This document is an extract of a larger publication.

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GRAND JURY
SANTA BARBARA COUNTY

June 30, 2020

The Honorable Michael J. Carrozzo
Santa Barbara County Superior Court
1100 Anacapa Street
Santa Barbara, CA 93101

Dear Presiding Judge Carrozzo:

On behalf of the 2019-2020 Santa Barbara County Grand Jury, and in compliance with *California Penal Code Section 933(a),* I am honored to present to you and the citizens of Santa Barbara County our consolidated final report. We hope these reports will help inform the public and contribute to improved local government.

The members of this Grand Jury represent a diverse group of dedicated citizens from each of the five supervisorial districts within the County. They have demonstrated their commitment to the Grand Jury process by spending countless hours researching, interviewing and writing reports. During the COVID-19 pandemic, we were able to continue our work remotely and successfully. It has been an honor for me to have had the opportunity to work with these individuals.

The Jury appreciates the cooperation from the many public officials who responded to our questions and requests. We are particularly thankful for the support from Marty McKenzie and his successor, Mike Munoz, from the Santa Barbara County Counsel's office. Lt. Erik Raney from the Santa Barbara County Sheriff's Office was very helpful in obtaining requested documents and answering questions. Darrel Parker, Superior Court Executive officer, was instrumental in helping overcome glitches when the "stay-at-home" order was imposed, and we are grateful for his assistance.

The members of the 2019-20 Santa Barbara County Grand Jury gained personal satisfaction from their service to the community and appreciate the privilege of serving. I personally thank the Court for the opportunity to serve as Foreperson.

Respectfully,

Pamela Olsen

Pamela Olsen
Foreperson
2019-20 Santa Barbara County Grand Jury

2019-20 Santa Barbara County
Grand Jury Members

Steve Abram	**Carpinteria**
Deb Andrews	**Lompoc**
Barbara Chalmers, Recording Secretary	**Santa Barbara**
Robert Foster	**Los Alamos**
Scott Grieve	**Carpinteria**
Peter Kulp, Treasurer	**Solvang**
Michelle Kurriss	**Santa Maria**
Cole Lucas	**Santa Maria**
Linda Mier, Corresponding Secretary	**Santa Barbara**
Pamela Olsen, Foreperson	**Santa Barbara**
Gwen Rigby	**Santa Barbara**
Richard Rogers, Foreperson Pro Tem	**Santa Barbara**
S. David Schwartz	**Buellton**
Andrew Sorensen	**Goleta**
Derek Stewart	**Santa Barbara**
Allan Stewart-Oaten	**Santa Barbara**
Linda Villegas-Firth	**Santa Barbara**

Pictured: First Row - Steve Abram, Deb Andrews, Barbara Chalmers, Bob Foster

Second Row – Scott Grieve, Peter Kulp, Michelle Kurriss, Cole Lucas

Third Row – Pam Olsen, Richard Rogers, Gwen Rigby, S. David Schwartz

Fourth Row – Andrew Sorensen, Derek Stewart, Allan Stewart-Oaten

Not Pictured – Linda Mier, Linda Villegas-Firth

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GRAND JURY
SANTA BARBARA COUNTY

REPORT ON RESPONSES TO 2018-19 SANTA BARBARA COUNTY GRAND JURY REPORTS

Publication of the

2019-20 Santa Barbara County Grand Jury

March 6, 2020

REPORT ON RESPONSES TO
2018-19 SANTA BARBARA COUNTY GRAND JURY REPORTS

The Santa Barbara County Grand Jury has the mandate to help the public understand local government operations throughout Santa Barbara County and to increase the transparency of those operations by conducting investigations and reporting the Grand Jury's findings and recommendations.

In turn, local agencies and elected officials named in the findings or recommendations of a Grand Jury report are required by law to respond in writing to the presiding judge of the Superior Court. Penal Code sections 933 and 933.05 specify who must respond, what form the response must follow, and the deadline for submitting the response.

The 2019-20 Santa Barbara County Grand Jury has reviewed the responses to the reports issued by last year's Grand Jury. Six of the seven reports were investigative reports and required responses from one or more government agencies. All responses were received within the required time of 60 or 90 days.

Last year's Jury made 111 recommendations for change to a dozen agencies on issues regarding school finance, mental health services, railway fatalities, water contracts, and law enforcement. According to the responses, 57 of those 111 recommendations have already been implemented, with another eleven under consideration for implementation. The leading concerns the responses identified for those 43 recommendations not accepted related to budget constraints or general lack of agreement. The complete reports and responses are posted on the Grand Jury's website: www.sbcgj.org.

SUMMARY OF RESPONSES

The six reports that required responses to their recommendations are discussed in the order that they were released by the 2018-19 Grand Jury. All of the information below is taken from the responses themselves.

Cuyama Joint Unified School District

Responses from the Cuyama Joint Unified School District:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
8	0	0	0	8

The Cuyama Joint Unified School District agrees with all the findings and recommendations and is taking steps to implement the recommendations.

Contraband in the Main Jail

Responses from the Santa Barbara County Sheriff's Office:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
0	(Rec. 1) 1	0	(Rec. 2, 3) 2	3

The Sheriff agrees with all the findings. The Sheriff agrees that the recommended full body scanner would greatly reduce contraband in the Main Jail and reduce danger to inmates and custody staff. However, this recommendation will not be implemented at this time due to budget constraints. "The Sheriff is committed to reducing the amount of contraband in the Main Jail and will continue to explore funding opportunities that would allow for the purchase of a full body x-ray scanner at the Main Jail."

Children and Youth in Crisis: Weathering the Storms of Mental Disorders and Emotional Disturbances

Responses from the Santa Barbara County Board of Supervisors:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. 3a, 3b, 4, 5, 6a, 7) 6	(Rec. 2) 1	(Rec. 6c) 1	(Rec. 1, 6b) 2	10

The Board of Supervisors confirms that 6 out of 10 Recommendations have been implemented. The Board will not implement Recommendation 1 because they do not feel a Crisis Stabilization Unit is the best model for Santa Barbara County.

The Board also will not implement Recommendation 6b saying the Department of Behavioral Wellness began implementation of a modified model for children's triage in August 2019.

Railway Fatalities in Santa Barbara County

Each agency responding to the recommendations is listed separately below. Not all agencies agree with the recommendations, but future meetings to be hosted by the Santa Barbara County Association of Governments (SBCAG) with all agencies and Union Pacific Railroad should address all issues. The timeline is within six months, which expired January 22, 2020.

Responses from the City of Goleta:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. No. 3, 5) 2	(Rec. No. 1,2,4, 6a/b) 5	0	0	7

The City of Goleta will implement seven of the Jury's Recommendations. Two of the Recommendations have been implemented. Five of the Recommendations will be implemented and the City will coordinate with Union Pacific Railroad in completing these tasks.

Responses from the City of Santa Barbara:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. No. 3,4,5) 3	(Rec. No. 1) 1	(Rec. No.2,6a) 2	(Rec. No. 6b) 1	7

The City of Santa Barbara will not implement recommendation 6b, saying monitoring video surveillance is outside the City's responsibility.

The City of Santa Barbara states that Recommendation 1 will be implemented within the next six months as long as the other affected agencies develop a safety plan to reduce trespasser deaths in the region.

Responses from the Santa Barbara County Board of Supervisors:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. No. 3) 1	(Rec. No. 1) 1	0	(Rec. No 2,4,5,6a,b) 5	7

The Board of Supervisors will not implement any recommendations that they consider to be the responsibility of Union Pacific Railroad and SBCAG.

Responses from the Santa Barbara County Sheriff's Office:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec.3) 1	0	0	0	1

The Sheriff's office will work with Union Pacific Railroad to enforce trespassing laws.

Responses from the Santa Barbara County Board Association of Governments (SBCAG):

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
0	(Rec. 1) 1	0	(Rec. 2, 4 , 6a) 3	4

SBCAG states it does not have authority over Union Pacific Railroad right-of-way. However, within the next six months, SBCAG will host meetings with all agencies and Union Pacific Railroad to determine a satisfactory solution to all recommendations.

Suicide in Custody

Responses from the Santa Barbara County Sheriff's Office:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec 1-8) 8	0	0	0	8

The Sheriff does not fully agree with all the findings, but he agrees with all of the recommendations. He has confirmed that extensive training on inmate intake, preservation of evidence at an incident scene, and routine maintenance of resuscitation equipment have been implemented.

Responses from the Santa Barbara County Board of Supervisors:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
0	(Rec 9) 1	0	0	1

The BOS states that the Sheriff is working towards securing National Commission on Correctional Health Care accreditation for the Main Jail with Wellpath.

The Cachuma Project Contract and Management: Whiskey Is For Drinking – But MUST We Fight Over Water?

Responses from the Santa Barbara County Board of Supervisors as the Santa Barbara County Water Agency's Board of Directors:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. 1) 1	(Rec. 3 ,7, 9) 3	(Rec. 2 ,4 ,5 ,6) 4	(Rec. 8) 1	9

The Board of Directors of the Santa Barbara County Water Agency agrees that all five member units should be included in the negotiations of a new contract with the U.S. Bureau of Reclamation.

Responses from the Carpinteria Valley Water District:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
0	(Rec. 2, 3, 6, 7, 9) 5	0	(Rec. 1, 4, 5, 8) 4	9

The Carpinteria Valley Water District will implement five of the recommendations during the new contract negotiations.

Responses from the Goleta Water District:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. 4) 1	0	0	(Rec. 1-3, 5-9) 8	9

The Goleta Water District confirms that the recommendation to change the water year calendar to run from May 1st to April 30th has been implemented. All other recommendations will not be implemented at this time but can be addressed in the negotiations for the new contract.

Responses from the Montecito Water District:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
0	0	0	(Rec. 1- 9) 9	9

The Montecito Water District states that "it is of the opinion that the best governance structure is one that emphasizes water supply decision making closest to the people served."

Responses from the City of Santa Barbara:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. 9) 1	(Rec. 2, 3, 6) 3	0	(Rec. 1, 4, 5, 7, 8) 5	9

The City of Santa Barbara states that some of the recommendations will be considered during negations of the new contract.

Responses from the Santa Ynez Water Conservation District – Improvement District No. 1:

Already Implemented	Will Be Implemented	Requires Further Analysis	Will NOT Be Implemented	Total Number of Responses
(Rec. 9) 1	(Rec. 3, 4) 2	0	(Rec. 1, 2, 5-8) 6	9

The Santa Ynez Water Conservation District, ID1 states that many of the recommendations will not be implemented, but can be part of the negotiations in the new contract.

It should be noted that the current contract between the Santa Barbara County Water Agency and the U.S. Bureau of Reclamation is due for renewal in September 2020.

CONCLUSION

The 2018-19 Jury issued six reports requiring responses. In their responses, the responding agencies agreed, either wholly or partially, with the findings. These reports contained 111 recommendations. According to the responses, the responding agencies and officials have implemented or will implement 57 recommendations. Eleven recommendations will require further analysis before deciding on implementation. Forty-three recommendations will not be implemented due to budget constraints or disagreement with the recommendations.

Entire Report: Number of Responses in Each Category

Category	**Already Implemented**	**Will be Implemented**	**Requires Analysis**	**Will NOT be Implement**
Number	33	24	11	43

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CYBER-ATTACKS THREATEN SANTA BARBARA COUNTY

Publication of the

2019-20 Santa Barbara County Grand Jury

April 20, 2020

CYBER-ATTACKS THREATEN SANTA BARBARA COUNTY

SUMMARY

Nationwide, a cyber-attack occurs at least every 39 seconds. Globally, the cost of cyber-attacks is expected to be $6 trillion by 2021[1]. The 2019-20 Santa Barbara County Grand Jury through its research learned the County of Santa Barbara, the eight incorporated cities, and the special districts within the County, as a whole, are woefully ill-prepared for a cyber-attack. Such an attack could cripple their services and data systems. The cost to repair and recover these systems could be millions of dollars![2] Cyber security attacks include corruption or theft of data, denial of service, or complete destruction of critical data. Also, attacks could include subverting critical operations, such as water systems, electrical grids, and communication systems, and thus threaten public safety.

Cyber-attacks are more widespread and dangerous than is generally recognized, even by people who should know. The attacks are certain to get worse. There is a never-ending evolutionary race between attack and defense. In this digital world, local government entities, even small ones, are not immune and their risks will grow as automated attack methods increase.

INTRODUCTION

According to a recent survey of national business leaders, cyber security risks are the top concern among businesses of all sizes, ahead of medical cost inflation, employee benefit costs, the ability to attract and retain talent, and legal liability.[3] Fewer than half of all Chief Information Security Officers and senior executives are confident their organizations are fully prepared to deal with cyber-attacks, according to a study conducted by a well-known cyber security consultancy.[4]

Whether the cyber-attack is motivated by money, revenge, mischief or geo-politics, the costs to respond and recover can be astronomical. These attacks can be in the form of:

- **Data theft**, the unauthorized taking or interception of computer-based information.
- **Ransomware**, a form of malware that encrypts a victim's files. The attacker then demands a ransom from the victim to restore access to the data upon payment.
- **Sabotage**, deliberate attacks intended to disable or modify computers or networks for the purpose of disrupting operations or transactions, accessing or destroying files or otherwise compromising an organization.

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[1] Herjavec Group: The 2019 Official Annual Cybercrime Report. https://www.herjavecgroup.com/the-2019-official-annual-cybercrime-report (Last visited 02/03/2020)
[2] "Texas Ransomware attack to cost $12 million and more", *Cybersecurity Insiders*, https://www.cybersecurity-insiders.com/texas-ransomware-attack-to-cost-12-million-and-more/ (Last visited 02/03/2020)
[3] "2018 Travelers Risk Index: Cyber [Infographic]", *Travelers*, 2018 https://www.travelers.com/resources/risk-index/2018-cyber-infographic (Last visited 03/12/2020)
[4] "Cyber Tops All Other Risk Concerns for Businesses of All Sizes", *Insurance Journal*, October 1, 2019 https://www.insurancejournal.com/news/national/2019/10/01/541645.htm (Last visited 02/03/2020)

The Jury reviewed many news reports of cyber-attacks on public entities, a few of which are summarized below:

A ransomware attack in March 2018 paralyzed Atlanta's 424 software programs, of which 30% were mission critical. Atlanta refused to pay the ransom of $51,000 and it ultimately cost the city $21 million to recover their systems.[5]

In May 2019, Baltimore refused to pay a $76,000 ransom demand resulting in weeks of downtime and system upgrade costs of $18 million. Subsequently, the city purchased insurance policies totaling $20 million, with an annual premium of $835,103.[6]

As recently as July 2019, Los Angeles city computers were breached, resulting in the theft of the personal information of approximately 20,000 applicants to the police department. The information stolen did not directly impact the city, but could be used to compromise the privacy of the individuals, and allow the criminals to open credit cards, take out loans, intercept tax refunds, and otherwise disrupt an individual's credit.[7]

In August 2019, $4.2 million was stolen from the Oklahoma Law Enforcement Retirement System after an employee's account was compromised.[8]

In October 2019, it was reported there were more than 140 ransomware demands in the last 10 months across the United States. These attacks were made on county, city, or state government systems, including health care systems and police departments.[9]

While sabotage of governmental computer systems and networks has not yet been reported as widespread, there have been instances which demonstrate it is a valid concern. In 2013, a New York dam's control system was hacked by a foreign group.[10] In January 2020, the Federal Depository Library Program's website was hijacked, and a pro-Iranian message was displayed.[11]

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[5] Lee Matthews, "City Of Atlanta Computers Hit By Ransomware Attack", *Forbes*, March 23, 2018 https://www.forbes.com/sites/leemathews/2018/03/23/city-of-atlanta-computers-hit-by-ransomware-attack/#3a8316812ee4 (Last visited 02/03/2020)

[6] Sarah Cole, "Baltimore Doubles Up on Cyber-Insurance Following Ransomware Attack", *Infosecurity Group*, October 18,2019 https://www.infosecurity-magazine.com/news/baltimore-buys-cyber-insurance/ (Last visited 02/03/2020)

[7] Cindy Chang, David Zahniser, "City computers breached, data potentially stolen from 20,000 LAPD applicants,' *Los Angeles Times*, July 29,2019 https://www.latimes.com/california/story/2019-07-29/lapd-applicants-data-breach (Last visited 02/03/2020)

[8] Nolan Clay, "Hackers get $4.2 million from Oklahoma pension fund for retired troopers, state agents", *The Oklahoman*, September 6, 2019 http://oklahoman.com/article/5640503/hackers-get-42-million-from-pension-fund-for-retired-troopers-state-agents (Last visited 02/03/2020)

[9] Allen Kim, " In the last 10 months, 140 local governments, police stations and hospitals have been held hostage by ransomware attacks", *CNN.com*, October 8, 2019 https://www.cnn.com/2019/10/08/business/ransomware-attacks-trnd/index.html (Last visited 02/03/2020)

[10] Joseph Burger, "A Dam, Small and Unsung, Is Caught Up in an Iranian Hacking Case", *The New York Times*, March 25, 2016 https://www.nytimes.com/2016/03/26/nyregion/rye-brook-dam-caught-in-computer-hacking-case.html (Last visited 02/03/2020)

[11] Mihir Zaveri, "Government Website Is Hacked With Pro-Iran Messages", *The New York Times*, January 6, 2020 https://www.nytimes.com/2020/01/06/us/iran-hack-federal-depository-library.html (Last visited 02/03/2020)

In January 2020 in Santa Barbara County, the Carpinteria Unified School District was attacked by ransomware, temporarily shutting down the district's networked computers and creating $90,000 in damage.[12]

Cyber security is a critical element of today's world of computerized life. Types of attacks that can occur include:

- ***Phishing*** is a type of social engineering attack often used to steal user data, including login credentials and credit card numbers. It occurs when an attacker, masquerading as a trusted entity, dupes a victim into opening an email, instant message, or text message. The recipient is then tricked into clicking a malicious link, which can lead to the installation of malware, the freezing of the system as part of a ransomware attack or the revealing of sensitive information.

- ***Harvesting employee credentials, also known as password harvesting,*** takes many forms, including phishing, and is used to steal user credentials. Credential-harvesting attacks often start with targeted phishing emails that request the victim to click on a link and log into their own account to change password or payment information. The link then directs the user to a spoofed[13] site, allowing the hacker to harvest the valid credentials entered by the victim, and then use those to log into the victim's actual account.

- ***Backdoor*** is a method of bypassing authentication in a piece of software or a computer system allowing access without being detected.

- ***Social engineering*** is manipulating people to give up confidential information. The type of information sought includes passwords, bank information and other personal information. It can also help someone gain access to your computer to secretly install malicious software, allowing them access to and control of your confidential information.

- ***Programming bug*** is a programming error in the computer code that results in faulty results or information. It can also allow for unwanted access to a computer system or network.

- ***Outdated software*** is software that is no longer fully supported by the vendor which can make it easier to attack through known flaws and weaknesses in the system.
- ***Unpatched software*** is software that has not been updated to the latest version provided by the vendor. Similar to outdated software, it can be easier to attack.

- ***System misconfiguration*** is when settings within a computer program are not configured properly and could allow unauthorized access or unintended consequences.

- ***Inside attack*** is an attack by someone with authorized access to a computer system or network that uses the access in ways not approved or granted by the organization. This can

[12] Debra Herrick, "CUSD Hit By Malware…", *Coastal View News* (January 23, 2020)
[13] Spoofing is the act of disguising a communication from an unknown source as being from a known, trusted source. https://www.forcepoint.com/cyber-edu/spoofing (Last visited 02/17/2020)

sometimes occur when a terminated employee's system access has not been revoked on a timely basis.

- ***Physical attack*** involves gaining access to computer systems and networks through physical means. This includes unauthorized access to facilities and buildings but can also include accessing the systems and networks by using an unattended computer terminal.

Every public entity within Santa Barbara County needs to be familiar with these dangers and threats and the steps that need to be taken to prevent them.

METHODOLOGY

The Grand Jury interviewed two well-known experts on cybersecurity, a Certified Information Systems Security Professional and a highly credentialed Independent Information Security Analyst. The Jury attended an all-day Cybersecurity Summit at UC Santa Barbara, which included seminars and interaction with speakers and attendees. The Jury also reviewed a large number of studies, news reports and professional articles related to cyber security.

The Jury interviewed individuals who have extensive experience in cyber security. Their experiences include:

- Oversight of information technology security for private enterprise and government organizations
- Presidency of information security management service organizations
- Service on cyber security task forces
- Work in national information security

To get an overview of the general status of cyber security awareness within the County, the Grand Jury sent surveys to many governmental entities within the County, including the incorporated cities, special districts and the County itself. The surveys were emailed to administrators and Information Technology (IT) department heads. The surveys covered a variety of cyber security issues, including the nature of their systems and how they are administered, whether there is a written cyber security plan and if it has been tested, whether cyber security audits are performed and when the last audit was, and whether they have cyber insurance and what kind.

OBSERVATIONS

The responses to the Grand Jury's survey showed most entities were deficient in one or more critical areas. Many of those surveyed reported that they had no cyber security plan, had never performed a security audit and carried no cyber insurance.

Clearly, many public entities within Santa Barbara County are not fully prepared to withstand a cyber-attack.

Important Concepts and Best Practices:

As a result of its investigation, the Grand Jury found the following important concepts and best practices should be implemented as soon as possible to lower an organization's risks from cyber threats and damage:

- ***Identify someone to be in charge.*** Organizations should appoint a designated individual with the proper expertise who is granted authority to be accountable and responsible for all cyber security, including managed service providers.[14]

- ***Identify the nature of the organization's data and the electronic systems employed and understand the security risks.*** Organizations should understand what type of data they maintain and use in the execution of their mission and the electronic systems employed that do, or could, allow access to the data. How is the data handled and protected to prevent unauthorized use? Who has access to that data and under what circumstances? What are risks related to unauthorized access or, in the worst case, destruction of the organization's data?

- ***Establish a written cyber security plan.*** A cyber security plan adds a layer of protection to an organization's important resources. Protecting important data and related systems is important, not only for the organization, but also its customers. Cybercrime is escalating and having a strong defense and recovery plan helps protect the organization's reputation. A well written plan should not only detail the preventative steps the organization needs to take to prevent an attack, but also provide a recovery plan in case the data is attacked, corrupted or otherwise compromised.

- ***Protect data from internal and external threats.*** Data can be attacked or compromised from many sources, whether intentional or by accident. Protecting an organization's data and systems from an external threat and intentional attack is not enough—they also must be protected from unauthorized internal access, accidental corruption or destruction. An organization's plan needs to identify and address all possible threats and should require periodic changing of all passwords and making sure sensitive systems are contained in a secure environment with controlled access.
- ***Have strong firewalls, appropriate authorization and access controls, and effective antivirus software.*** Strong firewalls prevent unauthorized outside access to an organization's systems and data. If an attacker cannot get into the system, it is harder for them to disrupt operations or damage or steal data. Having an appropriate authorization and access control system helps, among other things, assure that employees and authorized contractors can access only the systems and data they require to properly execute their duties and helps prevent unauthorized activities, theft, corruption or destruction of data. Antivirus software helps prevent software viruses, worms, "Trojan Horses," spyware or malware from being downloaded to an organization's electronic systems, as well as increasing protection from phishing attacks.

[14] Edward Gately, "ESET: MSPs Not Proactive Enough with Cybersecurity", *ChannelFutures.com*, February 7, 2020 https://www.channelfutures.com/channel-research/eset-msps-not-proactive-enough-with-cybersecurity. (Last visited 02/10/2020)

- ***Install and update software regularly.*** Using the correct software and keeping it updated frequently is a strong step to help prevent attacks. Software providers are continually updating and improving their products to not only make it more effective but to address flaws that are discovered that could be used to attack an organization's systems or data. Old and out-of-date software is much more vulnerable than current software. Software should not only be updated on internal equipment but also on all portable devices that have access to the organization's systems.

- ***Maintain cyber security awareness and training for all employees.*** A system is only as strong as the people who are using it. While there are many ways to attack a system electronically, one of the easiest ways to get access to a system is to trick someone to open the door for you. This "social engineering" is cheap, effective and quicker than trying to break into a system through other means. Employees and contractors with access to the system should be made aware of the dangers of social engineering and phishing scams, and be trained how to prevent access through these means. This awareness and training should focus not only on electronic devices provided by the organization but also personal and portable electronic devices that have access to the organization's system via Wi-Fi, email or the internet.

- ***Create a recovery plan.*** While planning and prevention is a vital component to strong cyber security, the reality is that things can go wrong, attackers can succeed, and things break. Therefore, it is very important that an organization have a detailed and documented recovery plan. This plan, among other things, should include periodic backups, and safe offsite storage of backup data and system software.

- ***Regularly update and test the plan.*** Just like practice fire drills are an important component of assuring the safety of employees, practicing the steps of an organization's cyber security plan, especially the recovery components of the plan, is vitally important. Practice runs not only help to confirm if the plan works and what improvements could be made, they also prepare the organization for a fast response in the case of an actual attack.

- ***Consider working with other organizations to improve cyber security practices cost effectively.*** Working as a consortium provides an approach allowing even those with smaller budgets to participate and contribute to a successful security program.[15]

CONCLUSIONS

The 2019-20 Santa Barbara County Grand Jury determined that cyber-attacks and related threats are an ongoing reality and that all public entities within Santa Barbara County need to take prompt and aggressive steps to prevent significant disruption from these attacks. When cyber-attacks are successful, the costs to respond and recover can be in the millions of dollars. While

[15] Wany Zhao and Gregory White, "A collaborative information sharing framework for community cyber security," published in Homeland Security (HST), 2012 IEEE Conference on Technologies for Homeland Security (HST), November 13-15, 2012

some local public entities are taking steps to protect themselves from these risks, many are not adequately prepared.

FINDINGS AND RECOMMENDATIONS

Finding 1
Ensuring critical cyber security tasks and activities are properly executed on a timely basis requires a designated individual to be accountable and responsible.

Recommendation 1
That each public entity within Santa Barbara County designate an individual to be accountable and responsible to oversee cyber security.

Finding 2
Most public entities within Santa Barbara County have an inadequate understanding of what communication and electronic systems they use and what data they maintain, and do not fully understand the risks, security issues and costs associated with the destruction of systems or loss of data.

Recommendation 2
That each public entity within Santa Barbara County complete a full inventory of their data, electronic and communication systems and determine the related security risks.

Finding 3
Some public entities within Santa Barbara County do not have a written cyber security plan.

Recommendation 3
That each public entity within Santa Barbara County establish a written cyber security plan.

Finding 4
Nationally, cyber-attacks on governmental organizations have been successful for many years and are occurring with more frequency and sophistication.

Recommendation 4
That each public entity within Santa Barbara County take substantial steps to protect data from internal and external attacks or threats.

Finding 5
Cyber-attackers use a number of methods to install malicious software on systems including access through backdoors, staff or employee carelessness, and known bugs in software.

Recommendation 5a
That each public entity within Santa Barbara County install and maintain current antivirus software to detect malware and other threats.

Recommendation 5b
That each public entity within Santa Barbara County install and update all operating software regularly.

Recommendation 5c
That each public entity within Santa Barbara County periodically train employees and then test their cyber security awareness.

Recommendation 5d
That each public entity within Santa Barbara County periodically ensure electronic system-related contractors have been trained for cyber security awareness.

Finding 6
If data is lost or compromised for any reason, including cyber-attack, mechanical failure or error, the most cost effective and expedient way to recover is to have current data backups and a plan to reinstall it.

Recommendation 6a
That each public entity within Santa Barbara County create and implement a full backup and recovery plan.

Recommendation 6b
That each public entity within Santa Barbara County regularly update and test their backup and recovery plan.

Finding 7
Some public entities within Santa Barbara County do not have any, or adequate, cyber insurance.

Recommendation 7
That each public entity within Santa Barbara County secure adequate cyber insurance.

Finding 8
A cost-effective method to address cyber risks and concerns is to form an information sharing and learning consortium.

Recommendation 8
That each public entity within Santa Barbara County that is unable to allocate adequate funds for cyber security develop a cybersecurity working group to establish best practices and share costs for education, expertise, and insurance.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Sections 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations with the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why

Santa Barbara County Board of Supervisors – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Buellton – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Carpinteria – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Goleta – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Guadalupe – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Lompoc – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Santa Barbara – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Santa Maria – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

City of Solvang – 90 Days

Findings 1, 2, 3, 4, 5, 6, 7, and 8
Recommendation 1, 2, 3, 4, 5a, 5b, 5c, 5d, 6a, 6b, 7, 8

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GRAND JURY
SANTA BARBARA COUNTY

DETENTION FACILITIES IN SANTA BARBARA COUNTY

2019-20 GRAND JURY INSPECTIONS

Publication of the

2019-20 Santa Barbara County Grand Jury

April 27, 2020

DETENTION FACILITIES IN SANTA BARBARA COUNTY

2019-20 GRAND JURY INSPECTIONS

INTRODUCTION

Under *California Penal Code Section 919 (b)*, the Grand Jury is required to "inquire into the condition and management of the public prisons within the county." The 2019-20 Santa Barbara County Grand Jury visited all detention facilities in the County, consisting of the two principal County jails, the Lompoc City jail, the various police, sheriff and Superior Court holding facilities, the two juvenile detention facilities, the County Coroner's Bureau and the Sobering Center - a total of twenty facilities.

The Grand Jury was generally satisfied with the current management and condition of the detention facilities in Santa Barbara County. Many of the facilities were built 20 to 50 years ago, and while the Jury found them to be generally safe and serviceable, significant maintenance and renovation investments will likely be required in the future. The most noteworthy findings were the current overcrowding in the Main Jail, the significant schedule and cost overrun of the new Northern Branch Jail, a new proposed approach to inmate management for the new jail, the significant shortage of critical body scanning equipment in the facilities to address the drug contraband problem, the need for improved camera coverage, and serious Sheriff and police staff shortages directly impacting public safety.

OUTLINE

The facilities that the Grand Jury inspected are listed below.

1.0 Santa Barbara County Sheriff's Jails

- 1.1 Main Jail
- 1.2 Northern Branch Jail (under construction)

2.0 Santa Barbara County Sheriff's Substations

- 2.1 Isla Vista Foot Patrol
- 2.2 New Cuyama
- 2.3 Solvang
- 2.4 Lompoc Valley-Harris Grade
- 2.5 Carpinteria

3.0 Santa Barbara County Probation Facilities

- 3.1 Los Prietos Boys Camp
- 3.2 Susan J. Gionfriddo Juvenile Justice Center

4.0 County of Santa Barbara Superior Court Holding Facilities

- 4.1 Santa Maria

4.2 Santa Barbara

4.3 Lompoc

5.0 City Jails

5.1 Lompoc City Jail

6.0 City Holding Facilities

6.1 City of Santa Barbara Police Department

6.2 City of Santa Maria Police Department

6.3 City of Guadalupe Police Department

7.0 Santa Barbara Sobering Center

METHODOLOGY

The Grand Jury conducted onsite inspections of the conditions of each facility, examining the processes for handling the detainees and reviewing the staff professionalism. For each facility inspection, the Jury interviewed the custody staff, which included sheriff deputies, police officers, probation officers, and support staff. The safety, security, and humane treatment of inmates of each facility were examined. Previous Grand Jury reports were studied to provide a benchmark for comparison.

1.0 Santa Barbara County Sheriff's Jails

1.1 Santa Barbara County Main Jail

The Main Jail is located near the City of Santa Barbara and was originally built in 1971. It is state rated for 659 inmates with a separate Medium Security Facility which is rated for an additional 160 inmates, for a total of 819 inmates. During the Jury's visit in February 2020, there were 671 inmates in the Main Jail and 219 in the Medium Security Facility, totaling 890 inmates, resulting in an overcrowding of 71 inmates.

Since 1988, the County has been under a court order to reduce the daily jail population to an 819 approved bed capacity. However, the average population frequently exceeds the approved bed capacity. When the Northern Branch Jail is completed, it will have additional maximum bed count of 376. Therefore, when the new North County jail is operating, Santa Barbara County should have sufficient bed capacity. The overcrowding will be alleviated with the opening of the new jail. The construction was scheduled for completion in May 2020.

The cost to house an inmate for one day is $115.00 to $120.00, or $43,000 per year as reported in February 2020.

At the time of the Grand Jury inspection, the Jail was 13 custody officers short of the 228 considered adequate for the three overlapping schedules. Currently, one shift consists of 23 custody deputies and 4 medical personnel. The Jail is understaffed, which results in higher safety risks to custodial deputies, costs associated with mandatory overtime, and heightened custody staff stress levels.

The Main Jail building is aging and several infrastructure deficiencies were noted. The Jury was told that the Main Jail is outdated and in serious need of seismic and ADA compliance updating. This represents a safety risk to both custody deputies and inmates.

The Sheriff will determine the priority of repairs and the implementation of reconfiguration and repurposing plans. This will be a challenge for the Sheriff, as construction cannot begin until the Northern Branch Jail opens, and Main Jail inmates can be moved.

The Sheriff's goal is to offer the same services at both the Main Jail and the new Northern Branch Jail. These services include medical, psychiatric, educational, and other rehabilitation support. This may mean closing some Main Jail beds, reconfiguring some areas, and repurposing others.

A new inmate-issued electronic "iPad" device is being successfully used for education and inmate behavioral rewards, resulting in a reduction in jail violence. A more elaborate system is being planned for the Northern Branch Jail. The Sheriff envisions new classroom space in the Main Jail so that inmates are better prepared to rejoin society.

Surveillance camera positions need to be improved to provide more complete coverage of inmate cell activity. The Jury also noted the complete absence of body scanner systems to inspect and detect dangerous contraband (drugs primarily) that inmates routinely smuggle into the Jail. All inmates entering the Jail from whatever feeder points they originate from should also be scanned.

The transportation vehicle fleet used to transport the inmates is old. While well maintained, this fleet will require replacement for both safety and efficiency.

The custody deputies were extremely courteous, professional, and well-informed. The staff is well trained and maintains a positive attitude. They promptly provided the Grand Jury with all information requests.

Findings and Recommendations:

Finding 1

The Main Jail is outdated and in need of seismic and ADA compliance.

Finding 2

The Main Jail is overcrowded. This overcrowding situation may be partially alleviated by the opening of the Northern Branch Jail.

Finding 3

The Main Jail is understaffed.

Recommendation 3

That the Santa Barbara County Board of Supervisors allocate sufficient funding to the Sheriff's office specifically for the purpose of hiring additional custody deputies.

Finding 4

There are no body scanners to detect dangerous contraband.

Recommendation 4

That the Santa Barbara County Board of Supervisors and the Sheriff's Department purchase and install a body scanning system immediately to intercept contraband at the Main Jail.

Finding 5

Surveillance camera positions do not provide complete coverage of inmate cell activity.

Recommendation 5

That the Santa Barbara County Sheriff's Department review camera coverage to make sure that each camera is providing the custody deputies full views of the cells.

Finding 6

The inmate transportation fleet is old and unreliable.

Recommendation 6

That the Board of Supervisors and Sheriff consider funding for upgrade and replacement of the inmate transportation fleet within two years.

1.2 Santa Barbara County Northern Branch Jail

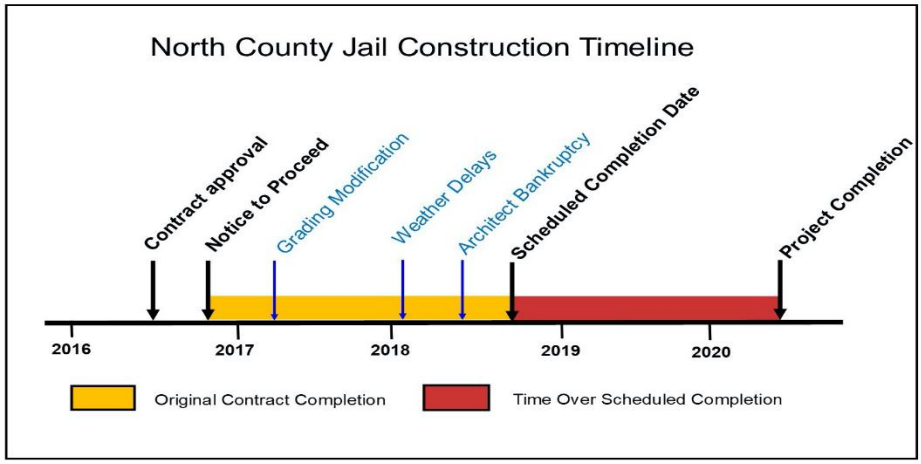
The Northern Branch Jail in Santa Maria is being built to alleviate the overcrowding of the Main Jail as well as improving transportation efficiency. The Northern Branch Jail is an improvement in the County's detention space, and the extra 376 beds should reduce the County's current inmate overcrowding. A staff of 90 custody deputies will monitor the inmates. It will provide an environment that addresses safety, promotes ADA compliance, and also provides enhanced medical and mental health facilities.

Construction of the new Jail was approved by the Board of Supervisors in June 2016. The Jail was originally scheduled to open in September 2018. At the time of this report the construction completion date was estimated to be May 2020, a 20-month delay. This significant delay was due to a combination of factors including a delay in the signing of the earth-moving contract, unusually wet weather, design and regulatory changes, the bankruptcy of the lead architectural firm, delays in contractor work execution, and quality deficiencies. Inmate occupancy must take place within 90 days of the facility opening. The facility is currently planned to accommodate 376 rated beds with a staff of 90 custody deputies. Once occupied, this additional inmate capacity should ease the Main Jail overcrowding problem.

The construction costs for the Northern Branch Jail were originally budgeted at $67 million on March 31, 2016. Amoroso Construction was awarded the winning bid of $77,720,000 on April 7, 2016.[16] In June 2016, the Board of Supervisors approved the current budget of $110,857,243, to be offset with $80.0 million from the State of California. Due to project delays, unanticipated change orders, and other issues, "the final total costs of the project are now estimated to increase from the original amount of $110.8 million to a total ranging between $119.0 million and $121.0 million, which is an increase of $8.2 million to $10.2 million or 7% to 9% increase in overall project costs."[17]

[16] Kitchell – Construction Management and Commissioning, Northern Branch Jail Project - Bid Package 1, April 7, 2016

[17] Santa Barbara County Board of Supervisors Agenda, March 17, 2020, **D1) Hearing** - Consider recommendations regarding Northern Branch Jail (NBJ) Construction Costs,



In May 2013, Rosser International, Inc. (Rosser) entered into a Professional Services Agreement with the County to provide architectural, engineering and related professional design services for the Northern Branch Jail Project. In June 2019, Rosser informed the County that it was going out of business, stopped working on the project, and ceased all performance of its contracted duties for the Northern Branch Jail Project. In July 2019, the County filed cost recovery litigation against Rosser to recover or mitigate the related added project costs.

Overall, the Grand Jury found the facility to be impressive, with a modern architectural plan taking advantage of current technologies. The Northern Branch Jail is designed with thermal and recycled water efficiencies. While the new Jail has adequate backup plans in the event of power failures, the facility does not have a solar system that could provide longer-term coverage and cost savings.

The building is designed to help normalize social relations by direct supervision. A custody deputy will be in the housing unit with the inmates. The deputy can model positive behavior and intervene quickly and effectively if there is trouble.

The Jury noted that the exercise facilities for cell modules were limited in size. Considering the potentially long sentences for some inmates, these small enclosures are inadequate.

The inmate entrance to the facility will have a body scanner system capability planned to reduce contraband. Personal visitations will be performed exclusively via video screens from booths. There will be larger rooms available for a family unification process planned to prepare inmates for reentry into society once sentences are completed.

When inmate sentences are completed and they are released, there is no transportation available to a Santa Maria city center location, which is more than ten miles away. This is important considering the 24-hour release schedule and the distance from the Northern Branch Jail to the Santa Maria city center.

The Sheriff's Office liaison, County General Services managers, and escort custody deputies were enthusiastic, well-informed, courteous, professional and optimistic about the positive impact this new state-of-the-art facility will make for the County.

Findings and Recommendations:

Finding 1

The Northern Branch Jail may not completely alleviate overcrowding problems at the Main Jail.

Finding 2

Family visitations will occur only with video screens from booths.

Recommendation 2

That the Sheriff consider making space available for face-to-face personal visits at the Northern Branch Jail.

Finding 3

The Northern Branch Jail will have a body scanner that will assist in the detection of contraband coming into the facility.

Recommendation 3

That the Santa Barbara County Board of Supervisors and the Sheriff's Department purchase a second body scanner system to provide additional screening coverage for inmates returning from outside appointments and court visits.

