*: In this type of project, every apartment or house is intended to be available under the umbrella of Affordable within one or more of the categories of Table 1. These developments are most often apartment complexes, built and managed by not-for-profit organizations such as Burbank Housing and Mid Pen Housing. These organizations are mission-oriented; they exist to provide Affordable Housing.

Projects are often opportunistic in that they depend heavily on the availability of land, often publicly owned. In addition, funding may be directed toward a specific need such as senior housing. Commercial builders may also construct 100% affordable projects.

- *Inclusionary Housing*: Sonoma County and its cities have adopted ordinances that mandate that a percentage of apartments or houses in a development must be Affordable. The mandate usually applies only when a development includes at least some specific number of units, typically 5 to 10. The percentage of Affordable units varies with the jurisdiction, usually 10-20%, often divided between low-income and very low-income. The inclusionary units must remain Affordable for a defined time period, typically 50 years or more. Inclusionary housing ordinances guarantee that the supply of Affordable Housing will grow in conjunction with market-rate housing. They also foster integration

of Affordable units within market-rate developments, leading to greater economic diversity.

Less common routes include:

- *Rehabilitation and Repurposing*: A variation on the theme of new building is rehabilitation and re-direction of an existing complex. For example, an apartment building could be purchased, then updated or rehabilitated, and re-occupied as Affordable Housing. Likewise, a motel can be remodeled and repurposed as transitional housing.
- *Housing Land Trusts*: A less common avenue to Affordable Home ownership is exemplified by a Housing Land Trust. The Housing Land Trust maintains ownership of the land on which a house is built; the house is sold in accordance with Affordable Housing income limits.
- *Accessory Dwelling Units*: ADUs are additional housing units that are legally added to a residential property. Sometimes referred to as in-law units, they can be attached to or separated from the existing residence. ADUs may be new construction or converted from existing space. A Junior ADU (JADU) is a smaller version of an ADU. It is an independent, legally rentable unit that must exist within the existing dwelling unit or an attached accessory structure such as a garage. They can contain a very simple kitchen with small appliances and share a bathroom with the original dwelling. Consequently, development costs for JADUs are lower. Both ADUs and JADUs can be rented.



Who Builds Affordable Housing?

Non-Profit/Mission-Oriented Builders

Mission-oriented non-profit organizations such as Burbank Housing and MidPen Housing construct and manage developments in which every unit is Affordable. These organizations exist for the sole purpose of providing high-quality housing for those who cannot afford to rent or buy market-rate accommodations. They are widely respected and supported within Sonoma County.

Builders of Inclusionary Housing

Most housing developments within Sonoma County are required to include some percentage of Affordable units. They fall under inclusionary housing ordinances, which are in effect in Sonoma County and all of its nine Cities. Requirements vary, but most include provisions for both low-income and very low-income units. The ordinances typically specify that inclusionary units must be comparable to the market-rate units with respect to appearance, appliances, access to amenities, etc. Units cannot be concentrated in one building or area, but should be integrated throughout the development. The intent is to make the inclusionary houses or apartments difficult to identify as Affordable Housing and thus to avoid stigmatization.

A developer may decide that the mandated number of inclusionary units is inappropriate for the project. Most ordinances have provisions that allow payment of an in-lieu fee to either reduce or eliminate the inclusionary requirement. If ‘feeing out’ is approved by the jurisdiction, the fees

go into a housing fund to support construction of Affordable Housing. Unfortunately, these fees rarely provide enough funding to actually build an affordable unit.

While a few jurisdictions support feeing out as a way of providing more flexibility to support future Affordable projects, other governing bodies oppose or have eliminated the payment of in-lieu fees as counter to the desire for more Affordable Housing.

Housing Land Trust of Sonoma County

The [Housing Land Trust of Sonoma County](#) (HLT) is a non-profit organization supporting low- or moderate income housing. In the housing land trust model, the land on which a house (or possibly a condominium) is built, is owned by the HLT while the house itself belongs to the purchaser. The family income of the buyer, usually with zero down payment, determines the purchase price of the house. The owner is then responsible for the mortgage and taxes plus a small monthly lease payment on the land. The house deed is restricted; any resale must be in the category (low or moderate income) of the original purchase. Thus the house remains Affordable through the period of the land lease, usually 99 years. HLT houses can be inclusionary units in a development or one-off opportunities. The land title can be deeded to the HLT by the developer, donated by an owner or government agency, or purchased by the HLT.

Manufactured and Factory Built Housing

Both manufactured and factory-built housing have cost advantages over conventional construction methods and thus can increase the supply of Affordable Housing.

- Manufactured housing generally refers to homes that are built totally in a construction facility and transported intact to a site such as a mobile home park. The cost of manufactured homes is typically less than that of custom-built homes. They are also more limited in size and design. Often the land on which a home sits is not owned by the homeowner, and rent must be paid. Although construction standards have improved, manufactured homes may still carry the stigma of being flimsy and unlikely to increase in value.
- Factory built housing refers to housing that is often modular, constructed in a facility and transported and assembled on a building site. It can be considerably less expensive than traditional on-site building. Modules can be more easily adapted to meet local building codes, and its design can be much more flexible than manufactured housing. However, many of the cost advantages of factory-built housing can be negated by long transportation distances and associated costs.

Rehabilitation of Existing Housing

Older apartment buildings may have included Affordable units that had shorter term restrictions (e.g. 30 years) before reverting to market rate. Other apartment buildings, motels, or homes may simply become available for purchase. If funds are available, developers or jurisdictions can purchase such properties, modernize or rehabilitate them, and repurpose the units as Affordable Housing.

[Project Homekey](#), a successor to Project Roomkey, is a statewide effort to combat homelessness. Administered by the [California Department of Housing and Community Development](#), it makes grants to local housing entities to enable them to develop interim or permanent housing for unhoused people. Rehabilitation through Project Homekey has been used to purchase and re-

purpose the Azura Hotel in Santa Rosa and the Sebastopol Inn in Sebastopol. They were then repurposed and converted into accommodations and support services for homeless individuals who were highly susceptible to COVID-19 infection. Both properties will eventually be converted to permanent Affordable Housing for households earning no more than 30% of AMI.

Targeted Housing

Affordable Housing is sometimes targeted to specific groups. Often the availability of directed funding provides an opportunity to generate Affordable Housing for defined populations. Senior Citizen housing complexes are the most common. Based on available funding from the [U. S. Department of Agriculture](#), a recently approved project in Cloverdale specifies housing for agricultural workers. Veterans, individuals with disabilities or special needs or other groups may qualify for specific projects.

Incentives to Build Affordable Housing; Loans, Grants, Tax Credits

The cost of building an Affordable house or apartment is not inherently different from the cost of building a market-rate property, but the potential income from the Affordable unit is significantly less. Incentives are used to help projects be economically viable. A summary of these programs is provided below. A more detailed listing of programs is presented in Appendix A.

Federal Programs

- [Low Income Housing Tax Credits](#) (LIHTC): This program is the most important Affordable Housing support mechanism, worth \$8 billion per year. The credits are issued to the states by the Federal Government. State housing agencies award the credits to developers of Affordable Housing. Developers can then sell the credits to investors to obtain funding for a project.
- [Community Development Block Grants](#) (CDBG): This HUD program allocates funds on a formula basis to states, counties and cities for projects that improve the quality of living for residents whose incomes are less than 80 percent of the AMI. Examples include housing acquisition, rehabilitation, and provision of homeless shelters.
- [HOME Investments Partnership Program](#): This program provides block grants to states and localities that are often used in partnership with local nonprofit groups to build, buy, or rehabilitate Affordable Housing.
- Federal Loan Guarantees: HUD has several programs that provide federal backup for long-term low interest fixed rate fully amortized loans. These loans usually range from \$2 million to \$100 million, with no upper limit. Affordable Housing properties have additional concessions and can be combined with the (LIHTC) program.

State Programs

- [Affordable Housing and Sustainable Communities](#): This program invests cap-and-trade money in Affordable Housing infill projects close to transportation services and infrastructure. In 2022, this program provides \$130 million from the Greenhouse Gas Reduction Fund.
- [Building Homes and Jobs Act \(SB 2\)](#): This Act created a trust fund for Affordable Housing through a \$75 recording fee, charged every time real estate documents are recorded.

- Multifamily Housing Program (SB 3): The [Veterans and Affordable Housing Bond Act of 2018](#) provides \$1.5 billion in bonds for this program which provides deferred payment loans for projects related to permanent and transitional rental Affordable Housing.
- [No Place Like Home](#): A 2016 Bond issue provides money in the form of noncompetitive funding and competitive grants for housing the unhoused and people living with mental illness. The actual funding started in 2019.
- [California Housing Finance Agency \(CalHFA\) Loans](#): CalHFA offers low, fixed-rate mortgage products, as well as down payment and closing cost assistance to provide Affordable Housing opportunities for developers and low to moderate income first-time home buyers.
- [Infill Infrastructure Grant Program](#). These grants provide gap funding for infrastructure improvements on qualifying infill housing projects.

Sonoma County and Local Funding programs

- [Sonoma County Fund for Housing](#) (CFH): CHF was established in 2003 to provide financial assistance for the development and preservation of low, very low, and extremely low income Affordable Housing. CFH provides loans and grants from various sources such as developer in-lieu fees, transient occupancy taxes and CFH loan processing fees.
- Cities: Some cities utilize the fees that developers pay to fund Affordable Housing projects. Impact fees assessed on new residential developments, in-lieu fees, and linkage fees assessed on new commercial developments provide the funds.

Concessions

A variety of modifications to requirements for new construction are intended to increase the supply of Affordable Housing. Some of the most common are:

- Density bonuses: Zoning ordinances usually define the maximum allowable residential density on a site. Inclusion of greater than required numbers of Affordable units can allow up to 50% higher density in a project, resulting in increased potential revenue.
- Fee reduction or waiver: Some jurisdictions may waive or reduce mitigation fees for Affordable Housing. This is common for ADU and JADU construction; for example, Petaluma waives fees on ADUs of less than 750 square feet. Fee waivers are also sometimes possible for other Affordable Housing construction projects. Santa Rosa has a fee reduction program for high density multi-unit Affordable Housing in the downtown area. Fresno allows deferral of all mitigation fees until an Affordable Housing unit is occupied, and recently expanded a fee waiver program for infill and transit-oriented units.
- Development incentives: A variety of concessions or incentives support construction of Affordable Housing. For example, in return for increased inclusionary units, the Shiloh Terrace project in Windsor proposed a reduction in the number of parking spaces, changes in height restrictions and a reduction in open space requirements.



- California Environmental Quality Act (CEQA) waivers: CEQA serves to inform the public on environmental effects of proposed discretionary projects through environmental impact reports. Under some circumstances, CEQA requirements can be waived to speed up the process.
- There can be flexibility in other site-specific factors such as public transportation access, numbers of trees, covered parking spaces, walkability of the area, playground space, etc.



Public Education

Public opposition to housing growth is common, and informational programs and processes can help modify public opinion. Sonoma County and its cities all provide information on their websites that is intended to increase public awareness of local policies. Planning documents such as [Sonoma County Five-Year Strategic Plan 2021-2025](#) outline housing policies and goals, including Affordable Housing. Generation Housing, a Sonoma County advocacy group, provides educational materials such as [State of Housing in Sonoma County, January 2022](#), and a housing project tracking tool that provides identification and status information on Affordable Housing projects in the County. There is even a public support movement, Yes In My Back Yard ([YIMBY](#)), that argues for increased housing density in cities.

Factors that Inhibit Development of Affordable Housing

Although there is Federal, State and local support for the concept of Affordable Housing and there are many programs to support it, there are also barriers that keep its supply well below its demand. Some of these barriers are common to all housing construction, and some are more specific to Affordable Housing.

Public Acceptance of Affordable Housing - NIMBY: Not in My Backyard

The need for more housing, including Affordable Housing, is officially recognized by the State of California, Sonoma County, and its nine cities. These housing needs are widely understood but not universally endorsed by the public and some cities, especially with respect to Affordable Housing. Often an opinion, stated as “*Affordable Housing in some other city or county*” is more popular than “*Affordable Housing in my town*”, which is perhaps better than “*Affordable Housing in my neighborhood*” and much more acceptable than “*Affordable Housing next door to*

affects. Factors that contribute to [Not In My Backyard](#) (NIMBY)ism with respect to Affordable Housing include:

- Fear of any new development that will change the character of the County, city, or neighborhood. Many residents of Sonoma County are simply happy with the way things are. Many came here to escape more crowded environments. They see no need for population growth, more houses, new apartment complexes, high-rise buildings, busier roads, or losing their view, etc.
- Fear and misunderstanding of Affordable Housing residents: Affordable Housing is often seen as solely aimed at groups who will, in accord with negative stereotypes, alter or degrade the neighborhood. It should be noted that ordinances demand that Affordable Housing developments and houses be compatible with their neighborhoods and not stand out as different or of inferior construction. Inclusionary apartments should also be interspersed with the market-rate apartments in a multi-unit building.
- Environmental concerns: In 2006 Sonoma County voters strongly supported the reauthorization of a 1990 sales tax increment to fund the Sonoma County Agricultural Preservation and Open Space District. The rural and agricultural nature of the County is seen by some as incompatible with growth. Support for CEQA is generally high. Water shortages due to continuing drought, air quality degradation from more traffic, and loss of wildlife habitat are cited as concerns. Many environmentalists favor new housing, especially infill, because denser, city-centered developments, and modern construction methods can be more effective in reducing water and energy usage.
- Infrastructure and resource concerns: New housing means more traffic and congestion, more streets and roads, more schools, stores and offices, more sewage and trash, yet all within the limitations of water, land, transportation, and the costs to the community of expansion. Residents fear that they will be paying the costs of newcomers, even though general housing expansion and Affordable Housing development are aimed at current Sonoma County residents who cannot find or afford a decent place to live.
- Property value concerns: There is a common fear that the presence of Affordable Housing will lower the value of existing properties nearby. [Don't Put it Here!](#), a study from the New York University Furman Center, found that Affordable Housing had neither a positive nor a negative effect on nearby property values. A review of several studies by the Urban Studies Program at San Francisco State University found no effect on nearby property values in 13 of 14 investigations.
- Natural disaster preparedness: Sonoma County has experienced major disasters in the last few years and needs to be prepared for the next challenge: fire, flood, or earthquake. Many areas in the County have only one or two potential escape or access routes. In an emergency, roads could quickly become impassable, overcrowded, or clogged with traffic. More housing raises fears of reduced safety. This concern needs attention from emergency management entities regardless of additional housing; it is not solely a concern for new housing.
- Racial and ethnic concerns: Few people openly admit to racial or ethnic prejudice. Nevertheless, racial and ethnic stereotypes, although often unspoken, remain. There is concern that *those people* will not ‘fit into the neighborhood’. A potential cultural

enrichment is seen as a threat. This is a problem that extends far beyond Sonoma County and needs to be understood and countered nationally and beyond.

Inconsistent and Complex Governmental Regulations and Commitment to Affordable Housing

Although all jurisdictions in Sonoma County support the addition of Affordable Housing, the levels of support, commitment, and accomplishment are not uniform.

- Inclusionary housing ordinances vary widely from city to city. The minimum number of units in an inclusionary development can be 5, 7, or 10 depending on city policy. In-lieu fees can be welcomed, tolerated or prohibited. The minimal number of inclusionary units ranges from 5% to 25%, with most jurisdictions requiring 15%. The mix of low, very low, and (sometimes) extremely low priced units is inconsistent between cities. Santa Rosa and Petaluma have different requirements that favor city center developments over those outside the inner core.
- Zoning ordinances in some cities favor single family home construction over multi-family housing. Affordable single family homes for purchase are often directed at moderate (up to 120% AMI) or median income levels, whereas Affordable rental apartments are more commonly directed at low income (less than 80% or less than 60% AMI) or very low income (less than 50% AMI) families.
- Lack of political will from County officials or city councils: Elected officials are expected to consider the opinions of their constituents, and sometimes there is strong opposition to a project. For example, a project in Cloverdale was approved by a split vote in early 2022, but only after two council votes and considerable discussion. The City of Sonoma created or expanded three historic districts early in 2022, greatly limiting the possibility of expanding housing in those areas. The [North Bay Bohemian](#) cites a recent ordinance in the City of Sonoma that requires that any property on which a second housing unit is proposed must have at least three mature trees and ten shrubs. These requirements would limit SB 9 implementation. In addition, a [proposed multi-unit development in Sebastopol](#) has been on-hold since 2019 due to public concerns, but may be able to move forward based on SB 35 implementation.
- Commercial development may be considered more favorably than housing, including Affordable Housing. Interviews with housing officials indicated that new housing had a negative impact on their budgets. Despite mitigation fees and taxes, services for new residents usually cost more than the income they bring to the jurisdiction. In contrast, a large commercial development such as a car dealership or a big box store brings in added sales taxes while not requiring social services, new schools, parks, etc. Similarly, a hotel generates occupancy taxes for a city.
- City Boundaries and Their Spheres of Influence: Each City has a well-defined boundary within which it has jurisdiction. The [Sonoma Local Agency Formation Commission](#), which regulates city and special district boundaries, delineates Spheres of Influence: areas adjacent to the cities and potentially appropriate for annexation and siting of Affordable Housing. Cloverdale has utilized this, resulting in City Council approval of the design and development plan for the Bumgardner Ranch Project in September 2020. Other jurisdictions have hesitated to annex adjacent property. Most cited the costs of bringing infrastructure (water, sewers, roads, parks and other amenities) to the added territory in order to develop it into housing.

- In November 2018, Santa Rosa voters defeated an Affordable Housing bond measure (Measure N), and Sonoma County refused to put a similar measure on the ballot. Additionally, some housing advocates we interviewed don't think Affordable Housing measures would pass today because of low levels of public acceptance.

Land and Construction Costs

Any factor that increases building costs has a disproportionate effect on Affordable Housing, since higher costs cannot be offset with higher rents or house prices. Land values in Sonoma County are high and rising. In their 2022 report *State of Housing in Sonoma County*, Generation Housing (Gen H, a non-profit advocacy group), indicates that the average cost of a quarter acre home lot rose 117% between 2012 and 2018, from \$128,100 to \$278,600. The land accounted for 34.7% of the cost of building a house. Apartment developments require less land per unit than individual houses. Nevertheless builders report that land costs usually represent about 20% of the cost of such projects.



Skilled and unskilled building workers are in high demand and able to command good wages. It can be hard to find construction workers. Interviewees indicated that project labor agreements (or prevailing wage agreements) can add to labor costs by as much as 20-30%. Construction materials are also currently expensive and hard to get because of pandemic-induced supply problems. Lumber prices surged in 2021, and components that had been plentiful remain scarce. A [New York Times article](#) in February 2022 indicated it took 20 weeks to acquire a garage door, without which a house normally cannot get an occupancy permit. Other shortages of materials can delay projects for weeks.

Availability and Complexity of Financing

There are many government programs that help finance Affordable Housing, yet there is never enough money to fund everything. Funding programs are almost all highly competitive, and application processes are complex and slow. For example, HUD advises applicants for Section 221(d)(4) loan guarantees that the time to complete the process is 7 to 12 months; documentation requirements are extensive and carefully checked, and application fees are significant.

- 100% Affordable Housing projects can have larger hurdles to overcome. Extensive evaluation of the site, project details, local need, and especially the economic viability of the project need to be documented in detail. Financing is particularly complex. One person interviewed by the Grand Jury described a 100% Affordable Housing project that needed ten different sources of funding, and that a typical project uses seven. Multiple funding sources often have different affordability, documentation, monitoring, and timing requirements.

Complex Multistep Approval Processes

Even when a jurisdiction is strongly pro-housing, the pathway from concept to finished construction is complicated. For a typical inclusionary or 100% Affordable Housing project, steps include:

- Site identification and acquisition: A private builder may already own appropriately zoned land or be able arrange a loan and purchase through normal channels. A non-

profit organization might first need to arrange low cost loans or grant funding for the purchase, or it could also depend on a donated site with restrictions on how it could be developed. This step may take a few months to over a year.

- Preliminary design reviews: County or local design review boards concern themselves with multiple aspects of the project, including geology of the site, appropriateness of the project, housing density, size and appearance of the buildings, space use, landscaping and amenities, site access and parking, neighborhood impact, environmental considerations, access to utilities, and access to public transportation and services. Financing for the project may be arranged, or at least in process. Public opinion is sought, and hopefully an economically viable project is given preliminary approval. This step usually takes several months to more than a year, and occasionally a project can lie dormant for longer periods.
- Final design and approval involve public review, payment of a variety of mitigation fees, procurement of permits, and approval by city or county authorities. At this stage there may be modifications to plans to accommodate public or environmental concerns. Sometimes a builder might want to alter the number of Affordable units by the payment of in-lieu fees. Funding must be finalized. This step may also take several months or more to complete.
- Construction can now begin. Recent shortages of materials and labor have slowed this step. It is in the interest of the builder to complete the project quickly since money is being spent but no rents are being collected.

Builders interviewed by the Grand Jury indicated that the process from concept to occupied housing usually takes four years or more. 100% Affordable Housing projects can be slower because of the greater complexity of obtaining funding.

The planning stages, which include negotiations between builders and planning staff, can be lengthy and involved. Several individuals the Grand Jury spoke with were critical of the complexity and bureaucracy involved in the planning process. Builders felt that their concerns were sometimes not understood.

CEQA Exploitation and Misuse

The California Environmental Quality Act was passed in 1970 with the aim of identifying and mitigating the environmental effects of public projects. As detailed in a recent article in [The Atlantic](#), the scope of CEQA has expanded to cover almost any private project that requires a level of governmental approval. CEQA lawsuits are relatively easy and inexpensive to bring, but they can demand lengthy and expensive environmental studies and significantly delay a project, add to its costs, and even cause its abandonment. Studies cited in the article indicate that multifamily housing is the most common target of CEQA lawsuits, and that up to 80% concern infill housing, projects that are often likely to be more environmentally friendly than e.g. industrial construction. California SB 35 attempts to limit arbitrary use of CEQA.

Mitigation Fees: What Keeps Them from Building Quickly or At All

Additional housing, including Affordable Housing, adds to the need for infrastructure and government services, such as fire and police. Mitigation fees, levied on both new construction and remodeling of housing, are designed to offset some or all of these costs. Fees vary widely in

Sonoma County, but all are a significant cost of development. As an example, the fee schedule for Sebastopol is shown below.

Purpose	Single Family House	Multiunit Apartment (per unit)
Park Land	\$7,276	\$4,958
Park Facilities	5,922	4,036
Traffic Impact	8,174	4624
General Government	3,017	2,056
Fire Facilities	1,000	681
Stormwater Facilities	5,502	2,830
Total	\$30,891	\$19,185

Every other jurisdiction has its own set of fees, and both the amounts and the nature of the charges are different in each jurisdiction. For example, in Cloverdale, the list of fees is different, but the average total shown on their website is about \$41,000 for a house and \$30,500 per apartment unit. In January 2022, the fee total for a single family house in Santa Rosa was \$51,862. In Windsor, traffic mitigation fees alone are \$11,475 and \$6,941. Developers complained to the Grand Jury about both the cost and the inconsistency of these fees.

In addition, school district mitigation fees are charged separately and also vary considerably. The Rincon Valley School District charges \$2.86 per square foot of newly constructed housing. The equivalent figure for Cotati/Rohnert Park is \$3.79 per sq. ft. while Cloverdale has a proposal for \$4.79 per sq. ft. Some jurisdictions set fees that are directed at a specific problem or situation. As an example, the continuing drought has led to the adoption of a [Water Demand Offset Policy](#) in the City of Santa Rosa. Funds from this fee would be used to implement projects or plans to offset the water needs of the development.

Building Permits, Review Processes, and Personnel

Virtually any construction or rehabilitation of housing requires building permits from the governing authority. Again, there is great variability in the nature and costs of required permits and in the time needed to secure them. Grand Jury interviews of builders and developers indicate that they accept that permitting oversight is needed to ensure quality and meet accepted standards (code), and that costs are involved in approval processes. Builders also wish that more self-certification or video-based remote certification was available. They accept that permit personnel are generally reasonable and professional in their actions. Nevertheless, the inconsistency from jurisdiction to jurisdiction in processes and procedures is seen as a hindrance to development. They further complain that the permitting process is often very slow, and permit departments often fail to meet their own goals for timeliness. Slowness was considered to be more of a problem than permit costs.

Nevertheless, the total cost of mitigation fees and permit fees is significant. Interviewees indicated that, depending on the nature and cost of a project, between 11% and as much as 20% of the total cost of construction can go to paying fees.

Complex multi-step review processes also add to costs by slowing the pace of a development and increasing the amount of paperwork involved in it. Cotati has attempted to ease this problem by

negotiation. Lack of sufficient personnel in planning departments was cited as a problem in several interviews. In Sonoma County, staffing of planning departments can range from one person to four or more. Understaffing complicates all aspects of development of additional housing. In contrast, Petaluma takes a novel approach by contracting with an outside consultant to manage their effective Affordable Housing programs.



Unoccupied Housing: Time Shares, Airbnb, Pacaso, etc.

Areas with high levels of tourism can experience large numbers of second or vacation homes that are unoccupied for much of the year or, in the case of Pacaso properties, occupied serially by non-residents. Time-share properties provide housing for short term visitors, as do vacation rentals such as VRBO and Airbnb. Properties of this sort are important to tourism, but they can also be a problem for tourist destinations; in Sonoma County this includes Healdsburg, the Russian River area, and the City of Sonoma. Every house or apartment that is removed from the housing supply, and made unavailable to residents, helps to increase the price of the remaining properties. At the same time corporate buyers purchase houses and leave them vacant while their values increase. This further contributes to the inflation of house prices and leads to the exclusion of local residents.

CONCLUSION

The State of California is committed to significantly increasing the supply of all housing, including Affordable Housing. In Sonoma County and its nine Cities this commitment is expressed through ABAG and the requirements of RHNA. The Grand Jury has confirmed that while there is strong official support for these goals, there is sometimes less commitment to their achievement. Many programs that support development of Affordable Housing are in place. Yet many barriers also exist and greatly inhibit housing development. The principal barriers identified in this report include:

- The sheer complexity of navigating the bureaucracy in all aspects of a project
- The high cost of land in Sonoma County
- The difficulty, complexity, and slow pace of financing a project
- The shortage and high cost of building materials and supplies
- The shortage of both skilled and unskilled labor as well as labor costs
- The complexity and costs of mitigation fees and building permits
- The inconsistency of costs, procedures, and regulations among the jurisdictions within the County
- Public opposition and misunderstanding of Affordable Housing and its recipients

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. Increased Affordable Housing has been mandated by the State of California and officially accepted by Sonoma County and its nine Cities.
- F2. Housing jurisdictions must show sufficient progress in meeting 6th cycle Regional Housing Needs Allocation mandates or they risk being fined or losing local authority over their housing programs.
- F3. Sonoma County and its nine Cities have officially recognized the need for Affordable Housing but not all have fully endorsed the Regional Housing Needs Allocation or met earlier goals.
- F4. Some cities hinder the development of Affordable Housing through designation of new historic districts, increased landscaping requirements, highly restrictive zoning, and exploitation of environmental concerns.
- F5. Public acceptance of the need for Affordable Housing is not universal; NIMBYism and misinformation can negatively impact the planning and development process.
- F6. In Sonoma County, costs and availability of land, building supplies, and labor impede development and construction of Affordable Housing.
- F7. There is great variability in the planning and approval processes and procedures for developing Affordable Housing in the County and its Cities, thus complicating and slowing development.
- F8. Financing of Affordable Housing projects is unusually complex, slow, and uncertain.
- F9. Funding of Affordable Housing is often directed to specific groups such as seniors, veterans, or agricultural workers.
- F10. Design review and project approval are often slow and very complex, and hinder the development of Affordable Housing.
- F11. The permitting regulations, processes, and fees differ by jurisdiction.
- F12. Mitigation fees vary by individual projects and jurisdictions, complicating the building of Affordable Housing.
- F13. The speed of issuing permits has improved in some jurisdictions, but greater efficiency would help meet the building needs of Sonoma County.
- F14. Payment of in-lieu fees to the housing jurisdiction results in fewer inclusionary Affordable Housing units and houses being built.
- F15. Development of commercial projects such as hotels and big box stores is often favored over housing due to lesser demand on public services and increased sales or occupancy tax revenue.
- F16. Recent legislation encourages construction of transit-oriented infill housing but has yet to show a large effect.
- F17. Changes to city boundaries by annexation of land within their Spheres of Influence could allow the development of more Affordable Housing but is resisted due to the high costs of additional infrastructure.

