

ABOUT THE COVER

Cover illustration from Smith & Elliott, *Illustrations of Contra Costa County California with Historical Sketch* (Oakland, CA, 1879) c. Contra Costa County Historical Society, 1952. Courtesy of the Contra Costa County Historical Society

Cover design: Members of the 2018-2019 Contra Costa County Grand Jury

Contra Costa County
Grand Jury
Final Report
2018 - 2019

The Contra Costa County Civil Grand Jury Roster

RICHARD S. NAKANO, Foreperson, Martinez
MATTHEW SULLIVAN, Foreperson Pro Tempore, Walnut Creek
LAURA GRIFFIN, Secretary, Martinez

MEMBERS

JOHN ANDERSON Richmond	LAURA GRIFFIN Martinez	MICHAEL MOORE Oakley
ROBERT FALCONI Pinole	JENNIFER GRIST Rodeo	RICHARD S. NAKANO Martinez
JAMES FIEDLER Danville	CYNTHIA KAY Oakley	JOHN PAPINI Lafayette
DOUGLAS FOUNTAIN Walnut Creek	MARC KEATING El Cerrito	MELANIE ROLLINS Brentwood
ANNE GRANLUND Lafayette	SANDRA LEE Pleasant Hill	NEIL STRATTON Concord
SHELA GREENLAW Clayton	PETER MAGNANI Walnut Creek	MATTHEW SULLIVAN Walnut Creek
	GREGORY WANKET Martinez	

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**SUPERVISING JUDGE OF THE
CONTRA COSTA COUNTY
CIVIL GRAND JURY**



HONORABLE ANITA SANTOS
January 2018-Present

Superior Court of California

COUNTY OF CONTRA COSTA
725 COURT STREET
P.O. BOX 911
MARTINEZ, CA 94553-0091



Contra Costa County
2018-2019 Civil Grand Jury
725 Court Street
Martinez, CA 94553

May 7, 2019

Dear Civil Grand Jury Members,

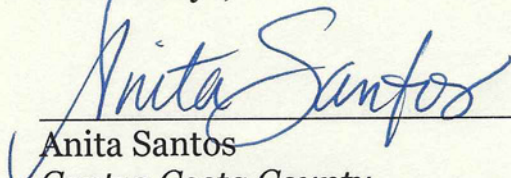
On behalf of the residents of *Contra Costa County* and on behalf of our courts, I express our sincere appreciation for your service as civil grand jurors for the 2018-2019 term. The selfless commitment of your time and energy to the concerns of the *Contra Costa County* community is reflected in all of your thorough investigations and published reports.

Under the stellar leadership of your foreman, Mr. Richard Nakano, you have dedicated thousands of hours for the betterment of our county, its governance and the allocation of public resources. Your exemplary reports and recommendations reflect your commitment to the service you have afforded our community.

I commend all of you and the vital role you have filled as a civil grand jurors. Given the collegiality and friendship that I observed develop and grow amongst you all, I pray that the experience has enriched your lives, both individually and collectively. May your connections continue to flourish.

Hats off and applause to all of you, and to that point, the 2018-2019 grand jury is adjourned.

Best Always,


Anita Santos
Contra Costa County
Civil Grand Jury Supervising Judge

June 14, 2019



Honorable Anita Santos
Judge of the Superior Court
Contra Costa County
725 Court Street
Martinez, CA 94553

Dear Judge Santos,

On behalf of the 2018-2019 Contra Costa Civil Grand Jury, it is my honor to submit our final report. The report is a compilation of investigations that contain findings and recommendations regarding government agencies within our jurisdiction.

During our year of service, we met dozens of dedicated government employees, and we appreciate their cooperation in our investigations. Contra Costa County residents can be justifiably proud of their workforce.

I would like to express our appreciation for your judicial oversight and unwavering guidance and support. We are thankful and appreciative for the support of Elisa Pantaleon and Alan Frenklach, the Superior Court Administrative Assistants and our District Attorney Advisor, Lynn Uilkema. Additionally, our thanks to County Counsel advisors, Hannah Shafsky, Rebecca Hooley, and Sharon Anderson for the many hours spent reviewing, editing, and advising on each individual report. The Grand Jury also thanks James Laughlin, Solano County, County Counsel, for special services in furtherance of the Grand Jury's mission.

Most of all, I would like to personally commend and thank each Grand Juror for the many hours spent investigating, interviewing, writing and debating the merits of each investigation. Their dedication and commitment is evident in these reports. We hope that their efforts will bring meaningful change for the County, Cities and Special Districts in Contra Costa.

Respectfully,

A handwritten signature in blue ink, reading "Richard S. Nakano".

Richard S. Nakano, Foreperson
2018-2019 Contra Costa Civil Grand Jury

CONTRA COSTA COUNTY CIVIL GRAND JURY 2018 - 2019



BACK ROW

Gregory Wanket, John Papini, John Anderson, James Fiedler, Peter Magnani,
Michael Moore, Melanie Rollins, Cynthia Kay

FRONT ROW

Laura Griffin, Shela Greenlaw, Douglas Fountain, Anne Granlund, Richard C. Nakano,
Judge Anita Santos, Matthew Sullivan, Sandra Lee, Robert Falconi, Jennifer Grist,
Neil Stratton

NOT PICTURED

Marc Keating

The 2018 – 2019 Contra Costa County

Grand Jury

Approved this Final Report

On June 14, 2019



RICHARD S. NAKANO
Foreperson

I accept for filing this final Report of the
2018 – 2019 Contra Costa County Grand Jury

On

June 14, 2019



HON. ANITA SANTOS
Supervising Judge of the 2018 – 2019 Grand Jury

A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY CIVIL GRAND JURY
725 Court Street
Martinez, California 94553

Report 1901

**COMPLIANCE AND CONTINUITY
REPORT**

Contact:
Richard S. Nakano
Grand Jury Foreperson
925 522-6941

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CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1901

COMPLIANCE AND CONTINUITY REPORT

The Contra Costa County Civil Grand Jury is impaneled annually to investigate city and county government, special districts and certain non-profit corporations to ensure that their functions are performed in a lawful, economical and efficient manner. Findings and recommendations developed from these investigations are contained in the reports signed by the Civil Grand Jury Foreperson and the Grand Jury Judge. Responses to these reports must be made within certain time constraints and in accordance with specific formats pursuant to 933 and 933.05 of the California Penal Code. These responses to the recommendations must include one of the following legally permitted options:

- The recommendation has been implemented
- The recommendation has not yet been implemented, but will be implemented in the future
- The recommendation requires further analysis
- The recommendation will not be implemented because it is not warranted or is not reasonable

The 2018-2019 Civil Grand Jury reviewed 9 reports from the 2017-2018 Civil Grand Jury. There were 39 letters, with copies of applicable reports, mailed to the different entities from which responses were required. These 9 reports made a cumulative total of 102 recommendations to the various recipients, of which 38 responses (37%) stated that the recommendation(s) have been or will shortly be implemented and 20 (20%) responses stated that the recommendation required further analysis. For further explanation and clarification of subject responses to recommendations, refer to their full responses posted online. Responses to the 2017-2018 Grand Jury reports are posted on the Contra Costa County Grand Jury Website in their entirety and can be viewed at:

<http://www.cc-courts.org/civil/grand-jury-reports.aspx>

The Grand Jury believes it is important for future Grand Juries to continue to review these responses and to be vigilant in seeing that recommendations that have been accepted and are implemented. In this manner, the commitment and hard work of past and future Grand Juries will result in positive changes for the citizens of Contra Costa County.

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1802 LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT

Recommendation #1: LAFCO should consider dissolving the LMCHD by December 2018 and assigning all the assets, rights, and responsibilities to the County as the successor to LMCHD.

RESPONDENT	RESPONSE
Local Agency Formation Commission	The recommendation requires further analysis

Recommendation #2: The Board of Supervisors should consider maintaining grant funding levels for healthcare programs upon dissolution of LMCHD.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has been implemented

Recommendation #3: The Board of Supervisors should consider using any savings from LMCHD dissolution to improve and expand healthcare programs once appointed as the successor to LMCHD.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has been implemented

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1803

VOTING SECURITY Integrity And Transparency

Recommendation #1: The Contra Costa County Clerk-Recorders Office (CRO) should consider completing its threat and vulnerability assessment of its overall operation, and implement any recommended changes to its procedures per its current timetable – prior to the June 2018 election.

RESPONDENT	RESPONSE
Contra Costa County Clerk-Recorder's Office	The recommendation requires further analysis

Recommendation #2: The Grand Jury recommends that the CRO consider updating its business continuity plan and Memorandum of Understanding with Sacramento County prior to the June 2018 election, and then test the plan's effectiveness on a regular basis.

RESPONDENT	RESPONSE
Contra Costa County Clerk-Recorder's Office	The recommendation has not yet been implemented, but will be implemented in the future

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1804

BART CRIME AND TRANSPARENCY

Recommendation #1: BART PD should consider providing permanent web links to crimemapping.com and to the subscription form for the BART Police Daily Log on the "BART Police" page (<https://bart.gov/about/police>) of BART.gov by September 30, 2018.

RESPONDENT	RESPONSE
BART Police Chief	The recommendation has been implemented

Recommendation #2: BART PD should consider reviewing their data upload process to crimemapping.com for process integrity and data completeness within the fifteen crime incident categories reported, by December 31, 2018.

RESPONDENT	RESPONSE
BART Police Chief	The recommendation will not be implemented because it is not warranted or is not reasonable

Recommendation #3: BART PD should consider offering the most recent 180 days of the BART Police Daily Log reports, with simple text search function, from a permanent web link on the "BART Police" page (<https://bart.gov/about/police>) of BART.gov by December 31, 2018.

RESPONDENT	RESPONSE
BART Police Chief	The recommendation requires further analysis

Recommendation #4: BART PD should consider seeking funds at the next budget funding cycle to deploy more Community Service Officers to patrol BART stations and parking lots.

RESPONDENT	RESPONSE
BART Police Chief	The recommendation has been implemented

Recommendation #5: BART's Board of Directors should consider seeking funds at the next budget funding cycle to equip all parking lots and garages with adequate lighting and working video cameras.

RESPONDENT	RESPONSE
BART Board of Directors	The recommendation has been implemented

Recommendation #6: BART's Board of Directors should consider directing maintenance to make cleanliness a priority and improve the level of sanitation in stations, elevators, and restrooms. If additional personnel is needed, a request for funding may be considered for the next funding cycle.

RESPONDENT	RESPONSE
BART Board of Directors	The recommendation has been implemented

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1805

EFFECTIVENESS OF IT OPERATIONS IN COUNTY GOVERNMENT

Recommendation #1: The BOS should consider directing the CIO to update the County's IT Strategy (last updated in 2000) by December 2018.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #2: The BOS should consider seeking funds prior to the FY2019-2020 budget cycle to expand existing resources into a centralized cybersecurity unit to support and coordinate County-wide IT security activity.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #3: The BOS should consider directing the CIO to re-establish a County-wide governance mechanism by December 2018.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #4: The BOS should consider directing the CIO to investigate policies to standardize procurement, equipment, and IT services prior to the FY2019-2020 budget cycle. Opportunities include departmental networks, and services such as email, IT security, and disaster recovery.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #5: The BOS should consider directing the CIO to centralize the delivery of certain common services in time for the FY2019-2020 budget cycle. Opportunities include email, IT security, and disaster recovery.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #6: The BOS should consider directing the CIO to conduct a review of departments' disaster recovery plans by December 2018 to ensure they are up to date and routinely tested.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #7: The BOS should consider presenting a consolidated IT budget for the entire County down to the department level, as part of the annual budget process, by the FY2019-2020 budget cycle.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation will not be implemented because it is not warranted or is not reasonable

Recommendation #8: The BOS should consider directing the CIO to investigate improving coordination between departments of IT procurement to reduce costs, prior to the FY2019-2020 budget cycle.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #9: The BOS should consider directing the CIO to investigate establishing technology resource centers for dissemination of strategic technology knowledge and support, in order to create efficiencies and attract and retain staff. Candidate areas include cloud architecture and implementation, data management, business process automation, and cybersecurity.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #10: The BOS should consider directing the CIO to ensure that there is sufficient County IT project management staff with appropriate authority to effectively manage the County's large, complex software projects by December 2018.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation will not be implemented because it is not warranted or is not reasonable

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1806

THE OPIOID CRISIS Dying For Treatment

Recommendation #1: The BOS should consider requesting Behavioral Health Services to develop a plan by December 2018 to motivate more physicians to complete their qualifications for a waiver to prescribe and dispense buprenorphine starting in 2019.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #2: The BOS should consider seeking funds, in the FY2019-2020 budget, for Behavioral Health Services to offer the course "Buprenorphine Treatment: Training for Multidisciplinary Addiction Professions" or equivalent to all of the County's public medical care providers starting July 1, 2019.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #3: The BOS should consider seeking funds, in the FY2019-2020 budget, for Behavioral Health Services to hire more buprenorphine clinicians beginning July 1, 2019.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #4: The BOS should consider requesting the Alcohol and Other Drugs Services (AODS) division of Behavioral Health Services to use funds available under the California Marijuana Tax Fund legislation (AB 1748) for in-county adolescent outpatient and residential inpatient treatment.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #5: The Contra Costa County Office of Education should consider seeking funds, in the FY2019-2020 budget, to provide free NARCAN kits in all County school districts.

RESPONDENT	RESPONSE
Contra Costa County Office of Education	The recommendation requires further analysis

Recommendation #6: The BOS should consider seeking funds, in the FY2019-2020

budget, for Behavioral Health Services to develop a plan to increase clinical treatment of substance use disorders in the three detention facilities.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #7: The BOS should consider seeking funds, in the FY2019-2020 budget, for Behavioral Health Services to develop and deliver educational campaigns to improve public awareness of the County's opioid addiction crisis and available treatment options, starting July 1, 2019.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #8: The BOS should consider seeking funds, in the FY2019-2020 budget, for Behavioral Health Services to use multiple modes of communication such as news media, social media, community TV/Radio, and billboards, with a positive message to help alleviate the stigma of OUD, starting July 1, 2019.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

<p>CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1807</p> <p>MINIMIZING SCHOOL CASUALTIES DURING AN ACTIVE SHOOTER INCIDENT</p>

Recommendation #1: The County Fire Protection District Board of Directors should consider seeking funds, in time for the FY2019-2020 budget cycle, to finance ballistic protection gear for Fire District paramedics.

RESPONDENT	RESPONSE
Contra Costa County Fire Protection District Board of Directors	The recommendation requires further analysis

Recommendation #2: The County Board of Supervisors should consider continuing to fund the training (provided by the Office of the Sheriff) of all Fire District paramedics to operate in Warm Zones.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation requires further analysis

Recommendation #3: The Governing Board of the AUHSD should consider requiring all four high schools, by November 1, 2018, to begin working directly with local police to develop specific written guidelines for teachers and students on how to respond to a classroom break-in by an active shooter.

RESPONDENT	RESPONSE
Governing Board of the AUHSD	The recommendation has been implemented

Recommendation #4: The Governing Board of the AUHSD should consider implementing, by April 1, 2019, all active shooter guidelines jointly developed with local police.

RESPONDENT	RESPONSE
Governing Board of the AUHSD	The recommendation has been implemented

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1808

JOINT POWERS AUTHORITIES

Recommendation #1: All cities with JPAs in the County should confirm their compliance with Gov. Codes Sections 6505 by submitting the required audit report to the County Auditor by December 31, 2018.

RESPONDENT	RESPONSE
City of Antioch	The recommendation has not yet been implemented, but will be implemented in the future
City of Brentwood	The recommendation has been implemented
City of Clayton	The recommendation has not yet been implemented, but will be implemented in the future
City of Concord	The recommendation has been implemented
Town of Danville	The recommendation will not be implemented because it is not warranted or not reasonable
City of El Cerrito	The recommendation will not be implemented because it is not warranted or not reasonable
City of Hercules	The recommendation will not be implemented because it is not warranted or not reasonable
City of Lafayette	The recommendation will not be implemented because it is not warranted or not reasonable
City of Martinez	The recommendation will not be implemented because it is not warranted or not reasonable
Town of Moraga	The recommendation will not be implemented because it is not warranted or not reasonable
City of Oakley	The recommendation has been implemented
City of Orinda	The recommendation will not be implemented because it is not warranted or not reasonable
City of Pinole	The recommendation will not be implemented because it is not warranted or not reasonable
City of Pittsburg	The recommendation has not yet been implemented, but will be implemented in the future

City of Pleasant Hill	The recommendation has not yet been implemented, but will be implemented in the future
City of Richmond	The recommendation will not be implemented because it is not warranted or not reasonable
City of San Pablo	The recommendation has not yet been implemented, but will be implemented in the future
City of San Ramon	The recommendation will not be implemented because it is not warranted or not reasonable
City of Walnut Creek	The recommendation will not be implemented because it is not warranted or not reasonable

Recommendation #2: The Auditor-Controller under Health and Safety Code Sections 34182-34188.8, should consider a review of JPAs under ABx1.26 (dissolution of redevelopment agencies and the designation of Successor Agencies) by June 30, 2019 to determine any violation of the prohibition on taking on new redevelopment or debt.

RESPONDENT	RESPONSE
Contra Costa County Auditor-Controller	The recommendation will not be implemented because it is not warranted or not reasonable

Recommendation #3: The Auditor-Controller should consider posting on its website all financial and organizational data received from JPAs associated with an RDA or their Successor Agency in a manner readily available to the public by September 30, 2018.

RESPONDENT	RESPONSE
Contra Costa County Auditor-Controller	The recommendation will not be implemented because it is not warranted or not reasonable

Recommendation #4: The 11 cities that are members of a JPA associated with an RDA or their Successor Agencies should consider confirming their compliance with the provisions of Abx1.26 (Gov. Codes Sections 34177 et seq.) and report their findings and any corrective actions to the Auditor-Controller's office by December 31, 2018.

RESPONDENT	RESPONSE
City of Antioch	The recommendation requires further analysis
City of Brentwood	The recommendation has been implemented
City of Concord	The recommendation will not be implemented because it is not warranted or not reasonable

City of El Cerrito	The recommendation will not be implemented because it is not warranted or not reasonable
City of Hercules	The recommendation will not be implemented because it is not warranted or not reasonable
City of Lafayette	The recommendation will not be implemented because it is not warranted or not reasonable
City of Pinole	The recommendation will not be implemented because it is not warranted or not reasonable
City of Pleasant Hill	The recommendation has not yet been implemented, but will be implemented in the future
City of Richmond	The recommendation has not yet been implemented, but will be implemented in the future
City of San Pablo	The recommendation has not yet been implemented, but will be implemented in the future
City of San Ramon	The recommendation has not yet been implemented, but will be implemented in the future

Recommendation #5: All cities with JPAs should consider making special efforts, such as special mailings to taxpayers, website postings and announcements in local media, to communicate JPA debt decisions and audit reports to the public beyond simple notifications by December 31, 2018.

RESPONDENT	RESPONSE
City of Antioch	The recommendation will not be implemented because it is not warranted or not reasonable
City of Brentwood	The recommendation will not be implemented because it is not warranted or not reasonable
City of Clayton	The recommendation will not be implemented because it is not warranted or not reasonable
City of Concord	The recommendation will not be implemented because it is not warranted or not reasonable
Town of Danville	The recommendation will not be implemented because it is not warranted or not reasonable

City of El Cerrito	The recommendation will not be implemented because it is not warranted or not reasonable
City of Hercules	The recommendation will not be implemented because it is not warranted or not reasonable
City of Lafayette	The recommendation will not be implemented because it is not warranted or not reasonable
City of Martinez	The recommendation will not be implemented because it is not warranted or not reasonable
Town of Moraga	The recommendation will not be implemented because it is not warranted or not reasonable
City of Oakley	The recommendation will not be implemented because it is not warranted or not reasonable
City of Orinda	The recommendation will not be implemented because it is not warranted or not reasonable
City of Pinole	The recommendation will not be implemented because it is not warranted or not reasonable
City of Pittsburg	The recommendation will not be implemented because it is not warranted or not reasonable
City of Pleasant Hill	The recommendation has not yet been implemented, but will be implemented in the future
City of Richmond	The recommendation will not be implemented because it is not warranted or not reasonable
City of San Pablo	The recommendation has not yet been implemented, but will be implemented in the future
City of San Ramon	The recommendation will not be implemented because it is not warranted or not reasonable
City of Walnut Creek	The recommendation will not be implemented because it is not warranted or not reasonable

Recommendation #6: Contra Costa County LAFCO should consider seeking funds to expand their focus to include County Financial JPAs by September 1, 2019.

RESPONDENT	RESPONSE
Local Agency Formation Commission (LAFCO)	The recommendation will not be implemented because it is not warranted or not reasonable

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1809

COMMUNITY REENTRY FROM JAIL

Recommendation #1: The BOS should consider seeking funds, in time for the FY2019-2020 budget cycle, for adoption of the SAFE database system (or equivalent) countywide, for implementing, tracking, and evaluating reentry services.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation will not be implemented because it is not warranted or is not reasonable

Recommendation #2: The BOS should consider seeking funds, in time for the FY2019-2020 budget cycle, to sponsor annual or semiannual Job and Resource Fairs, modeled after the current WCDF Job and Resource Fairs, to serve those who have been released from incarceration.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	This recommendation requires further analysis

Recommendation #3: The BOS should consider seeking funds, in time for the FY2019-2020 budget cycle, for additional Reentry Transition Specialists, in support of reentry programs.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation will not be implemented because it is not warranted or it is not reasonable

Recommendation #4: The BOS should consider requesting the Community Corrections Partnership, in consultation with the County's Council on Homelessness, to provide a report to the BOS prior to June 30, 2019, on the housing needs of AB109 offenders and the current availability and utilization rates of AB109-related housing programs, including any relevant recommendations.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation will not be implemented because it is not warranted or is not reasonable

Recommendation #5: The BOS should consider requesting the Community Corrections Partnership to develop a five-year plan, in time for the FY2019-2020 budget cycle, to provide funding for transitional housing resources to ensure that inmates released from jail do not become homeless.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	The recommendation will not be implemented because it is not warranted or is not reasonable

Recommendation #6: The BOS should consider seeking funds, in time for the FY2019-2020 budget cycle, for the Office of the Public Defender to address the backlog of Proposition 64 marijuana cases eligible for reduction, dismissal, or sealing.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	This recommendation requires further analysis

Recommendation #7: The BOS should consider seeking funds, in time for the FY2019-2020 budget cycle, for additional social service workers in the Office of the Public Defender in support of reentry planning and implementation.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	This recommendation requires further analysis

Recommendation #8: The BOS should consider seeking funds, in time for the FY 2019-2020 budget cycle, for resources in the Office of the Public Defender to address the backlog of roughly 10,000 reclassification cases seeking to petition the court to clear their criminal record.