Finding 4

The facility has very small outside exercise areas for inmates.

Recommendation 4

That the Santa Barbara County Sheriff's Department consider additional outside exercise space to complement the limited yard space planned.

Finding 5

There is currently no solar electric power system budgeted for the facility.

Recommendation 5

That the Santa Barbara County Board of Supervisors and the Sheriff's Department obtain contractor bids to install a solar system to lower power costs.

Finding 6

There is no transportation available for newly released inmates to take them to Santa Maria.

Recommendation 6

That the Santa Barbara County Sheriff's Department develop a solution for transportation service to Santa Maria.

2.0 Santa Barbara County Sheriff's Substations

2.1 Isla Vista Sheriff's Foot Patrol (IVFP)

The Isla Vista Foot Patrol is a unique station in that Sheriff's deputies and the University of California, Santa Barbara (UCSB) police officers patrol the area on foot or bicycle. Approximately 24,000 people live in the 0.6 square mile area next to an ocean bluff. The IVFP station was built on land leased by the university. The Sheriff's office and UCSB police have built a mutually beneficial relationship to service the area from the same station. The community relationship is strong; there are proactive meetings and interactions with the community.

The IV Foot Patrol building is relatively new, well designed, clean, and well maintained. The location is central to the area serving Isla Vista and the UCSB campus.

Under normal operating conditions staffing is adequate. However, when large unsanctioned community events take place, such as Halloween and Deltopia gatherings, up to 100 extra officers from outside the area are called in to provide security. Creative modifications to normal operating practices have been developed to deal with the large number of intoxicated individuals and arrests. A portable booking station is set up in the IVFP parking lot and a Sheriff's van is used to transfer arrestees to the Main Jail. Usually detainees are held for less than two hours before being transferred.

The deputies were very courteous, professional, and attuned to the needs of the community.

2.2 New Cuyama

The New Cuyama Sheriff's substation is located in a rural area approximately 60 miles from Santa Maria. The three deputies are on call 24 hours a day and patrol a large unincorporated area which is sparsely populated. Radio communications for the deputies have many dead spots that impede calls for support and constitute a safety risk.

The building is basic. It contains an office, a kitchen, and a cell for short-time holding of prisoners. The cell, while adequate in terms of size, has a problem with the water connection to the toilet. The building is clean, functional, and with the exception of needed repair for the water problem, is in good overall condition.

The building, while used only when a deputy is present, has no external cameras to monitor unauthorized entry. Prisoners are cited and released or transported to the nearest Santa Barbara County Jail facility.

The deputies were courteous, professional, and demonstrated a high level of commitment to the community.

Findings and Recommendations:

Finding 1

The building lacks an external security camera system.

Recommendation 1

That the Santa Barbara County Sheriff's Department add an external security camera monitoring system.

Finding 2

The communication system used by the deputies is deficient and does not allow coverage in many parts of their jurisdiction.

Recommendation 2

That the Sheriff's Office upgrade the communication system provided to the deputies.

2.3 Solvang

The Solvang Substation has one cell which is used until detainees can be transported to the Main Jail. A second interview room is available and can be used as another holding area if necessary. There is no camera within the cell; however, the interior is visible from the office. The cell appeared well maintained. The facility is clean, functional, and in good overall repair.

The deputies serve as the police departments for the Cities of Solvang and Buellton. The Sheriff's Deputy interviewed was courteous, professional, knowledgeable, and committed to the community.

2.4 Lompoc (Harris Grade)

This is the newest substation in the County. There are two interview/holding rooms that are secure and clean. Both rooms have cameras. The Sheriff maintains an office in this facility. The County Fire Department shares the facility and maintains resources to keep the substation operating in the event of a long-term power shut off or a disaster such as an earthquake. This is one of the better facilities of the Sheriff's Department substations. It is in good condition and well maintained.

The substation is located in the rural northwest corner of 121 square miles surrounding the City of Lompoc. The area is adjacent to Vandenberg Air Force Base and the Lompoc Federal Prison. Enforcement duties include all of the unincorporated areas bordering the City of Lompoc. The deputies coordinate with California Parks and Recreation with respect to off-road vehicles.

The Sheriff's Deputies were courteous and professional, and the substation has a pleasant atmosphere.

2.5 Carpinteria

This facility, originally built in 1999, is located adjacent to the City Hall, which was once the Carpinteria City Police Department. Previously, there were two holding cells. The Carpinteria City Hall and Police Department underwent renovations in 2018 due to the detection of asbestos and mold. The facility was reopened in January 2020and the new floor plan eliminated the two cells.

Detainees are held at this facility only while paperwork is completed and then transported to the Main Jail.

3.0 Santa Barbara County Probation Department

3.1 Los Prietos Boys Camp

The Los Prietos Boys Camp (LPBC) is a county-owned residential correctional treatment facility for 13 to 18-year-old male wards of the Juvenile Court administered by the Probation

Department. The facility is located on 17 tranquil acres in the Los Padres National Forest, centrally positioned in the County. There were 20 wards present at the time of the Jury's visit; however, the facility capacity could be as high as 96 with minimal changes. One of the dorms is currently empty. The LPBC is significantly underutilized with a declining population trend.

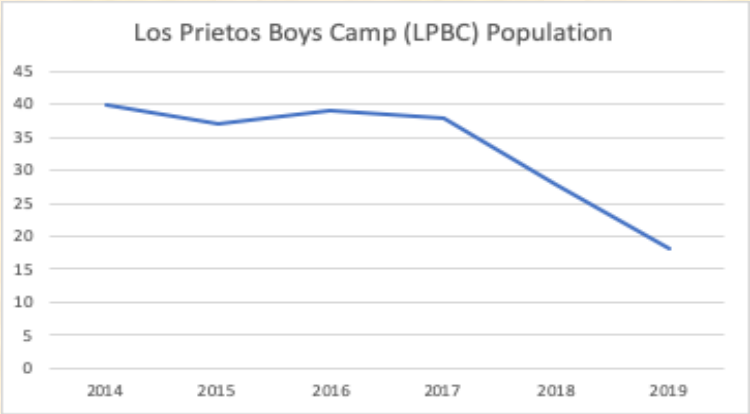
Los Robles High School is located at the LPBC. It is run by the Santa Barbara County Education Office and ensures the wards of the court receive continuing education. While the usual stay at LPBC is 120 or 180 days, individualized education programs (including trade programs) are tailored with a focus on getting the youth prepared for transition back to their home education programs. Trade programs include culinary, computer repair, small engine repair, and woodworking. However, the wood shop vocational area appeared to lack safety standards. The Probation and high school staff have created a solid, stable, and caring environment that seems ideal for the rehabilitation goal of the Camp. The staff, counselors and teachers appear to be doing an excellent job supporting the youth.

In addition to a structured daily routine, the program includes tailored educational programs. Community service and vocational education are offered to those youth demonstrating good behavior and interest. There are a number of off-site work and on-site physical work programs in support of the existing vocational training programs, but due to the limited number of wards at the Camp, they are unable to fulfill all the requests from the community.

There are minimal mentoring programs for the juveniles as they leave the LPBC and transition back to the community. There is a need for additional qualified volunteers to make such a program effective. More offsite service organizations could provide mentors who will stay in contact with the wards once back in their communities.

Los Prietos offers on-site medical and psychiatric care. Behavioral wellness programs are offered weekly. Medical support is available Monday through Friday, and on call on weekends. The overall atmosphere is one of positive rehabilitation, one which the staff work hard to create, and one appreciated by the wards. However, evidence of the effectiveness of the LPBC in reducing recidivism is lacking because juvenile records are sealed after the probation period terminates.

The facility, established in 1944, is clean, quiet, and rustic. The Camp is well maintained and adequately staffed. The Probation officers and staff were courteous, professional, and demonstrated a high level of care.



Findings and Recommendations:

Finding 1

Los Prietos Boys Camps is underutilized.

Recommendation 1

That the Santa Barbara County Board of Supervisors and the Probation Department explore options to increase utilization of the facility.

Finding 2

There is limited transitional mentoring.

Recommendation 2

That the Santa Barbara County Board of Supervisors and the Probation Department develop a transitional mentoring program with the assistance of outside service organizations.

3.2 Susan J. Gionfriddo Juvenile Hall, Santa Maria (SMJH)

The Juvenile Hall is managed by the Santa Barbara Probation Department and is the only 24-hour maximum security facility for juvenile offenders in Santa Barbara County. It is located adjacent to the Juvenile Court building, making it efficient for the youth to attend court. Juveniles housed at the SMJH include both males and females ranging from 12 to 18 years of age, with an average age of 16. They are directed to the facility from the juvenile justice system.

The facility has a total capacity of 160, but the total population was 42 at the time of the Jury's visit. The average length of stay is one year. The number of wards has steadily been declining, down 35% from its peak in 2016 (see graph below). In the same time period, there has been a significant legislative policy shift in the percentage of juveniles detained for felony charges, increasing from 38% to 83%, and misdemeanors decreasing from 63% to 15%. SMJH is underutilized with several vacant block units. One block unit is coed and houses females and vulnerable males, two blocks house only male youth who are completing the adjudication process, and another block serves as the primary housing unit for long term male detainees.

The SMJH offers the juveniles many services. The Santa Barbara County Education Office ensures that the wards receive continuing education through the Camino Segundo School. All juveniles are medically cared for and go through a Behavioral Wellness Health screening within 96 hours of entry. Physical and mental health care continue during their stay. Yet there are limited transitional mentoring programs for the juveniles as they leave the SMJH and transition back to the community.

Work has been done by the mental health staff to address the special needs of female wards that have been victimized and are experiencing emotional trauma. Eligible female wards can meet in a Trust Unit and have access to personal items and closer contact with each other, which is important in their rehabilitation.

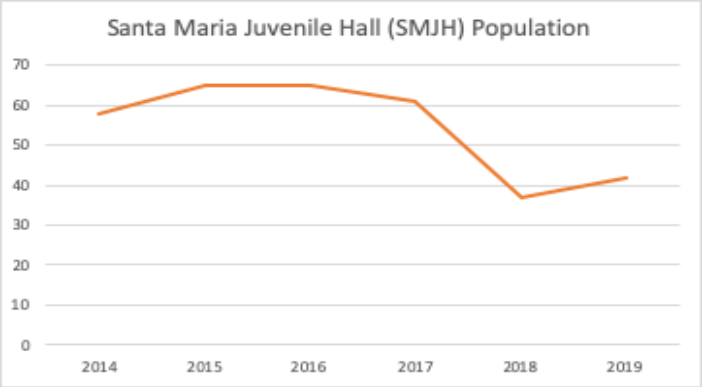
The staff administers an effective discipline program based upon rewards for good behavior.

Surveillance cameras are placed throughout the hall, although they do not face the cells. A staff member watches the videos from central monitoring room. While the surveillance cameras were well-positioned to provide good coverage, the picture quality was inadequate.

The outdoor exercise facilities are available and are adequate.

There are limited recidivism statistics due to the confidential nature of juvenile files and information. Evidence of the effectiveness of the SMJH in reducing recidivism is lacking because juvenile records are sealed after the probation period terminates.

The SMJH is clean and well-maintained. The staff was extremely courteous, professional, and demonstrated a high level of dedication toward the juveniles.



Findings and Recommendations:

Finding 1

The Santa Maria Juvenile Hall is significantly underutilized with a declining population trend.

Recommendation 1

That the Santa Barbara County Board of Supervisors and Probation Department explore options to optimize the utilization of the facility.

Finding 2

Picture quality from the surveillance cameras is inadequate.

Recommendation 2

That the Santa Barbara County Board of Supervisors and Probation Department replace the cameras and monitors with a higher quality system.

Finding 3

Programs that help the wards transition back to the community are limited.

Recommendation 3

That the Santa Barbara County Board of Supervisors and Probation Department create a transitional mentoring program with the assistance of outside service organizations.

4.0 Superior Court Holding Facilities

4.1 Santa Maria

This facility is located in the basement of the courthouse which was built in 1989. There are 12 holding cells, four temporary cells or "cages" (approximately 3' x 3' x 6'), and three private conversation booths. Fifty to sixty arrestees can be held here while waiting for their court appearances and transportation back to the Main Jail.

Located immediately adjacent to the courtrooms are two cells, managed by the Sheriff's Department, for inmates being escorted into the courtroom. If the custody deputy is required to provide support to a bailiff in a courtroom trial, the two cells just outside the courtroom would go unobserved and unattended, creating a safety risk in the event of a disturbance in one of the cells.

There does not appear to be adequate coordination between the Court Administration scheduling and the Sheriff's Department. Frequently, many inmates are transported to the court holding facility and never reach the courtroom. This results in a significant cost and safety risk associated with transportation, as well as unnecessary deputy staffing, and cell overcrowding.

The Jury learned that Santa Barbara Superior Court is working with the District Attorney and Public Defender to implement video appearances to reduce the number of in-custody defendants being transported between the jail and the courts. A video arraignment program could reduce bus transportation issues, holding cell overcrowding, court appearance scheduling, and eliminate the use of "cages."

The facility has a planned staff of 20 deputies but was understaffed by two deputies at the time of the Jury's inspection. However, the security process seemed very good and well organized.

The Grand Jury was impressed with the Sheriff Deputies' professionalism and the processes for handling the inmates.

Findings and Recommendations:

Finding 1

A video arraignment program would expedite the processing of inmates through the court system and reduce holding cell overcrowding.

Recommendation 1

That Santa Barbara County District Attorney in partnership with the Public Defender develop and implement a video arraignment program.

4.2 Santa Barbara County Courthouse

The Santa Barbara County Court Building located on Figueroa Street was constructed in 1953 and originally served as a separate municipal court. The building has been remodeled several times over the years, but the entire building still does not meet minimum safety standards. The aging building does not comply with seismic standards, nor is it ADA compliant. The building does not contain a comprehensive fire suppression system which presents a safety risk for the administrative staff, custody staff, inmates and the public

The holding facility is located in the basement of the Figueroa Court Building. Detainees are regularly walked across a busy downtown Santa Barbara street from the holding facility to the main courthouse, through civilian pedestrians and traffic.

The holding facility consists of eight holding cells that hold six detainees each and eight overflow "cages" that can house one prisoner each, for an official total of 56 detainees; however, the facility has held as many as 80 detainees at a time. The facility is often overcrowded, exceeding the rated capacity by a significant margin; the court dockets can request a number of detainees that almost doubles that rated capacity. The overcrowding can be compounded by the need to isolate certain inmates into their own cells for safety reasons. The eight individual holding "cages" are extremely small (approximately 3' x 3' x 6'), would not accommodate a medium or larger person, are inhumane, and are being used regularly to deal with the overcrowding situation.

A video arraignment program could reduce bus transportation issues, holding cell overcrowding, court appearance scheduling, and eliminate the use of "cages."

There is a lack of air-conditioning and sufficient ventilation in the holding area. Also, a small staff video room is cramped and the only air movement is from two fans that circulate air.

The holding facility meets acceptable standards of cleanliness and routine maintenance. The custody staff is well trained and professional. They demonstrated a positive attitude and concern for the inmates.

Findings and Recommendations:

Finding 1

The Santa Barbara Court Holding Facility does not meet safety standards.

Finding 2

The Santa Barbara Court Holding Facility is often overcrowded and uses "cages" that are inhumane.

Recommendation 2

That the Santa Barbara County Board of Supervisors and the Sheriff's Department develop and implement a video arraignment program to reduce overcrowding and the use of "cages."

Finding 3

Inmates are walked across a public street between the holding facility on Figueroa Street and the historic Courthouse.

Recommendation 3

That the Santa Barbara County Sheriffs' Department transfer inmates in vehicles to the historic Courthouse for greater safety.

4.3 Lompoc

This facility was built in 1999 and is conveniently located adjacent to the Lompoc Courthouse and Lompoc Police Department. There are five cells, three of which are used to separate inmates who cannot be housed with others due to gender, medical or other reasons, for a total rated capacity of 30. Additionally, there are three holding "cages" for inmates that require separation or for overflow. The three holding "cages" are extremely small and inhumane. The facility is routinely overcrowded when court is in session. There is video monitoring of the cells, but no recording capability.

Although the holding facility meets acceptable standards of cleanliness, the facility shows signs of needed maintenance. For example, there is graffiti etched in doors, painted surfaces and interview room windows, and cement benches in the cells are cracked.

There are three staffing deputies, two full-time and one part-time. Staff are well trained and maintain a positive attitude, including professional concern for inmates.

Findings and Recommendations:

Finding 1

The Lompoc Facility needs maintenance.

Recommendation 1

That the Santa Barbara County Board of Supervisors correct building maintenance deficiencies.

Finding 2

Overcrowding often forces use of holding "cages."

Recommendation 2

That the Santa Barbara County Board of Supervisors and Sheriff's Department explore other options for holding the overflow inmates and remove the "cages."

Finding 3

The camera video surveillance system does not record and the images are of poor quality.

Recommendation 3

That the Santa Barbara County Board of Supervisors and Sheriff's Department upgrade the cameras for recording capability and high definition imagery.

5.0 CITY JAILS

5.1 Lompoc City Jail

The Lompoc Jail is in the Police Department building which was built in 1959. The building is in the Lompoc Government Civic Center with other County and Municipal buildings. It is adjacent to the County Courthouse. There are seven cells with a capacity for 19 detainees, and cameras are throughout the area. Detainees are held for a maximum of 96 hours before being transported to the Main Jail. The facility appears to be clean and well-maintained but needs maintenance in some areas.

There are two full-time custody staff on day shift and one full-time at night. When a female is arrested, a female dispatcher is pulled from duties for searches. There are no special documented procedures for handling cases where the detainee has medical or mental problems.

The Lompoc City Jail has been used for holding of detainees from Lompoc, Santa Maria and New Cuyama. This has eased the long drive to the Main Jail in Santa Barbara, which takes officers off the streets for multiple hours. Once the Northern Branch Jail is open, other law enforcement officers will no longer use the Lompoc City Jail in this manner.

Finding and Recommendation:

Finding 1

The facility is understaffed particularly when there are numerous detainees and only a single officer on duty.

Recommendation 1

That the Lompoc City Council direct the Police Chief to ensure that at least two officers are on duty when multiple detainees are in custody.

6.0 City Holding Facilities

6.1 Santa Barbara Police Department

The building was built in 1960 and there are many maintenance concerns. The need for a new building has been well documented for many years. The facilities have not been earthquake retrofitted (as required by California's Essential Services Buildings Seismic Safety Act of 1986) and the building is not ADA compliant. This presents a safety risk for the police administrative staff, custodial staff, and detainees. A new site has been identified and construction is scheduled to begin in 2020. Final completion of the long anticipated new Santa Barbara Police Department building will resolve the identified maintenance and safety issues.

The building was originally designed to accommodate 80 staff and currently over 220 people work in the facility. The two holding cells are located in the main building and have a maximum capacity of four detainees but seldom hold more than one detainee each. The two holding cells appeared clean and well maintained. The interview room, reserved for confidential discussions, is cramped and so close to the holding cells as to cause privacy and/or security concerns. Every effort is made to make each detention as short as possible.

The staff is well trained and demonstrated a positive attitude.

Finding 1

The aging facility lacks seismic retrofitting and ADA compliance.

6.2 City of Santa Maria Police Department

The Jury found the Santa Maria Police Department building and holding facilities to be well organized, clean and well maintained. The facility can house up to 28 inmates in the holding area, which has four interview rooms and one restroom. There is a four-hour maximum hold before the arrestee is transported to the Main Jail or the Lompoc Jail.

Santa Maria has a state-of-the-art radio system which has the capacity to include multiple county agencies and the ability to communicate with all emergency agencies in the State of California.

The police personnel were very courteous and professional.

6.3 City of Guadalupe Police Department

At this facility the police only book and transport arrestees. There is a bench where arrestees are secured while being processed. There are security cameras throughout the department. The facility is clean and well maintained.

7.0 Santa Barbara Sobering Center

The Santa Barbara Sobering Center is located in downtown Santa Barbara, in close proximity to the night life district. It is used by the City of Santa Barbara Police Department as an alternative holding facility for members of the public who are intoxicated or driving under the influence of alcohol. Detainees must stay for at least four hours. The City of Santa Barbara Police Department has contracted with Threshold to Recovery for the past ten years. Funds to support the facility come from the City contract, grants, and donations.

By placing someone who is under the influence of alcohol in the Sobering Center, the Santa Barbara Police Department saves significant booking expenses, a total of $300,000 in 2019. The Center also helps prevent some jail overcrowding and improves public safety by allowing police officers to return quickly to their patrol duties.

While effective, the Center is extremely small and can only hold up to five individuals at a time; however, it seems to be serving the current demonstrated need. The facility is run by Threshold to Recovery, a not-for-profit organization. The Center has a paid staff of seven people providing coverage 24 hours a day every day. They are committed to their work and consider it a service to their community. The building is clean and well maintained.

The Sobering Center is not a recovery program; rather, it is an alternative to jail. The Center offers referral services for people with long term drug and alcohol dependencies. It offers people a safe place when rendered defenseless by alcohol or drugs. Detainees are allowed to sober up in the Center, but do not avoid citation or prosecution if warranted. Detainees are placed in the Center by police officers and, under certain circumstances, by Cottage Hospital staff. There are also a small number of walk-ins who use the Center. Most of the users are male, and the Center does not have separate accommodations for women.

The Grand Jury found the Sobering Center to be innovative, successful and cost effective. The County opened another Sobering Center on the County Campus just outside the City of Santa Barbara in February 2020.

Finding and Recommendation

Finding 1

There are no separate accommodations for women.

Recommendation 1

That the City of Santa Barbara provide separate accommodations for women at the Center.

CONCLUSION

The 2019-20 Santa Barbara County Grand Jury was impressed overall by the professionalism and dedication of the detention facility teams interviewed. These individuals play a critical role in keeping our communities safe. While a number of findings and recommendations were identified, none of these related to any deficiency in the way these professionals are performing their responsibilities.

The Jury is encouraged by the construction of the Northern Branch Jail and the relief it will make to the overcrowding in the Main Jail and added safety improvements. The Jury is also encouraged about the prospect of state funding for a new Santa Barbara Criminal Courthouse.

The Jury was impressed with the County employees' creativity in making improvements above-and-beyond, and the dedication of volunteer organizations that are making a big difference, particularly in youth programs.

The majority of the findings and recommendations stem from the lack of funding, funding that is essential to add staff where needed, funding to upgrade older and dangerous buildings, and funding to add new mission-critical technical systems for safer management.

The investigation by the Grand Jury predates the introduction of the COVID-19 pandemic. This has caused inmates to be released early thus reducing the inmate population at the Main Jail. In addition, once the pandemic began the court took aggressive action to implement the use of video conferencing.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with a completion date of no more than six months after the issuance of this report
- Will not be implemented, with an explanation of why

Report 1.1 Main Jail

Santa Barbara County Board of Supervisors - 90 days

Findings: 3, 4, 6

Recommendations: 1, 3, 4, 6

Santa Barbara County Sheriff-Coroner - 60 days

Findings: 1, 2, 4, 5, 6

Recommendations: 4, 5, 6

Report 1.2 Northern Branch Jail

Santa Barbara County Board of Supervisors - 90 days

Findings: 3, 5

Recommendation: 3, 5

Santa Barbara County Sheriff-Coroner - 60 days

Findings: 2, 4, 6

Recommendations: 2, 3, 4, 5, 6

Report 2.2 New Cuyama Sheriff Substation

Santa Barbara County Sheriff-Coroner - 60 days

Findings: 1,2

Recommendations: 1, 2

Report 3.1 Los Prietos Boys Camp

Santa Barbara County Board of Supervisors - 90 days

Finding: 1

Recommendation: 1, 2

Report 3.2 Susan J. Gionfriddo Juvenile Hall

Santa Barbara County Board of Supervisors - 90 days

Recommendation: 1, 2, 3

Report 4.1 Santa Maria Superior Court Holding Facility

Santa Barbara County District Attorney - 60 days

Finding: 1

Recommendation: 1

Santa Barbara County Board of Supervisors - 90 days

Finding: 1

Recommendation: 1

Report 4.2 Santa Barbara County Superior Court Holding Facility

Santa Barbara County Sheriff-Coroner - 60 days

Finding: 1, 2, 3

Recommendation: 3

Santa Barbara County District Attorney - 60 days

Finding: 1, 2

Recommendation: 2

Santa Barbara County Board of Supervisors - 90 days

Finding: 1, 2

Recommendation: 2

Report 4.3 Lompoc Courthouse Holding Facility

Santa Barbara County Board of Supervisors - 90 days

Findings: 1, 3

Recommendations: 1, 2, 3

Santa Barbara County Sheriff - Coroner - 60 days

Findings: 2, 3

Recommendations: 2, 3

Report 5.1 City of Lompoc Jail

Lompoc City Council - 90 days

Finding: 1

Recommendation: 1

Report 7.0 Santa Barbara Sobering Center

Santa Barbara City Council – 90 days

Finding: 1

Recommendation: 1

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SANTA BARBARA COUNTY CORONER'S BUREAU

STILL A SUBSTANDARD FACILITY

Publication of the

2019-20 Santa Barbara County Grand Jury

May 11, 2020

SANTA BARBARA COUNTY CORONER'S BUREAU
STILL A SUBSTANDARD FACILITY

SUMMARY

The 2019-20 Santa Barbara County Grand Jury (Jury) inspected the facility and operation of the Santa Barbara County Sheriff-Coroner's Bureau (Bureau). The Jury noted lack of compliance with new standards. The facility was built with County inmate labor in 1987 and has been in continuous operation since 1988. While the building may have been adequate thirty years ago, it does not meet national standards in 2020.

This Jury researched the reports of earlier Santa Barbara County Grand Juries and saw that many of their recommendations have not been implemented. As a result, the Bureau and its facility remain outdated. The current Jury found there is still an urgent need for a new facility that meets the industry standards of the 21st Century.

BACKGROUND

The 2012-13 Santa Barbara County Grand Jury report on the Santa Barbara County Sheriff-Coroner's Bureau found that the facility was in need of a significant upgrade. The report concluded that the facility was not in compliance with *California Code of Regulations (CCR); Title 8, Section 5199* California Occupational Health and Safety Administration (Cal/OSHA) regulations applicable to facilities where autopsies are performed. That Jury recommended that the facility should meet industry standards with the capability of being accredited by the National Association of Medical Examiners. The 2014-15 Santa Barbara County Grand Jury determined that the facility was still non-compliant. The 2015-16 Santa Barbara County Grand Jury also confirmed that the facility was still not compliant and stated that there was an urgent need for a new facility. The Jury also reiterated the need for improved ventilation for the autopsy room.

In 1987, the Santa Barbara County Sheriff-Coroner (Sheriff-Coroner) requested that the Board of Supervisors (BOS) provide emergency funds to construct a stand-alone facility. The facility was intended to handle all aspects of investigating the cause and manner of death, as required by California law. Upon recognition of the emergency need, the BOS approved and directed the construction of a facility to be built on County-owned property on San Antonio Road. The building was constructed using inmate labor from the County Jail. The 2012-13 Jury stated that there is no record of a building permit on file, indicating the building never went through the normal review and approval process.

According to the 2012-13 Jury, the original building plan called for two autopsy rooms, a refrigeration unit and two offices for staff. The second autopsy room was never utilized and became a toxicology lab. It is now currently used for storage and a break room. A second building provides additional office space for staff. Since 2013, major upgrades have included an emergency back-up generator to the main building and an improved ventilation system for the autopsy room.

Santa Barbara County has had a Sheriff-Coroner as the head of the Coroner's Bureau since 1947. In California, the sheriff is also the coroner in 41 of 58 counties. California is only one of three states which permit the sheriff to also be the coroner. In response to this and other issues

regarding possible conflicts of interest, in 2018, the California State Senate passed SB1303 requiring all counties with a population in excess of 500,000 to separate the roles of sheriff and coroner. Governor Brown vetoed the bill.

METHODOLOGY

The Jury reviewed the duties and functions of the Coroner's Bureau by visiting the facility and interviewing staff. It also researched previous Santa Barbara County Grand Jury Reports, state legislative reports, Cal/OSHA regulations, and the standards of the National Association of Medical Examiners and the National Institute of Standards and Technology.

OBSERVATIONS

The Santa Barbara County Sheriff is the Sheriff-Coroner. Santa Barbara County joined 40 other counties using the Sheriff-Coroner model in 1947. The remaining 17 counties have either a medical examiner or a lay coroner. The Sheriff-Coroner is not subject to mandatory state or national accreditation. A medical examiner model operates under more stringent regulations and must meet national accreditation and quality assurance standards. Moreover, the Sheriff-Coroner is not independent from law enforcement supervision.

The Santa Barbara County Coroner's Bureau is currently staffed by a sergeant who is the supervisor, four coroner's investigators, one full-time pathologist, two extra-help technicians, and one administrative office professional.

The Bureau staff state that they review approximately 1500 deaths and conduct between 700 and 800 death investigations annually. The Pathologist, on behalf of the Sheriff-Coroner, determines a deceased person's time and cause of death, often in the case of sudden or unexpected deaths. The Bureau staff identify bodies, notify the next of kin, and return personal belongings to the family. They work with the Santa Barbara County Sheriff and city police departments within the County to investigate suspicious or violent deaths. The Santa Barbara County Coroner creates death records that can be used in criminal investigations, to resolve insurance claims or to monitor Santa Barbara County public health.

In Santa Barbara County, all autopsies are done in one room. The Bureau does not have an isolation room to handle high risk cases to prevent the possible transmission of air-borne pathogens. After many reports from previous Grand Juries, the ventilation system in the autopsy room was finally updated in 2017. It is now designed to cause negative air pressure in the autopsy room to prevent pathogens from entering other parts of the building from the autopsy room. However, the discharge from the ventilation system, installed on the roof above the autopsy room, is not monitored and possible aerosolized pathogens might be discharged into the atmosphere.

Autopsies are performed on gurneys, not on a stainless-steel table, and there is no dedicated dissection table. It was observed that the gurney used for the autopsy is cleaned by hand and drained by lifting and tilting the gurney in order to drain the residue into the sink in the autopsy room.

The Bureau lacks other preventive measures to safely protect staff and equipment. There is no transition room for staff to remove protective clothing and clean up. There is no equipment to

sterilize instruments used in performing autopsies. Although instruments are cleaned with soap and water, cross-contamination cannot be avoided. It was observed that there was no eye-wash station located in the autopsy room when this Jury inspected the Coroner's Bureau in October 2019. However, that has since been rectified and there is now an eye-wash station in the autopsy room.

There is a refrigerated room where bodies are placed in body bags and stored on racks within the room. The facility has a back-up generator in the event of a power failure. Outside the main building in a secure area there is an additional refrigerated unit capable of storing two bodies and an industrial scale to weigh bodies. The weight of the body is determined after deducting allowance for the body bag and the gurney.

Recently, the Bureau has acquired a machine to analyze DNA for identification of victims. This saves time and money by eliminating the need to send samples to an outside lab, which could take weeks to obtain results. This valuable resource can now perform the identification and obtain results in a few hours.

CONCLUSION

As has been reported by many previous Grand Juries in 2012-13, 2014-15 and 2015-16, and reconfirmed by the 2019-20 Santa Barbara County Grand Jury, the Santa Barbara County Sheriff-Coroner's facility should be replaced as soon as possible. The Jury finds that the serious inadequacies of the facility jeopardize the health and safety of the staff and the public.

The Grand Jury recommends that the Santa Barbara County Board of Supervisors establish an independent Coroner's Bureau, one that can be accredited by the National Association of Medical Examiners. Santa Barbara County has recently faced many deaths from natural disasters, man-made emergencies, accidents and pandemics. There should be a new, fully accredited facility to meet the challenges of the 21st century.

FINDINGS AND RECOMMENDATIONS

Finding 1

The current building, constructed in 1987 and adapted to be the Sheriff-Coroner's Bureau in 1988, does not meet National Association of Medical Examiners standards.

Recommendation 1

That the Santa Barbara County Board of Supervisors allocate funding for a facility specifically designed as a Coroner's Bureau, built to meet the current recommended standards of the National Association of Medical Examiners.

Finding 2

There is one autopsy room, no toxicology lab and no isolation room dedicated to handle high risk cases.

Recommendation 2

That the Santa Barbara County Board of Supervisors specify that the Coroner's facility be designed with two autopsy rooms, a toxicology lab, an isolation room, and a refrigeration room.

Finding 3

Discharged air from the autopsy room ventilation system is not monitored, resulting in air-borne pathogens being discharged to the atmosphere.

Recommendation 3

That the Santa Barbara County Sheriff-Coroner monitor discharged air and ensure that no air-borne pathogens are discharged into the atmosphere.

Finding 4

The bodies are placed in the refrigeration room in body bags and stored on racks.

Recommendation 4

That the Santa Barbara County Sheriff-Coroner provide a more modern method of body storage such as refrigerated drawers.

Finding 5

An industrial scale is located outside the Sheriff-Coroner's building.

Recommendation 5

That the Santa Barbara County Sheriff-Coroner install a body scale within the Sheriff-Coroner's building to determine accurate weight, without consideration of the weight of the body bag or the gurney.

Finding 6

There is no stainless steel dissecting table with wash down equipment in the autopsy room.

Recommendation 6

That the Santa Barbara County Sheriff-Coroner install a stainless steel dissecting table with dedicated drainage in the autopsy room.

Finding 7

The residue from autopsies drains into a sink, which is discharged into the public sewer system.

Recommendation 7

That the Santa Barbara County Sheriff-Coroner handle residue from autopsies as biological hazardous waste.

Finding 8

All instruments are manually cleaned with soap and water. This is a safety hazard and cross-contamination between autopsies cannot be avoided.

Recommendation 8

That the Santa Barbara County Sheriff-Coroner install an autoclave to ensure all instruments are sterilized after cleaning.

Finding 9

The Santa Barbara County Sheriff-Coroner's Bureau is not accredited by the National Association of Medical Examiners.

Recommendation 9

That the Santa Barbara County Board of Supervisors require that the Sheriff-Coroner's Bureau meet the standards for accreditation set by the National Association of Medical Examiners and the National Academy of Sciences, as recommended by the U.S. Department of Justice.

Finding 10

In Santa Barbara County, the Sheriff is also the Coroner.

Recommendation 10

That the Santa Barbara County Board of Supervisors separate the Santa Barbara County Coroner position and make it independent from the Santa Barbara County Sheriff when the current Sheriff-Coroner's term expires.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations with the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why
-

Santa Barbara County Board of Supervisors – 90 days

Finding 1, 2, 9, 10

Recommendation 1, 2, 9, 10

Santa Barbara County Sheriff-Coroner – 60 days

Finding 3, 4, 5, 6, 7, 8

Recommendation 3, 4, 5, 6, 7, 8

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CITY OF SANTA BARBARA
COMMUNITY DEVELOPMENT DEPARTMENT
MAKE IT A CAN-DO DEPARTMENT

Publication of the

2019-20 Santa Barbara County Grand Jury

June 2, 2020

CITY OF SANTA BARBARA COMMUNITY DEVELOPMENT DEPARTMENT

MAKE IT A CAN-DO DEPARTMENT

SUMMARY

The 2019-20 Santa Barbara County Grand Jury (Jury) received a request for investigation expressing concern that the City of Santa Barbara Community Development Department (CDD) was poorly run with an unhelpful staff. The request went on to describe frustration with the length of time to obtain even the most basic of permits.

The Jury investigated the CDD and its planning permit process, the effect of the current fee structure on development, its management, the culture within the department, its approach to customer service, and the growth philosophy of the City of Santa Barbara.

As a result, the Jury determined that there is a lack of strong leadership at several levels, insufficient coordination and communication between the Building and Safety Division and the Planning Division, an impression of a slow growth policy, inconsistent customer service and a fee structure which could be a deterrent to building development.

BACKGROUND

The CDD has four divisions: Building and Safety, Housing and Human Services, Administration, and Planning. Each division has a manager who reports to the CDD Director. This report only pertains to the Building and Safety and Planning divisions.

The Building and Safety division, headed by the Chief Building Official, has three departments consisting of Building Inspection and Enforcement, Records and Archives, and Plan Check and Counter Services.

The Planning Division, headed by the City Planner, has four departments consisting of Design Review, Development Review, Zoning and Enforcement, and Long-Range Planning and Special Studies.

METHODOLOGY

The Jury interviewed senior members of the CDD along with local land use professionals including architects, developers, housing advocates, a former planning commissioner and realtors. In addition, documents provided by the CDD and various news accounts regarding the department were reviewed.

OBSERVATIONS

Interviews with the land use professionals disclosed that their experiences with the CDD staff led them to believe that a bias existed against growth in the City of Santa Barbara. This bias was most evident in the delay in approval of permits.

A common complaint was the difficulty in getting corrections on submitted plans communicated by staff in a timely and efficient manner, necessitating multiple visits which cause expensive delays. Other counties and cities routinely provide checklists at the beginning of the permitting process. Checklists are not always handed out by the City of Santa Barbara at the beginning of the process. Another complaint was a lack of consistency in the application of the CDD standards and codes with inconsistent interpretations. In addition, some staff reviews exceeded the authority of their review. Also contributing to inconsistency is the fact that newly hired staff do not have the necessary training or local knowledge and experience. The use of private, third-party plan checkers hired by the applicants helped alleviate some of the delays but adds costs.

To many, a main characteristic of Santa Barbara's permitting process is being overly detail-oriented. Each step becomes time-consuming. At times, there are 10-11 reviewers on a project and some appear to work without regard to the overall timeline. As one developer stated, it seems that they are looking more for violations than to help move the project along. This practice has been described as trying to do the right thing, while keeping Santa Barbara pristine and beautiful. The Jury learned that this practice delayed the approval of projects and that at times the staff in the Planning Division were unaware that they were up to a month behind schedule.

In the Jury interviews with CDD staff, the criticisms of the time needed to complete the permit application process were accepted as fair, with various reasons given in explanation. Department and division leaders provide staff with performance reviews, which are available to City Council members, but there are few repercussions for not achieving performance goals.

When staff members applied their own interpretation of the code, they were admonished, but often without consequence. Remedies for inappropriate actions can include verbal warning, reprimand, performance improvement plan, and suspension without pay. Staff are protected by union agreements and Human Resources policies, sometimes making corrective actions difficult to achieve.

In the City of Santa Barbara there are several review boards, including the Architectural Board of Review, the Historic Landmarks Commission, the Single-Family Design Board and the Sign Committee. Each board has noticing requirements for public review. The discretionary nature of these boards adds to the delays. Several individuals interviewed expressed concerns that the review boards are acting without a sense of urgency and without objective guidelines. To the applicants and to some members of the CDD staff, it appears that the process is personal with each board member having their own set of standards and beliefs about what Santa Barbara should look like. There are published guidelines for the boards but at times they go beyond their responsibilities. The Jury was told of one case where a board reviewed a floor plan for a project when their responsibility was limited to reviewing the façade.

Review boards are part of the city charter. To make any changes to one of the boards, even to reduce the number of people on the boards, would require a vote by the City Council. The boards' authority has been inviolate for some time. Only the City Council can overrule them. Training on timely review and boundaries for the review boards by the CDD staff is underway to seek to remedy this problem. A staff member has also been assigned to each board to help ensure that it will not exceed its authority.

The Jury was told that development fees were seen as too high, especially in light of the service rendered by the CDD staff. The CDD gets some funding from the general fund and is encouraged to fund operations from the assessment of fees. The Jury studied a recent study by Revenue & Cost Specialists in 2019 that recommended increasing many fees in the Planning and Building

and Safety Divisions, usually to cover the costs of the work of employees and overhead.[18] The increase in fees in some suggested areas would total $1.6 million in additional revenue. This recommendation is incorporated in the 2020-21 City of Santa Barbara proposed budget, which is being considered. Fees which are set based upon the costs to run the department are not necessarily reflective of the market and may not encourage appropriate development.

The City of Santa Barbara has a long list of codes and regulations. Over the years, the City Councils have wanted to maintain Santa Barbara's environmental reputation but also have created layers and delays to the process. Storm water requirements are an example. Typically, those requirements are just for larger projects. A previous City Council voted to have its own discharge permit for all projects, unlike other cities in California. Applicants did not know that they would have to comply with these requirements and were surprised that they had to make changes to comply. The Jury was told when a City Council makes something more restrictive, it often does not understand the ripple effect and delays further along.

While the department as a whole does not have a "no growth" bias, it was admitted by CDD leadership that some staff might have that bias. There are staff members who exhibit independence in the interpretation of the codes that leads to a broader review of the project than is required, causing delays and additional costs to the project.