- F18. The time periods for which new Affordable Housing units cannot convert to market-rate prices have been lengthened to preserve the units as Affordable.
- F19. Rehabilitation and the repurposing of existing properties both preserve and increase the supply of Affordable Housing.
- F20. Inclusive Affordable Housing must be equivalent to market rate units and be dispersed throughout a project making it harder to identify and stigmatize them.
- F21. Manufactured and factory built home construction provide less expensive routes to Affordable Housing without necessarily reducing its quality.
- F22. Design modifications can help make Affordable Housing projects economically viable.
- F23. Contrary to commonly expressed fears, Affordable Housing does not usually affect local property values.
- F24. Vacation homes, time shares, Airbnb, Pacaso houses, and vacant houses reduce the number of units available to permanent residents and, by reducing supply, increase the cost of housing.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By December 31, 2022, Permit Sonoma and the nine Cities should begin to streamline their procedures, from preliminary review through the permitting process, related to the development of Affordable Housing. (F7, F10, F11, F13)
- R2. By December 31, 2022, Permit Sonoma and the nine Cities should meet to consider standardizing their procedures related to the development of Affordable Housing. (F7, F10, F11, F13)
- R3. By December 31, 2022, Permit Sonoma and the nine Cities should meet to discuss the coordination of fee reduction standards for Affordable Housing throughout the County. (F11, F12, F14)
- R4. By December 31, 2022, Permit Sonoma and the nine Cities should identify properties within their jurisdictions and Spheres of Influence that could support the construction of infill housing and accessory dwelling units. (F1, F2, F3, F4, F16, F17)
- R5. By December 31, 2022, Permit Sonoma and the nine Cities should identify properties within their jurisdictions and Spheres of Influence that are likely opportunities for rehabilitation or repurposing to increase the availability of Affordable Housing. (F16, F19, F22)
- R6. By June 1, 2023, Permit Sonoma and the nine Cities should develop permit ready accessory dwelling unit and junior accessory dwelling unit plans. (F1, F2, F3, F4, F5, F7, F10, F11, F13, F21, F22)
- R7. By December 31, 2022, Permit Sonoma and the nine Cities should discuss integration of preliminary design review committees with their planning commissions to help expedite the construction of Affordable Housing. (F1, F2, F3, F4, F5, F7, F10, F11, F13, F19, F20, F21, F22)
- R8. By December 31, 2022, Permit Sonoma and the nine Cities should review their permitting requirements to allow nontraditional options such as manufactured homes,

factory built homes, and tiny houses to increase housing supply. (F1, F2, F3, F4, F5, F10, F11, F13, F21, F22)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- Permit Sonoma (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Cloverdale (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Cotati (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Healdsburg (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Rohnert Park (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Santa Rosa (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Sebastopol (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Sonoma (R1, R2, R3, R4, R5, R6, R7, R8)
- City of Petaluma (R1, R2, R3, R4, R5, R6, R7, R8)
- Town of Windsor (R1, R2, R3, R4, R5, R6, R7, R8)

The governing bodies indicated above should be aware that their comments and responses must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

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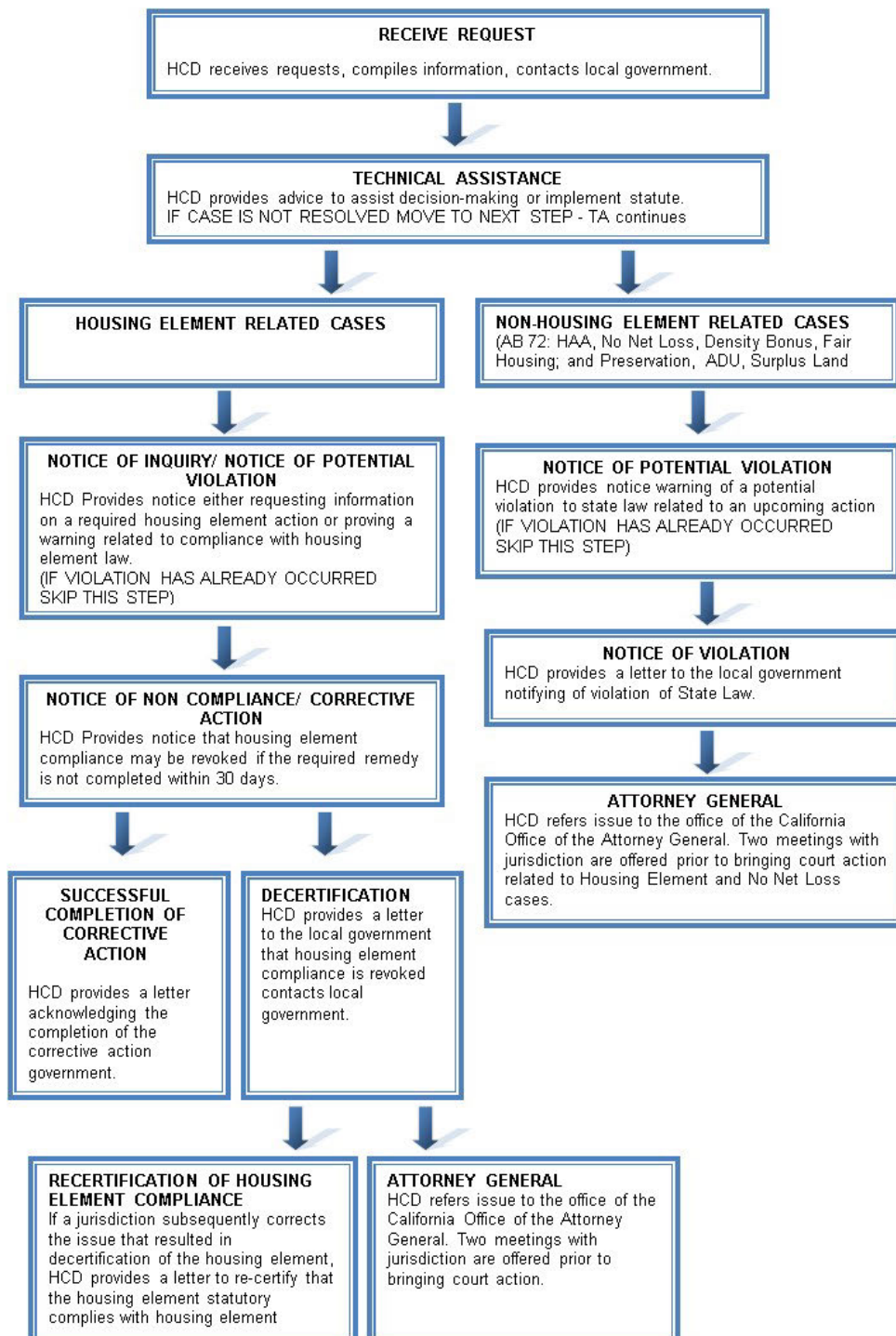
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APPENDIX A

California Housing Law Enforcement



Source: California Department of Housing and Community Development

APPENDIX B

Funding Sources for Affordable Housing

There are many sources of funding for Affordable Housing, but there is no consistency in its availability from year to year. Sometimes a city may save its cash resources for a few – or several – years and then spend them all in one year; other times a city may qualify for some particular funding one time but may not qualify another time. Currently, the most popular source is Affordable Housing Tax Credits.

<https://generationhousing.org/wp-content/uploads/2020/01/200121-Gen-H-Housing-Funding-Overview.pdf>

Federal Programs

- **Low-Income Housing Tax Credits (LIHTC):** The Low-Income Housing Tax Credit (LIHTC) subsidizes the acquisition, construction, and rehabilitation of affordable rental housing for low and moderate income tenants. The LIHTC was enacted as part of the 1986 Tax Reform Act and has been modified numerous times. The Federal Government issues the tax credits to the states. State housing agencies then award the credits to private developers of affordable rental housing projects through a competitive process. Developers generally sell the credits to private investors to obtain funding. Once the housing project is placed in service (essentially, made available to tenants), investors can claim the LIHTC over a 10-year period. (Burbank Housing follows this model) but the property must be maintained as affordable housing for a minimum of 30 years.
- **9% Tax Credit** subsidizes 70% of the eligible costs and is available for projects such as new construction or substantial rehabilitation that do not use tax-exempt bonds. Priority is given to developments that are close to public amenities such as transit, schools or parks.
- **4% Tax Credit** subsidizes 30% of eligible costs and is available for projects that do use tax-exempt bonds.
- **Community Development Block Grants (CDBG):** Funds are used for projects that improve the quality of living for lower-income residents whose incomes are less than 80 percent of the area median income as established by the Department of Housing and Urban Development. The project must meet certain criteria, including being beneficial to low and moderate income people. This could include housing rehabilitation and homeless shelters. Santa Rosa and Petaluma receive their funds directly while Sonoma County manages the funds for the smaller cities.
- **HOME Investments Partnership Program (HOME):** HOME provides block grants to states and localities that communities use - often in partnership with local nonprofit groups. At least 15 percent of HOME funds must be set aside for specific activities to be undertaken by a special type of nonprofit called a Community Housing Development Organization (CHDO). A CHDO is a private nonprofit, community-based organization that has staff with the capacity to develop affordable housing for the community it serves.

State Programs

Affordable Housing and Sustainable Communities (AHSC): This program invests cap-and-trade money in projects that connect Affordable Housing with low-emission transportation services and infrastructure. Funds are from the Greenhouse Gas Reduction Fund (GGRF). It provides grants and loans for Affordable Housing, infill and compact transit-oriented development, and infrastructure connecting these projects to transit. In 2022, the state’s budget allocated \$130 million from cap and trade auction revenues.

- **SB2 Building Homes and Jobs Act:** Effective January 1, 2018, this Act created a trust fund for Affordable Housing through a \$75 fee charged every time real estate documents are recorded. This money funds a variety of housing activities, depending on the needs of the community. These include farm worker housing and mixed-income multifamily housing developments which provide Affordable Housing for Californians with lower and moderate incomes.
- **SB3 and Multifamily Housing Program (MHP):** In 2018 the Veterans and Affordable Housing Bond Act, which funds \$1.5 billion in bonds for this program, was passed. The program provides deferred payment loans for projects related to permanent and transitional rental housing.
- **No Place Like Home:** A 2016 Bond issue provides money in the form of noncompetitive funding and competitive grants for the unhoused and mentally ill. The actual funding started in 2019.

Loans

- **California Housing Finance Agency (CalHFA):** The California Housing Finance Agency (CalHFA) offers low, fixed-rate mortgage products, as well as down payment and closing cost assistance to provide Affordable Housing opportunities for low- to moderate-income first-time home buyers.
- **Federal Loan Guarantees:** HUD has several programs that provide federal backup for long-term low interest fixed rate fully amortized loans. Section 221(d)(4) insures loans with up to 40 year duration for construction or rehabilitation of multifamily housing. These loans usually range from \$2 million to \$100 million, with no upper limit. The application process is slow and complex, and HUD advises use of an experienced intermediary. HUD 223(f) loans are made for purchase or refinancing of existing multifamily properties. Affordable Housing properties have additional concessions and can be combined the Low Income Housing Tax Credit (LIHTC) program.

Sonoma County and Local Funding

- **Sonoma County Fund for Housing (CFH):** The County Fund for Housing was established in 2003 to provide financial assistance for the development and preservation of Affordable Housing located in Sonoma County. The purpose is to accelerate the pace of development of Affordable Housing for low, very low, and extremely low-income households. CFH provides loans and grants to qualified developers, public entities, groups and individuals to build Affordable Housing. Various sources such as developer in-lieu fees, transient occupancy taxes and CFH loan processing fees provide the funding. [County Fund for Housing \(CFH\) \(ca.gov\)](https://www.ca.gov)

Cities

- Some cities utilize the impact and in-lieu fees that developers pay to fund Affordable Housing projects. Impact fees are assessed on new residential developments and in-lieu fees are charged when developers pay a fee instead of providing inclusionary housing.
- Linkage fees are assessed on new commercial developments: They are impact fees levied to fund the development of Affordable Housing. They are collected by Sonoma County and cities such as Cotati, Petaluma, Rohnert Park, and Sebastopol.

Affordable Housing: Monitoring and Compliance

Who is Watching the Henhouse?

SUMMARY

In response to citizens' complaints and reports published in The Press Democrat, the 2021-2022 Sonoma County Civil Grand Jury (Grand Jury) investigated the monitoring of Affordable Housing within Sonoma County. Affordable Housing, as defined by the U.S. Department of Housing and Urban Development, is housing priced on the basis of family income, not the market rate. Monitoring involves verification of tenant incomes and continued eligibility for an Affordable unit, the owner's or manager's collection of required information, and the ongoing maintenance of the property and its amenities. Housing departments for the County and its nine Cities are required to monitor compliance with the regulations for occupancy of Affordable Housing.

All housing is in short supply; this includes Affordable Housing, which should be available only to those who qualify. This report examines the monitoring of existing Affordable Housing. A companion report, "*Affordable Housing: Past, Present, and Future*," examines the potential for increasing its availability.

The Grand Jury investigated procedures used in the County and its nine cities and found that monitoring was inconsistent among the housing jurisdictions. All of the agencies were overly reliant on self-reported information from owners and managers. Direct observation and verification through on-site monitoring were rare and essentially ceased during the COVID-19 shutdowns. A low priority was often given to monitoring, and the staffing to do it was usually insufficient. The Grand Jury concluded that there was little probability that illegal behaviors, if they existed, would be detected using current procedures.

Recommendations from the Grand Jury include increased on-site personal monitoring at housing locations, more standardization of procedures, consistent and on-going training with developers and property managers, and better coordination and cooperation amongst agencies to increase efficiency.

GLOSSARY

- ABAG Association of Bay Area Governments
- AMI Area Median Income
- CDC Sonoma County Community Development Commission
- HAP Housing Assistance Payments
- HUD U.S. Department of Housing and Urban Development
- RHNA Regional Housing Needs Allocation
- SCHA Sonoma County Housing Authority
- Section 8 Section 8 Housing Choice Vouchers

BACKGROUND

Housing in Sonoma County is widely acknowledged to be in short supply and very expensive. A chart¹ in The Press Democrat for March 13, 2022 showed the median price of a home in January 2022 to be \$789,000, up from \$715,000 just a year earlier. As reported by the [North Bay Business Journal](#), Sonoma County median rent for a one or two-bedroom unit is \$2,167, and residents are increasingly unable to afford a suitable place to live.

Common complaints include:

- My adult kids can't afford to live here and will have to move somewhere else.
- My rent is so high I can't afford to pay my other bills.
- I couldn't afford my house if I had to buy it today.
- Sonoma County needs to have more affordable places to live.”

The term “affordable housing” can have different meanings:

“AH” = In this report and more generally in the housing industry, we use capital letters to identify Affordable Housing as apartments or houses that are potentially available to rent or are deeded as Affordable for those who earn a specified percentage of the median income.

“ah” = Lower case letters are used to differentiate between the two meanings of affordable housing; “ah” is a more general term. An apartment that rents for \$3,500/month might be affordable to an executive but may not be affordable to a junior employee, a retiree, or a person with disabilities.

The Federal Government, State, County, Cities and private organizations have created programs that make home buying or apartment rental more attainable. Affordable Housing, as defined by the U.S. Department of Housing and Urban Development (HUD), means that families pay rent or purchase homes at prices determined by their incomes rather than by the housing market. These programs have strict and specific conditions that define eligibility. Income and family size are central, but other factors such as individuals with disabilities, senior status, or veterans may sometimes be a consideration. Since many more residents are qualified to receive Affordable Housing than housing is available, it is reasonable to ensure that the limited supply is occupied by those for whom it is intended. It is also logical to ensure that the housing is managed and maintained appropriately. Local County and city housing departments are charged with monitoring compliance with the conditions of the programs. A draft of the Sonoma County CDC [Affordable Rental Housing Monitoring Procedures](#), presented to the Sonoma County Board of Supervisors on December 7, 2021, outlines their recommendations. Each of the nine cities would benefit from also having clearly defined procedures if they do not already exist.

In 2021, The Press Democrat published award-winning reports on a situation in Sonoma County where individuals rented apartments for which they were not eligible. The Grand Jury also received citizen complaints about this specific situation. This case has been well documented by the press and investigated by County authorities and is still a subject for potential lawsuits.

For these reasons, the Grand Jury did not center its attention on this individual problem, but rather, asked more general questions. What are the requirements for access to Affordable Housing? What are the requirements for verifying and monitoring compliance with the

¹ Prices are from the sales of single-family homes recorded in Sonoma County.

regulations? How is the monitoring done? Is the monitoring sufficient to assure compliance? How common is fraud? How can monitoring be improved? This report attempts to answer these questions.

METHODOLOGY

This investigation was initiated in response to citizen complaints received by the 2021-2022 Sonoma County Civil Grand Jury.

The Grand Jury conducted interviews with key individuals in Sonoma County who are involved in the Affordable Housing arena. They included:

- County and City officials
- Non-profit agencies
- Affordable Housing agencies and advocates

The Grand Jury reviewed and evaluated documents from a wide range of sources addressing Affordable Housing, including many websites, from Sonoma County, the nine cities, State and Federal agencies. The most important of these are listed in the Bibliography.

DISCUSSION

What is Affordable Housing?

Affordable Housing is defined in multiple ways and categories. Still, all are based on the ability of a tenant or buyer to pay no more than a specific percentage of their income for housing. The rules and requirements are complex; Article 89 of the Sonoma County zoning code, [Affordable Housing Program Requirements and Incentives](#), is 215 pages long. Eligibility resides in four or more categories, with income levels compared to the area median income (AMI) in Sonoma County. The AMI is determined annually by the [U.S. Department of Housing and Urban Development](#) (HUD) using sampled census data for a four-person household. This number, which is currently \$103,300, is used to calculate similar numbers for smaller and larger households using formulas developed by HUD. Rent levels are then defined in relation to family size and income level.

As an example, the tables below show [income and rent limits](#) used by the [Sonoma County Community Development Commission](#) (CDC) for rental housing in several (but not all) programs under its control. Other programs may use different limits, but the basic principles are the same; housing cost for the tenant is based on income, not on the market price of a comparable apartment or house.

Persons in Household	Acutely Low Income (15% Area Median Income)	Extremely Low Income	Very Low Income 50% AMI	60% AMI*	Low Income 80% AMI**	Median Income 100% AMI	Moderate Income 120% AMI
1	\$10,850	\$24,450	\$40,750	\$48,900	\$65,150	\$72,300	\$86,750
2	12,400	27,950	46,550	55,860	74,450	82,650	99,150
3	13,950	31,450	52,350	62,820	83,750	92,950	111,550

4	15,500	34,900	58,150	69,780	93,050	103,300	123,950
5	16,750	37,700	62,850	75,420	100,500	111,550	133,850
6	18,000	40,500	67,500	81,000	107,950	119,850	143,800
7	19,200	43,300	72,150	86,580	115,400	128,100	153,700
8	20,450	46,100	76,800	92,160	122,850	136,350	163,600

Table 1: Maximum Income to Qualify for Affordable Housing in Sonoma County
Source: CDC website

As of January 1, 2022, the CDC uses the table above to determine eligibility for multiple categories of Affordable rental housing.

*60% of AMI is used as a data point for other programs using the local region’s “Housing Affordability Index” (HAI)

**HUD defines Low income as 50-80% of AMI and Very Low Income as 30-50% of AMI to qualify for Section 8 housing vouchers.

Unit Size (assumed # occupants)	Extremely Low Income Rent Limit (30% AMI)	Very Low Income Rent Limit (50% AMI)	Low Income Rent Limit (60% AMI)*
Studio (1)	\$611	\$1,019	\$1,223
1 Bedroom (2)	699	1,164	1,397
2 Bedroom (3)	786	1,309	1,571
3 Bedroom (4)	873	1,454	1,745
4 Bedroom (5)	943	1,571	1,886

Table 2: Maximum rent limits for Inclusionary Affordable Housing in Sonoma County
Source: CDC website

*Housing Affordability Index vs. HUD definitions/thresholds

The above table shows the maximum rent for an Affordable Housing unit as of January 1, 2022. These rent limits are calculated using the formula in California Health & Safety Code [50052.5](#) & [50053](#). The rents are based on the income limits for an assumed household size equal to the number of bedrooms in the unit plus one person. For example, the rent for a three-bedroom unit is based on the income limits for a four-person household. Unless otherwise specified, utility costs are included in the maximum rent as set by federal housing laws.

Affordable Housing can also be further directed to specific groups such as seniors, farm workers, individuals with disabilities, veterans, and in some cases, specific professions such as educators or health care workers.

Subsidies for Affordable Housing

Affordable Housing is most common in mid-size to larger developments and can be considered in two categories.

1. One hundred percent Affordable Housing developments: These projects are often constructed and managed by mission-driven non-profit organizations such as MidPen or Burbank Housing, but for-profit developers are also represented here. Building and amenity standards for developments are also expected to ensure comparability to market-rate housing.
2. Inclusionary Affordable Housing: To encourage construction of Affordable Housing, local ordinances may specify a percentage of Affordable units, usually 10-20%, which must be included in a project. Inclusionary housing is almost always built by 'for-profit' developers who will rent or sell these units at lower Affordable rates while the other units will be rented or sold at the market rate. Both apartment complexes and single-family home developments are subject to inclusionary housing ordinances. These ordinances take effect only when a development reaches a specific size set by the County or city, for example 10 units.

The limitations on income and allowable prices often bear little relationship to the real-world costs of building, managing, and maintaining a housing development. Materials and labor costs for a project are the same whether the end product is Affordable or the market determines prices. Affordable Housing projects typically have multiple funding sources, including Federal and State loans that have long-term fixed low interest rates and may allow deferment of repayment and eventual forgiveness. Funding can also come from Federal or State grants, and construction costs may be reduced by accelerating approvals and modifying some requirements such as the number of off-street parking spaces required.

Subsidies are available to supplement rent payments and thus allow some qualified residents to occupy either Affordable or market-rate housing. The best known of these are Section 8 Housing Choice Vouchers (Section 8) which are funded by HUD and issued through local housing authorities. In Sonoma County, Section 8 vouchers are issued through the CDC and by the City of Santa Rosa Housing Authority. A voucher holder can occupy any acceptable rental property where the landlord accepts the voucher and agrees to the program's requirements. The voucher is valid anywhere in the County or beyond, and the holder pays only an income-based portion of the rent; HUD pays the remainder directly to the landlord.

Unfortunately, the need for Affordable Housing greatly exceeds the available supply. Each Affordable Housing development has a waiting list that may include several years wait before a unit becomes available. Section 8 vouchers within Sonoma County also have a long waiting list. New applicants can only join the Section 8 waiting list through a lottery process. The last lottery was held in October 2021 and the next is not expected until about October 2023. Again, the wait is measured in years.

How Much Affordable Housing is There in Sonoma County?

The website of [Affordable Housing Online](#) suggests that there are 8,700 Affordable rental apartments in Sonoma County. The site delineates 2,510 income-based units for which direct subsidies (*e.g.* Section 8 vouchers) are available and 6,023 apartments which are subsidized indirectly (*e.g.* as inclusionary units).

The [CDC](#) website identifies individual Affordable Housing developments, community by community. It shows a smaller number of apartments (8,129), but it is not clear when it was last updated. Santa Rosa lists individual complexes within the City, showing 3,817 Affordable units, while the CDC website shows 4,076 units in Santa Rosa. Again, it is unclear how current these numbers are. New construction is ongoing, and all of the specific numbers for Affordable units will probably be out of date by the time this report is published.

The number of Affordable apartments may appear to be large, but very few, if any, are actually available and unoccupied at any given time, resulting in long wait lists. Moreover, given the approximately half-million population of Sonoma County, there is not a sufficient supply to meet the need for an Affordable place to live.

The [Association of Bay Area Governments](#) (ABAG) periodically evaluates the housing requirements of the greater area. It then prepares a [Regional Housing Needs Allocation](#) (RHNA) for each county and its cities. The allocation for Sonoma County for 2023-2031 calls for 14,562 new housing units to be added over the next several years. Of this total, 3,999 are designated as very-low-income housing and 2,302 as low-income housing units. In each category, roughly one-third is allocated to Santa Rosa, one-third to the eight other cities of the County, and one-third to unincorporated areas of Sonoma County. If fulfilled, RHNA allocations would increase the number of Affordable units by more than two-thirds. The demand for oversight of these new residences would increase accordingly.

Section 8 Housing Choice Vouchers Monitoring Requirements

Access to Affordable Housing is a precious commodity and it should only be available to those who qualify. It is the responsibility of the local housing authorities to ensure that this is the case. Monitoring of compliance with conditions and regulations is required on a regular basis for virtually all Affordable Housing programs. The diagram below illustrates the various obligations inherent in CDC oversight of Section 8 rental properties.

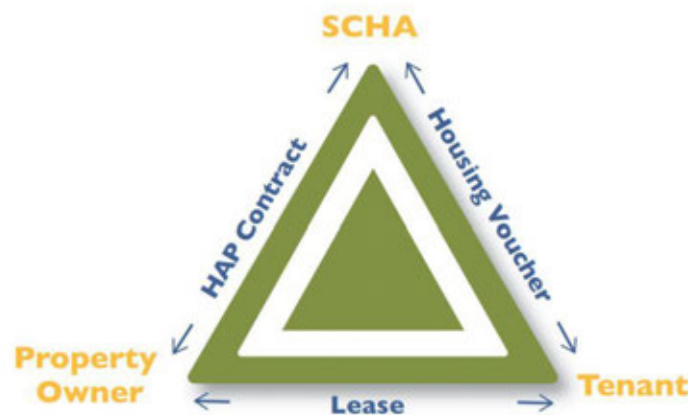


Figure 1. Participant Responsibilities in Section 8 Affordable Housing.
Source: Adapted from the CDC website.

Property owners must sign a rental agreement or lease with the Section 8 participant. The property owner agrees to provide decent, safe, and sanitary housing as confirmed by regular Housing Authority inspections. The primary benefit to the property owner for participating in the program is that the federal government guarantees a portion of the rent.

Property Owner Responsibilities Include:

- Perform all management and rental functions, including screening and selection of tenants.
- Maintain the units and property in accordance with Housing Quality Standards.
- Prepare information required under the Housing Assistance Payments (HAP) contract and furnish the information to the Housing Authority.

Sonoma County Housing Authority Responsibilities Include:

- Make rental assistance payments to the landlord in a timely manner.
- Regularly evaluate family eligibility including income and family size.
- Inspect units at least once every two years.
- Investigate potential fraud or program abuse by tenants or landlords.

Tenant Responsibilities Include:

- Supply information determined necessary by the Housing Authority or HUD to administer the program, including the completion of scheduled income reviews.
- Act responsibly as a tenant, paying rent and utilities on time and minimizing damage to the property.
- Notify the Housing Authority and the owner 30 (no more than 60) days before moving or terminating the lease.

Inclusionary Rental Housing Monitoring Requirements: How is it Done in the Real World?

Monitoring of inclusionary housing is clearly defined by County ordinance:

Rental Unit Monitoring: “The CDC shall monitor the rental of affordable units for compliance with the Affordable Housing Agreement and the provisions of this Article. On an annual basis, the owner shall pay to the CDC a fee for monitoring each unit subject to the Affordable Housing Agreement, which fee shall be established by resolution of the Board of Directors of CDC from time to time. (Ord. No. 6085, § IV (Exh. C), 10-7-2014)”

Other housing jurisdictions may have similar or less specific monitoring expectations, while some do not define their procedures at all (see Table 3 below). Thus, housing personnel must deal with different sets of expectations for multiple properties within their jurisdiction. There are two approaches to monitoring compliance with Affordable Housing requirements:

- *Self-Reporting:* The owner/manager/landlord of a rental property is required to reconfirm eligibility for at least a percentage or specific number of Affordable Housing tenants, often on a set schedule. This involves verification of income and other factors, such as occupancy numbers, depending on the program under which the unit is rented. This information is reported to the CDC or to the local housing jurisdiction for units not under CDC purview. The housing departments are then required to verify that the information supplied by the landlord is accurate and complete. There is currently no CDC requirement for on-going compliance training for owners, managers, or staff. Within the cities, training is also limited.
- *On-site monitoring:* It would be wasteful of staff and resources to replicate the activities of the landlord, but spot-checking of some number or percentage of units is feasible. A housing department monitor visits a site, interviews the manager or owner, examines

selected records, verifies their accuracy with the tenants, and inspects the property, including one or more units.

In practice, on-site monitoring is done by first making an appointment with an owner or manager and describing what needs to be seen or done on a visit. Surprise or unscheduled monitoring is rarely or never done because the required documentation may be incomplete or unavailable. It could also be intrusive to tenants, and the owner, manager, or tenant may simply be unavailable when the monitor arrives. Interviewees stated that on-site monitoring was rare even before the onset of the COVID-19 pandemic. It was eliminated during the COVID-19 restrictions, when non-essential contact was minimized to avoid spread of the virus. In most cases, on-site monitoring has not been reinstated. In practice, the County and Cities rely almost totally on self-reporting from developers and managers.

The costs of on-site monitoring and verification of self-reported data are the responsibility of the housing agency, and monitoring is often seen as an unfunded mandate. It is therefore not surprising that housing agencies in Sonoma County are motivated to accept the data supplied by owners and managers as accurate. Monitoring is also limited by staff availability, which has been exacerbated by the COVID-19 crisis. This has resulted in an inability to actually visit sites and interact with residents and managers. The lack of personnel was a significant concern to almost all of the housing representatives the Grand Jury interviewed. Again, this results in reliance on self-reporting by development owners and managers.

There are good reasons for owners and managers to monitor compliance accurately. Non-profit developers of Affordable Housing are mission-oriented. They are committed to providing Affordable Housing to those who qualify for it. Non-compliance is not only wrong, but also a threat to their continued access to low-cost financing and other concessions. For-profit complexes with inclusionary units also have good reasons to assure compliance. They too could lose access to low-cost financing, be subject to fines or lawsuits, and generate bad publicity and public distrust if they fail to comply with Affordable Housing agreements.

Incentives for owners and managers to minimize monitoring also exist for various reasons.

- Compliance verification takes time and effort and therefore involves costs.
- It can be intrusive to a tenant when the monitor needs to enter or inspect their apartment or house.
- Not everyone follows the prescribed guidelines; an unqualified friend, relative, or associate could be favored.
- Through mismanagement, Affordable units could be rented for more than the allowable amount.

Compliance monitoring is a significant burden to the housing departments which conduct it. The burden will increase significantly as RHNA requirements are met and the supply of Affordable Housing units is greatly increased. Unfortunately, the person-power, time, and resources allocated to monitoring already appear to be insufficient. The table below illustrates the size of the monitoring task and the resources currently available to do the work. Future RHNA Allocations represent the number of units which are expected or required to be added in each community between 2023 and 2031.

Housing Authority	Current Number Of Apartments	Future RHNA Allocation	Monitoring Personnel	On-Site Monitoring *
Cloverdale	221	117	None dedicated	No
Cotati	88	94	None dedicated	No
Healdsburg	352	299	None dedicated	Rare
Petaluma	1,206	787	One + one open position	Annual
Rohnert Park	564	629	None dedicated	No
Santa Rosa	4,076	1,919	One (80%)	Not since Covid
Sebastopol	327	86	One, occasional	No
Sonoma	389	131	One, part time	Some
Unincorporated So Co	109	1,632	One	Rare
Windsor	398	607	One, part time	No
Total	7,730	6,301		

Table 3. Monitoring Tasks and Resources
Source: Interviews with multiple housing personnel

*On-site monitoring should include file reviews, grounds inspections, and apartment/house inspections. This monitoring was suspended during the COVID restrictions.