RESPONDENT	RESPONSE
Contra Costa County Board of Supervisors	This recommendation requires further analysis

Recommendation #9: The Office of the Sheriff in coordination with the CCCOE should consider providing a "Certificate of Completion" to inmates in the vocational programs at WCDF and MCDF, as documentation to assist prospective employers in their skills evaluation of former inmates.

RESPONDENT	RESPONSE
Contra Costa County Office of the Sheriff	The recommendation has not yet been implemented, but will be implemented in the future

CONTRA COSTA COUNTY CIVIL GRAND JURY REPORT 1810

CHRONIC ABSENTEEISM IN WEST CONTRA COSTA COUNTY SCHOOL DISTRICTS

Recommendation #1: The Governing Boards of the WCCUSD and the JSUSD should consider including previous year baseline rates, in addition to improvement goals, for attendance and chronic absenteeism in their LCAP Goal 4 by the next LCAP summary deadline.

RESPONDENT	RESPONSE
Governing Board of West Contra Costa Unified School District	The recommendation requires further analysis
Governing Board of John Swett Unified School District	The recommendation has been implemented

Recommendation #2: The Governing Boards of the WCCUSD and the JSUSD should consider requesting the district superintendents to post monthly attendance data on their websites by the beginning of the 2018 fall semester.

RESPONDENT	RESPONSE
Governing Board of West Contra Costa Unified School District	The recommendation has not yet been implemented but will be implemented in the future
Governing Board of John Swett Unified School District	The recommendation has not yet been implemented but will be implemented in the future

Recommendation #3: The Governing Board of the WCCUSD should consider seeking funds, in time for the FY2018-2019 budget cycle, to conduct a study of the Parent University course and its potential in reducing chronic absenteeism through parental engagement. The findings can be shared through the Coordinating Council with other districts and schools to help them reduce their chronic absenteeism rates.

RESPONDENT	RESPONSE
Governing Board of West Contra Costa Unified School District	The recommendation has not yet been implemented but will be implemented in the future

Recommendation #4: The Contra Costa County Superintendent of Schools should consider expanding its Attendance Awareness Every School Day Counts campaign through community television and radio, social media, and school marquees prior to the 2018 fall semester.

RESPONDENT	RESPONSE
Contra Costa County Superintendent of Schools	The recommendation will not be implemented because it is not warranted or is not reasonable

Recommendation #5: The Contra Costa County Superintendent of Schools should consider highlighting the importance of attending kindergarten through its Attendance Awareness Every School Day Counts campaign in time for the 2019 school year.

RESPONDENT	RESPONSE
Contra Costa County Superintendent of Schools	The recommendation has been implemented

**A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553**

Report 1902

**Is Charter School Oversight Effective
in Contra Costa County?**

APPROVED BY THE GRAND JURY

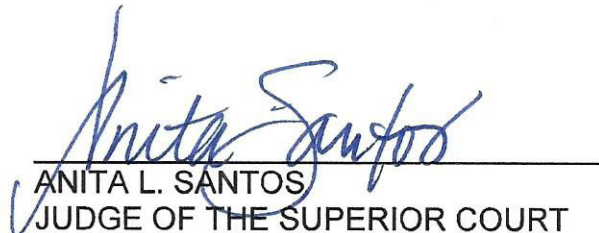
Date APRIL 9, 2019



RICHARD S. NAKANO
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date APR 09 2019



ANITA L. SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1902

Is Charter School Oversight Effective in Contra Costa County?

**TO: Contra Costa County Superintendent of Schools, Office of Education;
Contra Costa County Board of Education**

SUMMARY

Does the Contra Costa County Office of Education (Office of Education), headed by the Superintendent of Schools, effectively oversee how charter schools are governed? That was the question raised by events at Clayton Valley Charter High School (Clayton Valley) over the past year. Sixteen of the school's teachers, administrators, and senior staff resigned amidst allegations of financial mismanagement, nepotism, and violations of the open meeting provisions of the Brown Act. Could this situation have been avoided by the Office of Education? Does the Office of Education even have the authority it needs to oversee Clayton Valley and other charter schools?

The Grand Jury reviewed the history of Clayton Valley and discovered that the same management team had been investigated by the Office of Education in 2015. Yet some of the same violations occurred a second time after the oversight issues had presumably been addressed earlier. The Grand Jury decided to investigate how the Office of Education is carrying out its oversight responsibilities at four of the charter schools that it oversees. We found that the Office of Education has limited oversight authority under the California Education Code (Education Code). To increase its authority to oversee charter school operations, the Office of Education began requiring a rider to charter school petitions, referred to as a Memorandum of Understanding (MOU). The MOU gives the Contra Costa County Board of Education (Board of Education) the ability to address transparency and accountability requirements as part of the charter approval process.

At a minimum, charter school oversight should include MOUs and parent-teacher organizations, as well as better communication between charter schools and the Office of Education.

METHODOLOGY

- Reviewed the California Education Code Sections 47600-47615
- Reviewed State of California Code of Regulations 5 CCR Section 11966
- Reviewed Contra Costa County Board of Education Policies and Regulations BP 0420.4 and AR 0420.4
- Reviewed current and approved charter petitions
- Attended two County Board of Education meetings
- Interviewed officials from the Office of Education, charter schools, and school districts outside the jurisdiction of the Board of Education
- Reviewed journal, magazine, and newspaper articles

CONFLICT OF INTEREST DISCLAIMER

One Grand Juror recused themselves due to a possible conflict of interest and did not participate in the investigation, preparation, or approval of this report.

BACKGROUND

Charter schools in California were initiated by the Charter Schools Act of 1992 and incorporated into the state's Education Code. They were designed with the intent to provide competition for existing public schools. The Education Code provides that charter schools are still part of the public school system and under the oversight of the officers of the public schools. In the case of the four charter schools that the Grand Jury reviewed, these oversight officers are the members of the Board of Education who govern the Office of Education.

The charter school legislation sought to improve student learning, especially for those pupils who are identified as academically low-achieving; encourage the use of innovative teaching methods; and hold the schools accountable for meeting measurable pupil outcomes. The Education Code does not authorize the management or oversight of charter schools by their chartering authorities. It requires chartering authorities only to:

- Identify a contact person
- Visit each charter school at least annually
- Ensure that the charter school is submitting a Local Control and Accountability Plan (LCAP) These are planning documents that school districts are required to file annually with their county offices of education tracking students' academic needs and justifying the funding allocated to address them.

In Contra Costa, the chartering authority is the Board of Education which reviews and

grants charter applications based on the recommendation of the Office of Education.

DISCUSSION

Clayton Valley has a history of parental complaints. In early 2015, a series of complaints by parents led the Office of Education to commission an investigation of the school. The study found that Clayton Valley management had violated the Public Records Act and the Brown Act. The Office of Education recommended changes to the school's transparency and oversight policies. Both parties agreed to the recommendations, which were implemented in January 2016.

With the recurrence of management problems at Clayton Valley in 2018, the Grand Jury was concerned that other charter schools within the county might have similar problems. Additionally, the Office of Education might not have the authority to provide appropriate oversight.

Charter School Regulation by the Office of Education

The Grand Jury investigated the four charter schools in Contra Costa County that have been operating longest: Making Waves Academy – Richmond Campus (Making Waves), Clayton Valley, Caliber Schools (Caliber), and Summit K2 (Summit). Making Waves has been in operation since 2007, Clayton Valley since 2012, and Caliber and Summit since 2014.

The Office of Education has developed specific guidelines governing charter schools. These guidelines mirror the state Education Code and also address oversight by requiring that charter schools enter into an MOU with the Board of Education. The Board's Charter Committee is modifying the standardized MOU developed by the Charter Accountability Resource & Support Network (CARSNet).

The modified CARSNet MOU under which Caliber and Summit operate contains specific provisions on oversight and management. These provisions include:

- The right of the Board of Education to appoint a representative to the schools' boards of directors
- The requirement that the charter schools' boards of directors' meetings are conducted in compliance with the open meeting provisions of the Brown Act
- The requirement that the schools' records be subject to the state's Public Records Act
- The requirement that the schools respond in a timely manner to requests for information by the Office of Education and the Board of Education
- Detailed lists of documents that must be made available to the Office of Education concerning the schools' academic programs, enrollment policies and practices, administration and board policies, attendance, and financial records

These modified CARSNet MOUs work to ensure specific oversight of charter schools by the Office of Education. When adopted by the Board of Education, they would help standardize oversight of all schools chartered by the Board of Education.

The Grand Jury reviewed the approved charter petitions posted on the Office of Education website (<https://www.cccoe.k12.ca.us>) to determine whether the petitions are in compliance with the Education Code and county policies. We looked only at those sections of the petition that deal with oversight. Although all four petitions comply with the statutory requirements, the Grand Jury found that only Caliber and Summit currently utilize the modified CARSNet MOUs that permit additional oversight. Making Waves does not have an MOU because it was not required when it was chartered in 2007. Clayton Valley's MOU contains no provisions for oversight.

Clayton Valley and Making Waves – Board Composition

Clayton Valley has a nine-person Board of Directors comprised of four “interested persons,” defined as certified teacher representatives, classified staff representatives, and administrative staff representatives; and five “non-interested persons,” defined as parent representatives, retired teacher representatives, and at-large representatives. Those representatives designated as “interested persons” are required to recuse themselves on matters that concern their interests. This means that four out of the nine members must recuse themselves any time the board is considering personnel, compensation, or other matters affecting them.

In the case of Making Waves, the school is directly influenced by the Making Waves Foundation, Inc. (the Foundation), a California nonprofit public benefit corporation. The Foundation's Board of Directors has the authority to approve the nomination, appointment, and removal of the school's Board of Directors. Additionally, Making Waves' bylaws prohibit the school's Board of Directors from taking actions such as borrowing or lending money, making unbudgeted expenditures, disposing of corporate assets, merging, or dissolving without the approval of the Foundation. The Foundation is the only party that can appoint members to the Academy Board per the current bylaws of the Making Waves Academy. Making Waves will modify its bylaws for its new Pittsburg campus petition. This is because the current structure is not in compliance with the changing requirements for charter school governance structures.

Summit and Clayton Valley - Parental Involvement

Parental involvement is a statutory requirement for charter schools. However, Summit and Clayton Valley have shortcomings in this area. Summit was tasked in its recent charter renewal petition with increasing parental access in oversight decisions. Clayton Valley does not have a School Site Council where parents can participate in the operation of the school. Clayton Valley currently provides parents only minimal input about operating decisions through its Parent Faculty Club, whose stated purpose is to promote youth welfare through school, community, and home.

Online Access to Charter School Information

Online access to charter school information such as school activities and updates to school performance is critical. It allows the Office of Education as well as parents, teachers, students, and the public to view how the school is performing.

All four charter schools have websites with their board agendas posted. They also post items such as MOUs, LCAPs, Articles of Incorporation, bylaws, and conflict of interest documents.

The Office of Education posts approved charter petitions, existing MOUs, county policies on charter schools, Board of Education agendas and minutes, answers to frequently asked questions, and links to charter LCAPs. The Office of Education has upgraded its website in the last several months and is continuing to improve it by adding more items of interest to the charter school community.

The Charter Renewal Process

Charter schools are required by statute to renew their charters every five years. The Grand Jury witnessed the charter renewal process of Caliber and Summit at a Board of Education meeting. The schools reviewed their current performance numbers and provided personal testimony by parents, teachers, and students. Charter school board members and administrators were present to answer questions.

As part of its review of the petition renewal request, the Office of Education provided a Findings of Fact document that includes a finalized MOU and a site checklist from its visits to each of the schools. These documents show the areas that the staff inspected in its review of the petitions. Caliber and Summit had their petitions renewed with conditions contained in their separate Findings of Fact. One of the conditions for Summit's renewal notes that teleconferencing board meetings to Richmond from its home office in Redwood City does not facilitate meaningful parent participation. Also, the Office of Education noted that the agendas and minutes of the Caliber parent-teacher organization are not currently posted online. The Board of Education properly exercised its oversight powers in granting the renewal of the Caliber and Summit petitions and imposing conditions for improvement based on its Findings of Fact.

The Board of Education required both Caliber and Summit to provide more detailed MOUs for their current charter renewals than for their previous ones. The new MOUs include a document submission checklist and a schedule of actions that the schools need to complete.

During the same time period that Caliber and Summit were renewing their petitions, Clayton Valley and Making Waves were reviewing their LCAPs before the Board of Education. One of the concerns that board members raised was that Clayton Valley does not have adequate parental involvement. The Board noted that Clayton Valley does not have a School Site Council. It does have a Parent Faculty Club, although that club heard

only one LCAP presentation for the 2018-2019 academic year in addition to its other business. Clayton Valley has committed to providing more parent involvement in the LCAP process.

The Office of Education has made good progress in its responsibility to oversee charter schools. The Office has added staff and increased training within the last year to improve its oversight. Charter schools and the Office of Education now communicate more frequently on day-to-day running of charter schools. The Office of Education has committed to increase its visits to each of the four charter schools above the required annual visits. These four charter schools agreed that instituting group meetings of all charter schools under the Office of Education would help to improve communication and collaboration, enabling them to share best practices.

The Grand Jury found these four charter schools were complimentary of the Office of Education's handling of its oversight function. These charter schools welcome the opportunity to work with the Office of Education to improve its oversight.

FINDINGS

- F1. The Office of Education's oversight of charter school governance appears to be consistent with its oversight duties under the Education Code.
- F2. The Board of Education has limited oversight responsibilities under the Education Code.
- F3. The Board of Education is modifying a standardized memorandum of understanding designed by CARSNet to address issues of transparency and accountability not covered by the Education Code.
- F4. Clayton Valley has an inadequate memorandum of understanding with the Office of Education, and Making Waves - Richmond has none.
- F5. The Office of Education does not currently meet with charter schools as a group to facilitate best practices in governance.
- F6. Summit, with its offices outside of Contra Costa County, and Clayton Valley, with only its Parent Faculty Club, do not promote parental engagement.
- F7. Clayton Valley has a Board of Directors structure that has too many members who have potential conflicts of interest.
- F8. Making Waves Academy has a Board of Directors structure that gives undue influence to the Making Waves Foundation to appoint the Academy Board of Directors.

- F9. The County Office of Education website provides information that is comparable to the information found on the websites of other county offices of education.

RECOMMENDATIONS

- R1. As a condition of approving charter petitions at the next petition renewal hearing, the Office of Education should consider requiring all charter schools that are under its chartering authority to have a standardized and detailed MOU using a modified version of the CARSNet format.
- R2. As a condition of approving charter petitions at the next petition renewal hearing, the Office of Education should consider including provisions for parent- teacher organizations in its MOU for all charter schools.
- R3. As a condition of approving Making Waves Academy and Clayton Valley Charter High School charter petitions at the next petition renewal hearing, the Office of Education should consider requiring these schools to enter into an MOU whereby they agree to update their board of director structures.
- R4. The Office of Education should consider developing a plan to communicate with charter schools about how it will conduct oversight by December 31, 2019.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Superintendent of Schools, Office of Education	F1, F4, F5, F6, F7, F8, and F9	R1, R2, R3, and R4
Contra Costa County Board of Education	F2, F3, F4, F5, F6, F7, and F8	R1, R2, R3, and R4

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**A REPORT BY
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Report 1903

Safeguarding the Library's Local History Collection

APPROVED BY THE GRAND JURY

Date MAY 21, 2019



RICHARD S. NAKANO
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ANITA SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1903

Safeguarding the Library's Local History Collection

**TO: Contra costa county Board of Supervisors,
Contra Costa County Library**

SUMMARY

In its efforts to modernize its operations to serve patrons' needs in the 21st Century, the Contra Costa County Library system (the Library) could lose important and irreplaceable remnants of the county's rich history and heritage.

Libraries today are more than repositories of books and records. They are community centers providing patrons of all ages and backgrounds with programs and activities, promoting literacy, and enabling access to technology and the unlimited opportunities available on the World Wide Web.

With 26 locations in Contra Costa County, the Library is successfully pursuing its strategic goals of:

- Ensuring easy, equitable access to library services for all county residents
- Championing adult and child literacy
- Delivering a consistent, high quality, and inviting experience for its patrons

The Library maintains special collections on subjects such as genealogy, jazz, and Russian literature that are available to patrons interested in those subjects. However, the Library's large collection of books and materials on the local history of Contra Costa County (the Collection) is another story. These materials are housed mainly in a secure and climate-controlled vault at the Pleasant Hill branch. That facility is scheduled to close in late September of 2019 to make way for a new branch scheduled to open in the Spring of 2021. If plans are not in place to safeguard the Collection before the Pleasant Hill branch closes, the people of Contra Costa County could be at risk of losing a collection of historical materials that cannot be replaced.

The Library values its total collection at nearly \$46 million for insurance purposes. That

amount does not include a replacement value for the Collection, which the Library deems irreplaceable. If your home were to burn, you could rebuild it and replace the furniture, clothing, and appliances with insurance money. But no amount of insurance could help to replace the family photo albums. The Library's Collection, with its rare books, old records, vintage photographs, letters, and other memorabilia, is the county's family album.

The Grand Jury recommends that the Library consider implementing plans for safeguarding the Collection in the short term and ensuring that it will be preserved and available for public use over the long term.

METHODOLOGY

The Grand Jury:

- Conducted multiple interviews with Library staff and outside professionals in the historical preservation field
- Examined the Library budgets for 2014-2018
- Reviewed the Library's inventory of its special collections
- Studied the Library's Collection Development Plan, its annual work plans, its 2014-2017 Strategic Plan, and its 2017 triennial review
- Reviewed assessments of the Collection and the Contra Costa County Historical Society by outside experts
- Examined agendas, minutes, and other documents from meetings of the Contra Costa County Library Commission (2014-2018)
- Visited the vault and other locations at the Pleasant Hill branch and the Contra Costa County Historical Society in Martinez

BACKGROUND

This investigation began when members of the Grand Jury learned that people in the community had raised concerns about what might happen to the Collection when the Pleasant Hill branch closes in anticipation of its move to a new facility. Patrons noticed that the Library had made arrangements to move its genealogy collection from Pleasant Hill to Walnut Creek, but had not announced plans to move the Collection, much of which is housed in a vault at the Pleasant Hill branch.

The Grand Jury began its investigation by examining agendas, minutes and staff reports of the county's Library Commission to see if this issue had been considered by that body. We found no mention of the Collection in those records dating back to 2014. In fact, we found only one reference to any of the Library's special collections during that

time period: a September 25, 2014 agenda item mentioning that, “Commissioners will discuss disposition or storage of the jazz collection during the closure of the San Ramon Library for remodel and expansion in the Fall of 2015.”

The Grand Jury noted that Commission records did not reference any similar discussions of collections housed at the Pleasant Hill branch in view of its pending closure. The Jury decided to look into the Library’s policies and procedures governing its special collections and how they are being applied in the case of Pleasant Hill.

History, Goals, and Preservation Policy

The Library was founded in 1913 and now has 26 branches in 18 cities and unincorporated communities. The Library serves all of Contra Costa County with the exception of Richmond, which has its own city library system. The Library reports to the Board of Supervisors through the County Administrator. A 24-member Library Commission was established by the Board of Supervisors in 1991 to serve in an advisory role, providing community input on the Library’s policies and operations.

The Library developed its 2014-2017 Strategic Plan following broad public input. That plan established four goals, along with objectives and strategies for addressing them. The goals are:

1. *The Library ensures easy, equitable access to library services for all Contra Costa County residents.*
2. *The Library champions personal and community engagement in literacy and reading to enrich lives.*
3. *The Library delivers a consistent, high-quality, and inviting experience at all points of contact.*
4. *The Library successfully promotes its value, programs, and opportunities to the community.*

These goals, and their accompanying objectives and strategies, were intended to drive decisions and activities through 2017. The Strategic Plan makes no mention of the handling of special collections that the Library owns. The Library’s special collections policies are covered in its Collection Development Plan, drafted in 2011. The relevant section of the plan states:

As part of this role [Preservation of Materials] the Library will preserve and conserve unique and endangered information resources that it collects and retains. The Library will actively monitor the physical conditions of its collections and take action to prevent deterioration.

The plan lists nine special collections. Library staff is responsible for seven activities in connection with those collections:

1. *Define the criteria for unique and endangered information resources*
2. *Identify collections that meet the criteria*
3. *Secure funding to support preservation and conservation*
4. *Educate staff in techniques of preservation and conservation*
5. *Develop agreements for retention and/or exchange of materials*
6. *Identify institutions or organizations willing to accept and store preserved materials or materials in need of preservation (i.e. local history)*
7. *Participate in the California Preservations Workshops regarding Disaster Preparedness and Response*

DISCUSSION

Preserving the Past While Building the Future

The Library's Collection Development Plan notes that the Collection constitutes "an invaluable and unique research resource." The Plan states that, "Ongoing maintenance and development of this resource is highly desirable to retain its historical and research value." It assigns responsibility for this maintenance and development to branch librarians.

The Library's assessment of the importance of preserving the Collection as libraries modernize is widely accepted among scholars and library professionals. For example, in her 2018 book about the evolution of libraries into "information and knowledge centers rather than simply storehouses of material," author Susan Orlean acknowledges that she could not have written the book without accessing "the musty boxes of material stashed in the library's Rare Books room." (Susan Orlean, *The Library Book*, Simon & Schuster, 2018)

Today's libraries have evolved from places where people can browse and borrow books, to spaces where the public can meet, learn, mingle, and access technology. Susan Orlean's note is a reminder that libraries must also preserve the archives that document our collective past.