Management of the CDD department stated that department efficiency needs improvement, with turnover a problem due to early retirements and younger staff moving to less expensive places to live and work. Some management has retired recently, just as Santa Barbara was in a four-year cycle of increased development. Staff felt overworked after workers and supervisors left at a crucial time. This turnover, together with unfilled positions, impacts timeliness and increases the heavy workload. Over time, this causes damage to morale in the department.

The Jury was told several times that there is a lack of good customer service when staff is working with the public. It was also stated that reaching staff by phone or email was difficult and responses were not always timely.

There are no assigned planners, except for commercial and larger projects. Further, there is a practice to rotate staff at the counter in the Planning Division assisting the public, which leads to inconsistent application of the codes and standards. A staff member estimated that plan checkers are constantly interrupted by counter visits and phone calls, allowing them to spend only 35-40 percent of their time to check plans. Management overestimated their capacity to get all projects approved on a timely basis.

There exists a real need to improve workflow with the non-ministerial portion of the department working at a pace that does not always match the expectations of the public. An independent third-party workflow analysis[19] of the department is underway with results expected by May 2020. The Jury was told that staff efficiency has already improved, knowing that everyone is under observation.

During the Jury's interviews, several ideas to improve efficiency were suggested. One idea suggested to shorten the review process time was to consolidate all building and zoning ministerial approval processes under one staff team, budget and manager, as once was the practice. Another idea was, if the building and zoning ministerial processes were not

[18] Revenue & Cost Specialists, LLC. "Land Development Team Fee Study for the City of Santa Barbara." March 2019.
[19] Land Development and Construction Permitting Workflow and Organizational Study

consolidated, to require that planning and zoning review and approval occur before building permit application.

The coordination and communication between the Planning and Building divisions are not efficient and create bottlenecks in the process. The departments appear to operate independently of each other and at times the public receives contrary information from each of the departments. As a result, permit approval times can be long.

However, the CDD has shown it can mobilize to help development. In 2019, the City created a new program, "ACCELERATE State Street" with the intention of filling retail space on State Street. City Council and CDD provided some services at no cost, including three hours with a planning consultant, and ensured that permit applications were processed quickly with a number approved over the counter. Applications were given priority placement on board agendas. CDD also offered free advisory services for such things as ADA[20] requirements, fire safety and storm water. They even held public forums to explain new processes to encourage new projects. In this case, the City saw a need to revitalize not only downtown but its own methods.

While all experiences were not the same among the individuals the Jury interviewed, the common theme was the CDD department suffered from a lack of strong leadership. This lack of leadership manifested itself in allowing a culture that was not customer friendly with some of the staff not interested in helping projects get permitted. The department leadership has recently held meetings to revamp the processes and improve relations with the members of the public who are experiencing delays and are frustrated.

CONCLUSION

The 2019-20 Santa Barbara County Grand Jury determined that there was lack of strong leadership within the Community Development Department at several levels, insufficient coordination and communication between the Building and Safety Division and the Planning Divisions, support of a culture of slow growth, inconsistent customer service and a fee structure and permitting process which appear to be a deterrent to building and development within the City of Santa Barbara.

Now more than ever, considering the effects of the COVID-19 pandemic, the need for a vibrant local economy requires that the Community Development Department be an efficient, can-do agency, working to get Santa Barbara revitalized. The leadership needs to shepherd the department toward promoting vibrant growth in the City of Santa Barbara.

FINDINGS AND RECOMMENDATIONS

Finding 1

There has often been criticism by those that interact with the Community Development Department.

Recommendation 1

That the City of Santa Barbara direct the Community Development Department to develop and present a series of public workshops to explain its processes and procedures and address questions and concerns from the public.

[20] Americans with Disabilities Act

Finding 2

The length of time to get a permit issued by the Community Development Department can be discouragingly long.

Recommendation 2

That the City of Santa Barbara direct the Community Development Department to establish and adhere to reasonable definitive timelines for issuing permits.

Finding 3

There is a perception by many who interact with the Community Development Department that some staff do not favor growth.

Recommendation 3

That the City of Santa Barbara direct the Community Development Department leadership team to collaborate with staff to help shift its culture from a perceived slow growth approach to a dynamic growth approach.

Finding 4

There is a lack of coordination and communication and an inefficient work flow between the Planning and Building and Safety Divisions within the Community Development Department.

Recommendation 4a

That the City of Santa Barbara share the results of the "Land Development and Construction Permitting Workflow and Organizational Study" with the Community Development Department staff and direct that the Department implement appropriate recommendations for reorganization and streamlining in a timely manner.

Recommendation 4b

That the City of Santa Barbara direct the Community Development Department to consider consolidating all Building and Zoning ministerial approval processes under one staff team, with one manager and budget.

Recommendation 4c

That, if Recommendation 4b cannot be implemented, the City of Santa Barbara direct the Community Development Department to do building and zoning review and approval before a building permit application is accepted.

Recommendation 4d

That the City of Santa Barbara direct the Planning and Building and Safety Division leaders to brief their employees on each other's functions, so there is a better understanding of where and why they need to coordinate.

Recommendation 4e

That the City of Santa Barbara direct the Community Development Department leadership team to make promotion of teamwork as a part of every Community Development Department annual employee performance review.

Finding 5

A morale problem exists in the Community Development Department.

Recommendation 5

That the City of Santa Barbara direct the Community Development Department to hire an outside consultant to identify causes for low morale, and recommend solutions for improving working conditions, teamwork and employee-management relations.

Finding 6

The current City of Santa Barbara's permitting fee structure discourages development.

Recommendation 6a

That the City of Santa Barbara direct the Community Development Department leadership to review and analyze its permit fee structure to determine if there are acceptable ways to lower fees, create additional incentives or both to offset costs.

Recommendation 6b

That the City of Santa Barbara fund some costs of the Community Development Department and eliminate the need for the department to be self-sustaining.

Finding 7

There is ineffective oversight and leadership from upper management.

Recommendation 7

That the City of Santa Barbara direct the Community Development Department to hire an outside consultant to work with upper management to improve management and oversight skills.

Finding 8

There is inadequate staff training in the Community Development Department.

Recommendation 8a

That the City of Santa Barbara direct the Community Development Department to review and update the training requirements, including customer service, for each position within the department.

Recommendation 8b

That the City of Santa Barbara direct the Community Development Department to develop comprehensive training programs for all staff positions with target dates to complete new, refresher and cross training.

Recommendation 8c

That the City of Santa Barbara direct the Community Development Department to develop a strong mentoring program within the Department.

Finding 9

There is inconsistent application of building codes in the Community Development Department.

Recommendation 9a

That the City of Santa Barbara direct the Community Development Department to develop, conduct and update building code training sessions for all Department employees that have occasion to use or apply codes, with refreshers when there are code changes.

Recommendation 9b

That the City of Santa Barbara direct the Community Development Department upper management to identify a building code expert from within the Department who can answer employee technical questions and settle in a timely manner any internal application issues that might arise.

Recommendation 9c

That the City of Santa Barbara direct the Community Development Department upper management to ensure that all building codes are interpreted consistently.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why

City of Santa Barbara – 90 days

Findings 1, 2, 3, 4, 5, 6, 7, 8, and 9

Recommendation 1, 2, 3, 4a, 4b, 4c, 4d, 4e, 5, 6a, 6b, 7, 8a, 8b, 8c, 9a, 9b and 9c

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GRAND JURY
SANTA BARBARA COUNTY

PUBLIC ALERTS FOR PUBLIC SAFETY POWER SHUTOFFS AND EMERGENCIES

Publication of the

2019-20 Santa Barbara County Grand Jury

June 10, 2020

PUBLIC ALERTS FOR PUBLIC SAFETY POWER SHUTOFFS AND EMERGENCIES

SUMMARY

The 2019-20 Santa Barbara County Grand Jury investigated the methods and effectiveness of County public communications providing actionable information and alerts for Public Safety Power Shutoffs (PSPS) and emergencies. The methods include webpages, hotlines, announcements on public and social media, and contacts with individuals by email, phone, text and sometimes personal visit. PSPS and emergencies present different decision-making challenges, so the procedures for timely and reliable communications are different. A PSPS event is scheduled and predictable but it is difficult to ensure that everyone is contacted because a small staff is used to cover a large area and population. Emergency events often involve a larger staff and a smaller affected population, but they are rarely predictable and need rapid decisions and communications. The Jury found that staff in the County's Office of Emergency Management (OEM), Sheriff's Office, and the Public Health and Fire Departments have identified and made plans for many communications problems, both existing and potential.

Some of these plans are incomplete, and the Jury found other problems needing attention. The Jury recommends three areas for improvement:

1. Some groups may not get the alerts they need, including those whose electricity accounts are held by landlords or property managers, and those who understand neither English nor Spanish.
2. People who depend on electricity for survival to run medical devices, refrigerate medications, or run air conditioners, wheelchairs, elevators and other appliances may not get the extra information they need, or be able to carry out the actions advised for them. Those who cannot find shelter with family or friends could be especially at risk.
3. People seeking information to prepare for PSPS or emergencies may not be able to find it on County web pages, which are scattered, hard to navigate, incomplete and poorly coordinated.

INTRODUCTION

This report describes two related investigations by the 2019-20 Santa Barbara County Grand Jury (Jury).

The first concerns Public Safety Power Shutoffs (PSPS). The 2017 California wildfire season was the most destructive on record. Several of these fires were later determined to have been ignited by power lines. One pro-active safety measure is to temporarily shut off power to a line predicted to be at high risk of causing a fire due to dry vegetation, imminent strong winds and extreme heat. This measure, called a PSPS or a De-energization, was first used by San Diego Gas and Electric in 2013. Santa Barbara County's power lines are owned by Southern California Edison (SCE) and Pacific Gas and Electric (PG&E). Both began using PSPS in December 2017 and early 2018 respectively.

Active power lines can ignite wildfires in several ways, especially in high winds. These include:

- Breaking: in up to 30% of cases the fuses and circuit breakers are not triggered when the line breaks. The line remains active, producing high-temperature arcs which can ignite nearby vegetation.
- Vegetation contact: if a branch falls across two lines, it can cause high-temperature arcing or itself become ignited.
- Conductor slap: lines slapping together can create high-energy arcing and eject hot metal particles capable of igniting nearby vegetation.[21]

Decisions in Santa Barbara County to begin or end a PSPS are made entirely by SCE or PG&E, which are overseen by the California Public Utilities Commission (PUC) and the State legislature. Neither public officials nor the public have any input to these decisions. The Jury has no jurisdiction over these entities. The investigation focused on local issues: possible dangers to the public and especially to vulnerable groups, methods for notifying these groups and averting these dangers, the reliability of these methods, and the actions people should take before and after notification.

After initial study, the Jury restricted its investigation to communications with the public. PSPS raises many other issues. For example, the most important communications are usually those with vital services, such as firefighting, law enforcement including the California Highway Patrol, hospitals, medical clinics, businesses such as groceries, gas stations or hotels, transportation and communications systems, water suppliers, sanitation, public information agencies, and the emergency operations themselves. Averting dangers in the future may require new infrastructure, such as cooling centers, buried power lines, micro-grids, and neighborhood self-help groups. These issues are complex, and not covered in this Grand Jury report.

The second investigation concerns emergencies in general. The 2010-2011 Santa Barbara County Grand Jury produced a valuable report on this topic. It discussed the role of city governments as well as the County. However, there have been some organizational and technology changes at the County level since then.

Emergencies raise far more issues than PSPS. There is a great variety of possibilities listed on the Federal Emergency Management (FEMA) website[22] under Disasters and Emergencies, and in Table 1 of the 2017 Santa Barbara County Multi-Jurisdictional Hazard Mitigation Plan.[23] Nearly all emergencies require different types of preparation and complex responses, including contingency plans and quick decisions as events unfold. Many of these are not discussed in this Report. For example, this Report does not discuss the COVID-19 pandemic, or future catastrophes such as those expected from climate change and sea level rise. Nor does it discuss earthquakes and tsunamis[24] for which warnings are mainly a State or Federal responsibility, though local authorities are very active in the responses, including the alerts and notifications, and have detailed Emergency Plans.

For both PSPS and emergencies, public communications provide action advice as well as information. The advice must reach the people who need it and be acted on promptly. Although

[21] wildfiremitigation.tees.tamus.edu/faqs/how-power-lines-cause-wildfires. Last visited May 25, 2020.
[22] www.ready.gov/ Last visited May 25, 2020
[23] www.countyofsb.org/ceo/asset.c/3416 Last visited May 25, 2020
[24] earthquake.ca.gov/ and www.tsunami.gov/ Last visited May 25, 2020

there are many differences, most public communication issues arising in PSPS events also arise in emergencies.

For these communications four problems must be solved: whom to tell, how to tell, when to tell and what to tell. The answers to all four are constrained both by resource limitations and the need to avoid confusion and warning fatigue due to frequent false alarms.

Differences between PSPS and Emergencies

Despite their similarities, PSPS and emergencies face different challenges. A PSPS event will not be classified as an emergency by the County except in extreme cases when external help is needed.

A defining characteristic of an emergency is the potential need for the evacuation of a neighborhood. A PSPS does not lead to such broad evacuations, though some groups may need to move so that vital medical equipment can be powered, medications can be kept cold, and heat stress can be avoided. Unlike an emergency, when a utility declares a PSPS it has the ability to mitigate the effects that the PSPS may cause.

There are two further differences between emergencies and PSPS which affect public alerts and notifications.

First, a PSPS usually follows a standard timeline which can be confidently predicted. The main constraint is that weather can be reliably forecast only about three days in advance. This timeline allows decision-making and notification processes to be set up with little need for major last-minute changes during the event. Most key services can continue to function at near-normal levels; however, extra staffing, office relocation, or other arrangements may be required. In contrast, the predictability and timeline of an emergency depend on the event: no detailed standard protocol is possible. Earthquakes, tsunamis, law enforcement crises and toxic spills can require very rapid action. Fires and storms allow more time for assessment, but whether an alert should be issued because a small fire is likely to grow, or a heavy rainstorm threatens a debris flow, often requires a judgment by trained officers at the site.

Second, the area affected by a PSPS event is usually too large for door-to-door notification or other intensive methods. Most people must be notified by electronic means, which reach only those who are either registered or able to receive messages on mass or social media. In contrast, many emergencies affect a relatively small neighborhood, so that door-to-door notification or alerts from loudspeakers attached to vehicles may reach almost all who need them.

Because of the above differences, the County agencies with most responsibility for public alerts are not the same for PSPS as they are for emergencies.

METHODOLOGY

The Jury studied websites, reports and documents from PG&E, SCE, OEM, Santa Barbara County Public Health, and non-profits; read articles in journals, newspapers, news magazines, and internet pages; and attended public meetings.

The Jury also interviewed several County officials from the County Board of Supervisors, the Chief Executive Officer’s office, OEM, the Sheriff's Office, the Fire Department, and the Public Health Department.

In addition, representatives from both SCE and PG&E made helpful presentations to the Jury, provided documents outlining their procedures, and answered many questions clearly and in detail, both in interviews and in follow-up emails. Their help was voluntary and is appreciated.

OBSERVATIONS

PSPS: Dissemination of Preparation Advice

For both PSPS and emergencies, the County's main "one stop" website is OEM's ReadySBC.[25] PG&E[26] and SCE[27] also maintain websites dealing with PSPS. These websites contain information about the reasons and decision procedures for PSPS events, advice about preparations, and descriptions of particular events as they unfold. The preparation advice includes ways to stay abreast of future events, such as sign-ups and websites. These sites also have recommendations for vital supplies, which might be difficult to obtain once a PSPS has begun.

PSPS Alerts and Advice: Imminent Shutdown

The decision to declare a PSPS is made exclusively by the utility, either PG&E or SCE. Neither the County nor the Grand Jury has jurisdiction over them.

The utility's decision is subject to the PUC's Rule-making Resolutions and Guidelines and its reporting requirements. Potential sanctions can follow a PUC hearing on adherence to the guidelines, including that the utilities "must deploy de-energization as a measure of last resort and must justify why de-energization was deployed over other possible measures or actions," and an overall requirement that the decision be "reasonable."[28] Public notifications also form a significant part of these guidelines.

Each utility outlines its decision process on its website. Neither PG&E nor SCE base their decision on a formula. Both use factors describing conditions near the power line and likely effects of the shutdown, but the factors are not identical. Those common to both are not given the same weight. For example, a wind speed of 35 mph or a humidity level of 20 percent may be of more concern to one utility than to the other. The factors include:

- National Weather Service Red Flag Warnings
- low humidity levels
- high forecasted sustained winds and strong wind gusts
- dry fuel
- information from field crews and hundreds of weather stations (both public and corporate)

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[25] readysbc.org and readysbc.org/psps Last visited May 25, 2020

[26] www.pge.com. Choose OUTAGES and use the list under PUBLIC SAFETY POWER SHUTOFF. Last visited May 25, 2020

[27] www.sce.com/safety/wildfire/psps See also www.sce.com/safety/wildfire/psps/fire-weather Last visited May 25, 2020

[28] "De-Energization (PSPS)" California Public Utilities Commission. www.cpuc.ca.gov/deenergization/ Last visited May 25, 2020

- assessments by in-house meteorologists using their own high-resolution weather models
- public safety advice from state and local authorities (fire, police, emergency services)
- expected impact of a shutdown on essential services
- the state of the potentially impacted circuits

Similar factors are used to decide when power may be safely restored. Before this can be done, crews must patrol the affected lines to check for damage and make repairs. These activities must be done in daylight, and can take as long as two or more days. Once the decision is made, power can be restored in minutes. However, the public is advised to disconnect appliances during the outage to avoid surges, leaving a single lamp on to show when the power returns.

PG&E notes that the shutdown will affect all users served by the power line, even if they are far from the high-threat section. Much of Santa Barbara's North County could be shut down even when it is at low risk for fire, because it is served by PG&E lines which come from Atascadero or Morro Bay. SCE is further ahead in modernizing its grid and dividing it into sections, so its shutdowns are likely to affect smaller areas.

The City of Lompoc owns its electrical utility, but uses PG&E lines. The City has no control over these lines.[29] PG&E can shut off the City's power, even if there is no fire risk in the area.

After the shutdown decision has been made, usually three days before it is planned to begin, each utility sends PSPS alerts to the County's OEM, Fire, Sheriff and Public Health, other critical service providers such as cities, hospitals, telecommunications, water and sanitation agencies, and to the other public utility. Earlier notification seems to be unwise: the inaccuracy of weather prediction beyond three days increases the likelihood that the shutoff will be canceled after disrupting all these essential services and creating warning fatigue among these groups, as well as the public.

Once alerted by the utility, OEM immediately sends alerts directly to all County departments, affected cities and special districts, and hospitals. It also notifies other key services such as grocery stores, gas stations and hotels.[30] The Public Health Department notifies health facilities and senior centers.[31] Also, SCE notifies these facilities and centers soon after notifying OEM.

OEM and the utilities send alerts and advice to the public usually one day after they have been notified, by direct contact to individuals and by social media. In addition, OEM may interrupt public media. The active methods used are summarized in Figure 1. The next section gives more details of these efforts and those of Public Health, as well as passive methods, which provide more information to those who actively seek it.

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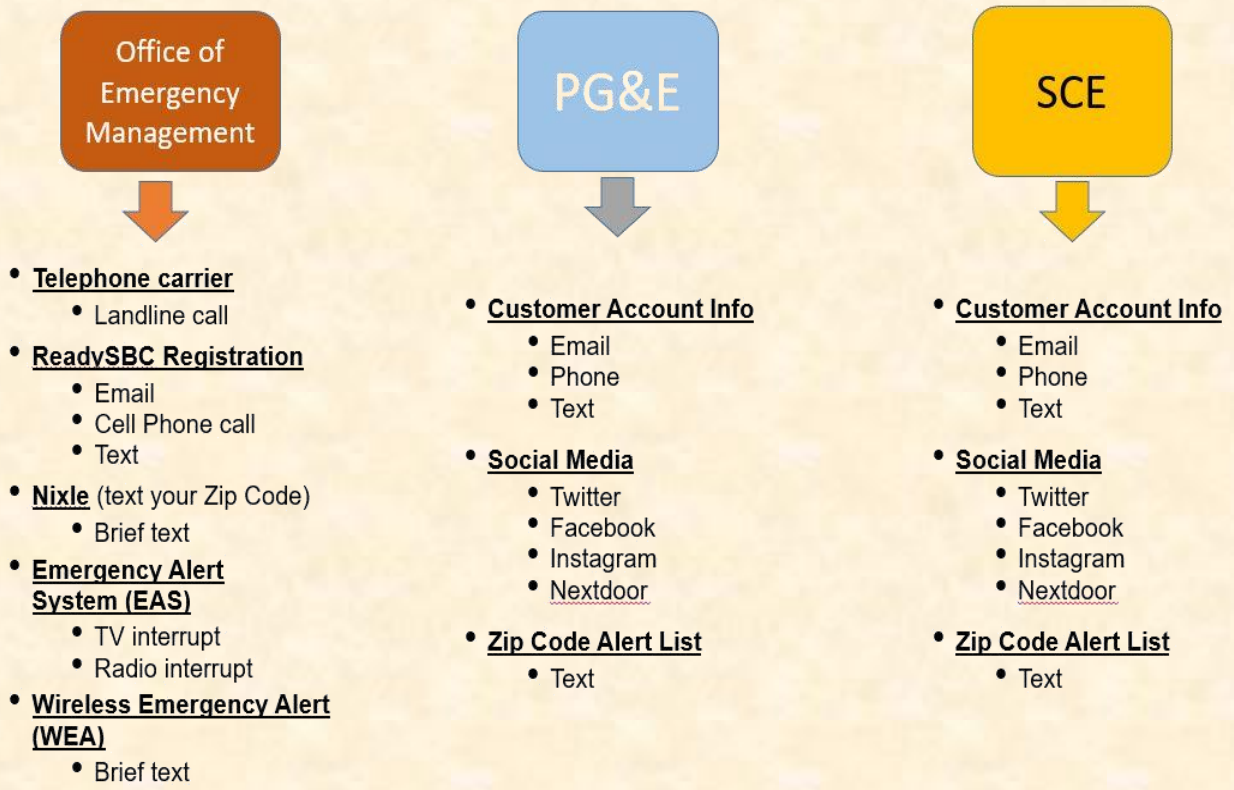
[29] www.cityoflompoc.com/government/departments/utilities
https://www.cityoflompoc.com/government/departments/utilities Last visited May 25, 2020

[30] OEM also notifies education (all levels), hazardous materials facilities, and communications infrastructure managers.

[31] Public Health alerts nursing homes, blood banks, dialysis centers, and skilled nursing, health care and hospice facilities.

Figure 1: PSPS Active Public Contact Methods: Summary



Whom to Tell and How to Tell

Utilities

Two days before the planned shutdown, PG&E and SCE alert their customers automatically, in English and Spanish, using customers' billing account information.

Earlier on the same day, both utilities notify Access and Functional Needs (AFN, or Medical Needs) customers enrolled in their Medical Baseline Programs. Both utilities will make extra individual phone calls to these customers if an initial automated email, text or phone call is not acknowledged. If the extra phone calls are unsuccessful, they will try to visit these customers in person.

Both utility websites say that residents whose electric service accounts are held by a landlord or property manager such as in apartment buildings or mobile home parks, are usually alerted only if they have registered for Zip Code alerts[32] or their manager alerts them. SCE has asked the account holders to post information telling tenants they can sign up for alerts and notifications at the zip code level or for the exact address if the account holder is willing to give tenants the account information.

For customers who understand neither English nor Spanish, PG&E offers the options to receive messages in Chinese, Russian, Vietnamese, Korean and Tagalog. SCE offers Mandarin, Cantonese, Korean, Vietnamese and Tagalog. Both allow users to choose these different language versions of their websites by clicking "English" at the right of the main page.

[32] www.sce.com/ Search for Zip Code Alerts. Last visited May 25, 2020

Both utilities use platforms such as Nextdoor.com and Nixle[33] to notify their subscribers. These outlets are less preferred because many of the people they inform are likely to be outside the affected area. The area affected will be identified on the utility's website, as well as OEM's, but even a brief false alarm can contribute to warning fatigue.

Office of Emergency Management (OEM)

OEM has different lists of contacts, so it may reach some people the utilities miss. Its main contacts for individual communications are people who are signed up for alerts on ReadySBC. Previously, residents used Aware and Prepare[34] to register for emergency notices. Those that do so now have their information automatically sent to ReadySBC.

As of May 2020, OEM sends its individual messages only in English and Spanish. It is considering sending messages in some Mixtec languages, especially for the Santa Maria area. There is no in-house capability for this yet, but interpreters have been identified.

OEM does not make a separate or increased effort to notify people medically dependent on electrical power. For example, ReadySBC has no provision for including such information when signing up.

Public Health Department

The Santa Barbara County Departments of Public Health and Social Services (DSS) work together to identify potentially affected AFN (Medical Needs) residents. DSS uses its client database including Adult Protective Services, In Home Support Services, and Child Welfare Services.

Public Health uses information from healthcare providers, the Independent Living Resource Center, other partner agencies, and its own lists of licensed and unlicensed facilities providing support services. It has a list of Medicare patients who are dependent on electrical medical equipment; however, there are no phone numbers attached to the list. This list and those from other local agencies and facilities are not always accurate and may be outdated: the person listed may be in hospice, deceased, recovered or moved. Public Health can also request limited information on community members through the federal Health and Human Services emPOWER Program. It has no lists of people who depend on electricity to refrigerate medications.

When a utility notifies OEM of a potential event, it provides phone numbers of registered Medical Needs customers; upon written request from OEM, the utility will provide a list with contact information for those in the affected circuits. Earlier notification is not possible under national privacy rules established in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). If the Emergency Operations Center (EOC) is activated, it can set up a center to take calls for assistance from individuals. The Jury learned that many of those on the AFN lists compiled by Public Health have not signed up for the Medical Baseline programs of the utilities.

Public Health relies on its partner agencies and support facilities it is able to contact, to make sure information gets to its clients. It is very difficult for Public Health to make door-to-door visits, even after reducing its lists to non-respondents who are not on the lists of other agencies,

[33] To sign up for Nixle, send your Zip Code as a text to 888777.

[34] www.awareandprepare.org/ Aware and Prepare began in Santa Barbara, replacing the Reverse 9-1-1 system that was previously used, but will soon be national and focus on emergency preparation, not alerts. Last visited May 25, 2020

facilities or utilities. In a few cases, such visits may be possible with the help of personnel from other County agencies.

When

Usually three days before the planned shutdown, the first contacts are from the utility to OEM and then from both the utility and OEM to County agencies and essential services. Two days before the shutdown, both the utility and OEM send their first alerts to the public. Another automated alert is sent one day before shutdown, and another just before it begins.

During the shutoff, and for a short period after it, OEM and the utility continue to send updates through social media, local news, radio and their websites, and also to each other to keep messages consistent. This can be especially important close to the time when power is restored to avoid surges.

What

The initial automated message from the utilities has a standard format and content. The following template is from OEM, which bases its message closely on the slightly longer one from the utility:

> PSPS Update: Potential Outage [*General Area*] On [*Day Of The Week*] ([*Date*])
>
> [*Utility Name*] has notified the public that they are considering turning off power to part of Santa Barbara County this week in order to reduce the risk of fire. Power has not yet been turned off. The outage may occur in [*Area Description*], beginning on [*Day Of The Week*] ([*Date Fraction*]). Residents in that area are encouraged to make preparations for a possible multiple day power outage and to check on friends and neighbors to make sure they are prepared. To determine if you live or work in or near a potential outage area, view the Public Safety Power Shutoff (PSPS) Interactive Map. Call [*Utility Acronym*] at [*Utility Phone Number*] or visit [*Utility* PSPS *Website*] for more info on this potential outage.

Subsequent messages can depend on later events so they are less easily standardized or predicted. However, they are also coordinated between OEM and the utility for consistency.

For most people, the information and action advice in these messages and on the websites they suggest are expected to be adequate if carefully read and promptly acted on. However, the Jury learned they may not be adequate for people who are ill, frail, disabled, or need power for vital medical resources. Many of these may need to evacuate, not only for medical reasons but also because elevators, garage doors, electric gates, air conditioners and other items will not work. Others may need assistance for tasks like food preparation without cooking facilities. The County does not provide appropriate shelters of its own or directions to any operated by others. The Red Cross will construct shelters in some emergencies, but it does not regard PSPS events as emergencies and does not respond to them.

OEM's advice to people dependent on electricity can be downloaded from readysbc.org/psps, under Additional Preparedness Resources. Briefly, its advice is either to rely on a generator or back-up batteries, or to plan for a local and an out-of-area location where power can be accessed. One interviewee told the Jury that even large batteries, costing more than $1,000, may need to be recharged after running major equipment for 32 hours.

Emergency Warnings and Advice to the Public

Initially, the County's public communications for emergencies are the responsibility of the Sheriff's Office and Fire Department, whose officers are at the scene. If the emergency persists, control of most decisions and messages moves to a Unified Command which meets in the Emergency Operations Center at the OEM building.

Emergencies: Dissemination of Preparation Advice

The main source of County advice on preparing for an emergency is the ReadySBC website. At present, the only mention of "emergencies" on this website's main page is a link for sign-ups to ReadySBC itself. The Jury learned that ReadySBC was originally developed in response to the Thomas Fire and the January 2018 debris flows. Most of its information on emergencies is specific to storms and found under Storm Readiness.

This page has a Build a Disaster Kit link to basic and emergency lists on the FEMA site. These may be daunting for some residents. A Chapman University study estimated that only 29.8 percent of U.S. adults who speak English or Spanish would answer "Yes" to Question 12 of its 2018 Survey[35]: "Have you or anyone in your household put together a disaster or emergency supply kit, containing supplies such as food, water and medical supplies?" If ReadySBC were to suggest that only a few items need to be constantly on hand while other may be obtainable after evacuating, more people might make useful survival kits.

Based on responses to Question 33 of the Chapman survey, the study estimated that 10.9 percent feel they would not know where to go if required to evacuate. Some who think they do know may find their choice to be unavailable. This percentage might be higher among those who are old or disabled, though some are likely to have caregivers or agencies to help them. The Jury found little guidance on shelters in County sites beyond "out-of-town friends or relatives." Step 9 of ReadySBC's Storm Readiness section, 10 Steps to Protect Yourself links the user to the FEMA site's section on Landslides & Debris Flow, which suggests "Text SHELTER + your ZIP code to 43362 (4FEMA) to find the nearest shelter in your area." The Jury did not test this advice. Family and friends may provide adequate refuge and resources for some. Others may be able to find refuge and resources from non-government organizations (NGOs) but contact lists for the NGOs are unavailable on ReadySBC. The websites of the County and other local governments do not publicize shelters of their own.

Also, ReadySBC has a Video Gallery. Its videos, some of them in Spanish, show press conferences, community meetings, interviews and on-scene films, all describing aspects of the Montecito Debris Flow. There are no videos on other emergency events or topics.

Public Health has an Emergency Preparedness webpage[36] but most of the advice is not for the general public. There is a Sign-Up link to Aware and Prepare. This has the same effect as signing up for ReadySBC, and its users will be automatically taken there. The Public Health page does not mention ReadySBC. The link promises "emergency notifications… based on the location you care about… events that may affect your home, workplace, school and… alerts for flooding or road closures in your area (and) for multiple facility locations." These promises appear less prominently on ReadySBC, under FAQs on the sign-up page. Only one location can be entered when signing up, but after logging in the user can add more locations. The notifications may not

[35] www.chapman.edu/wilkinson/research-centers/babbie-center/survey-american-fears.aspx Click Full Survey and Methodology to download "fear-V-methodology-report-ssrs.pdf." Last visited May 25, 2020

[36] www.countyofsb.org/phd/ems/epp.sbc Last visited May 25, 2020

cover emergencies other than flooding, but the Jury could not find a description of what is covered on ReadySBC except as "events."

The Sheriff's website[37] has an Emergency Notifications page with a Register link to ReadySBC and two videos directing users to sign up at Aware and Prepare. One of these videos also describes Nixle and has a clear summary of how emergencies are handled; half of this summary describes activities at OEM, but the video does not appear on ReadySBC or elsewhere on the OEM website.

The Santa Barbara County Fire Department's website[38] has an FAQ, “How do I subscribe to emergency notifications?”, leading to ReadySBC. Its Emergency Operations page describes only its own operations teams and equipment. For the public, background information and advice on a variety of emergencies appear under Programs and Education, especially Safety Preparedness. The user needs to hover the cursor over these headings; clicking either heading gives a page with no links to the advice shown by hovering.

The Preparedness Tips page of the website are for estates and rural areas, entirely about wildfires, and sometimes repetitious. It mixes long- and short-term advice, for example:

"Build or re-model your home with fire resistant materials,"

"Leave keys in the ignition,"

"Turn on the lights,"

"Do not forget the pets."

The Fire Prevention Tips page is entirely about children playing with fire. The Child Car Seat page does not mention "hot car" dangers. These examples and other parts of this website seem a work in progress and in need of updating.

Early stage: decisions made on the spot

Emergency actions usually begin with a 911 call from the public, a short-term weather prediction (e.g., storms or debris flows), or an urgent message from either local law enforcement or the California Highway Patrol (e.g., a major accident, an overturned vehicle with a toxic cargo, or a dangerous police action). The nearest available Sheriff's Deputies or Fire Department officers, often both, will be directed to the scene.

If the emergency event is confined to the jurisdiction of a city, the city has command of the initial response. If the city has its own police department (Guadalupe, Lompoc, Santa Barbara and Santa Maria), and/or its own fire department (Carpinteria-Summerland, Guadalupe, Lompoc, Montecito, Santa Barbara and Santa Maria), the city or its department may have formal command over the initial response though this can be shared or passed to the County if the emergency persists and grows. (These lists exclude Vandenberg Air Force Base, University of California Santa Barbara's Police Department, and volunteer fire departments.) This report covers only County procedures. Links to some city emergency plans are below.[39]

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[37] www.sbsheriff.org/ Last visited May 25, 2020

[38] www.sbcfire.com/ Last visited May 25, 2020

[39] www.cityoflompoc.com/government/departments/fire-services/disaster-preparedness/local-hazard-mitigation-plan; Last visited May 25, 2020

www.santabarbaraca.gov/gov/depts/fire/oes/emergency.asp; Last visited May 25, 2020

At the scene, the most senior relevant officer (Sheriff or Fire) becomes the Incident Commander (IC). Usually the Field Supervisor for the geographic area takes over this role quickly. The IC informs the Sheriff and Fire Department leaders and may send out non-urgent informational messages using social media (Twitter, Instagram, Facebook), a "Code 20" alerting the media of a newsworthy event by text message, and a phone message recorded on the News Line (1-805-681-5546).

If there is a threat to the nearby area, the IC has the authority to call for evacuation. If the area is small, the officers present may be able to go door-to-door, possibly assisted by a loudspeaker. In other cases, depending on the time of day, type of incident and alternative possible actions, alerts can be sent by County Dispatch. The rapid individual contact methods used by Dispatch are shown in this table[40]:

Table 1: Emergency Alerting Methods

Alerting Method	Limitations	How to Receive
Text messaging	240 characters	Sign up for Alerts.
Email	No character limits	Sign up for Alerts.
Robo calls to cell phones and to landlines	Slow: delays if a long queue of phones needing the alert	Sign up for Alerts.
Wireless Emergency Alerting (WEA)	90 characters	Be in the area impacted with a WEA-capable cell phone.
Emergency Alert System (EAS) - TV and Radio	2-minute message, Volunteer broadcasters	Have local radio or TV turned on.
Nixle Alert	138 characters	Sign up for Nixle.

The first three rows refer to signing up for Alerts with either ReadySBC or Aware and Prepare.

An evacuation warning or order requires specification of the area to be evacuated. In the best case, the IC can define the exact boundaries. In many cases the boundaries are uncertain and the IC is too busy to choose good ones. In these cases, Dispatch officers will use past practice and what they know about the situation to determine an appropriate area as quickly as possible. If the area is not yet large, the officers can use the IC's information, their own expertise and experience, and their maps of the region to make these choices. In other cases, they may use pre-planned evacuation maps. These are described in the next section, since they are more frequently used in the later stage.

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www.cityofsantamaria.org/city-government/departments/fire-services/fire-prevention-emergency-management. Last visited May 25, 2020

[40] santabarbara.legistar.com/LegislationDetail.aspx?ID=3715997&GUID=6CC5C72B-5CE5-4085-8A40-98267496BD21&Options=&Search= Meeting of November 6, 2018, Attachment and Presentation of Item 18-00844. Last visited May 25, 2020

Later stage: decisions made at the Emergency Operations Center (EOC)

If the emergency threatens to overwhelm the resources of the officers in Dispatch or on the scene, to become a multi-day incident, or to require multiple County agencies or significant County resources, control of the response is shifted to a Unified Command. This comprises senior representatives from OEM and the Sheriff's Office and Fire Department, and other agencies depending on the type of emergency. County Public Health, County Behavioral Wellness and the local Red Cross are frequent participants. The Unified Command meets at the Emergency Operations Center (EOC) in the OEM building, where it sets up a Joint Information Center (JIC). From this point, all information from the field goes to the JIC. Messages intended for the public are re-crafted by Unified Command to ensure consistency, and then distributed by OEM.

The IC and other officers on the scene, especially Public Information Officers, may continue to inform by public and social media, including live interviews. These and other updated information are often shown on CSBTV.[41] Other media outlets, which reach only the residents aware that they should monitor them, include Facebook, dial 2-1-1[42] and almost all local radio and TV stations.

If an evacuation is needed, it is usually first requested by the IC or other officers on the scene. The request is passed up the chain of command to the EOC and Unified Command. Command, with input from the JIC, confirms the validity of the request, and shares it with the JIC and any involved agencies so that all have the same information. The notification is usually sent out ("published") by OEM. In some cases, Dispatch will have re-assumed these responsibilities and will send some notifications.

In these later stages, the area in danger may have grown larger and more complex. Defining the area can involve the time needed for evacuation, the roads in and out, and the likely future path of the danger. In 2012, the Montecito Fire District, where such problems are especially severe, devised a map of predesignated Evacuation Zones.[43] The idea attracted County Fire, which expanded the project to the rest of the County with the participation of other in-County agencies. These maps were used for the Thomas Fire. Several factors are considered but the basic thought is to take about 60-90 minutes to evacuate each area if needed. This approach is not used in all cases but appears very valuable for large areas with difficult topography, narrow winding roads, and other difficulties.

DISCUSSION

Interviewees for this report pointed out areas which could improve as resources become available, and the Jury found others for itself.

Several groups are at risk of missing alerts and notifications. People with limited understanding of both English and Spanish are clearly offered other languages on utility websites but may not know of that service. These sites are not intended for emergencies in general. Mixtec languages are not included, but OEM is working on them for both PSPS and emergencies. For PSPS, people whose electricity accounts are held by landlords or property managers need to sign up for

[41] www.countyofsb.org/ceo/csbtv/home.sbc Last visited May 25, 2020
[42] 211santabarbaracounty.org Last visited May 25, 2020
[43] www.montecitofire.com/district-map Last visited May 25, 2020

Zip Code Alerts. Special efforts are made by the utilities to contact customers dependent on electricity to run medical devices. However, these customers must first register with their utilities. Special efforts are not made for non-registrants, non-customers, or people dependent on electricity for other medical needs, such as refrigerating medications or avoiding heat stress. Usually, these latter groups will only get extra attention if a County agency makes the extra effort.

However, the Jury recently learned of a new partnership[44] between PG&E and the California Foundation for Independent Living Centers.[45] This appears to be a significant improvement for residents whose age or disability makes them dependent on electricity for survival and includes those dependent on electrical medical devices. This partnership offers not only preparation advice, including one-on-one assistance and training for helping others, but also access and vouchers, if needed, for hotel lodging, transportation, food, and additional resources such as portable batteries.

The County's emergency information and advice for the public is scattered over several sites. The Jury did not find any contradictions among the sites, but they appear uncoordinated and opaque. All need more frequent updating. Some of them do not mention other sites either prominently or at all. ReadySBC is intended to be the County's main site, but it is not easy to navigate and not mentioned at all by Public Health or Aware and Prepare, and not clearly mentioned by the Sheriff's site, although there is a sign-up button that leads to it.