Inclusionary Housing Ownership Monitoring Requirements

Single-family homes are a smaller segment of Affordable Housing and are governed by somewhat different rules and expectations. Potential homebuyers are evaluated and their incomes are verified. The price of the house is then set, based on the income of the family. Mortgage payments, utilities, taxes, etc. are factored into the amount paid. Continued income verification is not required, and incomes can increase beyond the Affordable level at which the house was purchased. However, if the house is resold, it must be sold as Affordable. The Grand Jury recommends that this information be attached to the title of the house and apparent to any title company involved in a resale. The requirement is central to the original contract; it allows the buildup of equity through mortgage payments, but ensures that the house remains Affordable for the next buyer. Housing departments should maintain an inventory of Affordable houses within their jurisdictions and verify that their titles are flagged for restricted sale, and not at market rate.

Is There Significant Fraud in the Management of Affordable Housing?

The Grand Jury investigation cannot provide a definitive answer to this question, nor can the housing departments that are charged with monitoring. No one the Grand Jury interviewed expressed fears of widespread misbehavior. Nevertheless, owners and managers have provided almost all of the information concerning compliance, with little or no opportunity for direct documentation by housing department monitors. Staff who were responsible for monitoring see this as a potential problem, and most expressed the desire to re-initiate on-site monitoring visits.

How Can Monitoring be Improved?

Housing personnel from the nine cities and the CDC meet regularly to discuss planning issues and the administration of their housing programs. Monitoring can be included in these

discussions, but the Grand Jury found there is, as yet, little coordination or cooperation in the actual monitoring process. Each city has its own personnel, procedures, and expectations, and none claim to give monitoring their highest priority. The quality of monitoring throughout the County could be improved if the various agencies agreed on a common set of goals, expectations, and procedures that set higher and more uniform standards. The CDC once provided leadership in this process and appears ready to do so again.

Petaluma and Rohnert Park make use of a customizable program from City Data Services that, among other things, helps streamline the monitoring process by moving it online. This, or a similar system, could help in tracking activities, managing documentation, and generally improving the quality of monitoring while simplifying it.

Essentially all of the housing representatives the Grand Jury interviewed felt that there is not enough staff within their departments to make anyone a full-time compliance monitor. It is easy to suggest hiring more people, but that is especially unlikely to happen in the smaller cities due to budget restrictions. The Grand Jury believes it could be advantageous for the County and cities to cooperate by jointly using (and paying proportionately) staff to monitor countywide. Alternatively, the agencies could jointly contract with a consulting firm to do the monitoring. This would benefit the smaller cities in particular, since they have small staff sizes and fewer monitoring obligations that are more likely to be overlooked.

If self-reporting is to remain the main source of compliance information, it is important that those who collect and report it are adequately trained to compile the data. The people who do the reporting need to know how and why monitoring is important and necessary. The CDC, in conjunction with the Cities, could create an informational document or policy and procedures manual to provide upfront and ongoing training in the monitoring process.

CONCLUSION

Monitoring of compliance with the rules and regulations of Affordable Housing programs is complex. Responsibility lies with individual housing departments in the County and its nine cities. Staffing in these agencies is often insufficient, and there is little coordination amongst these organizations. Monitoring in general and on-site monitoring in particular have long been low priority. Requirements have been largely met by accepting self-reported data from owners and managers of apartment and housing units. The COVID-19 pandemic and the restrictions imposed in response to it placed almost total reliance on self-reported information. Systems that are already overburdened do not appear to be prepared for the large increases in Affordable Housing that are planned for the near future.

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. Monitoring of compliance with Affordable Housing regulations has been inconsistent and often inadequate.
- F2. The use of self-reported data in monitoring is the accepted norm.
- F3. On-site (in-person) monitoring beyond that required by law is rare due to insufficient personnel, budgetary limitations, and relatively low incentives.
- F4. COVID-19 further reduced in-person on-site monitoring due to public health restrictions.

- F5. Surprise or unscheduled monitoring of individual units is not done, for reasons of privacy, availability, efficiency, and practicality.
- F6. Unscheduled monitoring of properties and management, in order to review tenant files, grounds, and the amenities is not done.
- F7. The Community Development Commission has informational documents and policies to provide upfront training in the monitoring process.
- F8. There is limited or no standardized training in Affordable Housing compliance regulations for developers and managers of inclusionary housing within the nine Cities.
- F9. The cities of Petaluma and Rohnert Park use computerized compliance monitoring programs to facilitate and improve the quality of their work.
- F10. The property titles of Affordable single-family houses have not always been flagged as deed restricted.
- F11. The majority of the housing representatives the Grand Jury interviewed felt that there is not enough staff within their departments to make anyone a full-time compliance monitor.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By December 31, 2022, the Sonoma County Community Development Commission and the nine Cities meet and develop agreed-upon standards and procedures for the monitoring of Affordable Housing. (F7, F8)
- R2. The Sonoma County Community Development Commission and the nine Cities resume on-site monitoring by October 1, 2022. (F3, F4)
- R3. By January 1, 2023, the Sonoma County Community Development Commission and the nine Cities review and ensure that they have sufficient personnel to conduct on-site monitoring and process self-reported monitoring data to meet future Regional Housing Needs Allocations. (F1, F2, F3, F5, F6, F11)
- R4. The Sonoma County Community Development Commission use informational documents and policies to provide ongoing training in the monitoring process for developers and managers of Affordable Housing projects by January 1, 2023. (F7)
- R5. By January 1, 2023, the nine Cities develop informational documents and policies to provide both upfront and ongoing training in the monitoring and compliance procedures for developers and managers of Affordable Housing projects. (F8)
- R6. By November 1, 2022, the nine Cities meet and discuss to jointly or individually utilize Affordable Housing monitoring software. (F9)
- R7. By November 1, 2022, the nine Cities meet and discuss pooling resources to fulfill their monitoring responsibilities, through either a consultant or designated employees. (F11)
- R8. By December 31, 2022, the Sonoma County Community Development Commission and the nine Cities should update and maintain their inventory of Affordable houses within their jurisdictions and verify that all their property titles are flagged for restricted sale. (F10)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- Sonoma County Community Development Commission (R1, R2, R3, R4, R8)
- City of Cloverdale (R1, R2, R3, R5, R6, R7, R8)
- City of Cotati (R1, R2, R3, R5, R6, R7, R8)
- City of Healdsburg (R1, R2, R3, R5, R6, R7, R8)
- City of Rohnert Park (R1, R2, R3, R5, R6, R7, R8)
- City of Santa Rosa (R1, R2, R3, R5, R6, R7, R8).
- City of Sebastopol (R1, R2, R3, R5, R6, R7, R8)
- City of Sonoma (R1, R2, R3, R5, R6, R7, R8)
- City of Petaluma (R1, R2, R3, R5, R6, R7, R8)
- Town of Windsor (R1, R2, R3, R5, R6, R7, R8)

The governing bodies indicated above should be aware that their comments and responses must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

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Department of Health Services

Dedication Overcame Dysfunction

SUMMARY

The genesis of this report was a citizen's complaint asking the 2021-2022 Sonoma County Civil Grand Jury (Grand Jury) to investigate the County's COVID-19 (COVID) emergency response, and the overall leadership and organizational climate within the Department of Health Services (DHS). Thus, this report does not focus on the medical aspects of the pandemic response, but rather on organizational issues of DHS. It should be noted that this report is not based on actions of the Public Health Officer, but on the executive leadership as a whole.

While investigating this complaint, and to provide an historical perspective of DHS, the Grand Jury also decided to review past investigations of the Department. What the Grand Jury discovered was a long-term pattern of poor communication, lack of collaboration, staffing challenges, and low employee morale that predated COVID.

Our investigation revealed that while the COVID response in some ways showed Sonoma County and the Department of Health Services at their best, it also laid bare some long-standing problems. Ultimately, these problems, including poor communication and lack of collaboration, disrupted the emergency response to COVID.

When a disaster is declared in the County, the County Administrator directs the Department of Emergency Management (DEM) to activate the Emergency Operations Center (EOC). While the pandemic emergency was substantially different from the fires and floods they were accustomed to responding to, the leaders and staff of the Sonoma County Emergency Operations Center were well prepared.

As our disaster-weary County had begun to expect, these experienced County employees immediately went into action, some as early as January 2020. They read the reports out of China and listened to public health and preparedness officials. The EOC began the process they had been well-trained for, and as soon as the emergency was officially declared, they were activated and staffed.

They had protocols in place, with experts in emergency management, health, finance, procurement, logistics, and communications to support the EOC. This included the DHS, as well as many other departments within the County. Additionally, in order to allow for time off and to reduce burnout, the EOC provided for backup staffing. The EOC also had well-established relationships with community partners, and were in contact with them daily.

Even though the EOC was up and running effectively using the standard Incident Command System single leader model, conflict developed between the DHS and EOC Directors leading to a decision by the County Administrator's Office (CAO) to have co-leaders. Then, after two months, on May 10, 2020, the CAO made a second decision, to deactivate the EOC and transfer the pandemic response to the Department of Health Services Department Operations Center (DOC). The DOC is led by the DHS Director, not the Public Health Officer. DHS continues to lead the County's pandemic response today.

The Department of Health Services was inadequately prepared for this emergency. When the pandemic started, the Department had numerous open staff positions, with key employees continuing to resign throughout the course of the pandemic. These unfilled positions included: the Director of Nursing, the Deputy Public Health Officer, the Preparedness Chief, as well as the newly created position of COVID-19 Section Chief.

In addition to these staffing challenges, the DHS leadership lacked a demonstrated commitment to the Incident Command Structure (ICS), a structure most notable in that it has Federal, State, and County recognition. The ICS has well-known benefits including a predictable chain of command, subject matter experts, procurement and funding infrastructure, and a common communications strategy. DHS would have benefitted from utilizing the expertise of the EOC more often throughout the course of the pandemic, rather than charting a unilateral course.

Concurrently, the DHS was still struggling with the communication and morale issues identified in previous Grand Jury investigations. Multiple interviewees shared concerns about the lack of communication and collaboration among the executive team, middle management, and frontline workers. Other concerns included the lack of collaborative efforts between DHS leadership and other County departments, and between the administrative and medical sides of DHS. Interviewees told of subject matter experts, with many years of public health and emergency management experience and well established relationships with community partners, being ignored.

Based on our interviews and research, structural, staffing, and morale problems exist within the DHS. The next step is finding solutions to these problems and following policies and procedures to ensure that DHS and the County are adequately prepared for the future.

While the Grand Jury found problems during the course of this investigation, we also found an abundance of dedicated County employees who performed admirably and heroically. Many employees were asked to take on special responsibilities, sometimes in addition to their normal duties. A number of individuals contributed at an extraordinary level, working countless hours, sometimes without any additional compensation, and with minimal public recognition. These employees deserve our gratitude.

The following report identifies how various shortcomings in Sonoma County government, and particularly, in the Department of Health Services, may impact the County's ability to keep its citizens healthy, especially during a health crisis.

GLOSSARY

- BHD Behavioral Health Division
- BOS Sonoma County Board of Supervisors
- CAO County Administrator's Office
- CDC Centers for Disease Control and Prevention
- COVID COVID-19
- DEM Department of Emergency Management
- DHS Department of Health Services
- DSW Disaster Service Workers
- DOC Department Operations Center
- Depth of Staff Rotating bench of qualified employees
- EOC Sonoma County Emergency Operations Center

- FEMA Federal Emergency Management Agency
- ICS Incident Command System
- MCAH Maternal, Child, and Adolescent Health
- NIMS National Incident Management System
- PHD Public Health Division
- PHO Public Health Officer
- SEMS Standardized Emergency Management System

BACKGROUND

In 2021, the Grand Jury received a citizen’s complaint, requesting an investigation of the [Department of Health Services](#) (DHS), including its response to the COVID-19 health emergency. The complainant was concerned that pre-existing problems at the DHS could adversely impact the County’s response to the ongoing pandemic.

Department of Health Services

While its structure and programs have changed dramatically over the years, the primary goal of DHS has always been to protect and promote the health of individuals, families, and the Sonoma County community. To achieve this goal, the DHS is divided into three separate divisions: administration, behavioral health, and public health. The DHS is the second largest department within Sonoma County government. Before the pandemic, the department had employed approximately 700 employees. This number, however, has fluctuated throughout the years due to retention challenges, reorganizations, and the pandemic response. See Appendix A.

This report is primarily focused on two Divisions of DHS, Administration and Public Health.

Administration Division

The [Administration Division](#) provides the organizational base for the department. Its responsibilities include human resource management, information technology, fiscal operations, and strategic planning, among others. Their executive team sets the tone for the entire department.

Public Health Division

The [Public Health Division](#) (PHD) was established to prevent illness including communicable diseases, create healthy environments, support health and wellness programs, and assist the community in times of disaster. The COVID-19 section is part of this division.

A key member of this division is the Public Health Officer (PHO). While the PHO is not the Director of the DHS, [California Code](#) gives the PHO wide authority over *health decisions* stating:

“...the local health officer may take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any “state of war emergency,” “state of emergency,” or “local emergency.”

In Sonoma County, the PHO took a collaborative approach and consulted with stakeholders such as the County Counsel, the DHS Director, and the BOS before issuing health orders. Although the PHO is a member of the DHS executive team, multiple witnesses reported that the PHO is often excluded from many DHS executive team decisions.

Policies and Procedure Manuals

Having a current written Policy and Procedure manual is a standard practice of most, if not all County departments and businesses in general. This written document provides employees with the necessary policies, procedures, best practices and rules that they need to follow. For the DHS, the Grand Jury could only locate written policies and procedures for the following.

- Departmental: Administrative, Fiscal, Healthcare Compliance, Human Resources, Mandated Reporting, and Privacy and Security
- Divisional: Behavioral Health
- Other: DHS Employee Handbook

The Grand Jury could not identify policy and procedures dedicated to the Public Health Division.

Human Resources

The County has a Human Resources (HR) Department comprised of two divisions with sub-units. The HR Division is responsible for basic employment services such as job classifications and compensation, workforce development, and labor relations. The second division is Risk Management, which is responsible for risk mitigation services, the maintenance of vendor contracts for the HR department, and the management of employee benefits including the purchase of insurance policies.

A few of the larger County departments, such as DHS and the Sheriff's Department, also have their own internal HR Department. In these cases, the County's HR does not have direct authority over the departmental HR. This separation of HR functions is not clearly defined for employees at DHS.

In a Press Democrat article dated March 25, 2022, "*Did pre-COVID budget cuts affect Sonoma County's pandemic response?*" the DHS Director publically acknowledged that DHS "...has some management problems." While the article describes problems related to the mission of DHS, during the course of this investigation some DHS employees also reported problems with their internal management. This included statements that their HR department did not maintain neutrality and that complaints about managers could negatively impact their employment with DHS.

How the County is structured: County Administrator's Office versus Board of Supervisors

Although Sonoma County's Board of Supervisors oversees 26 County Departments, they divide the supervisory responsibilities with the County Administrator. One of the departments that the [Board of Supervisors](#) (BOS) directly oversees is the DHS. See Appendix B.

A major complication with this supervisory makeup, particularly during the COVID crisis, is due to restrictions of the Brown Act. This Act requires that meetings with the BOS be open to the public. Although there are some exceptions, such as personnel matters, in general, any meeting with the Board must be conducted at a noticed public meeting as governed by Board Rules of Procedures and pursuant to Government Code § 25003.

For the departments the Board supervises, the Brown Act limits frank communication and free exchange of ideas between supervisors and their employees. In order for the department head to discuss management issues with all five of their "bosses" it must be agendized in a public meeting.

A majority vote of the BOS empowers it to either directly supervise County departments, or to delegate this authority to the County Administrator, similar to a Board of Directors empowering a CEO. The current supervisory structure has had different iterations in the past and as board members change, so too could this structure.

Historical Perspective-Previous Grand Jury Investigations of DHS

In addition to this investigation, the Grand Jury has reported on the DHS twice in the last five years. While these investigations started for different reasons and looked at different sections of DHS, many of the Grand Jury findings, conclusions, and recommendations were the same. Both the 2016-2017 and 2018-2019 reports documented a continued pattern of employee resignations, poor communication, and lack of transparency, all of which led to low morale. Sections from these two reports are summarized in the table below:

- [2016-2017](#): *“Maternal, Child, and Adolescent Health-Caring for the Most Vulnerable”*

Jury Finding	Jury Recommendation	DHS Response to Jury
F1. Miscommunication... contributed to the resignations of experienced public health nurses.	DHS should develop a plan to maintain adequate nursing levels	We will continue to aggressively recruit nurses
F2. Poor communication between the upper DHS management and the staff ...resulted in poor morale.	DHS should develop a plan to improve communication	Upper management has taken significant steps to improve communication

- [2018-2019](#): *“The Behavioral Health Budget-A Perfect Storm”*

Jury Finding	Jury Recommendation	DHS Response to Jury
F5. Lack of adequate personnel compromised the Compliance Office’s effectiveness.	The County should provide adequate funding and support	Resources, including staffing have been increased
F8. Budget development process lacked transparency and staff participation.	Section and program managers should be included in decision-making	Increased and open communication has been prioritized
F9. Professional communication was stifled by a culture of retribution ...	Procedures for effective and professional communication should be implemented	We will continue to develop innovative ideas that will foster effective and respectful information sharing

History of Continuing and Persistent Communication Challenges

When the 2016-2017 Grand Jury report was published, the Department of Health Services responded and agreed with the Grand Jury’s finding that “Poor communication between the upper management of DHS and the staff in the trenches has resulted in poor morale.” To improve these communication deficiencies and increase employee engagement, the DHS executive team “committed to providing additional regular and timely two-way communication with staff.” DHS leadership also reported to the Grand Jury that the communication plan they requested, with an emphasis on information sharing, had been developed.

Unfortunately, two years later, in the 2018-2019 report, the Grand Jury again found a pattern of poor communication. That Grand Jury reported, “...professional communication was stifled by a

culture of retribution and neglect which impacted the free flow of information. This led to an egregious lack of transparency.” At that time, the Grand Jury asked that the executive team develop a more collaborative relationship with middle managers. DHS responded that they have implemented several procedures to increase regular information sharing with staff.

Staffing Issues Continue

In addition to communication problems, the 2016-2017 Grand Jury investigated DHS resignations, retirements, and reorganizations, specifically in the Maternal, Child, and Adolescent Health (MCAH) section. The Grand Jury reported retention, recruitment, and excess workload issues, particularly among the nursing staff. The Grand Jury asked that DHS develop a staffing plan, and DHS responded that they were already aggressively recruiting nurses. Unfortunately, staffing issues continued as the 2018-2019 Grand Jury discovered in their investigation of the Behavioral Health Division (BHD). That Grand Jury found that staffing was hampered not only by budgetary constraints, but also by the significant turnover of trained staff. DHS, in its response, agreed that there was inadequate staffing, and agreed to recruit additional personnel.

Emergency Operations Center

Under the [Federal Emergency Management Agency’s](#) (FEMA) Incident Command System (ICS), the [Emergency Operations Center](#) (EOC) functions as a command and control center, gathering information, directing activities, and obtaining support in disaster or emergency situations. The EOC typically consists of a range of trained and otherwise qualified personnel, often tailored to the situation. Standard sections include Command, Operations, Planning, Logistics, and Finance/Administration.

In Sonoma County, the County Administrator is the Director of the EOC. However, this authority is typically delegated to the Director of the [Department of Emergency Management](#) (DEM) or their deputy when the EOC is activated.

For more limited or focused emergencies, a Department Operation Center (DOC) can be utilized. The DOC is essentially a scaled-down version of the EOC, and generally would have the same sections.

The 10 Essential Public Health Services

The [Centers for Disease Control and Prevention](#) (CDC) has identified 10 Essential Public Health Services that should be provided in every community. The essential services include:

Assessment

1. Assess and monitor population health status, factors that influence health, and community needs and assets
2. Investigate, diagnose, and address health problems and hazards affecting the population

Policy Development

3. Communicate effectively to inform and educate people about health, factors that influence it, and how to improve it
4. Strengthen, support, and mobilize communities and partnerships to improve health
5. Create, champion, and implement policies, plans, and laws that impact health
6. Utilize legal and regulatory actions designed to improve and protect the public’s health

Assurance

7. Assure an effective system that enables equitable access to the individual services and care needed to be healthy
8. Build and support a diverse and skilled public health workforce
9. Improve and innovate public health functions through ongoing evaluation, research, and continuous quality improvement
10. Build and maintain a strong organizational infrastructure for public health

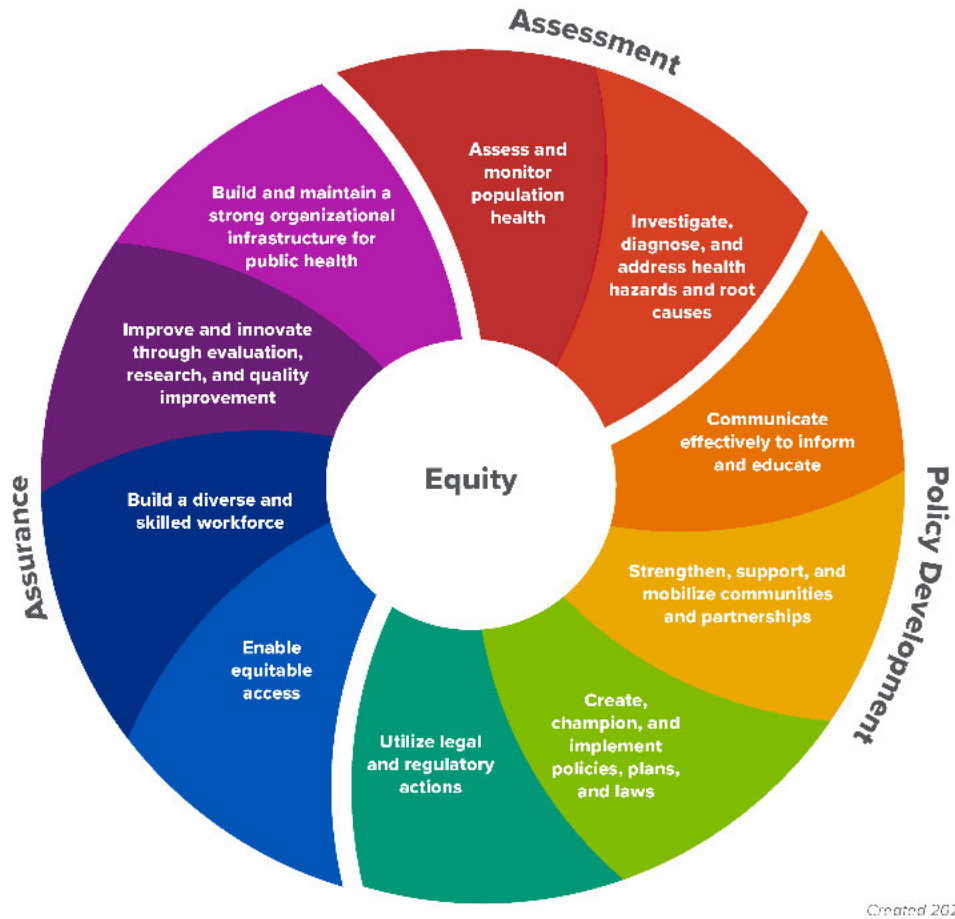


Figure 1: CDC - Public Health Systems & Best Practices
Source: Centers for Disease Control and Prevention

The COVID crisis has provided a severe ‘stress test’ for local public health functions. While in many regards the response was exemplary, existing resources and structures were inadequate to meet the challenges posed by the pandemic, let alone normal public health services. Significant outside funding, new or reorganized administrative functions, and temporary staffing were needed to address the emergency.

Neglect of Public Health Functions

According to the National Academy of Medicine:

...local execution of these programs and functions is often limited by constraints imposed by both federal agencies and state and local jurisdictions. First, funding

levels have historically been inadequate to support the delivery of the Essential public health services, let alone prepare for emergency situations. Second, many funding streams for public health are “categorical”, or restricted to specific priority areas (e.g., HIV, tobacco control), which leaves little flexibility for spending to support core foundational capabilities or to support surge needs in times of crisis. Other funding streams are operated as block grants, but...such models in practice have been vulnerable to funding cuts...

Overall funding for foundational capabilities has run dry in the face of long-standing neglect and deprioritization by both local and national leaders, with the expenditures of public health agencies decreasing by approximately 10% (between 2010 and 2018) and the share of health care spending attributable to public health declining by nearly 17% (between 2002 and 2014). Indeed, rather than valuing prevention, the American system has become increasingly biased in favor of reaction, with per capita spending on public health services equivalent to 1-3% of per capita expenditures on medical care. Chronically deprived of resources, the capabilities of health departments have begun to atrophy over several key domains.

These factors have also operated in Sonoma County. A prime example of local public health programs that have been on the chopping block was DHS’s pre-pandemic proposal to close the County’s public health laboratory. As stated in a March 2022 Press Democrat article:

“...former county staff members say the proposal reflected a pre-COVID mindset that sought a shift in the mission of county health services. In essence, community-based prevention programs would be sacrificed to pay for those the county is legally-required to provide.”

This proposal was quickly scrapped when the COVID crisis hit, and the value of a local, public, health lab was decisively demonstrated.

The CDC’s list of essential public health services should provide the basis for an in-depth review of Sonoma County’s public health functions. This should include an examination not only of substantive programs provided by DHS, but also administrative structure, and critically, stable long-term funding.

METHODOLOGY

This is an investigation initiated in response to a citizen complaint received by the 2021-2022 Sonoma County Civil Grand Jury.

The Grand Jury conducted over 24 interviews with key individuals in Sonoma County who are or were involved with the Department of Health Services. They included:

- Elected and appointed County officials
- Past and present DHS employees
- County employees assisting in the COVID response

The Grand Jury reviewed and evaluated hundreds of documents obtained from both public and private sources. The most important of these are listed in the Bibliography.

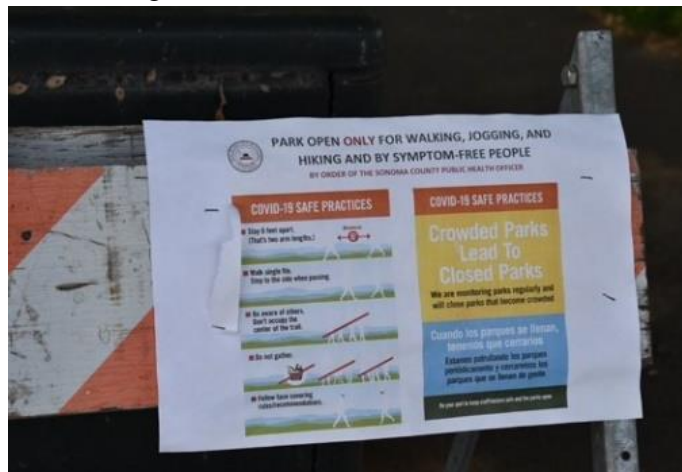
DISCUSSION

County Health Departments, including Sonoma County's, exist to provide essential public health services, such as environmental health, control of infectious diseases, behavioral health, and services for the underserved. They are generally chronically under-funded, under-resourced, under-appreciated, and yet continue to work diligently behind the scenes to ensure we all live in a safe and healthy environment.

The COVID pandemic presented a serious and unprecedented public health threat. It required an immediate response but there was no rulebook. The pandemic required the County to find and mobilize significant resources, many of which it did not have. It also required the County to work collaboratively across departments in a new, untested way. Federal and State resources were quickly provided so the County could fund operations; but it was still exploring what kind of operations it needed. Sonoma County was in uncharted territories with sketchy maps and with leaders who had knowledge of other infectious diseases, but not of this magnitude.

Experience with disasters, of any sort, strengthens the response to all types of emergencies, including pandemics. One asset that Sonoma County had was its experience in successfully responding to wildfires. Over the past five years, the County has developed a finely honed capability to deal with fire, flood, and power shutoff emergencies. This includes not only fighting fires, but in providing for displaced and traumatized communities, and working with the Federal and State departments that provide funding and technical assistance.

The County's Department of Emergency Management (DEM), which initially led the COVID response, is a recognized expert in dealing with emergencies. However, the pandemic was not a standard emergency. While the EOC did have processes and training in place to cope with significant emergencies, it had never encountered an emergency of this scale and scope.



This report focuses on the way the County deals with these challenges. It has not been a smooth journey and not one without conflict. The control of the response started with the EOC using the Incident Command System (ICS). Shortly thereafter, and due in part to friction between the DHS and the EOC leadership team, it transitioned into a hybrid structure with co-directors from the EOC and DHS's Department Operations Center (DOC). Within two months it again shifted from the hybrid structure of DHS and EOC to the DOC, with the Director of Health Services now leading the response.

The emergency also exposed some of the dysfunctions in the culture, structure, and management processes of the County and the DHS. These problems are not new and in fact had existed prior to the pandemic. They have been cited by previous Grand Juries as needing immediate attention, but based on interviews little has been done to address them.

The pandemic is still not over and new variants or new viruses may create future emergencies. The Grand Jury believes these issues must be addressed without delay to ensure the County is

organizationally robust enough to meet future public health challenges. Failure to act may seriously affect the County's ability to respond, putting the health of the County's population at risk. The discussion that follows explores these issues in more depth, and we begin by first outlining the incident management system which is used nationally in disaster situations.

Incident Command System

National Incident Management System (NIMS)

The federal government has created a standard approach to managing disasters. According to FEMA, the [National Incident Management System](#) (NIMS):

...guides all levels of government, nongovernmental organizations and the private sector to work together to prevent, protect against, mitigate, respond to and recover from incidents. NIMS provides stakeholders across the whole community with the shared vocabulary, systems and processes to successfully deliver the capabilities described in the National Preparedness System. NIMS defines operational systems that guide how personnel work together during incidents...