The Collection at Risk

The building that houses the Pleasant Hill branch is more than 50 years old and has deferred maintenance needs estimated at \$10 million. In 2014, the Library and the City of Pleasant Hill began making plans for closing the Pleasant Hill branch and replacing it with a new, modernized library. In Contra Costa, branch libraries are built, owned (with

some exceptions), and maintained by the cities in which they are located. The Library owns and maintains the materials housed in the branches and provides the staff to operate the branches.

The Pleasant Hill City Council created a Library Task Force in March 2014 to explore prospects for building a new library. The city hired the architecture firm of Bohlin Lywinski Jackson and conducted extensive outreach to the local community to determine priorities, which were integrated with the Library's strategic goals. The city held a town hall meeting in November 2018 to give the public an opportunity to review the new design. Neither the design itself, nor the town hall discussion, included any mention of a vault or other climate-controlled environment, or any provision for housing the local history Collection. <http://www.ci.pleasant-hill.ca.us/1226/Library-Project>

Library staff searched for locations within the Library system that might be able to house some or all of the Collection, but no solution was found. The Library has also had preliminary discussions with external organizations that might be able to provide space for the Collection. These include the Bancroft Library at UC Berkeley and the Contra Costa County Historical Society in Martinez. The Library has not entered into agreements with any of these organizations to house the Collection.

Library managers said they would begin working on a formal plan for disposition of the collection in early 2019. At the time of this report, none of the components of such a plan had been established, including a needs assessment, cost estimates, a survey of Library facilities, and a list of organizations that could potentially house the Collection.

One additional obstacle is the fact that the Library does not have anyone on staff or contract who is a professional archivist or preservationist. While this report was being prepared, the Library received a grant of professional preservationist services from the California State Library. The grant will provide access to a preservation assessment. According to a presentation to the county Board of Supervisors, the assessment will "include scope and scale of preservation needed as well as recommendations for care of the collection." The Library says this information will provide a basis for developing plans for the short- and long-term future of the Collection.

A pressing issue is that Contra Costa County Board of Supervisors decided to close the Pleasant Hill branch a year and a half before the new facility is scheduled to open. This decision was made to enable the county to take advantage of the current real estate market to pursue a sale of the property. So far, the Library has not developed a short-term plan to ensure the safety and security of the Collection temporarily if the building is closed or demolished before a long-term solution can be implemented.

Making Progress

Despite the absence of historical preservation on its list of strategic priorities and the lack of plans for handling the Collection either temporarily or permanently, the Library

has taken some steps to care for the Collection, in keeping with provisions in its Collection Development Plan described above. The California Preservation Program at UC Berkeley conducted a Preservation Needs Assessment of the Library's "Californiana" collection in May 2013, including the Collection. The study made recommendations for security and protection from damage by fire, water, and other environmental hazards. The Library has been working through these recommendations, implementing them where it could, and assessing the feasibility of implementing some of the more difficult or expensive recommendations.

The report also calls for hiring an expert to evaluate the need for a regional local history resource and the potential for the Collection to meet that need. The justification for the recommendation notes that:

The Californiana collection materials take up space that could be used for other Library functions, they need ongoing care to be used safely by library patrons, and they would require dedicated staff to maximize their value to the community. Insofar as the community served may extend well beyond Contra Costa County, the Library could explore opportunities to secure grant funding to hire a consultant to perform the recommended analysis.

Given the pending closure of the Pleasant Hill branch, the Library could consider revisiting the recommendation in the context of determining the best future for the Collection.

A Potential Solution

The closing of the Pleasant Hill branch creates urgency about what to do with the Collection in the short term. At the same time, it also presents potential long-term opportunities for an upgrade. Most of the Collection is housed in Pleasant Hill, but some items are scattered throughout other branches and could potentially be brought together in a single facility. In addition, if the Library were able to partner with an external organization, it could be housed in a place where preserving historical materials for public use is a priority.

One possible organization to partner with is the Contra Costa County Historical Society (Historical Society). <https://www.cocohistory.org/> The Library's and the Historical Society's collections both cover the history of the county, making them complementary. The Historical Society is housed in a secure, climate- and humidity-controlled building in downtown Martinez. The facility includes a small exhibition space, room for patrons to study, and a large state-of-the-art scanner. The scanner enables materials to be digitized to ensure their preservation and allows the Historical Society to discard bulky items where there is little or no value in retaining the originals.

Like the Library, the Historical Society underwent an assessment by the California Preservation Program and is implementing its recommendations. In addition, the

Historical Society underwent an organizational assessment in 2014 by the Institute of Museum and Library Services and the American Alliance of Museums. That study concluded that, “The (Historical Society) is a very professionally run organization with a strong volunteer staff, an experienced executive director, and a wealth of fascinating collections.”

The Historical Society’s mission is “to preserve, protect, and provide public access to the records and heritage of Contra Costa County.” Acquiring the Library’s Collection would align with this mission.

There are obstacles that would have to be addressed in order for a partnership between the two organizations to succeed. For example, the Historical Society might not have sufficient space to absorb the Collection. It would likely require help from the county, either with funding or building space. But if a successful agreement could be forged, a partnership between the Library and the Historical Society would provide the county with a means of permanently safeguarding the Library’s irreplaceable Collection and ensuring its availability for public use.

FINDINGS

- F1. The Library is transitioning from a traditional storehouse for books into a technology center, literacy advocate, and community gathering place.
- F2. The Pleasant Hill branch is closing in late September 2019 to make way for a new branch which is scheduled to open in the Spring of 2021.
- F3. The new branch will not be able to house the Library’s Contra Costa County history Collection, most of which is currently housed in Pleasant Hill.
- F4. The Library does not have a short-term plan for safeguarding the Collection after the Pleasant Hill branch closes, before a long-term plan can be implemented.
- F5. The Library has not developed a long-term plan for permanently housing the Collection.
- F6. The Library has received a grant of professional preservationist services that will provide a basis on which to develop short- and long-term plans for safeguarding and housing the Collection.
- F7. The Contra Costa County Historical Society is a potential repository for the Collection.
- F8. The Contra Costa County Historical Society would like to house the Library’s Collection.

RECOMMENDATIONS

- R1. The Library should consider developing a short-term plan by September 2019 for safeguarding the Collection while a long-term plan is being developed and implemented.
- R2. The Board of Supervisors should consider directing the Library to develop a long-term plan for housing the Collection, including a budget, by June 2020.
- R3. The Board of Supervisors should consider directing the Library to explore the feasibility of an agreement with the Contra Costa County Historical Society for housing the Collection by August 2019.
- R4. The Board of Supervisors should consider providing the financial resources necessary to fund the budget for the long-term plan in the 2021-2022 fiscal year.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Board of Supervisors	F4, F7, and F8	R2, R3, and R4
Contra Costa County Library	F1, F2, F3, F4, F5, F6, F7, and F8	R1

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EBMUD Water Rates

Building Customer Understanding through Transparency

APPROVED BY THE GRAND JURY

Date MAY 9, 2019



RICHARD S. NAKANO
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ANITA SANTOS
JUDGE OF THE SUPERIOR COURT

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EBMUD Water Rates

Building Customer Understanding through Transparency

TO: East Bay Municipal Utilities District Board of Directors

SUMMARY

In 2018, the Grand Jury received a complaint alleging that water rates charged by the East Bay Municipal Utilities District (EBMUD) are unfair to residential customers in Contra Costa County.

In Contra Costa County, approximately 40% of residents get their water from EBMUD, which provides water to Alameda County customers as well. EBMUD's rates have increased approximately three to five times faster than the Consumer Price Index (CPI) over the last seven years. The impact of the increases has been felt more heavily in Contra Costa, where residents tend to use more water because the temperature is warmer, lot sizes are larger, and properties are more heavily landscaped than in Alameda County.

Historically in Northern California, water rates have increased substantially more than the CPI. Factors driving water rate increases include labor costs, the need to repair and replace aging infrastructure, and water conservation efforts that have reduced the amount of water being used but not the cost to provide it.

EBMUD recovers the costs for the water service it provides primarily through water rates, which will account for over 83% of its total projected 2019 revenue. More than 65% of its rate revenue is derived from variable rates based on usage. Fixed water service rates account for the remaining 35% of water rate revenue. Customers are also impacted by the fact that EBMUD's costs need to be covered, regardless of how much or how little water they use. As a result, the more water customers conserve, the higher the rate they have to pay for what they do use.

The Grand Jury examined how EBMUD sets its rates and found them in compliance

with applicable law (Proposition 218). In addition, the Grand Jury found that EBMUD could use alternative methods for setting rates that would also comply with Proposition 218. The feasibility of these alternatives is not clearly known, nor is their potential impact on rate payers in Contra Costa and Alameda counties. This is because EBMUD has never analyzed the potential impact on customers. Nor has EBMUD explained to its customers how it sets its rates.

The League of California Cities published a guide in 2016 entitled *Adopting Conservation-based Water Rates that Meet Proposition 218 Requirements*. The report's conclusion recommends a standard for EBMUD and other water districts to follow:

It is critical that a local agency clearly demonstrate through detailed data and computations and articulate through a comprehensive narrative explanation the methodology used and the justification for the allocation of costs among its various customer classes and to customers within each customer class.

The Grand Jury recommends that EBMUD consider improving its communication of both the data and the narrative explanation outlined above. EBMUD should also consider including information not only about EBMUD's current rate structure, but also about alternative methods, so that customers understand what they are paying for and why.

METHODOLOGY

In the course of its investigation, the Grand Jury:

- Interviewed EBMUD officials, employees, consultants, other public officials, and customers
- Reviewed reports, presentations, and documents provided by EBMUD and other documents available on the EBMUD website (www.ebmud.com) and other websites

BACKGROUND

EBMUD's water system serves approximately 1.4 million people who reside in a 332-square-mile area in Contra Costa and Alameda counties. Within Contra Costa County alone, EBMUD provides water service over a 146 square-mile service area to an estimated 470,000 residents, or approximately 40% of the county's population. The communities in Contra Costa County served by EBMUD's water delivery system include: Alamo, Danville, Crockett, El Cerrito, Kensington, Hercules, Lafayette, Moraga, Orinda, Pinole, Richmond, Rodeo, San Ramon, and Walnut Creek.

EBMUD's Mission is:

To manage the natural resources with which the District is entrusted; to provide reliable, high quality water and wastewater services at fair and reasonable rates for the people of the East Bay; and to preserve and protect the environment for future generations.

Two of the principles EBMUD uses to accomplish its mission are to:

- Ensure fair and reasonable rates and charges
- Ensure fair and open processes involving the public

EBMUD is governed by a seven-member elected Board of Directors, five of whom represent portions of Contra Costa County. EBMUD has a workforce of over 1,800 employees.

EBMUD depends on the availability of water from the Mokelumne River watershed in the Sierra Nevada mountains, which has been reduced in past years due to drought.

EBMUD's water supply infrastructure includes a network of reservoirs, aqueducts, pump stations, pipelines, treatment plants, transmission pipelines, and buildings that serve more than 380,000 customer accounts. Maintaining service requires ongoing reinvestment in this infrastructure.

During the most recent drought period, EBMUD customers met and exceeded EBMUD's call for conservation. In 2016, EBMUD sold 128 million gallons per day (MGD), down from a peak consumption level of over 200 MGD in 2007.

The cost to provide water service is recovered primarily through water rates. EBMUD relies on both fixed rates and variable (volumetric) rates to recover its costs. Fixed rates are charges assessed on all customers and do not vary with water used. Variable rates are charged based on the amount of water consumed.

Water rates account for over 83% of EBMUD's total projected 2019 revenue. Over 65% of its water rate revenue is derived from variable rates. Fixed water rates account for the remaining 35% of water rate revenue.

According to information obtained from EBMUD, over 90% of EBMUD's costs are fixed (such as salaries and benefits) yet less than 30% of its revenue is derived from fixed sources (such as property charges and power revenue). The remaining fixed costs must be recovered through water rates.

For the Single Family Residential (SFR) customer class, variable rates are tiered. EBMUD utilizes tiered rates to help recover its cost of service while encouraging conservation.

Tiered rates are explained in the 2016 League of California Cities guide, as follows:

Tiered rate structures impose progressively higher rates for water service as the relative level of consumption increases. They are designed to allocate a greater share of the cost of providing service to those whose water usage creates greater demands and burdens on a local agency's water system, sources of supply, and other water resources, and therefore generates additional costs to a local agency for providing water service.

EBMUD water rates need to comply with the California Constitution (Article X, to maximize the beneficial uses of water) and with the cost of service requirements that California voters approved as Proposition 218 in November 1996. (Article XIII D, section 6(b))

California voters passed Proposition 13 in 1978 limiting property tax levies to a fixed percentage of assessed value. That created a system in which government would have to fund its operations from a fixed amount of revenue, rather than increasing the property tax rate to raise revenues. But Proposition 13 exempted service fees, allowing agencies like water districts to increase their rates to recover their costs, with less urgency for controlling costs. This issue was addressed by the passage of Proposition 218 in 1996 and subsequent court rulings.

Under Proposition 218, water districts are allowed to raise fees, but the increases are limited to the amount needed to cover their cost of service, and the costs must be allocated proportionately to those users that incur the costs. Customers' water bills are affected by the fact that costs need to be recovered regardless of how much or how little water they use. This results in a paradox: The more water customers conserve, the higher the rate they have to pay for what they do use.

While customers may not understand what is involved in delivering water service to them, nor the methodology used to establish rates, they do know what they pay.

This report examines how EBMUD recovers its water service costs through water rates, primarily SFR rates. It also explores how rate information, including the methodology used to establish the rates, can be better communicated to EBMUD customers.

DISCUSSION

EBMUD updates its water rates every two years in conjunction with the development of its budget. The rates are designed to recover costs identified in its operating and capital budgets. Water rates are intended to provide adequate revenues while keeping costs affordable, encouraging conservation and efficient use of water, and reflecting the cost of providing service to customers.

The rate methodology used is a cost-of-service approach recommended by the American Water Works Association. Rate design also complies with Article X, section 2

of the California Constitution, which requires the beneficial use of water resources, and Article XIII D, section 6(b) (Proposition 218).

EBMUD conducts a cost-of-service study of its water service fees and rates at least every 10 years. The last cost-of-service study was completed by Raftelis Financial Consultants in April 2015. That study relied on data from 2013 and did not reflect the most recent drought or the water conservation achieved by EBMUD customers. By contrast, in 2018, Contra Costa Water District completed a post-drought cost-of-service and rate study.

EBMUD divides its customers into six classes: Single Family Residential, Multi-Family Residential, Commercial, Industrial, Institutional, and Irrigation. Single and Multi-Family residential customers make up 91% of EBMUD's customer accounts, commercial customers make up 8%, while industrial, institutional and irrigation customers combined are only 1% of the billed accounts from the utility. EBMUD relies on tiered rates for its SFR customer class to meet the cost of service requirements for these customers.

How does EBMUD Structure Water Rates?

Water rates have the following main components:

- **Water Service Charge:** A fixed charge based on the size of the water meter servicing the property and calculated to recover a portion of the District's fixed costs, such as meter reading, billing, repairs, and customer service. Water meters range in size from 5/8" up to 18".
- **Water Flow Charge:** A variable charge calculated per ccf (one hundred cubic feet which equals 748 gallons) of water delivered to a property. It is designed to recover the cost of providing water, including water supply and the infrastructure needed to treat and deliver the water.

The Water Flow Charge for SFR customers is levied in three tiers that impose higher rates per ccf of water as consumption increases:

- Tier 1 = First 172 gallons per day (gpd) (0 – 7 ccf per month)
- Tier 2 = All water used in excess of 172 gpd up to 393 gpd (8 – 16 ccf per month)
- Tier 3 = All water used in excess of 393 gpd (in excess of 16 ccf per month)

EBMUD has relied on a tiered rate structure for SFR customers for more than 20 years. In an October 6, 2016 memo, "Board Workshop on Water Budget Rate Structures," EBMUD indicated the "intent of an inclining tiered rate structure is to encourage low water use." The water rate within each tier is the same for all SFR customers.

What is the Difference between Customers East and West of the Oakland/Berkeley Hills?

Areas east of the Oakland/Berkeley Hills (Hills) are located in Contra Costa County, such as Lafayette, Walnut Creek, and the San Ramon Valley.

Tier 1 water use has generally been considered to be average indoor water usage. Indoor usage ranges from 3 to 6 ccf per month and is consistent for SFR customers both east and west of the Hills. As a result, EBMUD considers SFR customers east and west of the Hills to be homogeneous.

However, EBMUD's SFR customers east and west of the Hills are not homogeneous, in terms of their lot sizes, summer temperatures, and resulting outdoor need for water. Climate is hotter in the east, increasing evaporation rates, and lots are larger and tend to have more landscaping.

Tiers 2 and 3 rates capture the costs to deliver outdoor water use. These water demands, primarily for landscape irrigation, increase EBMUD's overall costs. EBMUD must build, operate, and maintain water supply and distribution infrastructure sufficient to deliver the maximum amount of water required during peak periods of water use.

EBMUD indicates that the costs to deliver outdoor water use during these peak periods are allocated to those customers "responsible for generating those costs and creating the peak demands." The 2015 Cost of Service Study indicates that Tier 3 has the highest peaking costs because it covers outdoor water usage for the largest SFR customers.

EBMUD acknowledges in its 2015 *Urban Water Management Plan* that "there are significant differences in geography, climate and land use" within its service area, and those differences "influence how water is used." In the area east of the Hills the climate is warmer in the summer than west of the Hills. In July, August, and September, maximum temperatures east of the Hills are 6 to 8 degrees Fahrenheit warmer than west of the Hills. Residential customers east of the Hills have higher outdoor water demands than those residing west of the Hills due in part "to differences in size of irrigated area and differences in climate."

The tier break point between Tier 2 and 3 is 16 ccf. This is determined by averaging summer usage of all SFR customers east and west of the Hills. However, because summer temperatures are hotter east of the Hills, customers in the east incur Tier 3 rates more frequently than customers in the west.

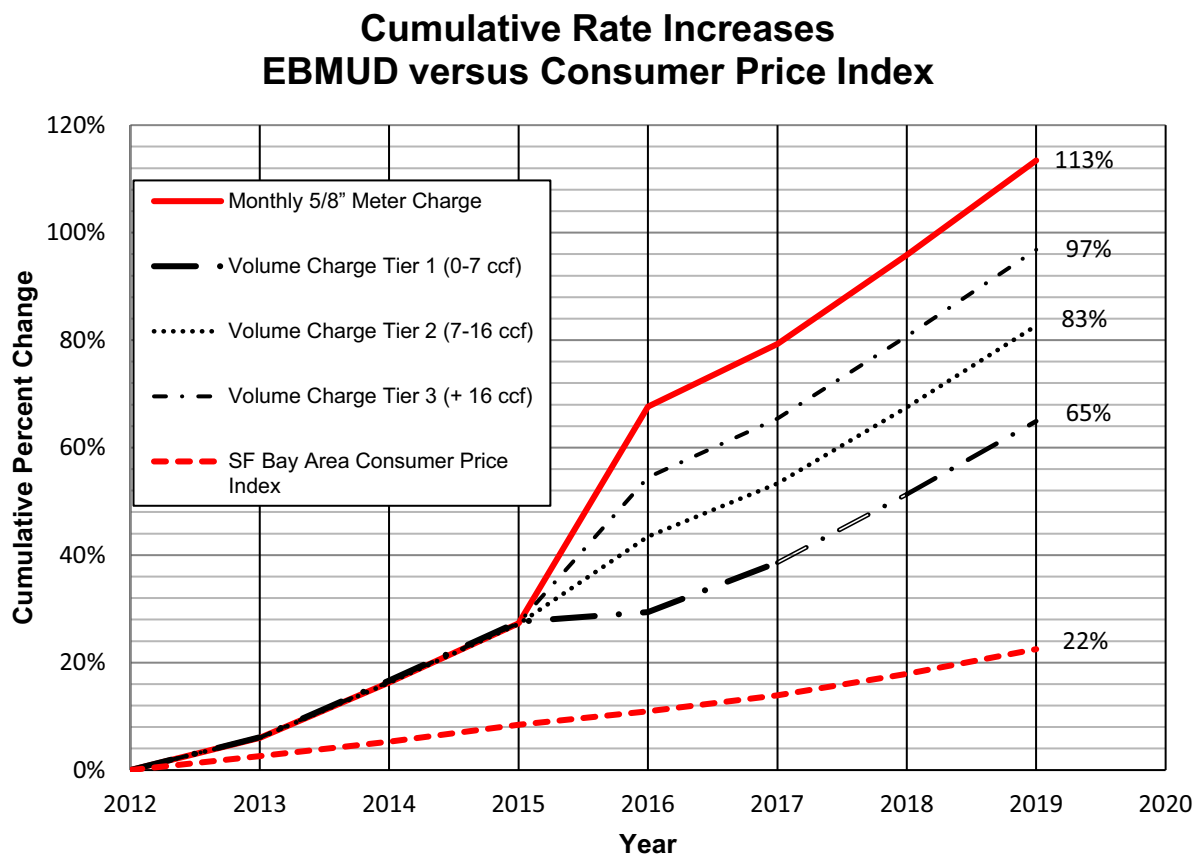
How do EBMUD Rates Affect Single Family Residential Customers?

At EBMUD, the cost for providing water service, coupled with reduced water consumption due to conservation, has necessitated increasing water rates. These water

rate increases primarily enable EBMUD to:

- Recover operations and maintenance costs
- Fund capital improvements to repair and update EBMUD's aging pipelines and other infrastructure

The graph below illustrates that water rates have increased faster than the Consumer Price Index (CPI) in recent years. Monthly meter, or fixed, rates have increased by 113% and tiered, or volume, rates have increased between 65 and 97% between 2012 and 2019. During this same period, CPI increased by 22%.



Is There an Alternative Rate Option?

EBMUD has three alternatives to its current rate-setting methodology that it could consider:

1. Increasing the fixed rate so that variable rates comprise a smaller portion of a customer's water bill
2. Creating two separate classes of SFR customers: one in the east, one in the

west so that the two disparate regions are not averaged together to establish the tiers

3. Adopting a “Water Budget” rate structure, where properties are evaluated individually based on their water needs

The first alternative is not feasible because EBMUD is party to an agreement among California water districts to keep the fixed portion of its rates to 30% or less of its total revenue. EBMUD is currently compliant.