The advice itself, especially on preparation for emergencies, is often hard to find or incomplete, and some advice needs editing and explanation. The Fire Department’s Preparedness Tips are an example of such advice, but all these problems occur on ReadySBC. Several of these problems are due to the site's origins, giving a near-exclusive focus on storms and debris flow. Some problems were noted with evacuation shelters and lists of survival kit items. There are existing facilities which might serve as shelters, such as senior centers, community centers, meeting halls, libraries, and school or university theaters and gymnasiums. Many of these have volunteered assistance in past crises. Compiling lists, checking availability and publicizing options in a given crisis may not be easy but seems possible, at least for PSPS. For people dependent on electricity who do not evacuate there is a good list of the resources they are likely to need. However, there is no guidance on how or where to obtain them or what features to look for and there are some information gaps such as the life-lengths of even expensive batteries.

Whether such problems as people not alerted and advice not found or followed are significant is unclear. A survey could help prioritize future work and improve the accessibility and wording of advice. It seems likely that contact is inadequate for some groups, but the available data (census, tax rolls, utility accounts, signups for Baseline or Medicare, etc.) do not allow accurate estimates. One local survey[46] checked sign-ups for alerts. The Jury did not examine its sampling methods, but the survey did not focus on special groups. However, the survey found that 52 percent do not know what Aware and Prepare is, but 82 percent had signed up for it!

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[44] disabilitydisasteraccess.org Last visited May 25, 2020

[45] cfilc.org and cfilc.org/issues/press-releases.php?id=27 Last visited May 25, 2020

[46] santabarbara.legistar.com/LegislationDetail.aspx?ID=3715997&GUID=6CC5C72B-5CE5-4085-8A40-98267496BD21&Options=&Search= Meeting of November 6, 2018, Attachment and Presentation of Item 18-00844. Last visited May 25, 2020

CONCLUSION

During this investigation, it became clear to the 2019-20 Santa Barbara County Grand Jury that planning and carrying out County responses to PSPS and emergencies are complex, difficult tasks. Even for PSPS, the Jury found it necessary to limit its inquiry to communications with the public. The limitations were much more drastic for dealing with emergencies. The details in this Report and the far greater details in the County and City Plans show conscientious work by local government staff.

FINDINGS AND RECOMMENDATIONS

Finding 1a

Residents who do not comprehend either English or Spanish are at risk of not understanding PSPS warnings.

Finding 1b

Residents whose electricity accounts are held by landlords or property managers are at risk of not receiving the PSPS warnings sent by their power company.

Recommendation 1

That the Santa Barbara County Board of Supervisors direct and fund the Office of Emergency Management to update and improve its contact lists and communication methods to maximize the likelihood that all residents will receive the PSPS warnings or advice they need.

Finding 2

Residents who depend on electricity for vital medical devices or to keep medications refrigerated may not receive the PSPS or emergency notifications intended for them.

Recommendation 2

That the Santa Barbara County Board of Supervisors direct and fund the Office of Emergency Management and the Department of Public Health to identify individuals dependent on electricity for essential medical needs.

Finding 3

Residents who depend on electricity for essential medical devices, keeping medications refrigerated, or other vital needs may not be able to carry out the PSPS or emergency recommendations intended for them.

Recommendation 3

That the Santa Barbara County Board of Supervisors direct and fund the Office of Emergency Management and the Department of Public Health to ensure the access of individuals dependent on electricity for survival to the supplies and locations recommended for them on County websites.

Finding 4

Santa Barbara County's emergency information and advice for the public is scattered over several websites, which are not coordinated, infrequently updated, sometimes confusing, and may not link to each other.

Recommendation 4

That the Santa Barbara County Board of Supervisors direct and fund the Office of Emergency Management to ensure that all County websites providing emergency information are coordinated, easy to understand and navigate, regularly updated, and use clear links to each other to make all information readily accessible.

Finding 5

PSPS decisions are made entirely by the power companies without input from public agencies and elected officials until after the shutdown ends, via the California Public Utilities Commission.

Recommendation 5

That the Santa Barbara County Board of Supervisors publicly urge the State of California legislature to require local governmental input into PSPS decisions before they are announced and carried out.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why

Santa Barbara Board of Supervisors – 90 days

Findings 1a, 1b, 2, 3, 4, and 5

Recommendations 1, 2, 3, 4, and 5

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GRAND JURY
SANTA BARBARA COUNTY

AFFORDABLE HOUSING IN SANTA BARBARA

AN OXYMORON?

Publication of the

2019-20 Santa Barbara County Grand Jury

June 24, 2020

AFFORDABLE HOUSING IN SANTA BARBARA
AN OXYMORON?

SUMMARY

The City of Santa Barbara has long been a desired destination for living and working, if you can afford the high cost of housing. The median price of a home is $1,170,200. Aware of the lack of housing for low and middle-income families, the City created a Housing Authority[47] in 1969 and helped it create housing projects to fulfill the need for affordable housing. The Housing Authority of the City of Santa Barbara has provided over 1,300 housing units since then.

The 2019-20 Santa Barbara County Grand Jury investigated this issue and determined that the need for affordable housing has continued to increase, and the City has not maintained its commitment to provide it.

As a result, Santa Barbara faces some difficulties. Employers find it difficult to attract and retain qualified workers. Jobs exist here, but there is a magnified job-housing imbalance. Much of the City's workforce lives out of town and commutes to work. Every day there are over 25,000 trips from south of Santa Barbara and over 5,000 trips from North County.[48] These commuters cannot contribute to the community as residents do. Also, Santa Barbara is cut off from its most valuable helpers in times of disaster.

The City has not had much recent success in building affordable housing. It may now be facing a losing battle against forces requiring housing to be built in Santa Barbara. Since 2017, the legislative bodies of the State of California have been passing legislation to require cities to unfetter their permitting and zoning processes and allow housing for all income levels. If they do not, the State Housing and Community Development Department can overrule a city's permitting regulations in order to allow all housing that meets State standards.

For Santa Barbara, such impositions come at an awkward time. The City faces a deadline with its State Regional Housing Needs Allocation of over 2,000 housing units it must provide before 2023. Every eight years the allocation is determined by the State and regional councils of governments. In the fall of 2020, Santa Barbara will receive a higher allocation, even with thousands of units left unbuilt.

Further complicating matters is the fact that the State of California declared not only a housing crisis but also a homeless crisis. The bulk of funding that would have assisted cities to build affordable housing is now going to help the homeless. The need for homeless housing and services also dominates federal funding.

Santa Barbara is now in a double bind. It must build the housing that the State mandates but it has to do it with fewer funding resources. The City needs to recognize that it must clear itself of unproductive patterns and adopt a forward-looking vision for creating affordable housing.

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[47] The Housing Authority of the City of Santa Barbara is a local public agency created under state law for the purposes of providing safe, decent, and quality affordable housing and supportive services.
[48] U.S. Census Bureau, American Community Survey, 2012-2016 Five Year Estimates.

Now that the COVID-19 pandemic has decimated 2020-21 budgets, it is even more important to rally behind innovative changes that could allow the City to genuinely move forward in helping all its citizens recover and stay safely housed.

BACKGROUND

In 1969, the State of California (State) confronted the State's housing dilemma by legislating the Housing Element and the Regional Housing Needs Allocation (RHNA) for all counties and cities. Areas must conform to the State's planned housing allocation with the specified numbers of low, middle and market rate housing. For Santa Barbara, the last housing allotment cycle was for the years 2015-2023. The City of Santa Barbara (City) has long lagged behind in building its allocated number of housing units. Further, the State leadership now sees the lack of housing as a crisis and can impose penalties or overrule local decisions if the housing is not built.

When RHNA went into effect, regional councils of government were formed to take the population estimates from the State and apply them to cities. The State RHNA plan is managed locally by the Santa Barbara County Association of Governments (SBCAG), which is mostly known for its transportation work. When there is a job and housing imbalance, cities must develop a Housing Element to plan for additional housing and reduce the number of people who have to commute. If they do not develop an acceptable plan, they may not be eligible for most State funding for housing.

In the last RHNA cycle, Santa Barbara City was allocated 4,100 units to take care of its housing needs. Only 1,288 have been built. Moreover, the City will no longer have the luxury of waiting for the eight-year cycle to expire before building the housing; RHNA now has an annual goal for meeting housing needs. The City has not discussed how it will create the 2,812 remaining housing units it has been allocated before 2023.[49]

The RHNA numbers, updated April 2, 2020, are broken down by annual income levels[50] as shown in the table below.

Annual Income Level	RHNA Allocation	Total Units to Date	Total Remaining
Very Low **Under $30,093**	962	159	803
Low **$30,039-$48,062**	701	132	569
Moderate **$48,062-$72,093**	820	4	816
Above Moderate **$72,093 and above**	1,617	993	624
Total Units	**4,100**	**1,288**	**2,812**

[49] 2015 Housing Element Implementation, *City of Santa Barbara*. Web, last visited April 2, 2020.

[50] The currently used income rating for all Santa Barbara County is based on the idea that an individual or family would pay no more than 30% of its income toward rent. These averages apply to both North and South County.

In February 2020, SBCAG convened the first workshop for Santa Barbara County and all the cities to prepare for the next round of housing assignments. The new allocations will be announced in fall 2020. These required units will be added on top of the 2,812 units remaining in the current RHNA cycle. Other regions in California have seen their new allocations increase in numbers of housing units, some more than double.[51]

Cities' Housing Elements only needed to show that they had the capacity to build by zoning areas for development after assessing the needs of their community. If no building sites were available, cities had to rezone to meet the housing needs. This usually entails multi-use or multi-family zoning, and such measures have been called the death of single-family zoning. Santa Barbara, among other cities, has objected to new multi-family zoning requirements. As of July 2019, the California Attorney General can bring suit to enforce compliance with the city's Housing Element If it has not zoned for sites to accommodate its housing allocations as in the RHNA planning cycle, fines of $10,000-$100,000 a day can be imposed.

In the past, there were no requirements to actually build the housing. Counties and cities only had to state their building goals and implement policies to fulfill them. This has now changed. The State has begun to find ways to insist on the construction of housing, promoting both growth and density. For the last three years, the California legislature has passed acts that limit the use of municipal regulations to avoid housing development. Cities like Santa Barbara may no longer be able to bypass building affordable housing without facing penalties.

Briefly, this legislation includes:

- The Housing Accountability Act passed in 1982 (SB 2011) and strengthened in 2017 (SB 167). The Legislative Counsel's Digest for SB 167 states the Act prohibits a city from disapproving, or conditioning approval in a manner than renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings. For example, a city cannot deny a project that does not fit with a neighborhood character, unless that character is already defined in the zoning code. If a building application meets the city's criteria, it has to be given the necessary permits within 90 to 180 days, the shorter period being for affordable housing. If a city tries to cause any reduction of building, the State Department of Housing and Community Development (HCD) can enforce compliance with its regulations over those of the city.
- Senate Bill 35 (SB 35) of the Housing Package of 2017. SB 35 fast-tracks the process of building housing for income levels that are not being met. Projects with fewer than 150 units must be approved within 60 days, otherwise an applicant may submit an application for development that is subject to the streamlined, ministerial approval process provided not subject to a conditional use permit. Moreover, if a city does not build enough of a certain type of housing, the HCD will require those types of housing be streamlined, meaning the city loses some control over the permitting process for two years if the city does not meet its RHNA goals.
- The Housing Crisis Act of 2019 (Senate Bill 330). This Act allows accessory dwelling units and further accelerates the permitting process. Only five public hearings may be called for a housing project. Cities cannot raise fees or change permit requirements if the applicant has

[51] San Luis Obispo County of Governments saw its total allocation go from 4,090 units to 10,818. The large Southern California Association of Governments went from 409,060 allocated units to 1,344,740 units.

submitted all necessary documents. Building standards cannot be changed after submittal, nor can projects be downzoned. Decades ago, Santa Barbara set a cap of 85,000 residents. Under this Act, such a population cap cannot be established today.

These Acts have brought out defiance in various municipalities who see their authority being stripped. Santa Barbara has been one of the rebellious cities. So far, the State has legally challenged only one city in Southern California. Nonetheless, the HCD maintains an aggressive stance to confront the way local jurisdictions avoid building housing, especially low-income housing. There are other watchdog groups that also threaten litigation. Californians for Home Ownership, for example, notified the City that it would sue if it continued delaying tactics for accessory dwelling units (ADUs), or granny flats.

The RHNA allocations have taken on new urgency as a result of this legislative muscle in the last two years. Many cities, like Santa Barbara, are not in compliance with their RHNA. Santa Barbara has one of the lowest completion rates in the county for assigned housing units.[52] Although there was a building flurry for a time, this has slowed down to the extent that the City has accomplished only 25 percent of its current RHNA goals, including an average of 50 percent of moderate income housing and only 12 percent in the very low-income category.

Santa Barbara has less than two years to produce approximately 2,800 more housing units. How can it break through certain conceits that have created barriers to building the affordable housing it needs?

METHODOLOGY

The Jury interviewed local housing officials, developers, real estate professionals, a former planning commissioner, local housing advocates, a lawyer advocating for home ownership, a City of Santa Barbara official, and a representative from Santa Barbara County Association of Governments. In addition, the Jury studied the City of Santa Barbara website, and reviewed the Regional Housing Needs Allocation Plan 2014-2022 (RHNA) and numerous housing reports, publications and news articles. Also, the Jury attended and viewed the Santa Barbara League of Women Voters Forum on Creative Housing Solutions.

OBSERVATIONS

Santa Barbara City Council (Council) is wary of what is built and where it is built. Its primary concern has been keeping the character of the town, keeping it attractive to tourists and of value to its residents. The Council has promoted housing and especially affordable housing in the past. Just a few years ago, the Council reallocated almost $35 million in grants and State funding to affordable housing projects.

Recent loss of federal and state funding has curtailed Santa Barbara's housing initiatives. The Santa Barbara City 2019 Action Plan admits that local and non-federal funds are insufficient to meet housing demands. The City collects payments from its previous housing loan program, which funds the Housing Assets Fund. This fund is recycled to affordable housing projects but

[52] Santa Barbara County Association of Governments 5th Cycle Progress Chart for February 2020 Percentage RHNA Completed for All Income Levels: Unincorporated Santa Barbara 78%, Guadalupe 71%, Solvang 69%, Buellton 63%, Carpinteria 62%, Goleta 50%, County 35%, Santa Maria 34%, Santa Barbara 25%, Lompoc 10%.

unfortunately it accumulates money slowly these days and can only rarely be donated to a project. In former times, loan repayments came to $16 million annually; now they add about $2.1 million to the City's Fund each year.

Now, the City primarily receives its housing funding from Community Development Block Grants, (CDBG) and HOME Investment Partnerships Program (HOME), totaling about $2 million annually. This amount is not enough to finance building projects. The Community Development Department, Housing and Human Services Division, distributes this money to four main areas. Helping the homeless is first on the list, after which the City allocates funds for affordable housing, housing availability, and public facilities. In the affordable housing area, the City is limited to providing rental assistance and hoping to increase the stock of low-income rental housing "to the extent possible and based on the availability of funds."[53] A few CDBG grants to help developers rehabilitate low-income rental housing are still possible.[54]

In recent years, the City has not done much to actually increase or improve low-income housing stock. Santa Barbara has had to devise other ways to improve the housing situation, working primarily with other non-profit housing developers or experimenting with different programs for housing development. There have been some successes, but its policies for affordable housing have faltered. City Council has neither convinced residents that affordable housing, as well as housing for the homeless, is good policy for the city and all neighborhoods, nor has it found a way to make such policies work.

Housing Authority of the City of Santa Barbara

City Council has consistently supported the Housing Authority of the City of Santa Barbara (HACSB), which has built over 70 different projects around the City. Most of its housing is offered to low or extremely low-income renters, but it also has a small Workforce Housing Program for the "missing middle." It takes pride in building quality establishments, maintaining them well, and providing enough supervision so that there is no neighborhood resistance to the affordable building or its residents in their midst.

Of the 1,300 housing units built by HACSB, 500 units were built with federal money from Housing and Urban Development (HUD). That public funding has stopped. For over 60 years, a State Redevelopment Agency distributed funds for construction to fight city blight, and the funds were often used for affordable housing. This funding too disappeared in 2012. The loss of Redevelopment Agency funds has impacted the ability to construct new housing. Recently, many of HACSB's projects have instead involved taking over existing properties and repurposing them.

All affordable housing projects depend on some form of subsidies or incentives from local government. HACSB has found it necessary to devise other independent funding techniques to build housing. The City had helped in the past with a $64 million loan program for low and moderate-income housing. Because of the beneficial relationships that the HACSB has with the City Council, banks, government agencies and local neighbors, it is one of the few remaining developers in town. In fact, HACSB is the only developer to build affordable housing in Santa Barbara.

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[53] City of Santa Barbara 2019 Action Plan: Community Development Block Grant and HOME, City of Santa Barbara website, Visited February 4, 2020.

[54] In the past year, such grants have achieved zero housing units built and seven housing units rehabilitated, according to the 2019 Action Plan.

HACSB is being forced to work harder to find funding and sites to build affordable housing that is not designated for the homeless. While the State of California has pledged billions of dollars to homeless housing, little of that funding is made available for workforce housing. Recently, there have been at least two instances of affordable housing originally built for families and seniors, only to have those apartments be dedicated to mentally ill homeless clients of the Housing First program.[55] Affordable housing is an endangered species at the moment, and it will require an extra pledge of support from City Council to keep it alive.

City of Santa Barbara Community Development Department

Few developers, other than HACSB, are left to find ways to build in Santa Barbara. The City is built out, so land is a major challenge. But city impediments also discourage building.[56] Santa Barbara has a reputation of being difficult and developers go elsewhere. The process from application to construction can take anywhere from five to ten years. Even for the Housing Authority, which works well with the City and the Community Development Department (CDD), any new housing development project will be a five-year process.

The CDD's Planning Division has required a long and demanding review of applications. Plan checks, conflicting information, several boards with sometimes idiosyncratic reviews, public hearings, and high fees, all add up to costs and delays. The Jury was told that phone calls and emails are not returned and that planners at the counter would first tell someone to come back or say no rather than decide to let the project pass. The Housing Authority of Santa Barbara admitted it often hired third-party consultants to expedite the many thorny steps in the approval process that the City requires.[57]

Affordable housing does receive some considerations. Projects with an affordable component can be streamlined through the matrix of reviews and plan checks. Some steps such as the environmental review can even be bypassed for shelters for the homeless. With the new laws, a developer can call an end to reviews after five meetings (SB 330). The State, in its efforts to mobilize housing construction, will impose more streamlined processes on community development departments if a city has not built enough affordable housing (SB 35).

To encourage building, the CDD could revise some processes and the way they are handled by staff. Fees here are considered high and delays in permitting cost developers more money. Also, builders are discouraged by delays in permit approvals. In early 2020, the CDD underwent a study of procedures and policies in the hope of promoting efficiency. For example, timelines in the CDD were generally not enforced. It has been disheartening to some staff within the department to hear complaints about its delays and poor customer relations.

Even before this study, the City saw a need for change in priorities and advanced an expedited method of permitting. Facing a loss of revenue because of business closures on State Street, Santa Barbara initiated the *ACCELERATE State Street* program. It offered free consultation with a planner and advice for many of the permits required, such as for plumbing, fire, environmental service and storm water. They addressed the hurdles with the Architectural Review Board and

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[55] See the 2019-20 Grand Jury report, *Homelessness in Santa Barbara County: Our Everyday Epidemic*.

[56] The 2019 Action Plan claims that the City has a strategy for previous political actions: "Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment."

[57] See the 2019-20 Grand Jury report, *City of Santa Barbara Community Development Department*: *Make It a Can-Do Department*.

the Historic Landmark Committee in free group meetings. The *ACCELERATE State Street* program drew interest from the business community but had mixed results. Nonetheless, the CDD Divisions came together and eased requirements in the building process for business owners. The City would do well to promote the same willingness to work with affordable housing builders.

Average Unit-Size Density Incentive Program (AUD)

The Average Unit-Size Density Incentive Program (AUD) began in 2013 as an innovative method of adding housing. However, Santa Barbara's attempt to add housing brought on an unforeseen backlash.

In selected parts of the City, developers were allowed greater density, up to 63 units per acre, especially along transportation corridors. The idea was to develop smaller units for renters in a city where home-buying is prohibitively expensive. Prior to this program, no rental housing had been built for 40 years, and over 60 percent of Santa Barbara residents are renters. On average there are over 5,000 individuals waiting for Section 8 local housing to be available, which can take up to five years.

As an experimental idea, the AUD program was slated to be in effect for eight years or until 250 residential units were constructed.

AUD Projects[58]	Pending Units	Approved Units	Building Permits Issued	Completed Units
Medium-high density	24	80	24	92
High density	173	186	125	185

The working theory was that rents would be lower because there would be more units on the market, and because units were small, they would be "affordable by design." However, not enough units were built to affect the market rate. Later, a planning commissioner said that the AUD program was never meant to include affordable or workforce housing.[59]

Rents remain high. Without incentives from the City, developers will naturally seek to maximize profit and build for market rates. The poster child for this effect was the first project built under the AUD program, a condominium complex on State Street where unit rents ranged from $3,500 to $5,600 a month. On the same block, the Housing Authority working with California Lutheran Homes successfully built 58 units for low-income seniors as an AUD development, with an average rent of $711 per month. Without requiring some affordable units, new housing projects gravitate toward luxury status exclusively.

Moreover, the City inadvertently built this failure into the AUD program. Housing that qualified as affordable to low-income or very low-income renters did not count toward the 250-unit

[58] AUD Multi-unit Housing Program Background. *City of Santa Barbara Website.* Visited February 4, 2020.
[59] Giani Margoli, "Planning Commission Spurns Inclusionary Housing Requirements for Santa Barbara AUD Projects." *Noozhawk.com*, March 3, 2019.

ceiling. The result was that developers rushed to get permits for building housing that was not designated as affordable before the upper limit of 250 units was reached.

In 2017, it was reported that developers were allowed to "run rampant" because of this incentive program.[60] At that time, permits were approved for 317 medium and high-density units and 470 more were in the pipeline. City Council began to receive complaints about tearing down affordable housing to build new expensive housing leading to gentrification and ruining the character of neighborhoods. In February 2017, it directed staff to meter out permitting. Only then, in July 2017, did the City Council create a Housing Task Force to examine how the AUD program could provide affordable workforce housing for those people who work in Santa Barbara.

City Council is now reviving affordable building programs. In describing its Density Bonus Program, no longer calling it the AUD program, the 2019 Action Plan states, "As a tradeoff, some or all of the units on the site are subject to rent restrictions or resale controls which provide for continued affordability to low income renters or moderate income purchasers for at least 90 years." The 2019 Action Plan claims that since the City's Density Bonus Program in the early 1980s, building projects contained 415 bonus units and 961 affordable units. The City is taking credit for units built prior to the 2013 AUD program.

For many years Santa Barbara had used inclusionary housing for creating affordable units. Yet in the enthusiasm for the AUD program, there was no regard for including affordable housing. The City used to attract builders who would include affordable units in their projects by offering such incentives as higher densities, tax abatements, parking reductions or smaller set-backs from property lines. These units were sold or rented to low or even moderate-income tenants as established by HUD. As time went by and building costs increased, private developers did not choose such reductions in the number of profitable units and paid an in-lieu fee instead. Without a number of subsidies, developers consider inclusionary housing infeasible in Santa Barbara.

In 2017 and again in 2018, Santa Barbara City Council showed reluctance to reinstitute an inclusionary requirement and postponed it for over two years. It did not want to chase developers away when building costs were so high. When inclusionary housing was again considered in 2019, the State regulation of 10 percent inclusion of affordable units in projects with ten units or more created an impasse on the Planning Commission and City Council. Eventually, the City Council adopted an ordinance, calling for 10 percent affordable units downtown and 15 percent in other parts of the city. By comparison, Goleta passed an inclusionary rate of 20 percent.

Accessory Dwelling Unit Program (ADU)

After the State of California established the Accessory Dwelling Unit Program (ADU), also known as granny units, and it became part of State law mandating construction of more affordable housing in 2019, there were missteps in Santa Barbara's implementation of its ADU Program.

The ADU program allows homeowners to add smaller dwelling units on their property for rental; laws now also allow the creation of duplexes from existing single-family residential property. The ADU program was considered to be a way to complete the City's RHNA allocations and a way to bring numerous previously existing illegal units into the housing count. About 40 percent of the permits from the first year of applications went to legalize existing accessory dwellings.

[60]JEC Molina, "12-unit Rental Duplex and House Project Proposed for Westside." *Santa Barbara Independent,* August 7, 2017.

Up to 2016, there were only 16 permitted ADUs and by early 2020, there were over 400 ADUs in the City.

Within months of the 2017 State authorization of ADUs, Santa Barbara had hundreds of permit applications for both new and existing units. The Community Development Department (CDD) reportedly became overwhelmed.[61] ADUs were subject to ministerial architectural review, which should have eased processes in the CDD. At that time, cities still had jurisdiction over minimum square footage, off-street parking requirements, size, height, and owner occupancy.

The City Council specifically made certain that granny units could not be converted to a vacation rental, a big issue in the loss of affordable housing in Santa Barbara.[62] Advocates of ADUs promoted them as a source of affordable housing. One City Council member, however, warned that Santa Barbara should have no illusion that granny units would become affordable.[63] There are no regulations on maximum rents for ADUs.

The State of California passed additional ADU regulations in 2019, when the Governor of California made the housing and homeless crisis a priority for the State, and cities had to adopt regulations consistent with those of the State by January 1, 2020. ADUs can now be allowed in all single-family and multi-family zones, off-street parking requirements are reduced, the main house does not have to be owner-occupied, and there is no minimum size for the lot and no maximum size for the unit. The State also created Junior Accessory Dwelling Units, with no mandated shower or kitchen. The State regulations preempt Santa Barbara's regulations. Santa Barbara scrambled to delay implementation of the more lenient regulations. Claiming limited time to amend city ordinances, City Council voted to delay the new allowances until one year later in December 2020.

Santa Barbara placed an emergency moratorium (Interim Emergency Ordinance 5927) on the ADU program in historic and fire zones for a year. ADUs bring more residents to neighborhoods, adding more parking and traffic to streets. Older and hillside neighborhoods would be impacted, especially in times of wildfires. As a charter city, Santa Barbara thought it would be able to determine where it could exempt additional areas from new ADUs.

City Council also considered broader measures for local control, but such defiance of State laws did not gather the six votes needed on the council.[64] The Californians for Home Ownership, an advocacy group for home ownership, viewed these acts as an avoidance measure, and they threatened to sue Santa Barbara for not following the law to allow ADUs. In the end, the organization accepted Santa Barbara's fire zone exemption but said it would keep an eye on any abuses of historic neighborhood exemptions.

Unlike other housing projects, ADUs are relatively easy and inexpensive to build. Only a ministerial permit is required with the Planning Division, and land costs are not an issue. There is no discretionary review as part of the otherwise lengthy permitting process. Yet the City and the CDD still sought more involved permitting discretion beyond ministerial review when considering size, height, design and density zoning.

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[61] Joshua Molina, "Santa Barbara Council Starts Crafting Ordinance for 'Granny Units.'" October 24, 2017.
[62] The 2020-21 Santa Barbara City Budget and Notes shows that 2,913 units of the city's housing units, or 7.7%, are vacant. On top of this, 1,015 housing units, or 2.7%, are seasonal, recreational or occasional use housing.
[63] Molina, Joshua. "Santa Barbara Council Starts Crafting Ordinance for 'Granny Units.'" *Santa Barbara Independent.* October 24, 2017.
[64] Nick Welsh, "Attack of Granny Flats." *Santa Barbara Independent.* December 19, 2019.

It must be noted that the 2020 laws for ADUs include a requirement that "local agency housing elements… include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households."[65] For its part, the State HCD must develop a list of State grants and financial incentives in connection with the planning, construction and operation of affordable ADUs.[66] In other words, Santa Barbara must also revise the ADU program to be part of any affordable housing program. Without such action the State could negate local housing decisions that disallow or discourage affordable housing.

Community

ADUs, AUD housing and inclusionary housing have all faced resistance in a community with a great reluctance to change. Even as the ADU and AUD programs were getting underway, public criticism was heard about density, parking problems, traffic congestion and the loss of character in the neighborhood. The Milpas Street area, where affordable housing would be welcome, has been declared off limits by the City. This neighborhood had a fear that, with these new housing options, it would be "dumped on" by the City and developers. Yet, as the Housing Authority has shown throughout the city, affordable housing easily blends in with a neighborhood's character.

Two proposed projects for very low-income households in downtown Santa Barbara brought out vocal neighbors who opposed such projects. One of the projects included tiny homes for the formerly homeless. Neighborhood objections stopped the project, and the Housing Authority decided to attempt to build workforce housing on the site instead. That project is also being opposed by the neighborhood. Without the backing of City leaders, affordable housing is fiercely resisted.

The Role of the City Council

The Santa Barbara City Council appears to be very provincial when making affordable housing decisions that would impact their districts. For the past few years the City Council has wavered in its affordable housing policies. It now needs to define a more certain path in terms of planning, building, financing, and leadership. As the State continues to require immediate housing and the RHNA deadline approaches, the City would do well to extend its innovative spirit, as previously demonstrated by the AUD program, to affordable housing. The COVID-19 pandemic will deflate the budget in so many ways that the only way forward will be to act in groundbreaking ways.

There are actions the City Council can take to open the doors to affordable housing without impacting the budget. The Council could direct the Community Development Department to allow form-based zoning. This type of zoning looks at the individual project, its form, façade and scale, and if it can blend into the surroundings. Multi-unit projects can be designed to match the character of a neighborhood. There is also multi-use zoning which has the flexibility to allow housing in different areas of the City. During a presentation to the Council in November 2019, the Council asked how they could help housing issues. The immediate suggestion from a senior County representative was to identify land, including publicly owned properties, that could be used for development or rehabilitation and that the City apply directly to the State for funding.

[65] AB671, approved by the Governor on October 9, 2019
[66] Health and Safety Code Section 50504.5

The Council was told that developers would then have the confidence that a project could go forward.

Developers have been discouraged from building affordable housing. The City needs to regain their trust by assuring them that they could complete the permitting and building process with few complications or delays. This streamlining could come through future changes in the Community Development Department. Delays increase costs, which are already considered high in this city. As one local housing expert told the Jury, "If you can't cut fees, cut the time." In addition to the permitting process, it is time for the zoning codes to be revised to ease restrictions on alternative building types. Modular housing, small homes and even 3-D printed housing have been proposed as being quick and inexpensive to build or install.

It is true that affordable housing for low or moderate-income families needs an infusion of subsidies or tax incentives, which will be difficult to promise with the expected economic retrenchment. There will be a need to build layers of financing among public and private entities. A new outlook on the benefits of affordable housing could reform the incentives for approaching those entities. Just as large health insurers have found that building housing for clients with health needs reduces high cost demands on health services, the City too should promote the idea that housing more of its workers would have financial benefits for its budgetary demands. Workers' children would go to local schools, and the parents would shop locally and frequent the myriad restaurants and entertainment centers here. Not only would the workers pay local taxes, but they would also enrich the culture of the community. Such social investment could lead to many other partnerships, with school districts, colleges, non-profits, or businesses, and would have long-term benefits for housing.

Mostly, the City Council needs a change in vision. It has spent the recent years guarding the interests of certain residents and neglecting the rich diversity of people that the City celebrates. The City of Santa Barbara needs to show that it will embrace affordable housing or inclusionary housing, as it did decades ago. Council members have been silent regarding recent low-cost housing developments, and those building efforts have floundered. The leadership of the City has prevaricated about regulations, numbers and measurements for height, size and many other finite matters. This indecisiveness has set one neighbor against another. Now each councilmember has the opportunity to show that for the sake of the entire City, they can welcome housing for all those thousands of people who contribute by working here but cannot enjoy living here.

CONCLUSION

The 2019-20 Santa Barbara County Grand Jury concluded that the City of Santa Barbara needs to act in a forward and positive manner, rather than resist change and avoid State of California orders to build housing. Instead of protecting what is already here, it can think in terms of what could be here. Santa Barbara has been a city that has won the reputation of being unique and beautiful, in part due to caution over development. The City's inactions have come at a cost that many residents or potential residents have borne: they cannot call Santa Barbara home. The negative thinking of "no, we can't" needs to become "yes, we can," and "let's see how we can do this together." This positive attitude has been missing in the Community Development Department and in the City Council.

Santa Barbara City Council can rightfully claim that 15 percent of its housing stock is affordable because of past efforts with the Housing Authority and inclusionary housing. It can be a leader in

its own community again by openly supporting affordable housing. In the past year, two low-income housing projects have been withdrawn while the Council remained silent. To show strong leadership, the Council needs to regain the political will to make affordable housing a priority.

FINDINGS AND RECOMMENDATIONS

Finding 1

There is a shortage of low and middle-income housing units in the City of Santa Barbara.

Recommendation 1

That the Santa Barbara City Council develop and implement a plan for the creation of low and middle-income housing units.

Finding 2

The Santa Barbara City Council has not identified permanent sources of funding to facilitate the development of low and middle-income housing units.

Recommendation 2

That the Santa Barbara City Council obtain or create continuous reliable sources of funding to facilitate the development of low and middle-income housing units.

Finding 3

The Santa Barbara City Council has not identified publicly owned properties that would be appropriate for low and middle-income housing units.

Recommendation 3

That the Santa Barbara City Council identify and obtain publicly owned properties that would be appropriate for low and middle-income housing units.

Finding 4

The Santa Barbara City Council delayed development of Accessory Dwelling Units despite the directives set by the State of California.

Recommendation 4

That the Santa Barbara City Council fully implement the State of California directives related to Accessory Dwelling Units.

Finding 5

The Santa Barbara City Council has failed in recent years to require inclusionary or low and middle-income housing units when approving housing developments.

Recommendation 5

That the Santa Barbara City Council require inclusionary or low and middle-income housing units when approving housing projects with ten units or more.

Finding 6

The City of Santa Barbara does not utilize form-based zoning.

Recommendation 6

That the Santa Barbara City Council instruct the Community Development Department to bring to the City Council recommendations for adoption of an ordinance for form-based zoning.

Finding 7

The City of Santa Barbara's zoning ordinance does not adequately allow for consideration of cost effective alternative building types, such as modular housing, small homes, and 3-D printed housing.

Recommendation 7

That the Santa Barbara City Council instruct the Community Development Department to revise the zoning ordinance to allow for cost effective alternative building types, such as modular housing, small homes, and 3-D printed housing.

Finding 8

The City of Santa Barbara does not maximize the use of multi-use zoning in all parts of the City.

Recommendation 8

That the Santa Barbara City Council instruct the Community Development Department to bring to the City Council recommendations for adoption of an ordinance that amends the zoning code to allow for multi-use zoning in all parts of the City.

Finding 9

The City of Santa Barbara has not maximized the use of subsidies, lower fees or incentives to encourage builders to construct low and middle-income housing units.

Recommendation 9

That the Santa Barbara City Council develop and implement a plan to lower costs for development of inclusionary or low or middle-income housing units through the use of subsidies, lower fees or incentives.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why

City of Santa Barbara – 90 days

Findings 1, 2, 3, 4, 5, 6, 7, 8, and 9

Recommendation 1, 2, 3, 4, 5, 6, 7, 8, and 9

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GRAND JURY
SANTA BARBARA COUNTY

HOMELESSNESS IN SANTA BARBARA COUNTY

OUR EVERYDAY EPIDEMIC

Publication of the

2019-20 Santa Barbara County Grand Jury

June 25, 2020

HOMELESSNESS IN SANTA BARBARA COUNTY
OUR EVERYDAY EPIDEMIC

SUMMARY

Santa Barbara County is in the midst of a homeless crisis that long predates the challenges of the current COVID-19 pandemic. People are roaming the streets with no home of their own, and there is an increase of people living in their cars, camping in parks, or sleeping on the sofas of friends and relatives. Multiple families are often sharing cramped quarters.

Shamefully, Santa Barbara County has one of the highest rates of homeless school-age children and youth in the state.

The 2019-20 Santa Barbara County Grand Jury (Jury) elected to study this societal problem. There is a dearth of both affordable and permanent supportive housing, shelters are full, and there is a lack of day centers. The high cost of land, insufficient funding, and neighborhood resistance contribute to the problem. Despite the hard work and dedication of local charities and government workers, homeless rates are increasing. Stronger leadership at the city and county levels, a consistent source of funding, and community support are required to help alleviate the human suffering caused by this situation. Santa Barbara County is a wealthy county and needs to assume control of this problem and solve it.

A glossary of important terms and acronyms is located at the end of the report.

Most of the Grand Jury's research and interviews were completed before the full onset of COVID-19, and we are unable to assess its full impact on homelessness in Santa Barbara County. The full trajectory of the pandemic cannot be accurately predicted. County leadership and community support at all levels will be required to craft new and creative solutions to resolve our homeless crisis.

INTRODUCTION

Who are the Homeless?

Currently, Santa Barbara County has a homeless population of 1,897 according to the January 2020 Santa Barbara County Homeless Point-in-Time Count and Survey.[67] The recently completed survey shows an increase of 5 percent over 2019.

The 2020 Santa Barbara County Point-in-Time Count and Survey (PIT) was mandated by the U.S. Department of Housing and Urban Development (HUD). It serves as a snapshot of homelessness in our County on a given night. Dating from 2003, and ordered on a bi-annual basis through 2017, the PIT is now performed each year, in response to the increasing issues surrounding homelessness. The Santa Barbara County Housing and Community Development Division (HCD) and the Santa Maria/Santa Barbara Continuum of Care (CoC) provide oversight of the process. To help complete the survey, the County works closely with the Northern Santa Barbara County United Way Home for Good and over 500 volunteers.

[67] 2020 Santa Barbara County Homeless Point-in-Time Count and Survey. Numbers quoted in this report are from the 2020 count, unless otherwise footnoted for 2019.

They were able to count 1,897 homeless, including 674 persons living in emergency shelters or transitional housing.[68] There were 1,223 people counted as living in unsheltered conditions, up 31 percent over 2019. One half of the unsheltered were counted as living in vehicles. This does not include families doubled up, paying for a motel, or at-risk of homelessness. Nor does it include the uncounted homeless whose numbers remain unknown.

Often, there is a preconceived idea that the people we see sitting on a bench, standing by an intersection, or walking the streets carrying their entire belongings must be mentally ill, drug addicts, or just plain lazy.

But who are they really?

The homeless are residents of Santa Barbara County. Seventy-six percent of the people surveyed were living in Santa Barbara County when they first became homeless.[69]

They are families. Of all school-age children within the County, one of every eight is considered homeless, as defined by Kidsdata.org, one of the highest rates in the State.[70]

They are transitional youth at risk ages 18-24. There were 75 youths who were homeless for a variety of reasons including abusive family situations, addictions, and poverty.

They are working people who incurred unanticipated medical costs, missed a paycheck, or received a rent increase they could not afford. Almost half of those surveyed are first time homeless.

Forty percent are female, some fleeing abusive situations, and living a harsh existence on the streets.

Eleven percent are veterans who for a myriad of reasons have found themselves on the streets, an increase of 83 percent from 2019.

A growing number of elderly and people on fixed incomes have become homeless. Many more are just one step away from life on the streets.

Then, there are the chronically homeless. This is the group that most of us associate with the homeless that we see around us. Thirty-two percent fall into this category. They often have mental illness, substance dependency, and other health-related conditions. They also have the greatest need of services and are among the most difficult of our homeless population to help.

It is important to note, in February 2020, the Santa Barbara County Public Health Department's Death Review Team Annual Report[71] to the Board of Supervisors stated that in 2018, 41 homeless individuals died on the streets of Santa Barbara County.

These individuals are part of our community. They may have been a neighbor, or your child's friend, the person mowing your lawn, or waiting on you at the store, someone's grandparent, or a veteran who has served our country.

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[68] The HUD definition for the homeless is: "People who are living in a place not meant for human habitation, in emergency shelter, in transitional housing, or are exiting an institution where they temporarily resided."
[69] 2019 Santa Barbara County Homeless Point-In-Time Count and Survey.
[70] "2016 Children in Santa Barbara County," Kidsdata.org, Accessed February 1, 2020, https://www.kidsdata.org/export/pdf?loc=273
[71] "Deaths Among People Experiencing Homelessness in Santa Barbara County: 1/1/2018-12/13/2018," Santa Barbara County Homeless Death Review Team, February 11, 2020, https://countyofsb.org/uploadedFiles/phd/PROGRAMS/PCFH/HCH/Santa%20Barbara%20County%20HCH%20Homeless%20Death%20Review%20Team%20Report%202018.pdf.