NIMS defines operational systems, including the Incident Command System (ICS), Emergency Operations Center (EOC) structures, and Multiagency Coordination Groups (MAC Groups) that guide how personnel work together during incidents. NIMS applies to all incidents, from traffic accidents to major disasters. The jurisdictions and organizations involved in managing incidents vary in their authorities, management structures, communication capabilities and protocols, and many other factors. NIMS provides a common framework to integrate these diverse capabilities and achieve common goals. The guidance contained in this document incorporates solutions developed over decades of experience by incident personnel across the Nation.

The NIMS system has been proven highly effective for the management of disaster/emergency situations, and is utilized by Federal, State, regional, and local agencies. Its widespread utilization allows for ready integration of multiple agencies towards common goals.

Standardized Emergency Management System (SEMS)

The County also follows California's [Standardized Emergency Management System](#) (SEMS) which integrates with NIMS.

Within the NIMS system is the Incident Command System (ICS), which provides a structure for responding to specific incidents. According to NIMS:

ICS consists of five major functional areas, staffed as needed. They are Command, Operations, Planning, Logistics, and Finance/Administration.

The ICS organizational structure is modular, expanding to incorporate all elements necessary for the type, size, scope, and complexity of an incident. The ICS structure builds from the top down; responsibility and performance begin with incident command. If one individual can simultaneously manage all major functional areas, no further organization is needed. If one or more of the functions needs independent management, an individual is assigned responsibility for that function.

The initial Incident Commander determines which Command or General Staff positions to staff in order to maintain a manageable span of control and ensure appropriate attention to the necessary incident management functions.

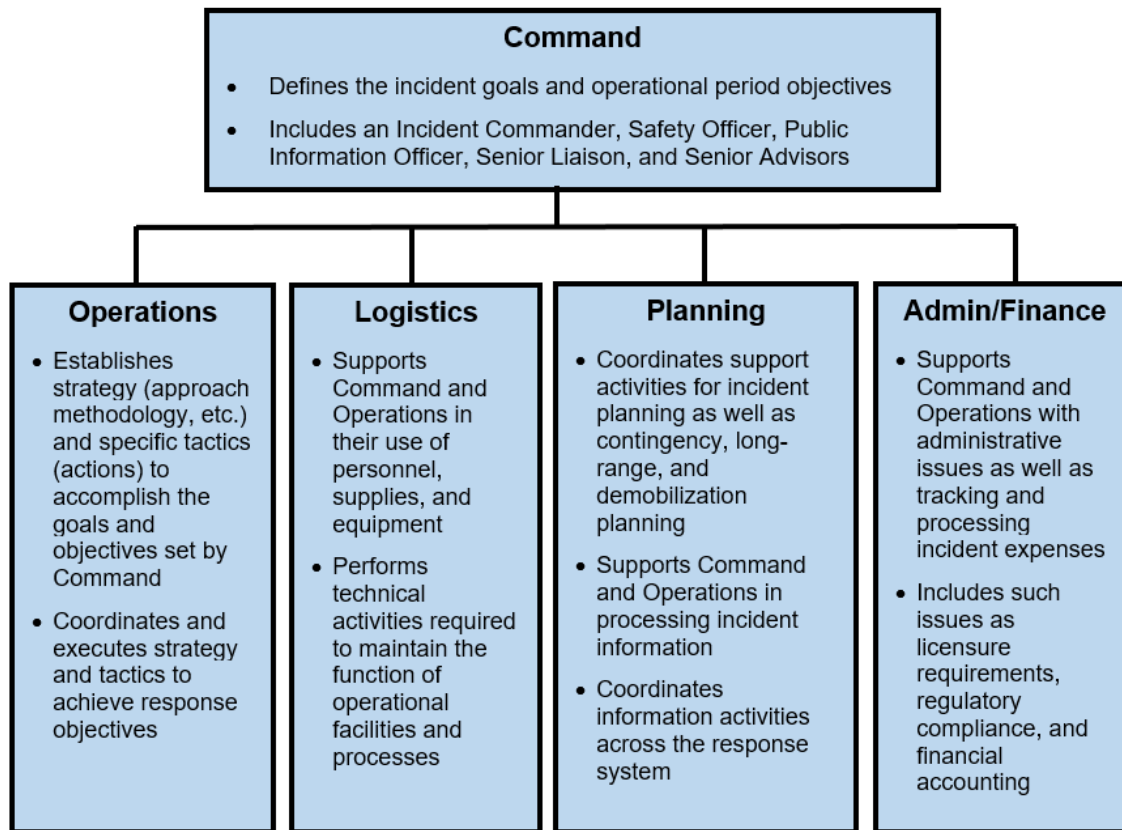


Figure 2: US. Department of Health and Human Services

Of particular note is the ICS’s directive for clear leadership, and a unified approach to disaster management. The ability to rapidly make and execute decisions in disaster situations is critical for an effective response. Another important element is ‘depth of bench’ or the concept that key positions are staffed by multiple persons who can take different shifts or substitute for each other. This is critical to avoid burnout, when many high-pressure and stressful disasters are ongoing 24 hours a day, 7 days a week, sometimes for weeks or, as in the COVID pandemic, two years and counting.

Sonoma County’s Use of the ICS

The Board of Supervisors (BOS) adopted resolutions in support of the nationally recognized ICS system, which has been effective in managing the response to numerous disasters. The County Department of Emergency Management has developed expertise in managing disasters, particularly in the wake of the County’s ‘baptism by fire’ in the devastating infernos of 2017.

The County has a comprehensive plan for dealing with a range of disasters, including earthquakes, floods, fires, terrorism, civil unrest, extreme heat, tsunamis, chemical, biological and radiological incidents, and pandemics. The County’s plan clearly states that NIMS, SEMS, and the ICS system will be utilized in declared disasters. Under the County’s plan, the BOS has ultimate authority, providing policy direction, while the County Administrator is designated as

the lead administrative officer for disaster management. Typically, the County Administrator delegates this authority to the director of the EOC.

In a disaster, the County activates the Emergency Operations Center which is one of the key components of the ICS system. The County may also activate one or more Department Operations Center (DOC) within departments actively engaged in the disaster response. Pursuant to the County’s emergency operation plan, all entities involved with the disaster response are to use the ICS system.

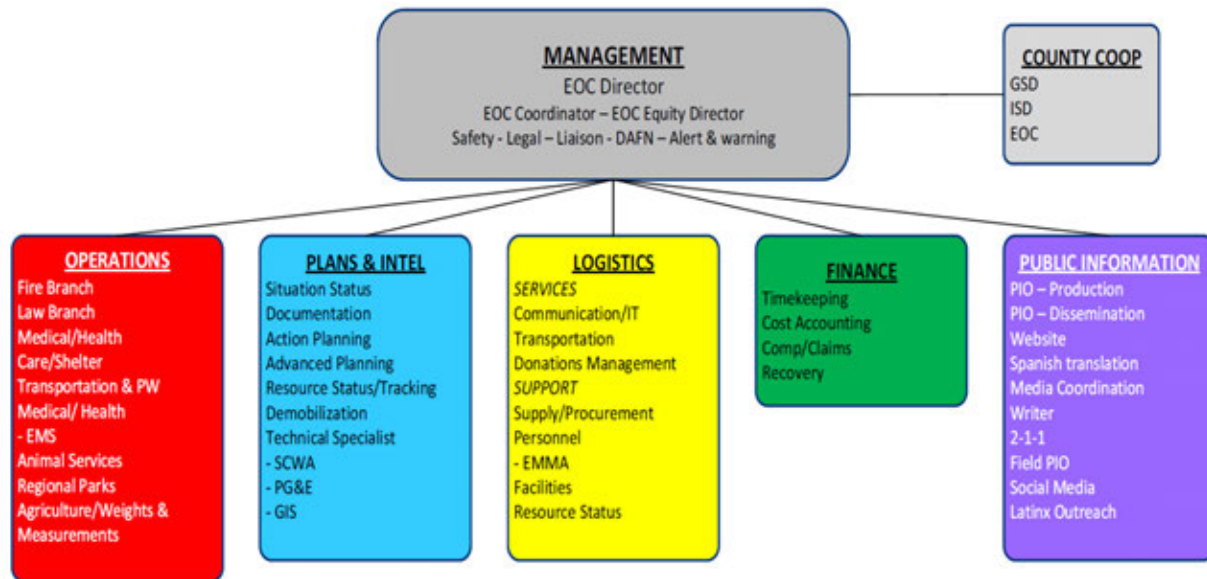


Figure 3: Sonoma County ICS Chart Example

Source: *Sonoma County COVID-19 EOC Activation Assessment Report*, July 2021

Disaster Service Workers

A [Disaster Service Worker](#) (DSW) is any County or Agency employee who may be required to work for a declared disaster assignment. California Government Code 3100 provides that all public employees are DSWs and may be assigned disaster service activities. Some of the assigned activities included: answering telephones, ordering/delivering food or supplies, managing volunteers, developing information or communications, tracking information in the EOC, helping out in a warehouse, shelter or food bank, language interpretation, etc.

Emergency Operations Center to Department Operations Center

Emergency Operations Center Activated

On January 31, 2020, to address the growing public health threat posed by COVID, the United States Health and Human Services Secretary declared a public health emergency for the United States. On March 3, 2020, following local cases of COVID, the Public Health Officer for the County of Sonoma declared a local public health emergency and the EOC was activated. A series of follow-up actions ensued as



the virus spread in the community and the County responded, including the activation of the County's DSWs.

Emergency Operations Center De-activated – What Happened?

Early on in the pandemic, the County Administrator's Office (CAO) approved a restructuring of the EOC to have 'dual directors' with the EOC Director and the DHS Director as co-leaders. This arrangement, which interviewees indicated lasted for about two months, conflicted with the standard Incident Command System (ICS) management structure and led to problems in decision making and implementation. According to interviews conducted by the Grand Jury, this structure had not been used previously, and was not known to be utilized elsewhere in the state.

Under the direction of the EOC, a July 2021 "[Sonoma County Assessment Report](#)" was prepared by Tetra Tech consultants to evaluate the emergency pandemic response between March 1, 2020 and May 15, 2020. The report looked at various aspects during that time:

- The dual director approach "...seemed to be an apparent challenge with having two EOC Directors. Even though staff focused on the tasks at hand, EOC staff members expressed confusion, discord, and tension."
- Some EOC participants, particularly from DHS, were not fully trained on the ICS system and did not understand their roles.
- It also mentioned "poor or below average" communication and coordination between EOC and DOC.
- "...Health staff were unfamiliar with EOC functions and had a challenging time fitting in and understanding operations."
- Several survey responses expressed concern about the Health staff not following procurement procedures and unfamiliarity with EOC functionality.
- Participants observed that following coordination meetings "DHS would completely change direction". This proved to be disruptive to process and continuity. Others commented that instead of adhering to FEMA requirements, especially in finance and purchasing, DHS staff often "just did their own thing."

Further, based on interviews conducted by the Grand Jury, the DHS Director was often absent from the Emergency Operations Center, leading to communication issues, some apparent duplication of effort, and delays in decision-making during a declared disaster. It was reported that at times, the DHS Director would be represented by other DHS staff, but the staff present did not appear to have authority to make important EOC decisions.

Part of the standard disaster response is an 'after action' report. In addition to the Tetra Tech report mentioned above, once the declared emergency is over, an After Action Report will be completed by the DHS.

Department of Health Services: Department Operations Center

On May 10, 2020, the COVID EOC was deactivated and the emergency response transitioned to the DHS Department Operations Center (DOC). According to a number of interviews conducted by this Grand Jury, DOC staff received the unusual direction from their management to not utilize the resources of the Department of Emergency Services. In addition, the DOC did not follow key elements of the ICS system, such as having sufficient depth of staffing to avoid staff overload and burnout, staff not having adequate authority within the DOC to make key decisions, not consistently utilizing standard ICS forms for documentation, or meeting standard Federal

Emergency Management Agency (FEMA) contract provisions. Instead of the DOC having internal authority to make and implement decisions, interviewees confirmed that important decisions were made at the Department Director level, likely resulting in some delays in the response. Given the long duration of the COVID emergency, these deficiencies were particularly concerning.

Without sufficient depth of staffing, various employees were compelled to work for extraordinarily long hours for extended periods of time; this included salaried personnel who worked without being paid overtime. Salaried workers are not normally entitled to overtime, however FEMA recognizes that disasters often require long hours by all workers, and will reimburse a substantial portion of overtime pay, including for salaried workers.

Federal and State reimbursement can vary by declared disaster. Per testimony to the Grand Jury, under standard FEMA policies, and in Federally-declared disasters, FEMA reimburses up to 75% of local costs; the State then pays 18.75%, with the County responsible for the remaining 6.25%.

The County paid overtime for all salaried disaster workers for approximately two months—far shorter than the duration of the COVID pandemic. While this saved the County money, what was the impact to County employees? Without the depth of staff, some worked long and stressful hours, six or seven days a week for months on end, affecting their personal lives and well-being. Once salaried worker overtime pay was terminated this resulted in a hardship for those employees who were still required to work the overtime.

Notably, partway through the COVID emergency, President Biden approved 100% reimbursement of local costs for a limited time period, which was recently extended to July 2022. In spite of this assurance, the Board of Supervisors did not authorize additional overtime expenditures beyond the first two months of the emergency.

As of the writing of this report, the County is considering a ‘cap’ on salaried worker disaster overtime pay. This could balance the need for appropriate compensation in emergency situations with fiscal concerns. Factors that should be considered with any salary cap include the duration of an emergency, coupled with sufficient staffing so that no one is forced to work extraordinarily long hours for an extended period of time.

Organizational Culture, Communication and Morale

The DHS stated principles call for an open, collaborative, and supportive work culture. The DHS [Strategic Plan 2019-23](#) affirms that the “...plan is built on the values of equity, collaboration, and excellence which provide the foundation for how we do our work and achieve our goals.” In describing its values, the Strategic Plan states that “...we strive to create a culture of learning, innovation, and data-driven practices to guide our internal operations, improve performance, and build staff expertise.” It adds that “...we engage and work collaboratively with partners, community and staff to maximize our impact in Sonoma County.”

- Goal 3 of the Strategic Plan specifies that “DHS is a highly achieving, high functioning organization.” To achieve this goal, its first objective is to “Build a highly competent and engaged workforce” through two main actions: “Promote staff well-being and engagement” and “Improve communication and collaboration.”

Reinforcing the principles of the Strategic Plan, the DHS Director was quoted in The Press Democrat on March 25, 2022 as being committed to recognizing, valuing and using staff expertise throughout the organization at whatever level. The Director further added: “A top-

down organization is so ineffective...The voices [sic] of everyone in our organization is so important. And there must be a focus and a communication to our staff — that every position is important...”

Communication and Trust

The reality, however, appears to be very different. From our interviews, a common theme emerged of a top-down leadership style characterized by what one interviewee termed a “my way or the highway” approach. Many interviewees said that top DHS leadership only wanted managers who agreed with them, and that there was a fear of retribution if they did not. As a result, there was a lack of transparency and trust. Interviewees used adjectives such as “toxic,” “hostile,” “chaotic,” “dysfunctional,” “desperate,” and “fearful” to characterize the resulting organizational climate.

Furthermore, HR management systems, which should have ensured that staff were informed, supported, and felt valued, did not work effectively. Staff criticized poor supervision, irregular staff appraisals, lack of two-way communication, and an ineffective procedure for filing HR complaints.

The decentralization of HR led to autonomy in the execution of HR functions within the DHS. Unfortunately, County HR lacks the authority and resources to audit and enforce HR practice in these separate HR units. With this decentralization, some essential HR processes in the DHS have been neglected over the years. This lack of attention has seriously eroded the morale and productive capacity of the DHS.

Although many staff had grievances, there were no DHS HR mechanisms that they felt safe to use to make complaints. This appears to have exacerbated the on-going lack of trust. A countywide ombudsperson, independent of HR, would give employees more confidence to voice their concerns.

Exit Interviews Tell a Story – Who Does Them, Where Are They Done?

In addition to our interviews with current DHS staff, the Grand Jury reviewed exit interview questionnaires completed by employees who left the DHS starting in 2018. Exit interviews are often conducted when a staff member leaves County employment. They may consist of a formal conversation between the person leaving and a HR professional and/or the completion of a questionnaire. This process is designed to help the DHS and the County build a more productive workplace. An exit interview is not compulsory and not everybody leaving responds to the exit interview invitation.

The Grand Jury analyzed 58 exit-interview questionnaires from staff who resigned from DHS in the 2018-2022 period. The questionnaires provide information on the reasons people left, and on the bleak picture they paint of the DHS organizational culture. The most cited reasons, in descending order were:

1. Dissatisfaction with DHS culture
2. Dissatisfaction with current position
3. Family / personal reasons
4. Other including retirement
5. Workload
6. Dissatisfaction with manager / supervisor
7. Lack of career path, seeking promotional opportunities

8. Salary and benefits

Statements made by staff about why they were leaving included:

- Toxic environment
- Rigid top down management style
- Lack of receptivity to suggestions and feedback
- Humiliated, disrespected, undermined, and blamed
- Negative feedback
- Leadership not accessible, no regular meetings, no authority to make decisions
- Unfair and unequal treatment, not recognized for the work performed, lack of cooperation and teamwork
- Lack of communication regarding complaints and problems
- Lack of encouragement toward career development

These were not isolated comments.

It is important to note that exit questionnaires and interviews also highlighted many positive attributes of working for the DHS. These included: the opportunity to serve the community; working for the mission of public health, and working with committed, talented colleagues. The employment package was also praised. People seemed to recognize that some of the non-salary benefits of working for Sonoma County were a positive aspect of their employment.

Effects on Staff Retention and Recruitment

The DHS has had an average staff vacancy rate of 15% over the 2019-2022 period. This is at the upper end of rates for other County departments, but not significantly so. In January 2022, the rate was 17%, the highest it has been for the past three years. Of concern, however, has been the turnover of staff in key management and leadership positions which doubled during 2018-2019 when compared with the previous three years.

Some key posts have been hard to fill, such as the Director of Nursing position which has remained unfilled for nearly a year. Although there have been considerable external factors that have contributed to this, many interviewees thought that the Department's work culture has also adversely affected recruitment. This is an important concern as the DHS needs to staff-up and scale-up for the continued presence of COVID and future public health emergencies.

As we have highlighted, the 2016-2017 and the 2018-2019 Civil Grand Juries also raised concerns about similar staffing issues. In order to prepare for the future it is critical that these concerns be addressed without delay.

Cultural and Racial Tensions Add to Dysfunction

The COVID pandemic created additional stressors on the Department of Health Services. Political, cultural, and racial tensions may have exacerbated the situation and led to a degraded sense of trust.

Emergencies engender their own sense of crisis, tension and danger which can cause some people to act in abnormal or inappropriate ways. In addition, they often force different groups of people and organizations to work together, which can create a clash of organizational cultures. Testimony to the Grand Jury indicated that there were also tensions within the Department between medical staff and administrative staff.

In addition, at the higher levels of the County government, there were tensions created by the emergency situation, such as unilateral powers of the County's Public Health Officer (PHO). In some circumstances, the PHO's authority exceeded that of the department head, and even the Board of Supervisors.

Racial tensions added to underlying emergency stressors. During the pandemic, in a Zoom meeting regarding homeless issues, there was a highly-publicized instance of 'Zoom bombing' where senior officials, including DHS/CDC leadership, were subjected to racist, violent and obscene online rhetoric and images. This was reported in a July 11, 2020 Press Democrat article titled: [*Racist Zoom bomb ends Sonoma County meeting on homeless solutions.*](#)

While Zoom meetings across the nation were similarly disrupted, a County elected official's comments were viewed as minimizing the incident. The Grand Jury also received testimony about the perceived lack of support by County leadership for persons of color in the meeting who were subjected to this assault.

At several points in the pandemic, public statements made regarding the resignation of several senior County staff persons who were persons of color, and the rescission of acceptance of an appointment to a senior DHS position by a person of color, added to the perceptions of racial tensions.

Testimony to the Grand Jury highlighted the tensions and distrust provoked by these incidents.

The County has responded to concerns about its efforts to address these issues, including creating an [*Office of Equity*](#) in 2020, which is charged with working with County departments towards racial equity in the County workforce and programs.

COMMENDATION

Sonoma County, along with the rest of California, the United States, and the world, faced a pandemic without precedent in the last 100 years. Few governments or agencies were prepared for a health crisis of this magnitude. Public health departments across the country and in Sonoma County were not adequately funded, staffed or conceptually prepared. The legal authority possessed by California public health officers was unknown to most members of the public, and the community's understanding of the measures necessary to combat a pandemic were at best poorly understood.

That said, in many regards, our County rose to the challenge, with rapid allocation of extraordinary resources, enactment of legal measures to reduce spread of disease and expedite response, initiation of extraordinary medical efforts to understand and mitigate the effects of the disease, and the heroic contributions by countless dedicated public and private workers and managers.

We want to commend all members of the County, with special thanks to the Department of Health Services, Disaster Service Workers, and Emergency Operations Center for their commitment to the community.

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. Exceptional dedication and efforts of front-line and support COVID workers from multiple departments, including Department of Emergency Management and Department of Health Services, helped Sonoma County.
- F2. The strength of a public health system rests on its capacity to effectively deliver the ten essential public health services.
- F3. The Department of Emergency Management's competent leadership, well-developed policies and procedures, and trained staff have helped Sonoma County weather recent disasters.
- F4. The County has extensive preparedness and emergency management policies and procedures in place, but they were not always followed by the Department of Health Services.
- F5. The goal of the Incident Command System is to provide a flexible, yet standardized mechanism for coordination and collaboration during an emergency, but this system was not consistently followed by the Department of Health Services.
- F6. Not all County staff have received regular training in emergency protocols, including the Incident Command System.
- F7. The Department of Health Services' Department Operations Center did not demonstrate competency in the Incident Command System, nor value its use.
- F8. The Department of Health Services' Department Operations Center did not adhere to standard procurement and financial protocols.
- F9. The COVID-19 crisis exacerbated dysfunctions within the Department of Health Services and caused rifts between the Department of Health Services and the Department of Emergency Management at a time when the two departments needed to work closely together.
- F10. Salaried disaster service workers worked for months on end, often seven days a week, without adequate compensation.
- F11. The Brown Act requirements make it difficult for the Board of Supervisors to directly supervise County departments.
- F12. The Board of Supervisors has the ability to change the supervisory structure of all departments within the County; modifying this structure could improve oversight.
- F13. Many Department of Health Services employees are fearful to report harassment, bullying, toxic work environment, and safety issues to their executive team due to a fear of retaliation.
- F14. Many employees in the Department of Health Services do not trust their departmental Human Resources team or its processes.
- F15. A review of Department of Health Services exit interviews shows a distrust of upper management.

- F16. Exit interviews can be done by either the County Human Resources Department or by individual departments, potentially leading to a lack of effectiveness and accountability at the department level.
- F17. The practices of human resource management in the Department of Health Services is not regularly or consistently reviewed by the County Human Resources Department.
- F18. In the Department of Health Services, essential human resource processes such as performance appraisals, supervision, conflict resolution, etc. are performed irregularly, inconsistently, and are not in alignment with County standards.
- F19. In the Department of Health Services there are numerous unfilled positions due to slow recruitment efforts and other deficiencies.
- F20. The Department of Health Services' perceived hostile work environment may be causing extra challenges in the recruitment of senior Department of Health Services staff.
- F21. The Department of Health Services has failed to execute on their commitment to a communication plan between the executive team and their employees.
- F22. The Department of Health Services' employee internal intranet site does not include a policy and procedures section for the Public Health Division.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By March 1, 2023, the County Administrator's Office review all County Department Operation Center policies and procedures to ensure that they conform to already established county guidelines for emergency management, procurement, logistics, etc. (F3, F4, F5, F7, F8)
- R2. By December 1, 2022, the Board of Supervisors reinforce that the existing mandate for FEMA's Incident Command System will be utilized for all disasters in County Department Operations Centers. (F5, F6, F7, F8)
- R3. By March 1, 2023, the Board of Supervisors work with the County Administrator's Office to develop an equitable plan to provide for overtime pay for salaried employees during a disaster. (F1, F10, F19)
- R4. By June 1, 2023, the Board of Supervisors direct the Department of Health Services' Department Operations Center to prepare and complete an after-action report for the County's COVID-19 response. (F5, F7, F8, F9)
- R5. By December 31, 2022, the Board of Supervisors direct the County Administrator's Office and County Counsel to initiate a discussion to determine if the Board of Supervisors can effectively supervise County departments within the confines of the Brown Act. (F11, F12)
- R6. By March 1, 2023, the Board of Supervisors, County Administrator's Office, and the Department of Health Services review the Department of Health Services' budget to ensure funding for sufficient staffing. (F10, F19)
- R7. By December 31, 2022, the Board of Supervisors direct the County Human Resources Department to initiate a comprehensive and expedited salary survey for critical

- Department of Health Services staff positions and present their findings upon completion. (F2, F19)
- R8. By December 31, 2022, the Board of Supervisors consult with the County Human Resources Department to consider establishing an Ombudsperson for County employees to provide a neutral means to voice issues of concern. (F9, F13, F14, F15, F18, F19, F20, F21)
- R9. Effective December 31, 2022, the Board of Supervisors direct the County Administrator's Office and the County Human Resources Department to require all exit interviews be conducted by the County Human Resources Department. (F13, F14, F15, F16, F17, F18, F19, F20)
- R10. Effective October 1, 2022, the Board of Supervisors direct the County Administrator's Office and the County Human Resources Department to require exit interviews be conducted for Department and Division level management, with a summary provided to the County Administrator's Office and Board of Supervisors. (F13, F14, F15, F16, F17, F18, F19)
- R11. By January 1, 2023, the Board of Supervisors direct the County Administrator's Office to require annual employee training and verification tracking regarding bullying, harassment, and threat assessment. (F13, F14, F18, F20)
- R12. By March 1, 2023, the Board of Supervisors direct the County's Human Resource Department to require that countywide regular performance evaluations are completed in accordance with County policy. (F18)
- R13. By December 31, 2022, the Board of Supervisors and County Administrator's Office work with the Department of Health Services executive leadership team in developing an actionable plan to address work culture issues, including retaliation, harassment and bullying. (F9, F13, F14, F15, F18, F19, F20, F21)
- R14. By December 31, 2022, the Board of Supervisors direct the County Administrator's Office to work with the Department of Health Services' executive leadership team to develop a clearly defined and actionable plan for internal communication that includes greater transparency and staff participation throughout the department. (F15, F18, F19, F21)
- R15. By March 1, 2023, the Board of Supervisors direct the County Administrator's Office and the County Human Resources Department to review the effectiveness of having departmental human resources units versus one centralized human resources department. (F13, F14, F15, F16, F17, F18)
- R16. By March 1, 2023, the Board of Supervisors direct the County Administrator's Office and the County Human Resources Department to develop a plan for the Board's review and consideration whereby the County Human Resources Department has oversight authority over all satellite human resource divisions. (F9, F13, F14, F15, F16, F17, F18)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- County Administrator's Office (R1, R3, R6, R13, R15)

- Department of Health Services (R6)
- Human Resources Department (R8, R15)
- Sonoma County Board of Supervisors (R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16)

The governing bodies indicated above should be aware that their comments and responses must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

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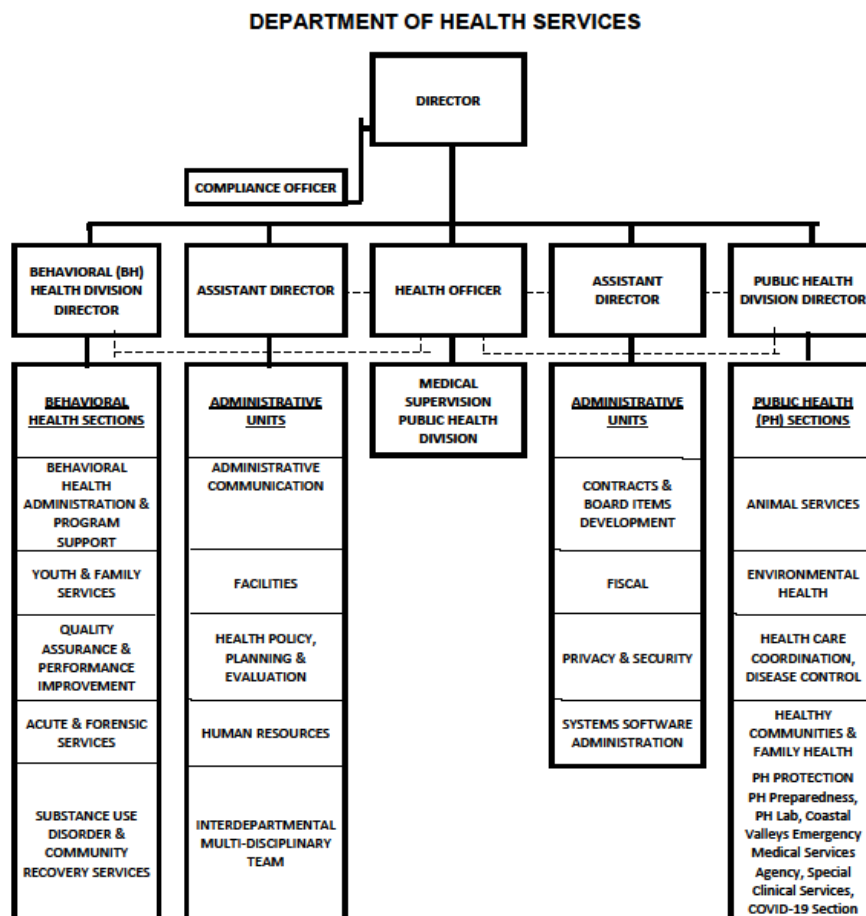
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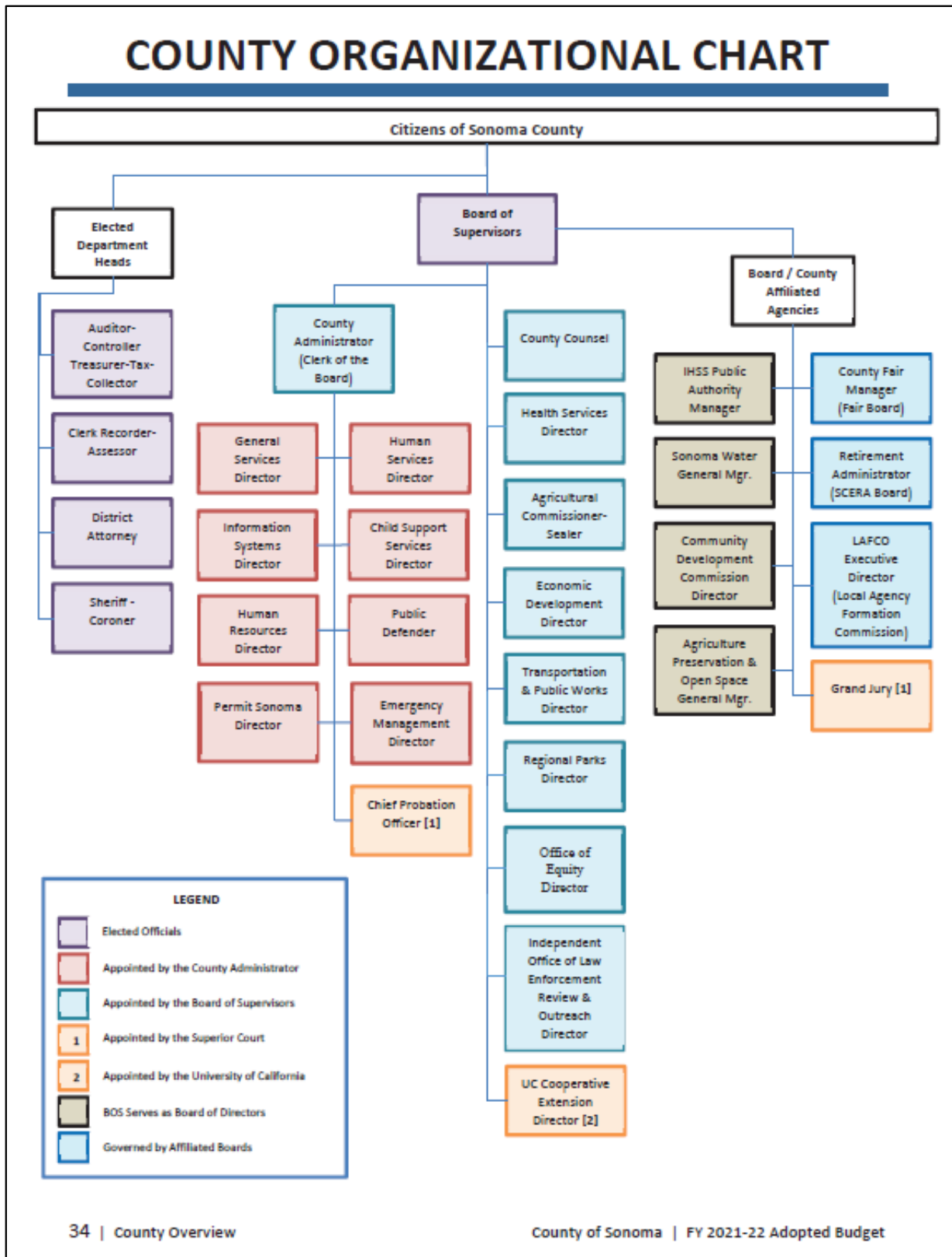
APPENDIX A

Sonoma County Department of Health Services Organizational Chart



APPENDIX B

County of Sonoma Organizational Chart



Source: [Adopted Budget Fiscal Year 2021-22](#)

Rohnert Park Department of Public Safety

Better Procedures to Avoid Future Misconduct

SUMMARY

Between 2014 and 2017, the police division of the Rohnert Park Department of Public Safety (RPDPS or Department) had a drug interdiction task force. In conjunction with other jurisdictions, it engaged in drug enforcement activities along the Highway 101 corridor in an attempt to stop the flow of marijuana into Sonoma County. Following the November 2016 state ballot initiative legalizing marijuana, these activities declined throughout Sonoma County and were officially ended in early 2017 by the City of Rohnert Park (City). However, the interdictions were continued by two rogue RPDPS officers.