The second alternative has been consistently rejected by the EBMUD Board of Directors (Board) because it considers SFR customers in the east and west to be a homogeneous class, even though its 2015 *Urban Water Management Plan* identifies significant differences in climate and land use.

The Board held a workshop on Water Budget rate structures in 2016. Water Budget rates use customer-level data to establish tiers tailored to the water needs of each customer. Indoor usage is tied to the number of individuals in the household. Outdoor usage takes into consideration factors such as lot size and landscape water needs.

During the workshop the Board investigated two approaches to establishing Water Budget rates: a simplified approach and an individualized approach. In the simplified approach, an algorithm was used to assign landscape area to a parcel based on readily available parcel data. For the individualized approach, the water budget was calculated using analysis of aerial imagery to determine the landscape area along with the local weather conditions at each customer’s location.

At the 2016 workshop, EBMUD concluded:

... implementing a water budget rate structure could identify some inefficient water use by some SFR customers and at the same time lower the amount of water charged at the highest price to SFR customers who are using water efficiently to meet their large water budget needs for large lots in warm areas.

EBMUD Staff recommended that the Board continue to explore Water Budget rates.

The Grand Jury recommends that EBMUD continue to explore Water Budget rates to see if that will provide greater fairness among SFR customers east and west of the Hills.

How Can EBMUD Increase Public Outreach and Customer Understanding?

EBMUD frequently cites its commitment to open, public, and transparent processes. As mentioned previously, two of EBMUD guiding principles are to:

- Ensure fair and reasonable rates and charges, and
- Ensure fair and open processes involving the public

EBMUD says it makes “every effort to reach out to the public with full and transparent information on our proposed rates and rate increases” and seeks the public’s input “on all matters that affect them, particularly rates.”

After examining many of EBMUD’s recent public communications, the Grand Jury found very little information about the methodology it uses to set rates and nothing at all about possible alternative methods. In the 12 issues of the *Customer Pipeline* inserted into water bills during the last two years, only one featured a discussion of water rates, and that discussion focused entirely on what the water rate revenues pay for rather than how the rates are set. Nor are these reports supplemented by special communications to customers at the time EBMUD is working on rates.

The Grand Jury found EBMUD to be in compliance with the legally required public notifications and public meetings regarding rates. But these communications did not meet the League of California Cities recommendation cited previously of a “comprehensive narrative explanation of the methodology used and the justification for the allocation of costs among its various customer classes and to customers within each customer class.”

EBMUD considers the legally required “Proposition 218 Notice” of public hearings on water rates to be “the most significant notice to the public regarding proposed rates and the basis for these rates.” The 2017 notice includes a section titled “Basis Upon which the Proposed Charges Were Calculated.” However, the only discussion about how it actually computes the rates does not describe how the classes are determined, how the costs are portioned among the classes, how tiering works, or any information that might suggest alternative methods EBMUD could use to determine the classes and calculate the rates. This section of the Proposition 218 Notice reads:

Water charges have five customer classes:

Single family residential, multi-family residential, non-residential private fire service and non-potable/recycled water. Together the rates for the components of the water fees are structured to proportionately recover the costs of providing water service among the various customer classes.

The additional public outreach on rates cited by EBMUD takes the form of public meetings and the documentation the District provides to its Board and makes available on its website. In 2017, EBMUD held three “Budget Workshops” between January and April and a public hearing in July. The documentation for these workshops is technical and not supplemented by narrative explanations directed to its customers. All four meetings took place during weekday business hours at EBMUD headquarters in downtown Oakland, which may have limited customers’ ability to attend. A similar schedule is planned for 2019.

This schedule was supplemented by presentations to business and community organizations and City Council meetings throughout EBMUD’s service area. Board

members held additional meetings in their districts between May and July 2017. Slides prepared for those meetings by EBMUD staff included no information about how rates are set.

The Board meets twice a month on weekday afternoons in Oakland. Meetings are also held at other times as needed, but not at times or places that might encourage more attendance by EBMUD's customers or other members of the public.

Board meeting information is posted on the EBMUD website 72 hours prior to the meeting time, in compliance with the Ralph M. Brown Act. For previous Board meetings for the current year and the prior two years, the agenda, staff reports, presentations, and action summaries are posted on the website. The website does not state how to access information for meetings held prior to 2017.

As of 2018, audio recordings of the Board meetings are also available on the website one week after the Board meeting. There are no video recordings made of meetings, nor are the meetings streamed live on the Internet.

EBMUD's board room was not designed to incorporate live audio and visual broadcasts. The 2013-14 *Alameda County Grand Jury Final Report* entitled *East Bay Municipal Utility District Rate Increases* recommended that EBMUD provide live-streaming of Board meetings. EBMUD is currently evaluating the cost and feasibility of providing video recording and live-streaming of Board meetings.

EBMUD conducts a survey of the opinions of its customers every two years. The most recently completed survey in November 2016 included the following findings:

- Most customers are open to paying more for infrastructure improvements to maintain a safe, reliable water supply.
- Reaching customers is challenging. Only a small percentage of customers read the *Customer Pipeline* newsletter.
- While EBMUD has strong positive ratings on core job responsibilities, rate setting generates more negativity.
- Money management and rate setting are perceived as some of EBMUD's weaker areas.

Communicating with the public, particularly on complex technical issues, is a challenge in this era of competing messages and multiple communication channels. With its water rates increasing three to five times faster than the CPI, it is important for EBMUD to improve its transparency with regard to rate-setting and consider being open to other rate-setting options.

FINDINGS

- F1. EBMUD has developed and adopted a tiered water rate structure for SFR customers that complies with Article X and Article XIII D, section 6(b) of the California Constitution.
- F2. EBMUD water rates have been increasing three to five times faster than the Consumer Price Index over the last seven years.
- F3. Customers are impacted by the fact that EBMUD's costs need to be covered regardless of how much or how little water customers use.
- F4. SFR Tier 1 rates are based on average indoor water use, which is similar among customers east and west of the Oakland/Berkeley Hills.
- F5. EBMUD's SFR customers east and west of the Oakland/Berkeley Hills differ in terms of their outdoor water use.
- F6. EBMUD uses average summer SFR monthly water use from both east and west of the Oakland/Berkeley Hills to set the break point between SFR Tiers 2 and 3.
- F7. Since summer temperatures are warmer, lot sizes are larger, and properties are more heavily landscaped east of the Oakland/Berkeley Hills, customers east of the Hills incur Tier 3 rates more frequently than customers west of the Hills.
- F8. EBMUD's SFR customers east and west of the Oakland/Berkeley Hills are not homogeneous in terms of their lot sizes, summer temperatures, and resulting outdoor need for water.
- F9. EBMUD has not provided its customers with a narrative explanation for the cost of service, the allocation of costs among its various customer classes, or within each customer class.
- F10. EBMUD has alternative methods available to it for setting rates: increasing the fixed rate, creating two separate classes of SFR customers, and adopting a Water Budget rate structure.
- F11. Following a Board workshop in 2016, EBMUD staff recommended that the Board continue to explore Water Budget rates.
- F12. The Board meets twice a month on weekday afternoons in Oakland.
- F13. EBMUD continues to evaluate providing video recording and live-streaming of Board meetings.

RECOMMENDATIONS

- R1. The EBMUD Board should consider directing its General Manager to improve transparency by providing customers with a narrative explanation of the cost-of-service methodology, as recommended by the League of California Cities, by December 31, 2019.
- R2. The EBMUD Board should consider directing its General Manager to include a discussion of how rates are set and alternative methods of setting rates in the narrative explanation, by December 31, 2019.
- R3. The EBMUD Board should consider directing its General Manager to solicit customer input and participation in its examination of Water Budget rate structures by establishing a customer advisory committee by December 31, 2019.
- R4. The EBMUD Board should consider directing its General Manager to complete an analysis of Water Budget rate structures and communicate its findings to customers by June 30, 2020.
- R5. The EBMUD Board should consider directing its General Manager to develop a plan to improve transparency and better engage customers in how it sets its water rates by June 30, 2020.
- R6. The EBMUD Board should consider holding board meetings during weekday evenings, by December 31, 2019.
- R7. The EBMUD Board should consider holding board meetings at varying locations including locations east of the Oakland/Berkeley Hills, such as in Walnut Creek, by December 31, 2019.
- R8. The EBMUD Board should consider directing its General Manager to complete the evaluation of live-streaming of Board meetings by December 31, 2019.
- R9. The EBMUD Board should consider streaming online or televising its board meetings to encourage public participation and understanding of its activities by June 30, 2020.

REQUIRED RESPONSES

	Findings	Recommendations
EBMUD Board of Directors	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11, F12, and F13	R1, R2, R3, R4, R5, R6, R7, R8, and R9

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

Appendix

ACRONYMS

ccf- One hundred cubic feet, equates to 748 gallons

CPI – Consumer Price Index

EBMUD – East Bay Municipal Utility District

gpd – Gallons per day

Hills – Oakland/Berkeley Hills

MGD – Million gallons per day

Proposition 218 - California Constitution, Article XIII D, section 6(b)

SFR – Single Family Residential

A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553

Report 1905

Fire Inspection Records and Reporting

What We Don't Know *Can* Hurt Us

APPROVED BY THE GRAND JURY

Date

MAY 10, 2019



RICHARD S. NAKANO
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date

MAY 13 2019



ANITA SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1905

Fire Inspection Records and Reporting

What We Don't Know *Can* Hurt Us

TO: Contra Costa County Fire Protection District Board of Directors

SUMMARY

In June 2018, an investigative news report alleged that many of the San Francisco Bay Area's largest fire departments are not consistently performing all of their state-mandated fire inspections for schools and multifamily residences. The Contra Costa County Fire Protection District (Fire District) was among those named in these news reports.

The Grand Jury confirmed that the Fire District had fallen behind on completing all the state-mandated fire inspections for schools and multifamily residences. By the end of 2018, the Fire District had completed all these fire inspections for properties included in its database.

Cost-reduction and cost-control measures implemented by the Fire District in the wake of the recent economic recession included closing seven fire companies, which reduced staffing by 25%. The Fire Prevention Bureau lost clerical support during the downturn, forcing inspectors to take on administrative tasks in addition to their inspections. Fire District officials also indicated that reporting and technology improvements could have helped them manage fire inspections more effectively. These factors contributed to the inspection shortfall.

The Grand Jury recommends that the Fire District consider upgrading the existing Record Management System (RMS). There is a need for the ability to enter inspection results in the field using a tablet device, and automate the initial loading and updates of inspection data. There is a need for a formal audit process to verify the accuracy and completeness of the RMS data on a regular basis.

The Grand Jury recommends the Fire District consider changes to its reporting on inspections to include an indication about whether the Fire District is in compliance with

state mandates. It should also consider providing online public access regarding the status of fire inspections.

METHODOLOGY

In the course of the investigation, the Grand Jury:

- Reviewed Fire District Board of Directors public meetings
- Interviewed employees at various levels of the Fire District
- Reviewed applicable state laws, regulations, and local ordinances
- Examined Fire District policies, procedures, job aids, and activity reports
- Reviewed the 2016 Local Agency Formation Commission (LAFCO) Municipal Service Review
- Toured the Contra Costa Regional Fire Communications Center
- Attended fire inspections for a commercial property and a multifamily residence
- Reviewed examples of inspection notices including re-inspection reports following violations
- Observed the Record Management System in operation

BACKGROUND

Fire inspections are designed to help reduce the risk and severity of fire and limit injury or death when fires do occur.

The California Health and Safety Code (Sections 13143-13146; 17921 and 17958) mandates that fire departments perform annual fire inspections of schools and multifamily residences of three units or more. The California Code of Regulations (Titles 19 and 24) establishes minimum requirements for fire and building safety. The Contra Costa County Fire Protection District Ordinance 2016-23 adopts relevant sections of the California Code of Regulations with amendments tailored to the Fire District's needs. These regulations provide detailed requirements on the adequacy of exits, the installation and maintenance of fire extinguishing and alarm systems, and hazardous materials storage and handling.

After media attention brought fire inspection concerns to light, California passed legislation to increase accountability for performing mandated fire inspections. This new section of the California Health and Safety Code (Section 13146.4) takes effect in 2019 and requires that local fire departments report annually to their governing authority on their compliance with state fire inspection mandates.

Schools and Multifamily Residences

California law requires an annual fire inspection of all buildings used for educating K-12 students, including public, private, and faith-based schools. Private residences used for homeschooling are not included.

Fire inspections are required for California Department of Social Services-licensed care facilities initially, annually, and when significant changes are introduced in the facility or how it is used. Examples include residential care facilities for the elderly or disabled and assisted living facilities.

In addition to these state-licensed facilities, multifamily residences of three units or more must be inspected annually by the fire department. These include apartments, condominiums, triplexes, and temporary residences such as hotels and boarding houses. Annual fire inspection requirements in California do not apply to single-family residences, duplexes, or townhomes.

What Fire Inspectors Look For

In conducting these inspections, fire inspectors are required to check for working fire alarms and clear lines of sight to unobstructed exit paths. They ensure that doors and other building designs that limit or prevent the spread of fire and smoke work properly. In schools, inspectors enter classrooms and other areas to perform inspections. For multifamily residences, inspectors are only authorized to inspect common areas such as hallways, stairwells, and the exteriors of buildings.

The Contra Costa County Fire Protection District

The Fire District currently serves nine cities and one large unincorporated area in Contra Costa County. About 600,000 of the county's 1.1 million residents live in the Fire District. It is governed by a five-member Board of Directors and managed by the Fire Chief. There is a seven-member Advisory Fire Commission that receives regular reports on fire prevention activities.

The District's Fire Prevention Bureau includes two units charged with performing inspections and issuing fire clearances for properties indicating they passed the required fire inspection:

- The **Engineering Unit** reviews building drawings and inspects new buildings. This unit also performs fire inspections and issues fire clearances for building permits that require an initial fire inspection because of hazardous materials or processes.
- The **Code Enforcement Unit** inspects existing occupancies and operations requiring a fire clearance, including the state-mandated inspections referred to in this report. These regulated occupancies include K-12 schools and multifamily residences of three units or more.

Additional Inspections Beyond Schools and Multifamily Residences

The Fire District performs a variety of fire inspections outside of regulated occupancies. These include inspections of new or modified buildings such as high-rise facilities, jails, businesses, factories, storage facilities, and public assemblies of 50 or more persons. It also provides fire clearances for hazardous processes, or when hazardous materials and combustibles are stored in quantities requiring a permit.

Although these types of inspections are not the focus of this report, they are important community safeguards and they compete for Fire District resources.

DISCUSSION

In June 2018, the media reported that as many as 11 of the San Francisco Bay Area's largest fire departments had not consistently performed all the required annual fire inspections for schools and multifamily residences over the previous eight years. The Fire District was among those identified in these reports.

In public meetings following the media reports in June, the Fire District acknowledged it had not completed all state-mandated annual inspections in prior years. For example, the District reported that in 2017 it completed 60-70% of the required inspections for schools and about 45% of the required inspections for multifamily residences. Some schools had not been inspected in over two years. The Fire District publicly reported on its ongoing progress in closing the backlog over the second half of 2018. In August, the Fire District reported that all of the state-mandated fire inspections for schools were up to date. All the required 2018 inspections for multifamily residences in the Fire District's database were completed by the end of the year.

The Grand Jury looked at factors contributing to the fire inspection backlog and how the Fire District completed state-mandated inspections during the second half of 2018.

Factors Contributing to the Inspection Backlog

Sharply declining property tax revenue and increasing operating costs created a fiscal crisis for the Fire District during the economic downturn that began in 2008. In public meetings and documents, the Fire District described the difficulty of maintaining service levels during the 2013-2014 budget cycle. During this same budget cycle, the District predicted that it would be unable to fully respond to all 911 calls. As a result, it forecast more severe fire conditions and fire spread, as well as delays in providing lifesaving medical treatment.

During the fiscal crisis, the Fire District implemented cost-reduction and cost-control measures. The Contra Costa County Board of Supervisors voted to close four of its 28 fire stations in 2013. The Fire District reduced non-operational support positions and left vacant positions unfilled. During this time, staffing was reduced by about 25%. In its 2016 Municipal Service Review, LAFCO reported that the number of active fire apparatus in the Fire District service area was reduced by as much as 30%.

In order to reduce expenses, the District introduced the new Fire Inspector I classification, which meets the basic requirements of the job. However, there are limitations on the types of inspection they can perform, compared to the more experienced and higher compensated Fire Inspector II's.

The Fire Prevention Bureau lost clerical support during the downturn, compelling fire inspectors to take on more administrative duties such as manually loading fire inspection data into the Record Management System (RMS) from paper forms completed at the inspection site. Because of RMS limitations, the Fire District was unable to substitute technology (i.e. data entry in the field) for lost inspector productivity.

The Grand Jury found no evidence that the public was informed of potential impacts of the fiscal crisis on state-mandated fire inspections during this time.

Code Enforcement Inspection Revenue

The Fire Prevention Bureau is funded through a cost of service fee recovery provision in the California Health and Safety Code (Section 3143.5). As the table below shows, fees collected by the Fire District's Code Enforcement Unit have declined every year since 2014. This downward trend in fee revenue reflects the fact that the Fire District has seen a declining number of inspectors to do code enforcement inspections. In the summer of 2018, the Fire District reported in public meetings that in the past three years it struggled with attrition, recruitment, and retention of Fire Inspector I employees. These factors contributed to inspector vacancies. Fee revenue in the 2017-2018 fiscal year was less than half the amount collected just five years earlier.

Code Enforcement Unit Fee Revenue

Fiscal Year	Estimated Inspection Fees	Collected Inspection Fees	Difference vs. Previous Year
2013-2014	\$1,100,000	\$1,207,638	\$185,834
2014-2015	\$1,268,000	\$1,131,349	(\$76,289)
2015-2016	\$1,268,000	\$923,489	(\$207,860)
2016-2017	\$1,000,000	\$882,679	(\$40,810)
2017-2018	\$1,050,000	\$566,410	(\$316, 269)

The code enforcement fees collected reflect the amount of time spent performing or supporting fire inspections. Fees collected are primarily influenced by inspector vacancies. Other contributing factors are short-term assignments of code enforcement

personnel to other units and for training, which temporarily removes fire inspectors from the field. As the number of inspectors and inspections increases, fees collected for inspections should proportionately increase. In June of 2018, four new Fire Inspector I employees were hired in the Code Enforcement Unit, bringing its workforce up to the seven inspectors authorized for the unit.

California law allows cost-of-service fees to include the cost of capital equipment, software, and maintenance agreements. Funding for the RMS recommendations in this report could come from additional fees paid for each fire inspection or fire clearance issued.

How the Fire District Addressed the Backlog in 2018

The Fire District hired four additional clerical staff to help the Code Enforcement Unit improve inspection data in the second half of 2018. These resources were used to help validate and correct data deficiencies in the RMS. System administrators accessed county and state websites such as the County Tax Collector, the California Department of Social Services, and the California Department of Education for this purpose.

Fire inspectors from Engineering were temporarily reassigned to Code Enforcement to help the Fire District eliminate the backlog. Management analyzed the inventory of regulated occupancies assigned to each inspector and redistributed the workload in 2018. The Fire District also terminated an agreement in November 2018 that provided fire inspection resources to the East Contra Costa Fire Protection District.

Each inspector in the Code Enforcement Unit can perform up to 900 inspections per year, on average. There are currently seven inspectors assigned to inspect about 8,000 occupancies. To meet state mandates, each inspector would have to average over 1,100 inspections per year.

Fire Prevention Reports

Fire inspection reports are manually recorded on paper forms that must be transcribed into the RMS database after inspectors return to the office. Fire District personnel publicly support the need to implement enhancements to the RMS, including the capability to enter inspection data in the field utilizing a tablet device.

The reports on compliance with state-mandated fire inspections that are shared with the Advisory Fire Commission and the public only show the number of inspections completed monthly. The reports do not indicate the status of compliance with the California fire inspection mandate for schools or multifamily residences in the prior 12 months. Nor do the reports forecast the status of state-mandated fire inspections to the end of the year.

The public does not have online access to a location's latest fire inspection notice. Instead, the public must call the Fire District during business hours and request that the status of the last fire inspection be looked up while they wait on the phone. The Grand

Jury recommends that the Fire District consider providing an address lookup feature via the Internet, including the pass/fail status and date of the last fire inspection.

RMS Does Not Meet Fire District Needs

The Fire District agrees that the RMS used for identifying, scheduling, and processing fire inspections no longer meets the needs of the Fire District. The current paper-based process inhibits the integrity and completeness of data. Paper-based forms are completed in the field and brought back to the office for input into the RMS. There is evidence that they can be illegible, transcribed into the RMS erroneously, or go missing.

A new RMS system should enable fire inspectors to enter inspection results in the field and connect to other external data sources as well as to the Fire District's own Computer Aided Dispatch (CAD) system. This will allow for a more efficient use of personnel and make inspection reports instantly available in the RMS. By connecting to the CAD system, the communication capability between the Fire Prevention Bureau and first responders will be improved.

There are fire inspection software applications that utilize a mobile data entry platform such as an iPad or other tablet device. System users can document the inspection on-site and insert pictures, notes, and signatures into the system at the time of inspection. This saves fire inspector time and improves the accuracy and availability of inspection data. The current RMS system does not support a mobile/tablet device that can be utilized by inspectors in the field.

The RMS system includes more than 35,000 records, of which about 8,000 are schools and multifamily residences. Fire District personnel manually load initial occupancy data and hazards and manually update the occupancy data. The new RMS could eliminate the need to re-key data from paper forms or online sources, which is time-consuming and increases the opportunity for errors.

The Grand Jury reviewed reports from the RMS, including the inventory list of regulated occupancies. Information provided in these reports appeared to be incomplete. The Fire District confirmed that some addresses of regulated occupancies were not included in the reports. However, the Fire District indicated that RMS operators are still able to access these records. Because of this data discrepancy, the Grand Jury was unable to independently verify that all mandated annual inspections were completed in the previous 12 months.