These are our homeless.

METHODOLOGY

As the Grand Jury undertook a study of the complex problem of homelessness in Santa Barbara County, it was apparent that the input from a variety of local governmental agencies, non-profit organizations, faith-based organizations and national providers would be required. The Jury also studied funding issues related to these organizations.

The following resources were essential to the Jury's understanding of this societal problem and the preparation of this report:

Interviews with key personnel from:

- Santa Barbara County Behavioral Wellness Department
- Santa Barbara County Housing and Community Development Division
- The Housing Authority of the County of Santa Barbara
- The Housing Authority of the City of Santa Barbara
- Santa Barbara City Housing and Human Services Department
- The United Way of Northern Santa Barbara County, Home for Good
- Santa Barbara Alliance for Community Transformations (SB ACT)
- The Santa Barbara Rescue Mission
- Santa Barbara People Assisting the Homeless (PATH)
- Santa Maria Good Samaritan Shelter
- Santa Barbara Virgil Cordano Center
- National producers of temporary housing facilities

Site visits and meetings:

- Santa Barbara Rescue Mission
- Santa Barbara PATH
- Santa Maria Good Samaritan Shelter
- Santa Barbara Virgil Cordano Center
- Goleta City Council Homeless Planning public meeting
- Santa Barbara County Continuum of Care Board meeting
- Santa Barbara County Community Housing neighborhood meeting for Hollister Lofts
- Santa Barbara League of Women Voters Forum on Homelessness
- United Way Homeless 101 Presentations

Documents and online resources:

- Bringing our Community Home: Santa Barbara Countywide 10-Year Plan to End Chronic Homelessness, 2006
- Phase 1 Community Action Plan to Address Homelessness in Santa Barbara County, 2018
- Santa Barbara County Homeless Point-in-Time Count and Surveys, 2019 and 2020
- Santa Barbara County California Mental Health Services Act Budget 2019-20
- National studies from authorities on the "Housing First" doctrine
- Santa Barbara County Continuum of Care Board notes
- Numerous local, state and national articles

BACKGROUND

Early in the twenty-first century, many national and local community leaders became increasingly concerned about the burgeoning homeless populations. In 2005, the Santa Barbara County Board of Supervisors (BOS) commissioned an assessment of all the local resources serving the homeless. The focus of this work was primarily on the chronically homeless who consumed more than 50 percent of all services. The concept was that housing the chronic homeless would cost less than the expenses incurred by all the public agencies that interact with the homeless. This effort resulted in the adoption by the County of a 10-year plan, *Bringing Our Community Home,* in 2006.

With that plan in place, the intent of the BOS was to enlist the active support of the public and all stakeholders to consolidate the collective resources toward the goal of providing services and housing for the homeless. Early on, the plan engendered a sense of optimism and there was some positive action. However, most of the goals were never brought to fruition as reliable sources of funding to implement and sustain them were never realized.

In 1995, prior to the County's ten-year plan, the U.S. Department of Housing and Urban Development (HUD) required communities to form Continuum of Care regional planning bodies so that their applications for homeless funding would be more coordinated. In 2018, California also adopted the CoC model to distribute emergency housing aid. The CoC is a network of local agencies and service providers in the County. The CoC Governing Board works with the County in coordinating and prioritizing applications on behalf of local agencies for State and HUD funding.

Additionally, in 2018, HUD required all counties in receipt of federal funding for homeless services and housing to maintain a Coordinated Entry System (CES) database of their homeless individuals and their needs. This database is then used to match the homeless with appropriate housing and supportive services in the County's Homeless Management Information System (HMIS).

In 2014, Santa Barbara County's Continuum of Care (CoC) designated the Santa Barbara County Housing and Community Development Division (HCD) in the Community Services Department as the lead agency for administering and evaluating all funding of homeless projects. Since then, this County agency has assumed the major leadership role in the homeless housing crisis.

OBSERVATIONS

County Administration of Homeless Programs: A System in Place of Housing

In 2018, the HCD and the CoC began a planning process to build a system that would set the funding and tracking process from street to home in motion. The HCD led the formation of the Phase 1 Community Action Plan to Address Homelessness in Santa Barbara (Phase 1). Phase 1 has accomplished some critical groundwork.

Community meetings were held to "help identify gaps, set priorities, and establish strategies to address unmet needs"[72] for the homeless. Phase 1 worked to strengthen the data entry system and information management system to deliver housing and services, organize outreach teams and distribute funding.

The CoC attempted to break down the territorial defenses that had developed among stakeholders and to establish communication and cooperation among groups. Driven by competition for funding and disagreements over priorities, this is an issue that still exists today. However, the Jury was told by the director of a local homeless organization that the cooperation demanded by COVID-19 opened new doors and created alliances that hopefully will continue to grow.

While the 2006 10-Year Plan aimed to help the chronic homeless, in Phase 1 the chronic homeless are only one of several subgroups. Much time has been spent on determining if individuals have mental illness, substance abuse problems, are veterans, survivors of domestic violence, homeless youth, vehicular homeless, or families with children. The CES then classifies each individual by certain characteristics and vulnerabilities, and the HMIS is used to make connections with appropriate services and housing. By February 2020, 3,623 people had been entered into the CES.

The five overarching goals of the 2018 Phase 1 Plan are:

- Increase access to safe, affordable housing
- Deliver supportive services for individual needs
- Build a Collective Action Plan and improve data sharing
- Strengthen available support systems
- Build provider capacity to address the needs of specific populations

The goals of Phase 1 are system oriented, mostly focusing on building information in the CES and increasing collaboration among service providers of the CoC, and service delivery with the HMIS. In its Executive Summary for Phase 1, the County admits that better data and more providers alone do not reduce the impact of homelessness. The CoC does not build housing, the critical element in eliminating homelessness.

As a senior County executive told the Jury, "The best intervention for a homeless person is a home."

Phase 1 acknowledges that there continues to be a large need for more affordable housing in the County. Of the 3,623 eligible people in the CES, only 76 of the most in need were placed in

[72] "Phase 1 Community Action Plan to Address Homelessness in Santa Barbara County," Santa Barbara County Housing and Community Development Division and Department of Behavioral Wellness.

permanent housing. With the lack of available housing, the CoC looks instead to improve partnerships with landlords, acquire more housing subsidies such as Section 8 vouchers, match current housing with supportive services, and increase permanent funding sources.

Currently, the CoC as an organization is basically unrecognized in the community. However, presently under development, Phase 2 of the Community Action Plan to Address Homelessness in Santa Barbara County calls for all local elected leaders to become an active part of their efforts. Having elected leaders serving on the CoC would increase civic commitment and provide greater awareness for the public.

Phase 2 calls for more communication, partnerships, additional service providers and proposes creation of a governance model. Without firm guidance, services often become less coordinated and stakeholders tend to retreat to their own sphere of influence. Hopefully, stronger leadership from the top will give stronger direction and follow-through for a common vision of securing more housing with services for the homeless.

Housing and Housing First: Shifting Priorities

Housing First, a nationwide program which was adopted by the State, is intended to house individuals or families experiencing homelessness as quickly as possible, but in doing so it has caused a number of discussions, both among service providers and in the community. The distinguishing element of this program is to house the most vulnerable first. Housing placement now has a "low barrier" threshold; there are no sobriety or stability requirements before moving in. The program's theory is to house before treatment so that people are more receptive to that treatment. It does not require them to graduate through a series of steps before being housed. In order to receive Federal or State funding for programs that provide housing or housing-related services to people experiencing homelessness or at risk of homelessness, cities and counties must follow Housing First policies and priorities.

Often, the challenges of caring for the most vulnerable have caused neighborhood protests when hearing of an intended Housing First project near their area. The stigma of those in greatest need of housing and services causes concern in the public mind. Sometimes, new proposals signal an uphill battle.

It should be noted that each person placed in a home will be case-managed and appropriate services will be provided. While it is true that clients do not have to accept the services, providers are not allowed to neglect them. As more homeless with great needs are housed, providing the recommended number of support service staff might be challenging. United Way, Santa Maria, writes on its website, "…without a low staff to client ratio you cannot do Housing First evidence-based intervention."[73] The Santa Barbara County Behavioral Wellness Department will need to add staff, and without a reliable funding source, it may not be able to sustain the expanded outreach teams of workers.

The CES ranks people according to need for permanent supportive housing with wraparound services. The Jury learned that the cost of mandated wraparound services is approximately $7,000 per person per year for the majority, and up to $20,000 per person per year for the 11 percent of the most in need. Where such funding will be found to help the individuals in the HMIS system has not been publicly discussed. In defense of the high cost of Housing First,

[73] "Housing First Implementation in Santa Barbara County," Northern Santa Barbara County United Way, Accessed June 3, 2020, https://www.liveunitedsbc.org/blog/housing-first-implementation-santa-barbara-county

proponents point to studies that show savings in other areas such as police, fire, jail, public health, hospitals, parks, and libraries are much greater than the expense of housing them.

The Housing First priorities have also caused concern among the staff at shelters that practiced more of a graduated housing-ready approach, which existed before the new mandate. Clients who do not require extensive supportive services and are housing ready are no longer prioritized as housing becomes available. These housing-ready people might require only a few thousand dollars for deposits or one-time fees, rather than the tens of thousands of dollars needed for a homeless person with greater needs.

Overall, there is a generally recognized need for more flexibility in the various programs' placement protocols and allowable uses of funding, which are often rigid. Some grants narrowly define the scope of financial assistance provided; therefore, the most housing-ready person for placement may not be the one indicated at the top of the CES hierarchy. The HCD is working with the CES Coordinating Agency to use sources of funding that allow more flexibility. Some State funding programs have been responsive to flexible funding.

Four Levels of Housing

There are four levels of housing for different needs:

- ***Emergency Shelters*** take in the homeless from the streets
- ***Transitional Housing*** allows time to establish financial independence
- ***Rapid Re-Housing*** is for short and medium-term stabilization
- ***Permanent Supportive Housing*** includes wraparound services

As listed by the 2018 Phase 1 homeless plan, the numbers of beds for these levels of housing and their providers are:

HOUSING TYPE	NUMBERS OF BEDS	PROVIDERS
Emergency shelter and Transitional housing	531	Good Samaritan, PATH Santa Barbara, Santa Barbara Rescue Mission, Faith-Based Coalition (warming centers), Noah's Anchorage, Transition House (families), Willbridge Transitional Housing, The Salvation Army
Rapid Re-Housing	213	PATH, Good Samaritan, The Salvation Army, Transition House, New Beginnings
Permanent Supportive Housing	151 families with children or 497 individuals	Good Samaritan, Mental Wellness Center, PathPoint, People's Self-Help Housing, County Department of Behavioral Wellness, Sarah House, Willbridge, SB Community Housing Corp., Transition House, City of SB Housing Authority, Housing Authority of SB County

Many of these providers supply three types of housing. These providers are the workhorses, whose staffs are dedicated to helping all those in need, not just a certain category.

In addition, there are three not-for-profit organizations that have consistently developed permanent supportive housing within the County: City of Santa Barbara Housing Authority, County of Santa Barbara Housing Authority, and People's Self-Help Housing. The Santa Barbara County Department of Behavioral Wellness also creates housing. Encouragingly, Good Samaritan and Fighting Back have recently begun to add new housing in the County.

The gap between the numbers of existing beds available and those needed underscores the critical need to build new housing. Over 90 percent of new placements have gone into already existing housing with only a 2 percent turnover rate. Without new housing being built, wait time for any housing option is anywhere from one to nine years.

According to the Phase 1 report, even with full utilization of all four levels, there is not enough housing to take care of the unsheltered.

New Permanent Housing	Total Need	Available	New Housing Needed
Rapid Re-Housing	1,215	262	953
Permanent Supportive Housing	898	63	835
New Temporary Housing			
Shelter/Transitional	2,780	1,603	1,177

Housing projects opening in 2020 are subject to the Housing First mandate. The 80-unit Residences on Depot Street in Santa Maria were originally planned for families but are now going to house the mentally ill homeless. Likewise, another 30-unit project in Santa Maria was intended for seniors and will now become housing for those with serious mental illness.

The above housing projects were initiated five years ago. This is the typical timeline for any building project in Santa Barbara County. When combined with the high cost and scarcity of buildable land, it is a challenge to create housing for the homeless. The length of time to build housing only exacerbates the problem of housing for those waiting in shelters for permanent housing.

Emergency Shelters: A Critical Need

Shelters are at the front lines of homelessness in the County. Santa Barbara County's shelters are full year-round, and there are currently no finalized plans to build additional shelters. This lack of shelter beds became agonizingly apparent during the COVID-19 pandemic.

In 2018, a legal case in Boise, Idaho[74] put pressure on local governments to build more shelters. In 2019, the United States Supreme Court denied further review of the Boise decision that the government cannot prosecute homeless individuals for involuntarily sitting, lying, and sleeping in public if there are no available shelter beds for them. The homeless can continue to stay and sleep on the streets. This creates a dilemma for those communities who struggle with homeless occupation of streets and parks.

[74] *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2018)

Local ordinances against loitering, even sitting on street benches, have occurred. Shouting or urinating in public initiate complaints to law enforcement. When the homeless become too visible, the community reacts, sometimes to the point of criminalizing them. Recently, cities within the County have proposed ordinances against dumpster diving, leaving carts with belongings on the street, and standards for offensive body odors. Yet as experience has shown, arrests or citations do nothing to solve the recurring problems of the homeless.

In February 2020, a member of the public commented at a BOS meeting, "Let's cut to the chase. We need a shelter opened and we need it now!"[75]

There are two major shelters in the South County, the Santa Barbara Rescue Mission and PATH Santa Barbara. In the North County, Good Samaritan manages shelters in both Santa Maria and Lompoc (Bridgehouse). Throughout the County there are several other emergency shelters for special groups: families (Transition House), youths (Noah's Anchorage), domestic violence victims (Domestic Violence Solutions), substance abuse victims (multiple) and those living in cars (New Beginnings Safe Parking). The chart below details the populations and services of the five largest shelters in Santa Barbara County as reported to the Grand Jury.

	SB Rescue Mission	Good Samaritan	PATH	Bridgehouse	Salvation Army
Capacity	200	400	100	56	69
Males	X	X	X	X	X
Females	X	X	X	X	X
Families		X	X	X	X
Emergency	X	X	X	X	
Residential	X	X	X	X	X
Storage	X	X	X		
Showers	X	X	X	X	X
Health	X	X	X	X	
Counseling	X	X	X	X	X
Addiction	X	X	X		X
Job Referral	X	X	X		X
Meals	X	X	X	X	X
Public funding		X	X	X	X

The main emergency shelters vary in admission policies, services, and programs. All accept males and females; PATH, Good Samaritan and Salvation Army take in families; and Good

[75] Delaney Smith, "Homeless Death Review Team Delivers 'Sobering' Report," *Santa Barbara Independent*, February 3, 2020.

Samaritan, PATH and Bridgehouse do not exclude those who are under the influence of drugs or alcohol. The Rescue Mission, PATH, Good Samaritan and the Salvation Army have live-in programs for those who are addicted. These residents pay minimal fees while they receive services.

The Jury learned that shelter costs per person range from $35 to $66 per day. Donations of food and services help keep costs in line. When Santa Barbara County Departments of Public Health and Behavioral Wellness, Doctors without Walls, and Cottage Health deliver care within the shelters, they are providing millions of dollars in services at no cost to the shelters.

Emergency shelters are meant to be temporary. With little or no other housing available in Santa Barbara County, the homeless in the shelters are staying longer and longer, even up to a year. At PATH, for example, the Jury was told that it used to serve 700 individuals per year; now they serve 400. But there are some success stories: In 2019, PATH placed 90 people in permanent housing, and Good Samaritan approximately 350. These numbers include clients placed within the CES system and those by the individual organizations.

Traditional shelters are open to those who need emergency shelter for the night. They offer various services depending on their staffing and partnerships. However, the concept of the shelter is advancing. They are no longer just a bed and a meal, nor are they a free pass for dependent living. New Navigation Centers are transitional housing centers open 24 hours a day and are staffed to offer a variety of services including medical, psychological, social welfare, and job placement services that help navigate clients toward permanent housing. Clients are case-managed and must be referred to participate in the programs to prepare for housing. Clients are registered in the CES, documented and guided toward potential living situations. Currently, the Behavioral Wellness Department is planning to build a Navigation Center for 30-40 homeless per day just north of the City of Santa Barbara. This will be the first County-run shelter.

The Safe Parking Program is another form of temporary housing for over 130 individuals. People living in their cars is a large subgroup recognized by the CoC and receives funding from federal and state grants just as other shelters do. The Safe Parking Program has been expanded to over 24 lots in South County, and a similar program is starting in North County. New Beginnings Counseling Center leads this comprehensive program for those living in their cars; they offer health services and mental health and job counseling. New Beginnings also works to house the vehicular homeless, just as a Navigation Center would do. This Program originated in Santa Barbara County and is being adopted nationwide, a fine example of creative thinking.

With the increased need for shelter beds, other forms of temporary shelter should be considered. Temporary structures can be erected at a fraction of the time and cost of permanent structures. The interior can be configured to a variety of specifications determined by local needs such as combination emergency shelter and Navigation Center. Also, they can be disassembled and reassembled at different locations or even stored. Several California cities are using tension-braced modular tents that can be quickly adapted to city lots and can last over 20 years. For cities where new construction faces many difficulties, these temporary structures are becoming one answer to sheltering the homeless.

Day Centers: Respite from the Streets

Where can the homeless people of Santa Barbara go for assistance during the day? Many of the shelters close their doors during the day. There are few options within the County.

The only option in Santa Barbara City is the Virgil Cordano Center for the homeless. The

facility is open from 9:00 a.m. to 3:00 p.m. five days per week. Here they can find refuge during the day, a place where they can feel safe and respected. The Center is located on Calle Real near upper State Street. It is operated by the Daughters of Charity at St. Vincent and the Franciscan Friars from the Santa Barbara Mission. Established in late 2018, the Center provides daily meals, spiritual advice, laundry services, access to the internet, bus tokens, and information about services from the state and federal government. The Center serves approximately 400 individuals per month. It has one paid staff member plus volunteers from the church. The Center relies solely on donations to meet their annual budget of $250,000 and does not seek nor accept monies from any government source.

Due to the COVID-19 pandemic, this Center has not been allowed to remain open.

A Problem with Housing the Homeless

In 2018, the County and its four largest cities, Santa Maria, Lompoc, Santa Barbara and Goleta, declared a housing and homeless shelter crisis. This declaration allowed the local governments to apply for emergency funding for the homeless from the State. Further, State legislation has streamlined permitting processes for any form of affordable housing in local planning and building departments. The State has set the stage for building housing for the homeless. All that is needed is land and funding.

Few developers have stepped up to build affordable housing for the homeless. Land is scarce, especially in South County, and costs are high. Developers must pay the prevailing wage, expensive permitting and building fees, and wade through numerous reviews and approvals. Although some processes for affordable housing are expedited, there is still a need for relaxed zoning requirements and reduction of regulations. Where to locate housing for the homeless is the first question for every jurisdiction. Identifying sites in each jurisdiction, helping to make them available through multi-use zoning or form-based zoning, and then inviting bids for development would jumpstart the process of building.

Local communities have yet to re-conceptualize what housing for the homeless can look like. The Housing Authorities of both Santa Barbara County and the City of Santa Barbara have been able to create housing that is tasteful and compatible with neighborhoods. In going beyond standard housing models, communities can become acquainted with other types of housing: small units or tiny homes, modular housing or manufactured homes, shared housing, and cooperative housing. As is the practice of both Housing Authorities, all housing for the formerly homeless would be managed and maintained so that the neighbors would have little reason to find fault with the units or their inhabitants. Older homes and apartment buildings or hotels can be rehabilitated to accommodate these more innovative housing types.

These alternatives for housing the homeless need to find a pathway through the planning and building departments and more importantly, to generate support among civic leaders. Such endorsement would also help to forge the major subsidies, tax breaks, or incentives that are needed to overcome the lower profits from building housing for homeless clients. State housing regulations that require counties and cities to build housing for all income levels are mandated but without funding attached. The funding that has been awarded to local agencies is not enough to buy land and build housing in this County. Federal funding for development has also been reduced.

Thus, it is incumbent upon the cities and the County to create funding mechanisms for housing in ways that encourage more cooperation and regional planning. Other areas in the State have

created regional housing financial authorities, regional housing trusts, land trusts or financing districts. As county agencies apply for funding from the State, service agencies and jurisdictions could coordinate resources for greater impact. This is, after all, the original purpose of the Continuum of Care. With the financial setbacks of the COVID-19 pandemic, only shared assets can tackle the expenses of building housing in Santa Barbara County.

Funding Now!

Recently, funding for new housing and services has become more available but also more competitive. Santa Barbara County and its cities currently use a combination of federal and state funding sources to finance the development and operation of homeless shelters and services. In the past, most funding for low-income housing came from the federal agency of Housing and Urban Development (HUD). Also, the Veterans Administration is helping to build housing in Santa Barbara and has just opened 16 housing units in conjunction with the Santa Barbara City Housing Authority.

The major federally funded programs are:

- Tenant Based Rental Assistance also known as Section 8 Vouchers
- Project Based Rental Assistance, Vouchers for defined rental projects
- Community Development Block Grant Program
- Emergency Solutions Grants given to states, cities, and counties, and distributed through the County Continuum of Care
- Projects for Assistance in Transition from Homelessness Program
- Homeless Emergency Assistance and Rapid Re-Housing

There are 28 different state funding programs. The most prominent are:

- Homeless Emergency Aid Program
- California Emergency Solutions and Housing
- No Place Like Home
- Homeless Housing, Assistance and Prevention

Other funding sources are:

- Grants from private foundations
- Philanthropic donations
- Fundraising events
- Volunteers
- Planned-giving bequests.

Private sources are:

- Developers applying for and utilizing grants funded by municipal bonds and tax credits
- Health insurance companies and large financial institutions utilizing restricted reserves

The federal government issues tax credits to state governments that state housing agencies then award to private developers of affordable rental housing projects through a competitive process. The Community Reinvestment Act of 1977 has made it advantageous for institutions such as banks and insurance companies to invest in housing. Insurance companies have found by funding shelters with wraparound services, frequent emergency room admissions by the homeless are greatly reduced. The cost of those admissions is borne by hospitals, and private and governmental insurers. Large health plans have opted to invest some of their restricted reserves for socially redeeming purposes.

The Grand Jury learned there are currently no housing projects involving large health insurers under development in Santa Barbara County. However, since 2011, United Health, the largest private health insurer in the U.S. and a major provider in Santa Barbara County, has invested $400 million in helping to build 80 housing communities in 18 states, resulting in more than 4,500 supportive housing units with wraparound services. Recently, they made a $12 million investment in Los Angeles to develop a new 65-unit PATH housing center for people experiencing homelessness in Los Angeles.

While the Jury has found no evidence of partnership with large insurers within Santa Barbara County, it learned that the Housing Authorities of the County and the City of Santa Barbara have approached large insurance companies and hospitals who operate in the County, but these companies have preferred to invest through pooled investment syndicates rather than work directly with the Housing Authorities.

The County is pursuing funding from Medicare, MediCal, Supplemental Security Income (SSI) and Veterans Administration Benefits. Most clients are eligible for one or more of these programs, and billing methods are being adopted. The County is also working with its medical plan administrator, CenCal Health, to enroll patients and set up such payments. Fully funded Medicare and MediCal reimbursements could cover up to 84 percent of the costs of services to the homeless.

Sharing the Funding

After the County and its four largest cities, Santa Barbara, Santa Maria, Lompoc, and Goleta, declared a state of emergency shelter crisis, they applied for emergency grant funding from the State. The County HCD then administers the CoC funding allocations and oversees accomplishment of goals, as mandated by HUD. The combined yearly allocation from HUD and the Emergency Solutions Grant Program through the CoC is over $4 million. In 2019, the State awarded $16 million in one-time grants to a variety of programs within the County. These funds have been designated to health and supportive services, outreach, and to the upcoming county-run emergency shelter. Often the community is not aware of where these monies are spent and it is important to have transparency, understanding and accountability of homeless related expenditures and the results.

On the CoC, there are approximately 40 coordinating organizations who determine the grants and amounts to be awarded within the County. A conflict of interest arises when those organizations voting on the grant allocations are the same organizations that have projects under consideration for funding. There have been proposals to change the composition of the decision-making group to clear the grant giving process of favoritism.

For the 2019-20 funding cycle, the CoC recommended various amounts from $76,500 to $846,000 for different shelter programs. Good Samaritan, Santa Barbara Community Housing

(Hotel De Riviera), Behavioral Wellness Department (Casa Del Mural), PATH, New Beginnings Counseling Center, and the Shelter Care Plus program for the Housing Authority of the City of Santa Barbara were in line to receive funding. The State funding was awarded in March 2020 through the CoC, and most grant amounts were increased. Money will also go to maintain the database programs of the County. Most available funds are designated as renewals and will maintain existing essential programs. Of the myriad of applications for funding, only two new agencies were recommended to the State to receive funds, Domestic Violence Solutions and Noah's Anchorage, but they were not granted funding.

Most of the recent funding for homeless projects that has come to Santa Barbara County has gone not to building housing but to provide services that accompany housing: setting up the Coordinated Entry System, programs to prevent homelessness, outreach, rental assistance, and programs that connect the homeless with health and supportive services. The grants typically have an expiration limit, and they are not enough to consider the construction of housing.

To build and sustain permanent supportive housing and its services, a continuous funding source will be necessary. Federal and State funding is now greatly stressed because of budget cuts following the COVID-19 pandemic. Funding for homeless housing has survived into 2021 but is not assured past that time. To solve the homeless housing crisis, counties and cities must rely on their own stable source of funding. At some point, local leaders may have to consider a tax, bond measure or a continuous budget line item to create financial resources. The State of California has dedicated billions of dollars to the housing and homeless crisis for the near term. Local governments need to consider long-term sustainable funding, perhaps in a regional trust, to be able to build housing while continuing to support existing programs.

CONCLUSION

Additional housing for the homeless has long been a necessity, but it is only in recent years that it has achieved national attention on a large scale. Local media has increasingly focused on the issue. Rarely a day goes by without some aspect of homelessness being brought to our attention. The time has come to involve our communities and solicit ideas and support in resolving what is now both a housing and human crisis.

Strong leadership from local government can go a long way toward alleviating the stigma of homelessness. Positive messaging on a consistent basis from local leaders and targeted neighborhood meetings that provide information and solicit input on specific development proposals could lay the groundwork. Partnering with local media can highlight the humanity of the homeless by sharing their success stories. Emphasizing the contributions of non-profit and religious communities and encouraging greater cooperation can also help to change the conversation.

Whether considering temporary, transitional or permanent housing for the homeless, it will not be built without the support of the surrounding community. To gain that support, comprehensive and inclusive neighborhood outreach must address the stigma of homelessness. There is a limited percentage of the homeless population who have mental health or substance abuse issues. Unfortunately, these are the people that are most visible on our streets and whose behavioral problems first come to mind when the issue of homelessness is broached to the public.

We the people of Santa Barbara County need to educate ourselves about the children and working families, the seniors and disabled, and the military veterans who comprise most of the

homeless population. We need to accept that affordable housing for the homeless can be compatible with our neighborhoods, safe for both the residents and the neighbors, and neutral to local property values. We need to see the human faces of the homeless, hear their stories, and visit the successful facilities already in place. We need to appeal to our hearts and to our highest values, and we need to do it now.

Community opposition can evolve into community support when neighbors come to understand that in addition to helping others, we are benefitting ourselves and the Santa Barbara communities we all call home.

FINDINGS AND RECOMMENDATIONS

Finding 1

There is a need for greater transparency, understanding and accountability of homeless related expenditures and the results.

Recommendation 1a

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Community Services Department to publish an annual report of homeless related expenditures and outcomes.

Recommendation 1b

That the City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria publish an annual report of their homeless related expenditures and outcomes.

Finding 2

Permanent Supportive Housing for the most vulnerable homeless is lacking.

Recommendation 2

That the Santa Barbara County Board of Supervisors and the City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria develop plans and devise mechanisms for providing ways to build permanent supportive housing for our most vulnerable homeless populations.

Finding 3

State and federal funding that is granted to Santa Barbara County does not sufficiently support the mandate for housing the homeless.

Recommendation 3

That the Santa Barbara County Board of Supervisors and City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria identify funding mechanisms, including, but not limited to, bond issues, dedicated taxing, a designated budgetary line item and strong philanthropic partnerships, for housing the homeless.

Finding 4

Elected City and County leaders have not exhibited aggressive leadership in determining the availability of sites in their jurisdictions for housing the homeless.

Recommendation 4

That the Santa Barbara County Board of Supervisors, and City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria designate and facilitate building of housing for the homeless on sites within their jurisdictions.

Finding 5

A greater effort is needed to inform and include the public regarding the needs of the homeless for housing and services and how it can appropriately fit into neighborhoods.

Recommendation 5

That the Santa Barbara County Board of Supervisors, and City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria be more proactive in informing the public of the needs of the homeless for housing and services and how it can appropriately fit into neighborhoods by holding forums and conducting tours of existing facilities to educate the residents whose neighborhoods are proposed for the development of projects for the homeless.

Finding 6

There are no elected leaders serving as voting members of the Santa Barbara County Continuum of Care Board.

Recommendation 6

That the Santa Barbara County Board of Supervisors direct the Community Services Department to work with the Continuum of Care Board to develop a procedure for including elected leaders as voting members of the Continuum of Care Board.

Finding 7

A conflict of interest exists within the membership of the Continuum of Care Board as the member organizations who seek funding for their projects are permitted to vote and grant funding for their own projects.

Recommendation 7

That the Santa Barbara County Board of Supervisors direct the Community Services Department and the Santa Barbara County Counsel to work with the Continuum of Care Board to change the procedures for the voting process on the Continuum of Care Board to eliminate the perceived conflict of interest.

Finding 8

All overnight emergency shelters are at capacity year-round, there are not enough day centers, and there are currently no Navigation Centers in Santa Barbara County.

Recommendation 8a

That the Santa Barbara County Board of Supervisors and the City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria work together to create overnight emergency shelters commensurate with their homeless populations.

Recommendation 8b

That the Santa Barbara County Board of Supervisors and the City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria work together to create day centers commensurate with their homeless populations.

Recommendation 8c

That the Santa Barbara County Board of Supervisors and the City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria fund and expedite the development and opening of more shelters incorporating the Navigation Center concept.

Finding 9

Currently, several California cities are providing temporary homeless facilities by utilizing alternative cost-effective forms of housing such as high-performance tension fabric structures, tiny houses, and modular housing.

Recommendation 9

That the Santa Barbara County Board of Supervisors and the City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria undertake feasibility studies and develop plans for using alternate types of cost-effective forms of housing.

Finding 10

Currently, in some California cities, large health care insurers are utilizing their tax credits to fund housing facilities for the chronically homeless.

Recommendation 10

That the Santa Barbara County Board of Supervisors and City Councils of Santa Barbara, Goleta, Santa Maria, Solvang, Buellton, Lompoc, Guadalupe, and Carpinteria contact major health care insurers in their jurisdictions and encourage them to seek partnerships to support the construction of housing for the chronically homeless of Santa Barbara County.

Finding 11

Housing First’s wraparound services concept necessitates an increased staff-to-client ratio.

Recommendation 11

That the Santa Barbara County Board of Supervisors provide the Behavioral Wellness Department with additional continuous funding to ensure the needed staff-to-client ratios in the County supportive housing facilities.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why

Santa Barbara County Board of Supervisors - 90 days

Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

Recommendations 1a, 2, 3, 4, 5, 6, 7, 8a, 8b, 8c, 9, 10, 11

City of Santa Barbara - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

City of Goleta - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

City of Carpinteria - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

City of Solvang - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

City of Buellton - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

City of Lompoc - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

City of Guadalupe - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

City of Santa Maria - 90 days

Findings 1, 3, 4, 5, 8, 9, 10

Recommendations 1b, 2, 3, 4, 5, 8a, 8b, 8c, 9, 10

GLOSSARY

ADA	American with Disabilities Act
BOS	Santa Barbara County Board of Supervisors
CES	Santa Barbara County Coordinated Entry System
CoC	Santa Barbara County Continuum of Care
HCD	Housing & Community Development division of the Santa Barbara County Community Services Department
HMIS	Homeless Management Information System
Housing First	HUD mandate for low barrier housing placement
HUD	US Department of Housing and Urban Development
PIT	Point-in-Time Count and Survey of the Homeless in Santa Barbara County
Phase 1	2018 County Action Plan to Address Homelessness
SBCAG	Santa Barbara County Association of Governments
Section 8	Rental subsidy vouchers from HUD for low-cost housing

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GRAND JURY
SANTA BARBARA COUNTY

DEATHS IN CUSTODY 2019

SANTA BARBARA COUNTY

Publication of the

2019-20 Santa Barbara County Grand Jury

June 29, 2020

DEATHS IN CUSTODY 2019

SANTA BARBARA COUNTY

SUMMARY

Pursuant to *California Penal Code Section 919, subdivisions (a) and (b)*, "[t]he grand jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted," and "shall inquire into the condition and management of the public prisons within the county." Under that statute, prior Santa Barbara County Grand Juries often have examined the circumstances surrounding inmate deaths at the Santa Barbara County Main Jail. Four inmates died in 2019 while in the custody of the Santa Barbara County Sheriff's Department; they will be identified here by the identifiers A1, B1, C1, and D1. The deaths of A1 and B1 were determined to be natural causes, while C1 and D1 were determined to have died by suicide.

The 2019-20 Santa Barbara County Grand Jury investigated the circumstances surrounding these deaths, studied the facts, and offers recommendations with the goal of improving local government operations.

METHODOLOGY

Information pertaining to the four deaths was obtained from the Sheriff's Office (Sheriff). These included written reports from Senior Deputies, Custody Deputies, and other sworn staff of the Department. Further, the Jury reviewed reports from the staff of Wellpath, the County current contracted medical and mental healthcare provider for the Main Jail and studied other documents, records, and policy and procedure manuals for both custody staff and Wellpath.

OBSERVATIONS

1.0 A1 Death in Custody January 10, 2019

A1 was seriously ill when he was arrested and placed in custody on February 20, 2018. He remained there or in Cottage Hospital through several continuances and the filing of additional charges on July 16, 2018, until his death in Cottage Hospital on January 10, 2019 with several family members present. The attending physician certified his death as from natural causes.

While in custody, he made several sick call requests, describing a variety of very serious medical problems. He was seen by Wellpath staff, who carried out standard measurements, and an interview followed each visit until December 16, 2018, when he was sent to Cottage Hospital. He was discharged and returned to the Main Jail on December 26, 2018. A plan was developed, including medications and diagnostic tests, but he refused both on several occasions after his return to custody.

On January 5, 2019, A1 was returned to Cottage Hospital as his condition worsened. After discussion with the medical director on January 7, 2019, his family met with him, and he asked to be transferred to comfort care, focusing on symptom control which required discussion with the District Attorney. He died on January 10, 2019.

There is no evidence of mistreatment or negligence by any member of either the custody staff or the Cottage Hospital staff. A1 had been seriously ill for some time, and he frequently refused treatment or diagnostic tests. The Jury found no indication that custody hastened his death.

2.0 B1 Death in Custody April 12, 2019

B1 was admitted to Cottage Hospital on April 3, 2019. He had a history of diabetes and heart problems. He was prescribed stent placement, cardiac catheterization, and new medications. B1 refused invasive treatment and was released from the hospital on April 4, 2019.

B1 was again admitted to Cottage Hospital on April 9, 2019. He was brought to the emergency room by ambulance directly from the street with palpitations, nausea, occasional vomiting and dizziness. His lab tests showed hypoglycemia likely due to noncompliance with Type 1 Diabetes treatment. His rapid atrial fibrillation was treated, and it was determined that admission was not warranted due to history of chronic medical noncompliance. He was discharged and referred to the county medical clinic. The Jury was told that the hospital record states, "Patient understands that he is at risk of permanent disability, worsening, death all related to his noncompliance."

B1 was booked at the Main Jail on April 10, 2019 on a parole violation. He was confined to a wheelchair at his admission and was a diabetic with a history of non-compliance with treatment protocol. B1 reported that he had been in the Intensive Care Unit for cardiac problems. The jail medical staff reported his vital signs were out of control, and no new medications were administered.

B1 had advised the arresting officer that he could not be transferred to the Rescue Mission or People Assisting the Homeless (PATH) because of his previous conduct at those facilities. Similarly, he was no longer permitted at Cottage Hospital due to his conduct.

Wellpath has adopted the policy of Correctional Medical Group Companies, Inc. The Santa Barbara County Adult Facilities Policy & Procedures Manual states in Section E02B, "The following medical conditions identified initially upon arrival of the arrestee will require refusal and referral to the emergency room for medical evaluation and clearance… 6) Arrestees with any type of serious injury or illness." According to a Sheriff Department source, B1 had a long history of serious illness, and he should not have been admitted to the jail but referred to the emergency room.

On April 12, 2019, at 2:30 p.m., the on-duty Registered Nurse (RN) received a phone call from the basement officer who advised her that B1 was complaining of chest pains. The officer was instructed to bring B1 into the Central Treatment Room so that she would have access to all the necessary equipment. The RN did a full assessment of his vital signs and applied oxygen. B1's sugar levels were at 534 mg/dl. An Electrocardiogram (EKG) was administered to the patient. The RN attempted to contact the on-call physician to report the high blood sugar levels and to evaluate the EKG but was unable to get an answer. She left a voice mail and administered nitroglycerine by placing it under his tongue. At 3:24 p.m., another assessment was conducted. At that time the patient was talking and joking with officers and did not appear to be in distress. B1 was cleared to return to his housing unit pending a diabetic check at 5:00 p.m. The 5:00 p.m. check yielded a blood sugar level of 587 mg/dl. The on-call physician was still unavailable.

At 5:40 p.m., a Custody Deputy (CD1) and a trainee began normal meal service in the cell block. B1 refused his meal when his name was called so the trainee asked another inmate to take the tray to him. About five minutes later, an inmate approached the desk and stated that B1 "is not looking too good." CD1 told the trainee to call medical as he went to check on B1. CD1 could

see that B1 was foaming from the mouth but was still coherent. When contacted, medical asked if B1 could be transported to the Central Treatment Room for an EKG. The custody deputy, his trainee and an inmate were able to get B1 into a wheelchair and CD1 started rolling him out to the hallway. At this point B1 started foaming from the mouth and nose, and his head and eyes were rolled back. CD1 called medical via the radio and reported a "code blue" (cardiac arrest).

CD1 and his trainee lowered B1 to the ground and started life saving steps. Custody Deputy 2 (CD2) heard the radio code blue and proceeded to the basement area. Upon arriving at the scene, he saw CD1 conducting Cardiopulmonary Resuscitation (CPR) on B1. He noticed that the medical team had yet to arrive and an Automated External Defibrillator (AED) was needed. CD2 went up the east stairwell to retrieve an AED and saw the medical team coming down the stairwell. He asked if they had an AED and they said they did not. CD2 went to the east treatment room and grabbed an AED as well as a "man down bag" (an emergency kit with instruments, equipment and medications).

When CD2 returned to the scene, he saw that more medical staff was on scene, and he assisted in setting up the oxygen tank. CD2 noted that CD1 had been doing CPR for quite a while, so he replaced CD1 and continued CPR. After about two minutes of CPR, American Medical Response (AMR) arrived and took over the lifesaving efforts. The patient was pronounced dead at 6:41 p.m.

FINDINGS AND RECOMMENDATIONS

Finding 1

B1 was accepted into the Main Jail despite his potentially life-threatening condition and inability to walk.

Recommendation 1

That the Santa Barbara County Sheriff enforce the policy regarding not admitting inmates to the Main Jail with life threatening medical conditions.

Finding 2

When the on-call physician was unable to be reached on April 12, 2019, at 2:30 p.m., the inmate was not transferred to the local hospital emergency room.

Recommendation 2

That the Santa Barbara County Sheriff require all medical staff be instructed to transfer inmates to the local hospital emergency room when there is an emergency that is a life threatening or serious injury or illness and the on-call physician does not respond.

Finding 3

When the blood sugar level was determined to be 587mg/dl at 5:00 p.m., and the on-call physician did not respond, the inmate was not sent to the emergency room.

Recommendation 3

That the Santa Barbara County Sheriff ensure that medical staff follow policy and procedures when the on-call physician does not respond.

Finding 4

When Wellpath personnel responded to a man down emergency, they did not bring an emergency kit to the scene.