In late 2017, the first of three private racketeering lawsuits was filed against the City of Rohnert Park, alleging that these same two officers were illegally stopping vehicles, confiscating cash and marijuana, and violating the plaintiffs' civil rights. Internal investigations and audits were initiated by the Rohnert Park City Council and the FBI. While the FBI conducted its investigation, the City Council hired two outside consulting firms through the City Attorney. Pending the outcome of the investigations, the two officers were suspended. In 2018, one of the officers, the Director of Public Safety (Director), and one commander resigned or retired. The second officer resigned, agreeing not to sue the City in exchange for a \$75,000 settlement. All three private lawsuits were settled by the City for approximately \$2 million. In March 2021, federal criminal charges were brought alleging the two officers had conspired to extort goods and cash under the 'color of official right', among other allegations. One officer named in the lawsuits has since pled guilty and trial is pending for the other officer.

Investigations and audits identified deficiencies in the policies and operations of the RPDPS and recommended that numerous actions be taken to eliminate the possibility of future misconduct. The Department has made significant progress in terms of restructuring its command and supervisory functions. It has implemented numerous changes in policies that touch on such diverse subjects as evidence handling, use of body cameras, vehicle monitoring, and related improvements. The 2020-2021 Sonoma County Civil Grand Jury's (Grand Jury) investigation found that while significant steps have been taken to improve supervision and enforcement of Departmental regulations and policies, further improvements are needed to enhance the oversight of the Department by the City Manager and the City Council and to further enhance adherence to departmental regulations.

GLOSSARY

- City City of Rohnert Park
- Color of Official Right The wrongful taking by a public officer of money or property not due to him or his office with or without force, threats or use of fear
- CPSM Center for Public Safety Management
- GPS Global positioning system
- MDC Mobile Data Computer
- RPDPS Rohnert Park Department of Public Safety
- PSOA Public Safety Officers Association

BACKGROUND

Legal Proceedings Against the Two Officers

The RPDPS was involved in multi-jurisdictional drug interdiction activities intended to stop the illegal flow of marijuana into and through Sonoma County between 2014 and 2017. During that time, the RPDPS seized assets estimated to be in excess of \$2 million. Asset seizures consisted primarily of cash and marijuana, and were conducted along the Highway 101 corridor in Sonoma and Mendocino Counties.

Asset forfeitures reported by the two rogue RPDPS officers consistently exceeded those of other jurisdictions in the county, exceeding even the amounts reported by the Sonoma County Sheriff's Department whose jurisdiction is county-wide. In 2016, the RPDPS seized \$1.4 million in asset forfeitures from drug interdiction. This was 25 times the amount seized by the City of Santa Rosa Police Department, which has more than twice as many police officers as the City of Rohnert Park. Although Rohnert Park's interdiction program was ceased in February 2017, the City nonetheless recorded over \$700,000 in asset seizures during 2017, compared to no seizures in similarly situated cities.

The first of three private lawsuits was filed in November of 2017, alleging deprivation of civil rights by the two patrol officers of the RPDPS. The eight plaintiffs in the three lawsuits alleged that their marijuana and cash were illegally taken by the two officers; at least one lawsuit also named management personnel among the defendants. Related allegations included that the officers wore no identification, drove unmarked vehicles, failed to provide receipts for seized items, and issued no citations for alleged violations. Numerous investigations were initiated by the City, by local press and news outlets, and ultimately by the FBI. The City commissioned two audits, one was initiated prior to the lawsuits by the Center for Public Safety Management (CPSM) and the other was initiated as a direct result of the lawsuits by a consulting firm operated by a retired Oakland Police Chief. Although the CPSM audit and accompanying recommendations were provided to the Grand Jury, the second report was withheld under a claim of privilege asserted by the City Attorney.

In summary, the City of Rohnert Park has settled the private lawsuits for approximately \$2 million. The two officers of the RPDPS were indicted on federal criminal charges for conspiracy and extortion under color of official right, tax evasion, and falsification of a police report. One of the indicted officers has since pled guilty and is awaiting sentencing. The case against the second officer is proceeding to trial.

An Environment Ripe for Misconduct

Where the typical public safety model consists of separate police and fire departments, these activities are combined in the RPDPS, such that all personnel are trained to respond to both police and fire incidents. Staff normally perform six-month rotations in those two divisions. Prior to 2019, the supervisory hierarchy consisted of a Director and three commanders: one for administrative services, one for police activities, and one for fire activities. The three commanders supervised the sergeants, patrol officers, and fire officers as well as civilian staff. Like the sworn sergeants and officers, the commanders also worked 10-hour shifts. While sergeants and officers worked staggered shifts around the clock, commanders only worked day

shift. This meant that in any 24-hour period, there was a 14-hour period functionally without commander supervision.



It is alleged that the two rogue officers were able to extort drugs and cash from motorists for at least two years without anyone in the RPDPS or the City Manager’s office being aware of their illicit activities. In the aftermath of the investigations and legal proceedings, numerous factors were identified as having contributed to the ability of these officers to behave with impunity over the course of several years. The Grand Jury self-initiated an investigation to understand how this was possible, and whether the City has adequately addressed factors to prevent a recurrence of police misconduct and unethical behavior.

Inadequate Police Supervision

During the investigation, the Grand Jury discovered that at least one of the audits commissioned by the City Council noted that a missing tier of supervision created a supervisory gap. The RPDPS lacked adequate supervision at the upper and mid-levels of management. The CPSM audit recommended a larger command staff, including the creation of deputy director and lieutenant positions overseeing the sergeants and patrol officers. In response, the City increased their command staff but did not add as many additional supervisory positions as CPSM recommended. Currently, the additional command positions with staggered shifts provide 20 hours of supervision per day, seven days a week, thereby significantly reducing the amount of time sergeants and patrol officers are working without command supervision.

Inadequate and Unenforced Police Procedures

Potential factors that allowed the alleged misconduct to occur included the lack of enforcement related to breaches of procedures in place and the lack of adequate procedures. The two rogue officers were able to use unmarked cars without following established protocols. At the time, procedure required officers to sign out vehicles, but there was no tracking or verification of cars being checked out so their unauthorized use went unnoticed. The officers also mishandled evidence due to inadequate procedures and minimal enforcement of the prescribed procedures. KQED reported that 800 pounds of marijuana and the destruction orders that should have been

filed in conjunction with those seizures were either never placed into the evidence room or were improperly removed. And at the time, there was no consistent use of body-worn cameras. The combination of lack of supervision, lack of procedure enforcement, and lack of adequate procedures contributed to the ongoing officer misconduct going unnoticed for years.

Officer Discontent

Members of the Police Officers Association complained to the Director and the City Manager for several years that the Director was not doing enough to secure additional resources to reduce officers' mandatory overtime. In May 2017, the members of the Public Safety Officers Association (PSOA) issued a 36-6 vote of no confidence in the Director of the RPDPS. Because the Director was performing satisfactorily in other aspects of his job, his contract was renewed a week before the vote of no confidence despite the Association's concerns.

METHODOLOGY

This is a self-initiated investigation by the 2021–2022 Sonoma County Civil Grand Jury.

The Grand Jury conducted interviews with individuals involved with the Rohnert Park Department of Public Safety before, during, and after the drug interdiction activities that led to the lawsuits, investigations, audits, and federal charges filed against the two officers. These interviews included members of both the Rohnert Park Department of Public Safety and individuals outside the RPDPS.

The Grand Jury conducted extensive research and reviewed RPDPS policy and procedure manuals, internal documents, minutes from meetings of the Rohnert Park City Council, press reports, and consulting firm audits. Information was obtained from public websites, as well as from documents supplied by interviewees.

DISCUSSION

Departmental Organization

The RPDPS is one of two public safety departments in California with integrated police and fire services. All sworn members of the department serve as both law enforcement officers and firefighters, with patrol officers and sergeants rotating on a regular basis. During the period when the multi-jurisdictional drug interdiction program was in full-swing, the RPDPS supervisory hierarchy consisted of the Director of Public Safety, who reported to the City Manager, and three commanders: one in charge of the Administrative Services, one overseeing the Police operations, and one in charge of Fire operations. The three commanders worked a typical work week, Monday through Friday during normal business hours. Reporting directly to these three commanders were a budgeted thirteen sergeants, fifty-four Public Safety Officers, and thirteen in dispatch. These officers and employees had varying shifts to cover 24/7 operations of the RPDPS.

Unrecognized Officer Misconduct

In 2015, one of the rogue officers was promoted to the rank of sergeant and given the "Officer of the Year" award for his drug interdiction activities. In 2014, the same officer led a probation search that was subsequently found by the US District Court to have violated the civil rights of the homeowners and resulted in a \$145,000 settlement paid by the City of Rohnert Park. The

judge in that case noted in her 2019 opinion, that the Department lacked a written procedure as to how probation searches were to be conducted.

When this officer and his partner in 2016 exceeded the seizures by other, and significantly larger, jurisdictions, the Grand Jury found no evidence that red flags or other concerns were raised either in the Department or the City Manager's office. In fact, it appears they were regarded as model officers by both the rank and file and by many supervisors within the department. Although the two officers claimed to have seized over 750 pounds of marijuana, they only booked a ten-pound sample into the evidence room. Neither the remaining marijuana, nor the destruction orders that should have been processed to dispose of the drugs, have ever been located. Despite the evidence, there is no documentation that the Department undertook any type of spot-checking to verify that the marijuana had, in fact, been destroyed.

Inadequate Supervision

The Grand Jury concluded that there was a strong correlation between the lack of on-site supervision, particularly during evening hours, and the lack of oversight over the activities of the rogue officers. Additionally, there appears to have been little enforcement of procedures already in place that should have inhibited rogue behavior. There was insufficient tracking of body camera use, limited tracking of when unmarked police vehicles were checked out or when officers were operating outside the jurisdictional limits of the City of Rohnert Park, and poor tracking of evidence to the extent it was turned in to the property room. Police reports authored by the rogue officers were not correlated with case numbers or tracked to evidence retained in the property room.

Officer Discontent with Management

The Grand Jury also found that many rank and file patrol officers felt that management, to the extent it existed, was disengaged from the activities and concerns of the patrol officers. Their concerns were largely unrelated to the interdiction activities, which they too were unaware of at the time. In May 2017, the membership of the PSOA delivered a vote of no confidence in their Director.

Performance Evaluation of Director

Just one week prior to the vote of no confidence, the Director's contract was renewed for four more years with a 13% increase in pay. Given that the opinion of the Director's performance was questioned by many rank and file officers, the Grand Jury sought to understand why officer dissatisfaction was not acknowledged by the City Manager and the City Council. With the exception of the Director, all Department personnel receive an annual written evaluation. However, the Director, who reports to the City Manager, does not.

Although the City Manager has a *Performance Appraisal Executive Management* form that covers job performance factors in great detail, it is not used after the first six months for the Director of Public Safety. The City Manager provided the previous Director of Public Safety one written evaluation during the five years in which the Director reported to him. The current Director of Public Safety has received only one written evaluation in his three-year tenure. There is consequently no written record of performance feedback provided to either the Director of Public Safety or the City Council in over two years. After the first six months of a Director's tenure, performance evaluation feedback is only provided informally and is not documented. A formal annual written evaluation of the Director's performance could provide early detection of

problems and an opportunity to remedy them before they escalate. A written evaluation would also formally acknowledge a Director's positive accomplishments while simultaneously identifying areas for improvement.

Departmental Restructuring

An audit, commissioned by the Rohnert Park City Council in 2018 and conducted by the Center for Public Safety Management, recommended an increase of four sworn officers (two command and two patrol) and that a new middle tier be added to the command structure. The recommended structure called for the creation of seven lieutenant positions and a reduction of 5 sergeant positions. In December of 2018, the City Council authorized the restructuring of the RPDPS command structure. The new structure was to include two Deputy Chief positions, one for police and one for fire, and five lieutenants. The City Council further authorized promotions from within the department and elevated two of the current commanders to the Deputy Chief positions. The new tier of supervision at the lieutenant level included two lieutenants for police, two lieutenants for fire, and the previous position of Commander of Support Services was reassigned as the Manager of Support Services at the lieutenant level. Promotions were made within the department to fill these new positions.

This restructuring assured that command staff was on duty for 20 out of each 24 hours, with sergeants available during the early morning four-hour gap. In addition, all commanders and staff are on-call in the event of emergencies or critical incidents.

Vehicle Monitoring

Currently, all marked RPDPS police vehicles include location tracking through a mobile data computer (MDC) which contains a global positioning system (GPS) for logging vehicle location. These computers were also in place at the time of the drug interdiction activities. These computers must be turned on and logged into for information to be recorded. The data records are maintained and shared between most Sonoma County public safety jurisdictions through the Sonoma County Public Safety Consortium (SCPSC). When historic location data is needed for a

specific vehicle, RPDPS cannot access the data directly but contacts the SCPSC and requests the data. Unmarked vehicles, such as those used by detectives, do not carry MDCs and therefore have no GPS tracking of any kind. The CPSCM audit recommended that



GPS be installed in all police vehicles, but to date that recommendation has not been implemented.

City Responses

In January 2021, the newly installed City Council identified greater accountability and transparency with respect to the RPDPS as one of its three priorities. In May 2021, the Director of Public Safety and the City Manager made a related presentation to the City Council and on August 10, 2021, the City Manager presented nine recommendations for increased law enforcement accountability and police community relations to the City Council. Of these nine recommendations, three are directly related to this investigation. These recommendations include the following:

- Retain an Independent Police Auditor to review public safety investigations into civilian complaints.
- Adopt a Public Safety Calendar for communication between the Department of Safety and the City Council.
- Create a Chief’s Community Round Table forum to obtain feedback from citizens from underrepresented minorities.

Public Opinion

It bears pointing out that despite the revelations arising from the malfeasance of two rogue officers, public support for the RPDPS remains consistently high among the 1,138 or 2.7% of Rohnert Park residents who responded to the 2022 Community Survey.

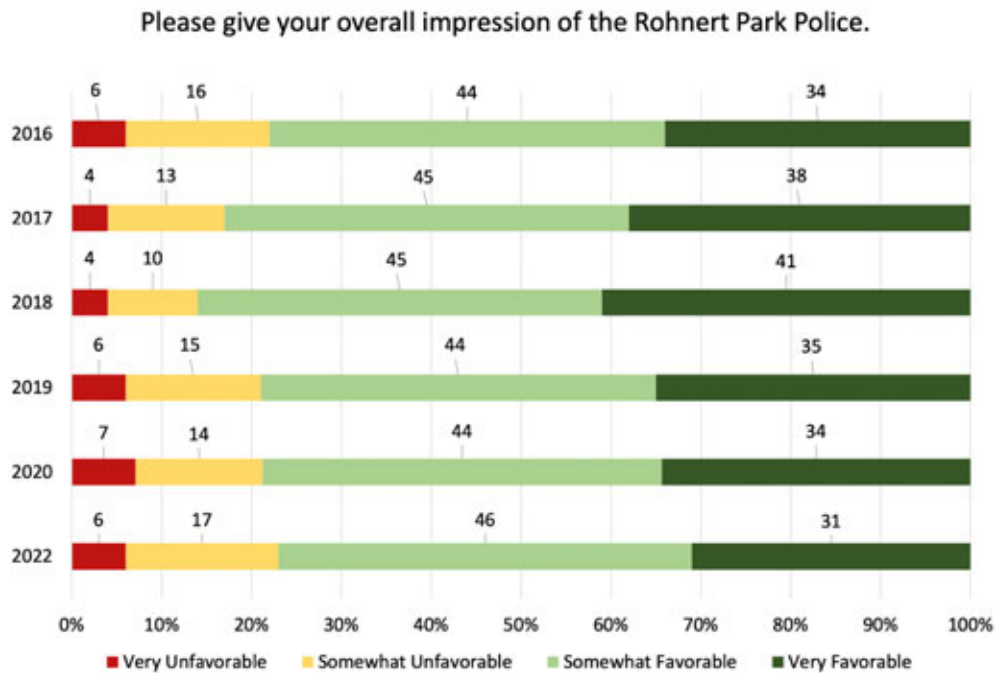


Table 1: Survey results from rpcity.org

CONCLUSION

Only when a huge scandal surfaced in the media did the City of Rohnert Park discover and acknowledge there were serious problems in the Department of Public Safety. That said, departmental procedures have been tightened up considerably since the events leading up to

2018. As recognized in the CPSM audit, the process of implementing the audit's recommendations "will not take just weeks or even months, but years."

The implementation of a new command structure provides supervision and support throughout most of the 24/7 public safety operations. This structure also provides opportunities for advancement throughout the ranks.

Officer morale and retention have improved within the RPDPS and public support has continued. The City has implemented numerous improvements:

- Implemented a new command structure
- Tightened up protocols related to vehicle check-out
- Implemented electronic barcoding of evidence and other seized items
- Implemented camera surveillance and monitoring of the evidence room
- Limited access to the evidence room to three designated persons with key access
- Implemented counting of seized cash on body worn cameras at time of seizure
- Contracted with an outside firm to investigate citizen complaints of RPDPS officers

The Grand Jury has identified areas in which we believe improvement can continue to be made to ensure the continued adherence to established policies and procedures. These recommendations will provide added checks and balances to maintain compliance with existing practices and protocols.

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. The previous Director of Public Safety received one formal written evaluation from the current City Manager during the five years in which he reported to him.
- F2. During his three-year tenure, the present Director of Public Safety has received only one formal written evaluation, which occurred at the end of his first six months.
- F3. A single evaluation fails to document the strengths and weaknesses of the Director's ongoing performance.
- F4. The City Manager has no formal process to solicit input from within the Public Safety Department and to communicate concerns to the Director of Public Safety.
- F5. There is no procedural requirement dictating regularly scheduled meetings between the Director of Public Safety and the City Manager. While meetings currently happen weekly at the request of the current Director, there is no procedure requiring that this practice be maintained into the future.
- F6. There is no requirement for the Director of Public Safety to routinely provide presentations or department updates to the City Council in a public setting. Therefore, there is little opportunity to allow community input to or provide transparency of the Department's activities.
- F7. Police vehicle tracking has been and remains inadequate.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By December 31, 2022, the City Manager institute an annual written performance evaluation for the Director of Public Safety. (F1, F2, F3)
- R2. By December 31, 2022, the City Manager obtain input from a representative sample of Rohnert Park Department of Public Safety personnel to be considered in the evaluation of the Director's annual performance. (F4)
- R3. By December 31, 2022, the City Manager establish a schedule for communicating with and getting feedback from the Public Safety Officer Association. (F4, F5)
- R4. By September 30, 2022, the City Manager and the Director of Public Safety complete the preparations for and institute the Public Safety Presentation Calendar as recommended to the City Council on August 10th of 2021. (F6)
- R5. By December 31, 2022, the City Manager and the Director of Public Safety complete the recruitment for and establishment of the Chief's Community Round Table as recommended to the City Council on August 10, 2021. (F6)
- R6. By July 1, 2023, the City Council allocate funds to install GPS tracking on all police vehicles. (F7)
- R7. By December 31, 2023, the Director of Public Safety shall install GPS tracking on all police vehicles. (F7)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- City of Rohnert Park (R1, R2, R3, R4, R5, R6, R7)

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

INVITED RESPONSES

The Grand Jury invites the following to respond:

- Rohnert Park City Manager (R1, R2, R3, R4, R5)
- Rohnert Park Director of Public Safety (R4, R5, R7)

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DISCLAIMER

This report was issued by the Grand Jury with the exception of one juror who was a known critic of the Rohnert Park Department of Public Safety. This juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of the report.

SMART Decision Making

Citizen Feedback is Critical for Success

SUMMARY

The Sonoma-Marín Area Rail Transit (SMART) District (District) was established by [state legislation](#) in 2002 to form a passenger rail system. [Measure Q](#) of 2008 provided twenty years of funding by taxpayers and established the structure of the organization, with a Board of Directors (BOD), General Management, and a [Citizens Oversight Committee](#) (COC). Through Measure Q, the District received the proceeds of a quarter-cent sales tax that could be used to solicit a war chest of bond funding. That is, projected tax revenue could be used to back a bond issue and immediately obtain a large amount of funding to design, construct, and operate a passenger rail service along the Highway 101 corridor through a significant portion of Marin and Sonoma Counties.

The Measure, as many came to recognize, was passed at the outset of the “Great Recession.” Consequently, sales tax revenues fell short of Measure Q expectations, and the District was unable to obtain anticipated funding that would permit the construction and operation of the entire vision. Therefore, the District’s BOD opted to build out in phases—delaying the start of passenger service and the completion of the full system. When passenger service finally began in 2017, it was negatively impacted by a series of wildfires and floods in the District that added to the stresses of opening the service—all of which affected ridership to some extent. And then came the unimaginable: COVID-19. Ridership plummeted during the pandemic brought on by COVID-19, dropping fare revenue to a fraction of projections. The District could not have foreseen or planned for this series of unfortunate events, but they powered on in determination to deliver the vision of passenger service.

In 2018, while SMART was still developing infrastructure and working to recapture ridership, the State offered to pay SMART to take on the freight services of the financially strapped [North Coast Railroad Authority](#) (NCRA), which regulated a small private freight operation in the region. The State’s offer included payment for the outstanding obligations of the NCRA, provided for a hiking trail along a scenic part of the route, and gave SMART both freight transport assets and extended control of freight operation along lines to the east and north of SMART’s existing route along the Highway 101 corridor.

The BOD voted to accept the State’s offer on freight service in 2020, despite having no prior freight experience or staff to develop the business, and with no input from the COC. SMART began consolidating that business, using outside operational resources at first and working on expanding it into a profitable—or at least a break-even—financial venture. Then the BOD took an unusual and aggressive step in closing a locally unpopular activity of the prior freight owner: a highly profitable storage operation for liquefied petroleum gas (LPG) tank cars in Schellville. This action responded to requests from Sonoma Valley residents who reported concerns about possible environmental contamination. Still, the action left the freight business in a money-losing situation from the outset and was done with no proposed alternative to cover the lost revenue.

Immediately before the consideration of freight, SMART placed Measure I, a sales tax extension, on the March 2020 ballot. This measure sought to extend the quarter-cent sales tax funding into

2059 in order to renegotiate or re-issue bond funding. SMART suffered a defeat at the ballot box. The failed tax measure left SMART with unsettled finances and having to determine service and build-out reductions or delays. This failed tax measure was generally attributed to the public’s lack of confidence in the SMART operation which was itself attributed to a lack of transparency and communication. SMART began to hold periodic “[Listening Sessions](#)” to address these issues.

The 2021-2022 Sonoma County Civil Grand Jury (Grand Jury) reviewed how both the SMART BOD and the COC interacted with and listened to the public and believes that the public criticisms are valid. The Grand Jury proposes a set of changes to how the SMART BOD interacts with the public and how the BOD receives input from the public and advisory committees. The changes proposed are not new concepts, and similar ideas have been addressed in other forums. SMART’s own BOD and COC have repeatedly acknowledged a disconnect between the voter expectations of oversight and the activities of the COC. The 2013-2014 Sonoma County Civil Grand Jury and the 2013-2014 Marin County Civil Grand Jury both recommended enhanced oversight and public input. These recommendations were [discounted in responses by the BOD](#). In 2020, prior to the vote for an extended sales tax levy, the League of Women Voters also made recommendations for enhanced oversight and public input. These recommendations, however, were never implemented.

The changes this Grand Jury proposes include a more defined and expanded role for the COC and/or the addition of committees to advise the BOD and make recommendations. These changes are intended to improve the BOD’s responsiveness, transparency, and overall efficiency. In this report we recommend that the BOD clarify the definition of “citizen oversight” as noted in Measure Q.

Sonoma County has a large investment in the SMART system, and is developing community plans around the SMART stations. Any proposed citizens’ oversight committees and advisory changes need to be implemented soon, as the financial clock is ticking. The County will not be well-served if the District does not achieve its charter or becomes insolvent.

In addition to this current community vision, SMART continues to be an entity of interest to the State. Discussions are underway to connect SMART’s transit and freight services to routes in the East Bay and Capitol Corridor. Citizens should have a greater understanding of proposed plans with the ability to provide input before final decisions are made. SMART must also enhance its communication in general to improve its ability to successfully reintroduce tax funding prior to the expiration of Measure Q in 2029. The Grand Jury wishes to see SMART succeed far into the future, but greater interaction with citizens through a restructured COC and/or additional advisory committee(s), is recommended to win back the public’s trust and facilitate that success in ridership and at the ballot box.

GLOSSARY

- AB 2224 California Assembly Bill, “Sonoma-Marin Area Rail Transit District”, which established a district to “own, operate, manage, and maintain a passenger rail system within the territory of the district”
- BOD SMART Train Board of Directors, with the members as defined in the District creation legislation
- COC Citizens Oversight Committee, formed by the BOD per the directives of the Measure Q Expenditure Plan of 2008

- District The Sonoma-Marín Area Rail Transit District
- Measure I Sonoma and Marin County Measure in 2020 to extend the funding of the SMART Railroad District to 2059 (Defeated)
- Measure Q Sonoma and Marin County Measure in 2008 to fund the SMART Railroad District for passenger rail service from 2009 through 2029 (Passed)
- Measure R Sonoma and Marin County Measure in 2006 to fund the SMART Railroad District with Sales Tax initiative (Defeated)
- NCRA North Coast Railroad Authority, a State-created entity established in 1989 to sustain and control the rail system in the North Coast region of California
- NWPCo Northwest Pacific Railroad Company, a privately owned freight rail company operating under the controls of NCRA
- SB 1029 California Senate Bill, “North Coast Railroad Authority Closure and Transition to Trails Act, which authorized SMART to expand into freight service
- SMART Sonoma-Marín Area Rail Transit

BACKGROUND

A Citizen’s Complaint to the 2021–2022 Grand Jury served to initiate investigation into the SMART freight operation, which was established in 2020. During this investigation, the issue in the complaint was resolved, but the Grand Jury observed other matters related to the operation of SMART that are of public interest. Those matters became the focus in this investigation.