Information on a building and its inherent hazards, inspection, or firefighting concerns is only as current as the last time an inspector or firefighter was on site or plans were presented to the Fire Prevention Bureau. Information on changes in occupancy or other factors that impact fire safety are more readily available to fire inspectors and first responders when transmitted directly from local government permitting or licensing functions. Automating the initial loading and updating of occupancy data from authoritative sources, such as the California Department of Social Services and the California Department of Education, would improve the accuracy of RMS data.

The Fire Prevention Bureau has worked to improve the accuracy and completeness of the RMS database over the last half of 2018 by comparing RMS data to online resources. The Grand Jury recommends that the Fire District consider conducting periodic audits to confirm the accuracy and completeness of the RMS database.

The Fire District is up to date on the 2018 state-mandated fire inspections in its RMS database.

The Grand Jury recommends the Fire District consider whether Code Compliance staffing is sufficient to meet ongoing state inspection mandates, and to consider technology and reporting improvements that could help the Fire District manage fire inspections more effectively.

FINDINGS

- F1. The Code Enforcement Unit's fee revenue has declined every year over the past four years. Fee revenue in the 2017-2018 fiscal year was less than half the amount collected just five years earlier.
- F2. Each inspector in the Code Enforcement Unit can average up to 900 inspections per year. There are currently seven inspectors assigned to inspect about 8,000 occupancies.
- F3. Additional fire inspectors or other efficiencies are needed to keep pace with state-mandated inspections for schools and multifamily residences.
- F4. By December 2018, the Fire District completed the required state-mandated inspections for schools and multifamily occupancies that are known to them.
- F5. The Fire District has not consistently performed all the state-mandated annual fire inspections for schools or multifamily residences in prior years.
- F6. There is no evidence that the public was informed of potential impacts of the fiscal crisis on state-mandated fire inspections prior to the media reporting in June 2018.
- F7. The current RMS system used for processing fire inspections requires that inspectors use paper forms in the field and manually enter data into the RMS once they return to the office.
- F8. The Fire District does not have a formal audit process to confirm the accuracy and completeness of RMS data.

RECOMMENDATIONS

- R1. The Fire District Board of Directors should consider directing the Fire Chief to evaluate the current staffing needs of the Code Enforcement Unit and confirm it has the staffing needed to complete the state-mandated annual inspections for

schools and multifamily residences (currently about 8,000), by December 31, 2019.

- R2. The Fire District Board of Directors should consider directing the Fire Chief to produce public quarterly reports on the status of compliance with state-mandated inspections, including status for the prior 12 months and projected status to the end of the year, by December 31, 2019.
- R3. The Fire District Board of Directors should consider directing the Fire Chief to develop a publicly available Internet-based address lookup feature disclosing the status of state-mandated fire inspections, by June 30, 2020.
- R4. The Fire District Board of Directors should consider directing the Fire Chief to replace the existing RMS with a system that includes the ability to utilize a tablet device for data entry in the field, by June 30, 2020.
- R5. The Fire District Board of Directors should consider directing the Fire Chief to connect the new RMS database to state and local data sources and to the District's own Computer Aided Dispatch system by June 30, 2020.
- R6. The Fire District Board of Directors should consider directing the Fire Chief to develop and implement an audit process to verify the accuracy and completeness of the RMS data, by December 31, 2019.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Fire Protection District Board of Directors	F1, F2, F3, F4, F5, F6, F7, and F8	R1, R2, R3, R4, R5, and R6

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

**A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

Report 1906

Protecting Children from Abuse and Neglect

A Review of Children & Family Services in Contra Costa County

APPROVED BY THE GRAND JURY

Date MAY 10, 2019



RICHARD S. NAKANO
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date MAY 13 2019



ANITA SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1906

Protecting Children from Abuse and Neglect

A Review of Children & Family Services in Contra Costa County

TO: Contra Costa County Board of Supervisors

SUMMARY

Child welfare is one of the most important functions of county government. In Contra Costa, the agency responsible for protecting children from abuse and neglect is Children & Family Services (CFS). CFS is a bureau in the Employment and Human Services Department (EHSD). CFS is charged with intervening with families where abuse or neglect is suspected or evident, and making decisions that serve the best interests of the children. Those decisions can lead to recommendations to the court for removal of children from their families and the placement of children in foster homes, with relatives, or with adoptive parents. These actions can give rise to disputes with family members and other interested parties regarding what course of action is in the child's best interest.

CFS has a caseload of approximately 1,100 youths in foster care alone. It is also responsible for youths still living at home or with other relatives and those in the process of finding permanent placement through adoption. In addition, CFS responds to approximately 1,000 new abuse calls per month. The subsequent caseload is handled by approximately 175 social workers and social work supervisors out of an authorized staff level of 198. This staff shortage has resulted in heavier workloads for current personnel and is driving transfers and resignations. As a result, the ability of CFS to deliver needed services to at-risk children and their families is in danger of being compromised.

The workforce shortage is a problem that will not be easily remedied. This report examines the causes and effects of the staff shortage at CFS. It looks at ways CFS may be able to improve staff recruitment and retention. The Grand Jury recommends that the Board of Supervisors consider directing EHSD to review staff development and complaint resolution management practices at CFS, implement EHSD recruiting incentives, and streamline its hiring process to improve its ability to serve children and families.

METHODOLOGY

In the course of its investigation, the Grand Jury:

- Examined documents and websites from CFS and EHSD and from outside sources
- Conducted multiple interviews with current and former staff members and representatives of outside organizations that work with CFS
- Interviewed family members who had interacted with CFS
- Examined newspaper articles, court filings, and other documents provided by an organization that advocates on behalf of parents

BACKGROUND

Children come into the CFS system in a variety of ways, ranging from referrals by schools and medical practitioners to police intervention and complaints made by relatives, sometimes including the parents themselves.

Social workers and supervisors are available around the clock to respond to referrals. They handle approximately 1,000 calls per month. CFS social workers work with at-risk children, their parents, and other family members to determine a course of action that is in the child's best interest. When this involves removing the child from the home, social workers identify the appropriate placement, whether it be with a relative, a foster home (now called a "resource home"), or a group home. Social workers monitor the child's progress and, depending on circumstances, work with the family on a plan for reunification or permanent placement outside the home.

In Contra Costa County over the past ten years, CFS has averaged 1,120 children and teenagers in foster care, according to the California Child Welfare Indicators Project at UC Berkeley (Table 1).

Table 1 - Children in Foster Care – Point-in-Time (April 1)

Year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
California	63,700	58,344	56,882	55,017	57,527	61,607	62,618	61,781	60,634	59,385
Alameda	2,219	1,928	1,694	1,533	1,575	1,708	1,695	1,644	1,523	1,468
Santa Clara	1,548	1,216	1,039	1,025	1,202	1,335	1,404	1,295	1,138	1,126
Contra Costa	1,294	1,025	990	990	1,153	1,155	1,203	1,197	1,102	1,099
San Francisco	1,482	1,383	1,233	1,072	1,072	1,058	1,013	922	880	776
San Mateo	332	303	311	318	361	361	362	341	284	259

Source: UC Berkeley California Child Welfare Indicators Project

In non-emergency cases, CFS social workers have 30 days to conclude an investigation and draft a plan for intervention, if warranted. If the plan calls for a child to be removed from the home, the social workers prepare a case to present to the Family Court which makes the final determination regarding the child. According to CFS officials, the court accepts the recommendations of social workers 80-85% of the time.

Once a child is removed from the home, the social worker is responsible for working with the parents to create a plan for reunification where appropriate, including steps the parents must take to qualify for having the child returned. These might include psychological evaluation, anger management training, substance abuse counseling, or other actions.

Social workers are also responsible for conducting site visits to foster homes at least once per month for each child in their caseload. These site visits can consume a considerable portion of their time. This situation is worsened by the fact that some foster homes are located outside of Contra Costa County, some even outside the state of California, requiring significant travel time. Table 2 illustrates the location of foster care homes used by CFS.

**Table 2 - Locations of Foster Children from
Contra Costa County (January 2019)**

Location	Number
Contra Costa County	729
Elsewhere in California	258
Outside of California	18

Source: CFS

CFS has an annual budget of just under \$135 million. Ninety-five percent of the budget is provided by the federal and state governments. The remaining five percent comes from the county's general fund. This money funds a CFS staff of approximately 400, which includes 198 authorized social workers, supervisors, and managers. However 23 of those social worker positions were vacant as of January 2019, and the state has advised the county that it will withdraw funding for unfilled positions. Contra Costa is a "no overmatch" county, which means that its policy is to not increase its financial support for CFS beyond its five percent match. As a result, if the vacant positions are not filled, they may be lost.

Since January 2017, child welfare programs have been changing due to a statewide reform mandate authorized by the passage of Assembly Bill 403. This mandate required that by the end of 2018, privately run group foster homes be replaced by Short-term Residential Treatment Centers (STRTCs). These facilities are used only for youth whose mental health and other needs are most extreme, and where youths will stay for

no more than six months to prepare for moving to a resource home. CFS is responsible for identifying potential STRTCs and certifying that they are in compliance with state standards. CFS has had to divert staff time to this effort, bringing increased pressure on an agency that is already shorthanded.

At the end of 2018, the state extended its deadline to June 30, 2019 and gave counties an opportunity to request further extensions until the end of the year.

DISCUSSION

Staff Vacancies

CFS has an authorized workforce of 198 social workers and supervisors as of March 4, 2019, with 23 of those positions vacant, down from a high of more than 40 vacancies in 2018. This gap was narrowed with the hiring of 17 new social workers.

However, new hires require several months before they are ready to take on full caseloads. Although these new employees completed their initial training in April 2019, EHSD said it will take another three to four months before they are able to handle full caseloads. Even then, CFS will still be understaffed by 23 social workers, as Table 3 shows.

Table 3 – Social Worker Vacancies as of March 4, 2019

	Social Worker II	Social Worker III	Social Work Supervisor	Total
Authorized for 2018-19	52	107	39	198
Vacancies	6	5	12	23
Vacancy Rate	11.5%	4.7%	30.8%	11.6%
Leave of absence	0	1	1	2
Current Staff Level	46	101	26	173

Source: EHSD

Management attributes this vacancy rate, and the difficulty of recruiting social workers to replace those who leave, mainly to lower salaries and benefits relative to other Bay Area counties. Table 4 shows that some Bay Area counties do offer better compensation packages.

Table 4 - Annual Compensation Comparison for Social Worker II (2018)

County	Annual Salary	Health Care paid by employer	Total (using starting salary)	Total (using high-end salary)
Contra Costa*	\$68,570-\$75,599	\$7,284	\$75,854	\$82,883
San Francisco	\$73,372-\$89,206	\$6,773	\$80,145	\$95,979
Alameda	\$80,028-\$91,845	\$8,190	\$88,218	\$100,035
Marin	\$75,982-\$91,436	\$12,350	\$88,332	\$103,786

Multiple Sources

**A new contract effective July 1, 2019 gives county employees a four percent across-the-board salary increase and commits the county to absorb cost increases in health insurance premiums.*

There appear to be other factors affecting the retention of CFS staff beyond pay and benefits. These include low morale caused by increased workloads, management issues, lack of opportunities for career growth, poor supervision, and a poor work environment.

CFS provided the Grand Jury with a report on 20 exit interviews conducted with staff who resigned in 2017. Five former employees described their reasons for leaving as “punitive, unethical, retaliatory and poor leadership team, and toxic environment.” Four former employees cited “high workloads.” Three of the 20 cited low pay and benefits as their primary reason for leaving. The CFS 2017 Exit Interview Report excerpted below supports statements made to the Grand Jury by several current and former employees. They stated that CFS needs to recognize there are other aspects of the work environment that need to be addressed in addition to compensation.

Excerpt from the CFS 2017 Exit Interview Report

<i>Reasons for Leaving</i>
<i>Two reported leaving due to low pay and benefits</i>
<i>One left due to low pay and toxic environment</i>
<i>Four left due to high workloads. Two out of the four commented leaving for a number of reasons. One added leaving due to a toxic environment. The second individual added leaving due to a punitive climate and inability to work on their licensure hours.</i>
<i>Two left due to relocation</i>
<i>Two left for different employment opportunities</i>
<i>One left due to the lack of support by the Union</i>
<i>One left due to medical reasons</i>
<i>Two left due to the lack of support</i>
<i>Five left due to punitive, unethical, retaliatory and poor leadership team, and toxic environment</i>

EHSD has taken steps to formalize the interview process by contracting with an outside firm to conduct both exit interviews and “stay” interviews to determine more precisely why people leave and why they remain. EHSD hopes to collect data to justify programs that will reduce attrition and aid in recruitment of new staff members.

Another reason social workers leave CFS may be that CFS has to compete with other departments in the county that offer working conditions that some social workers find more attractive. Adult Protective Services (APS), for example, uses social workers to interact with elderly individuals who might be experiencing, or at risk of experiencing, various forms of elder abuse. Unlike CFS, these services are voluntary, so clients are not forced into relationships with social workers that they do not want to have. The caseloads are smaller and the work is significantly less stressful. As of January 2019, ten out of 29 authorized social workers in APS had transferred from CFS.

Caseloads for CFS social workers averaged 28 cases over the most recent three-year period in Contra Costa County, but were reduced to 21 during 2018, according to CFS. CFS attributes the caseload reduction mainly to social workers returning from leaves of absence. The Grand Jury was unable to determine whether this improvement indicates a trend, or is an anomaly. The Child Welfare League of America recommends caseloads of between 12 and 15 children per worker, and the Council on Accreditation recommends that caseloads not exceed 18 per worker.

The workload issues are not limited to social workers. Managers who receive promotions often have to keep doing their old jobs along with their new ones. Management says this overlap is not unusual when promotions occur. Of the 23 social worker vacancies, 12 are supervisory positions. Staff shortages this acute tend to create a situation in which workloads have to be increased to compensate for the vacant positions.

Preparing staff for future leadership positions is also a challenge for CFS. The bureau is not always able to promote staff to supervisory roles when they become available because of the difficulty of recruiting new staff members to backfill the vacated positions.

Addressing the Staffing Problem

While employees have been leaving the department for a variety of reasons, the difficulty in hiring people to replace them can be attributed to two main reasons:

1. Uncompetitive compensation as illustrated in Table 4
2. A shrinking pool of qualified social workers because fewer people are training for careers in the field

To encourage young people to consider social work as a career, EHSD has begun holding job fairs and sending recruiters into high schools and colleges to make presentations to students. EHSD has also proposed a number of financial incentives to

encourage applications. These include:

- A five percent premium over base pay
- Signing bonuses
- Tuition reimbursement
- Assistance with repayment of student loans

These incentives have not yet been implemented. Meanwhile, expanded recruitment initiatives may be working, as indicated by the reduction in vacant positions described in Table 3.

One obstacle to successful recruitment of social workers is the hiring process, which can take anywhere from three to six months. That lag gives candidates time to find jobs elsewhere. To address this problem, EHSD has established an executive task force to look at ways to simplify and shorten the hiring cycle, while still ensuring that new recruits are fully qualified for their jobs.

EHSD is also looking at diverting some staff from units which EHSD says are overstaffed. However, most of those interested lack the training and/or the education to qualify for social worker jobs in CFS. EHSD says that approximately 60 people have expressed interest, but in the past six months, only five or six actually made the move. CFS has also tried developing junior staff members, but found them to have little interest in taking on the additional pressures that come with social worker jobs.

Staff shortages at CFS have forced the agency to focus on its most critical functions: emergency response and preparation of cases for court consideration. As a result, CFS has fewer staff available to focus on areas such as staff development and client complaints.

Staff Development

Staff members describe inconsistencies in the agency's supervisory and performance management practices. While some staff members said they had frequent, regular meetings with their supervisors, others said these meetings were less frequent. According to the 2017 CFS Exit Interview Report cited above, supervisory support ranged from weekly to "as needed." Two individuals who left the department told the Grand Jury they had not received regular performance reviews.

To help address these issues, EHSD developed a Leadership Academy for supervisors and managers in all of its bureaus, including CFS. EHSD expanded this effort by including a mentorship program. The impact of the program in CFS is inconsistent due to competing schedule demands, lack of follow-up, and lack of flexibility with available training classes.

EHSD also consolidated a CFS leadership program into the Leadership Academy. This was done because some CFS managers and supervisors reported that they do not

always participate in leadership programs or follow up with their staffs.

Client Complaints

Complaints arise frequently when children are removed from their homes. It is traumatizing for a family to have a child forcibly removed from the home and taken somewhere else to live temporarily or permanently.

Complaints typically allege that children were wrongly taken from their homes or are unsafe in the homes to which they have been moved. Complainants often say they want their children to be either returned to them or moved to a custody environment that they perceive to be better than their current arrangement. This poses a dilemma for child welfare workers. On the one hand, they are charged by state law with trying to reunite children and parents. On the other hand, they must act in the best interest of the child, and sometimes that means keeping them separate from family members.

The Grand Jury was unable to confirm that CFS has a clearly defined set of procedures for investigating and resolving complaints and for evaluating and implementing recommendations for improvements in its policies and practices.

The CFS Ombudsman

Complaints about CFS are handled through a contracted ombudsman who reports to the director of CFS. The ombudsman receives complaints, resolves them where possible by providing information to the complainant, and brings them to the attention of the appropriate people in CFS if they require further consideration or action.

The CFS Annual Ombudsman Report for December 2017 - November 2018 cites 150 calls during that time period – a 62% increase over the previous year. The report attributes the increase to heightened awareness of the service.

The annual report also describes the ombudsman as “independent and impartial with the responsibility of addressing complaints as they relate to Child Welfare policy and procedures, and ensuring the rights of individuals involved with the department are upheld.”

However, CFS management interprets the ombudsman’s role as not to investigate, but only to bring complaints to the attention of CFS staff. A proposed new ombudsman contract issued to prospective applicants for the position in 2018 describes the CFS ombudsman’s main purpose as, “to promote and maintain good working relationships between all parties.” The contract, which was still being revised at the time this investigation concluded, places limits on the amount of time the ombudsman is allowed to spend on specific tasks and restricts their investigative role to “complaints as referred by the CFS director.”

In contrast, San Francisco’s Family and Children Services (FCS) ombudsman’s contract defines the Purpose of Service as to, “investigate, respond to and facilitate resolution of

complaints.” The contract states that the Human Services Agency reviews and takes the final action on the ombudsman’s recommendations. The Human Services Agency is a separate entity to which the FCS reports.

San Francisco’s contract is consistent with a report by the State of California Office of the Ombudsman for Foster Care, which describes the ombudsman’s primary role as, “to make objective inquiries into individual complaints and make recommendations for their resolution.” (State of California Office of the Ombudsman for Foster Care, Update Report, www.fosteryouthhelp.ca.gov).

A report on Governmental Ombudsman Standards published by the United States Ombudsman’s Association calls for the ombudsman to be independent of the offices they are investigating. The report states that, “Independence is a core defining principle of an effective and credible ombudsman.” To ensure that independence, the report calls for ombudsmen to be, “appointed by an entity not subject to the ombudsman’s jurisdiction” and which does not have operational or administrative authority over the programs or agencies that are subject to the ombudsman’s jurisdiction. (Ron Adcock, William Angrick II, Becky Chiao, *Governmental Ombudsman Standards*, United States Ombudsman Association, October 2003).

In contrast to this view, the CFS ombudsman reports to the CFS Director, which may limit the ombudsman’s independence. Elsewhere in EHSD, the ombudsman for Adult Protective Services reports to the director of EHSD, one level higher than the ombudsman for CFS.

This discrepancy between San Francisco, state, and national standards, and the positioning of the CFS ombudsman in Contra Costa County, caused the Grand Jury to look at how the role of child welfare ombudsman is defined in other Bay Area counties. In addition to the San Francisco example cited above, the Grand Jury found a potentially useful model in Santa Clara County. The following is an excerpt from the Santa Clara ombudsman’s 2014 semi-annual report to the Children, Seniors and Families Committee of the Board of Supervisors:

The Juvenile Welfare Office of the Ombudsperson is a designated neutral office established in Santa Clara County . . . in 1992. The office is located within the County Executive’s Office in order to preserve its independent function as distinctly separate from the Department of Family and Children’s Services and is governed by a set of protocols established by the Board of Supervisors. The ombudsperson focuses its resources . . . on complaint inquiry and resolution, and systemic examinations and improvements.

The independence of the Santa Clara ombudsman’s office, its oversight by the county Board of Supervisors, and its ability to recommend systemic improvements constitutes a successful working model that could be applied to CFS to help improve its services to children and their families.

FINDINGS

- F1. CFS has 23 vacant social worker positions.
- F2. CFS has an annual staff attrition rate of 28 percent.
- F3. CFS hiring practices take up to six months, during which time some job applicants find employment elsewhere.
- F4. EHSD has formed a task force to look for ways of speeding up the hiring process.
- F5. Compensation for CFS social workers is less than that for social workers in other Bay Area counties.
- F6. CFS staff cite high workloads, poor leadership, and a stressful work environment as reasons for leaving, in addition to compensation.
- F7. CFS does not have consistent practices for performance reviews to foster staff and management accountability.
- F8. EHSD has proposed incentives to encourage new hires to accept offers of employment. These include a five percent premium over base pay, signing bonuses, tuition reimbursement, and assistance with repayment of student loans.
- F9. EHSD has a Leadership Academy for all of its bureaus, but managers in CFS do not always participate or follow up with their staffs.
- F10. CFS does not have a clearly defined set of procedures for handling and resolving complaints it receives from parents and other stakeholders.
- F11. CFS has no formal process for handling recommendations from its ombudsman or staff members for improvements in its policies and practices.
- F12. The proposed contract for the new CFS ombudsman limits the amount of time the ombudsman can spend resolving complaints.
- F13. The independence of the CFS ombudsman is impacted because the position reports to the director of CFS.

RECOMMENDATIONS

- R1. The Board of Supervisors should consider directing EHSD to review social worker compensation to ensure that it is competitive with that of neighboring counties in the 2020-2021 budget cycle.