Recommendation 4

That the Santa Barbara County Sheriff ensure that Wellpath personnel bring an emergency kit whenever they respond to a man down notification.

3.0 C1 Death in Custody June 25, 2019

C1 was arrested and booked at the Santa Barbara County Main Jail on April 10, 2018. C1 remained in custody and unsentenced while his court date was continued 25 times. The Jury questioned why C1 was held 14 months awaiting trial. The 6th amendment of the United States Constitution guarantees a speedy trial and *California Penal Code Section 1382* dictates that unless waived a person charged with a felony be brought to trial within 60 days. The date of arrest on both the Sheriff's letter to the Jury and the Coroner's report incorrectly state 2019, giving the false impression that his incarceration was two months rather than fourteen months.

C1 had a decades-long history of prior arrests, detention, and mental health issues with suicidal ideations. C1 was evaluated by a Wellpath psychiatrist in August of 2018, diagnosed with schizophrenia, and prescribed antipsychotic medications. Within five days, C1 was noncompliant and stopped taking prescribed medications, and there was no follow-up. A January 2019 assault at the Main Jail resulted in orbital and nasal fractures.

It was reported to the custody deputies on June 25, 2019, that C1 was accused by fellow inmates of being a child molester, which he denied. On the same day at approximately 1:00 p.m., C1 was removed from his cell by a custody deputy after arguments among inmates. He was handcuffed, removed from his housing unit and displayed combative behavior toward a neighboring inmate. He was placed in the temporary cell Front Central C-14 at 1:11 p.m. The handcuffs were removed. The video provided to the Jury shows C1 began pacing in the cell.

C1 requested to be assigned to a cell alone for permanent placement. C1 was advised Wellpath mental health (MH) would be contacted to meet with him prior to rehousing. The Custody Deputy stated he contacted MH and informed the clinician of his conversation with C1. Later that day at 1:34 p.m., C1 asked a MH clinician walking by his cell for help with housing and stated he would kill himself if he did not get a cell alone. At the end of their conversation, C1 denied any suicidal or homicidal intention. The same MH clinician determined C1 was not a danger to himself. This MH clinician, the last person to speak with C1 minutes prior to his hanging, stated in an interview that they are not required to inform a supervisor or custody personnel upon hearing a patient make a suicidal statement.

Shortly thereafter, at 1:51 p.m., C1 took off his T-shirt and is shown on video experimenting by tying it at varying heights on the bars of his cell. At 1:59 p.m. C1 was standing normally in his cell, with the T-shirt tied to the bar, as a Custody Deputy walked by. At 2:01 p.m., C1 secured the T-shirt, tied at chest height, around his neck.

At 2:13 p.m., C1 was discovered hanging by a Custody Deputy. He was cut down and life-saving measures were initiated. No carotid pulse or vital signs were detected. CPR was administered and the AED indicated no shock was needed, as a pulse was detected. AMR and Fire Department personnel arrived at approximately 2:23 p.m., and C1 was removed at 2:30 p.m. on a backboard and taken to Cottage Hospital.

On June 30, 2019, C1 was removed from life-support equipment at Cottage Hospital with his family at his bedside.

In its investigation the Jury discovered that 28 of 48 interviews regarding C1's hanging in his cell omitted the date and time the witness was interviewed. Some interviews occurred in September, more than two months after the event.

FINDINGS AND RECOMMENDATIONS

Finding 1

Following an accusation of being a child molester and being assaulted by other inmates, C1 was agitated and threatened suicide unless he received a permanent cell to himself.

Recommendation 1

That the Santa Barbara County Sheriff immediately place an inmate threatening suicide in a safety cell and monitor the inmate more frequently.

Finding 2

There was a significant date inaccuracy in both the Santa Barbara County Sheriff's letter and the Coroner's Report, giving the false impression that his incarceration was two months rather than fourteen months.

Recommendation 2

That the Santa Barbara County Sheriff ensure that all reporting documents are complete and accurate.

Finding 3

Omission of the dates of interviews conducted by Sheriff's Deputies make it difficult to assess the accuracy or recall of circumstances surrounding a death in custody.

Recommendation 3

That the Santa Barbara County Sheriff ensure that the dates contained in investigative reports be stated and interviews completed as soon as possible after the event.

Finding 4

When walking by C1's cell, a Custody Deputy failed to observe the T-shirt tied to the bars.

Recommendation 4

That the Santa Barbara County Sheriff ensure that Jail Custody staff are alert to items hanging from bars and take appropriate action.

Finding 5

An inmate suicide threat was not reported to a supervisor.

Recommendation 5

That the Santa Barbara County Sheriff ensure that all detention facility personnel inform their supervisor of any threats of suicide.

Finding 6

C1's mental illness was not reevaluated for the ten months prior to his suicide.

Recommendation 6

That Santa Barbara County Board of Supervisors provide psychiatric services to better serve mentally ill inmates in detention.

4.0 D1 Death in Custody October 31, 2019

D1 was arrested on October 19, 2019 by the Lompoc Police Department on a violation of felony probation charge. On October 20, 2019 D1 was booked into the Main Jail and the medical intake screening was completed. D1 claimed to be suffering from mood disorders, anxiety and Post Traumatic Stress Disorder (PTSD), but claimed no drug or alcohol use. The records provided to the Jury did not show whether his previous booking records were reviewed. A thorough review of prior booking assessments would have revealed a history of drug use and suicidal ideations. An initial mental health assessment was attempted, but D1 refused services and no referral to a psychiatrist was made.

D1 complained of withdrawal symptoms to the custody staff on October 23, 2019. The Jury learned custody staff later referred him to the medical staff where he was assessed and placed on a Benzodiazepine protocol. Later, he refused monitoring and appropriate medications.

On October 23, 2019, D1 attempted to exit the facility by attempting multiple times to walk past Custody Deputies as they were serving meals. He was medically evaluated and cleared. He was then rehoused to cell IRC100-113 which contained a wall phone that had a long cord to the receiver. D1 was referred to Mental Health for evaluation because of demonstrated bizarre behavior. He was not seen that day and placed on "welfare check" for the next day by Mental Health.

On October 31, 2019 at approximately 11:15 a.m., D1 committed suicide in his cell by wrapping a phone cord around his neck and dropping his feet out from under his body. When D1 was discovered, a custody deputy placed the pads from an AED device on D1's chest. An RN arrived and checked for breathing and pulse and found none. CPR was then administered by several deputies, pausing only to allow the AED to check the patient. The deputies reported that the AED never gave the order to administer a shock. At 11:28 a.m., medics from the Santa Barbara County Fire Department arrived and took over CPR. At 11:50 a.m., D1 was pronounced dead.

The required Responder Defibrillator Report was not found in the files provided to the Jury. In addition, during the incident one of the medical staff heard a Code 33 on the radio, thus knowing that this was an emergency but not knowing what type of emergency.

FINDINGS AND RECOMMENDATIONS

Finding 1

A thorough review of D1's prior booking assessments would have revealed a history of drug use and suicidal ideations.

Recommendation 1

That the Santa Barbara County Sheriff direct staff to review all prior bookings and assessments at intake.

Finding 2

D1 was not started on treatment at the first mention of his statement of experiencing withdrawal symptoms.

Recommendation 2

That the Santa Barbara County Sheriff ensure that Wellpath conduct remedial training of medical staff regarding withdrawal statements or recognizing symptoms.

Finding 3

After D1 refused medications, no follow-up assessment was scheduled.

Recommendation 3

That the Santa Barbara County Sheriff require Wellpath conduct remedial training of medical staff regarding individuals who refuse medication.

Finding 4

The inmate was housed in a cell that was not intended for mental health or medical observation.

Recommendation 4

That the Santa Barbara County Sheriff Custody Staff house inmates displaying symptoms of mental illness in cells intended for mental health or medical observation.

Finding 5

D1 was housed in a cell with a long-corded wall-mounted telephone.

Recommendation 5

That the Santa Barbara County Sheriff ensure that the Custody Staff not house inmates in cells with corded telephones.

Finding 6

An initial mental health assessment was attempted, but D1 refused services and no referral to a psychiatrist was made.

Recommendation 6

That the Santa Barbara County Sheriff ensure that Wellpath conduct remedial training of staff regarding medical and mental referrals at intake.

Finding 7

The radio call of Code 33 did not identify the nature of the emergency.

Recommendation 7

That the Santa Barbara County Sheriff direct all radio calls for medical emergencies be in plain language, including details of the symptoms encountered such as suicide by hanging, bleeding wounds, suspected overdose, etc.

Finding 8

The required Responder Defibrillator (AED) Report was not found in the files provided to the Jury.

Recommendation 8

That the Santa Barbara County Sheriff ensure that Wellpath test all AEDs monthly and after each use and keep logs of the dates of these checks.

CONCLUSION

During 2019, four inmates in custody at the Santa Barbara County Main Jail died. Dealing with persons who have severe medical conditions and/or mental illness is no easy task. The 2019-20 Santa Barbara County Grand Jury's role in these cases is to investigate the circumstances of the death, determine the facts, and make recommendations with the goal of improving local government operations.

The death of A1 was ruled by the Coroner's Office to be the result of natural causes. The Jury has concluded from its inquiry into the circumstances of A1's death in custody that all pertinent health rules, regulations and policies were followed by the Sheriff's Department and that no further action is required. Accordingly, pursuant to *California Penial Code Section 933.05,* the report in this death requires no response.

The death of B1 was also ruled to be due to natural causes. The Jury concluded that the inmate was booked into the Jail with critical health issues, which was against Santa Barbara County Sheriff and Wellpath policies. In addition, errors occurred in the response and treatment of the inmate during his seizure.

The death of C1 was ruled by the Coroner's office to be the result of suicide by hanging. C1's threats of suicide were inadequately addressed despite the fact he had previously been seriously assaulted at the jail. All threats of suicide must be taken seriously. C1 was jailed and unsentenced for 14 months, while his court date was continued 25 times. Many of the official interview documents surrounding C1's death did not include a date when each interview took place. Documents from the Sheriff and Coroner included the incorrect year of his arrest. Once C1 was discovered hanging in his cell, deputies and medical staff immediately came to his aid and provided life-saving measures. C1 was taken off life support at the hospital five days following his suicide attempt at the jail.

The death of D1 was ruled by the Coroner to be the result of suicide by hanging. The Jury concluded that many of the pertinent health rules, regulations and policies were not followed by the Sheriff's Department and its medical provider, Wellpath. D1 was not referred to a psychiatrist at intake, was not started on treatment at first mention of withdrawal, was not scheduled for assessment when medications were refused, and was housed in a cell that was not intended for mental health or medical observation.

The 2019-20 Santa Barbara County Grand Jury concludes that the Santa Barbara County Sheriff's Department needs to upgrade training and review policies and procedures with staff and Wellpath to avoid serious errors. The Sheriff needs to insist on more adequate psychiatric responses from Wellpath.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with a completion date of no more than six months after the issuance of this report
- Will not be implemented, with an explanation of why

2.0 B1 Death in Custody April 12, 2019

Santa Barbara County Sheriff-Coroner - 60 days

Findings: 1, 2, 3, 4

Recommendations: 1, 2, 3, 4

3.0 C1 Death in Custody June 25, 2019

Santa Barbara County Sheriff-Coroner - 60 days

Findings: 1, 2, 3, 4, 5, 6

Recommendations: 1, 2, 3, 4, 5, 6

4.0 D1 Death in Custody October 31, 2019

Santa Barbara County Sheriff-Coroner - 60 days

Findings: 1, 2, 3, 4, 5, 6, 7, 8

Recommendations: 1, 2, 3, 4, 5, 6, 7, 8

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SANTA BARBARA COUNTY

JUVENILES IN GANGS IN SANTA BARBARA

HAS ACCOUNTABILITY BEEN FORGOTTEN?

Publication of the

2019-20 Santa Barbara County Grand Jury

June 29, 2020

JUVENILES IN GANGS IN SANTA BARBARA COUNTY
HAS ACCOUNTABILITY BEEN FORGOTTEN?

SUMMARY

As a result of recent gang-related violence in Santa Barbara County, the 2019-20 Santa Barbara County Grand Jury (Jury) initiated a study of gang incidents and how various agencies are addressing them. The Jury found an evolving response to gangs, and gangs themselves have shifted tactics. The County Probation Department and County and municipal law enforcement agencies have had to adapt to a changing legal landscape that allows more leniency in dealing with crime, and in particular juvenile crime.

The Jury heard from a number of representatives who work with juvenile gang members or non-initiated associates. At times it seemed that there were two camps: one which wanted to rehabilitate the youth and the other which wanted to hold them accountable. The Probation Department, the Sheriff's Office, and the police departments may sound at odds with each other, but all aim to treat juvenile gang members as individuals influenced by their environment. These agencies need to collaborate now more than before in order to reconcile what is happening in street gangs with changes in the laws. The agencies meet regularly, and the Jury recommends that they continue to meet on an ongoing basis with more resources than those they have currently. The Sheriff's Department in particular needs to rejoin the consortium of those working to prevent gang crime.

Methodology

The 2019-20 Santa Barbara County Grand Jury wanted to study the issue of juvenile gangs from multiple perspectives. Jury members interviewed those who worked with at-risk youth and gang members, made site visits and read documents to understand this volatile situation of juveniles caught in gang activities.

The Jury interviewed representatives from law enforcement, Probation, schools and non-profit organizations:

Santa Barbara County Executive Office

Santa Barbara County Sheriff's Department

Santa Maria Police Department

Santa Barbara Police Department

Lompoc Police Department

Guadalupe Police Department

The Santa Barbara County District Attorney's Office in Santa Maria

The Santa Barbara County District Attorney's Office in Santa Barbara

The Santa Barbara County Public Defender's Office in Santa Barbara

Santa Barbara County Probation at Susan J. Gionfriddo Juvenile Justice Center

Santa Barbara County Probation at Los Prietos Boys Camp

Santa Barbara County Probation, Juvenile Division

Santa Barbara County Probation, Administration

Juvenile Justice Delinquency Prevention Commission

School Resource Officers in several cities within the County

Santa Maria Unified School District

Santa Barbara Unified School District

Santa Barbara County Education Office

South Coast Youth Safety Partnership, Community Action Commission

Senior Administrator, Santa Maria

Fighting Back, Santa Maria

Jury members made site visits to both the Susan J. Gionfriddo Juvenile Justice Center and Los Prietos Boys Camp. There, and at Fighting Back, Santa Maria, Jury members were able to speak with gang affiliates and former gang members.

Jury members reviewed news and media articles about recent gang violence. One study by the *San Francisco Chronicle*, "Vanishing Violence," March 21, 2019, was particularly helpful in understanding the complexities of juvenile justice. The Santa Barbara County Probation Office also provided abundant background materials. Other online and document research, including state and national juvenile justice data, was reviewed. The Jury also researched legal matters pertaining to juveniles in detention. Lastly, Jury members did research on State education websites and data sites for children (kidsdata.org, surveymonkey.com, CalSCHLS.org) regarding school climate, health, learning and social patterns.

BACKGROUND

History

Other Santa Barbara County Grand Juries have addressed gang activity in the County in three different reports: Anti-Gang Efforts in the City of Santa Barbara (2007-08), Gang Violence in the Santa Maria Valley (2009-10), and Youth Safety in Santa Maria (2016-17). The reports assessed local responses to alarming gang incidents. The 2007-08 Jury report resulted from two homicides involving juvenile gang members in the city of Santa Barbara; one of the murders occurred on its main street. Two years later, the 2009-10 Grand Jury responded to a Request for Investigation about Santa Maria's gang problem. The gang violence in Santa Maria later escalated to such a point that the entire city mobilized to find ways to intervene, which was the subject of the 2016-17 Grand Jury report. In 2016, the Santa Maria police needed the combined efforts of county, state and Federal agencies to suppress the outside gang MS-13 that had been dominating criminal activity and the local street gangs.

Gang violence can be characterized as cyclical: after a raid when gang leaders are arrested, a quiet period ensues until other gang members fill the void. In Santa Maria this is true, as local

gangs have stepped up activity since the 2016 MS-13 sweep. The 2019 trial of one Santa Maria gang member was connected to nine months of gang incidents by a four-man squad reportedly created to revitalize one of the local criminal street gangs.[76] The City of Santa Barbara has had fewer major incidents recently, one gang-related death in June 2019, one murder and one attempted murder in January 2020. Nonetheless, each death brought attention to gang activity in the City. However, in Lompoc, deaths and injuries from shootings have escalated to the point of being almost monthly. Gang affiliation is most often tied to the incidents.

In Santa Barbara County there are numerous street gangs. The Santa Barbara County Sheriff's Department offered a list of 18 total named gangs: two in Santa Barbara, three in Goleta/Isla Vista, three in Lompoc, two that have ties in Lompoc and Santa Maria, and eight in Santa Maria. Some gang members from San Luis Obispo County also reside in Santa Barbara County. Many gangs can have multiple cliques. Also, they are mobile and operate throughout the county. A gang member living in Lompoc may be active in Santa Barbara or vice versa. For example, the Lompoc Police estimated there were approximately 600 gang members or associates in their community and said that many of them have affiliations with gangs in other areas. As a result, in looking at the street gang problem, we must look at the whole county and not any specific area or city.

Juvenile gang membership in Santa Barbara County is hard to calculate. The State of California 2017 Healthy Kids Survey for the schools in the County counted the percentages of students who claimed to be gang members in 7th, 9th, and 11th grade:[77]

Grade Level	Boys	Girls
7th Grade	4.60%	3.50%
9th Grade	5.20%	2.40%
11th Grade	6.70%	2.50%
	12.90%	2.90%

The survey cautions that it did not identify what constitutes a gang. In any event, these low percentages indicate a small subset of youth in the county.

Changes in Gang Composition

While gangs have existed in Santa Barbara County for decades, their composition and behavior have been developing new trends. The street gangs are primarily Hispanic and can be localized around certain neighborhoods or turf; however, many gangs may no longer claim a certain turf and gang members can live throughout the city or even the County.
Their family situations are often described as strained due to parents having to work multiple jobs to be able to afford the high cost of living here. In these cases, parental supervision is weakened. A Probation Officer estimated that about 50 percent of the parents of gang members or associates feel they have lost control of their kids. Gang association can offer a new family for kids who often feel out of place or disengaged from society. These days cell phones connect youth, and social media creates an exclusive networking platform. This is also true for inter-gang contacts, which include bragging about their feats, cyber bullying and making threats. The juveniles' use of technology can leave parents even more out of the loop.

[76] Mathew Burciaga, "Santa Maria Man to Face Life in Prison for Attempted Murder." *Santa Maria Times*, Accessed July 10, 2019.
[77] "Gang Memberships, by Gender and Grade Level," *kidsdata.org*, Accessed April 20, 2020.

Protection, acceptance, peer pressure, recognition and respect are most often cited as reasons for gang affiliations. Money is becoming a bigger motive. Family poverty is often a risk factor for joining a gang. Drugs are not a motive for joining a gang, but they do finance a lifestyle that many envy. Sex trafficking has become more lucrative than drugs. Gangs take advantage of girls under 18, as they are no longer prosecuted for prostitution. Some girls confuse the money they make for the gang with love and respect, not understanding the danger. The promised self-respect that comes with gang affiliation can have its own code of ethics. A high school principal, for example, noted that the neighborhood gang would never tag its own school; those from another gang would do the graffiti. Also, officers at one police department reported to the Jury that they would get calls from a gang after a crime, disavowing a crime that they said they would never do.

Juvenile gang members are usually between the ages of 13-18. The Jury heard that gang membership with youth under 15 is the segment that is growing the most. Elementary and middle schools are recruiting grounds. Some law enforcement officers notice a transition at the age of 19, when the juvenile either exits or gets in deeper. There is no agreement among law enforcement whether gang members age out between the ages of 20 and 30. Some in law enforcement say they can; others say they never do. The process is never easy.

The trend toward recruiting younger members holds true, especially after changes in the laws that do not penalize minors as severely as adults. Gang associates and wannabes[78] can be active in middle school and even elementary school. Younger juveniles are often eager and daring. They risk less because those eleven years old and younger are not even prosecuted for crimes. They are instead directed toward Social Services or Behavioral Wellness for rehabilitation.

The 2019-20 Grand Jury chose to focus on juvenile gang activity. Juvenile gang members or affiliates are not always as committed to the lifestyle that gang membership enforces as are older members. Adult gang members who have chosen the criminal life can be considered hard core. Many of the adult gangs in Southern California are directed by the Mexican Mafia from within the prison system. Once inside the Santa Barbara County Main Jail, it is said that the disparate local gangs fall together under the Sureños group, which the Mexican Mafia rules. On the other hand, most juveniles in the juvenile justice system still retain their ties to their community and their local gang. According to Probation, these juveniles may be impetuous, but they also can be rehabilitated.

Legal background

A major influence on gangs and in particular youths in gangs has been the change in approach by the legal community. At the end of the twentieth century, laws pertaining to juveniles became more punitive toward youth and gang members, trying juveniles as adults and marking their crimes with gang enhancements. Proposition 21, passed in 2000, increased punishment for gang

[78] Law enforcement officers in Santa Barbara County spoke of gang members as those who will do the work for the gang and commit the crimes. They dedicate their lives to the gang. The officers spoke of associates as those who are connected with a gang but have not been initiated, which is often a violent rite. Wannabes are those who like the attention of gang members. They usually are younger and they feel important emulating gang attire, signs and language.

related crimes, eliminated informal probation for felonies committed by juveniles, and required gang registration. Between the years 2003-16, 11,300 youths were tried as adults nationwide.[79] Those measures, which one local public defender called "draconian," began to evolve in 2013 with AB260, barring kids from being sent to adult courts, and with SB 1391 in 2018, not allowing youth under 16 in an adult court. A case in 2018 further set the limit for California Division of Juvenile Justice to the ages between 12 and 17. There is no booking for a child 11 years and younger, unless the child has been charged with murder or certain sex crimes.

Since 2010, other changes in the law redefined who went to state prison. In California, where pressure to reduce overcrowding in state prisons was urgent, the legislature passed Assembly Bill 109 (AB 109) in 2011. Over 500 crimes that were considered non-serious, non-violent and non-sex-related were taken off felony lists that led to sentencing to state prisons. Although AB 109 changes did not apply to juveniles, crimes committed as a juvenile still counted as a strike against someone's record. The responsibility for those who committed the lesser crimes went from the state prisons and state parole officers to county jails and county probation officers.

Further easing sentencing was Proposition 47, passed in 2014, which reduced felony crimes against property and personal drug offenses to misdemeanors. The savings from the added reduction in prison overcrowding funded the Safe Neighborhoods and Schools Fund, as well as victim services and treatment programs. In 2015, the application of Prop 47 was interpreted to also include juveniles. As an example, possession of heroin in amounts for personal use is no longer a felony, and a young person can escape any serious prosecution. Additionally, shoplifting is now a misdemeanor as long as the property stolen amounts to less than $950. Many, including juveniles, have taken advantage of the higher threshold for prosecution as a felony.

The Jury was told by law enforcement officials that a result of legal reform is not only the numbers of arrests are down, but also the numbers of youth in detention are down. The new laws reflect the theory that incarceration for juveniles is not the answer. Research showed that even one stint in juvenile hall increased the chances of recidivism.[80] The Chief Probation Officers of California summarize the trend as the number of youth in the juvenile probation system has gone down 42 percent between 2013 and 2018, and the number of bookings has decreased 14 percent statewide between 2015 and 2018. Statewide, the *San Francisco Chronicle* declared, "Between 1980 and 2016, the arrest rate dropped 84 percent for juveniles, though it fell only 9 percent for adults in their 50s, according to a recent Public Policy Institute of California report. For felony crimes, the arrest rate among juveniles fell 86 percent over the same period, while it actually increased for age groups 30 and older."[81]

The Santa Barbara Probation Department also reports a 48 percent decline in supervised juveniles between 2016 and 2019. [82] The following graph shows this decline.

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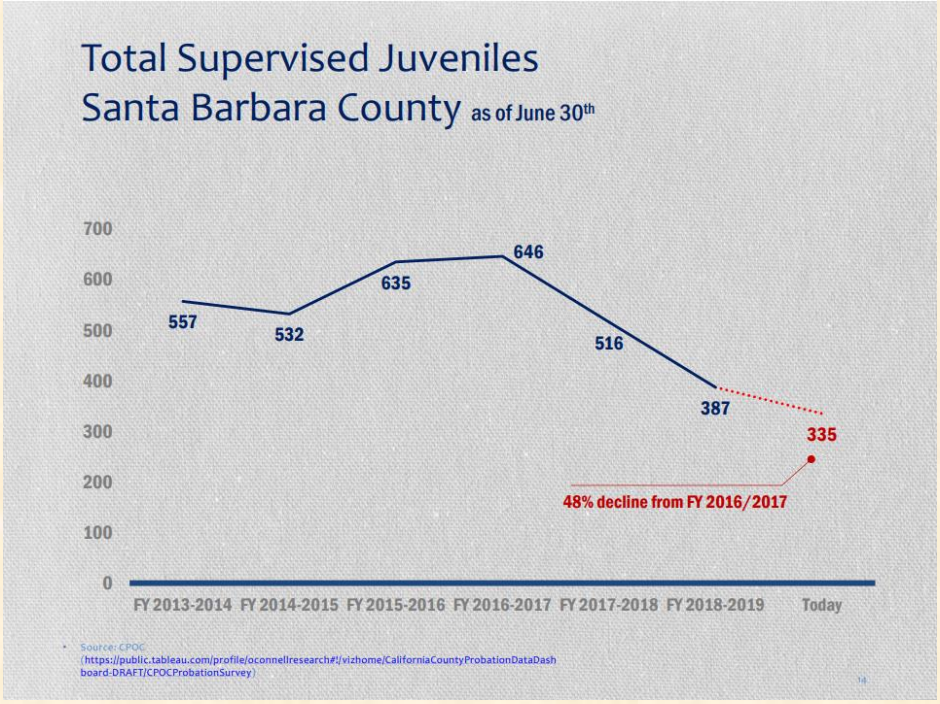
[79] Evan Sernoffsky and Joaquin Palomino. "Vanishing Violence." *San Francisco Chronicle*. October 3, 2019, https://projects.sfchronicle.com/2019/vanishing-violence/

[80] Evan Sernoffsky and Joaquin Palomino, "Vanishing Violence." *San Francisco Chronicle*. October 3, 2019, https://projects.sfchronicle.com/2019/vanishing-violence/

[81] Evan Sernoffsky and Joaquin Palomino, op. cit.

[82] Holly Benton and Karyn Milligan, "Intervention over Detention: Transforming Juvenile Probation in Santa Barbara County." *Santa Barbara County Probation Department*. December 2, 2019.



While these trends appear positive, the Jury questioned additional realities behind the lower numbers. The Jury heard from a number of frustrated officers in law enforcement that juveniles are no longer taken to detention because the officers knew they will just be released. Officers in the South County are even more reluctant to drive to the Susan J. Gionfriddo Juvenile Justice Center (Hall) in Santa Maria for such an outcome. Juveniles used to be put in detention for two days, the Jury was told; now it is just five-six hours. Records do not show these short stays, giving a "fake rate of recidivism," according to one police officer who works with juveniles. The Jury has no way to substantiate the number of youth let go as opposed to those taken to the Hall and booked.

Moreover, other numbers are not clear cut in saying gang-related youth crime is down. These days few law enforcement departments have the resources to dedicate to proving the crime was committed for the benefit of a gang. Gang terms[83] are now legally more difficult to apply to a crime and prove in court. So the report that the number of youth on probation with gang terms has dropped from 245 in 2009 to 68 in 2018 does not tell the whole story.[84] It must be pointed out that Santa Barbara County Probation itself counts a slight rise recently in the total of youth with gang terms and conditions from 2017 to 2019, a rise in juvenile recidivism, and fewer youth leaving probation between those same years.

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[83] "Gangs terms" as heard by the Jury referred to the prosecution's intent to introduce gang evidence in court, including motives, intent and identity. California's Street Terrorism Enforcement and Prevention (STEP) Act was enacted in 1988 and amended in 2000 to substantially increase sanctions for gang crimes. A pattern of criminal activity would be shown for one or more of seven types of offenses: assault with a deadly weapon, robbery, homicide, narcotics trafficking, arson, shooting at an inhabited building or vehicle, or intimidation of victims or witnesses. If prosecutors can show that a crime was committed for the benefit of a street gang or in association with one, there can be a "gang enhancement" during sentencing. There will be additional years added to the sentence for punishment.

[84] Debra Herrick, "Gang Violence Lessens in Santa Barbara County." *Coastal View News*, March 11, 2020, http://www.coastalview.com/news/gang-violence-lessens-in-santa-barbara-county/article_42351848-63e2-11ea-83b5-afa8355a759d.html

CATEGORY	2017	2018	2019
Santa Barbara County Youth with Gang Terms and Conditions	199	208	221
Juvenile Recidivism of Gang Youth While on Probation	0.11	0.12	0.21
Total Identified Gang Youth with a Misdemeanor or Felony Sustained Petition during Probation Supervision	41	39	66
Total Juvenile Exits from Probation	357	320	321

County Probation reported that between 11-13 percent of the youth going to court get informal probation.

Overall, the statistics on juvenile gang crime and detention appear to be reassuring. Much of the data giving this reassurance and guiding the trend away from incarceration and towards rehabilitation comes from juvenile justice records at Federal, state and county levels. Although the period varies by state and county, over roughly the last 10-12 years, supporters of the changes in juvenile correctional systems often claim that they are "evidence-based," and that the records show they have worked well. These claims are well-justified, but those who want greater accountability for juvenile offenders can also find records which support their position.

These records are extremely valuable guides, but they cannot prove beyond a doubt that any program or approach for juvenile crime is best for all times and places. They do appear to show that some of the most confident claims asserting good or bad effects of changes since 2008 in California do not tell the whole story. The last 25 years of local, state and Federal records have shown a widespread and mostly steady decline in arrests. A leading researcher, who generally favors the California reforms, has said that this happened "almost regardless of what local, state or national policies were adopted"; although county officials like to credit local policies for decrease in arrests, "the county next door did the opposite and that worked, too."[85]

Accordingly, some of those who work with juveniles hold some skepticism regarding the promises of restorative programs. The modifications of the law have brought about not only a more tolerant but also rehabilitative attitude toward youth committing crimes among some of those working in the field of juvenile justice, and different worries among others.

OBSERVATIONS

Are gang members street terrorists or are they youth needing treatment and services? These representations do not signify two different camps in our legal and social systems, but rather two varying degrees of adaptation to recent state laws in both Probation and law enforcement.

Probation

With the new laws on the books, Probation is at the center of formulating a developmental approach for youth crime. In fact, the leadership at Santa Barbara County Probation has declared that they no longer deal with gangs; they instead deal with high risk youth. Young offenders are no longer detained as long or not at all. They are returned to the community for treatment and wraparound services. These community supportive services are needed to address the trauma that

[85] Mike Males as quoted in Evan Sernoffsky and Joaquin Palomino, op. cit.

these youth face on several fronts: poverty, educational deficits, substance abuse, family neglect, isolation, and mental health problems.

Santa Barbara County has two juvenile detention centers, the Susan J. Gionfriddo Juvenile Justice Center (Hall) and Los Prietos Boys Camp (Camp). Both are run by the Probation Department. The Probation Department has devised a new assessment tool that is used for booking. Gang membership is no longer an item checked in the assessment upon entry. The CalGangs ID System was discontinued as advocacy groups and law enforcement were concerned about wrongly identifying a youth as a gang member, and thus negatively impacting their life and future. When juveniles are brought to the Hall or the Camp, they are instead assessed for a host of social, mental, educational and environmental factors that indicate whether they are at low or high risk of recidivism if returned to their community. Moreover, Santa Barbara County youth are admitted to the Hall only if they are a danger to themselves or to society.

However, to be housed in either facility, the juveniles, or wards of the court, need to be checked for gang affiliation for their own safety, especially for room assignments at the Hall. Staff must now rely on the youths' self-affirmation or on previously known data before placing that young person in detention. Then, the Camp can learn of gang affiliation from the Hall, but they also have to rely on personal familiarity with the local gangs. At the time of the Jury's visit, it was estimated that 33 percent of those in the Hall are active members in a gang and 60-70 percent of the youth in detention have a gang affiliation. At the Camp, officers estimated about 50 percent of the wards are gang members and up to 75 percent have some gang affiliation.

As recently as 2016, many of those in the Hall and the Camp were there for probation violation. Santa Barbara County had the highest rate of these cases in the State, a fact that alerted Probation to the need for change. Minor violations of probation no longer result in arrest or detention, and Probation compliance sweeps, formerly thought effective, are no longer held. For example, socializing with gang members is no longer considered a violation of probation. A Probation Officer told the Jury that they do not want to criminalize a youth for living in a gang neighborhood. While it is true that a gang label can stigmatize a young person, Probation staff need to know any affiliation to keep the youth safe from attacks or bullying at either the Hall or the Camp.

The juvenile detention staff work hard to get gang members from the different gangs to trust each other. The wards will be in the units together, and the Probation Officers will be attentive to any tension or threats between the various gang affiliates or members. At the Camp, where sleeping is in an open dormitory, the gang members are co-mingled in bed assignments. However, separating gangs in the dormitory can actually be more problematic as they can then form power groups and threaten the other groups.

As staff recognize, the saying is, "Inside, go along to get along." Yet fights do occur. A Probation Officer at the Camp estimated one or two incidents monthly. Gang members can co-exist at this time, even forming friendships. But when they return to their communities, old identities return and gang rivalries take precedence. The détente provided by the Camp is short-lived. In fact, the week before the Jury's visit, a youth just released from Los Prietos was killed by gunshot in a gang confrontation in Lompoc and the Jury was told by many of the wards at the Camp that they felt the loss.

The reality of reforms in the laws applying to juveniles is that far fewer are detained. When they are taken to the Hall, if they are taken at all, they are often released to their parents or just let go. The effect is that only the more serious offenders are now in the Hall: 83.3 percent youth

detained for a felony versus 15.2 percent for a misdemeanor.[86] By contrast, in 2016 the percentages were reversed: 38.4 percent were detained for a felony and 63.0 percent for a misdemeanor. Experience has shown that mixing low-risk and high-risk juveniles can result in deterioration of character in those young people who have not yet turned criminal. Probation Officers told the Jury that the reverse does not happen; the more hardened youth do not rehabilitate because of the presence of milder offenders.

Both the lower numbers of juveniles detained, and the higher concentration of more hardened juveniles have restricted the numbers of those being transferred to the low security Los Prietos Boys Camp. As a result, many boys who would thrive at the Camp are not placed there. At the Camp, the wards learn both vocational and social skills and they recapture educational credits. The one-on-one attention they receive in class encourages learning. The Jury heard from both the staff and the wards themselves how the juveniles begin to change at the Camp. Some even do not want to return home to face the pressures and divisiveness of their community. The Jury has been told several times that the boys will self-sabotage by breaking rules or committing infractions to stay longer. The Jury also learned that the juvenile court judge at times cannot send the juveniles to Camp long enough to fully benefit from the programs that it offers.

The Jury learned that because so few wards are now at the Camp, its closure is being considered. This is an unfortunate unintended consequence of the new laws. Furthermore, closing either the Hall or the Camp would cause some of the wards to be sent out of the County. Being away from their family and community would impair the wraparound rehabilitative services that Probation now states are the foundation of their juvenile programs.

The new cornerstones of juvenile justice and probation are programming and services. Diversion to programs, it is hoped, will keep young offenders in school, in community programs and out of a jail cell. The local Probation Department (Department) has always had contracts with community programs, and now it is building more pathways to treatment, as services are integral to its rehabilitation and intervention mission. The Department has invested in new staff to research and assess "trauma-informed, evidenced-based programs," from a variety of sources, according to their materials. New staff are performing thorough research to find programs that are cost-effective and result-oriented. California Probation is committed to the diversion and treatment for youth and has proposed the Elevate Justice Act of 2020, which would keep youths 18 and 19 in their system.[87]

In this effort, some long-standing contracts have been retained with the Family Service Agency, the Community Action Commission and the Council on Alcoholism and Drug Abuse. These agencies have participated in Moral Reconation Therapy[88] for substance abuse and El Joven Noble or Los Compadres programs for character development. In the past, these programs have been successful. However, other programs such as Drug Abuse Resistance Education (D.A.R.E.) and Understanding the Juvenile Justice System, which were claimed to be effective in informing

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[86] Santa Barbara County Probation Department handout, "Memorandum 2019 Juvenile Detention Profile," October 14, 2019.

[87] "ICYMI: Probation Chiefs Announce New Proposal that Elevates and Evolves Juvenile Justice," *Chief Probation Officers of California*, Accessed May 20, 2020, https://www.cpoc.org/post/icymi-probation-chiefs-announce-new-proposal-elevates-and-evolves-juvenile-justice

[88] Moral Reconation Therapy (MRT) uses moral reasoning to decrease substance abuse and recidivism. It uses a cognitive-behavioral approach to address ego, social, moral and positive behavioral growth. (Santa Barbara County 2019 Comprehensive Multi-agency Juvenile Justice Plan)

wayward youth of the consequences of their actions, have largely been discontinued.[89] Several probation workers and non-profit leaders have told the Jury that there are no known successful programs that work specifically for gang intervention. However, there are two possibilities that are not used in Santa Barbara County: The Gang Resistance Education and Training (G.R.E.A.T.) program is a gang, delinquency and bullying prevention program provided by the Bureau of Alcohol, Tobacco, Firearms and Explosives to middle and elementary school students. The highly successful quasi-military Grizzly Academy in San Luis Obispo also confronts the consequences of gang activity. Such an academy could be instituted at Los Prietos Boys Camp for those who have completed high school.

The new programs focus more on prevention and intervention than suppression. The Jury was told that youth make the decision to get out of a gang or go deeper around the age of 18 or 19, so diversion programs are essential, and these would include skill-building and family therapy. Youth need a wide variety of programs from sports to technology to keep their interest. Many youth advocates told the Jury that job coaching would be especially appropriate for youth in high school. But there is a shortage of job coaches, as well as basic vocational classes in the County schools.

However, new protocols for services were not set for implementation until later in 2020, meaning there have been delays in having programs immediately accessible to the juveniles. According to one Probation Officer, contracts with many service providers are in the making, but the programs themselves are still "just a thought." Moreover, participation in Probation programs is voluntary in the sense that transportation, family involvement or a financial charge may preclude attendance. These factors will certainly be ironed out as the year progresses.

Juveniles continue to be assigned to Probation. Deputy Probation Officers and Juvenile Institution Officers monitor youth up to the age of 18. In recent years, there has been a steady decline in the number of Probation Officers working with juveniles, and the officers have less interaction with them. High-risk youth will be seen twice a week by Probation Officers with a small caseload; low and medium-risk youth will be part of a larger caseload and seen less often. Probation Officers can go to the homes but in practice do not usually go inside. In some cases, this means the youth will not be supervised as closely. Some law officers state that this allows the youth to misbehave more often. Additionally, there are no daily report centers for juveniles now, as there are for adults on probation. In 2016, the once successful after-school programs at the Alternative Report & Resource Centers were eliminated because of lower numbers of youth and reduced funding.

The Jury was told that when juveniles stay in a gang and move up the ranks, they are assigned the harder tasks, even murders. At age 18 they become the responsibility of adult Probation Officers. Probation for adults focuses more on compliance with the law rather than rehabilitation, but there are many services still available to them.

Because of the reforms in the approach to juvenile crime, some frustrated officers were reported to be leaving the department. Probation has formulated an additional training program for the officers which has 20 hours of sessions on interpersonal relations. Rather than confronting youth about their mistakes, officers learn how to talk to them and gain their trust. One Probation Officer remarked that such a shift in attitude should require at least 60 hours of training, rather than 20 hours. Nonetheless, this shift in approach has taken place.

[89] The DARE program is still active in Santa Maria.

Law Enforcement

Those in law enforcement are watching the shift in juvenile justice more warily. For police officers and Sheriff's deputies, changes in detention and incarceration have taken away some of their bargaining tools for cooperation with and information from gang members. As a result, they see the communities' safety deteriorating. The Sheriff's Department admitted that there could be under-reporting of crimes.