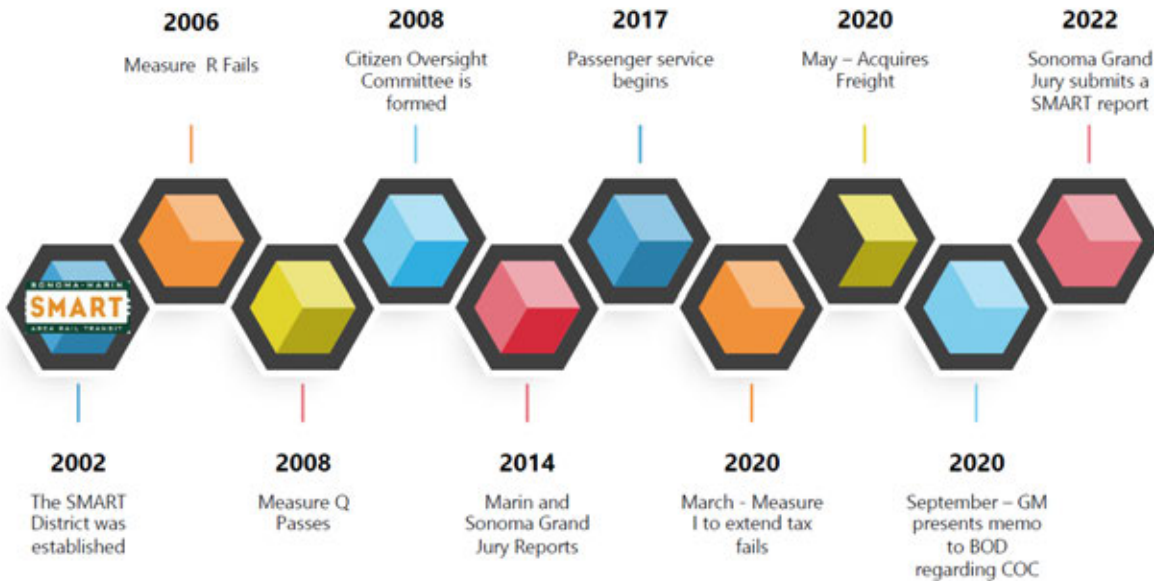


Figure 1: SMART Timeline

2002

The Sonoma-Marín Area Rail Transit District was established by state legislation on September 3, 2002 and became effective on January 1, 2003. Its original charter was the transportation of passengers and their incidental baggage. Its twelve-member BOD was specifically designed to be comprised of officials from Marin and Sonoma Counties, supplemented with two members

from the Golden Gate Bridge, Highway, and Transportation District. In addition to initial funding from Federal, State, and regional sources, the SMART Board sought to obtain additional funding through a sales tax measure.

2006-2008

In November 2006, Measure R, a sales tax increase was proposed to the voters. It was rejected by a close vote (65.3% in favor; 66.67% required for approval). In November, 2008, the SMART Board returned to the voters with Measure Q which was approved, providing a quarter-cent sales tax in both Marin and Sonoma Counties for twenty years.

[Measure Q contained a 2008](#)

[Expenditure Plan](#), which was adopted by the SMART board. The Measure called for an annual financial report to include the status of any project

authorized to be funded in the Plan, and

the creation of a Strategic Plan to be updated at least every five years. The 2008 Expenditure Plan promised that a COC would be created. The Measure Q “Argument In Favor,” contained in the ballot materials, stated that taxpayers would be protected by independent citizens oversight and annual audits of funds spent.



Figure 2: SMART Station in Cotati

The 2008 Expenditure Plan outlines the role of the COC in exactly one sentence stating, “A Citizens Oversight Committee will be established by the SMART Board to provide input and review on the Strategic Plan and subsequent updates.” The only structure provided for the COC was, “The committee will be composed of citizens from the SMART District, appointed by the Board.” Those two sentences comprised the entire description of the COC within Measure Q.

2014

In 2014, both the Sonoma County and the Marin County Grand Juries produced reports on the SMART District. Both reports contained recommendations regarding citizen input and oversight of operations.

The 2013-2014 Sonoma County Grand Jury recommended appointment of an additional Citizen’s Advisory Committee and [more effective use of standing advisory committees](#) to provide comprehensive oversight on major policy issues. SMART responded that the BOD was competent to handle that, and the cost and burden were too high. SMART acknowledged that they would reconsider their position after implementing rider service, if warranted. The 2013-2014 Marin County Grand Jury recommended that the BOD establish an organizational structure and process for the COC to provide ongoing input concerning the Strategic Plan. SMART responded by stating they had already implemented this by following the process outlined in Measure Q. As stated above, Measure Q contains no such organizational structure or process details. The Marin Grand Jury also recommended appointment of an additional Citizen’s Advisory Committee, and SMART’s response was the same as their response to the Sonoma Grand Jury.

2017

Full passenger service began August 25, 2017, which was a delay from the 2014 date anticipated with the passage of Measure Q.

The Grand Jury found no evidence that the BOD reconsidered its position on the COC.

2020

In March, 2020 ballot Measure I proposed an extension of the current tax, scheduled to expire in 2029. The language of Measure I stated that the COC will continue to provide input and review the Strategic Plan. SMART also stated that the COC "...is composed of citizens from the SMART District, appointed by the Board for a specific term." In point of fact COC members are not appointed for specific terms, and many continue to hold their positions on the COC since its creation in 2008.

In the accompanying ballot material, the "Argument Against Measure I" stated that SMART had disagreed with almost all of the findings and recommendations of two Grand Jury reports (the 2013-2014 Sonoma Grand Jury and the 2013-2014 Marin Grand Jury reports). The "Argument Against Measure I" also stated that these rejected recommendations would have improved financial oversight and communication with the public. There was no rebuttal to this part of the Argument. Measure I failed for lack of a supermajority, with approval rates of only 52.3% in Sonoma County and 55.7% in Marin County.

In August 2020, the BOD held a listening session with the League of Women Voters representatives. Again, the BOD received recommendations to enhance community involvement and expand the role of the COC. Again, the BOD did not act on these independent recommendations.

On September 2, 2020, the SMART General Manager sent a memo to the BOD regarding the COC. The memo stated: "During our public discussion on the outcome of Measure I, your Board received feedback from both the public and members of the Citizens Oversight Committee (COC) about a change in the structure, scope of duties, membership and the frequency of the COC meetings." The memo contained a chart of Bay Area transportation agencies which showed that most had public input committees (see Appendix A).

The memo: 1) suggested defining the scope and issues the COC should be considering; 2) suggested the members' qualifications and diversity should be defined, and members should have limited terms; 3) recommended that the COC should meet, at minimum, at least twice a year; and 4) suggested that the name "Advisory" might be more descriptive of its actual function rather than the name "Oversight".

The BOD decided that any decision regarding the COC should be delayed while they conducted further Listening Sessions from the public. Listening Sessions were conducted until December 16, 2020. To date, no changes have been made to the COC and no additional advisory committees have been created—over a year after the last listening session was held.

METHODOLOGY

The Grand Jury reviewed a broad range of relevant public information related to the SMART District. Additionally, the Grand Jury interviewed members of the BOD, members of the SMART system management, and members of the COC. The Grand Jury requested documentation that was relevant in informing these decision makers and guiding their actions.

The reviews included:

- Legislation that created and amended the SMART District
- Assessments of proposed legislation on the transfer of Freight to SMART, and of business viability of that action
- Funding Measures and associated Plans
- SMART District meetings
- Local journalism reporting of SMART activities
- Documents solicited by the Grand Jury

DISCUSSION

SMART Ballot Measures

The consent of the governed is never more powerfully demonstrated than at the ballot box. This is particularly true when the voters are asked to tax themselves. The SMART District must, by law, rely on “retail transactions and use tax” revenue. Although State or Federal agencies may provide grants, the overwhelming majority of SMART’s resources derive from this sales tax (or the promise of continuing income from it when bonds are sold).

In 2006, Measure R, the proposal for funding SMART through an increase in sales taxes was narrowly defeated by voters. The Measure required 66.67% of voters’ approval, but received 65.3%. The proposed tax was necessary to create a continuous revenue stream, which could also be leveraged for the sale of bonds and to pursue government grants. The bonds were necessary to fund capital improvements necessary for SMART to fulfill its mission of providing a passenger rail system.

Two years later the SMART District again went to the voters to enact a quarter-cent sales tax with Measure Q, which was approved (69.6% affirming). Both measures had included the promise to create a COC to “provide input and review on the Strategic Plan and subsequent updates.” It is clear that the majority of voters wanted a passenger rail service, and the second time a super-majority demonstrated they were willing to pay for it.

SMART Structure and Funding

Subsequent to the election, SMART BOD established its structure within the basic outline of its original legislation and its campaign commitments. The structure included the General Manager, the General Manager’s staff, and the COC.

Due to the 2007-2008 “Great Recession,” sales tax revenues did not meet expectations during SMART’s initial development. Also, while SMART sold bonds to quickly obtain large resources, the bond issue was limited by the funding stream from the tax levy. SMART recognized these impacts, and reported that the build-out of the system would take place in phases, with the scheduling of those phases driven by availability of funds.

In addition to defining the structure, the Board established advisory committees, including the COC promised in the election. The advisory committees were to provide information and guidance to the board, where deeper research and independent input were desired. The committees established at the outset of SMART development phase were the Vehicle Advisory Committee, Station Advisory Committee, and Transit Coordinating Committee, and the COC.

Back to the Voters with Measure I

Just as the pandemic was hitting in March, 2020, SMART tried to extend the sales tax measure beyond the initial 20 years in order to plan for the future and extend service to the Sonoma-Mendocino County line. Measure I received 52.34% approval in Sonoma County and 55.66% approval in Marin County to affirm the extension—dropping significantly from the Measure Q level of 69.6%, and well below the 2/3 supermajority required. So what happened to voter sentiment between 2008 and 2020?

The opponents to Measure I argued against the Measure with criticisms that focused on the reduced funding and delays:

- “SMART built less than 2/3 of the promised rail line and 1/3 of the bike paths. They do not have the funds to finish.”
- “At \$2.4 billion dollars in new taxes, Measure I is too much for something that does so little, with no accountability.”
- “SMART is Costly, Inefficient, and built on Broken Promises.”
- “SMART began rail service over three years behind schedule and massively over budget.”
- “Poor Management and Bad Decisions.”

However, there was more presented to voters in advance of the vote: the news reports that the SMART management team declined to provide ridership reports to journalists in 2019 suggested to some that the SMART team was not meeting public transparency standards. This issue was taken up by the League of Women Voters in not supporting the Measure.

Public Feedback Through Listening Sessions

Finally, after the defeat of Measure I, the SMART management team recognized a need for more citizen input, and scheduled “Listening Sessions” to provide for public feedback. This expanded citizen input to SMART management and the Board, but it did not provide the evaluation and recommendation-developing strength of a well-established, informed citizen oversight committee. The Grand Jury was unable to find evidence of any changes made by the BOD from the input received in the Listening Sessions, and the Listening Sessions were not offered with assurance that they would be consistently held or directed to all matters of public interest or strategic value to SMART and Sonoma County.

The Grand Jury believes that if the criticisms from their opponents and Listening Session speakers are judged by SMART to be valid, the BOD and SMART management, should reconsider how the COC could help to promote public confidence. Regaining voter approval is essential given that SMART has now taken on providing freight service above and beyond its core mission of providing passenger service.

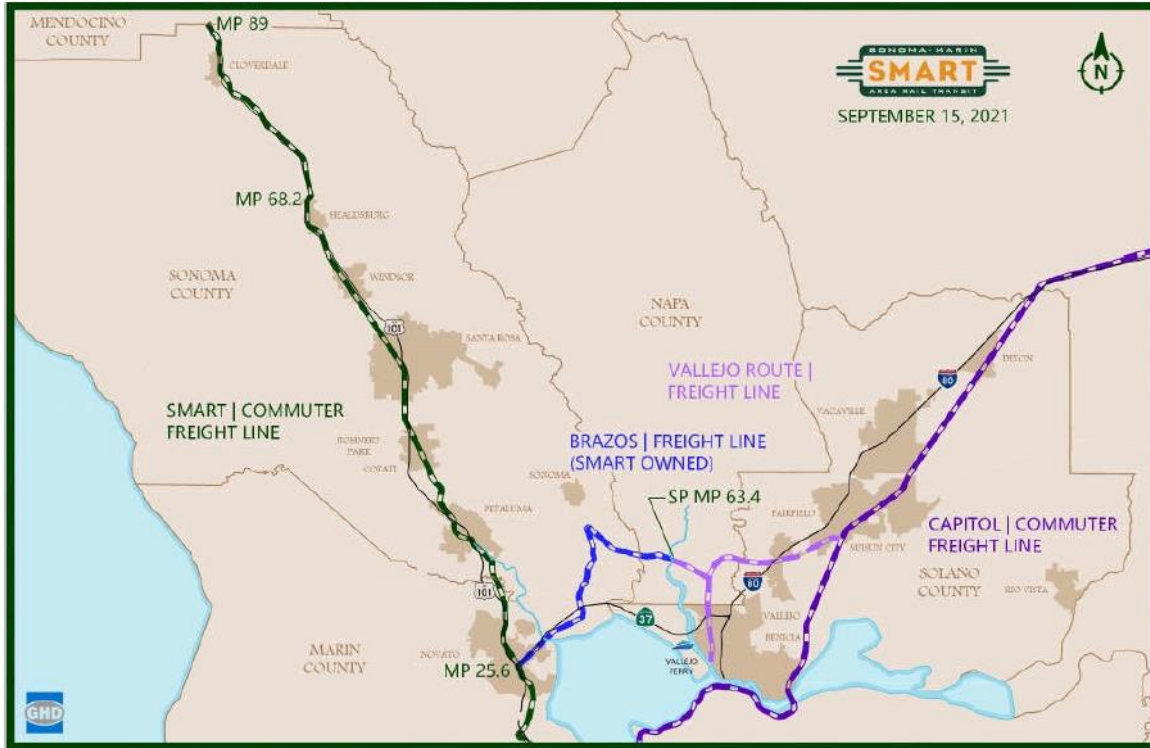


Figure 4: SMART Freight Routes

SMART Takes on Freight Operations Without Oversight

In 2018, Senate Bill 1029 proposed turning over to SMART the freight operation under the jurisdiction of the North Coast Railroad Agency. As noted before, the SMART BOD considered this matter, and opted to do so. This action underscored the concerns of transparency and oversight, as it provoked a number of questions by local media and by citizens.

The BOD lost a valuable opportunity to build public support when it decided to accept the freight operations with little public disclosure or discussion on the pros and cons. The BOD also circumvented the only oversight established within SMART by deciding to transport freight without asking for the opinion or advice of the COC. In fact, the [2019 Strategic Plan](#) included no financial provisions for the freight operations even though the wheels were well in motion for the transfer to SMART.

While the 2019 Strategic Plan mentioned freight, the Grand Jury did not find evidence that the BOD or the COC discussed the impact on the District in any meaningful way. Given the voter rejection of Measure I, will SMART now have to cut service or development? If so, how will they do that? These are questions voters may have and the BOD should consider. These are questions that the BOD should be asking the COC to provide guidance on or solicit public feedback about.

Storing Tank Cars in Schellville

Another issue arose almost immediately after SMART took on freight service, and it also took place without broad public discussion and COC input. The Northwest Pacific Railroad Company (NWPCo) had stored liquefied petroleum gas (LPG) tank cars in Schellville since 2016. It was a



Figure 5: Tank Cars in Schellville

profitable element of their business, but was controversial in the Sonoma Valley. There were reported fears for safety, environmental protection, and for their unsightly appearance. SMART reported their desire to eliminate the tank car storage in Schellville during their November 17, 2021 Board meeting. During that meeting, they reported holding two small, non-Board meetings with local community members on the matter. These meetings, on November 14 and November 15, had two and three SMART representatives, respectively, meeting with small groups of community members. Following those limited meetings, the BOD met on November 17 to discuss their position on the LPG storage issue. They made their decision to

close down the LPG storage without taking formal citizens' advisory input. The decision was made to take the action at the earliest opportunity, prior to developing a replacement revenue source that could keep their freight service profitable.

What is the SMART Thing to Do Moving Forward?

SMART is now entering a period of some financial hazard. If the sales tax is not extended, its taxpayer revenue base will disappear in 2029. The operating reserves may be utilized and depleted over the next five years. The freight service offers some valuable opportunities to SMART with regard to providing a new revenue stream, but it could put a strain on the management staff and the finances of SMART if not carefully managed.

The BOD must be prepared to determine if and when freight service becomes untenable and threatens their core mission of providing passenger service. SMART also faces future pressure to expand freight and passenger service eastward out of Sonoma and Marin counties. This pressure could come from the same State forces that led SMART to accept freight service on its existing rail line. The public deserves a robust discussion on the merits of this potential future expansion, and the Grand Jury hopes the BOD would not make any critical decisions without meaningful public discussion or COC input. SMART's consideration of public opinion on these matters will likely be critical to successfully soliciting extended tax revenue in the near future.

Engaged citizen representation and involvement are important to SMART and to Sonoma County. Formal, independent citizen representation in the Board meetings can provide insight and depth to crucial decisions.

Furthermore, the infrastructure of the COC should be established, including technology systems tied to and supported by the District. The Grand Jury found that some requested documents pertaining to the COC could not be readily obtained because they were stored on computers that were not part of SMART infrastructure (i.e., they were on external computers) and the documents were no longer accessible. This suggests that committee members do not necessarily

have uniform, easy access to important information, that collaboration could be inhibited, and that information could be lost.

Lastly, the Grand Jury found that freight and passenger service funds and expenditures are tracked in separate accounts on the books and records of the District, but were not segregated in separate bank accounts. The Grand Jury is concerned that this could potentially lead to short term “float” of passenger service funds being used to pay for freight expenses, which would be a breach of Measure Q allowed uses. Measure Q requires that sales tax proceeds be used for “passenger” related services. Although the Grand Jury did not find evidence that this was occurring, best practices would dictate that the monies should be segregated to eliminate the potential for misuse.

CONCLUSION

The SMART District has suffered a number of disruptions in its short life that have put it at risk of losing public confidence and trust, some within and some outside its control. Without decisive and visible steps to bolster public confidence, it could conceivably lose funding such that it never fulfills the vision originally provided to the public. One powerful step toward rebuilding public confidence and trust—with the possible added benefit of gaining a greater brain trust in decision-making—is to give the public a greater insight into the SMART management and a greater voice to decision makers.

The SMART tax funding was originally proposed with the Sample Ballot statement that “Independent Citizens’ Oversight and annual audits are MANDATORY to ensure funds are spent properly” (emphasis in the original). There are two definitions of oversight: 1) the action of overseeing something; 2) an unintentional failure to notice or do something. In order to fully achieve the independent citizens’ oversight—in the first sense—the SMART BOD must redefine and re-energize the existing COC, and/or must establish additional advisory committees. The BOD, COC, and prominent citizens groups have addressed this, but it has not been implemented; it is past time to do so.

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. The Board of Directors lacks adequate input from the Citizens Oversight Committee.
- F2. The Citizens Oversight Committee reports to SMART management rather than directly to the Board of Directors.
- F3. The public has expressed concern about the Board of Directors strategic decisions made without the input of a citizens’ oversight committee.
- F4. A well-informed and responsive citizens’ advisory group has the potential to positively influence the final terms of crucial actions prior to the vote of the Board of Directors.
- F5. The SMART Strategic Plan of 2019 did not adequately address the addition of freight operations, and was not updated for consideration by an advisory committee and the public.
- F6. The Citizens Oversight Committee has not fulfilled its oversight role as represented in Measure Q election materials and it has failed to serve as a fully independent advisor on important SMART issues.

- F7. The Board of Directors and the Citizens Oversight Committee have maintained the responsibility of the Citizens Oversight Committee at what was defined loosely in the 2008 Expenditure Plan of Measure Q—addressing only the minimal responsibility of reviewing the five-year strategic plan—despite recommendations from former Sonoma and Marin County Grand Juries and members of the League of Women Voters to expand the advisory role.
- F8. The requirements of Measure Q and its associated 2008 Expenditure Plan are not sufficiently detailed to provide for a well-trained, well-informed, well-regulated, and suitably responsive Citizens Oversight Committee.
- F9. Measure Q does not prohibit or limit the development of committee roles or additional committees to provide the Board of Directors with informed and independent public opinion.
- F10. The Board of Directors response to the Grand Jury reports of 2014 indicated that comment periods in Board of Directors meetings are sufficient to obtain public input, but failed to recognize the importance of well-informed advisory committees.
- F11. The Board of Directors responded to prior Grand Jury reports that the Citizens Oversight Committee fulfilled the Measure Q requirements with regard to the five-year Strategic Plan, but failed to recognize their responsibility to provide suitable public feedback and oversight, as promised in election materials.
- F12. The lack of required formal reports from the Citizens Oversight Committee to the Board of Directors has created an environment where input from the Citizens Oversight Committee is not required or generally expected prior to decision making.
- F13. Bylaws for the Citizens Oversight Committee do not exist and if developed could provide structure and a set of rules to guide the Committee’s operations and activities.
- F14. The undefined term of service in the Citizens Oversight Committee has the potential to allow Committee members to remain for long periods of time or permanently, which could lead to stagnation of ideas, and to leadership and committee fatigue.
- F15. The ultimate financial and management impacts of taking on the freight business are very difficult to predict, and accepting the freight business creates the potential risk of distraction from SMART’s primary purpose of implementing and operating a passenger rail system.
- F16. The lack of district-wide public discussion of the LPG storage facility in Schellville contributed to the hasty closure of the facility rather than a phased or delayed closure that would have given the SMART management an opportunity to mitigate the financial loss.
- F17. Implementing accounting best practices would separate the Measure Q monies from freight or other future ventures into separate bank accounts in addition to their separate bookkeeping accounts.
- F18. Committee members who were interviewed by the Grand Jury could not provide requested documents because there was no central information repository.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By January 31, 2023, the Board of Directors expand the role of the Citizens Oversight Committee beyond the minimal requirements of the Measure Q Expenditure Plan to achieve expectations of citizen oversight and accountability. (F1, F2, F3, F5, F6, F7, F8, F9, F10, F11, F12, F13)
- R2. By January 31, 2023, the Board of Directors consider additional advisory committees to generate informed, independent advice on important matters under consideration, including but not limited to increasing ridership, building public trust, new lines of business, sale of assets, finance, and other significant decisions. (F1, F2, F3, F4, F7, F8, F9, F10)
- R3. By January 31, 2023, the Board of Directors reassess the SMART organizational structure such that the Citizens Oversight Committee and any future advisory committees report directly to the Board. (F1, F2, F3, F4, F9, F11)
- R4. By January 31, 2023, the Board of Directors require written Citizens Oversight Committee analysis and recommendations prior to all strategic decisions whether or not incorporated in the five-year Strategic Plan. (F1, F2, F3, F5, F6, F7, F11, F12)
- R5. The Board of Directors define and implement advisory committee bylaws for the Citizens Oversight Committee, by January 31, 2023. (F7, F12, F13, F14)
- R6. The Board of Directors define the length of terms for Citizens Oversight Committee members, by January 31, 2023. (F14)
- R7. By January 31, 2023, the Board of Directors develop suitable training programs for new and existing members of the Citizens Oversight Committee regarding their newly defined role and proper public committee protocols, such as the Brown Act rules. (F1, F4, F6, F7, F8)
- R8. By December 31, 2022, the Board of Directors direct the Citizens Oversight Committee to prepare written recommendation reports to be presented at or entered into the record of the Board of Directors meetings. (F1, F2, F3, F4, F6, F10, F11, F12)
- R9. The Board of Directors direct the General Manager to provide a timeline to evaluate the financial viability of freight services by March 31, 2023. (F4, F15, F16)
- R10. The Board of Directors and the General Manager establish separate bank accounts for the monies associated with passenger transit (Measure Q, et al.) and with freight or other future ventures, by December 31, 2022. (F17)
- R11. The Board of Directors direct advisory committees to develop and implement a policy to keep documents and information related to their advisory role centrally located and remotely accessible, by January 31, 2023. (F18)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- SMART Board of Directors (R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11)

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

INVITED RESPONSES

The Grand Jury invites the following to respond:

- SMART General Manager (R9, R10)
- SMART Citizens Oversight Committee (R1, R3, R4, R5, R6, R7, R8)

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APPENDIX A

SMART Board of Directors packet of September 2020

This chart was part of the SMART Board of Directors' packets on September 2, 2020, prepared by the previous General Manager. The Grand Jury reviewed most of the listed Transit Agency websites and found the majority of the Public Advisory Committees report directly to their respective Board of Directors.

Many advisory committees meet monthly or quarterly and have clear expectations and guidelines for their advisory committee membership, for example:

- Promote an open and inclusive public involvement process
- A majority of the membership elects the chairperson
- Membership Terms and methods of appointment
- Committee by-laws
- Review of critical issues
- Application process available on-line

PUBLIC ADVISORY COMMITTEES IN TRANSPORTATION:

Most, but not all, operating transit agencies have public input committees for various reasons. Large agencies have many committees for many reasons (and significant staff resources devoted to that effort), but most have only one or two. Most transit operations include some role for public input on accessibility, passenger concerns and general input. Below is a high level sample of Bay Area transportation agencies and the number of advisory committees listed with the scope covered by the committees. This is based on the best information available on agencies websites:

Agency	Number of Committees	Scope of Committees
TRANSIT AGENCIES		
ACE	1	Passenger issues
BART	9	Accessibility, bicycles, business opportunities, earthquake and capital bonds oversight, language and civil rights issues, transit security
Caltrain	4	Rail Customer needs and policies, project designs, bicycles, local policy input
Golden Gate Transit	3	General Advisory on Bus and Ferry; Accessibility
Marin Transit	2	Paratransit and Marin Access
Napa Valley Transportation Authority (NVTA)*	4	General advisory, bicycle and pedestrian issues, paratransit, and tax oversight (*NVTA is also a Planning Agency)
Petaluma Transit	1	General Advisory
Santa Rosa City Bus	1	Paratransit Issues
Soltrans	1	Fares, Short Range transit plan, general work plans
Sonoma County Transit	0	n/a
Valley Transportation Authority (VTA)	6	Tax measure oversight, bike and pedestrian issues, seniors/disabled, local jurisdiction input.
TRANSPORTATION PLANNING AGENCIES		
Sonoma County Transportation Authority (SCTA)	3	Policy and project decisions, input and funding compliance, paratransit, bike/ped
Transportation Authority of Marin (TAM)	1	Review and report on mandated expenditures

What Happens When the Grand Jury Makes Recommendations?

A Follow-Up Report on Water in Sonoma Valley

SUMMARY

The 2019-2020 Sonoma County Civil Grand Jury produced two investigative reports on the supply of water in Sonoma Valley. “*Emergency Water Shortages in Sonoma Valley*” and “*Sonoma Valley Regional Water Resources*” examined the consequences of the closure of the Sonoma Developmental Center and its impact on the water supply in Sonoma Valley.

The report on emergency water shortages was generated when the Valley of the Moon Water District expressed concerns that their backup emergency water supply was in jeopardy due to the deactivation of the water treatment plant at the Sonoma Developmental Center (SDC). The investigation also brought to light a broader issue, namely that the closure of the SDC created the need to review the current water resources in Sonoma Valley.

During their investigation, the 2019-2020 Grand Jury interviewed officials with water districts, water suppliers, city water departments and examined relevant documents and reports. From the information collected, the Grand Jury authored a report containing “Findings”, which identified areas for recognition or improvement. Respondents were required to accept or dispute those Findings and to explain why they dispute a Finding. The Grand Jury’s report also contained “Recommendations” based on the Findings. Respondents were asked to attach a summary of the implementation, provide a timeline for implementation, or to attach an explanation of the scope, parameters and timeline that need future analysis. If the respondent said “will not implement,” they were requested to provide the reasons for the decision. Recommendations were directed to the Valley of the Moon Water District, the City of Sonoma, Sonoma Water, and Permit Sonoma. The California Department of General Services was also invited to respond. In June of each year, the Sonoma County Grand Jury publishes reports based on its investigations. The reports are available on the [Sonoma County Civil Grand Jury](#) website. The following Grand Jury compiles the responses to each of the investigative reports and creates the Continuity Report, which is then published the following June. Usually, this is the end of the Grand Jury’s involvement. Further accountability must be driven by the residents of Sonoma County, the media, or possibly, future Civil Grand Juries. The 2021-2022 Sonoma County Civil Grand Jury decided to follow up on the responses for the two 2019-2020 reports to determine if the various water officials did, in fact, follow through with their commitments.

During the current investigation, this Grand Jury contacted all required respondents of the prior reports to determine the status of the actions they discussed in their original responses. If the actions have not yet been completed, we requested the anticipated date of completion. The Grand Jury determined that six Recommendations have been implemented, three are being implemented, and three will not be implemented. One of the Recommendations will not be implemented because, upon further review, it was considered to be of no benefit and two Recommendations pertained to the SDC, but as the SDC had already closed, no further action was possible. The draft proposal of the SDC Specific Plan is now due by December 31, 2022.

GLOSSARY

- LAFCO Local Agency Formation Commission
- SDC Sonoma Developmental Center
- VOMWD Valley of the Moon Water District

BACKGROUND

Water is essential for life. It is not hyperbole to state that our survival relies upon the steady supply of safe and affordable water. We need it to grow our food, maintain healthy communities, and support our economy. We need water to preserve wildlife and maintain nature, from our verdant forests to our rivers and waterfalls. Unfortunately, we also need it to fight wildfires.

Climate change puts all of this at risk. Our climate is warming and this presents many challenges. Warmer temperatures intensify droughts and wildfires, reduce snowpack levels, raise sea levels, and can sometimes drive shorter, more intense wet seasons that create floods.