- R2. The Board of Supervisors should consider implementing EHSD's proposal for incentives to aid in recruiting new social workers for CFS in the 2020-2021 budget cycle.
- R3. The Board of Supervisors should consider directing EHSD to continue its ongoing efforts to streamline the hiring process and reduce the amount of time it takes to make hiring decisions by December 31, 2019.
- R4. The Board of Supervisors should consider directing EHSD to hold CFS managers accountable for participating in its Leadership Development program by December 31, 2019.
- R5. The Board of Supervisors should consider directing EHSD to develop and implement a formal process for handling and resolving CFS client complaints by June 30, 2020.
- R6. The Board of Supervisors should consider directing EHSD to develop and implement procedures for evaluating recommendations by the CFS staff or ombudsman for improving policies and practices by June 30, 2020.
- R7. The Board of Supervisors should consider directing EHSD to require the ombudsman to report to the director of EHSD, rather than the director of CFS, by December 31, 2019.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Board of Supervisors	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11, F12, and F13	R1, R2, R3, R4, R5, R6, and R7

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
 725 Court Street
 P.O. Box 431
 Martinez, CA 94553-0091

**A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

Report 1907

Stormwater Trash Reduction

Are We Doing All That We Can?

APPROVED BY THE GRAND JURY

Date MAY 22, 2019



RICHARD S. NAKANO
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date MAY 23 2019



ANITA SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1907

Stormwater Trash Reduction

Are We Doing All That We Can?

**TO: Contra Costa County Board of Supervisors;
City/Town Councils of: Antioch, Brentwood, Clayton, Concord,
Danville, El Cerrito, Hercules, Lafayette, Martinez, Moraga,
Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond,
San Pablo, San Ramon, Walnut Creek**

SUMMARY

What is being done about the discarded paper, plastics, and other unwanted junk that ends up along our local streets, freeways, and public areas? This trash is polluting our local creeks, rivers, the San Francisco Bay, and the ocean itself. Is anything being done to fix this regional problem that has global implications? What more can we do as citizens, cities, and Contra Costa County (the County) to help keep our waterways clean?

The federal Clean Water Act, as amended by the Water Quality Act of 1987, requires permits for stormwater discharges from municipal systems to prevent stormwater from washing harmful pollutants into waterways. Under the Clean Water Act, these discharges are considered to be significant contributors of pollutants to waters of the United States. Discharges from stormwater systems operated by the County and each of its 19 cities and towns are also subject to the requirements of the Clean Water Act.

The Clean Water Act is enforced locally by the San Francisco Regional Water Quality Control Board (Water Board) through a Municipal Regional Stormwater Permit (Permit), issued in 2015. This Permit requires Contra Costa County and its cities and towns, along with other cities and the counties of Alameda, San Mateo, and Santa Clara, to reduce trash discharged from their storm sewers. Under the Permit, cities, towns, and counties are required to reduce their trash discharged by storm sewers by 80% from 2009 base levels by July 1, 2019. Cities and counties are required to prepare detailed

annual reports that document their trash abatement performance.

Cities, towns, and the County get credit toward their percent trash reduction by reducing the amount of trash discharged from their storm sewer systems. They accomplish this primarily by installing and maintaining trash capture devices which separate trash from entering a stormwater system and waterways. They can also take steps to control trash at its source by limiting businesses from providing plastic straws, plastic bags, and/or Styrofoam cups, bowls, plates, takeout containers, and serving trays. For these source control programs, there is a maximum of 10% credit available under the Permit.

The California Department of Transportation (Caltrans) also owns, operates, and maintains significant storm sewer systems within the County. Under a separate permit, Caltrans is also required to implement control measures in all of its high-trash-generating areas. These include freeways and ramps in high density residential, commercial, and industrial areas. The Water Board recently issued an enforcement order against Caltrans to increase its trash cleanup efforts on Bay Area highways, or face heavy fines.

This report examines how the County, its cities, and towns are performing with regard to the Permit's trash reduction goals. Our investigation revealed that most of the cities and towns in the County are on target to achieve the 80% trash reduction goal.

The cities of Hercules and Pinole are underperforming toward achieving this 80% goal. The Grand Jury recommends that the cities of Hercules and Pinole consider taking steps to improve performance to comply with required trash reduction goals by installing trash capture devices and instituting source control programs.

The Grand Jury also recommends that cities, towns, and the County consider publishing annual reports in summary form, citing accomplishments and challenges, including the costs and funds needed to comply with the Permit requirements. One solution is to prevent the generation of pollution at its source. This includes limiting the use of Styrofoam cups, bowls, plates, and takeout containers.

Cities, towns, and the County should consider identifying additional revenue sources to fully fund Permit requirements in order to comply with the Permit and avoid potential liability.

METHODOLOGY

In the course of its investigation, the Grand Jury:

- Examined how the County and its cities and towns are performing with regard to their trash reduction mandates
- Explored how Permit compliance information is communicated to the citizens and elected officials in Contra Costa County

- Interviewed staff from: Contra Costa Clean Water Program, Contra Costa County Public Works, and selected cities
- Interviewed representatives from an environmental Non-governmental Organization, and the Water Board
- Reviewed stormwater permits, reports, and documents
- Reviewed information available on the Contra Costa Clean Water Program website (www.cccleanwater.org)
- Reviewed media reports

BACKGROUND

Federal and State Stormwater Regulations

The 1972 Federal Water Pollution Control Act (the Clean Water Act) regulates water quality standards for all public and private wastewater discharges into waterways. These water quality standards are set using National Pollutant Discharge Elimination System (NPDES) permits which regulate waste discharges into waters of the United States. In 1987, the Clean Water Act was amended and expanded to include stormwater discharges from municipal-owned/operated storm drains. In 1990, NPDES stormwater permit application requirements for municipal stormwater discharges were established by the U.S. Environmental Protection Agency.

In California, the federal NPDES permit program is administered and enforced by the State Water Resources Control Board through nine Regional Water Quality Control Boards. These water boards issue permits to prevent stormwater from washing harmful pollutants into waterways. Permits are updated and reissued approximately every five years. The first county-wide stormwater permits were issued in the early 1990s.

Contra Costa Clean Water Program

In 1991, in response to the expanded Federal and State stormwater regulations, the County, its cities, and towns established the Contra Costa Clean Water Program (CCCWP). Its purpose is to provide a uniform approach to address Water Board permit requirements and implement activities jointly carried out by the cities, towns, and the County.

The CCCWP comprises Contra Costa County, 19 cities and towns, and the Contra Costa County Flood Control and Water Conservation District. These are:

- Contra Costa County Flood Control and Water Conservation District
- Clayton
- Hercules
- Orinda
- Pleasant Hill
- San Ramon
- Town of Moraga
- Oakley
- Concord
- Lafayette
- Pinole
- Richmond
- Walnut Creek
- Antioch
- Contra Costa County unincorporated areas
- El Cerrito
- Martinez
- Pittsburg
- San Pablo
- Town of Danville
- Brentwood

Current Stormwater Permit

According to the Water Board, stormwater is a significant source of certain pollutants that cause or contribute to water quality pollution in the region. To address this problem the Water Board issued county-wide municipal stormwater permits in the early 1990s.

In 2015, the Water Board re-issued these county-wide municipal stormwater permits as one Municipal Regional Stormwater NPDES Permit (Permit) to regulate stormwater discharges from municipalities and local agencies in Alameda, central and western Contra Costa, San Mateo, and Santa Clara counties, and the cities of Fairfield, Suisun City, and Vallejo. In February, 2019, the cities of Antioch, Brentwood, and Oakley and the eastern portion of Contra Costa County were formally added to the Permit.

Under the Permit, cities, towns, and counties are required to prohibit the discharge of materials other than stormwater into storm drain systems and watercourses. Each city, town, and county is individually responsible for complying with the Permit requirements to meet their pollution reduction goals. The Permit allows cities, towns, and counties to collaborate in designing, developing, and implementing new solutions to reduce stormwater pollution.

The Permit includes stormwater management regulations for the following: trash reduction, new real estate development and redevelopment, illicit discharge, and public information and outreach. The Permit also regulates stormwater from industrial and commercial sites, construction sites, pesticides, mercury, PCB's, and copper.

According to the Water Board, the sources of trash include discharges from the storm drain system, windblown trash, and other discharges such as direct dumping and homeless encampments. This trash washes into San Francisco Bay and the ocean, where it becomes part of a global problem. It is unsightly, can cause storm drain blockage, decreases property values, and impacts recreational use and wildlife habitat in waterways. Trash such as plastic bags may harm wildlife through entanglement or ingestion. Trash may also contain hazardous materials such as heavy metals, toxic chemicals, oil and grease products, and other pollutants that are unhealthy and harmful to people and the environment.

Failure to comply with the discharge requirements constitutes a violation of the

California Water Code and the Clean Water Act. If there is a violation, the Water Board may impose fines and other civil liabilities. The Water Board may also refer violators to the State Attorney General who can seek civil monetary penalties and injunctive relief, or take other appropriate enforcement actions.

Preventing Trash at its Source

A key element in any trash reduction program is to stop pollution before it harms the environment. Programs that prevent trash at its source (commonly referred to as "source control") include banning businesses from providing plastic bags, plastic straws, and Styrofoam cups, bowls, plates, and takeout containers.

Plastic bags are not biodegradable and take hundreds of years to decompose. This results in plastics littering the environment, degrading creeks and waterways, and adversely affecting wildlife. When bags decompose, toxins are released into the soil and water, harming land and marine wildlife. Plastic straws are hazardous to the environment because they settle in the landfills, clog storm drains, and collect in the ocean. Styrofoam is a plastic commonly found in packing and food packaging. It is rarely reused, is an abundant form of litter hazardous to land and marine life and can take 500 years to decompose.

On November 8, 2016, California voters approved Proposition 67 which bans the use of carry-out plastic bags that once were given at grocery stores and food marts. They now offer customers the option to purchase either recycled paper or reusable plastic bags. As an example, the City of San Jose implemented a successful source control program. Its 2011 plastic bag ban resulted in a litter reduction of approximately 89% in the storm drain system, 60% in the creeks and rivers, and 59% in city streets and neighborhoods. A state law (AB1884) limiting full-service restaurants in the state from handing out single-use plastic straws became effective on January 1, 2019.

DISCUSSION

This report focuses on the trash reduction requirement of the Permit. The report examines how the County, cities, and towns are performing regarding reducing trash in creeks and waterways. It also explores how information can be better communicated to citizens in the County.

Trash Reduction Requirements

Cities, towns, and the County are required to implement trash control actions in accordance with procedures and the schedule outlined in the Permit.

The trash reduction schedule in the Permit requires that each city, town, and the County reduce trash from their 2009 baseline levels, using requirements and accounting

procedures contained in the Permit. The trash reduction goals and schedule are as follows:

- 70% by July 1, 2017
- 80% by July 1, 2019
- 100% by July 1, 2022

The cities of Antioch, Oakley, Brentwood, and the eastern unincorporated areas of the County were added to the Permit in February, 2019. They have a modified goal to reduce trash by 70% from their 2016 baseline trash levels by December 31, 2019.

Cities, towns, and the County receive credit toward their trash reduction goal by reducing the amount of trash discharged from their storm sewer systems. They accomplish this by installing and maintaining trash capture devices which prevent trash from entering stormwater systems and waterways. The percent reduction in trash is calculated by applying a formula that compares current levels with 2009 baseline amounts.

Cities, towns, and the County can take additional steps to control trash at its source by limiting businesses from providing Styrofoam cups, bowls, plates, takeout containers, and serving trays. For these source control programs there is a maximum of 10% credit toward the trash reduction goal available in the Permit.

As explained below, some cities and towns have already instituted source control programs, which they expect will reduce the amount of trash released into the environment. Most have also implemented trash management actions, such as increased street sweeping; land, creek and shoreline cleanups; and homeless encampment cleanups.

Table 1 illustrates:

- The percent reduction in trash, from 2009 baseline levels, that each city, town, and the County unincorporated areas achieved in Fiscal Year (FY) 2017-18
- The number of trash capture devices installed
- Cities that have implemented a source control program

Table 1
FY 2017-18 Trash Reduction Achieved

City/Town/County	FY 2017-18 Total % Trash Reduction	Full Trash Capture Devices Installed	Source Control Programs
Antioch	NA	1	NA
Brentwood	83.3 %	91	No
Clayton	99.5%	195	No
Concord	83.0%	451	No
Danville	100.0%	74	Yes
El Cerrito	84.5%	122	Yes
Hercules	69.0%	41	Yes
Lafayette	91.7%	38	No
Martinez	91.2%	118	Yes
Moraga	82.0%	121	No
Oakley	67.0%	68	No
Orinda	85.6%	5	No
Pinole	31.0%	113	Yes
Pittsburg	83.4%	127	Yes
Pleasant Hill	78.0%	123	Yes
Richmond	83.4%	170	Yes
San Pablo	87.7%	128	Yes
San Ramon	100.0%	81	No
Walnut Creek	95.9%	202	Yes
County unincorporated areas	75.0%	286	pending

Source: CCCWP Website <https://www.cccleanwater.org/resources/reports>

NA: data not available

Note: Antioch, Oakley, Brentwood and the eastern unincorporated areas of the County are required to achieve a trash reduction goal of 70% by December 31, 2019. All others are required to achieve a trash reduction goal of 80% by July 1, 2019.

Brentwood, Clayton, Concord, Danville, El Cerrito, Lafayette, Martinez, Moraga, Orinda, Pittsburg, Richmond, San Pablo, San Ramon, and Walnut Creek indicate that they have already reached their July 1, 2019 trash reduction goal of 80% from 2009 levels.

The cities of Hercules, Oakley, and Pinole report achieving less than 70% trash reduction in their latest annual reports. In June, 2018, Hercules and Pinole were issued Cease and Desist Orders by the Water Board requiring them to improve their

performance in meeting the required trash reduction goals. The Orders set deadlines for implementing trash controls that will bring the cities into compliance with the 80% trash load reduction relative to 2009 baseline conditions, by July 1, 2019.

Source Control Programs

One way for the County, cities, and towns to help achieve their trash reduction goals is to focus on source control programs. These programs can reduce the amount of litter that enters the stormwater system.

Danville, Pittsburg, Pleasant Hill, Richmond, San Pablo, and Walnut Creek implemented ordinances banning single-use plastic bags prior to the ban becoming law in California.

Ten cities also have established ordinances banning Styrofoam food packaging. They are: Concord, El Cerrito, Hercules, Lafayette, Martinez, Pinole, Pittsburg, Richmond, San Pablo, and Walnut Creek. The County is proposing an ordinance to ban Styrofoam container use by companies selling food and beverages, private care facilities, and County establishments in the unincorporated areas.

Brentwood, Clayton, Concord, Lafayette, Moraga, Oakley, Orinda, and San Ramon have not reported source control programs as part of their trash reduction goals.

Trash Reduction along Caltrans Freeways and Ramps

Caltrans owns, operates, and maintains freeways and ramps within the County. In a separate permit issued by the State Water Resources Control Board in 2012, and amended in 2014 and 2015, Caltrans is required to implement control measures in all high trash generating areas. These areas include freeways and ramps in high density residential, commercial, and industrial areas in Contra Costa County.

Caltrans is a state agency outside the Grand Jury's jurisdiction. However, it acknowledges that its freeways and ramps are collectors of trash and debris. Caltrans developed a work plan in 2016 to "ensure maximum environmental benefit while also achieving mobility and safety benefits to the traveling public." (Caltrans, Trash Load Reduction Workplan for the San Francisco Bay Region, 2016). In the County, the Workplan indicated that high trash level stretches include portions of Highways 4 and 24, and Interstate 80.

Table 2 shows the ramps with high trash levels:

Table 2
Highway Ramps with High Trash Levels

Highway	Ramps
HWY4	Loveridge Rd, Railroad Ave., Morello Ave., McEwen Ave., and Willow Ave.
I-80	Cutting Blvd, Potrero Ave., Carlson Blvd, Central Ave., Appian Way, Richmond Parkway, San Pablo Dam Road, San Pablo Ave., MacDonald Ave., and Buchanan St.
I-580	Regatta Blvd., Bayview Ave., and Central Ave.
I-680	Willow Pass Road

On November 7, 2018, a letter urging the Water Board to take enforcement action against Caltrans was signed by two Contra Costa County Supervisors, elected officials from the cities of Antioch, El Cerrito, and Richmond, and over 60 elected officials from Alameda, San Mateo, and Santa Clara counties. The letter urged the Water Board to order Caltrans to:

- Install trash capture devices in “very high” and “high” trash generation areas wherever feasible;
- Increase frequency of trash removal; and
- Collaborate with municipalities and local agencies to implement these solutions.

According to the Water Board, Caltrans has identified portions of its highways and ramps “that generate significant amounts of trash but has not identified an acceptable schedule for timely implementation of trash controls to meet [p]ermit” requirements. (Water Board, Cease and Desist Order No. R2-2019-0007). In February, 2019, the Water Board ordered Caltrans to install devices to capture roadway debris or otherwise clean up all 8,820 acres of land under its jurisdiction in the Bay Area identified as “significant trash generating areas” by 2026. Failure to comply with the directive could result in fines of up to \$25,000 a day.

Trash from Homeless Encampments

Waste from homeless encampments close to creeks present an environmental hazard. The Contra Costa County Coordinated Outreach and Engagement Team (CORE) collects and removes over 6,000 pounds of trash each month at homeless sites. CORE regularly visits homeless encampments to identify needs of the homeless. CORE encourages the homeless to clean up after themselves by providing trash bags.

Permit Compliance Costs

Stormwater permit compliance activities in most Contra Costa County cities, towns, and the County are funded by a Stormwater Utility Assessment (SUA) authorized in 1993. Rates range from \$25 to \$45 a year for single-family homes. In FY 2017-18 the revenues collected countywide totaled \$15.1 million. These funds are used to support the Permit compliance activities undertaken by each of the cities, towns, the County, and CCCWP.

The cities of Richmond and Brentwood do not have a stormwater utility assessment. Their stormwater pollution prevention activities are funded from other revenue sources, and the cities' general funds.

The authority to raise taxes or assessment fees to pay for governmental services, including stormwater related activities, is limited by voter initiatives such as Proposition 13 and Proposition 218. Stormwater assessment rates have maximum limits, established by each city, town, and the County in 1993. They all reached their maximum rates by FY 2009-10. Since then, cities, towns, and the County have been supplementing their SUA revenues with funding from other sources, including their general funds.

The County is responsible for complying with the Permit provisions only in the unincorporated areas. The County estimates its compliance costs to be \$5 million per year. Of that amount, \$2.2 million per year is budgeted for trash reduction related activities.

The County receives about \$3.8 million per year in SUA revenue, road, and flood control funding. The County estimates that it will need an additional \$1.2 million per year to meet all the Permit requirements.

Revenue shortfalls may prevent the County from meeting its stormwater trash reduction goals. Failure to comply with the Permit would leave the County liable for substantial fines from the Water Board. In order to achieve a trash reduction goal of 100%, the County may need to consider seeking additional sources of funding.

Both the CCCWP and the Contra Costa Local Agency Formation Commission (LAFCO) report that unfunded federal and state mandated stormwater permit compliance programs are a challenge for cities, towns, and the County. In its 2019 Municipal Service Review, LAFCO reports, "[s]tormwater control requirements mandated by regional and state agencies are increasing the cost of treating stormwater without providing compensating new revenue sources." To address this funding shortfall, the Grand Jury recommends that cities, towns, and the County consider undertaking efforts to identify additional funding sources to fully fund Permit requirements in order to comply with the Permit and avoid potential liability.

Public Awareness

The required Annual Reports provide a detailed breakdown of performance toward complying with all the Permit provisions by the CCCWP, each city, town, and the County. The CCCWP 2017-18 Annual Report documenting permit compliance activities it conducted during the year totals 564 pages. Each city, town, and the County also prepared a similar report documenting its permit compliance performance. These reports each range in length from 58 to 177 pages. They are filled with forms and tables supplied by the Water Board, which document accomplishments for the year. No narrative summary is provided identifying accomplishments, challenges, costs, and funds needed to fully comply with the Permit. The Grand Jury recommends that to enable the public to understand these issues, CCCWP, each city, town, and the County should consider providing a narrative summary of their efforts to achieve Permit requirements.

FINDINGS

- F1. The 2015 Municipal Regional Stormwater Permit requires most of the cities, towns, and the County to take action to reduce trash discharges by 80%, from 2009 baseline levels, by July 1, 2019
- F2. Antioch, Brentwood, Oakley, and the eastern portion of the County were added to the Permit in February, 2019 and have a requirement to reduce trash discharges by 70%, from their 2016 baseline trash levels, by December 31, 2019.
- F3. Using the formula prescribed in the Permit, Brentwood, Clayton, Concord, Danville, El Cerrito, Lafayette, Martinez, Moraga, Orinda, Pittsburg, Richmond, San Pablo, San Ramon, and Walnut Creek report that they have already reached their July 1, 2019 trash reduction goals.
- F4. In June, 2018, Hercules and Pinole were issued Cease and Desist Orders by the Water Board requiring them to improve their performance in meeting their trash reduction goals.
- F5. The County estimates that it will need an additional \$1.2 million per year to meet all the Permit requirements.
- F6. Both the CCCWP and LAFCO report that unfunded federal and state mandated stormwater permit compliance programs are a challenge for cities, towns, and the County.
- F7. Concord, El Cerrito, Hercules, Lafayette, Martinez, Pinole, Pittsburg, Richmond, San Pablo, and Walnut Creek have established ordinances banning Styrofoam food packaging in their communities.

- F8. Caltrans reports that highways and ramps along portions of Highways 4 and 24, Interstates 80, 580, and 680 in Antioch, El Cerrito, Richmond, and in the unincorporated areas of the County are high trash generation areas.
- F9. No narrative summary of the accomplishments, challenges, costs, and funds needed to fully comply with the Permit is provided in the required annual reports prepared by CCCWP, the County, and each city and town.