The Jury learned from law enforcement that arrests are down, but that does not necessarily mean that crime is down: "The kids haven't changed. The laws have." One officer said that Proposition 47 has made things harder for them by reclassifying some felonies as misdemeanors, which may not lead to an arrest. This is especially worrisome for those in law enforcement who work with juveniles because the younger ones are learning that there are few consequences to crime. If juveniles are not held accountable, police officers told the Jury, petty crimes may develop into more serious crimes such as murders and drug or human trafficking. The Jury was told by police officers that older gang members are pushing juveniles to commit crimes knowing that there would be few or no consequences for the juveniles. The current trend in treatment that focuses on rehabilitation, they say, misses the mark without accountability.

The juveniles who might be picked up for a legal offense are returned to their community and family more often than they used to be, when detention had been a favored form of prevention and punishment. Currently, law enforcement officers say these youth are back on the street the same day to potentially commit additional violations. Police officers in one department told of a 12-year old who committed a robbery but was not detained because of his age. Soon after, the released juvenile assaulted someone with a metal pipe.

It is not unusual for some juveniles to gather after school and look for trouble, especially on Fridays. Vandalism, graffiti, and beatings can happen; car thefts and joy rides also occur. When nothing happens after such incidents, either from not enough officers on the streets or from reduced legal consequences, youth learn that they can commit crimes with impunity. The Jury heard that some younger gang members are even creating trouble in ways the elder ones do not approve. If the main gang activity is to make money by selling drugs, guns or sex trafficking, drawing unwanted attention to the gang interferes with those enterprises.

Police gang units are being eliminated. The two police departments that continue to have gang units, Santa Barbara and Santa Maria, are often credited with "keeping a lid on it," a phrase heard a number of times by the Jury. As one officer said, "You can't stop gang crime, but you can stay on top of them." One member of a gang unit told the Jury that local gangs know that the unit now works only four days a week, so they plan incidents during the other three days.

The City of Santa Barbara Police Department has three officers in a gang unit and one sergeant; there used to be eight members. Santa Maria Police Department used to have a unit that focused on gangs; now it is a Special Enforcement Unit that can be called to work on narcotics or any other emergency. Gangs have long been a problem associated with narcotics. Santa Maria used to have five dedicated gang detectives working with five narcotics officers. Now there are only a total of five. Lompoc Police Department used to have four officers in a gang unit and three in a narcotics team. Now they have one officer assigned to gangs, narcotics, and intelligence. All other officers are needed for street patrol.

A gang unit does more than arrest gang members. Their interfacing with gang members on the streets often results in good intelligence. The gang units cultivate informants in the community.

That way, police can then be proactive and stop incidents before they happen. To do this, they must be present on the streets and they must gain the trust of some gang members and others in the community so that they can stay informed of potential problems. This information is sent through the police department so that detectives can begin investigations.

A major loss in gang control has been the elimination of a gang unit in the Sheriff's Department. The unit became a victim of budget cuts beginning in 2008, ending with its elimination in 2017. The Sheriff's Department does not cover the cities that have their own police departments, but the Sheriff Deputies do patrol all the other regions that interface with those cities. The Sheriff's greater resources and manpower assist the other police departments as requested. This assistance would be especially helpful for gang activity in Goleta or Carpinteria near Santa Barbara, and in Orcutt near Santa Maria.

Previously, there were more gang sweeps and targeted operations to take out the leadership of certain gangs. The Jury was told by several officers that picking off the leadership of gangs can quell violence for a time. The Sheriff still participates in gang sweeps and other large-scale joint efforts. For example, in January 2020, the Sheriff's Department was central to a three-county sex trafficking raid, the sixth annual Operation Reclaim and Rebuild enforcement operation.[90] Mostly, local law enforcement feels the absence of central gang intelligence from the Sheriff's Department.

Prosecutors in the District Attorney's Office have also noted the loss of participation of the Sheriff's Department in gang intelligence. In order to secure convictions with gang enhancement, prosecutors depend on lengthy and detailed records. If no department has the workforce dedicated to building gang cases, they cannot go to court with evidence of a gang crime. The person being tried will then stay in the local jail with a shorter sentence at the county's cost, rather than a longer sentence in a state prison. This might not seem to be an active problem in Santa Barbara County, but when gangsters know there is no gang prosecution, the County can find itself susceptible to true criminal gang activity. This occurred when the MS-13 gang moved into Santa Maria and again when gang members from Los Angeles came to Montecito after the 2018 mudslide. If Santa Barbara County appears weak in gang suppression and prosecution, the Jury was told, it is inviting virulent gang activity to come here.

The absence of a gang roster or gang member identification for both juveniles and adults also hampers the information that law enforcement needs. Only the Lompoc Police Department gave the Jury an estimate of 600 gang members and associates in the City; other law enforcement officers said they could not guess current numbers. Even the Sheriff's Department gave an "anecdotal number of thousands" in the County. This impairs the ability to know who is affiliated with a gang, who is hanging out with whom, and who is rising in the ranks of the gang organization.

The State's CalGang System that identified all known gang members on a database has been curtailed. There used to be a regional gang sheet with names, monikers, dates of birth, photos and other information. The Jury heard that law officers will call each other to try to identify new and old players in the field. To stay ahead of gang activity, officers need to have such information readily available. Known gang members are required to register with law enforcement if they have more than a misdemeanor. This does not appear to happen in the

[90] "Detectives Participate in Statewide Human Trafficking Enforcement Operation." *Edhat*, February 7, 2020, Accessed February 7, 2020.

County, according to one prosecutor. As gang members have affiliations with other cities in the area, it would be especially helpful to law officers in different parts of the County so that the officers are not operating blindly. When no one is tracking gang crimes or the number of gun seizures, no gang enhancements can be added to court prosecution.

Recently, Lompoc has seen an explosion of gang violence. The lack of a gang unit and the low numbers of police officers have weakened its police force. There are police on the streets, but coverage is restricted. It must be noted that the changes in the laws have also hampered police suppression. The gangs in Lompoc now routinely use guns, but firing a gun at an uninhabited building or empty vehicle is no longer an arrestable felony offense. In March of 2020, a gunshot did no harm, but it did lead to the temporary arrest of eight people, including four 15-year olds. In March 2019, a random gunshot killed a young girl. Gang members in Lompoc know that the police force cannot cover all its streets, and the police force is not as prepared as it could be because of the dissolution of its gang unit. Worse, the Lompoc Police Department's radio system is so out-of-date that gang members can listen in on the calls the police officers make to one another.

Crimes are becoming more serious and more violent. Regular gang violence has also recently increased in Santa Maria, and to a lesser degree in Santa Barbara. There have been more frequent incidents and some arrests. Law enforcement officers have stated that what is notable about the arrests are that they are now finding pounds, not ounces of drugs such as meth, heroin and cocaine. The recent three-county sex-trafficking raid resulted in the arrest of three pimps and 14 solicitors in this area. Sometimes those detained are minors. More and more juveniles are used for the "dirty work" crime activity because they are treated more leniently in the justice system than any older gang member would be.

The Jury was told that a countywide gang task force could enhance control over the ever-changing and developing gang activity. Since gangs don't respect jurisdictions, the task force would be multi-jurisdictional. At this time, police departments, the Sheriff's Department, the District Attorney and Probation meet monthly to share intelligence. Most School Resource Officers (SRO) meet with Probation once a month. These gatherings need more resources, such as a database and a crime analyst. A regional database could help coordinate the mutual aid that Santa Barbara County agencies need. This could include a mutual communication system that promptly taps into gang information and calls for assistance. Together, the agencies could invest in a crime lab and staff to do the paperwork for tracking gang crime. The additional staff could also apply for more grants. A recent California Violence Reduction, Intervention and Prevention (Cal-VRIP) grant proposal for North County was not approved. This meant the City of Lompoc did not receive the needed $150,000 for an action plan to reduce gang violence, and the South Coast Youth Task Force did not receive $283,333 for three years after that to build a countywide youth violence reduction strategy. The Lompoc Police Department's limited resources did not allow them to collaborate in the application for this grant. A regional task force could become a major player in setting up what is needed for other grant applications to the state for gang impacted youth.

The District Attorney's Office covers the entire county and has active gang units. This office may be the appropriate agency to lead a county consortium for sharing gang information.

Community

At-risk youth and juvenile gang members are no different than other young people. They struggle in school and they want to have fun. Most of the students in school blend in together,

with little differentiation for gang members. School dress codes may mention gang attire, but in the County there does not seem to be a consistent school policy against it. Being a gang member is not a criterion for expulsion. The California Education Code has changed regulations for suspensions and expulsions to keep students in school. Effective July 1, 2020, California public schools will no longer be able to suspend students in elementary and middle school for disturbing school activities or willfully defying school authority.[91]

High schools in the county now have SROs, some paid by the local police departments, some paid by the local school districts. The SROs that the Jury talked to said they treat all kids the same without racial or gang profiling. The SROs help the campuses with any extraordinary incidents, such as assaults, unauthorized people on campus, serious defiance, or vaping and drug citations. In fact, it was pointed out that schools are one place where students will see consequences for their actions: drugs on campus will bring a suspension. Parents also have civil and penal liability for the unlawful actions of their children.[92]

Depending on the officer, SROs can also offer a bridge to security. While it is rare that a student would seek out a police officer to tell them something in confidence, the Jury did hear that students often ask for information, especially after trouble in the area. Violence and gang incidents on school campus are rare. Most fights occur after school and on the streets. SROs, with their knowledge of who hangs out with whom, can monitor the areas where fights will occur and help to defuse situations. Also, they can provide leads and information to investigators and even parents, which is why some students do not trust them.

Schools no longer have programs that speak to violence or gangs. The Drug Abuse Resistance Education Program (DARE) was eliminated in South County years ago although it is still operating in Santa Maria. Some cities still have the police-sponsored Police Activities League (PAL) programs. Overall, schools now depend on small group therapy and counseling to reach students in trouble, or they make referrals to other community resources. Family Service Agency, Fighting Back, Council on Alcoholism and Drug Abuse (CADA), and more recently AHA![93] provide programs off campus and sometimes counselors on campus. Some of those community programs charge a fee. Drug and alcohol counseling is provided on most campuses. There is one group, Por Vida, in the Santa Maria Schools that addresses gang violence and cultural matters such as racism and ostracism.

The average percentage of students who feel safe or very safe on campus varies according to region and grade level, as seen in the 2018-2019 California School Climate, Health, and Learning Survey (CalSCHLS).[94]

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[91] AB 420 amended *California Education Code section 48900(k)* by eliminating the authority to suspend a student out of school or in-school in kindergarten through third grade for "disruption" and "willful defiance." Further, under AB 420 no student in kindergarten through grade 12 can be expelled for "disruption" and "willful defiance." AB 420 came into effect on January 1, 2015. SB 419, which comes into effect July 1, 2020, extends the permanent prohibition of suspension to grades 4 and 5 and temporary prohibition until July 1, 2025 for grades 6 through 8.

[92] California Penal Code Section 272. This section makes it a misdemeanor to act or fail to act in a way that causes a minor (under 18 years of age) to become a juvenile delinquent, a habitual truant, a dependent, or a ward of the juvenile court system.

[93] AHA! stands for Healthy Attitudes, Emotional Harmony and Lifelong Achievement for Teens, Santa Barbara.

[94] "School Safety, Secondary Students." *Calschls.org*. Last visited 18 April 2020.

Percentage of Students Who Feel Safe or Very Safe on Campus

	7th grade	9th grade	11th grade	Alternative Schools
Santa Barbara Secondary Schools	72%	59%	62%	66%
Santa Maria Secondary Schools	66%	60%	47%	69%
Lompoc Secondary Schools		53%	43%	66%

However, an official in the Santa Barbara Unified School District recently reported that the threat of violence at school is increasing. Since 2016, there has been a 41 percent rise in weapons-related offenses, a 32 percent rise in bullying and harassment, and more gang-related incidents in the community leading to confrontations at school. This heightened violence at school might be a harbinger of the cycle of gang violence in the community returning. A Santa Barbara school board member stated that "kids aren't safe and don't feel safe" and this is "a serious emergency for our district."[95] The board member noted that the numbers of offenses have gone down statewide but they are going up here.

Criminal justice personnel, educators, administrators, non-governmental organizations, youth mentors and former gang members describe lack of school credits, education failure and reading failure as common concerns for at-risk youth in society. Many of the youth at the two juvenile detention centers in the County need to recover school credits either from many absences or from poor performance, often due to poor reading ability. At these centers they receive focused attention on reading skills. The County's alternative schools offer similar one-on-one teaching as at the detention centers, helping students advance toward graduation. Research reveals reading failure is likely a cause for the frustration which can result in delinquent behavior.[96] When asked, those working with juveniles have said that a low IQ is not a factor. But they have slipped through the gaps in educational instruction.

For the students who do not feel connected to school, vocational education is often mentioned as an antidote. The job training at Los Prietos Boys Camp is credited with keeping the wards engaged and giving them more of a sense of self-worth. In general, programs that include job skills or even job internships are said to be what youth most want in their teen years. The leadership in Santa Maria understands this and is preparing to build a technical high school. The community will be asked to develop internships. Schools in Santa Barbara also have technical skills classes as well as technological programs. A shift in education that honors these career paths also honors the students who benefit from them.

The Jury was told that students would like schools to be open longer. Bringing services as well as different classes to schools could help students in many areas. Mental wellness has become a constant concern in public schools nowadays. The off-campus treatment and counseling programs where schools now refer students could send their counselors to campus, making treatment more accessible and rewarding. Group treatment, such as the therapy groups at Los Prietos, could easily be held at school. One principal told the Jury there is less stigma in talking about problems in groups. Program counselors do come to some campuses in South County, and Santa Maria School District has asked Fighting Back to initiate counseling year-round at its schools. Programs do not have to deal only with substance abuse; counselors at Fighting Back said that students have begun looking to them for conflict resolution and other restorative

[95] Delaney Smith. "S.B. Schools Getting Less Safe?" *Santa Barbara Independent*. March 12, 2020, https://www.independent.com/2020/03/11/are-santa-barbara-schools-getting-unsafer/

[96] Michael S. Brunner, *Retarding America: The Imprisonment of Potential.* Halcyon House, 1993.

practices. With the practice of treating all kids as important individuals, counselors at schools could do a world of good to gang associates and wannabes who don't feel part of the school community.

Outside schools, non-profit organizations provide programs to nurture young people and promote new interests. Some of these organizations no longer exist. The South Coast Task Force for Youth Safety has been operative since 2009 and has fostered collaboration among civic, education and non-profit agencies to improve communication and coordination with services for at-risk youth. Groups such as Los Compadres and El Joven Noble work with youth violence issues and provide mentors. The need for more mentors is constant, both in North and South County. One innovation at Los Prietos Boys Camp is an effort to train a 16-year old youth to mentor a 14-year old; there has been some promise with this as a way to fill a void.

It was suggested to the Jury that North County is not as developed in coordinated services as South County. The 2017 Mayor's Task Force on Youth Safety in Santa Maria has not gained traction in the parts of the community where it is needed. However, the need for these services in North County is immediate. The Jury heard from a variety of sources that the non-profit community is better suited to lead the work of programming for at-risk and gang-affected youth because civic leaders have too many other responsibilities.

CONCLUSION

When there has been an increase in gang activity in the past, non-profit organizations and task forces have formed to offer needed programs. But now their function may be to support and supplement the transition from suppression to rehabilitation by Santa Barbara County Probation Officers, Sheriff's Deputies and municipal police officers to gangs. Law enforcement officers are adapting to an uneasy legal framework created in Sacramento. Often, the Jury heard that what sounds good in legislative chambers may not always work well on the streets.

There needs to be a stronger coordination among all police officers and Sheriff's Deputies to share intelligence and information and prevent gang activities in one community from having repercussions in another. Gang units in every jurisdiction could facilitate this coordination. Law enforcement agencies are stretched thin these days. The Probation Department and the District Attorney's Office need to assist them with expertise and strategies. Pooling of these resources would help make anti-gang efforts more effective and long-lasting on the streets. Community organizations must help sustain the efforts of law enforcement. Working together is crucial.

Transformation of juveniles before they become criminal gang members is the ultimate goal, but it just might be the coordinated intelligence and watchfulness of law enforcement that allow the first steps toward that goal.

FINDINGS AND RECOMMENDATIONS

Finding 1

No comprehensive database exists to identify gangs and gang membership.

Recommendation 1

That the Santa Barbara County Sheriff's Department, the Probation Department, the District Attorney and the police departments of Santa Maria, Santa Barbara, Guadalupe and Lompoc pool their resources to establish a comprehensive data base that includes a gang roster across jurisdictions.

Finding 2

The number of programs available to at-risk youth, including those through the Santa Barbara County Probation Department, is declining.

Recommendation 2

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Probation Department to reestablish youth programs including the after-school programs.

Finding 3

The Santa Barbara County Sheriff's Department disbanded its gang unit in 2017.

Recommendation 3

That the Santa Barbara County Sheriff organize and fund a gang unit within the next budget cycle to address gang activity in Santa Barbara County and its contract cities.

Finding 4

Students in middle schools and elementary schools are increasingly recruited into gangs.

Recommendation 4

That the Santa Barbara County Superintendent of Education assist elementary and middle schools in instituting and renewing programs that dissuade students from gang membership and provide alternatives.

Finding 5

A wide variety of vocational, educational and counseling programs are offered at Los Prietos Boys Camp for at-risk youth.

Recommendation 5

That the Santa Barbara County Board of Supervisors support the Santa Barbara County Probation Department in continuing the programs at Los Prietos Boys Camp and extending them into the community.

Finding 6

Gang activities cross jurisdictional boundaries of local law enforcement agencies.

Recommendation 6a

That the Santa Barbara County District Attorney form a consortium including the Santa Barbara County Sheriff's Department, the Santa Barbara County Probation Department and the Police Departments of Santa Maria, Santa Barbara, Lompoc and Guadalupe to hire a full-time crime analyst and share data to reduce gang crime.

Recommendation 6b

That the Santa Barbara County District Attorney form a consortium including the Santa Barbara County Sheriff's Department, the Santa Barbara County Probation Department and the Police Departments of Santa Maria, Santa Barbara, Lompoc and Guadalupe and hire staff that would apply for grants to fund anti-gang programs.

Finding 7

The Lompoc Police Department's radio system is not secure and gang members are able to listen to police communications.

Recommendation 7

That the Lompoc City Council fund a new and secure radio system for the Lompoc Police Department.

REQUESTS FOR RESPONSE

Santa Barbara County Sheriff's Department – 60 days

Findings 1, 3, 6

Recommendations 1, 3, 6a, 6b

Santa Barbara County Board of Supervisors – 90 days

Findings 1, 2, 5, 6,

Recommendations 1, 2, 5, 6a, 6b

Santa Barbara County District Attorney – 60 days

Findings 1, 6

Recommendations 1, 6a, 6b

Santa Barbara City Council – 90 days

Findings 1, 6

Recommendations 1, 6a, 6b

Santa Maria City Council – 90 days

Findings 1, 6

Recommendations 1, 6a, 6b

Lompoc City Council – 90 days

Findings 1, 6, 7

Recommendations 1, 6a, 6b, 7

Guadalupe City Council – 90 days

Findings 1, 6

Recommendations 1, 6a, 6b

Santa Barbara County Superintendent of Education – 60 days

Findings 4

Recommendations 4

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SANTA BARBARA COUNTY

CANNABIS

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CANNABIS

SUMMARY

The action taken by the Santa Barbara County Board of Supervisors to certify the development of a robust cannabis industry as the primary objective of the cannabis ordinances has altered the quality of life in Santa Barbara County, perhaps forever.

The fulfillment of that objective dictated the actions taken by the Board from the excessive allowance of licenses and acreage, creation of an unverified affidavit system, ignoring widespread odor complaints, not acknowledging the conflict between cannabis cultivation and traditional agriculture, to rejecting the environmentally superior alternatives of limited cannabis development.

Instead of a balanced approach carefully evaluating how the cannabis industry would be compatible, both as to amount of acreage and location, the Board simply opened the floodgates. These ordinances must be amended.

INTRODUCTION

The 2019-20 Santa Barbara County Grand Jury (Jury) received several requests for investigation of the actions of the Santa Barbara County Board of Supervisors (Board) surrounding the creation and passage of the Ordinance 5026, adding Chapter 50A of the Santa Barbara County Code; Ordinance 5027, amending Chapter 35-1 of the Santa Barbara County Code, the Santa Barbara County Land Use and Development Code (LUDC); Ordinance 5028, amending Article II, the Coastal Zoning Ordinance of Santa Barbara County (CZO); and creation and passage of Ordinance No. 5037, adding Chapter 50 of the Santa Barbara County Code, Licensing of Commercial Cannabis Operations (License), and related impacts. The Jury, comprised of professional people, including attorneys and CPAs, former law enforcement, business owners, government officials, and educators, spent countless hours reviewing documents, reviewing Board and Santa Barbara County Planning Commission hearings and interviewing numerous witnesses including the five members of the Board.

The rules of the Santa Barbara County Grand Jury do not permit the naming of individuals within a report. The intent of the investigation, initially undertaken pursuant to *California Penal Code Section 919(c),* was to examine the process of the creation and passage of the ordinances and resulting issues.

The Jury does not express an opinion on the legalization of cannabis.

This investigation by the Jury was hindered by the denial of its request for subpoenas to be issued to non-government witnesses who might have been helpful to the inquiry. The investigation was further hindered by a two month delay in the final production of requested documents from the County of Santa Barbara that was purported to be responsive and complete. During the investigation, the Jury learned that all documents requested have not been provided.

The California Supreme Court has stated, “In California, unlike some other American jurisdictions, the grand jury’s role as a vigilant ‘watchdog’ over the operations of a variety of

local government activities has a long and well respected heritage."[97]

The Grand Jury is aware that the Santa Barbara County Board of Supervisors initiated a process in July, 2019 to review and possibly amend the cannabis related ordinances. The insights and recommendations provided by the Jury in this report should be of great assistance in creating a legal cannabis framework going forward that will best serve the interests of the residents, local businesses and the agricultural industry of Santa Barbara County.

METHODOLOGY

In the course of its investigation, the Grand Jury interviewed:

- the five members of the Santa Barbara County Board of Supervisors who voted on the ordinances
- a senior member of the Santa Barbara County CEO staff
- a senior member of the Santa Barbara County Planning and Development staff
- a school district superintendent
- a high school principal
- a public school teacher
- a senior Santa Barbara County Public Health Department official
- a senior member of the Santa Barbara County Agriculture Commissioner staff
- a former Santa Barbara County Planning Commission member
- a local land use attorney
- a senior member of the Santa Barbara County Tax Collector staff
- a senior member of Santa Barbara County Air Pollution Control District staff
- a Cal OSHA staff member
- a UCSB professor of environmental science
- a senior member of the Santa Barbara County District Attorney staff
- Santa Barbara County residents
- Santa Barbara County avocado growers
- Santa Barbara County vineyard owners
- a Santa Barbara County cannabis cultivator
- a Santa Barbara County cannabis activist

The Jury also reviewed:

- Santa Barbara County Board of Supervisors meetings and supporting written material

[97] *People v. Superior Court* (1973 Grand Jury) (1975) 13 Cal. 3rd 430, 436

- Santa Barbara County Planning Commission meetings and supporting written material
- numerous local, state and national news articles regarding cannabis
- scientific articles on cannabis
- in excess of one thousand documents produced by the County of Santa Barbara
- emails and texts produced by the County of Santa Barbara
- County Code of Ethics published by the Research Division of the National Association of Counties, County Services Department, 2009
- Santa Barbara County Board of Supervisors official website

BACKGROUND

On November 8, 2016, the voters of California passed Proposition 64, The Adult Use of Marijuana Act, which legalized non-medical adult use of cannabis.

In 2017, at the direction of the Ad Hoc Sub Committee made up of two members of the Board and pursuant to the California Environmental Quality Act (CEQA), a Program Environmental Impact Report (EIR) was prepared by the Santa Barbara County Planning and Development Department (P&D) for the Cannabis Land Use Ordinances and Licensing Program (Project).

The Project lists ten primary objectives. (See Appendix 1.) The first objective was "Develop a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands, and, as a public benefit, improve the County's tax base." The last objective was to "Limit potential for adverse impacts on children and sensitive populations by ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities and educational institutions."

On February 13, 2018, the Santa Barbara County Board of Supervisors adopted Ordinance 5026, adding Chapter 50A to the Santa Barbara County Code.

On February 27, 2018, the Santa Barbara County Board of Supervisors adopted Ordinance 5028, amending the CZO, and adopted Ordinance No. 5027, amending the LUDC.

On May 1, 2018, the Santa Barbara County Board of Supervisors adopted Ordinance No. 5037, adding Chapter 50, Licensing of Commercial Cannabis Operations, to the Santa Barbara County Code.

OBSERVATIONS AND ANALYSIS

The investigation was undertaken to examine various issues and the actions that were taken by the Board in the process of creating the ordinances. These issues include the following:

1. **Ad Hoc Committee -** The use of an Ad Hoc Sub Committee that was not open to the public and not subject to the Ralph M. Brown Act (Brown Act).[98]

[98] The Ralph M. Brown Act, codified as California Government Code 54950 et seq.

2. **Robust Cannabis Industry** - The approval of the primary objective of the Cannabis Ordinance Project to be the development of a robust and economically viable legal cannabis industry.
3. **Access Granted To the Cannabis Industry** - The granting, by the Board, of nearly unfettered access to cannabis growers and cannabis industry representatives during the creation of the ordinances.
4. **Significant and Unavoidable Environmental Impacts.**
5. **Rejection by the Board of Environmentally Superior Alternatives** - The rejection of Project Alternatives including the Environmentally Superior Alternative of Reduced Registrants.
6. **"Skunky" Smell** - The allowance of unpermitted operators to continue to operate with no effective odor control in place.
7. **Impact on Agriculture** - The failure to consider the impacts of cannabis cultivation on traditional agriculture knowing the State of California requirement of testing for pesticides on cannabis.
8. **Legal Non-Conforming Status.**
9. **Affidavit System** - The employment of an unverified affidavit system to qualify growers as legal non-conforming and the failure to determine the scope of the claimed qualifying use.
10. **Taxation** - Santa Barbara County was one of only a few counties within the State that did not tax cannabis cultivation on a square footage basis. In addition, the Santa Barbara County Treasurer-Tax Collector, an elected position, was excluded from the creation of the tax portion of the License ordinance. Also, the allowance for cannabis acreage far exceeded the demand in California.
11. **Statement of Overriding Considerations.**
12. **The Interference with the Santa Barbara County Air Pollution Control District** - The Santa Barbara County Chief Executive Office's (CEO) staff and P&D staff interceded and revised the Cannabis Air Quality Advisory issued by the Air Pollution Control District (APCD), an independent agency.
13. **Ethics -** The acceptance of campaign contributions by Board members at or near the time the donor had a matter pending a decision before the Board.

Ad Hoc Committee

On February 14, 2017, the Board voted to establish an Ad Hoc Sub Committee (Ad Hoc) consisting of two Supervisors. The stated purpose was to review and create regulations for adult use and cannabis cultivation in the County.[99] The Ad Hoc was created as a body not subject to the Brown Act and not open to the public.

The Board decision not to have open meetings on the ordinances created issues. One issue was the lack of transparency that inevitably results when the public is excluded from the process, especially on such a controversial matter as cannabis. In contrast, the 2015 Board, which

[99] February 14, 2017 Santa Barbara County Board of Supervisors meeting "Board Letter" santabarbara.legistar.com/LegislationDetail.aspx?ID=2957248&GUID=605FD80A-4670-40ED-B1DD-EDBDB3C7A65D&Options=&Search=

included some current Board members, voted to create an Ad Hoc Sub Committee, subject to the Brown Act and open to the public, to engage in discussions with the Santa Ynez Valley Band of Chumash Indians regarding similarly controversial land use issues.

Of concern to the Jury was the fact that agendas were not prepared and minutes were not taken for the Ad Hoc meetings. The Jury learned that notes and minutes were not prepared in order to avoid any Public Records Act Requests for such documents. The lack of a paper trail does not fit with the concept of open government which seeks input from all interests. This unchecked process led to an imbalanced perspective.

A major issue according to witnesses interviewed by the Jury was that the process created by the use of the Ad Hoc resulted in a top down decision making process. The normal process provides for multiple public meetings held by the P&D staff with community input. The normal process allows for exploration of potential impacts to the various parts of the County prior to Board involvement. The Ad Hoc inserted the Board at the beginning of the process and not at the conclusion after community input.

A recent example of the normal process would be the proposed amendment of the LUDC to adopt new development standards, permit requirements and procedures regarding winery developments.

The Board directed P&D staff to update the then current winery regulations as part of the 2011/2012 Long Range Planning Annual Work Program.[100]

As the November 1, 2016 Board letter recounts, the staff conducted extensive stakeholder engagement and public outreach to gather information and discuss winery ordinance issues that should be addressed in the ordinance update. The public outreach included eighteen separate group meetings with wine industry and agricultural groups, neighborhood groups and non-profit organizations.

In addition, there were five public meetings, beginning in August 2012 continuing through February 2013, which discussed among other topics, neighborhood compatibility and wine ordinance structures, permitting, monitoring and enforcement. In March 2014, based on the community input received during the public outreach process, the P&D staff prepared draft ordinance language for public review. In June of 2014, the staff revised and finalized the draft ordinance.

There were hearings before the Planning Commission that occurred in August and September of 2016. The matter finally came before the Board on November 1, 2016.

In the matter of the cannabis ordinances, the Ad Hoc put the Board at the start of the process and not at the conclusion after community input. Public comment, for the cannabis ordinances, came after the forming of the ordinances had already occurred in the Ad Hoc. This is not good government, unsurprisingly leading to a seriously flawed law.

Robust Cannabis Industry

In 2017, P&D staff worked with the AD Hoc to determine the type of environmental document that would be required under CEQA to evaluate the environmental impacts associated with the

[100] November 1, 2016 Santa Barbara County Board of Supervisors meeting "Board Letter" https://santabarbara.legistar.com/LegislationDetail.aspx?ID=2858292&GUID=882F40A4-1328-4B74-9465-CCE36E9E75C9&Options=&Search=

new cannabis ordinance. The Ad Hoc concluded that an EIR was the appropriate document and directed staff to take the actions necessary for its preparation.

The purpose of this EIR was for use by government bodies to review and consider the environmental impacts of the Project as part of its decision-making process.

The P&D staff decided to consider the EIR a Program EIR. As was described in the Final EIR document, "As a Program EIR, the level of detail included in the project description and methodology for impact analysis is relatively more general than a project-level EIR, as individual cannabis activity site-level details are not available for prospective license applications or would be considered too speculative for evaluation. This approach allows the Board to consider broad implications and impacts associated with the project while not requiring a detailed evaluation of individual properties."[101]

The Program EIR allowed for a more cursory analysis rather than project level as was performed in other counties .When considering the EIR was "cranked out in less than thirty days" by the P&D staff, the use of a Program EIR becomes telling.[102]

CEQA guidelines require that the EIR project description include a statement of the objectives of the cannabis Ordinance. The objectives were created in the Ad Hoc. A complete list of the objectives can be found in Appendix 1.

The first listed primary objective was as follows:

> "Develop a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands, and, as a public benefit, improve the County's tax base."

This objective became the guiding principle for the Board. The many actions that were then taken along the way in the creation and passage of the cannabis ordinances reflect this objective including the allowance of an excessive amount of acreage and the excessive grants of business licenses.

The information reviewed by the Jury describes the Board being cautioned at a Board hearing on December 14, 2017 by their retained expert, a former Board member of Humboldt County and now member of Hinderliter, de Llamas & Associates Companies[103] (HdL), that there was a glut of cannabis statewide. He testified that the statewide cannabis production level was 13.5 million pounds with a statewide demand between 1.6 and 2.5 million pounds.

In addition, the report prepared by HdL for the Board stated as follows: "Santa Barbara is just one of 58 counties in California, but with almost 500 registrants seeking as many as 1,365 separate cultivation permits, the County's growers could potentially produce over 3.7 million pounds of cannabis per year, which is more than double the legal amount of cannabis consumed by the entire state."

On matters regarding Planning and Zoning, County Counsel advised the Board that they must

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[101] Final Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program Volume 1 http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final_PEIR/Santa%20Barbara%20_Cannabis%20FEIR-Volume%201.pdf

[102] Video of October 17, 2017 Santa Barbara County Board of Supervisors meeting http://sbcounty.granicus.com/MediaPlayer.php?view_id=3&clip_id=3123&meta_id=345212

[103] https://www.hdlcompanies.com/

operate under the review standard that their decisions must have a rational basis.[104] The decision by the Board that the primary objective of the cannabis ordinances was to develop a robust and economically viable legal cannabis industry in the face of that information does not appear rational.

Access Granted To the Cannabis Industry

The testimony obtained from witnesses during the investigation, as well as documents produced pursuant to a request by the Jury, describe the granting by the Board of easy and frequent access to cannabis industry lobbyists during the creation of the ordinances. The Jury sought to interview a cannabis industry lobbyist and additional cannabis growers, but received no response.

The Jury's review of emails and interviews with Board members showed that cannabis industry lobbyists were very aggressive in their attempt to have the ordinances be as favorable as possible to the cannabis industry. This effort was amplified by some of the cannabis industry lobbyists having recently left the employment of Santa Barbara County. It was described to the Jury that some of these cannabis industry lobbyists could be regularly seen roaming the halls of the Board's offices.

To be clear, this report should not be seen as commenting on the actions of the lobbyists. They are working to promote their clients' interests. Rather, this report demonstrates that the Board did not set reasonable limits as to the number of contacts, both written and in private meetings. Most importantly, there was an apparent lack of limits as to when these contacts occurred, including just prior to or even during Board meetings with cannabis decisions on the agenda

Evidence obtained in the Jury's investigation showed cannabis industry representatives had two meetings, one on January 30, 2017 and one on February 9, 2017, with a Board member prior to the matter of cannabis first being added to the Board agenda on February 14, 2017.

Further documents reviewed by the Jury show a Board member meeting with cannabis industry representatives throughout 2017 including on October 16, 2017 on the topic of non-conforming uses that was to be discussed by the Board on October 17, 2017. Another member of the Board met with different cannabis lobbyists on October 11, 2017 to discuss the same topic.

Other examples of meetings just prior to a Board meeting include a Board member having two meetings with different cannabis lobbyists on November 13, 2017, the day before a Board meeting on November 14, 2017 that was to hear discussion on Letters of Authorization for Temporary State Cannabis Licenses. Those two meetings repeated with the same Board member on December 13, 2017 for the Board hearing on December 14, 2017 where the Board approved the Santa Barbara County letter to the State of California regarding Temporary State Licenses and discussed the taxation of cannabis. Those meetings create the appearance of an imbalance of access and undue influence.

Perhaps most concerning to the Jury was a meeting by a Board member just before the Board meeting of February 6, 2018. The Board member accepted an invitation to tour a cannabis operation on February 1, 2018 to discuss with the owner the issue of how to measure the distance from a cannabis operation to a sensitive receptor, such as a school. On February 5, 2018, the owner sent an email to the Board member advocating for the measurement of the buffer distance to be the property line of the sensitive receptor to the premises of the cannabis operation instead

[104] Video of February 6, 2018 Santa Barbara County Board of Supervisors meeting http://sbcounty.granicus.com/MediaPlayer.php?view_id=3&clip_id=3228&meta_id=354710

of the Planning Commission recommended buffer distance of property line to property line. This would allow his cannabis operation to remain open. The Board rejected the recommended measurement procedure and instead voted to measure the buffer from the property line of the sensitive receptor to the premises of the cannabis operation.

Documents obtained by the Jury, that had not been previously disclosed to the public, show voluminous emails from cannabis lobbyists and cannabis growers to Board members. While the Jury understands that sending emails to advocate positions favorable to the interests of their client is part of the job of a lobbyist, it was unnerving to the Jury to see both the tone and timing of these emails.

The tone of these emails appeared at times as if to direct specific actions to the Board members and gave the perception of an attempt to command instead of recommend. Understanding that no such authority exists with the lobbyists, the Jury felt that limits on such direct conversations should have been established by the Board members receiving these emails.

The timing of these emails was also concerning to the Jury. The documents reviewed show many being sent the day before a Board meeting, with some confirming the discussions had that day at a meeting with a Board member. The Jury also found two emails sent from a cannabis lobbyist to a Board member the morning of a Board of Supervisors meeting. On March 20, 2018, the most extreme example was an email sent by a Board member to a lobbyist, during a Board meeting, asking the lobbyist if they agreed with a P&D staff recommendation.

This kind of direct access far outweighs the access of others which was typically through emails complaining of odor and other issues, or the three-minute public comment at a Board meeting, limiting the opportunity for exchange with the Board members.

Significant and Unavoidable Environmental Impacts

The EIR assessed potential environmental impacts that could occur with the implementation of the Project. These included potential direct, indirect, secondary and cumulative impacts. Four categories described as classes were used.[105] This report will examine Class I.

> "Class I - Significant Unavoidable Adverse Impacts: Significant impacts that cannot be feasibly mitigated or avoided. No measures could be taken to avoid or reduce these adverse impacts to achieve insignificant or negligible levels. Even after application of feasible mitigation measures, the residual impact would be significant. If the project is approved with significant and unavoidable impacts, then the decision-makers are required to adopt a Statement of Overriding Considerations pursuant to CEQA Section 15093. This CEQA section requires the explanation why benefits of the Project outweigh the potential damage caused by these significant unavoidable impacts."

The analysis completed in the EIR found that implementing the proposed Project would create significant and unavoidable direct or indirect impacts. Two of the impacts were:

> "Agricultural resources - the loss of prime soils due to the unavoidable installation of greenhouses and similar agricultural structures for agricultural uses."
>
> "Air quality and greenhouse emissions - cannabis activities involve emissions from

[105] Final Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program Volume 1 http://cannabis.countyofsb.org/uploadedFiles/cannabis/Documents/Final_PEIR/Santa%20Barbara%20_Cannabis%20FEIR-Volume%201.pdf

additional vehicle travel as well as ongoing stationary operations. In addition, the scent of cannabis plants can produce a variety of odors, especially during the flowering phase, which is often considered and perceived by some individuals as objectionable or offensive. Despite mitigation implementation, this nuisance may not be entirely removed and this impact would remain significant and unavoidable."

Documents reviewed by the Jury demonstrate that P&D and the Board were made aware in a presentation at the February 14, 2017 Board hearing by a member of the CEO's office that the State of California would require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it could be sold by licensed businesses.

With that information in hand, the Jury questions why the issue of the conflict between traditional agriculture and cannabis grows was omitted in the EIR. It was hardly a secret that traditional agriculture in Santa Barbara County necessarily utilizes insecticides in dealing with destructive pests and fungicides for mold and mildew. That glaring omission is very hard to understand and is very troubling. It will be discussed separately in this report.

The EIR acknowledges that the odor of cannabis plants is a significant and unavoidable impact on the environment. The odor issue is of such consequence that it also merits separate discussion in this report.

Rejection by the Board of Environmentally Superior Alternatives

Section 15126.6(d) of the State CEQA Guidelines requires the EIR to assess a reasonable range of alternatives to the proposed Project. These included alternatives that could feasibly attain most of the basic objectives while avoiding or substantially lessening one or more of the significant effects of the proposed Project.

Alternatives typically involve changes to the location, scope, design, extent, intensity, or method of construction or operation of the proposed project. A fundamental mandate of CEQA is that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of the projects."[106]

The EIR analyzed four alternatives to the Project. These are described as follows:

The No Project Alternative

Alternative 1: Exclusion of Cannabis Activities from the AG-1 Zone District

Alternative 2: Preclusion of Cannabis Activities from Williamson Act Land

Alternative 3: Reduced Registrant Alternative

Each of the alternatives was evaluated based on significance, location, extent and magnitude of impacts, potential benefits, and relative impacts in comparison to other alternatives. The alternative with the fewest adverse impacts was then considered the Environmentally Superior Alternative.

The No Project Alternative was rejected in the EIR. The finding was that under the No Project Alternative, the banning of cannabis, the direct impacts associated with licensing of an expanding cannabis industry would not occur. This alternative, however, would not address

[106] California Public Resources Code section 21002.

unregulated and illegal cannabis activities. Further, it would not offer an avenue for licensing and permitting, thus it was likely that illegal cannabis activities would continue to exist.

Under the No Project Alternative, the EIR found that aesthetic and agricultural resources impacts would likely be reduced but other environmental impacts would not be due to the illegal cannabis operations.

The EIR stated that the Project, Alternative 1 and Alternative 2 would all result in significant and unavoidable impacts to agricultural resources, air quality, noise, and transportation. Only Alternative 3 would reduce impacts to agricultural resources to a less than significant level.