Californians' concern about water is not new, but it seems to have generated more attention in the last several years. Since 2015, the Sonoma County Grand Jury has published five investigative reports on water in Sonoma County:

- [2019-2020](#) “*Emergency Water Shortages in Sonoma Valley*” and “*Sonoma Valley Regional Water Resources*”
- [2018-2019](#) “*Will There Be Water After an Earthquake*”
- [2016-2017](#) “*Planning for Groundwater Sustainability*”
- [2014-2015](#) “*Sustainable Water for Sonoma County, Water for the Present and the Future*”

Each of these reports included interviews with water officials, including those with water districts, water suppliers, and water personnel within the County and the various cities within Sonoma County. Each report made Recommendations to the appropriate agencies to evaluate and determine if every Recommendation was reasonable and if implementation was possible. Their responses are included in the Grand Jury's Continuity report, the following term. Often the response is that the Recommendation will be implemented in the future, but the timeline is either vague or absent. The results of the current review focused on the 2019-2020 Grand Jury reports and are outlined in both the Discussion section of this report and in the matrix in Appendix A.

Sonoma Developmental Center

Many of the Recommendations in two previous reports include references to the Sonoma Developmental Center (SDC). To put things in proper perspective, a brief background of the SDC is in order.

The State purchased 1,640 acres of land in 1890 to create a center for people with developmental disabilities. During its existence, the Center had plenty of water, its own dairy, a farm, an orchard, and poultry and pigs were raised on-site. At peak occupancy, up to 4,500 patients and staff were housed here. Over the years, the property has gone through many changes, including four name changes. It has been known as the Sonoma Developmental Center since 1985. Sonoma County purchased 162 acres of this property in 1974 and named it Sonoma Valley Regional Park. Sonoma County has purchased additional acreage over the years, some of which

has become Sonoma Valley Regional Park and some has been incorporated into Jack London State Historic Park.

With the decline in resident population and damage from the 2017 Nuns Fire, the SDC was officially closed on December 31, 2018. During its tenure, the SDC had a self-contained water supply, a water treatment plant, and a distribution system. In addition, it had connections to the Valley of the Moon Water



District (VOMWD) and the Sonoma County Water Agency’s Sonoma Aqueduct for use during an emergency.

The water treatment plant had a capacity of 1.8 million gallons per day and the four water tanks could hold two million gallons of potable water. As the population of the SDC declined, so did its need for water, eventually cutting back processing to 40,000 gallons a day. As the facility ramped down, staff members resigned or took early retirement, creating concerns in meeting mandated staffing requirements. Inadequate staffing led the State Water Resources Control Board’s Drinking Water Division to take enforcement actions. Consequently, the Department of General Services shut down the water treatment plant in September, 2019 – nine months after the closure of the SDC.

Surface water was sourced from Asbury Creek and Hill Creek, both of which fed into Fern Lake. Before its closure, the treatment plant was served by Roulette Springs. Another source, Lake Suttonfield, was utilized on an “as needed” basis. In total, there are two reservoirs, two springs, five wells and rights to the water in Sonoma Creek on the SDC property. The State currently owns all the water rights to the land, but these rights may transfer to the new owners upon the sale of the property.

In 1963, to regulate the boundaries of cities and special districts, the State of California created a Local Agency Formation Commission (LAFCO) in every county. Per LAFCO, these boundaries, or “Spheres of Influence”, are defined as “the probable physical boundary and service area of a local agency.” The Valley of the Moon Water District covers territory from Glen Ellen to the City of Sonoma with the exclusion of the SDC. In 2017, LAFCO determined that the VOMWD Sphere of Influence included the SDC. Potentially, this could mean that the VOMWD would assume control of the groundwater, the treatment plant, and distribution systems serving the site. If the State agrees, this would become official once planning is finalized and the property’s ownership changes hands.

METHODOLOGY

The Grand Jury held interviews with:

- Representatives of Sonoma Water, the Valley of the Moon Water District, the City of Sonoma, Permit Sonoma, and the Local Agency Formation Commission

The Grand Jury reviewed and evaluated a wide range of sources:

- 2019-2020 “*Emergency Water Shortages in Sonoma Valley*” and “*Sonoma Valley Regional Water Resources*”
- A variety of websites of water districts, water suppliers and cities in Sonoma County
- Technical documents and reports of water districts, water suppliers, and cities in Sonoma County

DISCUSSION

Previous Recommendation Status

Each report and its Recommendations are written independently, which can result in some repetition of Recommendations. Consequently, while the matrix in Appendix A includes 14 Recommendations, twelve of them are unique. Of these Recommendations, six have been implemented; three are in the process of being implemented, and three will not be implemented, two of which pertain to the SDC’s closure prior to implementation of the Recommendations. A complete matrix of the Recommendations and Responses is available in Appendix A.

Recommendations: Were They Implemented?

Recommendations Related to VOMWD and the City of Sonoma

In response to the 2019-2020 Grand Jury Recommendations:

- The City of Sonoma and the VOMWD have extended the water main and created an intertie to link their distribution systems and thus, enable the two entities to share water during emergencies.
- The VOMWD has launched a three-year plan to rehabilitate its wells and have signed agreements with two owners of private wells to supply water as needed and to drill an additional well.
- In its water bills, [VOMWD](#) has included inserts of the Water Shortage Contingency Plan and has announced a new webpage for emergency water supply and preparedness.
- The City of Sonoma and the VOMWD stated they have a mutual aid agreement to provide ongoing cooperation on projects. The Grand Jury requested, but did not receive, a copy of the formal agreement.
- The City of Sonoma and the VOMWD agreed to investigate the possibility of a joint regional Urban Water Management Plan instead of two separate reports. They determined that there was no significant cost benefit to issuing one joint report and thus, this change was not a high priority.
- Permit Sonoma agreed to share the results of the Water Supply Assessment with the City of Sonoma and the VOMWD. Originally due in 2021, this report now has an anticipated completion date of May 2022.

Recommendations Related to the Sonoma Developmental Center

It is important to note that the implementation of many of the Recommendations involving the SDC in the earlier reports will rely on additional information to be obtained from reports that have not yet been released. These reports include the Water Supply Assessment and the Regional Water Supply Resiliency Study. When the responses were written, these reports had an anticipated release date of 2021, but now neither report is expected to be available before this Grand Jury report is submitted for publication.

The Recommendations that were relevant to the Sonoma Developmental Center (SDC) were either not possible to complete or implementation was delayed. This is due to the closure of the SDC and the length of time it is taking to develop the SDC Specific Plan (Specific Plan).

SDC Specific Plan

The SDC Specific Plan, which will help determine the future of the SDC, will consider various uses of the land. Some of the many components the plan will include are housing, recreation, water resources, the possible preservation of historic buildings, conservation of natural resources, wildlife corridors, economic viability of the site, and transportation patterns. The completed Specific Plan, after review and approval by the Sonoma County Board of Supervisors, will be submitted to the California Department of General Services for final approval. Originally due by December 31, 2021, this plan is now due December 31, 2022.



Asbury Creek

CONCLUSION

Prior to making arrangements for the sharing of existing water resources, the closure of the Sonoma Developmental Center had a negative impact on the water supply in Sonoma Valley. There has been no effort to arrange for the sharing of water resources and there is no longer any access to potable water in the storage facilities at the SDC. The production of the reports required for the Specific Plan has been delayed for one year, as has the final Specific Plan.

When the Specific Plan is finalized, the water authorities in Sonoma Valley must meet with the California Department of General Services to determine the new water requirements and the best way to source them without negatively impacting the existing needs of the region.

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. Nine of the Recommendations to Sonoma Water, Permit Sonoma, the City of Sonoma, and the Valley of the Moon Water District that were expected to be implemented in the future have either been completed or have been initiated and are in the process of implementation.
- F2. Two of the Recommendations relating to the Sonoma Development Center cannot be implemented in the absence of an SDC Specific Plan.

- F3. The Recommendation that the City of Sonoma, the Valley of the Moon Water District and Sonoma Developmental Center implement plans to share existing water resources to reduce risks in emergencies was not implemented.
- F4. Some Recommendations have not been implemented due to the delay of required reports or studies.
- F5. The future sources of water for the Sonoma Developmental Center property are undetermined at this time.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. By September 30, 2022, Permit Sonoma, Sonoma Water, the Valley of the Moon Water District, and the City of Sonoma Water Department meet to ensure that in any SDC Specific Plan, the water resources of the site are utilized for any future development with limited reliance on water from the Sonoma Aqueduct. (F5)
- R2. By September 30, 2022, Permit Sonoma, Sonoma Water, the Valley of the Moon Water District, and the City of Sonoma Water Department meet to ensure that a SDC Specific Plan includes an outline for the sharing of water resources of the site during emergencies. (F3)

REQUIRED RESPONSES

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

- Permit Sonoma (R1, R2)
- Sonoma Water (R1, R2)
- Valley of the Moon Water District (R1, R2)
- City of Sonoma (R1, R2)

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APPENDIX A

REPORT TITLE: EMERGENCY WATER SHORTAGES IN SONOMA VALLEY

RES = Respondent CSO = City of Sonoma VOM = Valley of the Moon Water District
 SW = Sonoma Water PS = Permit Sonoma

RECOMMENDATIONS	RES.	ORIGINAL RESPONSES	2021-2022 UPDATED RESPONSES
R1. By December 31, 2020, The Valley of the Moon Water District, City of Sonoma, and Sonoma Developmental Center initiate cooperative planning to reduce risk in emergencies, including promptly implementing ways to share existing water resources.	DGS CSO VOM	The state DGS, which is not legally required to respond, notes that the Specific Plan for SDC may address facilities that support the land uses of the Specific Plan, including water facilities. As future water uses must be vetted through the land use planning process of the Specific Plan, it would be inconsistent with state law for DGS to support a separate process to support these issues. This Recommendation will not be implemented because it is not reasonable in terms of timeline or overall scope and approach. At this time the SDC receives its entire water supply through the Sonoma Aqueduct. There are no additional water sources to share at this time. The City is monitoring the progress of the SDC Specific Plan. The District agrees with this Recommendation. The District feels that Sonoma Water must be involved in this effort as it is supplying water to the SDC campus.	This Recommendation was not implemented.
R2. The Valley of the Moon Water District evaluate by November 30, 2020 whether District operation of Sonoma Developmental Center water distribution and storage facilities would offset deficiencies in emergency water for both Valley of the Moon Water District and Sonoma Developmental Center	VOM	The District agrees with this Recommendation; its current plans and priority are focused on rehabilitating a number of local wells. Improved capacity of these wells will provide the quickest solution to making water available during emergencies in the short to medium term.	The agreement to rehabilitate their wells will take place over 3 years and will double the production capability. They have agreements with two owners of private wells to provide water as needed and to drill an additional well.
R3. The Valley of the Moon Water District and the City of Sonoma interconnect their distribution systems, and establish an agreement for sharing water during emergencies by December 31, 2020.	CSO & VOM	The City and VOM agree with this Recommendation. Plans are underway with the City for the physical interconnection between the City and the District's distribution system. Work is expected to begin on this project in the spring of 2021.	The City installed a main extension with a special connection on the end adjacent to one of our (VOM's) fire hydrants. The proximity of these to point (destination of final connection) allows a tow-behind water pump, powered by a diesel engine,

RECOMMENDATIONS	RES.	ORIGINAL RESPONSES	2021-2022 UPDATED RESPONSES
			<p>to be set up quickly and will allow water to be transferred in either direction to the City or the District. This is the permanent interconnection, not a temporary work around.</p> <p>The Grand Jury has confirmed that this has been completed and training of personnel from both water agencies has taken place.</p>
<p>R4. Sonoma Water, Valley of the Moon Water District, the City of Sonoma, Permit Sonoma, and the California Department of General Services form an agreement by October 31, 2020, that potable water storage facilities at Sonoma Developmental Center shall remain active and available for shared access during emergencies.</p>	<p>DGS</p> <p>CSO</p> <p>VOM</p> <p>PS</p> <p>SW</p>	<p>The State (DGS) is open to utilizing excess onsite tank storage capacity on an interim basis for other parties to store their water for access during emergencies and interruptions, subject to the approval of the SWRCB (State Water Resources Control Board).</p> <p>The City is monitoring the activities of the SDC Specific Plan for when it can participate in plans for shared water access during emergencies.</p> <p>VOM agrees with this Recommendation but conditions at SDC prevent the District's ability to achieve the desired outcome in the short term.</p> <p>Permit Sonoma indicates this Recommendation requires further analysis. PS does not have authority or control over SDC's potable water storage facilities. However, in its role leading the SDC Specific Plan process, PS is committed to facilitate the best outcomes for the community and will evaluate emergency water use agreements as part of the planning process.</p> <p>Sonoma Water does not have jurisdiction or control over the SDC's water storage facilities. SW will continue to work on coordinated water resources planning. SW is leading the development of a Regional Water Supply Resiliency Study, anticipated to take 18-20 months to complete.</p>	<p>This Recommendation was not implemented. The City of Sonoma and VOM have installed a main extension to enable them to share water during emergencies. See R3 above.</p> <p>The 2021-2022 Grand Jury has confirmed that this Study is in progress. The first phase will be a Technical Memo on drought analysis and will be released in May, 2022. Phase 2 will review additional topics. No date has been set for phase 2.</p>
<p>R5. The Valley of the Moon Water District accelerate its program for expanding well</p>	<p>VOM</p>	<p>The District agrees with this Recommendation and will continue its accelerated program for the</p>	<p>The agreement to rehabilitate their wells will take place over 3 years and</p>

RECOMMENDATIONS	RES.	ORIGINAL RESPONSES	2021-2022 UPDATED RESPONSES
capacity and water storage by December 31, 2020.		installation of new wells and tanks. This is a high priority in both its Water Master Plan and Strategic Plan.	will double the production capability. They have agreements with two owners of private wells to provide water as needed and to drill an additional well.
R6. The Valley of the Moon Water District establish specific emergency water-use restrictions and communicate them to its customers by September 30, 2020.	VOM	VOM plans to implement this Recommendation with the insertion of the Water Shortage Contingency Plan to its customers on its outgoing water bills beginning September 23, 2020. In addition, the District will post on its website specific actions taken during a water shortage emergency.	The 2021-2022 Grand Jury has confirmed that this Recommendation has been implemented.
R7. By September 30, 2020, the Valley of the Moon Water District inform customers annually, or when conditions change, regarding risks and deficiencies in the emergency water supply and any actions taken to mitigate them.	VOM	The District agrees with this Recommendation and has created a new webpage for its customers about risks and water deficiencies in the emergency water supply. The District began notifying its customers about the new webpage on outgoing bills starting September 23, 2020.	The 2021-2022 Grand Jury has confirmed that this Recommendation has been implemented.
R8. Permit Sonoma establish, by September 30, 2020, communication with water system managers for the City of Sonoma, the Valley of the Moon Water District, and Sonoma Developmental Center to inform the SDC Specific Plan process.	PS	This Recommendation has been implemented. PS is committed to robust and meaningful engagement with these entities and other potentially affected entities as part of the SDC Specific Plan.	The 2021-2022 Grand Jury has confirmed that this Recommendation has been implemented.

REPORT TITLE: SONOMA VALLEY REGIONAL WATER RESOURCES

RES = Respondent CSO = City of Sonoma VOM = Valley of the Moon Water District
 SW = Sonoma Water PS = Permit Sonoma

RECOMMENDATIONS	RES.	ORIGINAL RESPONSES	2021-2022 UPDATED RESPONSES
R1. Sonoma Water, the Valley of the Moon Water District, the City of Sonoma and Permit Sonoma work with California Department of General Services to seek an agreement, by October 31, 2020, that potable water storage facilities at Sonoma Developmental Center shall remain active and available for sharing water.	DGS CSO	The state (DGS), which is not legally required to respond, is open to utilizing excess onsite tank storage capacity on an interim basis for other parties to store their water for access during emergencies and interruptions, subject to the approval of the SWRCB (State Water Resources Control Board). The City is monitoring the activities of the SDC Specific Plan and can participate actively when water options are considered.	

	VOM	VOM agrees with this Recommendation but conditions prevent the District's ability to achieve the desired outcome in the short term.	The California Department of General Services has requested the VOM undertake this report with an anticipated completion date of May, 2022.
	PS	This Recommendation will be implemented in the future. Under the current schedule for the SDC Specific Plan process, the Water Supply Assessment (WSA) is scheduled to be prepared in 2021. It is likely that VOMWD and the City of Sonoma will be involved in its preparation. PS will communicate the final WSA to both entities as soon as it is available.	
	SW	This Recommendation requires further analysis. Sonoma Water does not have jurisdiction or control over the SDC's water storage facilities. SW will continue to work on coordinated water resources planning. SW is leading the development of a Regional Water Supply Resiliency Study, anticipated to take 18-20 months to complete.	
R2. Permit Sonoma establish, by August 31, 2020, a continuing dialog with water system managers for the City of Sonoma, the Valley of the Moon Water District, and the Sonoma Developmental Center to inform the SDC Specific Plan.	CSO	The Recommendation has been implemented.	The 2021-2022 Grand Jury has confirmed that this Recommendation has been implemented.
	VOM	The Valley of the Moon Water District agrees with this Recommendation. As of 9/2/20, the District, PS, and the City of Sonoma have engaged in meetings and ongoing discussions in order to inform the SDC Specific Plan.	
	PS	This Recommendation has been implemented. PS is committed to robust and meaningful engagement with these and other potentially affected entities to inform the SDC Specific Plan process and to shape its outcome.	
R3. Sonoma Valley water agencies take an active role in the SDC Specific Plan process, by September 30, 2020	CSO	This Recommendation has been implemented. The City will continue to monitor the SDC Specific Plan Process and participate as feasible and relevant to Sonoma.	The 2021-2022 Grand Jury has confirmed that this Recommendation has been implemented.
	VOM	The District agrees with this Recommendation. Valley of the Moon District staff will represent VOM on the SDC Specific Plan Planning Advisory Team as well as	

	PS	<p>the SDC Technical Advisory Committee for the Specific Plan.</p> <p>To the extent applicable, PS has implemented this Recommendation. PS has initiated ongoing communications regarding the SDC Specific Plan process and related issues, and will continue to support and facilitate their involvement in the planning process.</p>	
R4. Permit Sonoma communicate the results of the Water Supply Assessment to water system managers for the City of Sonoma and the Valley of the Moon Water District as soon as they become available.	CSO VOM PS	<p>This Recommendation will be implemented in the future. The City has established communication with PS so that PS can communicate the results of the WSA.</p> <p>The District agrees with this Recommendation. The District looks forward to reviewing the results of the WSA when it is made available.</p> <p>This Recommendation will be implemented in the future. The WSA is scheduled to be prepared by 2021. The VOM and City will be consulted or otherwise involved in the preparation of the WSA. PS will communicate the final WSA as soon as it is available.</p>	The 2021-2022 Grand Jury has confirmed that the California Department of General Services requested the VOM to have the report prepared. The anticipated date of completion is May 2022.
R5. The City of Sonoma and the Valley of the Moon Water District establish a mutual aid agreement that provides for ongoing cooperation on planning, services, projects and such other collaborative efforts that they deem to be to be mutually beneficial (e.g., sharing of such resources as staff, equipment and emergency water), with a copy of the mutual aid agreement to be sent to the Grand Jury by December 31, 2020.	CSO VOM	<p>The Recommendation has been implemented.</p> <p>The District agrees with this Recommendation. The District and the City of Sonoma are both parties to a mutual aid agreement along with other entities. The City is currently working on engineering and bidding process for the physical interconnection between the distribution systems.</p>	The Grand Jury has confirmed that this has been completed and training for both entities has taken place.
R6. The Valley of the Moon Water District and the City of Sonoma meet by October 31, 2020 to discuss the issuance of a regional 2020 Urban Water Management Plan rather than two separate ones.	VOM & CSO	<p>The Recommendation has been implemented. The Valley of the Moon Water District and the City of Sonoma met in August to discuss combining efforts for the Urban Water Management Plan (UWMP). They are waiting for a revised quote from the UWMP consultant to combine the work.</p>	By the time this Recommendation was issued, the two reports were well underway. Both entities work with the same consultant and they verify the consistency of the data. They have determined that there is no significant cost differential to issue two reports. There is no opposition to combining

			the reports but it is not a high priority at this time.
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Responses to the 2020-2021 Sonoma County Civil Grand Jury Reports

Providing Continuity by Following Through on Previous Investigations

SUMMARY

The 2021-2022 Sonoma County Civil Grand Jury has reviewed the responses to the investigations and Recommendations made by the 2020-2021 Grand Jury. The 2020-2021 Grand Jury produced five investigative reports. This summary addresses the responses received from the responsible entities named in those reports. Although respondents did not adopt all Recommendations, their responses do comply with the requirements of the Penal Code.

BACKGROUND

The Civil Grand Jury system in California exists to promote effective and efficient local government. The Penal Code gives the Grand Jury broad investigative powers to provide oversight to County and City governments, and to special districts within Sonoma County. The intent is to bring positive change in the best interest of all residents.

Each year the Grand Jury investigates local government institutions. It issues reports containing the results of these investigations, and Findings that lead to Recommendations for improvement. Governing bodies and department officials are required to respond to these Findings and Recommendations. Boards are directed to respond within 90 days of the release of a grand jury's report. Elected county officials are required to respond within 60 days. (Penal Code § 933(c)).

Succeeding grand juries review those responses and determine whether they meet the requirements of the Penal Code. This review establishes continuity from one grand jury to the next. The seated grand jury may evaluate responses for adequacy and determine whether appropriate steps have been taken to implement Recommendations.

METHODOLOGY

The Grand Jury evaluated responses for compliance with the governing sections of the Penal Code § 933.05.

DISCUSSION

According to the Penal Code, governing bodies and officials are required to respond to Findings in grand jury reports and the respondent shall indicate one of the following:

- The respondent agrees with the Finding.
- The respondent disagrees wholly or partially with the Finding, in which case the response shall specify the portion of the Finding that is disputed and shall include an explanation of the reasons therefor.

According to the Penal Code, as to each grand jury Recommendation, the responding person or entity shall report one of the following actions:

- The Recommendation has been implemented, with a summary regarding the implementation action.
- The Recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- The Recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
- The Recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

CONCLUSION

The 2021-2022 Sonoma County Civil Grand Jury concluded that the responses to the 2020-2021 Grand Jury Recommendations comply with the Penal Code. In addition, the Grand Jury has included its observations on the responses following pages titled: 2020-2021 Grand Jury Response Summary Chart.

Within the five issued reports, the 2020-2021 Grand Jury made 66 Findings and issued 47 Recommendations requiring a total of 98 responses from 19 different County and City agencies and governing boards. There were also two invited responses and five commendations.

Responses sometimes indicate partial implementation of a Recommendation and are sometimes ambiguous; the table below is intended to give a general overview. Roughly two thirds of the Recommendations have been or will be implemented and about one fifth have been rejected.

Report	Recommendation Actions					
	Total	Implemented	In Progress	Implemented In Future	Further Analysis	Will Not Be Implemented
Rohnert Park Districts	3	2	1	0	0	0
Broadband Access	18	5	0	6	7	0
Jail Telephone and Commissary	9	2	0	1	4	2
COVID Mitigation at the Jail	7	1	0	2	1	3
Emergency Communications	62	32	6	9	2	13
Total	99	42	7	18	14	18
Percent of all Recommendations		43%	7%	18%	14%	18%
		69%				

A copy of the full 2020-2021 Grand Jury report and responses received can be located within the [County of Sonoma, Superior Court of California](#) website.

2020-2021 Grand Jury Response Summary Chart

ROHNERT PARK ELECTION DISTRICTS

Background: In October, 2019 the City of Rohnert Park initiated actions to change City Council representation from an at-large basis (individuals vote for all council seats) to a district basis (individuals vote for only the seat for the district in which they reside). In response to citizen concerns the Grand Jury investigated the procedures that were followed in the transition process. They concluded that the rules governing the creation of district-based representation were followed, as were the rules governing election sequencing. Further, the Grand Jury found no credible evidence that open meeting laws were violated. However, the Jury did find a deficit in implementing and monitoring the required ethics training of City Council members, and noted a potential need to update district boundaries in response to the 2020 census.

RES = Respondent; GJ = Sonoma County Civil Grand Jury
 CRP = City of Rohnert Park; CCRP = City Council of Rohnert Park

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
R1. The City of Rohnert Park establish a procedure to monitor and track ethics training for publicly elected officials as required by California Assembly Bill No. 1234. This should occur by December 31, 2021.	CRP	This Recommendation has been implemented. Procedures are in place to arrange and provide training and to monitor compliance with AB 1234.	The Grand Jury acknowledges that this Recommendation has been implemented.
R2. The City of Rohnert Park notify elected officials of ethics training bi-annual deadlines by December 31, 2021.	CRP	This Recommendation has been implemented. Notifications of online training were sent in November 2020.	The Grand Jury acknowledges that this Recommendation has been implemented.
R3. The City Council members proactively plan in advance and allocate time in Council Meeting agendas to give the public opportunity for robust and ongoing discussion of any changes to the City’s demographics that need to be addressed when the new Census data is released on September 30, 2021. This should occur by December 31, 2021.	CCRP	This Recommendation has not been implemented but will be implemented in the future. Plans have been established for contracting with demographic and outreach consultants. At least four public hearings will be scheduled in 2021 in order to give the public opportunities for robust and ongoing discussion on any changes in the City's demographics that need to be addressed. The City’s actions will comply with the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (Fair Maps) Act.	The Grand Jury acknowledges that this Recommendation will be implemented in the future.

COUNTY JAIL INMATE TELEPHONE AND COMMISSARY

Background: As part of its inquiry into the Sonoma County Main Adult Detention Facility’s (MADF) telephone service, the Grand Jury found a pattern of charges for inmate phone use that exceeds the market rate by more than tenfold. The Sheriff’s Office also runs a commissary inside the MADF and its prices are typically 200% to 300% over the jail’s wholesale cost. The Sheriff’s Office deposits the phone commissions and commissary mark-up into the Inmate Welfare Trust (IWT) as State law requires. The Inmate Welfare Trust (IWT) was established to provide inmate programs, and in any given year, the IWT Committee may decide not to spend all of the money it raised. As of early 2021, the IWT held a surplus of over \$1.6 million. The Grand Jury offered these Recommendations to provide inmates a more accessible phone system and a more affordable commissary.

RES = Respondent; GJ = Sonoma County Civil Grand Jury;
 BOS = Sonoma County Board of Supervisors; MADF = Main Adult Detention Facility;
 SCSO = Sonoma County Sheriff’s Office; GTL = Global Tel Link, (MADF telephone provider)

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
R1. The Sheriff’s Office work with the Board of Supervisors to replace the current commission-based audio and video contract with Global Tel Link, using a model based on the San Francisco County Sheriff’s Department, by December 31, 2021.	SCSO	This Recommendation requires further analysis. The SCSO is open to replacing the commission-based contract, as long as the inmate programs it supports are not sacrificed. The SCSO would look to the BOS to commit General Funds for these programs so they would not be discontinued.	The Grand Jury acknowledges that this Recommendation requires further analysis and cannot be implemented until the analysis is completed.
	BOS	This Recommendation requires further analysis. County staff will research San Francisco County’s commission-free model to evaluate feasibility, fiscal impact and operational impact. Upon completion of the analysis, the BOS will look to the Sheriff’s office to determine if the program and structure should be changed, and then bring a recommendation to the BOS as needed.	The Grand Jury acknowledges that this Recommendation requires further analysis, and that the BOS cannot implement it by December 31, 2021. The GJ recognizes that the BOS will direct staff to perform the necessary research for the analysis.
R2. By September 30, 2021, the Sheriff’s Office develop a new communications model to provide for sufficient telephone kiosks to allow the inmate population free telephone and video visitation for at least 90 minutes per week until such time as a new	SCSO	This Recommendation has been partially implemented and requires further analysis. Detention staff is currently in communication with GTL for additional telephone kiosks and video visitation at the MADF. The SCSO is currently offering each inmate 70 minutes of free phone calls per week. Sheriff’s staff has prepared a funding request to the BOS to ensure continued funding, and if provided, will work with GTL for more equipment as needed.	The Grand Jury acknowledges that this Recommendation requires further analysis, and that the analysis should be completed by December 2021. The GJ recognizes that the SCSO has made changes to improve inmate telephone access by offering 70 minutes of free phone calls per inmate per week.

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
communication contract is in effect.			
R3. As required by PC § 4025(e), the Sheriff's Office provide an annual report to the Board of Supervisors detailing line item revenue and expenses within the Inmate Welfare Trust, beginning with the fiscal year ending June 30, 2021, with the initial report due by November 30, 2021.	SCSO BOS	This Recommendation has been implemented. The SCSO has been providing an annual report to the BOS as required by PC § 4025(e) since FY 03-04, and will submit the report for fiscal year ending June 30, 2021 by November 30, 2021.	The Grand Jury acknowledges that this Recommendation has been implemented.
R4. The Sheriff's Office use its \$1.6 million Inmate Welfare Trust surplus to remove all charges for telephone service while in-person visitation is suspended, on or before September 30, 2021.	SCSO	This Recommendation will not be implemented. On June 17, 2021, the SCSO returned to normal visiting operations. The SCSO also continues to provide each inmate a free 10-minute phone call per day.	The Grand Jury acknowledges that this Recommendation will not be implemented. The GJ also recognizes that the SCSO has made changes that improve inmate access to in-person visits and phone usage.
R5. The Sheriff's Office reevaluate its commissary markup to be in line with grocery store, as opposed to convenience store pricing, on or before September 1, 2021.	SCSO	This Recommendation requires further analysis. The SCSO intends to change the pricing structure with an updated and modernized commissary system based on analysis expected to be completed in December 2021. While it is the intent of the SCSO to sell hygiene supplies and stationery products with a 0% mark-up, snack items will not be priced similar to a grocery store because the pricing structure needs to compensate for the additional costs at the MADF (security, small storage area, delivery, etc.) that are not present in a grocery store setting.	The Grand Jury acknowledges that this Recommendation requires further analysis and cannot be implemented until the analysis is completed in December 2021. The GJ also recognizes the SCSO does not have the ability at the MADF to purchase in bulk and store in large quantity to obtain discount pricing. The MADF also incurs more direct overhead costs than that of a grocery store.
R6. By September 30, 2021, the Sheriff's Office, using the reserve Inmate Welfare Trust funds, resume all inmate programs in existence pre-COVID, with funding at the same level once COVID related restrictions are lifted.	SCSO	This Recommendation has not yet been implemented, but will be in the future. Prolonged interactions between inmates from different housing areas has been eliminated in order to reduce the spread of COVID-19. Detention staff will resume pre-pandemic level programming when it is safe to do so.	The Grand Jury acknowledges that this Recommendation will be implemented in the future. The GJ recognizes that the COVID-19 safety precautions create program challenges in the MADF congregate setting.