RECOMMENDATIONS

- R1. The City Councils of Hercules and Pinole should each consider directing their city manager to implement trash controls to bring them into compliance with the 80% trash reduction goal by December 31, 2019.
- R2. The City/Town Councils of Antioch, Brentwood, Clayton, Danville, Moraga, Oakley, Orinda, Pleasant Hill, and San Ramon should consider limiting the use of Styrofoam containers in their communities by June 30, 2020.
- R3. The Board of Supervisors and all City/Town Councils should consider directing staff to provide a concise summary of their Annual Reports, citing their accomplishments, challenges, costs, and funds needed to fully comply with the Permit, by December 31, 2019.
- R4. The Board of Supervisors and all City/Town Councils should consider identifying additional revenue sources to fully fund Permit requirements in order to comply with the Permit and avoid potential liability, by June 30, 2020.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Board of Supervisors	F1, F2, F5, F6, F8, and F9	R3 and R4
City of Antioch	F2, F6, F8, and F9	R2, R3, and R4
City of Brentwood	F2, F3, F6, and F9	R2, R3, and R4
City of Clayton	F1, F3, F6, and F9	R2, R3, and R4
City of Concord	F1, F3, F6, F7, and F9	R3 and R4
Town of Danville	F1, F3, F6, and F9	R2, R3, and R4
City of El Cerrito	F1, F3, F6, F7, F8, and F9	R3 and R4
City of Hercules	F1, F4, F6, F7, and F9	R1, R3, and R4
City of Lafayette	F1, F3, F6, F7, and F9	R3 and R4
City of Martinez	F1, F3, F6, F7, and F9	R3 and R4
Town of Moraga	F1, F3, F6, and F9	R2, R3, and R4
City of Oakley	F2, F6, and F9	R2, R3, and R4
City of Orinda	F1, F3, F6, and F9	R2, R3, and R4
City of Pinole	F1, F4, F6, F7, and F9	R1, R3, and R4
City of Pittsburg	F1, F3, F6, F7, and F9	R3 and R4
City of Pleasant Hill	F1, F6, and F9	R2, R3, and R4
City of Richmond	F1, F3, F6, F7, F8, and F9	R3 and R4
City of San Pablo	F1, F3, F6, F7, and F9	R3 and R4
City of San Ramon	F1, F3, F6, and F9	R2, R3, and R4
City of Walnut Creek	F1, F3, F6, F7, and F9	R3 and R4

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
 725 Court Street
 P.O. Box 431
 Martinez, CA 94553-0091

A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553

Report 1908

**Contra Costa County Sheriff's
Forensic Services Division**

How Well Are the County Law Enforcement Agencies Being Served by the Crime
Lab?

APPROVED BY THE GRAND JURY

Date

MAY 21, 2019



RICHARD S. NAKANO
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date

MAY 22 2019



ANITA L. SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1908

Contra Costa County Sheriff's Forensic Services Division

How Well Are the County Law Enforcement Agencies Being Served by the Crime Lab?

TO: Contra Costa County Office of the Sheriff

SUMMARY

The processing of evidence for law enforcement agencies is a critical element in criminal investigations and prosecutions. Currently available technology for accurate and rapid handling of evidence far exceeds what was available five years ago. Criminal crime cases that were previously suspended for lack of evidence can now be forwarded to the District Attorney for prosecution. The use of DNA to link or eliminate suspects to a crime is now a common protocol used by law enforcement. The Grand Jury's investigation examined the Contra Costa County Sheriff's Forensic Services Division's (Crime Lab) ability to meet the demands of the 28 law enforcement agencies in the Contra Costa County (the County) for forensic services.

The Crime Lab collects, analyzes, interprets, and presents physical evidence in court to assist in the prosecution or defense of crimes. Sophisticated scientific tools are needed for testing DNA, firearms, latent fingerprints, and trace material. Expert testimony in the use and interpretation of test results is important for solving crimes. Law enforcement, attorneys, judges, and jurors place great importance on this material evidence.

The Crime Lab processed approximately 10,000 cases during the 15 months ending September 30, 2018. There is currently no backlog of evidence waiting to be tested in the Crime Lab. Cross-training of staff between the Crime Lab's Latent Print Unit and the Comparative Evidence Unit has helped reduce backlog and decrease turnaround time. In August 2018, the ANSI National Accreditation Board (ANAB) awarded the Crime Lab its highest rating for quality assurance standards.

The Grand Jury recommends the Contra Costa County Office of the Sheriff (Sheriff's Office) consider directing the Crime Lab to increase law enforcement agency awareness of newly acquired equipment, turnaround times, and available testing

capacity. To eliminate the redundancy of effort and seek a competitive rate for Gunshot Residue (GSR) testing, the Grand Jury recommends the Sheriff's Office consider studying the possibility of becoming the GSR testing contract organization for all law enforcement agencies in the County. The Grand Jury also recommends the Sheriff's Office consider preparing a five-year strategic plan to determine the future needs of the Crime Lab, including the benefits of combining all locations into one.

METHODOLOGY

During its investigation, the Grand Jury:

- Sent a Request for Information (RFI) survey to 26 law enforcement agencies served by the Sheriff's Office within the County (see list of agencies in Appendix A)
- Researched California state crime labs, including the Los Angeles Regional Crime Laboratory Facility in Los Angeles County
- Toured Summit Laboratory and Muir Laboratory, the two analysis laboratories within the Crime Lab
- Conducted interviews with representatives from County law enforcement agencies and the Crime Lab

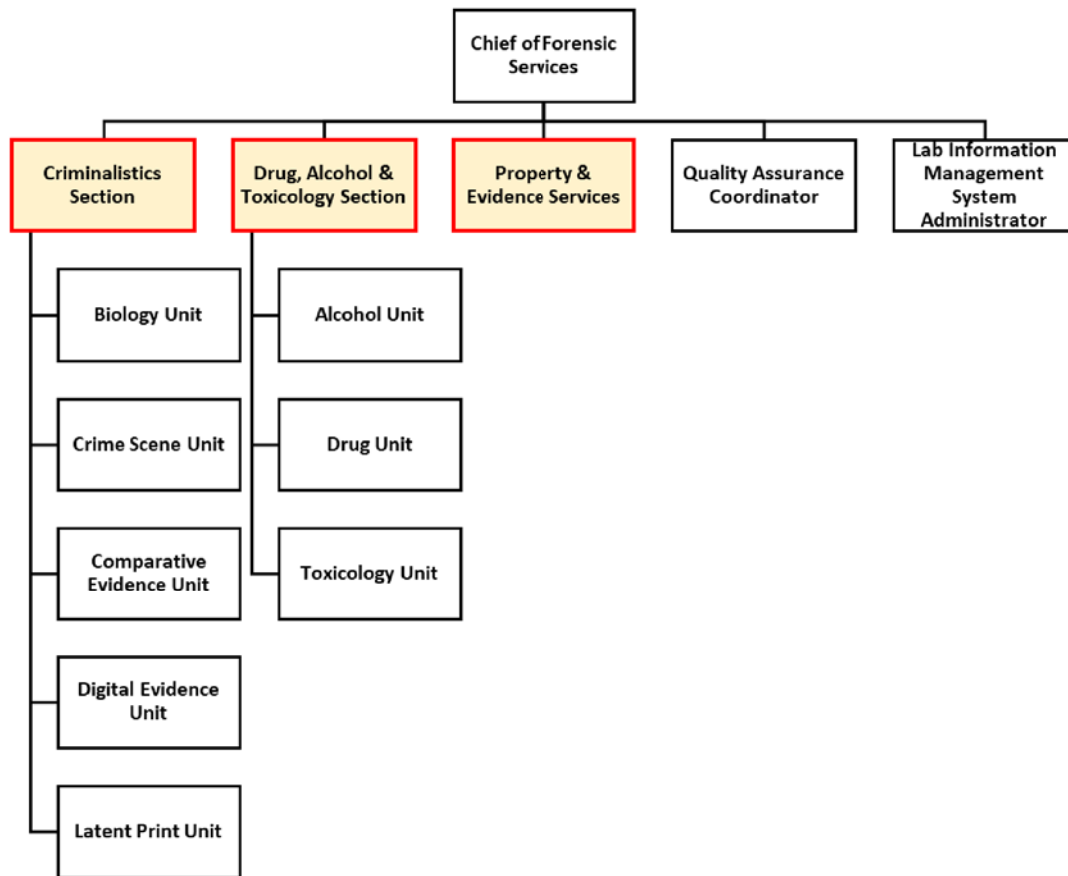
BACKGROUND

In Contra Costa County, the Sheriff's Office is responsible for the operation and management of the Crime Lab. Crime Lab services are housed at three separate locations: Summit Lab and Muir Lab in Martinez, and Property and Evidence Services in north Concord. The Crime Lab has a staff of 64 employees. For the 2019-2020 fiscal year, its proposed annual operating budget is \$15.7 million. The staff is divided among the three major sections of the Crime Lab as shown on the following organization chart:



Muir Lab

Crime Lab Organization Chart



Criminalistics Section

This section is located at Summit Lab in Martinez. Criminalistics is the scientific study and evaluation of physical evidence from the commission of crimes. It includes five units:

The **Biology Unit** consists of examiners who analyze items of evidence for the presence of biological material. This is where analysis is conducted on DNA evidence. This unit recently acquired a RapidHIT ID system, which will enable the Crime Lab to generate a DNA profile in under two hours, instead of days. This equipment uses the Combined DNA Index System (CODIS), administered by the FBI. It electronically exchanges and compares DNA profiles between local, state, and federal agencies. The RapidHIT ID system is projected to be online in the fall of 2019.

The **Crime Scene Unit** responds to a crime scene, and is responsible for the collection of evidence. It uses various types of equipment to develop, secure, and package physical evidence for scientific evaluation and comparison.

The **Comparative Evidence Unit** examines firearms and ammunition used in the commission of a crime to determine the weapon's manufacturer, model, serial number, and other physical characteristics. It utilizes the National Integrated Ballistics Information Network (NIBIN), which is administered by the US Department of Justice Bureau of Alcohol, Tobacco, Firearms, and Explosives to determine ownership and history.

The **Digital Evidence Unit** uses forensics to provide image, video, and audio analysis and enhancement when technology is used for committing crimes.

The **Latent Print Unit** develops and recovers latent fingerprints from items of evidence found at a crime scene and compares them to prints already in the forensic database. The examiners conduct local, regional, and national database searches through the Automated Fingerprint Identification System (AFIS), which is administered by the FBI.

Drug, Alcohol & Toxicology Section

The Drug, Alcohol & Toxicology Section is located at Muir Lab in Martinez. Drug, Alcohol & Toxicology conducts testing of evidence collected at a crime scene or from criminal suspects. This section is made up of three units:

The **Drug Analysis Unit** analyzes powders, solid materials, liquids, plant material, blotter paper, and food items for the presence of controlled substances. It also examines drugs in the form of tablets, capsules, and patches.

The **Alcohol Unit** performs tests on blood, urine, and breath samples. It maintains and calibrates all breath test equipment used by law enforcement agencies in the County.

The **Toxicology Unit** receives bodily fluid samples from law enforcement agencies obtained for a variety of offenses. This includes driving under the influence of alcohol and/or drugs. While there are statutory limits for driving under the influence of alcohol, none exist for other drugs. Staff provides expert toxicology testimony in court regarding the effects of alcohol and/or drugs on human performance and behavior.

Property and Evidence Services

This section is located in north Concord. Property and Evidence Services is responsible for the storage and handling of all physical evidence for the Sheriff's Office and substations, cities that contract with the Sheriff for police services, and the courts.

DISCUSSION

The FBI emphasized the importance of crime labs when it said: "Forensic analysis of evidence is often crucial to determination of guilt or innocence." Crime labs strengthen the results of investigations by using scientific techniques to analyze and evaluate evidence.

With new DNA testing and the media reporting on the national backlog of rape kit testing, the Grand Jury was interested in how the Crime Lab was meeting the demands of local law enforcement and keeping up with the latest trends in criminology.

The Grand Jury examined three aspects of Crime Lab performance:

- Backlog of un-analyzed evidence and turnaround time
- Quality of the work performed
- GSR testing

The Grand Jury sent an RFI to 26 County agencies served by the Crime Lab asking for their assessment of its performance.

Backlog of Un-Analyzed Evidence and Turnaround Time

During the 15 months ending September 30, 2018, the Crime Lab received approximately 10,000 cases from law enforcement agencies in the County. The 25 agencies responding to the RFI indicated they had no backlog of untested evidence. As of September 30, 2018, 22 of the agencies served did not have any evidence awaiting testing. Three agencies were waiting for analysis of evidence submitted within the previous week. The Crime Lab indicated it has the ability to handle more evidence testing. It also reported that the turnaround time for analysis of all types of evidence averages 30 days, this work could take a few days or weeks, depending on the test.

With the help of a federal grant from the US Department of Justice, all rape kits submitted by the agencies to the Crime Lab have been tested. Fingerprint analysis is also up-to-date.

In this same period, the Comparative Evidence Unit established a protocol to have all shell casings and bullets tested and entered into the NIBIN national database. The cross-training of staff between Latent Print and Comparative Evidence units helped reduce the time it takes to get NIBIN test results back to investigators.

QUALITY OF THE WORK PERFORMED

In August 2018, the Crime Lab was awarded the highest rating by ANAB. ANAB is the longest established provider of accreditation of forensic agencies in the United States. This authoritative body confirms that an organization, such as the Crime Lab, is competent to carry out forensic testing. The accreditation verifies that the Crime Lab conforms to the requirements of national and international criteria. Most importantly, it assures industry and government decision-makers that the test results from accredited organizations are reliable. In addition, it ensures global acceptance of reports from ANAB-accredited laboratories.

All 25 agencies that responded to the RFI indicated satisfaction with the quality of



ANSI-ASQ National Accreditation Board

**SCOPE OF ACCREDITATION TO:
ISO/IEC 17025:2005**

**ANAB 17025:2005 Forensic Science Testing Laboratories Accreditation Requirements:2017
FBI Quality Assurance Standards for Forensic Testing Laboratories:2011**

**Contra Costa County Office of the Sheriff
Forensic Services Division**

See locations listed below

FORENSIC TESTING

Valid to: December 31, 2022

Certificate Number: FT-0050

Summit Laboratory
2530 Arnold Drive, 2nd Floor
Martinez, California 94553

analysis performed by the Crime Lab. It conducts its own annual customer satisfaction survey. Results of its latest survey were also positive.

Even with the Crime Lab's annual outreach to the agencies it serves, the Grand Jury found law enforcement agencies are not fully aware of the newly acquired equipment, turnaround times, and available capacity for testing.

Gunshot Residue Testing

The Crime Lab is not able to provide GSR testing due to the \$500,000 cost of the test equipment and the additional cost to recalibrate and maintain it. When combined with the irregular demand for testing, there would be insufficient revenue to offset the cost.

GSR testing is used to help determine if an individual fired a weapon. In Contra Costa County, the Crime Lab does not provide this test, but contracts with other crime labs for tests in Sheriff-Coroner cases. The current contract is with the Los Angeles County Sheriff's Office. Each of the other 26 law enforcement agencies in the County must also contract out for the testing. They use a number of different crime labs throughout the state.

Each of these agencies must prepare a Request for Proposal to send out to potential bidders for the contracts. The lowest bidder is often selected and awarded the contract. During the term of the contract, staff must monitor and make sure invoices for service are properly paid.

This process has multiple agencies performing the same task. It takes up more staff time than if a single organization coordinated a contract for GSR testing for all the County's law enforcement agencies. The Crime Lab already does GSR contracting for the Sheriff's Office. To eliminate redundancy of effort and seek a competitive rate, the Grand Jury recommends the Sheriff's Office consider studying the possibility of becoming the GSR testing contract organization for all law enforcement agencies in the County.

One Crime Lab, Three Locations

In 1992, Contra Costa County built the Forensic Science Center in Martinez. This served a dual purpose as the Coroner's Division and the Crime Lab. This was before DNA evidence became prevalent, requiring additional space for testing. Digital crime has also increased since 1992, which requires additional lab space. As the County population grew, the volume of evidence that needed to be tested increased. The Crime Lab was forced to relocate the Criminalistics section to the new Summit Lab, while maintaining Alcohol, Drug, and Toxicology services at Muir Lab in the Forensic Science Center.

Today, the Crime Lab is in three different locations. Summit Lab, with 25,000 square feet, and Muir Lab, at 10,000 square feet, are in Martinez across from each other on the north and south sides of Highway 4. Property and Evidence Services has 40,000 square feet in north Concord, more than three miles from Muir and Summit labs.

Government crime labs in Solano County and Santa Clara County are managed by their District Attorney's offices and both are at single locations. San Francisco and Oakland each have city crime labs, also at single locations. San Mateo County has a crime lab that provides services to its Sheriff's office and 22 cities, all at one location.

Is it time to consider consolidating the Crime Lab into a single location to meet the current and future needs of Contra Costa County? This could be beneficial for cross-training and supervision of staff. A five-year strategic plan for the Crime Lab would be helpful to determine its future needs including facilities, staffing, and equipment replacement.

FINDINGS

- F1. The 25 agencies that responded to the RFI affirmed their satisfaction with the quality of analysis performed by the Crime Lab.
- F2. The Crime Lab's average analysis turn-around time is 30 days, depending on the test.
- F3. The Crime Lab indicates it can do more crime evidence testing.

- F4. The Crime Lab confirmed it has no strategic plan to address its future needs, including facilities, staffing, and equipment replacement.
- F5. The Crime Lab indicated that having Summit Lab, Muir Lab, and Property and Evidence Services operating in separate locations inhibits cross-training and supervision of staff.
- F6. Even with the Crime Lab's annual updates, not all law enforcement agencies in the County are fully aware of newly acquired equipment, turnaround times, and available capacity for testing.
- F7. The Sheriff's Office and the other 27 County law enforcement agencies use outside labs for GSR testing.

RECOMMENDATIONS

- R1. The Sheriff's Office should consider preparing a five-year strategic plan for the Crime Lab by December 31, 2020.
- R2. As part of a five-year strategic plan, the Sheriff's Office should consider evaluating whether to consolidate its Crime Lab facilities, assess staffing needs, and develop an equipment update plan by December 31, 2020.
- R3. The Sheriff's Office should consider expanding its outreach to all law enforcement agencies in the County to promote its newly acquired equipment, turnaround times, and available capacity for testing by December 31, 2019.
- R4. To eliminate the redundancy of effort and seek a competitive rate, the Sheriff's Office should consider studying the possibility of becoming the GSR testing contract organization for all law enforcement agencies in the County by December 31, 2020.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Office of the Sheriff	F1, F2, F3, F4, F5, F6, and F7	R1, R2, R3, and R4

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and

a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

APPENDIX A

LIST OF AGENCIES SERVED BY THE CRIME LAB

Cities:	Other Agencies:
<ul style="list-style-type: none">• Antioch Police Department• Brentwood Police Department• Clayton Police Department• Concord Police Department• Danville Police Department• El Cerrito Police Department• Hercules Police Department• Lafayette Police Department• Martinez Police Department• Moraga Police Department• Oakley Police Department• Orinda Police Department• Pinole Police Department• Pittsburg Police Department• Pleasant Hill Police Department• Richmond Police Department• San Ramon Police Department• San Pablo Police Department• Walnut Creek Police Department	<ul style="list-style-type: none">• BART Police Department• California Highway Patrol• Contra Costa Community Colleges• Coroner's Office• District Attorney's Office*• East Bay Regional Parks District• Kensington Police Department• Public Defender's Office*• Sheriff's Office

**RFI not sent to these agencies*

APPENDIX B

LIST OF ACRONYMS

AFIS	Automated Fingerprint Identification System
ANAB	ANSI National Accreditation Board
ANSI	American National Standards Institute
CODIS	Combined DNA Index System
DNA	Deoxyribonucleic acid
FBI	Federal Bureau of Investigation
GSR	Gunshot Residue
NIBIN	National Integrated Ballistics Information Network
RFI	Requests for Information

**A REPORT BY
THE 2018-2019 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

Report 1909

**Contra Costa County Psychiatric
Emergency Services**

Improving Care for Children and Adolescents

APPROVED BY THE GRAND JURY

Date MAY 22, 2019



RICHARD S. NAKANO
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date MAY 24 2019



ANITA SANTOS
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1909

Contra Costa County Psychiatric Emergency Services

Improving Care for Children and Adolescents

**TO: Contra Costa County Board of Supervisors
Contra Costa Health Services**

SUMMARY

How does the Contra Costa Regional Medical Center's Psychiatric Emergency Services (PES) meet the mental health needs of children and adolescents in Contra Costa County? The PES unit provided care for over 10,000 patients from October 2017 through September 2018. More than 1,600 were children (ages 7 through 12 years) and adolescents (ages 13 through 17 years).

The Grand Jury wanted to understand how PES cares for children and adolescents once they arrive at the Medical Center for psychiatric care. Because this is a Contra Costa County (the County) facility, many do not have health insurance and are brought to PES by family, police, or social worker. The Jury determined that while PES provides the needed mental health services, it lacks suitable facilities necessary to provide psychiatric emergency care for children and adolescents. The PES facility does not separate children and adolescents from adult patients at its entrance, waiting room, triage, or treatment area. They are exposed to adults needing psychiatric help, which PES staff states could cause additional trauma to the children and adolescents. Staff also indicated the crowded conditions at PES may compromise patients' privacy as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The County does not operate a facility for children and adolescents in need of long-term psychiatric care. While waiting for long-term placement, children and adolescents are held in the PES unit until a place is found for them, often outside the County.

The Grand Jury recommends that the County Board of Supervisors (the Board) consider directing Contra Costa Health Services to perform a needs assessment focused on PES services for children and adolescents. In conducting a needs

assessment, the County should consider including a plan to segregate children and adolescents from adult patients in PES. It should also consider identifying space within the Contra Costa County Medical Center (Medical Center) for children and adolescents who are awaiting long-term placement. In addition, the Board should consider locating a long-term-care facility within the County or collaborating with neighboring counties on a regional solution.