Alternative 1: Exclusion of Cannabis Activities from the AG-1 Zone District. Under this alternative cannabis related activities would not be allowed within the AG-1 zone districts throughout Santa Barbara County. This alternative would reduce the areas of eligibility in the County, in particular the Carpinteria Valley and the Santa Ynez Valley.

The EIR found that Alternative 1 would reduce the total amount of eligible area and sites as compared to the proposed Project and would require substantial relocation or abandonment of existing cannabis operations. Existing cultivators would need to find locations within the reduced area of eligibility.

While adoption of Alternative 1 would achieve most of the Project objectives, the EIR found that it failed as it would not achieve Project Objective 1, the development of a robust and economically viable legal cannabis industry or Objective 4, encouraging businesses to operate legally and secure a license to operate in full compliance with County and State regulation. The EIR states that Alternative 1 also does not achieve Objective 6, the minimization of adverse effects of cultivation, manufacturing and distribution activities on the natural environment.

Next, consideration was given to Alternative 2: Preclusion of Cannabis Activities from Williamson Act Land. Under this alternative, cannabis activities would not count towards the minimum cultivation requirements to qualify for an agricultural preserve contract pursuant to the Williamson Act.[107]

While under this alternative cannabis activities would be considered compatible uses on lands that are subject to agricultural preserve contracts, they would be limited to a maximum of 22,000 square feet of cannabis canopy cover for each Williamson Act contract premises.

The EIR notes that this alternative would result in limiting the potential for cannabis activities on over 50 percent of eligible County area and would eliminate hundreds of potential operations from occurring on Williamson Act lands.

Although adoption of Alternative 2 would have met some of the Project objectives, such as a permitting process, the regulation of sites and premises to avoid degradation of the visual setting and neighborhood character, odors, hazardous materials, and fire hazards, it was rejected.

The failing of Alternative 2 was that it did not achieve some of the basic Project objectives namely those related to development of a robust and economically viable legal cannabis industry, Objective 1. That is understandable considering this alternative limits how robust the cannabis can then become. What is unclear is how this alternative prevents the accomplishment of Objective 4, encouraging businesses to operate legally and secure a license to operate in full compliance with County and State regulations, or Objective 6, minimization of adverse effects of

[107] The California Land Conservation Act of 1965

cultivation and manufacturing and distribution activities on the natural environment.

The last alternative considered was the Reduced Registrant Alternative. As described in the EIR, this would limit the total number of licenses issued by the County to one half of the number of each category of licenses that were listed as part of the 2017 Cannabis Registry. This would limit the representative buildout of the Project analyzed in the EIR by a commensurate 50 percent. The EIR goes on to state that existing cannabis operators that were identified in the registry would be prioritized for licensing, which would substantially reduce the net new buildout, while allowing for limited growth.

Selection of Alternative 3 would result in substantial reductions in the severity of most impacts compared to the proposed ordinances. This alternative would reduce significant and unavoidable impacts to agricultural resources to a less than significant level. However, the EIR found that it would not achieve the most basic Project objectives of the development of a robust and economically viable and legal cannabis industry, Objective 1, and encouraging businesses to operate legally and secure a license to operate in full compliance with County and State regulations, Objective 4.

Alternative 3 was found to be the Environmentally Superior Alternative to the Project, as it would result in less severe impacts to the environment due to the limited extent of cannabis development and limited granting of licenses by the County. As stated in the EIR, "With implementation of mitigation measures, the Reduced Registrants Alternative provides a balance between meeting Project objectives, including quality of life concerns and addressing environmental impacts and allowing for limited amounts of growth in the cannabis industry."

Despite this statement, Alternative 3 was rejected in the EIR, as this alternative was found to not adequately meet Objective 1 of the Project, the development of a robust cannabis industry, and Objective 4, encouraging businesses to operate legally. Therefore, the EIR found the Environmentally Superior Alternative was infeasible.

Skunky Smell

The most complaints the Jury received about cannabis involved the skunky smell that is produced by cannabis operations. Perhaps the most surprising discovery was the willingness of the Board to justify subjecting Carpinteria, and the rest of the County, to a condition that affects the health and enjoyment of residents. This was not an unexpected result of the Board's actions in creating the cannabis ordinances. They knew about the quality of life concerns and chose the revenue potential of cannabis instead.

Board members received many emails, reflected in submissions for Board meetings from Carpinteria residents, explaining how this skunky smell was impacting their lives. The residents described that their health was being impacted. They told the Board that the way of life that they so cherished in Carpinteria was being ruined. They feared their property values were declining. There was no shortage of complaints, including from the City of Carpinteria itself, through its six letters to the Board.

Most startling was that the Board received two letters from the Carpinteria School District prior to the passage of the cannabis ordinances. The letters detailed that the air quality in Carpinteria High School was being compromised by strong cannabis odors to the point that by afternoon the students and staff were reporting ill effects, such as headaches from the nauseating odor. The Jury found no evidence of a Board member contacting the Carpinteria School District to discuss the buffer zone distances and measurements prior to the passage of the ordinances. The School

District sought buffers of 1,000 feet to 1,500 feet from the high school to the cannabis operation. The Board approved 600 feet from nursery operations and 750 feet from cultivation operations, ignoring Planning Commission and staff recommendations.

Carpinteria was not the only victim. The Santa Ynez Valley including Buellton, the Santa Rita Hills AVA wine tasting rooms, Cebada Canyon and Los Alamos residents also voiced their complaints at Board meetings and through emails. There can be no doubt that the Board knew the extent of the odor problem.

So why would the Board ignore this obvious concern? The answer is found in the Program EIR cannabis project objectives that were created by the Ad Hoc, made up of two Supervisors, and a staff support group. The decision to make the development of a robust cannabis industry the first primary objective of the cannabis ordinances project meant that known serious problems such as odor were not sufficiently important to derail their goal.

This is not speculation on the part of the Jury. The EIR, certified by the Board, describes cannabis odor as a significant and unavoidable impact. Instead of choosing environmentally superior alternatives that would lead to smaller and better located operations, the Board chose to proceed with these cannabis ordinances. The most telling document though was the Board's finding of overriding considerations.

In the CEQA required Statement of Overriding Considerations, as in the rejection of Environmentally Superior Alternatives, the first stated reason to choose these ordinances was the goal of developing a robust cannabis industry, despite the odor issue. That goal overrode the complaints of the residents.

Impact on Agriculture

The action of the Board in allowing cannabis operations to be located in close proximity to traditional agriculture has led to disastrous results. That action is very distressing to the Jury as the members of the Board knew of the incompatibility of cannabis. They knew about the odor issues. They knew about the State rules regarding pesticides and cannabis. Their response was to change the County Uniform Rules, against staff recommendations, that would have allowed for such a compatibility analysis prior to approval. If that was not enough, they certified an EIR that did not even address this known incompatibility.

The February 6, 2018 Board hearing was a pivotal moment for Santa Barbara County. At this hearing, which unfortunately was held shortly after the mudslides in Montecito, the Board certified the cannabis EIR and began the process of amending the LUDC. The amendment of the LUDC provided for cannabis permit applications to be governed by the land use permit requirements rather than by the more exacting conditional use permit process, except if said cannabis operations are located near an existing developed rural neighborhood.

The EIR that was approved and certified by the Board did not address the incompatibility issue between traditional agriculture and cannabis. On February 14, 2017, the Board was advised by CEO senior staff that the State would be testing cannabis for pesticides. The Board knew, or certainly should have known, that many crops in Santa Barbara County from lemons, to avocados, and grapes require effective insecticides and fungicides to survive.

These crops are valuable. According to the Santa Barbara County Agricultural Production Report, avocados were valued at more than $38 million in 2017 and $52 million in 2018. Lemons were valued at over $15 million in 2017 and $17 million in 2018. Wine grapes were

valued at more than $146 million in 2017 and $121 million in 2018.

The P&D response to the issue of pesticides in the EIR, as recently as the Board letter of March 10, 2020, was "CEQA requires the assessment of a project's impact on the environment. The issue of pesticide drift is an important issue but it would not be considered an environmental impact resulting from the project".

The EIR fails to consider the impossible situation in which traditional agriculture finds itself when using approved pesticides, applied by licensed pesticide applicators. Post application winds or even insects or birds can transfer pesticides on to the cannabis. As the State has set extremely low pesticide tolerances for cannabis, it seems clear that this known incompatibility left cannabis the chosen winner and traditional agriculture the chosen loser in the Board certified EIR.

For vineyard and winery owners in the Santa Rita Hills AVA,[108] the area between Buellton and Lompoc, the issues of odor and terpenes, an aromatic hydrocarbon obtained from plant oils, are severe. Vintners have been growing in the Santa Rita Hills since 1971 and the area finally became recognized as a coveted AVA in 2001. There are now 2,700 planted acres by 59 total wineries.

The sense of smell, or olfaction, is evoked by scents, which are airborne molecules that are volatile enough to reach the olfactory receptors located at the top of the nostril. Volatile stimuli can be perceived directly via the orthonasal pathway, directly through the nostrils, or indirectly, via the retro-nasal pathway when the wine is already in the mouth.

These two factors contribute to why experts state that wine perception is 80 percent olfactory. Flavors inherent in wine, much like food, rely heavily on sense of smell to produce a favorable experience while consuming. When other strong odors are introduced, it obviously changes the perception of the taster.

Winery operations, including tasting facilities and vineyards, have been prevalent in the Santa Rita Hills long before the AVA designation. Winery and vineyard operators have spent millions of dollars developing and building their operations and brands. The proposed introduction of over 625 acres of open air cannabis grows, with the ever-present north and west winds averaging between 9.1 to 10.5 MPH daily,[109] makes it virtually impossible for these two types of operations to co-exist, weighing heavily against the viability of the wine industry. The heavy skunky odor, of even just a few cannabis plants, can elicit a strong response from people nearby. Olfactory molecules do not stop at the property line. Several hundred acres of cannabis will be devastating to the region's wine reputation, tourism and sales.

The issue of terpene drift from cannabis to grapes was another issue not adequately considered by the hastily crafted EIR. Currently, there are studies underway being conducted by the wine grape[110] and cannabis industries to determine the impact of terpenes on the characteristics of grapes, and the cannabis skunky smell on the taste of wine. It is of note to consider that two other famous wine growing regions of California, Napa County and Sonoma County, have taken steps to protect their wine industries by either banning cannabis (Napa) or severely limiting it

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[108] American Viticultural Area

[109] www.weatherspark.com/y/1262/Average-Weather-in-Lompoc-California-United-States-Year-Round#Sections-Wind

[110] May 5, 2020 Santa Barbara County Board of Supervisors meeting "Public Comment - University of Califorina, Davis" https://santabarbara.legistar.com/LegislationDetail.aspx?ID=4430356&GUID=4C9684C9-80B0-4D18-AEBC-4772570E1BB7&Options=&Search=

(Sonoma). In comparison, the Board has set a cap of 1,575 acres of cannabis in the County plus 186 acres in the Carpinteria greenhouses.

On March 20, 2018, the Board approved amendments to the Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules) that regulate allowed uses on lands that are subject to agricultural preserve contracts. Consequently, by making these amendments, the Board chose to ignore the recommendations of P&D staff and the County's Agricultural Preserve Advisory Committee (APAC) whose duties include reviewing proposed projects for compatibility to neighboring agricultural properties.

The Board amended the Uniform Rules by declaring cannabis to be an agricultural use instead of the recommended compatible use. That decision was significant as it allowed cannabis growers to obtain the benefits of the property tax breaks under the Williamson Act. Perhaps of even more calculated significance was the designation of cannabis as an agricultural use thereby removing the APAC review for compatibility with adjacent agricultural properties which would have been required if cannabis had been designated as a compatible use.

Thus, the framework of these decisions had been established by the Board. The results are the approvals by the Board of large cannabis operations in the Santa Rita Hills region with many more already in the pipeline. The Board has created a situation where the court system is likely the only hope for relief for traditional agriculture, at a huge legal cost and possible damages to taxpayers.

Legal Non-Conforming Status

In January 2016, the Board approved the creation of a legal non-conforming use exemption for then existing medical marijuana cultivation operations that were in compliance with State laws. To be legal, the cultivation was limited to 100 square feet on a lot with a residential structure. The Board failed to insist on a process that would have identified those that claimed this status. Thus, the County had no idea how much cannabis was being grown by claimed medical marijuana growers.

This status allowed the cannabis operations to continue without a County permit and thus not subject to the requirements that follow with a permit. This status created a myriad of problems that continue to the present.

A major problem that developed with the legal non-conforming use status was the illegal expansion of the use. The expansion of acreage, while enjoying this status, was improper and unpermitted. The reaction of P&D staff to complaints in this regard was to forgive as long as an application was in preparation instead of moving to eradicate the illegal expansion. It is not surprising that this position by P&D staff was, and remains, problematic, as the allowance of continued operation removed the incentive to complete the permit application.

Even more of a problem resulting from the legal non-conforming status being authorized was the fact that only those growers who followed through and obtained a permit are subject to regulations to control the odor from cannabis operations that remains such a problem countywide.

A memorandum of January 15, 2020 to the Planning Commission from a senior member of P&D describes the issue clearly. Most cannabis cultivation that currently exists within the County consists of medical cannabis activities which operators assert are legal non-conforming pursuant

to Article X of the Land Use Code[111] (Article X) and, consequently, are allowed to operate pursuant to Article X and the non-conforming regulations of the zoning ordinances. Specifically, out of the 270 acres of cannabis that currently exist within the County, approximately 199 acres, 74 percent, consist of legal non-conforming cannabis cultivation subject to Article X, and the remaining approximately 71 acres, 26 percent, consist of cannabis cultivation that is subject to the current County zoning and licensing requirements.

The memorandum continues on to remind the Planning Commission that these legal non-conforming commercial cannabis cultivation activities are not currently subject to the cannabis zoning regulations which are designed to control the adverse impacts of commercial cannabis activities. Thus, when the Planning Commission is considering the efficacy of commercial cannabis regulations, the focus should be on examples of commercial cannabis activities that are operating in compliance with cannabis regulations that apply to the 26 percent of acreage and not the unregulated 74 percent.

Under this poorly constructed scenario, the unpermitted cannabis operations continue to operate without mandatory odor control.

Affidavit System

Without question, one of the most perplexing decisions made by the Board was the utilization of an unverified affidavit system to qualify applicants who claimed to be existing medical cannabis growers and thus eligible to apply for licenses to continue to grow cannabis.

This affidavit system was the creation of a senior member of the CEO's staff, not the result of a group process. The affidavit executed by the cannabis grower, under penalty of perjury, was in lieu of a formal permit or license as required by the State. The affidavit was then submitted to the State of California by the applicant as part of the process to obtain a temporary State license.

The major and obvious flaw of this affidavit system was the lack of any required verification as to the veracity of whether the applicant had indeed been growing cannabis as of January 19, 2016. This concern was noted by the Planning Commission that recommended a process that included a public hearing wherein the applicant could prove their affidavit was truthful.

Despite a comment by a Board member, at a Board hearing, that a verification process was needed, "I trust some cannabis operators but not all", the Board member still voted with the majority and declined to follow the Planning Commission recommendation of a verification process. The Board's disregard for potential abuse is incomprehensible.

This serious error was compounded by the Board's failing to require those who claimed to have been medical cannabis growers as of January 19, 2016 to prove the extent of their acreage as of that date. The absence of a verified benchmark encouraged the expansion of the grower's acreage beyond what was in the ground on January 19, 2016, if any. Once again, the Board's decision in this regard is truly baffling.

As there were no enforcement procedures established, complaining neighbors were left to report suspected violators to P&D, both as to eligibility and expansion of operations. Even when shown that the suspicions were indeed correct, P&D staff simply allowed the operation with the expanded acreage to continue if the operator had begun the application process for a County permit. It is not surprising that claimed legal non-conforming operators have been less than diligent in getting their applications ready for approval.

[111] library.municode.com/ca/santa_barbara_county/codes/code_of_ordinances?nodeId=CH35ZO_ARTXMEMARE

By requiring only a signature, many of the same people previously involved in illegal activities were given an unverifiable opportunity to legitimatize their cannabis operations. The purpose of a law, any law, is to regulate human behavior. Laws should punish bad behavior and reward good behavior. The affidavit system and the cannabis ordinances do exactly the opposite.

Taxation

Work on the taxation components of the ordinances began in early 2017. One of the first steps was to hire the consulting firm of Hinderliter, de Llamas & Associates (HdL) to assist the County with, among other things, the development of application fee structures, taxation structure options and fiscal analysis based on a variety of assumptions for medical and recreational cannabis in Santa Barbara County.[112] HdL has provided revenue management services, including sales, property, lodging, business license, cannabis regulation and tax strategies to nearly every county in California.

HdL's report, dated October 14, 2017 was presented to the Board on December 14, 2017.[113] The report noted that a Standardized Regulatory Impact Assessment prepared for the California Department of Food and Agriculture estimated statewide cannabis production at 13.5 million pounds, though the estimate of cannabis consumption by California residents at just 2.5 million pounds.[114] The report also mentions that a separate study performed for the California Cannabis Industry Association put statewide consumption even lower, at 1.6 million pounds. HdL estimated that "the County's growers could potentially produce over 3.7 million pounds of cannabis per year."

An important consideration of any cannabis tax is the ability to help create a legal market that attracts customers and discourages them from buying on the illicit market. Cannabis users are willing to pay more for the convenience, selection, and quality-control benefits offered by legal businesses, however there is a limit to how much more they are willing to pay.[115] If an important goal is to significantly diminish the illicit market the cumulative cannabis tax levied must not be so high as to be greater than the benefits provided by a legal cannabis industry.

The report lists four main approaches to taxing the various cannabis commercial activities:

- Taxation on cultivation area by square foot
- Tax on gross receipts of a cannabis business
- Per-Unit tax on the product by weight or volume
- Retail sales tax at point of sale

The first two of these relate to cultivation, and will be the focus of the rest of this section.

Square Footage Tax – A square footage cultivation tax is based on the activity of growing cannabis. It is the most commonly used method for the taxation of cultivation in California. Santa Barbara County is one of only a few counties within California to not use that method. An

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[112] "*Contract For Marijuana Consulting Services*", approved and signed April 10, 2017

[113] santabarbara.legistar.com/LegislationDetail.aspx?ID=3289847&GUID=70A26A7A-4031-43B3-A0B8-24A6BAC7A074&Options=&Search=

[114] Duncan McEwan, et al (January 2017) *"Economic Impact Analysis of Medical Cannabis Cultivation Program Regulations"* California Department of Food and Agriculture

[115] Michael Amlung, Derek D. Reed, Vanessa Morris, Elizabeth R. Aston, Jane Metrik, James MacKillop. "Price elasticity of illegal versus legal cannabis: a behavioral economic substitutability analysis," Society for the Study of Addiction,114(1):112-118 (2019).

advantage of this method is that it allows the grower and the county to know upfront exactly how much the annual tax will be at the time the permit is issued. This also allows the grower to make the required payments at any time up until the end of the fiscal year. A downside for the grower to this method is that it does not account for variations in yield, so if the grower has crop loss or reduced yield they still pay the full tax. An upside for a grower is that if there is higher yield, or several crops, the tax remains constant. HdL stated in their report that this method is the easiest and most reliable to administer.

Gross Receipts on Cultivation – A cultivation tax based on gross receipts is a tax on production or earnings, rather than activity. This form of taxation, while less common, has the advantage that if production is high and gross receipts follow then higher revenue would be collected by the County. Growers may prefer this method as it ties the taxes due to actual production. This method, however, presents problems with verification of the volume of the actual cannabis grown and sold, and could be subverted by growers who try to hide their actual yield and sales. In their report, HdL stated that this method can be difficult to administer, as the County must verify the business's reported earnings or production.

The Jury learned that Santa Barbara County is one of a few counties within California that exclusively uses the Gross Receipts method for cannabis cultivation. The Jury asked those interviewed as to why the County did not follow the path that was more reliable and easier to administer and that many other counties in California were using. The answer the Jury received was that the Gross Receipts method had the potential to be much more lucrative than the Square Footage method. To date, the belief that using the Gross Receipts method would result in more taxes has not proven to be true. While the County initially predicted cannabis tax revenues as high as $25 million, in 2018-19 the actual revenue was only $6.8 million.[116] Monterey County, which until this year only allowed indoor grows and uses the Square Footage method, had 2018-19 cannabis tax revenues of $15.4 million.[117]

This difference in revenue collected is more alarming when compared to the number of acres of permitted cultivation in each county. Santa Barbara County has 217 permitted acres compared to Monterey's 62.

The Jury also learned that some of the assumptions supporting the use of the Gross Receipts method over the Square Footage method were flawed. The Jury was told that verification would be easy, accurate and complete, using the State of California's METRC 'Track & Trace' system. METRC is intended to be used to track commercial cannabis activity and movement across the distribution chain from "seed-to-sale".[118] The concept of METRC is that every plant is 'tagged' with a tracking number and can be followed from seed germination, through cultivation, manufacturing and retail sale. It appears that Ad Hoc had not adequately investigated the METRC 'Track and Trace' system and accepted at face value promises made and sales materials provided. There are two significant problems with the decision to rely on this system. First, the system is still being tested and has not been proven to work to the levels promised. Santa Barbara County has been accepted as a Beta tester but that process has only begun. Secondly, except for surprise visits to cultivation sites to audit the METRC system tagging, there is no way to assure

[116] Santa Barbara County Comprehensive Annual Financial Report, Fiscal Year Ended June 30, 2019 https://www.countyofsb.org/uploadedFiles/auditor/content/FY2018_19CAFR.pdf
[117] Monterey County Budget End of Year Report, Fiscal Year 2018-2019 https://www.co.monterey.ca.us/home/showdocument?id=84679
[118] https://www.metrc.com/california

that all plants are properly tagged and tracked, or that all product harvested is accurately reported to the taxing agencies. Just this past January, Deputies from the Santa Barbara County Sheriff's Office served a warrant and raided a cannabis farm in Carpinteria and found 'off-book' sales.[119] How can the County be certain that other growers are not doing the same?

The Ad Hoc appeared to not be interested in the Square Footage method, which is a more reliable and safer method of taxing cultivation and is used nearly ubiquitously in California. It was also the preferred method by most within County government whom the Jury interviewed. The Jury was told that a member of the Ad Hoc working group led the charge for using the Gross Receipts method and even had asked HdL to revise an early draft of its report to focus more on that tax method.

The Jury was also told that a senior member of the CEO's office did not include the Santa Barbara County Treasurer - Tax Collector (Tax Collector) when the Ad Hoc was working on the taxation portions of the cannabis ordinances. Additionally, the Jury learned that the two members of the Board assigned to Ad Hoc took no steps to override the decision by the staff member and took no action to include the Tax Collector in the drafting of the taxation portion of the cannabis ordinances. The Jury found that the Tax Collector, an elected official, failed to insert himself in the process to draft the taxation portion of the cannabis ordinances. The Jury was told that it was known to the Ad Hoc that the Tax Collector did not favor the use of the Gross Receipts method as it made it harder, or nearly impossible, to audit.

Even with the apparent bias of Ad Hoc toward using the Gross Receipts method, the Board had adequate warning that using that method may not have been in the best interests of the County. In its report to the Board, HdL stated it "has commonly recommended cultivation taxes based on square footage, as they are simple, predictable and easy to administer." While HdL also stated, "A single, all-encompassing tax on gross receipts may allow greater flexibility for cultivators to structure their business more competitively", this statement is more favorable to the growers, and not necessarily in the best interest of the County.

Further, using a Gross Receipts method subjects the County to the challenges of market prices. As cannabis revenues fall, so will the related taxes. In Colorado, wholesale cannabis prices have dropped 61 percent from their peak in 2015.[120] With the excess of cannabis supply to cannabis demand in California, it is highly likely the same fate will befall California and the County.

Furthermore, during the first year of the program, most of the revenue generated by cannabis taxes was spent on enforcement of the cannabis ordinances. Since then, this revenue is being considered to help solve many of the current budget difficulties. A robust cannabis industry requires a robust enforcement process. No apparent consideration has yet been given to the costs of actual enforcement costs. These costs must be factored in prior to diverting one penny to existing budget problems.

Statement of Overriding Considerations

The Board, faced with the knowledge that the proposed cannabis Project would cause significant and unavoidable impacts on the environment including air quality and odor, found reasons to justify their decision to proceed forward. The methodology for this was the Statement of Overriding Considerations.

[119] https://www.latimes.com/california/story/2020-02-14/carpinteria-pot-farm-accused-of-selling-on-black-market
[120] https://itep.org/taxing-cannabis/#_edn49

The first listed justification is that the Project provides for a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands and as a public benefit, improves the County's tax base. The next listed justification is that the Project enhances the local economy and provides opportunities for future jobs, business development, and increased living wages. Moreover, the Project promotes continued agricultural production as an integral part of the region's economy by giving existing farmers access to the potentially profitable cannabis industry, which in turn will provide relief for those impacted by competition from foreign markets and rising costs of water supply.

The Jury investigation confirmed that the farmers being referenced were the flower growers in Carpinteria. Their ability to grow cannabis was deemed an overriding consideration by the Board paramount to the skunky smell endured by the residents of Carpinteria. The Board found that the benefits of giving flower growers access to growing cannabis "outweigh the unavoidable adverse environmental effects and therefore the adverse environmental effects may be considered acceptable." Amazingly, the Board went on to find that this reason alone would be enough to justify the approval of the cannabis ordinances, even if all other reasons were struck by a court.

For a full list of all Overriding Considerations see Appendix 2.

The Interference with the Air Pollution Control District

One of the most disturbing matters that came to the attention of the Jury was the interference by the CEO senior staff and P&D senior staff in the operations of the Santa Barbara County Air Pollution Control District (APCD).

An independent agency since 1994, the mission of the APCD is: "To protect the people and environment of Santa Barbara County from the effects of air pollution". In furtherance of that mission the APCD issues air quality advisories to the public. [121]

On Friday, April 26, 2019, the APCD issued online an APCD Advisory (Advisory) titled Air Quality and Cannabis Operations. Among a number of matters discussed in the Advisory, the issue of buffers from outdoor cannabis operations was raised. The APCD advised that with outdoor grows, a reasonable buffer should be established between the grow site and any residential, commercial or public access point with the APCD "strongly encouraging large buffer zones (e.g.,1 mile) to allow for maximum odor dispersion, as well as other odor abatement strategies, to avoid nuisance odors".[122]

Within a few days, a senior member of the CEO's office contacted the APCD about the Advisory. This was followed by phone calls from this individual to the APCD the next day requesting the APCD take down the Advisory. The Jury learned that the APCD refused to remove the Advisory.

What followed were communications from a senior member of P&D that convinced the APCD to remove the Advisory. The senior member of P&D then sent the APCD a rewording of the Advisory that included the removal of the language cited above, including "strongly encouraged large buffer zones (e.g. 1 mile)". The Advisory now only states that the district encouraged the use of buffer zones. No recommended distance of a buffer remained in the replacement Advisory. The various changes were made and a revised Advisory was issued on May 7, 2019. The Jury was told that no such request had ever previously been made to the APCD.

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[121] https://www.ourair.org/

[122] APCD Advisory, April 26, 2019 advisory (updated May 7, 2019) https://www.ourair.org/wp-content/uploads/APCD-Cannabis-Advisory-v2.pdf

Ethics

Santa Barbara County has been in turmoil since the legalization of recreational cannabis in 2016. There has been public protest over cannabis odor, controversy between the cannabis industry and traditional agriculture, the appearance of financial irregularities and accusations of undue influence. Rarely a day goes by without media coverage of some aspect of the Santa Barbara cannabis industry.

The Santa Barbara County Board of Supervisors does not have a formal code of ethics to inspire and guide the conduct of its members and staff. It relies instead on a simple statement of mission, as reflected below:

> "Provide quality public services to the people of Santa Barbara County in response to their need for a healthy, safe and prosperous environment; and to establish and maintain a workforce which reflects the diversity of the community."[123]

While these statements lay a sound foundation, they are insufficient to provide detailed guidance to a powerful and influential Board that governs the everyday life of approximately 450,000 local citizens. The challenges of governing a constantly evolving Santa Barbara County demand a more powerful statement and oversight of ethics for the future.

Counties throughout the nation have chosen to establish Codes of Ethics to promote ethical decision making and conduct, and increase public trust in their elected leaders. Such Codes frequently address issues such as:

- Conflict of interest: Potential conflicts are defined
- Acceptance of gifts: Dollar and timing limits are put into effect
- Exploitation of official position: Personal influence and hiring friends and relatives is restricted
- Financial disclosure reports: Disclosure requirements and reporting frequency are defined
- Limitations on campaign contributions: Dollar caps and timing relative to issues under consideration are defined
- Declaration of contact outside of public hearings with subjects of prospective legislation is required
- Outside employment: Disclosure and authorization for outside employment is required
- A "two-year rule": Establish time limits before which government officials can seek employment with entities they've worked with after they leave government service

Many counties also establish independent Ethics Commissions to provide oversight of government functions and transparency to the general public. These commissions develop and publish a Code of Ethics, review and assess the performance of government functions against those ethical standards, and report their findings to the public. Such commissions are an excellent tool for assuring accountability of government officials.

[123] https://www.countyofsb.org/bos

CONCLUSION

The 2019-20 Santa Barbara County Grand Jury began an investigation initiated by concerns of residents over the influence of the cannabis industry on the creation of the cannabis ordinances. The Jury discovered unequal access was granted to the cannabis industry representatives by the Santa Barbara County Board of Supervisors to the point of allowing email communications during a Board of Supervisors meeting.

A more sobering realization for the Jury was that the governance in this matter took the form of some Supervisors aggressively pushing through their own agendas while other Supervisors meekly followed or resigned themselves to the inevitable.

Some senior staff in the office of the Santa Barbara County Chief Executive Office and the Santa Barbara County Planning and Development Department became cannabis advocates, losing their objectivity to the point of interfering in the responsibilities of independent agencies and elected officials.

The Board of Supervisors rushed through the cannabis ordinances, ignoring the Santa Barbara County Planning Commission and staff recommendations on verification of applicants claiming eligibility to grow cannabis, to buffer distances for odor, and to not establishing cannabis as a compatible use that would allow for an analysis of compatibility with traditional agriculture. The actions of the Board resulted in the picking of winners and losers.

The Board of Supervisors used the mechanism of an Ad Hoc Sub Committee to craft the cannabis ordinances out of public view. These ordinances are now the cautionary tale for other counties in the State of California on what ***not*** to do.

The Ralph M. Brown Act, codified as California Government Code 54950 et seq., declares as follows:

> "In enacting this chapter, the Legislature finds and declares that the public commissions, boards, and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.
>
> The people of this state do not yield their sovereignty to the agencies which serve them. The people in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

The Jury believes the Board of Supervisors, in their hubris, failed the people of Santa Barbara County. Now they must amend the cannabis ordinances to regain the people's trust.

FINDINGS AND RECOMMENDATIONS

Finding 1

The impact of cannabis production on the health and welfare of Santa Barbara County residents was inadequately weighed and considered by the Santa Barbara County Board of Supervisors.

Recommendation 1a

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to prepare Environmental Impact Reports addressing each region of Santa Barbara County after holding public hearings to evaluate public concerns.

Recommendation 1b

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to develop Project Objectives for the Environmental Impact Reports that reflect a balance between cannabis, traditional agriculture, and the residents of Santa Barbara County.

Finding 2

The creation of a non-Brown Act Ad Hoc Sub Committee that was not open to the public led to a lack of transparency and distrust by Santa Barbara County residents.

Recommendation 2

That the Santa Barbara County Board of Supervisors require all future Ad Hoc Sub Committees be open to the public and subject to the Brown Act.

Finding 3

The Board of Supervisors granted nearly unfettered access to cannabis growers and industry lobbyists that was undisclosed to the public during the creation of the cannabis ordinances.

Recommendation 3

That the Santa Barbara County Board of Supervisors develop standards that require Santa Barbara County Board of Supervisors members to publicly disclose all access granted to lobbying individuals or groups, especially while a matter involving these individuals or groups is before the Board of Supervisors.

Finding 4

The conflict between cannabis production and traditional agriculture is a major concern for the continued existence of certain segments of traditional agriculture in Santa Barbara County.

Recommendation 4a

That the Santa Barbara County Board of Supervisors amend the Land Use and Development Code and Article II, the Coastal Zoning Ordinance to require all pending cannabis land use permit applications be subject to a Conditional Use Permit review.

Recommendation 4b

That the Santa Barbara County Board of Supervisors amend the County's Uniform Rules for Agricultural Preserves and Farmland Security Zones to declare that cannabis cultivation and related facilities are compatible uses on contracted land instead of as an agricultural use.

Finding 5

The amount of cannabis production allowed under the current cannabis ordinances is excessive and has led to overconcentration in some portions of Santa Barbara County.

Recommendation 5a

That the Santa Barbara County Board of Supervisors require all applicants with cannabis use and development permit applications and licenses pending, who claim legal non-conforming status, to prove their claimed status before the Santa Barbara County Planning Commission.

Recommendation 5b

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director, in conjunction with the Santa Barbara County Sheriff's Office, to eradicate all cannabis grown on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Recommendation 5c

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to deny permits for the growth of cannabis on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Finding 6

The approval by the Santa Barbara County Board of Supervisors of an unverified affidavit system does not require proof of prior cannabis operations to establish eligibility to continue to grow cannabis as a legal non-conforming use.

Recommendation 6

That the Santa Barbara County Board of Supervisors require all applicants with cannabis use and development permit applications and licenses pending, who claim legal non-conforming status, to prove their claimed status before the Santa Barbara County Planning Commission.

Finding 7

The affidavit system does not require proof of prior scope of the cannabis acreage.

Recommendation 7a

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director, in conjunction with the Santa Barbara County Sheriff's Office, to eradicate all cannabis grown on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Recommendation 7b

That the Santa Barbara County Board of Supervisors direct the Santa Barbara County Planning and Development Department Director to deny permits for the growth of cannabis on acreage claimed under Legal Non-Conforming status when the cannabis operator fails to demonstrate to

the Santa Barbara County Planning Commission that the planting of cannabis occurred prior to January 19, 2016.

Finding 8

The option taken by the Santa Barbara County Board of Supervisors to tax cannabis cultivation using a Gross Receipts method was less reliable than the Square Footage method used by the vast majority of California counties.

Recommendation 8

That the Santa Barbara County Board of Supervisors amend Ordinance 5026 to tax cannabis cultivation using the Square Footage method.

Finding 9

The Santa Barbara County Treasurer-Tax Collector was not included in the creation of the tax portions of the cannabis ordinance.

Recommendation 9

That the Santa Barbara County Board of Supervisors require that all future ordinances that involve taxation require the Santa Barbara County Treasurer-Tax Collector be involved in the creation of the ordinance.

Finding 10

Members of the Santa Barbara County Chief Executive Officer's office and Santa Barbara County Planning and Development staffs unduly and without apparent Board knowledge successfully sought changes to the April 26, 2019 Cannabis Advisory from the Santa Barbara County Air Pollution Control District, an independent agency, eliminating a one mile buffer recommendation.

Finding 11

There has not been effective odor control at the boundary of cannabis cultivation and related activities, resulting in significant public outcry about odor, quality of life and health concerns.

Recommendation 11

That the Santa Barbara County Board of Supervisors suspend all County unpermitted cannabis operations until proof of odor control at the boundary of their operation is accepted by the Santa Barbara County Planning Commission.

Finding 12

The Santa Barbara County Board of Supervisors does not have a written Code of Ethics to formalize its ethical standards and guide its decision making processes.

Recommendation 12a

That the Santa Barbara County Board of Supervisors establish, staff and empower an independent Ethics Commission with oversight over the Board and its staff members.

Recommendation 12b

That the independent Ethics Commission develop a Code of Ethics, review Board activities on a periodic and as needed basis for compliance, and share its findings with the public.

Recommendation 12c

That the Santa Barbara County Board of Supervisors require all its members to publicly disclose receipt of campaign contributions from donors who have matters pending a decision by the Board.

Recommendation 12d

That the Santa Barbara County Board of Supervisors require those members receiving campaign contributions from donors with matters pending a decision, to recuse themselves from those matters or return the campaign contributions.

This report was issued by the Grand Jury with the exception of a grand juror who wanted to avoid the perception of a conflict of interest. That grand juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree
- Disagree wholly
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with brief summary of implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with analysis completion date of no more than six months after the issuance of the report
- Will not be implemented, with an explanation of why

Santa Barbara County Board of Supervisors – 90 days

Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12

Recommendations 1a, 1b 2, 3, 4a, 4b, 5a, 5b, 5c, 6, 7a, 7b, 8, 9, 11, 12a, 12b, 12c and 12d

Appendix 1

Project Objectives of the Cannabis Land Use and Licensing Program

1. Develop a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands and, as a public benefit, improve the County's tax base;

2. Provide opportunities for legal commercial cannabis cultivation, testing, packaging, transportation, distribution, manufacturing, and retail sale in appropriate unincorporated areas of the County, consistent with state law and County regulations;

3. Develop a new regulatory program allowing for the orderly development and oversight of commercial cannabis activities and businesses, consistent with state law and existing agricultural industry practices, standards, and regulations;

4. Encourage commercial cannabis businesses to operate legally and secure a license to operate in full compliance with County and state regulations, maximizing the proportion of licensed activities and minimizing unlicensed activities;

5. Provide an efficient, clear, and streamlined commercial cannabis licensing and permit process and attainable regulations and standards to facilitate participation by commercial cannabis business in the unincorporated areas of the County;

6. Minimize adverse effects of commercial cannabis activities on the natural environmental, natural resources, and wildlife, including riparian corridors, wetlands, sensitive habitats, and water resources;

7. Promote energy and resource efficiency in all cannabis activities, consistent with existing agricultural and any other industry practices, standards, and regulations;

8. Establish land use requirements for commercial cannabis activities to minimize the risks associated with criminal activity, degradation of visual resources and neighborhood character, groundwater basin overdraft, noise nuisances, hazardous materials, and fire hazards;

9. Develop a regulatory program that protects the public health, safety, and welfare through effective enforcement controls(i.e., ensuring adequate law enforcement and fire protection services) for cannabis activities in compliance with state law, to protect neighborhood character and minimize potential negative effects on people, communities, and other components of the environment; and

10. Limit potential for adverse impacts on children and sensitive populations by ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities, and educational institutions.

Appendix 2

Statement of Overriding Considerations

Pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines sections 15043, 15092, and 15093, any unavoidable adverse environmental effects of the project (as modified by incorporation of EIR mitigation measures, and development standards shown in RV 01) are acceptable due to the following environment benefits and overriding considerations:

A. The project provides for a robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands, and, as a public benefit, improves the County's tax base.

B. The project enhances the local economy and provides opportunities for future jobs, business development, and increased living wages. Moreover, the project promotes continued agricultural production as an integral part of the region's economy by giving existing farmers access to the potentially profitable cannabis industry, which in turn would provide relief for those impacted by competition from foreign markets and rising costs of water supply.

C. The project expands the production and availability of medical cannabis, which is known to help patients address symptoms related to glaucoma, epilepsy, arthritis, and anxiety disorders, among other illnesses.

D. The project allows for the orderly development and oversight of commercial cannabis activities by applying development standards that require appropriate siting, setbacks, security, and nuisance avoidance measures, thereby protecting public health, safety, and welfare.

E. The project provides a method for commercial cannabis businesses to operate legally and secure a permit and license to operate in full compliance with County and state regulations, maximizing the proportion of licensed activities and minimizing unlicensed activities. Minimization of unlicensed activities will occur for two reasons. First, the County will be providing a legal pathway for members of the industry to comply with the law. Secondly, the County will use revenue from the project to strengthen and increase code enforcement actions in an effort to remove illegal and noncompliant operations occurring in the County unincorporated areas.

F. The project establishes land use requirements for commercial cannabis activities to minimize the risks associated with criminal activity, degradation of neighborhood character, groundwater basin overdraft, obnoxious odors, noise nuisances, hazardous materials, and fire hazards.

G. The project minimizes the potential for adverse impacts on children and sensitive populations by imposing appropriate setbacks and ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities, and educational institutions.

H. The project provides opportunities for local testing labs that protect the public by ensuring that local cannabis supplies meet product safety standards established by the State of California.

I. The project protects agricultural resources, natural resources, cultural resources, and scenic resources by limiting where cannabis activities can be permitted and by enacting development standards that would further avoid or minimize potential impacts to the environment.

SUPERIOR COURT OF CALIFORNIA
THE GRAND JURY
COUNTY OF SANTA BARBARA