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
<p>R7. The Sheriff’s Office restructure the 10-member Inmate Welfare Trust Committee by December 31, 2021 to include more diverse representation, for example, community members, financial analysts, social workers and educators to bring the Committee more in line with the requirements of Penal Code § 5006 regarding commission membership standards for State Prisons.</p>	<p>SCSO</p>	<p>This Recommendation will not be implemented. The Inmate Welfare Trust Committee provides recommendations and direction to the Sheriff on inmate programs and IWT expenditures. The SCSO is always open to suggestions from the community.</p>	<p>The Grand Jury acknowledges that this Recommendation will not be implemented. The GJ also recognizes that Penal Code § 5006 applies only to state prisons and not the MADF.</p>

COVID-19 MITIGATION AND THE COUNTY JAIL

Background: The Grand Jury investigated activities by the Court, the District Attorney and the Sheriff’s Department to reduce jail populations and lessen the likelihood of a major COVID-19 outbreak within the jail. The Sheriff’s Office made significant efforts to mitigate Covid-19 transmission throughout its detention facilities to ensure the on-going health and safety of inmates and employees. The Grand Jury recognized the success of the Sheriff’s Office in avoiding a major COVID-19 outbreak in the jail. However, some actions significantly limited the ability of inmates to communicate with family and legal representatives. Other actions limited inmates’ access to educational and recreational resources. The Grand Jury made several Recommendations aimed at restoring inmates’ rights and maintaining reduced prison populations.

RES = Respondent; GJ = Sonoma County Civil Grand Jury;
 SCSO = Sonoma County Sheriff’s Office; DA = Sonoma County District Attorney;
 MADF = Main Adult Detention Facility

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
R1. The Sheriff’s Office develop, no later than September 1, 2021, a policy to restore out of cell activity, in person and video visitation, and all programs to pre-pandemic levels.	SCSO	This Recommendation has not yet been implemented but will be implemented in the future. However, the SCSO partially disagrees with the Recommendation because out of cell activities partly depend on inmate population over which it does not have final control. It is the goal of the Sheriff’s Office to have a revised policy completed by April 1, 2022.	The Grand Jury acknowledges that this Recommendation will be implemented in the future, with a specific goal of implementation of video visitation programs by April 1, 2022.
R2. The Sheriff’s Office implement 30-minutes of video visits per week by September 30, 2021, and continue until it fully restores in-person visits to the pre-pandemic levels.	SCSO	This Recommendation has been implemented. As of June 19, 2021, the Sheriff’s Office has restored in-person visiting to pre-pandemic levels.	The Grand Jury acknowledges that this Recommendation has been implemented through the restoration of in-person visits.
R3. The Sheriff’s Office should continue the pandemic-era policies favoring citations over arrests.	SCSO	This Recommendation will not be implemented because it is not warranted or reasonable. The SCSO cannot legally “favor” citations over arrests. The decision of citation vs arrest is the responsibility of the officer in the field.	The Grand Jury acknowledges this Recommendation will not be implemented.
R4. The Sheriff’s Office and the Board of Supervisors work together to develop a plan by December 21, 2021 to increase the contracted Wellpath resources to fund four additional Wellpath	SCSO	This Recommendation requires further analysis. The SCSO recognizes the substantial role discharge planners play for inmates with ongoing mental health and medical needs. The SCSO will monitor case load and issue recommendations to the BOS as needed.	The Grand Jury acknowledges that this Recommendation requires further analysis. A future GJ may choose to follow up on this issue.

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
discharge planners for mental health and medical assignments to the Main Adult Detention Facility.			
R5. The District Attorney discontinue cash bail for defendants charged with misdemeanors and non-violent, non-sexual and less serious felonies.	DA	This Recommendation will not be implemented because the DA does not have authority to unilaterally discontinue cash bail. However, the DA acknowledges that the practice of issuing citations rather than making arrests for misdemeanors and non-violent felonies has helped keep the MADF population from increasing. Further, it involves not only the arrest practices of the SCSO, but that of all law enforcement agencies.	The Grand Jury acknowledges that this Recommendation cannot be fully implemented at this time.
R6. The Sheriff's Office implement a surveillance-testing program and require 100% participation by all unvaccinated jail staff by September 1, 2021.	SCSO	This Recommendation has not yet been implemented but will be implemented in the future. The California Dept of Public Health Services order dated July 26, 2021, requires implementation of the Recommendation. The SCSO will be fully compliant with the Order by August 23, 2021.	The Grand Jury acknowledges that this Recommendation will be implemented.
R7. The Sheriff's Office reassign jail staff who decline vaccination or participation in surveillance testing by September 1, 2021.	SCSO	This Recommendation will not be implemented because it is not warranted or reasonable. This is a Human Resources issue and will be addressed through the Sonoma County Human Resources Department.	The Grand Jury acknowledges that this Recommendation will not be implemented. Given the State Public Health Order, this Recommendation is no longer relevant as vaccination tracking or surveillance testing is now mandatory for State and local correctional facilities and detention centers.

BROADBAND ACCESS IN SONOMA COUNTY

Background: Access to high quality internet (“Broadband”) is not available throughout all of Sonoma County due to the rugged, rural nature of much of the County, the reluctance of broadband providers to underwrite expansion to underserved areas, and the difficulty many residents have in paying for broadband services. This “digital divide” prevents many individuals from participating fully in our increasingly digital society. The Grand Jury investigated the current state of broadband availability in the County and identified several means through which it could be improved.

RES = Respondent; GJ = Sonoma County Civil Grand Jury;
 BOS = Sonoma County Board of Supervisors; EDB = Economic Development Board;
 TPW = Department of Transportation and Public Works; PS = Permit Sonoma;
 COA = Sonoma County Office of Administration; ASB = Access Sonoma Broadband

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
<p>R1. The Sonoma County Board of Supervisors consider recognizing and designating broadband as a “Utility” that needs prioritization by October 31, 2021.</p>	<p>BOS</p>	<p>This is interpreted as a two-part Recommendation: (1) The Sonoma County Board of Supervisors consider recognizing and designating broadband as a "Utility; (2) Broadband needs prioritization.</p> <p>Part 1 of this Recommendation requires further analysis. The Economic Development Board is beginning assessment of a governance structure that would best support broadband infrastructure development and maintenance. This assessment will also include analysis of options regarding the County's role with the Office of Broadband and Digital Literacy and the State's new Office of Broadband.</p> <p>Part 2 of this Recommendation has been implemented. On March 2, 2021, the BOS approved a Five-Year Strategic Plan that includes specific objectives related to broadband deployment and access.</p>	<p>The Grand Jury recognizes that BOS has interpreted this Recommendation as having two parts. The GJ acknowledges that Part 1 requires further analysis and that designation as a “utility” is dependent on determination of a governance structure that is yet to be determined.</p> <p>The GJ acknowledges that Part 2 of this Recommendation has been partially implemented through inclusion in the Five-Year Specific Plan.</p>
<p>R2. The Sonoma County Board of Supervisors adopt and support a plan to address a lack of broadband access in the County by November 30, 2021.</p>	<p>BOS</p>	<p>This Recommendation has been implemented. On June 8, 2021, the Board of Supervisors approved the Broadband Action Plan and allocated \$315,000 to fund the initial phase of the Action Plan.</p>	<p>The Grand Jury acknowledges that this Recommendation has been implemented.</p>
<p>R3. The Sonoma County Board of Supervisors provide staff and funding to allow the Economic</p>	<p>BOS</p>	<p>This Recommendation has been implemented. The EDB has initiated the Broadband Speed Test Initiative, which allows community members to test their</p>	<p>The Grand Jury acknowledges that this Recommendation has been implemented. The GJ also notes that speed tests do</p>

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
Development Board and Access Sonoma Broadband to develop accurate data on broadband service for the County by December 31, 2021.		current home internet speeds. When all tests are complete, the EDB will analyze the data, and may request funding from the Board of Supervisors if additional study is needed.	not address a lack of service due to unavailability or cost.
R4. The Sonoma County Board of Supervisors and Economic Development Board assemble an interdepartmental group to coordinate and oversee efforts in Broadband expansion by November 30, 2021.	BOS	This Recommendation has not been implemented but will be implemented in the future. The Board of Supervisors is awaiting a set of recommendations from EDB concerning the governing structure needed to implement their Broadband Action plan.	The Grand Jury acknowledges that this Recommendation has not been implemented but will be implemented in the future.
	EDB	This Recommendation has not been implemented but will be implemented in the future. An RFP for consulting services related to Broadband expansion is currently in development, with a release planned for late July 2021. The scope includes comprehensive research of potential governing structures and the creation of a business plan for the recommended structure. It is anticipated that a contract will be awarded in September 2021, with a governance structure and partnerships identified in late 2021.	The Grand Jury acknowledges that this Recommendation has not been implemented but it will be implemented in the future.
R5. The Sonoma County Board of Supervisors and the Economic Development Board consider the establishment of a broadband Joint Powers Agreement that includes Sonoma County, Mendocino County, and possibly other neighboring counties by November 30, 2021.	BOS	This Recommendation has been implemented. In 2016, the County of Sonoma entered into a Joint Powers Agreement with Marin County, Napa County and Mendocino County to coordinate efforts to improve broadband access for rural communities. Through the North Bay North Coast Broadband Consortium (NBNCBC) the four counties have worked to identify broadband deployment opportunities, locate broadband funding sources, complete broadband strategic plans and help broadband service providers take advantage of funding to address broadband opportunities. The NBNCBC has also worked to recommend the member counties authorize coordination with local, state and federal officials to review and support regulations and policies to further	The Grand Jury acknowledges that the Recommendation has been implemented by means of the NBNCBC, and that a potentially more powerful JPA is under consideration (see EDB response below).

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
		expand broadband deployment to rural areas.	
	EDB	This Recommendation has not been implemented but will be implemented in the future. A Joint Powers Agreement (JPA) is one of the structures recommended by the Broadband Action Plan, and will be considered as part of the scope of work outlined in the response to R4. The County will consider if a regional model is an appropriate tool for deploying broadband infrastructure in Sonoma County.	The Grand Jury recognizes that this Recommendation will be implemented in the future.
R6. The Sonoma County Board of Supervisors give a high priority to addressing personnel levels sufficient to accomplish the goals of a broadband specific plan.	BOS	This Recommendation has been implemented. The County has given high priority to accomplishing the Broadband Action Plan and has allocated \$315,000 for the initial stages of this work (consulting service, legal services, and grant management).	The Grand Jury acknowledges that this Recommendation has been implemented. However, the GJ notes that the allocation addresses the initial phase of this work and does not directly address personnel levels.
R7. The Sonoma County Department of Transportation, Permit Sonoma and Access Sonoma Broadband develop procedures and standards that would ensure placement of broadband conduit in all appropriate situations by December 31, 2021.	TPW PS	This Recommendation has not been implemented but will be implemented in the future. By December 31, 2021, TPW will begin working with Permit Sonoma to start the development of formal public right-of-way construction standards that will facilitate the permitting and installation of broadband facilities.	The Grand Jury acknowledges that this Recommendation has not been implemented but will be implemented in the future.
	ASB	This Recommendation requires further analysis. It is unlikely that ASB will exist at an operational capacity sufficient to create and recommend policy before a governance structure is identified and created (see R4 above).	The Grand Jury acknowledges that this Recommendation requires further analysis on the part of ASB.
R8. In the annual budget process the Sonoma County Board of Supervisors and the Office of Administration include evaluation of the costs of laying cable or empty conduit in upcoming	BOS	This Recommendation requires further analysis. The next opportunity to allocate funding, during the annual budget process, will take place in June, 2022.	The Grand Jury acknowledges that this Recommendation requires further analysis and that the County budget is set on an annual basis. BOS will not be able to consider cable/conduit fund allocation until June 2022.

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
infrastructure projects by December 31, 2021.	COA	This Recommendation requires further analysis. The County Administrator's Office will work with departments to determine if funding is available for "laying cable or empty conduit in upcoming infrastructure projects" and will make appropriate recommendations to the Board of Supervisors through the normal budget hearing process.	The Grand Jury acknowledges that this Recommendation requires further analysis.
R9. The Sonoma County Board of Supervisors, the Economic Development Board, and Access Sonoma Broadband include in the implementation of any broadband plan a clear requirement for the download and upload speeds of 100/20 proposed in State of California Executive Order N-73-20 to be the minimal acceptable level of service by September 30, 2021.	BOS EDB ASB	This Recommendation requires further analysis. Though download/upload speeds of 100/20 have been recommended by the state as well as identified by NBNCCBC as a target, it is unlikely that formal adoption of any particular speed recommendation will be made locally before a governing structure and business plan are identified and created. It is anticipated that an update on this work would be made to the BOS within six months.	The Grand Jury acknowledges that this Recommendation requires further analysis and that implementation depends on establishment of a working plan.
R10. The Sonoma County Board of Supervisors assure that any plan for broadband expansion should utilize fiber optic cable transmission or its equivalent whenever it is possible by November 30, 2021.	BOS	This Recommendation requires further analysis. Though fiber optic cable or its equivalent is a widely used benchmark, it is unlikely that the County will adopt formal transmission standards before a governing structure and business plan are identified and created.	The Grand Jury acknowledges that this Recommendation requires further analysis and depends on adoption of a plan.

EMERGENCY ALERTS AND COMMUNICATIONS

Background: Wildfires and other emergency situations have threatened Sonoma County and its residents for many of the last several years. There have been losses of lives, property, and a sense of security. This Grand Jury Report centered on emergency communications. Information must be precise, accurate and continuously updated. The Jury found that significant improvements in communication policies, procedures, and practices have been made since the Tubbs fire in 2017. The Sonoma County Sheriff’s Office and the Department of Emergency Management (DEM) have worked in conjunction with the nine cities of the county to ensure that all residents have access to good information. The Jury also noted four specific areas in which improvement was still needed.

In addition, the Jury included a comprehensive listing of available resources for information, both before and in case of an emergency. This information is on pages 83-87 of the full report, which is available at any County library and online at www.sonomagrandjury.org.

RES = Respondent; GJ = Sonoma County Civil Grand Jury;
 SCSO = Sonoma County Sheriff’s Office; DEM = Department of Emergency Management;
 CCL = City of Cloverdale; CC = City of Cotati; CH = City of Healdsburg;
 CP = City of Petaluma; CRP = City of Rohnert Park; CSR = City of Santa Rosa;
 CS = City of Sebastopol; CSO = City of Sonoma; TW = Town of Windsor;
 BOS = Sonoma County Board of Supervisors; SCFCA = Sonoma County Fire Chief’s Association

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
ALERTS AND WARNINGS			
R1. By October 31, 2021, the Sheriff’s office, Dept. of Emergency Management and nine cities’ departments include within their Emergency Operations Plans action steps to reach all subpopulations within the County who may not otherwise receive an alert.	SCSO CSO	The Recommendation will not be implemented. The Sonoma County Sheriff’s Office is not responsible for the county’s EOPs nor does it control the county’s disaster alert and warning program.	The Grand Jury acknowledges that this Recommendation will not be implemented. The GJ notes that the Sheriff’s Office does post alerts on Nixle.
	DEM	The Recommendation may not be implemented as it is vague. The County’s Alert and Warning Annex is responsible for these requirements.	The Grand Jury acknowledges that this Recommendation may not be implemented.
	CCL SR CS	This Recommendation has been implemented.	The Grand Jury acknowledges that this Recommendation has been implemented.
	CC CP CRP CH	This Recommendation is being implemented. The EOP will be updated by October 31, 2021.	The Grand Jury acknowledges that this Recommendation is being implemented.
	TW	This Recommendation has not been implemented. Emergency alert services are provided by the SoCo Sheriff’s Office	The Grand Jury acknowledges that that this Recommendation

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
		and the SoCo Fire District which use Nixle and social media platforms to alert residents of emergencies. Windsor’s EOP will be updated in 2022.	will be part of Town of Windsor updated EOP in 2022.
R2. By October 31, 2021, the Board of Supervisors review and propose additional alert and warning methods such as air raid sirens and public address systems to put contingencies in place when broadband fails or is not available.	BOS	This Recommendation has not and may not be implemented. The County has developed robust systems to reach most residents, as demonstrated in recent disasters. In cases of broadband unavailability it has used National Weather Radio to target challenging areas and populations, and has provided more than 10,000 weather radios. Hi-Lo sirens have been mounted on vehicles, and DEM continues to explore siren networks and other technologies.	The Grand Jury acknowledges that this Recommendation has not been implemented. The GJ also recognizes that BOS and DES continue to explore additional ways to improve and expand warning systems.
R3. By October 31, 2021, the Department of Emergency Management explain the challenges behind the emergency communications in order that residents may understand, trust and appreciate the complexity and the ongoing work it takes to maintain effectiveness-	DEM	This Recommendation has not been implemented but will be implemented in the future. Emergency communications are addressed with residents at every event.	The Grand Jury acknowledges that this Recommendation will be implemented in the future.

EVACUATIONS			
R4. By October 8, 2021, the Sheriff’s Office, Department of Emergency Management, and nine cities work together to ensure consistent naming for all evacuation maps used by the public and first responders.	SCSO DEM CC CCL CH CP CRP CS CSO CSR TW	This Recommendation has been implemented. The evacuation map has been shared with all nine cities, the DEM and every law enforcement agency and fire agency within Sonoma County.	The Grand Jury acknowledges that this Recommendation has been implemented.

RECOMMENDATIONS	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
R5. By October 8, 2021, the Sheriff's Office, Department of Emergency Management, and nine cities work together to ensure the public is informed of their evacuation zones by publishing evacuation maps in local media, online, and through SoCo Emergency.	SCSO DEM CC CCL CH CP CRP CS CSO CSR TW	This Recommendation has been implemented. Since late 2020 the Sheriff's Office worked with all nine cities to create a unified evacuation mapping system. This County-wide evacuation map of the unincorporated areas along with all nine cities was posted on the websites of the Sheriff's Office and the Department of Emergency Management on May 24, 2021.	The Grand Jury acknowledges that this Recommendation has been implemented.

RECOMMENDATION	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
INFRASTRUCTURE			
R6. By December 31, 2021, the Sheriff's Office develop a plan and identify what is needed to bring the communication tower equipment/repeaters up-to-date to ensure during an emergency the systems function (legacy and end of life systems.)	SCSO	The Recommendation has been implemented. The SCSO Telecommunications Bureau continually monitors and analyzes existing equipment and systems. Critical items are submitted annually to BOS for funding. A current list of projects is in the FY 2021-2026 Capital Improvement Plan.	The Grand Jury acknowledges that this Recommendation has been implemented.
R7. By March 31, 2022, the Sheriff's Office and Board of Supervisors provide funding to maintain the communication tower equipment/repeaters.	SCSO	The Recommendation has not been implemented but will be implemented in the future. SCSO submits requests on behalf of the Telecommunications Bureau through the County's Capital Improvement Plan. Funding is part of the annual spring budgeting process.	The Grand Jury acknowledges that implementation of this Recommendation depends on budget decisions made each spring by BOS.
	BOS	This Recommendation requires further analysis. The next opportunity to allocate funding will be through the annual budgeting process in June, 2022. The Administration will work with departments to determine if projects are warranted and funding is available.	The Grand Jury acknowledges that this Recommendation requires further analysis and cannot be implemented until budget decisions are made.

RECOMMENDATION	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
R8. By June 30, 2022, the Sheriff's Office implement the plan to bring the communication tower equipment/repeaters up-to-date.	SCSO	This Recommendation has not yet been implemented but will be implemented in the future. Actions will depend on the assessment of needs (R7) and BOS funding of projects in the 2021-2026 Capital Improvement Plan.	The Grand Jury acknowledges that this Recommendation will be implemented in the future as budgeting decisions are made by BOS each spring.
R9. By December 31, 2021, the Department of Emergency Management work with Permit Sonoma to identify where all cellular provider towers are in the county.	DEM PS	This Recommendation has not been implemented and may not be implemented. Commercial broadband providers are not required to share infrastructure location and do not do so as it is considered proprietary information. Some locations are known, but this is not considered necessary for optimal use of alert warning systems.	The Grand Jury recognizes that implementation of this Recommendation relies on the cooperation of commercial cellular providers which may not be forthcoming. The GJ accepts that DEM also considers this location information is not needed for use of the emergency alert system
R10. By October 31, 2021 the Sheriff's Office and Department of Emergency Management work with the Fire Agencies in the county work to ensure that defensible space standards (as outlined by CAL FIRE) are met for all county communication towers/repeaters and cellular provider network towers.	SCSO DEM	This Recommendation will not be implemented because it is not warranted or reasonable. The County cannot assume responsibility for vegetation management on sites it does not own or control.	The Grand Jury accepts that SCSO and DEM cannot assume responsibility for sites that are not under County control. However, the GJ encourages county agencies to support efforts to maintain defensible space standards for all infrastructure that is involved in emergency alert systems.
	SCFCA	SCFCA supports and concurs with this Recommendation.	The Grand Jury acknowledges that SCFCA supports this Recommendation.
R11. By September 30, 2021, The Sheriff's Office and Department of Emergency Management work with the Fire Agencies in the County to define actions to take during a disaster for the protection of all County communication towers/repeaters and cellular network towers.	SCSO DEM	This Recommendation has been implemented. SCSO and DEM coordinate with CALFIRE and local agencies to protect local infrastructure. An example is protection of the Mt. Jackson site during the LNU Complex fire in 2020.	The Grand Jury acknowledges that this Recommendation has been implemented.
	SCFCA	SCFCA supports and concurs with this Recommendation.	The Grand Jury acknowledges that SCFCA supports this Recommendation.
R12. By December 31, 2021, the Department of Emergency Management	DEM	This Recommendation has not been implemented and may not be implemented. DEM does not establish infrastructure	The Grand Jury accepts that DEM does not set safety requirements for commercial

RECOMMENDATION	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
work with cellular tower providers to ensure a plan is developed to ensure defensible space standards are implemented around each tower.		safety requirements for cellular providers, but as partners in public safety will support their efforts.	cellular providers' infrastructure. The Jury encourages DEM to facilitate measures that support the spirit of this Recommendation.
R13. By October 31, 2021, the Department of Emergency Management update the County Emergency Operations Plan to incorporate and post on the Department of Emergency Management website the most up-to-date information and Recommendations from the After Action Reports since the disasters of 2017.	DEM	This Recommendation has not been implemented but will be implemented in the future. A new County Emergency Management Plan is expected to be submitted for review and approval by BOS in the 4 th quarter of 2021. After Action Reports will continue to be posted on the DEM website.	The Grand Jury acknowledges that this Recommendation will be implemented by the end of 2021, and that After Action Reports and Recommendations will be posted.
R14. By October 31, 2021, the Board of Supervisors approve the updated County Emergency Operations Plan.	BOS	This Recommendation is in the process of being implemented. An updated plan is being prepared and is expected to be submitted to BOS in the first quarter of 2022. Completion has been delayed by the need to comply with the County's new strategic plan and a new State law dealing with community engagement and cultural considerations.	The Grand Jury acknowledges that this Recommendation will be implemented early in 2022.
R15. By October 31, 2021, the nine cities update their Emergency Operations Plan to incorporate the most up-to-date information and lessons learned since the disasters of 2017 and post it on their websites.	CC CCL CH CS	This Recommendation has been implemented, although the Emergency Operations Plan is a long-term planning document and is not necessarily an appropriate site for most up to date information.	The Grand Jury acknowledges that this Recommendation has been implemented.
	CSO CSR CRP CP	This Recommendation has not been implemented but it will be in the future. Updating is a continuing process, and the Emergency Operating Plan is not necessarily an appropriate site for the most up to date information.	The Grand Jury acknowledges that this Recommendation will be implemented in the future.
	TW	This Recommendation has not been Implemented and may not be implemented because the Emergency Operation Plan is not an appropriate site for detailed information.	The Grand Jury acknowledges that this Recommendation may not be implemented.

RECOMMENDATION	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
<p>R16. By September 30, 2021, Department of Emergency Management obtain from the US Army Corps of Engineers a copy of the Emergency Operations Plan for Warm Springs Dam and incorporate it into the County Emergency Operations Plan and post it on the Department of Emergency Management website.</p>	<p>DEM</p>	<p>This Recommendation has not been implemented and may not be implemented. The Emergency Operations Plan for Warm Springs Dam is available to County officials but subject to a non-disclosure agreement. The Army Corps of Engineers must balance security concerns and public safety with release of information.</p>	<p>The Grand Jury acknowledges that this Recommendation has not been implemented because the Emergency Operations Plan is subject to a non-disclosure agreement.</p>
<p>R17. By December 31, 2021, Department of Emergency Management, through the San Francisco Bay Area Counties, submit its annual Emergency Alert System Plan to the State Emergency Alert System Committee of California as recommended within the 2019 State of California Alert and Warnings Guidelines.</p>	<p>DEM</p>	<p>This Recommendation has not been implemented and may not be implemented. The County submits reports as part of the SF Bay Area Local Emergency Communications Committee which has not met since 2010; this local committee is controlled by the State Emergency Communications Committee which has not met since 2011 but is being reconstituted and will hold annual meetings.</p>	<p>The Grand Jury acknowledges that this Recommendation will not be implemented because the appropriate Bay Area and State organizations are currently non-functional. These organizations are expected to be reconstituted.</p>
<p>R18. By December 31, 2021, the Board of Supervisors adopt a resolution that all major County disaster plans having to do with Emergencies and Emergency Preparedness be considered “Living Documents” to be reviewed and updated on an annual basis.</p>	<p>BOS</p>	<p>This Recommendation has not been implemented and may not be implemented. These plans are multiple and complex and it is impractical to review and update them annually. Plans will be updated on a three year or as needed basis.</p>	<p>The Grand Jury acknowledges that this Recommendation has not been implemented and may not be implemented because annual updating is impractical.</p>
<p>R19. By December 31, 2021, the Department of Emergency Management publicize the work of community preparedness groups such as Citizens Organized to Prepare for Emergencies, Community</p>	<p>DEM</p>	<p>This Recommendation has not been implemented but it will be implemented in the future. DEM supports multiple community preparedness groups and will continue to do so. DEM has applied for a grant to support these efforts.</p>	<p>The Grand Jury acknowledges that this Recommendation will be implemented in the future and that support of community preparedness groups is an ongoing process.</p>

RECOMMENDATION	RES	RESPONSES	2021-2022 GJ OBSERVATIONS
Emergency Response Teams, and Community Organizations Around Disasters to more effectively reach all residents about emergency alerts and warnings.			
R20. By December 31, 2021, the Board of Supervisors increase the capacity of the Department of Emergency Management’s Community Preparedness function in order to effectively engage the greater community in disaster preparedness with groups such as Fire Safe Sonoma, neighborhood groups such as Citizens Organized to Prepare for Emergencies, and Community Emergency Response Teams to foster resilience.	BOS	This Recommendation has not been implemented and requires further analysis. The capacity of the DEM Community Preparedness function has been increased over the last several years. Community Preparedness is a BOS priority and we anticipate this discussion will take place during budget hearings. DEM is currently applying for federal grants, which would support preparedness efforts including developing Community Emergency Response Teams.	The Grand Jury acknowledges that this Recommendation requires further analysis and implementation will be part of the budgeting process.

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The 2021-2022 Sonoma County Civil Grand Jury



Front Row (Left to Right)

• **Heather McLintock**
(Santa Rosa)

Back Row (Left to Right)

• **Debbie Wallman**
(Sonoma)

• **Kenyon Webster**
(Sebastopol)

• **Elizabeth Aldridge**
(Santa Rosa)
Sergeant at Arms

• **Peter Maschwitz**
(Sebastopol)

• **John Fredricks**
(Santa Rosa)

• **Regina Brennan**
(Sebastopol)

• **Dohn Glitz**
(Sebastopol)
ProTem

• **Rick Ruiz**
(Sonoma)

• **Kristen Decker**
(Petaluma)

• **Elena Whorton**
(Rohnert Park)
Recording Secretary

• **Sharon DeBenedetti**
(Healdsburg)

• **Stephen Reimann**
(Santa Rosa)

• **Neal Baker**
(Santa Rosa)
Foreperson

• **Susanne Lewald**
(Santa Rosa)

• **Ed Hodges**
(Santa Rosa)
Treasurer

• **Walter Chesbro**
(Santa Rosa)
Corresponding Secretary



You Can Make a Difference in Sonoma County

To make democracy work, we are most effective as a community of people who are involved in civic engagement and participatory governance. Taking an active role in local government is accessible to all Sonoma County citizens. Throughout our County, there are many avenues to become involved.

You can attend:

- Sonoma County Board of Supervisors meetings
- City Council meetings
- School Board meetings
- Police Citizen's Academy
- Independent Office of Law Enforcement Review and Outreach (IOLERO) meetings
- Sonoma County Behavioral/Mental Health Board meetings

or, you can apply to service on governing boards, councils or the Sonoma County Grand Jury.

Application forms to become a Sonoma County Civil Grand Juror are available online at www.sonomagrandjury.org or in person at:

Sonoma County Superior Court
600 Administration Drive, Room 106
Santa Rosa, California 95403
707-521-6501

Citizens' Complaints

If you have a grievance with processes that fall within the jurisdiction of the Sonoma County Civil Grand Jury, you have the right to file a complaint. All complaints and investigations are confidential. Not all complaints warrant an investigation by the Grand Jury. Citizen Complaint forms are available in both English and Spanish. The forms are available at: www.sonomagrandjury.org.

Copies of this report are available at any county library.

The reports contained with this consolidated report are also available on line at:

www.sonomagrandjury.org