METHODOLOGY

In the course of its investigation, the Grand Jury:

- Reviewed Psychiatric Emergency Services Policies and Procedures
- Interviewed mental health professionals, individuals associated with PES, and individuals engaged in providing mental health services in the County
- Toured the PES facility and other areas of the Contra Costa Regional Medical Center
- Reviewed information regarding the number of patients served, reasons for presentation at PES, average patients served per month, and number of staff in PES
- Reviewed Contra Costa County Mental Health Commission meeting minutes
- Reviewed the 2016 Contra Costa County Mental Health Commission White Paper and updates in 2017 and 2018

BACKGROUND

Contra Costa Health Services

The mission of Contra Costa Health Services (Health Services) is to care for and improve the health of all people in the County, with special attention to those who are most vulnerable to health problems. Health Services is organized into eight divisions. Two of the divisions are Behavioral Health Services and the Contra Costa Regional Medical Center, located in Martinez. These two divisions collaborate on mental health care, with the Medical Center's PES unit providing emergency mental health services. The Grand Jury focused on PES in its investigation.

Medical Center Psychiatric Emergency Services

PES provides emergency mental health services for adults and children and adolescents who rely on the County for their mental health care. PES contains 14 beds for adults and four beds for children and adolescents. The Medical Center maintains an inpatient unit providing long-term psychiatric care for persons the age of 18 and over.

However, there is no such inpatient unit in the Medical Center, or other County-operated facilities, for seriously mentally ill children and adolescents in need of hospitalization. Children and adolescents needing hospitalization must stay in the PES unit until they are placed in a facility that provides long-term care.

PES is designated by the County as the receiving center for patients undergoing involuntary holds of up to 72 hours. Involuntary holds are required by Section 5150 of the state Welfare and Institutions Code when patients, including children and adolescents, are a danger to themselves or others.

From October 2017 through September 2018, the PES unit served 10,171 patients. Of these patients, 1,609 were children and adolescents: an average of five per day. Forty-nine children and adolescents were psychiatric holds under Section 5150. An additional 943 were at PES because they were either suicidal, had attempted suicide, or had exhibited suicidal thoughts (ideation). See graph in the following section.

On average, the PES day and evening shifts consist of eight nursing staff, four social workers and two psychiatrists. The night shift consists of eight nursing staff, two social workers and one psychiatrist.

Mental Health Commission White Paper

The Contra Costa County Mental Health Commission (the Commission) is an advisory body of citizens appointed by the Board to serve as the watchdog group for mental health services provided by the County. In April 2016, the Commission submitted a White Paper to the Board regarding what it called, “a crisis in the county public mental health care system and budgetary issues contributing to the crisis.” The White Paper was followed by updates in October 2017 and September 2018.

In addition to the Grand Jury’s independent findings, the White Paper and the updates also recommended changes in PES to improve treatment space for children and adolescents. The Grand Jury did not find any evidence that the Commission’s recommendations had been implemented.

DISCUSSION

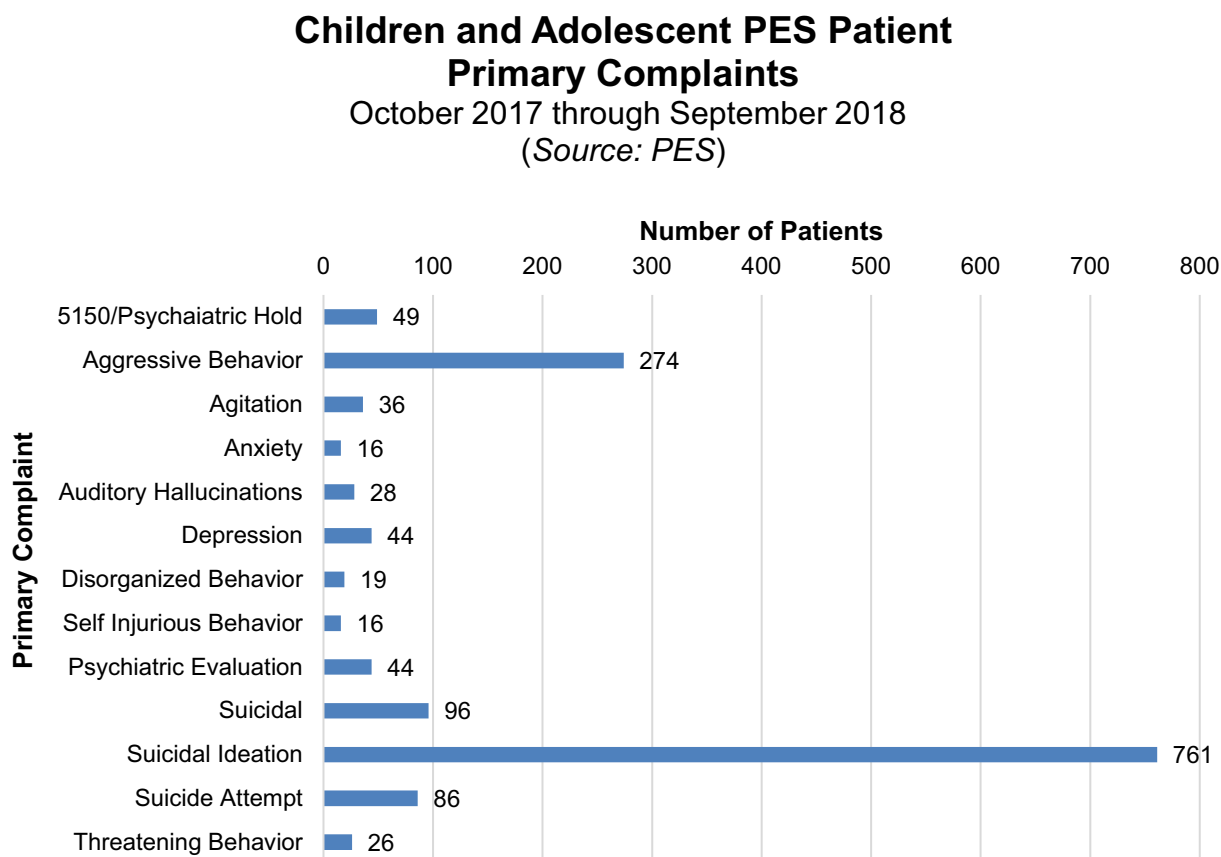
Children and Adolescent Patients Presenting to PES

From October 2017 through September 2018, PES saw an average of 848 patients per month. On average, 134 of these were children and adolescents. The facility has four beds for children and adolescents and 14 beds for adults. When children and adolescents in PES exceed the number of beds, they are provided with floor mats until beds become available.

Adults requiring longer-term care are admitted to a separate unit within the Medical

Center which has 23 inpatient beds. The Medical Center does not have a similar long-term-care unit for children and adolescents. These patients must stay in the four-bed PES unit until beds are located in other facilities, many times outside of the County.

The following graph shows the most significant complaints of children and adolescents presenting to PES:



The PES Experience for Children and Adolescents

The PES facility has no separate entrance, waiting room, triage, treatment area, or exit for children and adolescents. They stay in a small section of the PES unit with two designated rooms, one for children (ages 7 through 12 years) and one for adolescents (ages 13 through 17 years). Upon arrival at PES, and when they leave, children and adolescents must pass through the adult area to reach the assessment rooms. Distressed children and adolescents are exposed to adult patients needing psychiatric help. PES staff states this could cause additional trauma to the children and adolescents.

The Grand Jury determined in its investigation, and as noted in the updates to the

Commission's White Paper, there has been no progress made in implementing a new design of PES facilities for children and adolescents.

The Grand Jury observed there is a vacant wing (4D) on the fourth floor of the Medical Center. This space may be an option to serve as a temporary holding unit for children and adolescents awaiting placement in long-term care.

Long-term Care Placement

The PES facility has four beds to accommodate children and adolescents. After patients are assessed and a decision is made that they need inpatient admission, staff must find an appropriate place for them in a long-term-care facility. Inpatient beds are in such high demand that children and adolescents are held in PES an average of four to five days until space is found for them in a long-term-care facility. The facility can be as far away as Sacramento and Fresno.

According to mental health professionals interviewed by the Grand Jury, placing these children and adolescents outside the County can impact their treatment and recovery. These professionals also indicated that children and adolescents need to stay connected with their families.

The Grand Jury recommends that the Board of Supervisors consider directing Health Services to address two issues:

1. The need for improved space for children and adolescents in PES
2. The need for a children and adolescents treatment center in the County, or a regional approach to long-term care in collaboration with neighboring counties.

Additional Concerns

The Grand Jury has other concerns based on our investigation:

- The PES facility is configured so there is a lack of privacy for patients. This could result in HIPAA violations.
- John Muir Health Concord Medical Center is designated by the County as a 5150 receiving center. However, there is no formal contract between it and the County to accept 5150 cases.

FINDINGS

- F1. At peak times the PES facility, with four beds and two treatment rooms, is not sufficient to handle its volume of children and adolescent patients.

- F2. Children and adolescents could remain in PES four to five days while they wait for long-term placement.
- F3. The PES facility is configured so that children and adolescents seeking treatment must pass through the adult patient area.
- F4. Contra Costa County does not operate a long-term-care facility for children and adolescents. They are often placed in long-term-care facilities outside the County.
- F5. Although the County has authorized John Muir Health Concord Medical Center to accept 5150 patients, there is no formal contract to do so.
- F6. The Medical Center's 4D wing is vacant with no plans for its utilization.
- F7. The Contra Costa County Mental Health Commission recommended changes in PES to improve treatment space for children and adolescents. The Grand Jury did not find any evidence that the Commission's recommendations had been implemented.

RECOMMENDATIONS

- R1. The Board of Supervisors should consider directing Contra Costa Health Services to perform a comprehensive needs assessment that would include a redesign of the PES facility that would separate children and adolescents from adult patients by June 30, 2020.
- R2. The Board of Supervisors should consider directing Contra Costa Health Services to investigate the use of the Medical Center's vacant wing (4D) as a temporary holding area for children and adolescents waiting for long-term placement in other facilities by December 31, 2019.
- R3. The Board of Supervisors should consider directing Contra Costa Health Services to develop a plan to operate a treatment center for children and adolescents who need long-term psychiatric care by June 30, 2020. The treatment center could either be within the County or in collaboration with neighboring counties.
- R4. The Board of Supervisors should consider directing Contra Costa Health Services to explore entering into a contract with John Muir Health Concord Medical Center to accept and treat 5150 patients presently only served by the County by June 30, 2020.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa County Board of Supervisors	F1, F2, F3, F4, F5, F6, and F7	R1, R2, R3, and R4
Contra Costa Health Services	F1, F2, F3, F4, F5, F6, and F7	

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

FILED
JUN 05 2019

K. BIEKER CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA
By A. Jang, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

GUS S. KRAMER, ASSESSOR,

Defendant.

Case No.

GRAND JURY ACCUSATION

The 2018-2019 Contra Costa Grand Jury (hereinafter, "Grand Jury") has inquired into certain actions of Gus Kramer, Assessor for Contra Costa County (hereinafter, "Mr. Kramer"), as authorized by Penal Code section 919(c).

INTRODUCTION

At all times during the period of time covered by this Accusation and through the present, Mr. Kramer was and is the Assessor of Contra Costa County. As such, Mr. Kramer was and is a county public officer subject to removal from office pursuant to a grand jury accusation for "willful or corrupt misconduct" in office. (Gov. Code, § 3060 et seq.)

"[T]he 'misconduct in office' condemned in section 3060 is broad enough to include 'any willful malfeasance, misfeasance, or nonfeasance in office' whether or not attended by 'criminal intention.'" (*People v. Hawes* (1982) 129 Cal.App.3d 930, 939.) A violation of section 3060 is

1 thus not a crime, but rather has as its consequence “the removal of the incumbent from office and
2 the judgement can go to no further extent.” (*Ibid.*) Government Code section 3074 provides for a
3 six-year statute of limitations.

4 ACCUSATION

5 The Grand Jury accuses Mr. Kramer of willful or corrupt misconduct in office, in that,
6 during 2013 through 2019, within the County of Contra Costa, State of California, Mr. Kramer
7 knowingly engaged in conduct that created a hostile work environment for employees within his
8 office and under his supervision, as alleged herein. All dates relevant to this Accusation are
9 approximate and all date ranges are both approximate and inclusive.

10 1. Mr. Kramer created a hostile work environment in violation of the Fair Housing
11 and Employment Act and Government Code section 12940(j) by engaging in the following
12 conduct directed toward Witness-1, a female Associate Appraiser in the Assessor’s Office:

13 a) Beginning in 2014, Mr. Kramer would visit Witness-1’s office cubicle almost daily,
14 for 15-20 minutes at a time, and would tell her stories about his conquests with
15 women. (Transcript of Witness-1 interview, p. 4/14-26.)

16 b) In 2014, Mr. Kramer called Witness-1 out of a meeting to meet him in the lobby of the
17 County Building at 651 Pine Street, at which time he pointed to a single rose sitting on
18 a table in the lobby and said, “I brought that for you”. He repeated the statement three
19 times, and then told her that he was “smitten” by her. (Transcript of Witness-1
20 interview, p. 6/1-28.)

21 c) In 2014, Witness-1 sent a text message to Mr. Kramer asking why he had canceled the
22 office staff picnic, which had been scheduled for the following day. Because the
23 scheduled picnic happened to coincide with Witness-1’s birthday, her text message
24 asked why had cancelled her birthday party. Mr. Kramer replied “Because, I wanted
25 you all to myself. Ha, Ha.” (Transcript of Witness-1 interview, p. 9/9-24; Exhibit B;
26 Screen shot of text message dated, June 17, 2014.)

27 d) In 2014, Mr. Kramer sent a series of text messages to Witness-1 while he was on
28 vacation at a lake. In this exchange of texts messges, Mr. Kramer told Witness-1 his

1 vacation would be much better if he had her at the lake with him. (Transcript of
2 Witness-1 interview, p. 9/25-10/18; Exhibit C; Screen shot of text message dated,
3 August 2, 2014.)

- 4 e) In 2014, Mr. Kramer sent a text to Witness-1 late in the evening asking if she was
5 alone. When Witness-1 responded that she was with her husband, he replied that he
6 would talk with her another time. (Transcript of Witness-1 interview, p. 5/21-24.)
- 7 f) In 2015, Mr. Kramer visited Witness-1's office cubicle several times each week to talk
8 about personal matters such as his parents and his experiences with women. During at
9 least one of these cubicle visits, Mr. Kramer told Witness-1 about his father's virility.
10 (Transcript of Witness-1 interview, p. 11/8-19.)
- 11 g) In 2015, on at least two occasions, Mr. Kramer told Witness-1 a story about how he
12 had given his niece a vibrator as a Christmas present, and how he was greatly amused
13 when the niece opened this present in front of her entire family. On other occasions,
14 Mr. Kramer had told Witness-1 that she reminded him of his niece very much.
15 (Transcript of Witness-1 interview, pp. 11/20-12/2; Exhibit A.)
- 16 h) In 2018, Witness-1 crossed paths with Mr. Kramer in the office parking lot and was
17 unable to avoid him, at which time he came toward her with a big grin on his face and
18 chuckled, rather than make any effort to avoid her. Witness-1 considered Mr.
19 Kramer's conduct to be hostile and offensive, to the extent that she was in shock and
20 shaking as a result. (Transcript of Witness-1 interview, pp. 20/27-28-21/1-26; Exhibit
21 D)

22 Mr. Kramer is at the top of the management hierarchy in the Assessor's office and directly or
23 /indirectly supervises Witness-1's work and working environment. Witness-1 was subjected to
24 these unwanted sexual comments and storytelling because she is a woman. The harassing conduct
25 of Mr. Kramer directed at Witness-1 was pervasive. Witness-1 considered her work environment
26 to be hostile or abusive to such an extent that she feared for her job, was on stress medication, and
27 sought professional counseling. A reasonable person in Witness-1's circumstances would have
28

1 considered the work environment to be hostile or abusive. Mr. Kramer initiated the harassing
2 conduct toward Witness-1 and Witness-1 was harmed as a result of Mr. Kramer's conduct.

3 2. Beginning in 2013-, Mr. Kramer created a hostile work environment in violation
4 of the Fair Housing and Employment Act and Gov. Code, 12940(j) by engaging in the following
5 conduct directed toward or in the presence of Witness-2, a female Associate Appraiser in the
6 Assessor's Office:

7 a) In 2013, Mr. Kramer approached Witness-2 on the first floor of the Assessor's Office
8 to tell her a story about his dinner with a woman with whom he co-owned property.

9 Mr. Kramer told Witness-2 he thought this woman was "coming on" to him during
10 their dinner, and described the woman was "wearing a white blouse with no bra."

11 (Transcript of Witness-2 interview, pp. 57/27 - 58/10)

12 b) In 2014, while Witness-2 was working in her office cubicle, she overheard Mr.

13 Kramer telling a story to Witness-1 about how he had given a vibrator to a female
14 relative of his as a Christmas gift, and how, to his great amusement, this relative had
15 opened the gift in front of children. (Transcript of Witness-2 interview, pp. 58/21 -
16 59/5.)

17 c) In 2015, Witness-2 entered an office elevator in which only Mr. Kramer was present.

18 After the doors closed, Mr. Kramer told Witness-2 that he had been having

19 "inappropriate" thoughts about her. (Transcript of Witness-2 interview, p.62/1-11)

20 Mr. Kramer is at the top of the management hierarchy in the Assessor's office and directly or
21 indirectly supervises Witness-2's work and working environment. Witness-2 was subjected to
22 these unwanted sexual comments and storytelling because she is a woman. The harassing conduct
23 of Mr. Kramer directed at Witness-2 was pervasive. Witness-2 considered her work environment
24 to be hostile or abusive to such an extent that she feared for her job and broke down in tears while
25 relating her fears to a Principal Assessor in the Assessor's Office. A reasonable person in
26 Witness-2's circumstances would have considered the work environment to be hostile or abusive.
27 Mr. Kramer initiated the harassing conduct toward or in the presence of Witness-2 and Witness-2
28 was harmed as a result of Mr. Kramer's conduct.

1 3. Beginning in 2014, Mr. Kramer created a hostile work environment in violation of
2 the Fair Housing and Employment Act and Gov. Code 12940(j) by engaging in the following
3 conduct directed toward Witness-3, a female Senior Clerk in the Assessor's Office:

- 4 a) In 2014, Mr. Kramer stopped Witness-3 in a hallway on the first floor of the
5 Assessor's Office to tell her that he had seen a picture of her in a wedding dress and
6 that she looked "really hot." (Transcript of Witness-3 interview, pp. 37/27-28- 38/1-4.)
7 b) Periodically since 2014, Mr. Kramer would approach Witness-3 while she was
8 working relief on the fourth floor of the Assessor's Office and say to her, "I've heard
9 you've been bad. Are you being good?" (Transcript of Witness-3 interview, p. 38/21-
10 27.)

11 Mr. Kramer is at the top of the management hierarchy in the Assessor's office and directly or
12 indirectly supervises Witness-3's work and working environment. Witness-3 was subjected to this
13 unwanted harassing conduct because she is a woman. The harassing conduct by Mr. Kramer was
14 pervasive. Witness-3 considered her work environment to be hostile or abusive to such an extent
15 that she requested anonymity for fear of losing her job, and asked Sandra Williams, the Lead
16 Clerk in the Assessor's Office, not to require her to work on the Fourth floor. A reasonable person
17 in Witness-3's circumstances would have considered the work environment to be hostile or
18 abusive. Mr. Kramer initiated the harassing conduct toward Witness-3 and Witness-3 was harmed
19 as a result of Mr. Kramer's conduct.

20 4. Mr. Kramer created a hostile work environment in violation of the Fair Housing
21 and Employment Act and Gov. Code 12940(j) by engaging in the following conduct directed
22 toward Witness-4, a male Assistant Assessor in the Assessor's Office:

- 23 a) On three separate occasions in 2018, Mr. Kramer entered Witness-4's office for the
24 sole purpose of telling Witness-4 a graphic story about a couple having anal sex. Mr.
25 Kramer would then laugh and walk out of Witness-4's office. (Transcript of Witness-
26 4 interview, p. 235/16-22.)
27 b) On three separate occasions in 2018, Mr. Kramer entered Witness-4's office for the
28 sole purpose of telling Witness-4 about the "physical attributes" of various women Mr.

1 Kramer had met at business meetings and how he would like to “bend her over the
2 couch.” Mr. Kramer would then laugh and walk out of Witness-4’s office. (Transcript
3 of Witness-4 interview, p. 235/23 - 236/4.)

4 c) In 2018, Mr. Kramer entered Witness-4’s office for the sole purpose of calling
5 Witness-4 “a fucking beaner.” (Transcript of Witness-4 interview, p. 237/20-21.)

6 d) In 2018, following the (state) Democratic Convention, Mr. Kramer approached
7 Witness-4 and said to him, “White males would never vote for a fucking Mexican”
8 (Transcript of Witness-4 interview, p. 237/11-17.)

9 e) Witness 4 reasonably inferred that Mr. Kramer’s use of the term “fucking beaner” and
10 “fucking Mexican” when speaking to Witness-4 were intended to be derogatory of
11 Witness-4 based on his ethnicity.

12 Mr. Kramer is at the top of the management hierarchy in the Assessor’s office and directly or
13 indirectly supervises Witness-4’s work and working environment. The harassing conduct by Mr.
14 Kramer directed toward Witness-4 was pervasive. Witness-4 considered his work environment as
15 hostile or abusive to such an extent that he reasonably believed his safety from retaliation and
16 abuse were not guaranteed. As a result of Mr. Kramer’s conduct, Witness-4 needed medical help
17 and was referred to a mental health professional. A reasonable person in Witness-4’s
18 circumstances would have considered the work environment to be hostile or abusive. Mr. Kramer
19 initiated the harassing conduct toward Witness-4 and Witness-4 was harmed as a result of Mr.
20 Kramer’s conduct.

21 The Grand Jury asserts that these actions of Mr. Kramer comprise willful or corrupt
22 misconduct in office, pursuant to Government Code section 3060. At least 12 members of the
23 Grand Jury have concurred this Accusation of “willful or corrupt misconduct in office” should be
24 presented against Mr. Kramer.

25 It is the Grand Jury’s intent that if any element of these charges is found legally deficient
26 for any reason, the remaining elements should be considered fully operative, and sufficient to
27 bring the charges described herein.

1 Dated: April 16, 2019

A TRUE BILL,

2
3 

4 Richard S. Nakano,

5 FOREPERSON

6 2018-2019 CONTRA COSTA GRAND JURY
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